Naši prevoditelji trenutačno pripremaju jezičnu inačicu koju vidite.

nizozemski

Sljedeći jezici: nl već su prevedeni.

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Defendants (criminal proceedings)

Nizozemska

These factsheets explain what happens when a person is suspected or accused of a crime which is dealt with by a trial in court. For information on road traffic offences, which are usually dealt with by a fixed penalty like a fine, go to Factsheet 5. If you are the victim of a crime, you can find full information about your rights here.

Summary of the criminal process

The following is a summary of the normal stages in the criminal process.

Criminal investigation and arrest

If it is suspected that an offence has been committed, the police may start an investigation. Among other things the police may question witnesses, seize goods, search premises and conduct a forensic investigation. You may be questioned as a suspect. You may also be arrested and detained.

Pre-trial detention

Under certain circumstances the court may decide that you must be kept in custody while awaiting trial. The court will periodically examine whether it is lawful to continue your detention.

The pre-trial investigation

If you are kept in detention, you will be told the offences you are suspected of having committed and you will be entitled to a provisional file. With this file you or your lawyer can investigate the case or have the investigating magistrate or the public prosecutor investigate the case before the trial. The public prosecutor can also have the case investigated. Your lawyer may ask the investigating magistrate to investigate the case, even if you are not in detention.

The trial

After the investigation has been completed, the case will be tried in court. At the trial, the file will be read out and discussed with you and witnesses may be questioned.

The procedure after the trial

After the trial the court will give a verdict. You can appeal against the verdict, and so can the public prosecutor. These factsheets do not discuss your rights in the appeal procedure, but they are practically the same as those discussed here.

Details about all of these stages of the criminal process and about your rights can be found in the factsheets. This information is not a substitute for legal advice and is intended to be for guidance only.

Juvenile law and terrorist crimes

Different rules apply to minors and those suspected of terrorist crimes. We advise you to see a lawyer if you need more information on this. For more information about finding a lawyer go to Getting legal advice.

Role of the European Commission

Please note that the European Commission has no role in criminal proceedings in the Member States and cannot assist you if you have a complaint. Information is provided in these factsheets about how to complain and to whom.

Click on the links below to find the information that you need

1 – Getting legal advice
2 – My rights before the case goes to court
Arrest and questioning
Police custody
First hearing by the investigating magistrate
Detention/remand in custody
Pre-trial investigation
3 – My rights during the trial
4 – My rights after the trial
5 – Road traffic offences

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1 - Getting legal advice

Getting independent legal advice is very important when you are involved in some way with the criminal process. The factsheets tell you when and in what circumstances you are entitled to be represented by a lawyer. They also tell you what a lawyer will do for you. This general factsheet tells you how to find a lawyer and how the costs of the lawyer will be met if you cannot afford to pay.

Finding a lawyer and meeting the costs

In many cases, you will be entitled to free legal representation, in some cases you will have to pay a contribution. You will have to pay a contribution if you are not remanded in custody.

If you have been asked to appear for questioning as a suspect, you can contact a specialized lawyer via the site of the Dutch Bar Association Orde van Advocaten or the legal aid and advice centre. Normally, you will have to pay for this yourself.

If you have been arrested on suspicion of a crime, you are entitled to free representation by a lawyer before you are questioned. The police must tell you this. The police may call a lawyer of your choice or you will be assigned an independent lawyer.
If you have not exercised your right to legal representation before you are first questioned, you will be assigned a lawyer after you have been taken into police custody. Again, you can name a lawyer of your choice who will represent you, free of charge, as long as you are in police custody.

If you have been released

If you receive a summons on or after your release, you should contact the lawyer who saw you at the police station. If you did not see a lawyer at the police station or if you are not satisfied with him, you can find a lawyer through the Netherlands Bar Association. You can also contact the legal aid and advice centre.
If you are on a low income, the lawyer can ask the State pay his fees. You will have to pay a contribution, though. You can get more information about legal aid from the Legal Aid Board. If you have not received a summons, you are not automatically entitled to free legal aid. You should discuss this with your lawyer.

If you are remanded in custody

If you have been remanded in custody, you are entitled to free legal aid. The lawyer who represented you while you were in police custody will be assigned to you. He will assist you free of charge until the end of the proceedings, regardless of your income.
If you receive a summons in another case while you are in detention, you are entitled to free legal aid.
You may change lawyers at any time.

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2 - My rights before the case goes to court

The police may conduct an investigation because a victim has reported a crime or because they have found evidence that has caused them to believe a criminal offence has been committed. They may also arrest a person caught committing an offence.

What are the stages of a criminal investigation?

Questioning

The police can ask you to come to the police station to make a statement. They may also visit you at work or at home to question you. This is to confront you with facts established during the investigation and to find out whether there is sufficient evidence that you were involved in a criminal offence.

Arrest and police custody

If the public prosecutor thinks there is sufficient reason to believe that you committed a criminal offence, he can arrest you. If there are grounds for doing so, he can keep you in police custody for several days in order to investigate the case. This to establish whether there is a case against you.

First hearing by the investigating magistrate and remand in custody

If the public prosecutor believes there is sufficient evidence that you committed a criminal offence and that there are reasons to keep you in custody, a magistrate will review the case. The magistrate will then decide whether you must remain in custody.

Before the case goes to court

Before the case goes to court, the public prosecutor must gather evidence against you. He has to be able to prove legally and beyond reasonable doubt that you committed a criminal offence.
Before the case goes to court, your lawyer may request the investigating magistrate and the public prosecutor to carry out further investigations.
There may be several hearings before the case goes to court for trial.

My rights during the investigation

Click the following links for more information about your rights at the different stages of the investigation.

Arrest and questioning (1)
Police custody (2)
First hearing by the investigating magistrate (3)
Detention/remand in custody (4)
Pre-trial investigation (5)

Arrest and questioning (1)

The purpose of this stage

If you are caught committing an offence, anybody may arrest you. Otherwise you may only be arrested by the police with the public prosecutor's authorization. The police may use reasonable force when making an arrest. You may be arrested to enable the police to investigate whether you have been involved in a criminal act or to establish your identity.
After your arrest, you may be detained for questioning for six hours at most. The time between midnight and 9 a.m. is not counted for this purpose. If the police have been unable to establish your identity, your arrest may be extended by six hours.

What will I be told about what is happening?

When you are arrested, the police will tell you what you are suspected of. The police must tell you that you are entitled to remain silent and that you are entitled to a lawyer. At that time neither you nor your lawyer is entitled to inspect the full file.

Will an interpreter be provided if I don't speak the language?

If you do not speak or understand Dutch, you must let the police know this. They will then provide an interpreter while you are being questioned, free of charge. The interpreter will translate the whole interview. You are also entitled to the assistance of an interpreter, free of charge, while you are speaking to your lawyer.

At what stage will I be able to speak to a lawyer?

After you have been arrested, you have the right to speak to a lawyer, free of charge, before you are questioned for the first time. You do not have to do this.
If you wish to be assisted by a lawyer of your choice, you must tell the police his name. If it is impossible to reach this lawyer or if you do not have a lawyer, a lawyer will be assigned to you for the time being.
If the police asked you to report to the police station and you came of your own free will, you are not normally entitled to speak to a lawyer at the police station. You can of course consult a lawyer beforehand.

Will I be asked for information? Should I provide information?

The police will ask you for information about the offence. You are not obliged to answer. The police must tell you this; you have the right to remain silent.

What happens if I say something which is bad for my case?

If you say something that may be bad for your case, this can be used against you in the proceedings. If you tell a lie this may also be used in evidence, but it is not an offence to tell a lie.

Can I see a doctor if I need one?

If you are ill or injured, you can see a doctor if you need one. If you take medication, you should say so when questioning starts, so that it can be taken into account.

Can I contact my Embassy if I am from another country?

You have the right to contact the Embassy as soon as you have been arrested.

Will I be asked for fingerprints, samples of my DNA (e.g. hair, saliva) or other body fluids?

The police can ask you to give up body fluids. You are not required to cooperate. The public prosecutor can issue a warrant, in which case you will be required to cooperate. If you fail to cooperate, force may be used.

Can there be a body search?

In certain circumstances the public prosecutor may direct that you undergo an external or internal body search. You will be searched in a closed room and by a person of your own sex. An internal body search will be carried out by a doctor.

Can my home, business premises, car, etc., be searched?

The police may ask your permission to search your home, business premises or car. You are not obliged to give them permission to do this. The police can do a search after obtaining a warrant from the public prosecutor or the investigating magistrate. If you do not cooperate, the police may force entry.

Police custody (2)

The purpose of this stage

After the arrest and first questioning, the public prosecutor will decide whether it is necessary to continue holding you. If he thinks it necessary and there is a fairly good reason to suspect you, you may be taken into police custody. Police custody lasts three days and may be extended by another three days in exceptional cases.

What will I be told about what is happening?

When you are taken into custody, the police will inform you of your rights and of the further procedure. The police will tell you that you are not obliged to answer questions. After you have been taken into custody you will be assigned a lawyer. The lawyer will inform you of your rights and obligations while you are in police custody. You and your lawyer are not entitled to inspect the file. During questioning the police will confront you with evidence and parts of statements.

Will an interpreter be provided if I don't speak the language?

If you do not speak or understand Dutch, you should let the police know this. They will then provide an interpreter while you are being questioned, free of charge. You are also entitled to the assistance of an interpreter, free of charge, while you are speaking to your lawyer.

At what stage will I be able to speak to a lawyer?

After you have been taken into custody, you will be assigned a lawyer, free of charge, for as long as you are in police custody. If you wish to be assisted by a lawyer of your own choice, you will have to tell the police his name. If it is impossible to reach this lawyer or if you do not have a lawyer, you will be assigned a lawyer.

Will I be asked for information? Should I provide information?

The police will ask you for information about the offence. You are not obliged to answer. The police must tell you this; you have the right to remain silent.

What happens if I say something which is bad for my case?

If you say something that may be bad for your case, this may be used against you. If you tell a lie this may also be used in evidence, but it is not an offence to tell a lie.

Can I contact relatives or friends?

While you are in police custody you do not have the right to contact relatives or friends yourself. Of course you can ask the police to contact them for you. You can also ask your lawyer to contact them. Sometimes, if the public prosecutor thinks this is necessary for the investigation, he can decide that even your lawyer may not talk about the case with your friends or relatives.

Can I see a doctor if I need one?

If you are ill or injured, you can see a doctor if you need one. If you take medication, you should say so, so that this can be taken into account.

Will I be kept on remand in custody or be released?

Before the period of police custody ends, the investigating magistrate will decide whether you will have to be detained for a longer period (see First hearing by the investigating magistrate (3))

Will I be asked for fingerprints, samples of my DNA (e.g. hair, saliva) or other body fluids?

The police may ask you to give up body fluids. You are not required to cooperate. The public prosecutor may issue a warrant, in which case you will be required to cooperate. If you fail to cooperate, force may be used.

Can my home, business premises, car, etc., be searched?

The police may ask your permission to search your home, business premises or car. You are not obliged to give them permission to do this. The police can do a search after obtaining a warrant from the public prosecutor or the investigating magistrate. If you do not cooperate, the police can force entry.

First hearing by the investigating magistrate (3)

The purpose of this stage

The investigating magistrate will check whether you have been lawfully arrested and taken into police custody. At the request of the public prosecutor he can also decide that you will be kept in custody for another two weeks.

What will I be told about what is happening?

When you are brought before the investigating magistrate, you will be told what you are suspected of and why you are being kept in custody longer. You will also be told that you are not obliged to answer questions.

Will an interpreter be provided if I don't speak the language?

At the hearing before the investigating magistrate you will be assisted by an interpreter free of charge.

At what stage will I be able to speak to a lawyer?

At the hearing before the investigating magistrate you will be assisted by a lawyer. This is the lawyer who also assisted you while you were in police custody. If the investigating magistrate decides that you must be kept in custody, this lawyer will be assigned to you free of charge until the end of the proceedings.

Will I be asked for information? Should I provide information?

The investigating magistrate will question you on the basis of the offence you are suspected of. You are not obliged to answer his questions and he must tell you this.

What happens if I say something which is bad for my case?

If you say something that may be bad for your case, this can be used against you. If you tell a lie this may also be used in evidence, but it is not an offence to tell a lie.

Will I be detained or released?

The investigating magistrate will decide whether the suspicion is sufficiently serious and whether there are reasons to keep you detained for a period of two weeks. At the end of this period, the public prosecutor can ask the court to prolong your detention. For further information see detention / remand in custody.

Can I appeal?

You cannot appeal against the investigating magistrate's decision about whether the police acted lawfully or about your continued detention.

Will I get information about the witnesses against me?

When you are brought before the investigating magistrate, your lawyer will be given the provisional file. This contains the relevant witness statements. In principle you will not be told about anyone else the police want to approach. You will of course be told about all relevant witness statements before the trial.

Will I get information about other evidence against me?

When you are brought before the investigating magistrate, your lawyer will be given the provisional file. This contains all the relevant evidence. The investigating magistrate has the same file, which is the basis for the decisions he takes.

Detention / remand in custody (4)

The purpose of this stage

The public prosecutor can ask the court to continue your detention until the trial commences, and the court can do so if it believes there is a sufficiently serious suspicion against you and that:

there is a risk of your reoffending;

you might frustrate the investigation;

you might evade prosecution because you have no fixed address in the Netherlands;

you are suspected of such a serious crime that it would be unacceptable for you to be released.

What will I be told about what is happening?

When the application for your continued detention is heard, you will be told how long the public prosecutor is asking for you to be held. You and your lawyer have the right to comment. The court will give its decision after it has heard what you and the public prosecutor have to say about the application.

Will an interpreter be provided if I don't speak the language?

If you do not speak or understand Dutch, you will be assisted by an interpreter at the court hearing, free of charge.

At what stage can I speak to a lawyer?

If you are being kept in detention, you will have been assigned a lawyer until the end of the proceedings. He will prepare the case and will represent you at the hearings and the trial. The lawyer can visit you in the remand prison.

Can I contact relatives or friends?

Normally you can contact relatives or friends from the remand prison and you may receive visitors. In special cases, however, the public prosecutor can decide that you may not have contact with anyone other than your lawyer for a specified period of time. Your lawyer may file an objection against this decision with the court.

Will information be requested about my criminal record?

Information about your criminal record will be requested. If you have a previous conviction in the Netherlands, this may be a reason for prolonging your detention because of the risk of your reoffending. Convictions in other countries will not be taken into account.

Will I be detained or released?

When you are brought before the investigating magistrate, he may decide that you must be held in detention for fourteen days. If the public prosecutor thinks you should be held longer, he can ask the court for a decision. The court will then decide whether you must be detained for a longer period, up to a maximum of 90 days. The case must be brought before the court before this period ends. Your detention will then continue, unless the court decides to release you. This may be at the request of your lawyer, the public prosecutor or it may be the court's own decision. As long as the investigation is not completed, the case will be brought before the court every three months.

The court can decide that your personal circumstances are more important than your continued detention. You can apply to the court at any time to ask it to suspend your detention on the grounds of your personal circumstances.

If it is unlikely that you will be sentenced to a longer period of detention than your pre-trial detention, the court must release you.

Can I appeal?

You can appeal once against the court's decision to continue your detention. You can also appeal once against a refusal of your application for release.

Can I be sent back to my home country?

If you are from one of the Member States of the European Union and the court holds that you need not be detained any longer, the Dutch Immigration and Naturalisation Service can, in exceptional cases, decide that you will be forcibly deported to your country of origin. In that case you will be detained for the purpose of deportation. You will be assigned a lawyer free of charge.

Pre-trial investigation (5)

The purpose of this stage

During the pre-trial investigation the police try to get a clear picture of what exactly happened. The police conduct this investigation (if necessary with the assistance of experts) under the supervision of the public prosecutor.

From the time you are brought before the investigating magistrate, you also have the right to ask for investigation yourself. When the investigation is completed, it must be clear whether or not there is sufficient evidence to bring the case before the court.

I am from another country. Do I have to be present during the investigation?

If you have been released you do not normally have to stay in the Netherlands during the investigation. But the court may decide you have to stay available for the investigation, as a condition for releasing you. In that case you must comply with any call to appear.

Can I leave the country during the investigation?

You may leave the Netherlands during the investigation (with the above exception).

Can the charges be changed before the trial?

When you are first brought before the investigating magistrate you will be told what offence you are suspected of. As the investigation continues, the public prosecutor may change the charges, right up to the trial.

Will I get information about the evidence against me and the witnesses testifying against me?

When you are first brought before the investigating magistrate your lawyer will be given the provisional file containing the results of the investigation. If the investigation is still being carried out, the public prosecutor will tell your lawyer about any further results.

Based on this file your lawyer may ask the investigating magistrate or the public prosecutor to carry out further investigations, including hearing witnesses and investigation by experts. You have no right to information about which additional witnesses are being questioned by the police.

If you have not been brought before the investigating magistrate, you will not be given information about the police investigation while it is being carried out.

If you have received a summons, you must tell your lawyer. He can then apply to the court for the full file. Based on this file he can ask the court at the trial to order further investigations, for example hearing witnesses or ordering an expert's report. The court will not usually hear witnesses at the trial but will let the investigating magistrate hear them. The investigating magistrate may then also carry out further investigations.

Related links

Code of Criminal Procedure

Criminal Code

Information for suspects provided by the Public Prosecution Service

Aliens Act 2000

Aliens Decree 2000

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3 - My rights during the trial

Where will the trial be held?

The case will be tried by a district court. Straightforward cases are heard by a single judge, also known as the police court judge. Complicated cases are tried by three judges. We do not have juries in the Netherlands. The trial is in public. In special cases the court may decide that no public is allowed.

Can the charges be changed during the trial?

The public prosecutor may always change the charges, even after the trial has commenced. If they are changed, you have the right to say what you think about this. In most cases the court will allow the charges to be changed.

What are my rights during the trial?

You have the right to be present throughout the trial. You may have a lawyer to assist you. You do not have to appear in court. If the court thinks it important that you are present, it can order you to appear in person.

If you do not go to the trial, you can have a lawyer represent you. You must authorize the lawyer to speak for you. In that case the lawyer has the same rights as you do. The effect is the same as if you were present at the trial. The court will assume that you have approved everything the lawyer says.

It is not possible to take part in the trial by video link from another Member State.

If you do not speak Dutch and so do not understand what is happening in court, the court will appoint an interpreter. You also have the right to a lawyer. For further details go to Factsheet 1.

At the trial, the court and the public prosecutor can ask you questions. You are never obliged to answer. The court will tell you this at the start of the trial. If you admit one or more of the offences during the trial, this will not change the trial. It may be used in evidence against you. It is not an offence to lie, but if you lie it can be used in evidence against you.

At the end of the trial you have the right to the last word. You do not have to exercise this right.

What are my rights in relation to the evidence against me?

You have the right to challenge all the evidence produced against you. You can do this by bringing witnesses with you or asking the public prosecutor to call them. If the public prosecutor has called witnesses, you have the right to ask them questions. You may present evidence in your defence, for example by presenting documents that support your case. You may present evidence you have collected yourself or had someone else collect, for example a private detective.

Will information about my criminal record be taken into account?

If you have a criminal record in the Netherlands, the court can take this into account when determining the sentence. If you have already been given a suspended sentence in the Netherlands, the court can enforce it. No account is taken of convictions in other Member States.

What happens at the end of the trial?

The court will pronounce sentence within two weeks after the end of the trial. If your case was tried by a single judge, sentence will be pronounced immediately at the end of the trial. You can be convicted or acquitted. In exceptional cases the court may find that you have committed an offence, but will not sentence you to punishment (and you will not face further prosecution).

If the court acquits you, you can apply for compensation for your detention, lawyer's fees and other costs, but only if you are acquitted of all charges. To obtain compensation, you or your lawyer must file an application with the court within 90 days.

What are the possible outcomes of the trial?

The court may impose various penalties or measures, or a combination of the two. The Netherlands does not have minimum penalties but it does have maximum penalties. In exceptional circumstances the court can determine that you do not deserve punishment and pronounce a conviction without sentence.

The main penalties that can be imposed are:

Imprisonment (you will be deprived of your liberty);

Community service (community service can take the form of a community service order (to do unpaid work), a training order (to follow a training project) or a combination of the two. If you do not do the community service, you will have to go to prison after all. Community service will normally only be imposed if you are staying in the Netherlands for a longer period of time);

Fine (payment of a sum of money to the Dutch State);

Confiscation (if goods have been seized, the court can order that the goods must be sold or destroyed).

The court may determine that all or part of the sentence shall be suspended. If you do not comply with the conditions, the sentence can be enforced after all at a later date.

The main measures that can be imposed are:

Confiscation of the proceeds of a crime (if you have earned money by committing a crime, the court can order that you must repay the money to the Dutch State);
Removal of objects from circulation (if dangerous or harmful objects have been seized, the court can order that they shall be destroyed);
A hospital order ("TBS")/placement in a mental hospital (the court may hold that when you committed the offence you were suffering from a mental disability or mental disorder. In that case the court can determine that you must be treated for this and can place you in a mental hospital. It can also impose a hospital order, under which you may be detained in a mental hospital against your will).

What is the role of the victim during the trial?

The victim has the right to inspect all or part of the file. The victim can claim damages from you and can attend the entire trial. The victim may speak at the trial.

The victim may at all times be represented by a lawyer. If you are convicted, the court can determine that you must pay the victim damages.

Related links

Code of Criminal Procedure
Criminal Code
Information for suspects provided by the judiciary
Information for suspects provided by the Public Prosecution Service

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4 - My rights after the trial

Can I appeal?

If the court has convicted you, you can appeal to the Court of Appeal within two weeks. An appeal is lodged by filing a notice with the registry of the court that tried your case. You can also ask your lawyer to do this for you. There are no costs for lodging an appeal.

If you have not lodged an appeal within fourteen days, the district court's judgment becomes final.

After lodging your appeal, you have two weeks within which to say in writing why you disagree with the verdict and what further investigations you wish to have done. If you have only been sentenced to pay one or more fines totalling no more than €500, you must state within this period and in writing why you disagree with the verdict. The appeal court will then decide whether or not it will hear your appeal.

The public prosecutor may also lodge an appeal against the district court's verdict, for example if you have been acquitted. In that case he must say why he lodged an appeal within two weeks after lodging the appeal.

What happens if I appeal?

If you lodge an appeal, the judge's verdict does not become final. If a sentence has been imposed on you, it will not be enforced. If you were held in custody during the trial, you may have to stay in custody during the appeal proceedings. The period of detention should not exceed the prison sentence the court imposed. The appeal court will periodically review your continued detention.

The appeal will be heard as soon as possible. In due course you will receive a summons to appear before the appeal court.

What happens at the appeal hearing?

The appeal court will try your case again based on the district court's verdict and the objections you (or the public prosecutor) have put forward against it. You have the same rights as at the district court trial. This means that you can present new evidence and call new witnesses.

What happens if the appeal is successful/unsuccessful?

The appeal court can acquit you or convict you. You can be convicted even though the district court acquitted you. If the district court convicted you, the court of appeal may convict you and pronounce the same sentence as the district court but it may also impose a higher, lower or different sentence.

If you want you can appeal to the Supreme Court against the appeal court judgment within fourteen days.

The Supreme Court will examine whether the law was applied properly. It will not examine the facts. You cannot present new evidence or call new witnesses. The Supreme Court can either confirm the appeal judgment or quash it.

If the Supreme Court says your appeal is well-founded, it will either say the appeal court has to examine the case again, or it may dispose of the case itself.

If the appeal court acquits you, you can apply for compensation for your detention, lawyer's fees and other costs, but only if you are acquitted of all charges. To obtain compensation, you or your lawyer must file an application with the court of appeal within 90 days.

I am from another Member State. Can I be sent back there after the trial?

After the trial the Dutch Immigration and Naturalisation Service ("IND") may, in exceptional cases, decide that you will be forcibly deported to your country of origin. In that case you will be detained for the purpose of deportation and you will be assigned a lawyer free of charge. Forcible deportation does not have any consequences for a future stay in the Netherlands.

In exceptional cases, if you have been convicted and you are a national of another Member State, the Dutch Immigration and Naturalisation Service can decide you are an "undesirable alien". You can appeal against this decision.

If you are declared an undesirable alien, you must leave the Netherlands and you are not allowed to return. If you do, you will be liable to punishment when you enter the Netherlands.

Information about the charges / conviction

Information about the charges and/or the conviction in your case will be kept in a central register in the Netherlands. This also happens if you are acquitted. Your permission is not needed to keep this information and you cannot object to it being kept. You can ask to inspect the information and ask for it to be corrected if you think it is incorrect.

Information relating to a conviction for a crime (with the exception of sex crimes) is kept for 30 years after the end of your trial. In exceptional circumstances this period can be extended by up to ten years. The information will be deleted in any case (regardless of the nature of the crime) when you reach the age of 80, or twenty years after your death.

Related links

Code of Criminal Procedure
Criminal Code
Information for suspects provided by the judiciary

Information for suspects provided by the Public Prosecution Service
Judicial Data and Criminal Records Act
Judicial Data Decree
Aliens Act 2000
Aliens Decree 2000
Information about being declared an undesirable alien provided by the IND

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Izvorna jezična inačica ove stranice nl nedavno je izmijenjena. Naši prevoditelji trenutačno pripremaju jezičnu inačicu koju vidite.

5 - Road traffic offences

The most common road traffic offences are disposed of by means of an administrative procedure. For drunk driving and exceeding the speed limit by more than 50 km/h, however, you must appear in court and your driving licence may be taken from you and withdrawn. You can be disqualified from driving in the Netherlands. In exceptional cases the Dutch Driving Test Organisation may decide to invalidate your driving licence.

If your driving licence is withdrawn, you should contact a lawyer in your own country to find out what the consequences are in that country.

Drunk driving

The level of alcohol in your breath is established using a breath test or a blood test. You may not refuse such a test, if you do you will be liable to punishment and your driving licence may be withdrawn.

If the level of alcohol in your breath is between 221 and 571 micrograms of alcohol per litre of breath, you can be fined. If you do not pay the fine, you will receive a summons to appear before the police court.

If the alcohol content of your breath is 571 or more micrograms of alcohol per litre of breath, you will have to appear before the police court. In most cases the judge will fine you and impose a driving probationary period or disqualify you from driving in the Netherlands.

If the level of alcohol in your breath is higher than 651 micrograms of alcohol per litre of breath, the police can take your driving licence from you. The public prosecutor will decide within ten days whether your driving licence will be kept for a longer period. You can appeal to the district court against this decision. Your appeal will usually be dealt with within two months. You cannot appeal against the district court's decision.

The rules governing the proceedings before the police court and legal representation by a lawyer are the same as those set out in Factsheet 1, Factsheet 3 and Factsheet 4.

Different rules apply if you have held your driving licence for less than five years. In that case the level of alcohol in your breath may not be higher than 88 micrograms of alcohol per litre of breath. You will have to appear before the police court if the level of alcohol in your breath is higher than 351 micrograms of alcohol per litre of breath and the public prosecutor may keep your driving licence if the level is more than 571 micrograms of alcohol per litre of breath.

Exceeding the speed limit by more than 50 km/h

If you exceed the speed limit by 50 km/h or more while driving a car or by 30 km/h or more while riding a moped and you are stopped by the police, your driving licence will be taken from you. If you exceeded the speed limit by 70 km/h while driving a car or if there is a risk you will do it again, the public prosecutor can decide within ten days to keep your driving licence for a longer period.

You can appeal to the district court against the decision to withdraw your driving licence. You cannot appeal against the district court's decision.

You will receive a summons to appear before the subdistrict judge. In addition to imposing a fine, the judge can also disqualify you from driving for a specified period. You can appeal against this judgment to the Court of Appeal and to the Supreme Court (see Factsheet 4).

You are not normally entitled to free legal aid in these proceedings.

How are other minor offences dealt with?

Other minor traffic offences are subject to an administrative sanction, in other words: a fine.

If you disagree with a fine, you can appeal to the public prosecutor for the area where you committed the offence. You can appeal against his decision to the subdistrict judge.

If the fine is more than €70, you can appeal against the subdistrict court's decision to Leeuwarden Court of Appeal.

You are not normally entitled to free legal aid in these proceedings.

Will these minor offences go on my criminal record?

Convictions by the courts will go on your criminal record, administrative sanctions will not. These are recorded in the police systems, however.

Related links

Code of Criminal Procedure
Criminal Code
Mulder Act
Road Traffic Act 1994
Road Traffic Act - reference points for sentencing (p. 7 and ff.)
Instructions pursuant to the Traffic Regulations Act (Administrative Enforcement)
Instructions for demanding surrender of driving licence
Information about drunk driving

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