

1. Main characteristics of the Dutch criminal procedure

The Dutch criminal procedure is characterized as being moderately inquisitorial and moderately adversarial. According to the Code of Criminal Procedure, the emphasis of the criminal procedure occurs during the trial phase, where the immediacy principle is prominent. This principle requires that all evidence has to be produced and discussed at the public trial in the presence of the defendant. In legal practice, the discussion of the evidence included in the written case file has an important value though. The evidence included in this case file qualifies directly as evidence which can be used to form the court's decision, and this evidence must be discussed during the trial hearing related to the merits of the case.

2. Jurisdiction: the Criminal Division and the Juvenile Division

Criminal offences are dealt with by the criminal sectors of the courts in three levels. The first instance level courts are District Courts. The second level is the Court of Appeal. The highest level is the Supreme Court. The District Courts are composed of different sections, among which the Criminal Division and the Family and Juvenile Division. The Family and Juvenile Division adjudicates, among other, criminal cases against juveniles. There is no jury system in the Netherlands.

3. The alternative settlement of small traffic offences

The prosecution service is exclusively vested with the power to prosecute criminal cases. It is not required to prosecute every criminal offence brought to its notice. The expediency principle authorizes the prosecution service to waive prosecution 'for reasons of public interest'.

In the underlying case, the two small traffic offences – not wearing a seat belt in the car and speed driving – would not be dealt with by the criminal court. These offences would either not be prosecuted on the basis of the aforementioned expediency principle, or be dealt with administratively (ending in an administrative fine), or judged by the Sub-District Division of the district court.