

Summary

Road Traffic Act 1994: evaluation of the changes in 1998

On June 24th, 1998 the Dutch Road Traffic Act 1994 was changed. The amendments were the result of the wish of the Dutch parliament for a tougher policy towards hazardous driving. The main modifications are:

1. higher maximum punishments for serious forms of reckless driving
2. compulsory requisition of the driver's license by the police when the speed limit was exceeded with more than 50 km per hour and a compulsory requisition of the driver's license by the public prosecutor when the speed limit was exceeded with more than 70 km per hour.
3. the term of disqualification from driving starts at the date mentioned in the official notification of the verdict. If the convict hands over his driver's license too late, the term of disqualification from driving is lengthened with the number days that the convict was late.
4. Disqualification from driving can also be imposed in cases of violent crime when the motor vehicle was used as a means or weapon.

The purpose of this evaluation is to see whether the changes in the Road Traffic Act 1994 are being enforced in a manner the legislator intended. In other words, do the police, public prosecutors, and judges make use of the new options in the Road Traffic Act 1994? The modification also led to a number of related questions. How severe are the punishments for various traffic offences? How often does a requisition of the driver's license lead to a disqualification from driving? What is the average duration of the period between requisition of the driver's license and a verdict? How often will a motor vehicle remain confiscated once it is confiscated by the police? Are combination of various types of punishments imposed? How often do convicts of a traffic offence relapse? Do repeat offenders of traffic offences get more severe punishments? To find an answer to these questions the period 1996-2000 is examined and several experts were invited to give their opinion.

The punishments show some interesting developments in the period 1996-2000. The average amount of the transactions with the public prosecutor is rising. The share of community services and the number of prison sentences do not change, but in absolute numbers the community services are rising. These developments vary for different types of traffic offences. For excessive speeding, which is defined as exceeding the speed limit with more than 50 kilometres per hour, more fines have been imposed. Also the number of disqualifications from driving due to excessive speeding is rising. For drunk driving the number of disqualifications from driving and the number of prison sentences remain stable. For driving without liability insurance the average amount of transactions with the public prosecutor diminishes. Other punishments for this type of traffic offence remain the same.

The number of confiscations of the motor vehicle is increasing. In 2000 about 25% of the confiscated motor vehicles by the police remain permanently confiscated in

cases of driving without liability insurance. For drunk driving this is 20% and for excessive speeding this is only 8%.

The new rules for disqualifications from driving work very well, although there is more red tape involved. If a crime has been committed using a motorvehicle, the a disqualification from driving is imposed. However de experts doubt the added value of this measure.

It remains unclear whether people causing traffic accidents are punished more severely. There are incidental cases where a prison sentence of more then 3 years is imposed, but only when the traffic accident was caused by drunk drivers. Traffic accidents caused by excessive speeding do not seem to lead to higher prison sentences. Thus the amendment which made excessive speeding an aggravated circumstance seems to be of little use.

Figures on repeat offenders show that after 5 years 34% of all traffic offenders are again convicted for a new traffic offence. The average is two new traffic offences but the figures vary by type of traffic offence. About 46% of the people who were convicted for driving without liability insurance are convicted for the same crime within 5 years. Of all people convicted for driving without a licence about 32% are again convicted for driving again without a licence within 5 years. And of all people convicted for drunk driving, approximately 28% are once more convicted for drunk driving within 5 years.

Figures on court cases show that police, public prosecutors and judges make use of the new options in the law. Since the amendment the figures show a large increase in the number of requisitioned driver's licenses due to excessive speeding. In about 90% of the cases due to excessive speeding where a driver's license was requisitioned and which went to court, a disqualification from driving is imposed, of which about half are suspended sentences. In cases where the driver's license was requisitioned by the police due to drunk driving a disqualification from driving is almost always imposed, the majority of which are unsuspended sentences.

Police an de public prosecutor's office find the new regulations regarding driver's license requisitioning very feasible. However the judges reserve the right to take a suspect's personal circumstances into account. It is not known whether the new rules lead to any adjustment of drivers' behaviour. Some experts do not consider the risk of getting caught very high. Police and the public prosecutor would like to have more information on requisitioned driver's licenses and disqualifications from driving.

The period from requisitioning the driver's license by the police and a verdict by a judge varies in length. Unless a transaction with the public prosecutor is possible, a suspect has to appear in court within six months if his driver's license was

requisitioned due to drunk driving, and within four months if his driver's license was requisitioned due to excessive speeding. About 75% of cases with a requisitioned driver's licence go to court, the other 25% ends in a transaction with the public prosecutor. Of all the cases that go to court, only 73% appear before a judge within six months. If the driver's licence was requisitioned due to drunk driving about 90% goes to court, of which 78% within six months. Of all cases in which the driver's license is requisitioned due to excessive speeding about 55% appear in court within 4 months. So in case of drunk driving more than 20% of these case does not go on trial on time en in case of excessive speeding 45% does not go on trial on time.

While evaluating the amendments to the Road Traffic Act 1994 several problems arose. Some changes could not be evaluated because there was little or no information available. Sometimes estimates had to be made.

Recommendations

Most experts consider the current set of sanctions for the Road Traffic Act 1994 adequate. Therefore they advise against compulsory confiscations of the motorvehicle in case of excessive speeding, because the punishment is as far as financial consequences are concerned not proportional to the seriousness of offence. They advice that longer period and administrative fines should be considered when assessing if a suspect is a repeat offender.

Currently there is a proposal to change the Road Traffic Act, so that recklessness can also be an aggravated circumstance in case of a traffic accident. However according to the experts the figures presented here and their legal experience do not give any cause for such a change. Some experts advise to improve the familiarity of the public prosecutor's office with the more severe punishments for causing a traffic accident.

As a point of improvement the experts mention the computer system in which requisitioned driver's licenses and disqualifications from driving are registered. They also suggest more research should be done into confiscations of motorvehicles, the application of disqualifications from driving in cases where a crime has been committed using a motorvehicle, and convictions for manslaughter in stead of causing a traffic accident in cases where the victim has died.