

## Summary

### **The collection of traffic fines**

#### **Tools, costs and results**

This report addresses the collection of traffic fines for breaking traffic rules in the Netherlands. In recent years, the annual number of fines was around 9 million. Most of these fines, 7 million, relate to speeding limits.

#### **Context of the research**

The research presented in this report was issued by the Minister for Legal Protection, responding to debates in the Dutch Parliament. There has been an ongoing debate in the Dutch Parliament on debt collection by public agencies in relation to people with problematic debts. This broad debate includes tax collection and the collection of premiums for health insurance. Along with this broad debate on debt collection, there is a more specific debate on the collection of traffic fines, which was the subject of several reports from the National Ombudsman. These reports revealed the large-scale use of court orders for coercive detention against people with problematic debts in order to force them to pay their traffic fines. As the system of collecting traffic fines was highly automated, communication with the offices involved in the collection was hardly possible. The Dutch Parliament took a number of measures to make the collection of fines more 'humane', providing the agencies with the discretion and the means to take the personal situation of debtors into account.

#### **Research questions**

- 1a How effective are the various instruments that are applied to collect traffic fines?
- 1b How do the amounts collected relate to the costs of deploying these instruments?
- 2 What knowledge is available on the relationship between problematic debts and a failure to pay traffic fines? Does the increasing of fines, when not paid within the first term, contribute to the emergence of problematic debts?
- 3 Which means are available to the collecting agencies in order to identify people with problematic debts at an early stage in the collection of the fine?
- 4a What can be learned from the research to optimise the collection of traffic fines?
- 4b Which subgroups of traffic offenders would be interesting for follow-up research?

#### **Collecting traffic fines: the law**

The collection of common traffic fines is regulated in Dutch law by the Traffic Regulations (Administrative Enforcement) Act (*Wet administratiefrechtelijke handhaving verkeersvoorschriften*, *Wahv*), which is an administrative act. There

is only one type of sanction for traffic offences under this Act: a financial sanction (a fine).

The collection of traffic fines is done by the Central Judicial Collection Agency (Centraal Justitiele Incassobureau, CJIB). A traffic fine is sent by regular post to the offender, who has to pay within eight weeks. If the fine is not paid, the Act identifies a series of measures to be taken. The first steps are two warnings, with a four-week term to make the payment. With the first warning, the amount to be paid is increased by 50%. For the second warning, the amount is raised again by 100%. A fine of € 100 therefore becomes a fine of € 150 after the first warning and a fine of € 300 after the second warning. If the fines remains unpaid, the next step is seizure. First, the CJIB will try to seize the money from a bank account. It has the authority to do so without a court order. If unsuccessful, the case can be transferred to a bailiff. A bailiff has a wider array of possibilities for seizure (including income, benefits and goods). In addition, a bailiff has the means to investigate the financial situation of the debtor and can negotiate a payment arrangement. If the fine remains unpaid after this step, the Act specifies three means of coercion that can be used in order to force the debtor to pay. The first is to deprive the offender of their driving licence (for a period of four weeks); the second is to seize a vehicle (by the police). If this step does not lead to payment, the vehicle will be sold or destroyed. The third is imprisonment (for a maximum of seven days per fine). The imprisonment is coercive; if the debtor does not pay, their debt continues to exist. The coercive measures have to be taken within five years after the original fine. Agencies will no longer actively try to collect the fine if it is still unpaid after this five-year period.

### **Citizens with serious debts**

Over half a million Dutch citizens are in a situation of problematic debts. Criteria used for the definition of 'problematic debt' include a seizure on income within the last 12 months, energy having been cut off because bills remained unpaid and a six-month backlog on health insurance premiums.

### **Methodology**

Research focusing on the effectivity and costs of all separate instruments used in the collection of traffic fines, and relating them to the financial situation of the people involved, would call for a huge research project. Constrained by a projected term of six months to provide the outcomes to Parliament, a practical choice was made for the way that the project was executed. This choice is to focus the research on the issues of the costs and effectivity of the various steps in the process of collecting fines, using data from the case management system of the CJIB. It means that the current research effort is constrained by the possibilities which this automated system provides. More detailed research would be done in a follow-up investigation. No new research is conducted on the personal or financial situation of traffic offenders. The current research makes use of the knowledge gathered in previous research projects and relates this information, where possible, to the system data.

The primary data source used for the project is the automated process system used by the CJIB. This system covers the whole process of collecting fines, so all instruments to be assessed in the research can be found as separate phases in the system. The data were collected by running queries on the data in the

system. Researchers worked with the aggregated data that are the output of these queries.

The assessments of the workload arising from the use of the various instruments were collected by financial and organisational experts who are working at the various agencies involved in the collection of traffic fines.

### **1a The effectivity of the collection of traffic fines**

The effectivity of the collection process and of the various instruments which are used in order to collect the fines is established primarily by measuring the percentage of fines that are paid after an instrument is deployed (and before the next instrument is deployed).

The overall effectivity of the collection process is high. At the end of the process, 94% of the fines have been collected. The remaining 6% include cases that have been terminated for good reasons, such as a successful appeal against the fine or because the offender is deceased. Less than 2% of all fines are terminated because of a failure to collect. Most of those cases involve offenders from abroad who received a traffic fine in the Netherlands.

Of all traffic fines under the *Wahv*, 84% are paid within the original term of eight weeks. Another 7% are collected in the warning stage. While the seizure stage adds another 2% to the percentage of collected fines, the stage of coercive measures adds a final 1%.

The percentages of collected fines after the separate instruments are deployed are as follows:

- first warning: 42%;
- second warning: 19%;
- seizure from bank account: 55%;
- collection by bailiff: 59%;
- deprivation of driving licence: 23%;
- seizure of vehicle: 33%;
- coercive imprisonment: 26%.

Several comments can be made about this measurement of effectivity. A main concern is that several instruments are supposed to have a preventive effect, which will not show in the system data. For example, someone may really fear the seizure of their car. Knowing that this measure will be deployed soon, they pay the fine in the stage of depriving the driving licence. In our measurement, it will appear as if the payment was triggered by the deprivation of the driving licence. System data will not provide any clue that it was in fact the threat of seizing a vehicle which triggered the payment. A different approach is needed in order to provide proof for this preventive effect that the instruments may have.

This type of approach has been used to explore the possible effect of increasing the fine in the warning stage: does this instrument lead to better payment discipline (more people paying their fines during the first term of eight weeks)? The current increases of fines were introduced in 2011. The possible effect on payment discipline has been explored by using system data on the way that cases were handled in the period from 2009 to 2014. From these data, the collection effectivity for each of the early stages in the collection process was established for the separate years; results from before and after the measure were compared. These data show that the fines paid in the first term went up by 2 percentage points after the measure was taken. This outcome suggests that the prospect of the amount to be paid becoming much higher if not paid on time indeed leads to more payments on time. Still, the number of fines that are paid only after the first warning remains high. It suggests that many people simply need a reminder. One might also expect that with tripled

amounts after the second warning, more people might not be able to pay the fine at all. Such an effect does not show in the data.

### **1b The cost of collecting fines**

The total annual cost of collecting the traffic fines under the Wahv is 70 million euros. One half of this amount is associated with the first step of the collection: sending the 9 million fines to the offenders and arranging the administration of the received payments. The other half is spent on the collection of the fines that are not paid on time. Most of the costs involve the work of the CJIB (51 million euros) and the police (18 million euros).

The separate instruments used in the collection can be viewed as 'price-effective', in the sense that the amount of money that is collected using the instrument is higher than the amount of money spent using the instrument. There are two exceptions: the seizure of vehicles and coercive imprisonment; the current use of the latter is quite selective. The instrument of seizing a vehicle was deployed in 118,000 cases during 2018, with a total cost of 21 million euros. These costs mainly involve covering the work of police officers, searching for the vehicle and its owner, and arranging transport to a containment facility. Often, and despite several time-consuming attempts, the vehicle will not be found. In 2018, a vehicle was confiscated for a total of 9,500 unpaid fines. Many of these vehicles have little value and will be destroyed. All costs of transport, containment and destruction will be added to the unpaid fine.

It should be noted that the increase of fines in the warning stage affects this calculation of 'price effectivity'. All fines collected after the second warning are tripled. Otherwise, the price effectivity would be much lower.

The process of collecting fines is not financed by the money collected in the process. With every fine, the offender has to pay an extra € 9 for administrative costs.

Through these payments, the CJIB is financed; not only for the work that they do collecting Wahv fines but also for other tasks, including the collection of fines issued under criminal law. The work of the police on the seizure of vehicles and on coercive imprisonment is not covered by the administrative costs that the offender pays.

## **2 The relationship between problematic debts and a failure to pay traffic fines**

System data on the collection of traffic fines do not reveal how many fines involve people who are in problematic debt. While about 3% of the Dutch population have problematic debts, it is assumed that this group is underrepresented in the group of people that receive traffic fines. Ownership of cars is relatively limited in low-income groups.

In 2018, the collection of 3% of the terminated unpaid fines was ended because the offender had successfully concluded a process of debt restructuring. For another 40% of the terminated unpaid fines, the reason for termination is not related to debts. Hence, the number of fines that involve a person with problematic debts is believed to be in the order of several hundred thousand. The research does not allow for a more precise estimate of this number.

In the recent past, it was established how traffic fines could lead to problematic debts. The reports by the National Ombudsman provide examples such as series of fines for uninsured old vehicles that could not be stopped. Some of these vehicles no longer existed, yet the fines could not be stopped without formal proof of the destruction of the vehicle.

After 2014, policies on the collection of traffic fines changed in many ways. For instance, arrangements were introduced which allow debtors to pay fines in small steps over a longer period of time. The collection of fines can be paused to make

arrangements for debt restructuring. Coercive imprisonment is only used if there is proof that the person is able but unwilling to pay.

Under the current policies, it is unlikely that traffic fines will be the origin of new problematic debts. Problematic debts most often originate from 'life events' such as divorce, unemployment or medical emergencies. When people are already in a situation where it has become difficult to pay their bills, every financial setback counts. Traffic fines can be placed in that perspective. Not being able to pay the original fine on time indicates that there are already financial problems. Increasing fines if they are not paid on time makes the situation worse. The option to arrange a payment scheme over a longer period of time means that the increase of the fine can be avoided. It does call for an active attitude from the offender. Research on the behaviour of people in debt shows, however, that some develop an inability to act and lose control over their problems.

### **3 The identification of offenders with problematic debts**

Today's policies on the collection of traffic fines are directed towards made-to-measure solutions for offenders who are in a situation of serious debts. To do so, it is necessary to identify these cases early in the process of collection. What means do the agencies have to do so?

The research points to four major sources of information:

- payment history (of traffic fines);
- payment history of other public collection procedures (tax, health insurance);
- debt registrations;
- information gathered during the process of collecting the fine.

It is clear that there are many sources of information available to identify offenders with problematic debts. However, it should be noted that the information available may not be up to date, so the information should be used with caution. The use of information available from other collection procedures in the public domain is limited by privacy regulations. In the past, initiatives to link data from various public agencies had to be cancelled because they violated privacy rules.

The availability of payment schemes (since 2015) makes it worthwhile for offenders with financial problems to inform the collection agencies of their situation. In practice, this opportunity is not used by all. When the collection process reaches the stage in which the case is handed to a bailiff, new and current information on the financial situation of the debtor can be gathered. Currently, this opportunity is not used to its full potential. Bailiffs are not asked for a full report on their activity; nor are they asked to make a house call, for instance. If unable to collect, the bailiff is asked to report by ticking at least one box on a multiple reply form. In practice, the bailiff may be asked for more detailed information when the case reaches the stage of possible coercive imprisonment. The use of coercive imprisonment has to be approved by a judge, who will want proof that the offender is able to pay (but refuses to do so).

#### **4a The optimisation of the collection of traffic fines**

Regarding the effectivity of the collection of Wahv traffic fines, the research shows that the room for further improvement is limited. With current policies that take the personal circumstances of the debtor into account, it is likely that the effectivity of the collection will slightly decrease. The research shows that even after the introduction of increasing fines in 2011, there is a vast group of offenders who do not pay the fine within the first term (eight week) but who do pay after the first warning (and the increase of the amount by 50%). This behavior seems to stem from negligence rather than rational choice. With an eight-week term for the original payment, there is enough room to send a reminder without increasing the fine. That

policy is prescribed for private creditors. It would only take a simple experiment to establish what the effect of such a policy would be on the timely payment of traffic fines.

The coercive measures of seizing a vehicle and coercive imprisonment are associated with relatively high costs. It should be noted, however, that the research does not show us to what extent these instruments cast a long shadow. Some offenders may pay the fine before these instruments are deployed, because they know that they will be. Skipping the instruments might result in lower measured effectivity at earlier stages of the collection process.

The coercive measure of seizing a vehicle is currently being deployed on a large scale without a critical check of whether the offender is able to pay the fine. Earlier research (Wilms & Mein, 2017) found that the police were often sent to incorrect addresses or spent time tracing vehicles that no longer belonged to the debtor. Given the impact that this measure has on police capacity, a more selective approach to the use of this measure would be appropriate.

The research also points to some unwanted side effects of this coercive measure. It can have serious consequences for those who are unable to pay the fine (their vehicle may be destroyed) and even vehicles of third persons (without unpaid fines) can be seized, sold and/or destroyed.

A more basic solution to the unhappy pairing of debts and financial sanctions cannot be found in the way that the process of collection is arranged. For traffic offences under the Wahv, a fine is the only sanction available. The number of Dutch households that have problems paying their bills is estimated to be 1.35 million; almost half of them have serious debts. A sanction for traffic offences should be applicable to this group. Under criminal law, there are alternatives to financial sanctions. However, the Wahv is an administrative act, under which no alternative sanctions are available. As a result, the collection agencies have to make people pay who cannot pay. This situation leads to unnecessary public costs and unnecessary damages for those in debt. The more basic solution would be to introduce an alternative sanction that those who cannot pay can endure.

#### **4b Future research**

Two groups are singled out for future research:

- offenders from whom the fine is collected by seizure from their bank account;
- offenders that undergo coercive imprisonment.

The first group is one which can pay (there is money on their bank account) but which does not do so. Their behavior seems irrational: the amount to be paid has tripled when the money is seized from their account. The second group is one that undergoes the whole process of collection, apparently being able to pay (a judge has to approve the use of coercive imprisonment) but refusing to do so. What motivates their behavior? Research on this group may also provide insight into whether the check of the ability to pay is solid and why seizure (applied earlier in the collection process) does not work for this group.

The report points to various limitations of the current research, which should be addressed in future research:

- Overlap in measures. The current research does not provide insight into the extent to which the combined use of the various instruments for collection occurs. How many cases are there in which none of the coercive measures that are available are or can be applied?
- Evaluation of payment schemes. The current research only shows some temporary results of these schemes. As the administration of the payment schemes

- uses a separate automated system, their interaction with the instruments reviewed in this report could not be established;
- address quality. The collection process may fail because a correct address of the offender is lacking. To which extent the collection fails for this reason could not be established from the available system data.

More generally, the analytical framework of the current research is limited by the way that the automated case management system is designed. The analysis is performed on cases (separate fines), which can be misleading and which may make problems appear more severe. Behind the huge number of cases (separate traffic fines) is a lower number of individuals. When it comes to seizure or coercive measures, one would like to know the number of individuals involved. What looks like five cases in which a car is seized may in fact be one seizure for one person with five unpaid fines.

The statistics on collected fines may also be affected by recently introduced payment schemes and a newly introduced option to 'freeze' the collection process in order to solve debts. Cases will take more time, which may affect the results measured.