



Procedure of the Maritime Disciplinary Court of the Netherlands

Captains and ship's officers are subjected to disciplinary law if they act contrary to the rules of good seamanship that they are expected to observe in respect of people on board, the vessel, its cargo, the environment and shipping.

Institution of proceedings

The Minister of Infrastructure and the Environment can institute proceedings by filing a petition.

A stakeholder can do this by filing a complaint.

The petition or complaint must be submitted in writing or in digital form, stating the grounds, to the president of the disciplinary court.

The date of submission to the disciplinary court is the date on which the petition or complaint was received by the secretariat of the disciplinary court. This date is important to judging whether the petition or complaint has been submitted on time. A petition or complaint must be submitted within 2 years of the occurrence of the event to which the petition or the complaint relates. The secretary will send confirmation of receipt of the petition or the complaint as soon as possible to the party submitting the petition or the complaint.

Content of the petition or complaint

The petition or complaint must at least include the following information:

- forenames, surname, address, postcode and place of residence of the submitting party;
- name of the captain or ship's officer concerned and, if known, his or her forenames, initials, surname, address, postcode, place of residence and work address, as well as his or her position on board the vessel at the time of the event or act to which the petition or the complaint relates;
- the name of the vessel on which the person concerned was sailing at the time of the contested act and, if known, the type of vessel;



- if known, the name and the place of establishment of the managing owner of the vessel concerned;
- the contested act to which the petition or complaint relates, also stating when it took place;
- a brief and concise description of the accusation made by the petitioner or complainant against the captain or ship's officer;
- the date of the petition or the complaint;
- the name and signature of the submitting party;
- if the complainant has appointed an authorised representative, the name and address details and telephone number of the authorised representative.

If the details appear to be incomplete or incorrect, the president of the disciplinary court can set a period in which the information can be supplemented or rectified.

The secretary of the disciplinary court may help the complainant to formulate the complaint.

The secretary will forward a copy of the petition or the complaint to the person concerned as soon as possible. In the case of a foreign captain or ship's officer, the petition or the complaint will be translated into English.

Rejection of the petition or the complaint

The president of the disciplinary court can reject the petition or the complaint, giving reasons, if he takes the view that the petition or complaint is manifestly inadmissible or manifestly unfounded. The secretary will send the written decision of the president to the petitioner or complainant without delay. The petitioner or the complainant will be given two weeks to object to the president's decision.

The decision of the president will be set aside as a result of the objection.

Discontinuation/withdrawal of the petition or complaint

The president can decide to test the possibility of an out-of-court settlement in response to the petition or the complaint. The petition or complaint is discontinued if an out-of-court settlement is concluded.



The petitioner or the complainant can withdraw the petition or complaint. The secretary will inform the person concerned of this as soon as possible. The petition or the complaint is cancelled in the event of the death of the person concerned.

The petition or complaint can be altered up to the date of the hearing. The person concerned will be immediately informed of this. The person concerned will be given the opportunity to be heard. If the disciplinary court judges the amendment to be unreasonable, it can refuse to accept it.

Provision of assistance or representation

The person concerned can have himself assisted by defence counsel. The person filling the petition or complaint can have himself represented at the hearing by a person authorised for that purpose or can have himself assisted by defence counsel.

Statement of defence, reply and rejoinder

The person concerned can submit a statement of defence in written or digital form to the disciplinary court within six weeks of the date on which a copy of the petition or complaint was sent. The president can extend this period. The secretary will send a copy of the statement of defence to the petitioner or complainant as soon as it is received.

Once a copy of the submitted petition has been sent by the secretary, the president may give the petitioner or the complainant the opportunity to submit a reply to the statement of defence. After receiving the reply, the secretary will send a copy of it to the person concerned. Once the copy of the reply has been sent, the person concerned will be given the opportunity to submit a rejoinder.

Preliminary investigation

If necessary, a preliminary investigation can be carried out on the instructions of the president. The preliminary investigator appointed by the president is authorised to gain admittance to any place he considers necessary to carry out an investigation, if necessary with the assistance of



the police, with the exception of a home without the permission of its occupant. He is also authorised to inspect all written documents and data in computer systems found on board and which are relevant to the investigation.

He can interrogate the person concerned and any witnesses or experts. The preliminary investigator will not take part in the hearing of the case in court session.

The hearing

The president will stipulate the time and date of the hearing. The secretary will summon the petitioner, the complainant and the person concerned at least four weeks prior to the date of the court session by registered mail. The person concerned is obliged to appear.

If the person concerned does not appear in court, the president can grant leave to proceed in default of appearance or make a request to the public prosecutor to serve a summons on the person concerned.

The summons will be accompanied by a copy of the petition or complaint and all documents relating to the case insofar as they have not already been sent. The documents will be translated into English or his own language on the request of the person concerned. The hearing takes place in public session. The disciplinary court can decide to hear the case (partially) in camera if there are compelling reasons to do so.

The disciplinary court can summon and hear witnesses and experts at the court hearing on its own initiative or on the request of the person concerned or the petitioner or complainant.

The secretary will summon the witnesses or experts by registered mail and can make a request to the public prosecutor to summon them if they fail to appear at the hearing.

The president of the disciplinary court presides over the court hearing. The hearing of the case is concluded when the disciplinary court takes the view that the investigation has been completed. The person concerned has the



right to have the last word. The president will state when the ruling will be pronounced.

Decision of the Disciplinary Court

The disciplinary court will pronounce its ruling in public session. The disciplinary court will make its ruling within two months of the conclusion of the hearing. This period can be extended.

The possible decisions are as follows:

The disciplinary court can be declared not to have competent jurisdiction, the petition or the complaint can be declared inadmissible, the petition or the complaint can be declared unfounded, the petition or the complaint can be declared well-founded.

If the disciplinary court rules that an objection against a person concerned is well-founded, the disciplinary court can impose the following disciplinary measures:

a warning, a reprimand, a fine not exceeding 4500 euros or a suspension of the navigation licence for a period not exceeding two years. A fine or a suspension of the navigation licence can be imposed conditionally (in full or in part). It is also possible to impose a combination of measures. The disciplinary court can also stipulate that the decision be publicised in specifically named magazines or newspapers.

The written decision will be sent by the secretary to the person concerned and the petitioner or the complainant.

The decision of the disciplinary court is open to appeal:

1. By the person concerned if the petition or the complaint is declared well-founded in full or in part;
2. By the Minister of Infrastructure and the Environment;
3. By the complainant if his complaint is declared inadmissible or unfounded in full or in part.

The disciplinary measures constituting a fine and suspension of the navigation licence and publication of the decision may not be executed until the decision has been rendered final and conclusive.



In the case of suspension of the navigation licence, the secretary will inform the person concerned by registered mail of the date on which the suspension comes into effect and will refer the person concerned to the obligation to hand in the navigation licence to the Central Register of Crew Data prior to that date. If the person concerned fails to surrender the navigation licence on time, the period of suspension will be automatically extended by operation of law by the period that elapses between the date of commencement of the suspension and the date on which the navigation licence is actually surrendered. The secretary will send a copy of the written decision to the Central Register of Crew Data.

Reopening of the investigation

If the disciplinary court judges that the investigation has not been complete, it can have it reopened.

The secretary of the disciplinary court will inform the person concerned and the petitioner or the complainant of this as soon as possible.