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Relevant Confiscation Legislation Netherlands

Seizing and pre judgment seizure

Seizing

Article 94 Code of Criminal Procedure

1. All objects that may serve to reveal the truth or demonstrate unlawfully obtained gains, as referred to in article 36e of the Criminal Code, shall be liable to seizure.
2. Furthermore, all objects whose confiscation or withdrawal from circulation may be ordered shall be liable to seizure.
3. The investigating officer who seizes an object shall prepare a notice of seizure, even where the power of seizure is conferred on the examining magistrate or the public prosecutor. A receipt for the object shall be issued, as far as possible, to the person from whom it was seized. The investigating officer shall place the notice in the hands of the assistant public prosecutor as soon as possible so that he can decide whether the seizure should be maintained.

Pre judgment seizure

Article 94a Code of Criminal Procedure

1. In the case of suspicion of a serious offence for which a fine of the fifth category may be imposed, objects may be seized in order to preserve the right of recovery in respect of any fine to be imposed for that serious offence.
2. In the case of suspicion of or conviction for a serious offence for which a fine of the fifth category may be imposed, objects may be seized in order to preserve the right of recovery in respect of an obligation to be imposed in response to that serious offence for payment of a sum of money to the State for the purpose of special confiscation of unlawfully obtained gains.
3. In the case of suspicion of a serious offence for which a fine of the fourth category may be imposed, objects may be seized in order to preserve the right of recovery in respect of an obligation for a measure to be imposed in respect of that crime as referred to in article 36f of the Penal Code.
4. Objects which belong to a person other than the person on whom, in the case referred to in paragraph (1), the fine may be imposed or the person who, in the case referred to in paragraph (2), may be deprived of the unlawfully obtained gains, or the person on whom, in the case referred to in paragraph (3), the measure referred to in section 36f of the Criminal Code may be imposed, may be seized if there are sufficient indications that these objects have become, in whole or in part, the property of this other person with the evident aim of hindering or preventing the sale of these objects, and this person knew or could reasonably suspect this to be the case.
5. In the case referred to in paragraph (4), other objects belonging to the person concerned may also be seized up to maximum the value of the objects referred to in paragraph (4).
6. Objects shall mean all property of any description, whether corporeal or incorporeal.

Article 94b Code of Criminal Procedure

In the application of articles 94 and 94a:

- 1°. receivables shall be seized and such seizure terminated by written notice to the debtor;
- 2°. order or bearer rights shall be seized by seizure of the paper;
- 3°. registered shares and securities shall be seized and immovable registered property shall be seized and its seizure lifted through a bailiff with due observance of the formalities applicable under the Code of Civil Procedure in regard of notice or notification of the seizure, or the service of the official record of seizure, the entry, registration or cancellation thereof in registers and the service thereof on third parties;
- 4°. ships and aircraft shall be seized and their seizure terminated with due observance of the formalities applicable under the Code of Civil Procedure in regard of the service of the official record of seizure, and under any regulation pertaining to registered ships or aircraft in regard of the registration or cancellation thereof in registers.

Article 94c Code of Criminal Procedure

Part Four of Book Three of the Code of Civil Procedure shall apply mutatis mutandis to the seizure referred to in article 94a, save that:

- a. the power of seizure may be exercised without the leave of the District Court judge hearing applications for provisional relief or any fear of embezzlement being required;
- b. a maximum amount for which the right of recovery is to be exercised must be stated in the official record of seizure or the writ of seizure;
- c. provisions pertaining to the time limits within which the principal claim must be brought before the court after seizure shall not apply mutatis mutandis;

- d. in the case of movable property that is not registered property and bearer or order rights, the preparation of an official record of seizure and the issuance of a receipt to the person from whom the objects have been seized by an investigating officer shall also suffice;
- e. failure to comply with the time limits within which the seizure must be served, except for the cases under article 94b (3°), shall not invalidate the seizure;
- f. Article 721 of the Code of Civil Procedure shall not apply mutatis mutandis; in the event that the principal claim is brought before the court after seizure, the public prosecutor shall give the third party written notice thereof as soon as possible;
- g. Article 722 of the Code of Civil Procedure shall not apply mutatis mutandis;
- h. Articles 117 and 118 shall apply to seized movable property which is taken into custody;
- i. the seizure shall be terminated with due observance of the provisions of this Code.

Article 94d Code of Criminal Procedure

1. For the purpose of preserving the right of recovery, the public prosecutor may exercise on behalf of the State the powers which, under the Civil Code and the Code of Civil Procedure, are conferred on a creditor whose chances of recovery are prejudiced as a consequence of a legal act gratuitously performed by the debtor. Article 94c(c) and (e) shall apply mutatis mutandis.
2. In the application of articles 3:46 and 3:47 of the Civil Code, the presumption of knowledge, referred to in these articles, shall apply in regard of legal acts performed by the suspect or the convicted offender within one year before the prosecution was instituted against him.
3. Furthermore, for the purpose of preserving the right of recovery, the public prosecutor shall be authorised to act on behalf of the State as creditor in the bankruptcy of the suspect or the convicted offender. Until the amount of the fine or the unlawfully obtained gains to be deprived has been determined, the public prosecutor shall be deemed to be asserting a conditional claim.
4. The public prosecutor shall retain the powers referred to in paragraphs (1) and (2), notwithstanding a bankruptcy, insofar as the objects to which the gratuitously performed legal acts relate are not claimed by the trustee or the receiver under articles 42 to 51 inclusive of the Bankruptcy Act.

Confiscation without court involvement

Waiver of seized objects

Article 116 Code of Criminal Procedure

1. The assistant public prosecutor or the public prosecutor, who has been informed of the notice of seizure under article 94(3), shall decide on the continuation of the seizure in the interest of the criminal proceedings. If this interest is not, or no longer, present, he shall terminate the seizure and return the object to the person from whom it was seized. If advisable, the assistant public prosecutor shall consult with the public prosecutor before he takes the decision.

2. If the person from whom the object was seized declares in writing before the examining magistrate, the public prosecutor or an investigating officer that he waives his right to the object, the assistant public prosecutor or the Public Prosecution Service may:

a. instruct the return of the object to the person who may be reasonably regarded as the person entitled thereto;

b. order that the object remain in custody for the benefit of the person entitled thereto, if it is not yet possible to return it to the person who may be reasonably regarded as the person entitled thereto;

c. if the person from whom the object has been seized states that it belongs to him, order that it be treated as though it had been confiscated or withdrawn from circulation.

3. If a declaration, as referred to in paragraph (2), is not made, then the Public Prosecution Service may nevertheless take the decision referred to in (a) or (b) if, within fourteen days after the Public Prosecution Service has given notice of its intention to take such decision to the person from whom the object has been seized, he has not filed a complaint against such decision or the complaint filed by him has been declared ill-founded. Part IX of Book Four shall apply mutatis mutandis to the complaint.

4. If a declaration, as referred to in paragraph (2), is not made and the Public Prosecution Service intends to return the object to the person who may be regarded as the person entitled thereto, it shall be authorized to immediately place it in the custody of this person, pending the possibility of return, if the person from whom the object was seized evidently removed or withheld it from the person entitled thereto by means of a criminal offence. In that case, the person to whom the object has been released shall be entitled to use it.

5. If the Public Prosecution Service in accordance with paragraphs (2) or (4) or the District Court in accordance with article 353(2) has ordered that the object be taken into custody, the Public Prosecution Service shall, after the person entitled to the object has been established, return it to him.

6. The decisions referred to in this article shall be without prejudice to any person's right to the object.

Conditional dismissal of the criminal case

Article 167 Code of Criminal Procedure

1. If the Public Prosecution Service considers on the basis of the results of the criminal investigation instituted that prosecution is required by the issuance of a punishment order or otherwise, it shall proceed to do so as soon as possible.

2. A decision not to prosecute may be taken on grounds of public interest. The Public Prosecution Service may, subject to specific conditions to be set, postpone the decision on prosecution for a period of time to be set in said decision.

Conditions to avoid criminal proceedings

Article 74 Criminal Code

1. Prior to the trial, the Public Prosecutor may set one or more conditions, which must be complied within order to avoid criminal proceedings for serious offences, excluding serious offences for which the law prescribes sentences of imprisonment of more than six years, and for minor offences. Compliance with these conditions shall preclude the right to institute criminal proceedings.

2. The following conditions may be set:

- a. payment of a sum of money to the State, to be set at minimum € 3 and maximum the fine that may be imposed for the offence;
- b. relinquishment of ownership to objects that have been seized and are liable to confiscation or withdrawal from circulation;
- c. surrender of objects liable to confiscation or payment of their assessed value to the State;
- d. payment in full to the State of a sum of money or transfer of objects seized for the purpose of deprivation, in whole or in part, of unlawfully obtained gains which are liable to special confiscation pursuant to article 36e;
- e. full or partial compensation of the damage or loss caused by the criminal offence;
- f. performance of unpaid work or participation in a training project for a maximum of one hundred and twenty hours.

3. In the case of a serious offence, the Public Prosecutor shall promptly send notice indicating the date on which he set said conditions to the directly interested party, at that party's request.

4. Article 6:1:1 of the Code of Criminal Procedure shall apply mutatis mutandis to the conditions imposed under the first paragraph.

5. The provisions pertaining to community service orders set out by or pursuant to articles 22b, 22c(1) and the articles 6:1:9, 6:3:1 (2) and 6:3:6 of the Code of Criminal Proceedings shall apply mutatis mutandis to the condition referred to in paragraph (2)(f). The identity of the convicted person will be established according to Article 27a (1 first sentence and 2) of the Code of Criminal Proceedings. The unpaid work or the training project shall be completed within a period of six months after the person in question has agreed to the condition.

6. Rules pertaining to compliance with the condition, referred to in paragraph (2)(a), shall be issued by or pursuant to Governmental Decree. These rules shall include in any case the place and manner of payment of the sum of money, the period within which that payment must be made and the accountability for the sums of money received. Rules pertaining to compliance with the other conditions referred to in paragraph (2) may be issued by or pursuant to Governmental Decree.

Punishment Order

Article 257a Code of Criminal Procedure

1. The public prosecutor may, if he establishes that a minor offence or a serious offence which carries a statutory term of imprisonment not exceeding six years, has been committed, issue a punishment order.

2. The following punishments and measures may be imposed:

- a. community service up to a maximum of one hundred and eighty hours;
- b. a fine;

- c. withdrawal from circulation;
- d. the obligation to pay the state a sum of money for the victim;
- e. disqualification from driving motor vehicles for maximum six months.

3. In addition, the punishment order may contain instructions which the suspect must comply with. They may contain:

- a. relinquishment of ownership to objects that have been seized and are liable to confiscation or withdrawal from circulation;
- b. surrender of objects liable to confiscation or payment of their assessed value to the State;
- c. payment in full to the State of a sum of money or transfer of objects seized for the purpose of special confiscation, in whole or in part, of unlawfully obtained gains which are liable to special confiscation pursuant to article 36e of the Criminal Code;
- d. payment of a sum of money, to be set, to the Criminal Injuries Compensation Fund or to an organisation that aims to represent and advocate the interests of victims of criminal offences, whereby the amount may not exceed the maximum fine prescribed by law for the criminal offence;
- e. other instructions pertaining to the behaviour of the suspect, with which said suspect must comply within a probation period of maximum one year to be set in the punishment order.

4. A punishment order shall be imposed and instructions as referred to in paragraph (3)(e) shall be given subject to the condition that the suspect provides, for the purpose of establishing his identity, an identity document as referred to in article 1 of the Compulsory Identification Act for inspection and cooperates with fingerprinting.

5. In the execution of the community service order and supervision of compliance with the instructions referred to in paragraph (3)(e), the identity of the suspect shall be established.

6. The punishment order shall be in writing and shall state:

- a. the name and the known address of the suspect;
- b. a statement of the offence as referred to in article 261(1) and (2), or a brief description of the conduct for which this punishment order was issued, and the time at which and the place where this conduct took place;
- c. the criminal offence that this conduct constitutes;
- d. the punishments, measures and instructions imposed;
- e. the day on which it was issued;
- f. the manner in which an objection may be filed;
- g. the manner of execution.

7. If it appears that the suspect has no or insufficient command of the Dutch language and the punishment order has been issued because of a crime, the punishment order or at least the parts thereof referred to in paragraph (6) shall be translated into a language understandable to the suspect. The suspect who has no or insufficient command of the Dutch language may request that the punishment order be translated into a language that he understands.

8. With regard to the young adult who, at the time of committing the offense or crime as referred to in the first paragraph, has reached the age of eighteen, but not yet twenty-three, the punishment order may be imposed in addition to the instructions referred to in paragraph (3), contain the instruction that the young adult will comply with the instructions of a probation

institution as referred to in article 14c, paragraph (6), of the Criminal Code. The fourth paragraph applies mutatis mutandis.

Written settlement

Article 511c Code of Criminal Procedure

The public prosecutor may, as long as the court hearing has not been closed, enter into a written out-of-court settlement with the suspect or convicted offender for payment of a sum of money to the State or transfer of objects for deprivation, in whole or in part, of unlawfully obtained gains liable to special confiscation under article 36e of the Criminal Code.

Judicial settlement with confiscation order judge

Forfeiture with seizure

Article 33 Criminal Code

1. A confiscation order may be issued upon conviction of any criminal offence.
2. Article 24 shall apply mutatis mutandis.

Article 33a Criminal Code

1. The following shall be liable to confiscation:
 - a. objects belonging to the convicted offender or objects he can use in whole or in part for his own benefit and obtained entirely or largely by means of or from the proceeds of the criminal offence;
 - b. objects in relation to which the offence was committed;
 - c. objects used for the commission or preparation of the offence;
 - d. objects used for the obstruction of the investigation into the serious offence;
 - e. objects manufactured or intended for the commission of the serious offence;
 - f. rights in rem and rights in personam pertaining to the objects specified in a. to e. inclusive.
2. Objects referred to in paragraph(1.a) to (1.e) inclusive that do not belong to the convicted offender may be declared confiscated only if:
 - a. the person to whom they belong knew that they had been obtained by means of the criminal offence or knew of their use or purpose in connection with the offence, or could have reasonably suspected such provenance, use or purpose; or
 - b. the identity of the person to whom they belong could not be ascertained.
3. Rights as referred to in paragraph (1.f), which do not belong to the convicted offender, may be declared confiscated only when the person to whom they belong knew that the objects, on which and with regard to which these rights are established, had been obtained by means of the criminal offence or knew of their use or purpose in connection with the offence, or could have reasonably suspected such provenance, use or purpose.
4. Objects shall mean all property of any description, whether corporeal or incorporeal.

Article 33b Criminal Code

Confiscation of objects shall include any materials in which the objects are packaged, unless the court determines otherwise.

Article 33c Criminal Code

1. Upon confiscation of objects, the court may order that in cases where the proceeds of the confiscated objects exceed the amount set in the judgment, the difference shall be reimbursed.
2. The court shall grant a reimbursement, as referred to in paragraph 1, or monetary compensation, where this is necessary to ensure that the defendant or another person to whom the objects belong is not disproportionately affected by the confiscation.
3. The court shall decide to whom the amount of the reimbursement or monetary compensation shall be paid, without prejudice to the right of any other person to this amount.

Forfeiture without seizure

Article 34 Criminal Code

1. Objects which have not been seized shall, upon confiscation, be assessed at a specific amount of money in the judgment.
2. In such cases, the objects must be surrendered or their assessed value paid.
3. Articles 24c and 25 and the articles 6:4:2 and 6:4:7 of the Code of Criminal Proceedings shall apply mutatis mutandis.

Withdrawal from circulation

Article 36b Criminal Code

1. The withdrawal of seized objects from circulation may be ordered:
 - 1°. by a judgment whereby a person is convicted of a criminal offence;
 - 2°. by a judgment whereby it is decided, in accordance with article 9a, that no punishment is to be imposed;
 - 3°. by a judgment whereby, acquittal or dismissal of the criminal charge(s) notwithstanding, it is established that a criminal offence has been committed;
 - 4°. by a separate decision given in chambers, on application of the Public Prosecution Service;
 - 5°. by a punishment order.
2. Articles 33b and 33c(2) and (3) and article 446 of the Code of Criminal Procedure shall apply mutatis mutandis.
3. The measure may be imposed in conjunction with punishments and other measures.

Article 36c Criminal Code

All of the following objects shall be liable to withdrawal from circulation:

- 1°. objects obtained entirely or largely by means of or from the proceeds of the criminal offence;
- 2°. objects in relation to which the offence was committed;
- 3°. objects used for the commission or preparation of the offence;
- 4°. objects used for the obstruction of an investigation into the serious offence;
- 5°. objects manufactured or intended for the commission of the serious offence; insofar as these objects are of such nature that their uncontrolled possession is in violation of the law or contrary to the public interest.

Article 36d Criminal Code

The following shall also be liable to withdrawal from circulation: those objects belonging to the offender or the defendant which are of such nature that their uncontrolled possession is in violation of the law or contrary to the public interest, and which have been found in the course of the investigation of the offence committed by him, or of the offence of which he is suspected, but only if these objects may be used for the commission or preparation of similar offences or for the obstruction of their investigation.

(Skimming) Fine

Article 23 Criminal Code

1. A person who has been sentenced to pay a fine shall pay the amount within the term to be set by Our Minister of Justice and Security to the state.
2. The fine shall be a minimum of € 3.
3. The maximum fine that may be imposed for a criminal offence shall be equal to the amount of the category specified for that offence.
4. There are six categories:
 - the first category, € 450. ;
 - the second category, € 4.500. ;
 - the third category, € 9.000. ;
 - the fourth category, € 22.500. ;
 - the fifth category, € 90.000. ;
 - the sixth category, € 900.000. .
5. In cases where a fine has not been set for either a minor or serious offence, a fine up to the maximum amount of the first or third category respectively may be imposed.
6. In cases where a fine has been set for either a minor or serious offence, but no category has been specified, a fine up to the maximum amount of the first or third category respectively may be imposed, if this amount is higher than the amount of the fine prescribed for the criminal offence in question.
7. In the case of conviction of a legal person, if the fine category determined for the offense does not allow for an appropriate punishment, a fine may be imposed up to the amount of the next higher category. If a fine of the sixth category can be imposed for the offense and that fine category does not allow for an appropriate punishment, a fine may be imposed up to a maximum of ten percent of the annual turnover of the legal person in the financial year preceding the judgment or punishment order.
8. The preceding paragraph shall apply mutatis mutandis in the case of conviction of an unincorporated company, a partnership, a shipping company or a special purpose fund.
9. The amounts referred to in the fourth paragraph are adjusted every two years, with effect from 1 January of a year, by order in council to the development of the consumer price index since the previous adjustment of these amounts. With this adjustment, the monetary amount of the first category is rounded down to a multiple of € 5 and, based on the monetary amount of this first category and while maintaining the mutual relationship between the amounts of the fine categories, the amounts of the second to and determined with the sixth fine category.

Article 24 Criminal Code

In the determination of the fine, the offender's financial capacity shall be taken into account to the extent necessary in order to arrive at an appropriate punishment for the defendant without disproportionately affecting his income and capital assets.

Article 24a Criminal Code

1. If one or more fines up to an amount of at least € 225 are imposed, it may be determined in the judgment or the punishment order that the person ordered to pay the fine may pay the amount in parts. Each of these parts shall be set at a minimum of € 45.

2. In cases where paragraph 1 applies, the terms for payment of the second – if the fine may be paid in more than two parts – and the following parts shall be set out in the judgment or the punishment order.

3. These terms shall be set at a minimum of one month and a maximum of three months. In the case of a judgment, these terms may not exceed a period of two years in total; in the case of a punishment order, these terms may not exceed a period of one year.

Article 24c Criminal Code

1. If a fine has been imposed in a judgment and full payment or full recovery of the amount due does not follow, the court shall order enforcement of the default detention. This order shall not be issued if the convicted offender is a legal person. The last paragraph of article 51 shall apply *mutatis mutandis*.

2. The term of the default detention shall be set in whole days, weeks or months.

3. The term of the default detention shall be a minimum of one day and a maximum of one year. A maximum of one day shall be imposed for each full € 25 of the fine.

Article 6:4:2 Criminal Code of Procedure

1 Our Minister will demand payment in writing from the convicted person if the amount that must be paid pursuant to an enforceable fine or measure as referred to in Article 36f of the Penal Code, and the administration costs are not paid in full within the period set for this purpose. In the event that the conviction or punishment order has become irrevocable, the amount will be increased by operation of law by € 20. Our Minister will draw the convict's attention to the provisions of the second paragraph.

2 If the amount increased in accordance with the first paragraph has not been paid in full or in part after the expiry of the term set in the reminder, the amount, or the part thereof still owed, will be increased by law by one fifth, but at least by €40.

3 As soon as an increase has taken effect pursuant to the first paragraph, the amount that may be paid in installments or parts will immediately become due and payable in full.

4 In cases in which Our Minister, after the convicted person was not culpably in default, has granted a deferral of payment or has allowed payment in installments, the first to third paragraphs do not apply, as long as the convicted person fulfills his obligations according to the further regulation.

5 Payments made by the convicted person to the state in respect of a measure as referred to in article 36f of the Penal Code are deemed to first serve to pay the principal sum, then to the administration costs charged and finally to the increases that have taken effect pursuant to the first and second paragraphs.

6 Payments made by the convicted person to the state in respect of another financial sanction, are deemed to serve first of all to pay the administration costs charged, then to the increases that have taken effect pursuant to the first or second paragraph and finally to the monetary penalty.

7 The increase on the basis of the first or second paragraph of the amount due under the measure referred to in article 36f of the Criminal Code lapses to the state. If the person convicted of a crime has not or not fully complied with his obligation within eight months after the day on which the judgment or judgment by which this measure was imposed has become irrevocable, the State will pay the remaining amount to the victim or the persons referred to in article 51f, second paragraph, who are not legal persons. The state recovers the amount paid, as well as the increases that have taken effect pursuant to the first paragraph, from the convicted person.

Value Confiscation Measure

Article 36e Criminal Code

1. On application of the Public Prosecution Service, a person who is convicted of a criminal offence may be ordered in a separate judicial decision to pay a sum of money to the State in order to deprive him of unlawfully obtained gains.
2. This obligation may be imposed on the person referred to in paragraph (1) who obtained gains by means of or from the proceeds of the criminal offence referred to in that paragraph or from other criminal offences with regard to which there are sufficient indications that these offences were committed by the convicted offender.
3. On application of the Public Prosecution Service, any person who is convicted of a serious offence for which, according to the statutory definition, a fine of the fifth category may be imposed, may be ordered in a separate judicial decision to pay a sum of money to the State in order to deprive him of unlawfully obtained gains, if it is shown that either said serious offence or other serious offences resulted in one way or another in the convicted offender obtaining unlawful gains. In that case it may also be presumed that:
 - a. any expenditure incurred by the convicted offender in a period of six years prior to the commission of that serious offence was met from the unlawfully obtained gains, unless it is shown that this expenditure was met from a legal source of income, or;
 - b. objects which became the property of the convicted offender in a period of six years prior to the commission of that serious offence involved gains as referred to in paragraph (1), unless it is shown that the objects were obtained from a legal source of origin.
4. The court may, ex officio or on application of the Public Prosecution Service or of the convicted offender, derogate from the period of six years referred to in paragraph (3) and take a shorter period into account.
5. The court shall set the estimated amount of the unlawfully obtained gains. Such gains shall include the saving of costs. The value of the objects which constitute, in the opinion of the court, the unlawfully obtained gains, may be estimated at their market value at the time of the decision, or by reference to the proceeds the objects would fetch at a public sale, if recovery action has to be taken. The court may set the sum of money at an amount that is lower than the estimated gains. In the determination of the amount to be paid, the court may, on reasoned application of the defendant or of the convicted offender, take into account the fact that the current and the reasonably to be expected future financial capacity of the defendant or of the convicted offender shall be insufficient to pay the amount due. In the absence of such application, the court may exercise this power ex officio or on application of the Public Prosecution Service.
6. Objects shall mean all property of any description, whether corporeal or incorporeal.
7. In the determination of the amount of the unlawfully obtained gains under paragraphs (1) and (2) with regard to criminal offences committed by two or more persons, the court may determine that these persons shall be liable, jointly and severally or for a part to be determined by the court, for the total payment obligation.
8. In the determination of the amount of the unlawfully obtained gains, the court may deduct costs that are directly related to the commission of criminal offenses as referred to in paragraphs 1 to 3, and which are reasonably eligible for deduction.
9. In determining the size of the amount on which the illegally obtained benefit is estimated, claims are awarded to incurred third parties in court as well as the obligation to pay the state a sum of money for the benefit of the victim as referred to in article 36f, insofar as that have been paid are deducted.
10. In the imposition of the measure, the court shall take into account previous decisions in which the defendant or the convicted offender was ordered to pay a sum of money in order to deprive him of unlawfully obtained gains.

11. When imposing the measure, the court determines the maximum duration of the detention that can be claimed pursuant to Article 6:6:25 of the Code of Criminal Procedure. When determining the duration, no more than one day will be counted for each full €25 of the imposed amount. The duration shall not exceed three years.

Victim Compensation Measure

Article 36f Criminal Code

1. A person who is convicted of a criminal offence by judgment or where in the imposition of the punishment the court takes into account a criminal offence which, as is stated in the summons, the defendant admitted and is brought to the knowledge of the court, or against whom a punishment order is issued, may be ordered to pay the State a sum of money for the benefit of the victim or his surviving relatives within the meaning of article 51f(2) of the Code of Criminal Procedure. The State shall promptly pay the amount received to the victim or his surviving relatives within the meaning of article 51f(2) of the Code of Criminal Procedure.

2. The court may impose the measure if and insofar as the defendant is liable to the victim under civil law for the damage or loss caused by the criminal offence.

3. The measure may be imposed in conjunction with punishments and other measures.

4. Article 24a shall apply mutatis mutandis.

5. When imposing the measure, the court determines the maximum duration of the detention that can be claimed pursuant to Article 6:4:20 of the Code of Criminal Procedure. When determining the duration, no more than one day will be counted for each full €25 of the imposed amount. The duration shall not exceed one year.

Conditional sentence with victim compensation as a special condition

Article 14a Criminal Code

1. In cases where a term of imprisonment not exceeding two years, detention other than default detention, community service or a fine is imposed, the court may order that the punishment shall not be enforced in whole or in part.

2. If a term of imprisonment of at least two years and not exceeding four years is imposed, the court may order that a part of the punishment, not exceeding two years, shall not be enforced.

3. The court may also order that additional punishments imposed shall not be enforced in whole or in part.

Article 14b Criminal Code

1. The court, which orders non-enforcement in whole or in part of the punishment imposed by it, shall at the same time set a probation period.

2. The probation period may not exceed a period of three years. The probation period may amount to a maximum of ten years if it should be taken seriously into account that the convicted offender will again commit a serious offence against the physical integrity and endangering the physical integrity of one or more persons.

3. The probation period may also amount to a maximum of ten years if it should be taken seriously into account that the convicted offender will again commit a serious offence which harms the health or welfare of one or more animals. In the application of this article, the harming of the health or welfare of an animal shall also include the serious offence referred to in articles 254 and 254a.

Article 14c Criminal Code

1. Article 14a shall apply subject to the general condition that the convicted offender does not commit a criminal offence before expiration of the probation period.

2. In the application of 14a the following special conditions may set, with which the convicted offender must comply during the probation period, or a part thereof to be set in the sentence, or within a period to be set by the court that may not exceed the probation period:

1°. full or partial compensation of the damage or loss caused by the criminal offence;

2°. full or partial repair of the damage or loss caused by the criminal offence;

3°. payment of a sum of money by way of security, to be set by the court, which shall be at least equal to the difference between the fine prescribed by law for the offence and the imposed fine;

4°. payment of a sum of money, to be set by the court, to the Criminal Injuries Compensation Fund or to an organisation that aims to represent and advocate the interests of victims of criminal offences. The amount may not exceed the maximum fine prescribed by law for the criminal offence;

5°. a prohibition on contacting directly or through a third party specific persons or organisations;

6°. a prohibition on being at or in the immediate surroundings of a specific location;

7°. an obligation to be present at specific times at a specific location or during a specific period;

8°. an obligation to report at specific times to a specific agency;

9°. a prohibition on the use of drugs or alcohol and the obligation to cooperate with a blood or urine test for the purpose of verifying compliance with this prohibition;

10°. admission of the convicted offender to a healthcare institution;

11°. an obligation to receive treatment from a professional or healthcare institution;

12°. residence in an institution for supervised accommodation or social shelter;

13°. the participation in a behavioural intervention;

14°. other conditions pertaining to the convicted offender's conduct.

3. If a special condition has been imposed in the application of article 14a, the conditions are attached by operation of law that the convicted person:

a. for the purpose of establishing his identity, cooperates in taking one or more fingerprints or offers proof of identity as referred to in article 1 of the Compulsory Identification Act for inspection; and

b. cooperates with the probation supervision, referred to in the sixth paragraph, including cooperating with home visits and reporting to the probation institution as often and for as long as the probation institution deems this necessary.

4. A special condition may include the use of electronic monitoring.

5. When setting of one of the special conditions referred to in paragraph (2) (3°) and (4°), articles 23 (1) and (2) and 24 shall apply mutatis mutandis.

6 The court may order the probation service to supervise compliance with the conditions and to assist the convicted person in this respect.

7 During the probationary period or during the time that it is suspended, the court may amend the special conditions laid down or the period to which these conditions are limited in their operation within the probationary period, cancel these conditions, set special conditions as yet and order as referred to in the sixth paragraph, give, change or cancel.

Article 14e Criminal Code

The court may order, ex officio or on application of the Public Prosecution Service, the immediate enforcement of the conditions set under article 14c and the supervision to be exercised, if it should be taken seriously into account that the convicted offender will again commit a serious offence against the physical integrity and endangering the physical integrity of one or more persons.