

English version

Legal briefing in the context of Bure

- updated in march 2024 -

I. Identity check (*contrôle d'identité*) on foot or by bike

- It can happen anywhere in public space.
- The cops ask you for an ID. Contrary to what they may say, you are not obliged to have one on you.
- If you don't present an ID, you can declare an oral identity (true or false). That means a name, a first name, a place and a date of birth.
- They may ask you to empty your pockets and show the contents of your bag, but you are only legally obliged to do it if they present you with a **requisition** giving them the right and concerning the time and place where you are (remember to check this).
- If they have a doubt about the declared identity, if you haven't declared one, or simply to annoy you, the cops can take you for an identity verification (see III).

II. Roadside check (*Contrôle routier*)

- The cops can at any time ask for the vehicle's papers and those of the person driving.
- If they present a **requisition** (and only in this case), they can search the vehicle and proceed with the identity check of the passengers (which follows the same rules as the check on foot).
- If they don't have a requisition with them, they can detain you for 30 minutes until they present one.
- Remember to check the validity of the requisition: day, time, place..

III. Identity Verification (*Vérification d'identité*)

During an identity check, if the cops are not convinced of the validity of the identity you declare to them (or if you don't declare one), upon the order of a **Judicial Police Officer (OPJ)**, they can take you for identity verification (in rural areas, this is done at the gendarmerie).

- The verification can last a maximum of 4 hours from the start of your identity check. These 4 hours are used by the OPJ to determine or verify your identity. If you are a minor, the cops must inform your legal guardians who must come to assist with the verification (unless impossible).
- It does not lead to questioning about specific incidents. Beyond your identity (name, first name, date, and place of birth), you can stick to « I have nothing to declare ».

- Not declaring an identity is not an offense.
- Declaring a fake identity is punishable by a fine but is not sufficient to justify custody. Impersonating someone's complete identity is punishable by 5 years in prison and a fine of 75,000 euros.
- Unlike magistrates, the cops do not have access to the civil registry database, but they can consult the driver's license database, the criminal records database (TAJ), as well as the database of wanted individuals (FPR).
- With the prosecutor's agreement, they can ask for your **biometric data** (fingerprints and photo). To refuse it in a verification is punishable by 3 months in prison and a fine of 3750 euros. It's sufficient grounds to justify a police custody, but not an immediate trial.
- If the cops have taken your photo, they can use facial recognition to identify you from some of the databases they have access to (notably TAJ and FPR).

Refusing to provide one's identity and/or biometric data can be a political choice (refusal to cooperate with profiling, support for wanted individuals) or a strategy implemented by individuals sought by the police.

If you are not of French nationality (whether EU or non-EU)

You can be taken into administrative detention. It can last 24 hours from the start of the identity check. It's a specific procedure during which the cops search for your identity and nationality in order to verify your residency permit.

- You have similar rights to those in police custody: **the right to an interpreter in your native language** (who is not a cop), **the right to a lawyer**, to see a doctor, to inform a relative, to inform your employer.
- But administrative detention also has its own rules: in particular, you don't have the right to remain silent, and you can keep your phone.
- For undocumented individuals, particular emphasis is placed on the importance of **not signing any documents**. Even if you understand French, you can say that you don't understand and refuse to sign.

IV. Police Custody (Garde à vue - GAV)

A) General Information

If the cops suspect you of having committed or attempted to commit one or more offenses punishable by imprisonment, they can call the prosecutor (or the examining magistrate) who can decide to place you in police custody. A territorially competent judicial police officer (OPJ) must inform you of the reasons for your police custody.

- You are placed under the responsibility of a judicial police officer who must inform you of your rights and decide on your schedule (rest, hearing, meals, etc.). Police custody lasts up to 24 hours from the start of your deprivation of liberty (control, verification). The prosecutor may decide to extend it by 24 hours if the reasons are crimes or offenses punishable by more than one year of imprisonment (almost everything). The examining magistrate may request an extension of up to 72 hours for any investigation, and 168 hours for terrorism cases.

B) Your Rights:

- Remain silent.
- Have food.
- See a lawyer.
- See a doctor.
- **Have access to an interpreter.**
- Have a relative (i.e., parent in direct line, brother or sister, or person with whom you live) and/or your employer notified (by the cops).
- The judicial police officer (OPJ) is obligated to try to contact the lawyer you request, but is not obligated to succeed.
- In Meuse, court-appointed lawyers do not always come (which is illegal), and they generally give bad advice. **It is therefore important to know the name and bar of a lawyer recommended by the legal team.** If they are not available, they can be replaced by another.
- You have the right to a confidential meeting of 30 minutes with your lawyer. You have this right again with each extension of custody. They advise you and communicate with the outside: you can tell them who to contact to retrieve documents you need.

- It is very common for your lawyer not to be able to come in person. In this case, you can try to call them in the presence of the judicial police officer (OPJ), who will probably refuse.
- Asking to see a doctor allows you to see at least a non-cop face. While not all doctors may be friends, they are not necessarily enemies (any doctor can be requisitioned). If they do not object, you can insist on being alone with your doctor.

If you are a minor:

- From the age of 13, you can be placed in police custody.
- If the police have your identity, they automatically call your legal guardians. In some cases, the judge or prosecutor may decide to wait 24 hours before notifying the legal guardians.
- For minors under 16, a medical examination is mandatory. After that, you or your legal guardians can request it.
- You must be accompanied by a lawyer.
- The hearings are recorded.

C) Hearings (*audition*)

- Police custody is an investigative moment. The judicial police officer (OPJ) can question you as many times as they want. Everything you say (or do) will be noted in the minutes of the hearings that will feed into your criminal record.
- We strongly advise **to not declare anything** more than your identity (if you have chosen to declare it), even if you are asked seemingly harmless questions or questions with obvious answers.

D) Biometric Data and DNA (*signalétique et ADN*)

- Every person in police custody is asked to provide their biometric data (fingerprints and photo). Depending on the charges against you, the police may ask for your DNA.
- Refusal to provide biometric data in police custody and refusal of DNA are punishable by 1 year in prison and a fine.
- **Since 2022, in cases where the police suspects you of a crime or offense punishable by 3 years or more in prison and have doubts about your identity, they can take your biometric data by force. They can only do this in the presence of your lawyer.**
- In case of refusal to provide DNA samples, the police can take it from an object detached from your body. In this case, they can use

it in the ongoing case but not enter it into the FNAEG (the national DNA database).

E) End of Police Custody

- The reasons for police custody often differ from the charges you are released with. It can happen that a person is heavily charged and these charges drop during police custody due to lack of evidence. Charges can also increase, especially if you commit new offenses (refusal to provide biometric data, contempt of authority, etc.).
- You don't have to sign the documents presented to you.

V. After Police Custody

A) After police custody, you can:

- Be released without a summons. A summons may be sent within three years.
- Be released with a summons for a trial.
- Be brought before a judge for an immediate trial.
- Be referred or summoned and then released with a conditional judicial warning (APP) : we advise not to sign (as it would imply admitting guilt), not to attend the summons, not to comply with the conditions, not to provide your phone number. The only risk, albeit unlikely, is to eventually be judged for the alleged facts.

This is a non-exhaustive list that outlines the most common cases.

B) Judicial Control (*contrôle judiciaire*)

In certain procedures, you may find yourself under judicial control awaiting your trial. It consists of obligations (such as reporting to the police station, etc.) and/or prohibitions (such as travel restrictions, contact with other individuals, etc.).

C) Immediate Trial (*Comparution immédiate*)

Upon the decision of the prosecutor, you may be brought before the court to be judged immediately after police custody. You have the right to refuse immediate trial.

- In the vast majority of cases, **it is preferable to refuse immediate trial** because the sentences given are higher than average. If you

refuse, your trial will take place 2 to 6 weeks later, giving you time to prepare a defense. You will then appear before the Judge for Freedoms and Detention who will decide on any potential judicial control or provisional detention until the trial.

D) Representation Guarantees (*garanties de représentation*)

Prosecutors and judges rely, in particular, on the documents you present to them to justify your identity, your address, and your integration into society when deciding the procedure under which you will be placed, whether it's judicial supervision or provisional detention. These documents are referred to as "guarantees of representation."

- It is useful to think in advance (at least before attending a demonstration or action) about the documents you want to be able to present, and to give them to a trusted person (ideally, someone unlikely to be arrested at the same time as you).
- Any document signed by a third party (such as a certificate of accommodation, job offer letter, etc.) must be accompanied by a photocopy of their identification document and proof linking this person to their residence/association/company (such as an electricity bill). Around Bure, certificates of accommodation are not very effective.

Some individuals choose not to provide guarantees of representation because these documents describe their social situation and encourage the justice system to make distinctions based on social criteria. Some do not want to cooperate with the justice system.

And don't forget the most important:

during police custody,
I HAVE NOTHING TO DECLARE

*I request the lawyer recommended by the Legal
Team*

and in front of the judge,
I request a delay!

