

Courts disagree over whether e-wallet payments are obligatory

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Two recent cases have raised the issue of whether a person is obliged to pay parking charges only by means of an e-wallet, or whether other payment methods should be made available.

Several years ago Dutch banks introduced an e-wallet system, consisting of a chip on a customer's bank card that can be uploaded with electronic money. However, due to the introduction of two different and incompatible e-wallets, and the lack of a 'killer application', the e-wallet was not much used.

This changed in 2002 when the two different e-wallets were combined into one system and, more significantly, a killer application was found: the payment of parking charges. Parking regulations were amended in order to enable local authorities to stipulate that parking charges could only be made by electronic payments from an e-wallet. Consequently, many pay-and-display parking meters were adjusted, disabling payment by means of coins and forcing people to use e-wallets.

In the first case (case no. BK-02/04947), the Court of Appeals of the Hague ruled that stipulating requiring payments to be made using e-wallets had a legal basis (ie, the amended parking regulations) and that it was irrelevant if a driver was unaware of the new payment method; it is reasonable to expect a driver to investigate the parking requirements before parking a car.

However, in the second case (case no. 02/3664), the Arnhem Court of Appeals ruled otherwise. According to the court, the amended parking regulations and consequently the local parking requirements lacked a proper legal basis. The Dutch Civil Code states that payments may be required by means of generally accepted money (ie, coins or notes) or purely by electronic payment (ie, bank or credit card), but *not* by means of an e-wallet as this fits neither category. The court found that people should be offered the choice of whether to pay using traditional means or an e-wallet.

The Arnhem court's decision, which is due to be appealed to the Dutch Supreme Court, may have a detrimental impact on the recent success of the e-wallet in the Netherlands. However, so many people are already accustomed to paying parking charges by means of their e-wallets that a Supreme Court decision is unlikely to rob the innovation of its application.

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