



Fact sheet for foreign prisoners in the Netherlands (from an EU country)

WETS

Serving a sentence in the Netherlands?

In many countries the government thinks it is important that people return to society properly after their time in prison. The risk that they will make a mistake again will be smaller then.

But if you are detained abroad, a good return to society is more difficult. For that reason you can serve your sentence in your own country. It is called sentence transfer. There are two acts for international sentence transfer: WETS (for countries in the European Union) and WOTS (for other countries).

WETS

This fact sheet is about WETS. WETS means: Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties (Mutual Acknowledgement and Execution of Detention and Probationary Sanctions Act). WETS contains the new rules for sentence transfer. Those rules were agreed some time ago. All countries in the European Union have made a new Act for it. That act took effect in the Netherlands on 1 November 2012.

Important: which countries have joined WETS?

You can only use WETS if the destination country has its own national act with the new European rules for sentence transfer. You can see on www.dji.nl which countries these

are. (homepage -> Go straight to -> Sentence Transfer).

Important: no WETS, but WOTS

If WETS does not apply in the destination country, WOTS may apply for you. Read the fact sheet WOTS - for foreign prisoners in the Netherlands.

IOS

Sentence transfer comes under the responsibility of the Minister of Security and Justice. The department for international sentence transfers Internationale Overdracht Strafvonnissen (IOS) executes the sentence transfer acts on behalf of the minister. IOS is part of the Dienst Justitiële Inrichtingen (National Agency of Correctional Institutions) in The Hague.

Conditions for WETS

WETS contains the conditions for sentence transfer. The requirements apply both to you and to the destination country. Sentence transfer is only possible if the destination country fulfils all requirements.

These requirements are:

1 Relationship

There has to be a sufficient 'relationship' with the destination country. It means that you live, work or study there and that you have relatives there. This will be checked.

2 Remaining sentence

The purpose of sentence transfer is that you return to society properly. That needs time. Enough of the sentence to be served needs to remain at the moment of your arrival in your country. It is referred to as: remaining sentence.

3 Case closed

Your criminal case (the trial and the verdict) has been concluded. You cannot appeal.

4 Prison sentence

You have been sentenced to prison or a custodial measure.

5 Both countries agree

The Netherlands and the destination country both agree to the sentence transfer.

6 The destination country has to have its own national act on sentence transfer in the European Union.

See for the new overview on www.dji.nl (homepage -> Go straight to -> Sentence Transfer).

Other important matters regarding WETS

Your sentence remains the same

In a WETS sentence transfer your sentence does not change. This is called: sentence continuation. It does not matter if the sentence that you would have received in your own country is higher or lower; except if you were given a sentence that is higher than the maximum sentence for the same crime in the destination country. If that applies to you, your sentence will be adjusted. You will be given a lower sentence when transferred to your country in that case.

Conditional Release

A prisoner may be released earlier. This is a possibility only on condition that he or she does not commit a new crime during the probation time. Sometimes other conditions apply. The rules for conditional release are not the same in every country. If you are serving your sentence in your own country instead of in the Netherlands, the conditional release rules of your country apply.

Is sentence transfer a right or a duty?

You are not automatically entitled to sentence transfer. You can indicate that you want to be eligible for sentence transfer. The WETS sentence transfer can also take place if you do not agree to it, for instance if you have the nationality of an EU country and also live there, or if you have been declared an undesirable foreign national in the Netherlands. The Netherlands can always decide not to cooperate in sentence transfer, for instance because an investigation about you is still ongoing, or because you have committed a very serious crime.

Procedure WETS for transfers FROM the Netherlands
(for foreign prisoners in the Netherlands)

Step 1: Requested by whom?

Sentence transfer is considered for criminal cases with inhabitants of European countries. IOS takes care of these cases. The Netherlands takes the first step for sentence transfer via WETS. But you can also indicate yourself that you want to be transferred.

Sentence transfer form

If you want to indicate yourself that you want sentence transfer, it will go via the prison where you are detained. You will need to fill in the sentence transfer form. Prison staff can help you with that. The prison will send the form to IOS.

Step 2: Check and advice Public Prosecutor

When IOS gets your sentence transfer request or you have taken step 1 above, the first action is to complete and check the request. This is called: the check. IOS checks for instance if your sentence is final and if you have sufficient remaining sentence. IOS also checks if the relationship with the destination country is strong enough. All information is collected in the request. The completed request is called: the certificate.

IOS also asks advice from the Public Prosecutor in the Netherlands. The Public Prosecutor takes the consequences of the crime for society into account for his advice. The Public Prosecutor further checks if no other investigation about you is ongoing. If that is the case, the sentence transfer will not be followed through (for the time being).

Step 3: Your opinion

IOS also asks for your opinion on the sentence transfer via a letter and questionnaire, sometimes via an interview. The sentence transfer may also take place if you do not agree to it.

Step 4: Intended decision

After the check and your opinion the Minister of Security and Justice decides if the transfer can go through. You will get a 'note of intended decision' from IOS.

Objection

You can appeal the decision, if you do not agree to the sentence transfer. You must write a letter to that end to the Arnhem Court of Justice within fourteen days (after the letter from IOS). In the letter you must explain why you do not agree to the sentence transfer. The Court will then advise if the WETS procedure is to be continued or not.

Step 5: Decision within 90 days

If the sentence transfer can take place, IOS sends the certificate to the authorities in the destination country. The destination country has 90 days to decide on the sentence transfer. (A negative response is not possible if the sentence transfer is compulsory, see Right or duty?). The destination will often still check details or ask for information from the Netherlands.



Step 6: Transfer within 30 days

If the destination country also agrees to the sentence transfer, the sentence transfer will take place. The act stipulates that you have to be transferred within 30 days. This may take longer in some situations. You will be under surveillance of the Royal Dutch Military Police during the transfer. In the destination country, you will be transferred to staff taking you to prison.

More information

If you would like to know more on WETS or another related subject, you can:

1 contact IOS:

-> call the WETS/WOTS information number: 08807 25 963

From abroad: 00 31 8807 25 963

Open Monday through Friday between 9.00 and 12.00 a.m.

Also attorneys and relatives with questions on sentence transfer may call this number.

-> or write to: IOS, Postbus 30132, 2500 GC Den Haag.

2 see www.dji.nl.

Colophon

This fact sheet is a publication by:
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