



Custodial Institutions Agency
Ministry of Security and Justice

Information sheet for Dutch prisoners abroad
Procedure for international transfer of sentences to the
Netherlands under the

WOTS

For Dutch prisoners abroad, it is sometimes possible to serve their sentence in the Netherlands. This is called a transfer of sentences. The international transfer of sentences is governed by two acts: WETS (for countries in the European Union) and WOTS (for other countries).

This information sheet for prisoners deals with the procedure under the WOTS. What needs to be done before you can be transferred to the Netherlands?

More information about the WOTS can be found in the information sheet WOTS - for Dutch prisoners abroad.

IOS

The transfer of sentences falls under the responsibility of the Minister of Security and Justice. The International Transfer of Criminal Judgments department (Internationale Overdracht Strafvonnissen or IOS) implements the acts on transfer of sentences on behalf of the Minister. IOS is part of the Custodial Institutions Agency in The Hague.

Start of the procedure: commutation or continuation of the sentence?

There are two possible procedures for a transfer of sentences under the WOTS: commutation and continuation of the sentence. Commutation means that your sentence is adjusted to the sentence that would have been imposed on you in the Netherlands. At a new court hearing in the Netherlands, the court will assess your sentence (not the facts) and will determine your new sentence. A continuation means that your sentence will remain the same, even if this sentence is higher than the usual sentence in the Netherlands.

Exception of maximum sentence in case of continuation
There is one exception to the rule of continuation, which has to do with the maximum sentence. The sentence you serve abroad may never exceed the maximum sentence for the relevant crime in the Netherlands. If this is the case, the sentence will be lowered to the maximum sentence in the Netherlands. The Arnhem Court of Appeal will decide on this. The sentencing country must agree to this sentence adjustment.

Step 1: Submitting a request

Under the WOTS, you must submit a request for a transfer of the sentence yourself. You must submit the request to the relevant authority or agency in the country where you were sentenced. The prison or lawyer can help you with this. They provide information about the conditions and how to submit the request.

Step 2: Foreign authorities send request to IOS

If the sentencing country has no objection to a transfer of the sentence, it may ask the Netherlands to take over the judgment. The exact procedure differs per country. In some countries, for example, the request is first submitted to a court. The foreign authorities send their request to IOS.

Step 3: Remaining sentence and ties

A transfer of sentences under the WOTS is subject to two important conditions that are already checked at the start of the procedure.

- 1) Your remaining sentence must be long enough the moment when you come to the Netherlands. IOS will check this on the basis of the judgment and details about your stay in the foreign prison.
- 2) You must have sufficient ties with the Netherlands. IOS can check the municipal personal records database to see if you live in the Netherlands. And if your partner, parents or children live in the Netherlands. If you are a Dutch citizen and live in the Netherlands, the ties will be clear. If this is not the case, IOS will send you a letter with a questionnaire that you should complete. Or IOS will ask the Dutch Probation Service (Reclassering) to investigate this in more detail. This investigation will take approximately six weeks. This is only done if you are in contact with the International Office (Bureau Buitenland) of the Dutch Probation Service and if you have no objections to the investigation.

Residence permit

You can also qualify for a transfer of the sentence if you have a residence permit for the Netherlands. In that case, however, you must have ties with the Netherlands. The Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst or IND) may withdraw your residence permit because you were sentenced abroad. If the IND indeed intends to withdraw your residence permit, the Minister of Security and Justice will decide to cancel the transfer of the sentence. For there will be no 'rehabilitation interest' in the Netherlands in that case.

From this moment onwards, the procedures for 'incoming WOTS' differ.

-> Procedure for commutation of the sentence

Step 4 in case of commutation: Sentencing recommendation

If you meet all the conditions (ties and other conditions) and if the application is complete, IOS will ask the Public Prosecutor for a 'sentencing recommendation'. This means that the Public Prosecutor will use the facts to determine the sentence he or she would demand in the Netherlands for the crime for which you were sentenced.

Please note: if the new sentence is lower, this may result in the transfer of the sentence still being cancelled. The new sentence will be reduced by one-third, because the Dutch regulation on conditional release applies. The sentence you already served is also deducted. These three facts combined could mean that the remaining sentence is too short for a proper return to society. In that case, the transfer of the sentence is cancelled.

Step 5 in case of commutation: Decision

If all information is complete, the Minister of Security and Justice will decide whether or not to continue with the transfer of the sentence. In doing so, the Minister will especially consider the purpose of the WOTS. This purpose is that you can properly return to society. For this will reduce the chance that you will commit another offence.

In order to achieve this purpose, it is especially important that

you have sufficient ties with the Netherlands and that the remaining sentence is long enough when you arrive in the Netherlands. So the Minister carefully considers your ties with the Netherlands and the Public Prosecutor's sentencing recommendation. Do you have sufficient ties and is your remaining sentence long enough? And do you and the country where you reside also meet the other conditions? In that case, the Minister will decide that you may come to the Netherlands to serve your sentence here. Information about the decision will be provided to you through the country where you reside. This includes an explanation on paper of the consequences of the transfer of the sentence.

Step 6 in case of commutation: Transfer instructions

If the transfer of the sentence continues, IOS will give instructions to transfer you. The Netherlands will arrange for the transport and will pick you up. This is done in consultation with the country where you are imprisoned and with other organisations in the Netherlands. It will take approximately two months before you are transferred to the Netherlands. During the transfer, you will be guarded by staff members of the Royal Netherlands Marechaussee. Once you have arrived in the Netherlands, you will first be brought to a detention centre.

Step 7 in case of commutation: Court hearing

Approximately two months after your transfer, the court hearing will take place. At this hearing, your remaining sentence in the Netherlands will be determined. After this judgment, you will be transferred from the detention centre to a prison (penitentiary).

-> Procedure for continuation of the sentence

Step 4 in case of continuation: Recommendation of the court of appeals

If you and the country where you were sentenced meet all the conditions and the request is complete, IOS will ask the Arnhem Court of Appeal (the Execution of Sentences Division) for a recommendation on the transfer of the sentence. This will take six weeks.

Step 5 in case of continuation: Letter from IOS

In case of a negative recommendation of the court of appeal, the transfer of the sentence will be cancelled. In case of a positive recommendation of the court of appeal, IOS will send a letter to the foreign authorities. This letter will state that you are allowed to come to the Netherlands. The sentencing country will confirm the transfer (thereby agreeing to it) or may still withdraw the request. In that case, the transfer of the sentence will be cancelled.

Step 6 in case of continuation: Transfer instructions

If the transfer of the sentence continues, IOS will give instructions to transfer you. The Netherlands will arrange for the transport and will pick you up. This is done in consultation with the country where you are imprisoned and with other organisations in the Netherlands. It will take approximately two months before you are transferred to the Netherlands. During the transfer, you will be guarded by staff members of the Royal



Netherlands Marechaussee. Once you have arrived in the Netherlands, you will be brought to a prison (penitentiary).

More information

If you want more information about WOTS or a related topic, you can:

1 contact IOS:

-> call the WETS WOTS Information Line: 08807 25 963

From abroad: 00 31 8807 25 963

Open from Monday to Friday from 9.00 am to 12.00 pm. Lawyers and family members who have questions about a transfer of sentences can also call this number.

-> or send a letter to: IOS, Postbus 30132, 2500 GC Den Haag.

2 visit www.dji.nl.

3 read more information in the information sheet WOTS - for Dutch prisoners abroad.

Colophon

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Custodial Institutions Agency
Postbus 30132 | 2500 GC Den Haag

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J-20385 1308