



Dienst Justitiële Inrichtingen
Ministerie van Justitie en Veiligheid

Information sheet for Dutch prisoners in an EU-country

WETS

Do you want to serve your sentence in the Netherlands?

It is important that after serving your prison sentence you successfully re-enter society. This reduces the risk that you will commit another offence. If you are serving your sentence abroad, successfully re-entering Dutch society is harder. Therefore, under certain conditions it is possible to serve your foreign prison sentence in the Netherlands. This is called the transfer of sentences. This information sheet explains how the transfer of sentences works under the Wets.

What is the Wets?

The Wets is the Criminal Sanctions (Mutual Recognition and Enforcement) Act. The Wets regulates the transfer of sentences between the Netherlands and other countries in the European Union. The purpose of the transfer of your sentence is your successful re-entry into society. The Ministry of Justice and Security is responsible for the transfer of your sentence. The International Transfer of Sentences department (IOS) of the Custodial Institutions Agency, which forms part of the ministry, enforces the laws for the transfer of sentences.

Conditions for the Wets

The Wets contains conditions for the transfer of your sentence. Your sentence can only be transferred to the Netherlands if you and the other EU-country where you were sentenced meet all the conditions. The conditions are as follows:

1) National law for the transfer of a sentence

The other EU-country must have a national law for the transfer of sentences within the European Union. The country overview of the transfer of sentences at www.dji.nl shows which countries have such a national law.

2) Custodial sanction

You have been sentenced to a prison sentence or a custodial measure.

3) Judgment is irrevocable

Your criminal proceedings have been exhausted. You can no longer appeal.

4) There is enough remaining sentence

The purpose of transferring your sentence is your successful re-entry into society. This is referred to as rehabilitation. For your successful rehabilitation you must have enough time left to serve after your transfer to the Netherlands.

5) Strong ties

You must have strong ties to the Netherlands. Therefore, among other things, your nationality, residence permit and home address are taken into account.

6) The offence you committed must also be punishable in the Netherlands

You have been sentenced for an offence that is also punishable in the Netherlands.

7) Both countries agree

The Netherlands and the EU-country where you were sentenced both agree to the transfer of your sentence.

What are the steps of the Wets-procedure?

Step 1: Request for the transfer of your sentence

The EU-country where you were sentenced decides whether to apply for the transfer of your sentence. If this decision is positive, the country submits a request to IOS.

Step 2: IOS monitors the request for the transfer of your sentence

IOS checks whether the conditions for the transfer of your sentence are met. If this is not the case, IOS can deny the request.

Step 3: The Arnhem-Leeuwarden Court of Appeal assesses the request for the transfer of your sentence

If all the conditions are met, IOS sends on the request for the transfer of your sentence to the Public Prosecution Service at the Arnhem-Leeuwarden Court of Appeal. The Public Prosecution Service submits the request to the Court of Appeal. The Court of Appeal examines whether there are any reasons to turn down the request and informs IOS. The Court of Appeal does not try your foreign criminal case again. Neither is there a public hearing you can attend.

Step 4: IOS decides on the request for the transfer of your sentence

If there are no reasons to turn down the request, IOS will agree to the transfer of your sentence to the Netherlands. IOS notifies the EU-country where you were sentenced.

Step 5: Your transfer

The EU-country sets a date for your transfer to the Netherlands and arranges security for the journey.

What else should you know?

Application for the transfer of your sentence

You can notify the prison management that you wish to apply for the transfer of your sentence. You may also send a letter to IOS mentioning the following details: the name of the court that sentenced you, the date of your sentencing, the date on which you were taken into custody and the address of the prison where you are serving your sentence. You can also ask your registered contact person or your lawyer to do this for you. If you qualify for sentence transfer, IOS will contact the EU-country where you are currently detained. This EU-country will then decide whether to apply to transfer your sentence (see step 1 above).

Continuation of your sentence

If your foreign sentence is transferred, it stays the same in the Netherlands. There are two exceptions:

- your sentence in the other EU-country is higher than the maximum sentence for the same offence in the Netherlands. In this case, your sentence is adjusted to the maximum sentence in the Netherlands.
- the foreign measure imposed on you does not exist in the Netherlands. In this case, a similar measure under Dutch law will be imposed on you.

Conditional release

Under certain conditions, a convicted person may qualify for early release, also referred to as conditional release. The rules for conditional release vary from one country to the next. After the transfer of your sentence to the Netherlands, Dutch rules for early release will apply. The Netherlands may take the foreign conditional release date into account if:

- this date is before the Dutch date of conditional release, and
- the date has been definitively fixed. A date for conditional release is not definitively fixed if a foreign court still has to decide on it.

Transfer of your sentence without your consent

Your sentence may also be transferred to the Netherlands without your agreement. This may be the case, for instance, if you have the Dutch nationality and a recent home address in the Netherlands.

Right to return

If you have been transferred from the Netherlands to the EU-country where you are currently in prison, this country may have granted you a return guarantee. This is a guarantee by an EU-country to the Netherlands that you have the right to serve your sentence in the Netherlands. In this case, the same procedure will apply as for the transfer of your sentence without a return guarantee.

Terms

The procedure to transfer your sentence takes time. Statutory terms will apply. You cannot invoke these terms.

Contact details IOS

Telephone

Our information line can be reached from Monday to Friday between 09:00 hours and 12:00 hours at telephone number 00 31 8807 25 963. Your lawyer can also call this number.

Post address

Dienst Justitiële Inrichtingen
Divisie Individuele Zaken/Internationale Overdracht Strafvonnissen
P.O. Box 30132
2500 GC The Hague
the Netherlands

Colophon

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Custodial Institutions Agency
P.O. Box 30132
2500 GC The Hague
the Netherlands

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