



Custodial Institutions Agency
Ministry of Security and Justice

Information sheet for foreign prisoners in the Netherlands

WOTS

Serving a sentence in your own country?

In many countries, the government finds it important for people to properly return to society after their imprisonment. For this will reduce the chance that they will commit another offence.

However, if you are imprisoned in a foreign country, a proper return to society will be more difficult. That is why it is possible to serve your sentence in your own country. 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 is about the WOTS.

WOTS

WOTS means: *Wet overdracht tenuitvoerlegging strafvonnissen or Enforcement of Criminal Judgments (Transfer) Act.*

Which countries?

The WOTS applies in:

1. countries **outside Europe** that signed the Convention on the Transfer of Sentenced Persons (more than 60 countries);
2. other countries **outside Europe** with which the Netherlands has concluded a separate WOTS convention;
3. countries **in the European Union** (EU) that have not yet converted the new European regulations into their own national law.

At www.dji.nl, you can find an overview of WOTS and WETS countries (homepage -> Direct naar -> Strafoverdracht).

No convention? Then no transfer of sentence

If the Netherlands has not concluded a convention with the country where you want to serve your sentence, the transfer of the sentence cannot continue.

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 (Dienst Justitiële Inrichtingen or DJI) in The Hague.

Conditions for the WOTS

The WOTS sets out conditions for the transfer of sentences. These are requirements that apply to you as well as to the country you go to. A sentence can only be transferred if you and the country you go to meet all the conditions.

The conditions are as follows:

1 Convention

The Netherlands and your own country must have concluded a convention on the transfer of sentences (see www.dji.nl, List of Countries).

2 Sufficient 'ties' with the country you go to

You must have sufficient 'ties' with your country. This means: you have this country's nationality, you live and work or study there or you have family there.

3 Remaining sentence

The purpose of a transfer of sentences is that you properly return to society. This takes time. That is why your remaining sentence must be long enough at the time when you arrive in your own country.

4 Criminal proceedings are complete

Your criminal proceedings (lawsuit and judgment) are complete and you can no longer lodge an appeal.

5 Imprisonment

You were sentenced to imprisonment or a custodial measure.

6 Both countries agree

The Netherlands and the other country both agree to the transfer of the sentence. And also to the way in which your sentence is continued in the country you go to.

7 Submitting a personal request

You must submit a personal request for a transfer of the sentence to your country. You must submit this request to the prison management or to IOS. You can ask your lawyer to help you with this. The application itself must also contain your signature, so that both countries will know that you agree to the transfer of the sentence.

Right or obligation?

You do not automatically have the right to a transfer of the sentence. The Netherlands and the other country may also decide to transfer the sentence without your consent. For example, if you have been declared an undesirable foreign national. The Netherlands may also decide not to cooperate in the transfer of the sentence. For example, because of you are still subject to an investigation or because you committed a very serious offence.

WOTS procedure for a transfer FROM the Netherlands (for foreign prisoners in the Netherlands)

In case of an 'outgoing WOTS' procedure, the Netherlands will assess who qualifies for a transfer of sentences. The procedure sets out what needs to be done before you can be transferred from the Netherlands to your own country.

Step 1: Request to IOS

You take the first step by submitting a transfer request to IOS. You must complete a form for this. Your lawyer or the prison staff can help you with this. The prison or your lawyer will send the form to IOS. It could also be that the Netherlands has declared you an undesirable foreign national. In that case, IOS

may start the procedure.

Step 2: Review and Public Prosecutor's recommendation

IOS receives your application for a transfer of the sentence, or has taken the first step itself. The following actions are: completing and checking the application. This is called: a review. IOS will review, for example, if your judgment is final, or if the remaining sentence is long enough and if you have sufficient ties with the country where you want to serve your sentence.

IOS will also ask the Public Prosecutor in the Netherlands to give a recommendation. The Public Prosecutor will, in his or her recommendation, take into account the effects of the crime on society. The Public Prosecutor will also check if you are still subject to any investigation in the Netherlands. If this is the case, the transfer of the sentence will be cancelled (for the time being).

Step 3: Decision and objection

After step 2, the Minister of Security and Justice will decide if, in principle, it is possible to continue with the transfer of the sentence. IOS will send you a letter about this. This letter states that the Netherlands intends to transfer your sentence to the foreign country. If you disagree with this, you can lodge an objection to the intention to transfer the sentence. For this, you must write a letter to the court. You will not be transferred if your objection is granted (upheld). If your objection is not granted (dismissed), the procedure will continue.

Step 4: Meeting with examining judge

The next step will be a meeting with the examining judge. He or she will ask your opinion about the transfer of the sentence and why you want or do not want your sentence to be transferred. A report of this meeting will be included in your file and sent to the country you go to.

Step 5: Request to the other country

After the examining judge has heard you, IOS will send the request for a transfer of the sentence to the country where you will serve your sentence.

Please note: at that time, the transfer of the sentence will not yet be final. The country where you go to may refuse the transfer of the sentence. This country may also adjust your sentence. If the Netherlands disagrees with the new sentence, the Netherlands may also still withdraw the WOTS request. Only if both countries agree will the transfer of the sentence continue.

Step 6: Arrangements

If the transfer of the sentence is final, the country where you will be serving your sentence will make the necessary arrangements. How this is done and how long it takes differs per country. Each country has its own laws and decisions for this. On average, an outgoing WOTS procedure will take six to twenty months.



What happens to your sentence?

The country you go to will decide what happens to your sentence. There are two options:

- commutation of the sentence: the country you go to will change your Dutch sentence into the sentence that would have been imposed on you in that country. However, the Netherlands must agree to this.
- continuation of the sentence: the sentence imposed on you in the Netherlands will remain the same in the country you go to.

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 (home-> direct naar-> Strafoverdracht).

Colophon

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