



## Information sheet for foreign prisoners in the Netherlands

# WOTS

## Do you want to serve your sentence in another country?

It is important that after serving your prison sentence you successfully re-enter society. This reduces the risk that you will commit another offence. Were you sentenced in the Netherlands and are you serving your sentence here, but do you have stronger ties to another country? In this case, under certain conditions you may serve your Dutch prison sentence in that other country. This is referred to as the transfer of sentences. This information sheet explains how the transfer of sentences works under the Wots.

### What is de Wots?

The WOTS is the Enforcement of Criminal Judgments (Transfer) Act. The Wots regulates the transfer of sentences between the Netherlands and countries outside the European Union. The purpose of the transfer of your sentence is your successful re-entry into society in the country you have strong ties to. 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 is part of the ministry, enforces the laws for the transfer of sentences.

### The other country

The country you have strong ties to may be: the country of your nationality and/or a country you have strong ties to in another way.

### Conditions for the Wots

The Wots contains conditions for the transfer of your sentence. Your sentence can only be transferred if you and the other country meet all the conditions. The conditions are as follows:

#### 1) Treaty

A treaty for the transfer of sentences must exist between the Netherlands and the other country. This applies for:

- countries outside the EU that have signed the Convention on the Transfer of Sentenced Persons (VOGP);
- other countries outside the EU with which the Netherlands has a separate treaty;
- countries in the EU which have not converted the European rules for the transfer of sentences into their own law.

The country overview of the transfer of sentences at [www.dji.nl](http://www.dji.nl) shows which countries are parties to the VOGP and which countries the Netherlands has a separate treaty with for the transfer of sentences.

## **2) Custodial sanction**

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

## **3) The judgment is irrevokable**

Your criminal proceedings in the Netherlands 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 other country.

## **5) Strong ties**

You must have strong ties to the other country. For instance, you have the nationality of this country, a recent residential address there or family living in that country.

## **6) You agree**

You agree to the transfer of your sentence.

## **7) The offence you committed is also punishable in the other country**

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

## **8) Both countries agree**

The Netherlands and the country where you are going both agree to the transfer of your sentence.

## What are the steps of the Wots-procedure?

### **Step 1: Applying for the transfer of your sentence**

The Wots procedure may start in different ways. One way is for you to say that you want to serve your sentence in another country. This is done by filling in the form [declaration on sentence transfer](#) and sending it to IOS. You can discuss this with your prison case manager. He/she can help you to fill in the declaration and send it to IOS. Furthermore, IOS can also start a Wots procedure itself, with the purpose of your rehabilitation in the other country.

### **Step 2: Assessment of the conditions**

IOS checks whether the conditions for the transfer of your sentence are met. IOS also asks the Public Prosecution Service for advice on the transfer of your sentence. When giving its advice, among other things, the Public Prosecution Service considers the consequences for society of the offence you have been sentenced for, as well as any ongoing criminal investigations against you.

### **Step 3: Decision on your transfer**

If the conditions are met and the Public Prosecution Service does not object to the transfer of your sentence, IOS will decide on behalf of the minister to transfer your sentence to the other country. You will receive a letter from IOS notifying you that your sentence will be transferred. If the Public Prosecution Service objects to the transfer of your sentence, the Wots-procedure will be terminated. IOS will not request the transfer of your sentence to the other country. You cannot file an objection against this decision.

### **Step 4: Filing an objection**

Has IOS decided that your sentence will be transferred to another country, but this is not what you want? In this case you can file an objection against the decision with the District Court or the Court of Appeal that imposed your final sentence. You must explain in the letter why you do not agree to the transfer of your sentence to another country. The District Court/Court of Appeal will deal with your notice of objection and decide whether or not the Wots-procedure will be followed.

**Step 5: Request for the transfer of your sentence**

If you do not file an objection, or the District Court/Court of Appeal decides that IOS has made the right decision to transfer your sentence, IOS will send the request for the transfer of your sentence to the authorities of the other country. You will receive a letter about this from IOS.

**Step 6: The other country decides**

If the other country agrees to the transfer of your sentence, it must submit a proposal to the Netherlands which sets out the conditions for the transfer of your sentence. You will also have to make a statement on the transfer of your sentence before the examining judge. If the other country does not agree to the transfer of your sentence, the Wots-procedure will be terminated. You will always receive a letter from IOS about the decision made by the other country.

**Step 7: Statement for the examining judge**

The examining judge will ask you for your opinion on the transfer of your sentence, and why you agree to it, or why you do not agree to it. A report will be made of this statement.

**Step 8: The Netherlands agrees to the transfer of your sentence**

IOS assesses the conditions of the other country for the transfer of your sentence. If IOS agrees to these conditions, it will agree to the transfer of your sentence.

**Step 9: Transportation**

The other country arranges your transportation from the Netherlands to the other country and brings you to the prison concerned.

## What else should you know?

*Continuation or conversion of your sentence*

There are two possible procedures: your sentence can either be continued or converted. The Netherlands and the other country will decide together on which procedure will apply for you.

1. Conversion of your sentence: the other country changes your sentence in the Netherlands into the sentence you would have received in that country. The Netherlands has to agree.
2. Continuation of your sentence: your sentence in the Netherlands stays the same in the other country. There are two exceptions:
  - your sentence in the Netherlands is higher than the maximum sentence for the same offence in the other country. In this case, your sentence is adjusted to the maximum sentence in the other country;
  - the Dutch measure imposed on you does not exist in the other country. In this case, when you are transferred a similar measure according to the law of the other country will be imposed on you.

Your sentence will be enforced in accordance with the law of the other country. This means that the rules of the other country will apply for you. This will also apply to your conditional/early release.

*Transfer of your sentence without your consent*

Your sentence may also be transferred without your agreement. This may be the case, for instance, if you have been declared undesirable in the Netherlands and must leave the country. First, the options under the Wots are considered, and then possibly other measures.

*Terms*

The procedure to transfer your sentence takes time. No statutory terms have been fixed.

## 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*

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### **Colophon**

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