



Information sheet for Dutch prisoners abroad

WOTS

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 WOTS.

What is the Wots?

The WOTS is the Enforcement of Criminal Judgment (Transfer) Act. It regulates the transfer of sentences between the Netherlands and countries outside the European Union (EU). The Wots also regulates the transfer of sentences between the Netherlands and EU-countries that have not yet incorporated the European rules into their own national legislation. The object of the transfer of sentences is a prisoner's successful re-entry into society.

The Ministry of Justice and Security is responsible for the transfer of sentences. The International Transfer of Sentences department (IOS) of the Custodial Institutions Agency, which is part of the ministry, enforces the laws for sentence transfer.

Conditions for the Wots

The WOTS contains conditions for the transfer of sentences. Your sentence can only be transferred to the Netherlands if you and the country where you were sentenced meet all the conditions. These conditions are as follows:

1) Treaty

There needs to be a convention between the Netherlands and the other country. The WOTS applies in:

- 1) countries **outside the EU** with which the Netherlands has a treaty
- 2) **EU-countries** that have not yet incorporated the European rules into their own national legislation (such as Ireland)

Most countries have signed the Convention on the Transfer of Sentenced Persons [VGOP]. With a number of countries, the Netherlands may have also entered into a separate treaty. The [website of DJI](#) indicates the countries with which the Netherlands has entered into a treaty. If the Netherlands does not have a treaty with the country where you were sentenced, no sentence transfer can take place.

2) Custodial sanction

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

3) The judgement is irrevocable

You have exhausted all legal means in the Netherlands. You can no longer appeal.

4) There is enough remaining sentence

The object of transferring your sentence is your successful re-entry into society in the Netherlands. This is referred to as rehabilitation. For a 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 is also punishable in the Netherlands

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

7) Both countries agree

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

8) You agree

You must consent to the sentence transfer yourself. Your consent is not required if you have been declared an undesirable alien in the country where you were sentenced, and this country has signed the additional protocol to the Convention on the Transfer of Sentenced Persons or if this is indicated in the Convention between the Netherlands and this country.

Continuation or conversion of your sentence

There are two possible procedures based on the WOTS sentence transfer: a procedure whereby your sentence is continued or a sentence whereby it is converted. IOS will notify you by letter which procedure applies in your case. The procedure varies by country. In most countries the continuation procedure applies, but in certain countries the conversion procedure is applicable.

In the event of a continuation of sentence, the sentence you were given in the other country will not change after the sentence transfer. There are two exceptions:

- if you have received a sentence in the other country that is higher than the maximum sentence for the same offence in the Netherlands, your sentence is adjusted to the maximum sentence in the Netherlands;
- if the foreign measure imposed on you does not exist in the Netherlands, a comparable measure will be imposed on you under Dutch law.

In the event of the conversion of your sentence, it is adjusted to the sentence you would have received in the Netherlands. The court will assess your sentence (not the facts) and decide on your new sentence at a new court hearing in the Netherlands.

What are the steps of the Wots-procedure?

Step 1: Applying for the transfer of your sentence

The country where you were sentenced decides whether you can apply for the transfer of your sentence. If this country is prepared to do this, it will send IOS a request.

Step 2: Assessment of the conditions

IOS checks whether the conditions for the transfer of your sentence are met. If this is not the case IOS may turn down the request.

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

If all the conditions are met, IOS forwards the request for sentence transfer to the Public Prosecution Office with the Arnhem-Leeuwarden Court of Appeal. The Public Prosecution Office submits the request to the Court of Appeal. The court checks whether there are any reasons to turn down the request and notifies IOS. The Court of Appeal will not try your foreign criminal case again. Neither is there a public hearing you can attend.

or:

Step 3 of the conversion procedure: advice on the severity of your sentence

If all the conditions are met, IOS will ask the Public Prosecution Service for advice on the severity of the sentence. This means that based on the facts, the Public Prosecution Service looks at the sentence that it would demand in the Netherlands for the offence for which you have been sentenced in the other country. If this advice is less than the sentence imposed on you in the other country, it is possible that the transfer of your sentence will not take place. This is in connection with the minimum remaining sentence required for your rehabilitation.

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 will notify the country where you were sentenced.

Step 5: Definitive consent

The country where you were sentenced notifies IOS whether they definitely agree to the transfer of your sentence.

Step 6: Transportation

If the country where you were sentenced has agreed to your sentence transfer IOS will arrange your transportation to the Netherlands.

Step 7 (only for the conversion procedure): court hearing

After your transportation to the Netherlands a court hearing is scheduled for the conversion of your foreign sentence. At this hearing the court will decide on the sentence you must still serve in the Netherlands.

How to request a 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 may also ask your registered contact person or your lawyer to do this for you. If you qualify for sentence transfer, IOS will contact the country where you are currently situated. This country will then decide whether it will submit a request for the transfer of your sentence (see step 1 above).

What else should you know?

Conditional release

Under certain conditions a sentenced person may qualify for early release. This is referred to as conditional release. The rules for conditional release vary by country. After a transfer of sentence to the Netherlands, Dutch rules for early conditional release will apply. But the Netherlands may take the foreign conditional release date into account if:

- this date is prior to the Dutch conditional release date, and
- the date has been sufficiently fixed. A date for conditional release is not sufficiently fixed, for instance, if a foreign court has to decide on granting the conditional release.

Right to return

If you have been transferred from the Netherlands to the country where you are currently in prison, this country may have granted you a return guarantee. A return guarantee is a commitment made by the other country to the Netherlands that you can serve your sentence in the Netherlands. If a return guarantee has been given in your case, the conversion procedure will always apply to the transfer of your sentence. In the event of a return guarantee, no advice on the severity of your sentence (step 3) needs to be requested.

Terms

Following the procedure to have your sentence transferred takes time. No statutory terms apply.

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 adress

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