

**NETHERLANDS**

**National Procedures for Transfer of sentenced persons**

**Updated on 10/12/2020**

The information contained in this table should be updated on a yearly basis.

The Central Authority responsible for the transfer of sentenced persons	Custodial Institutions Agency Ministry of Security and Justice Individual Affairs Division International transfer of sentenced persons Postbus 30132 2500 GC Den Haag Netherlands  Tel: 00 31 (0)88 07 25962 E-mail: <a href="mailto:ios@dji.minjus.nl">ios@dji.minjus.nl</a> <a href="http://www.dji.nl">www.dji.nl</a>
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If different from the Central Authority, the authority to which the request should be sent:	
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If different from the Central Authority, the Authority/ies in charge of coordinating and/or implementing the physical transfer of the person concerned:	
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Channels of communication for the request for the transfer of sentenced persons:  (directly, through diplomatic channels or other)	In principle, the communication is directly with the Central Authority unless a country made a reservation by treaty.
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Means of communication (eg. by post, fax, e-mail <sup>1</sup> ):	Post and e-mail
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Language requirements:	Dutch, English, French and German in case of the Convention on the transfer of sentenced persons of 21 March 1983.
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<sup>1</sup> Please indicate if encryption or electronic signature is required.

Documentation required:	As mentioned in the treaty
Continued enforcement or conversion of the sentence <sup>2</sup> :	In principle continued enforcement
General rules on early release:	<p><b>Criminal Procedure Code Article 6.2.10 (effective from 1 January 2020)</b></p> <ol style="list-style-type: none"> <li>1. Those who have been sentenced to a custodial sentence of more than one year and at most two years will be released conditionally if the deprivation of liberty has lasted at least one year and one third of the remaining sentence to be served has already been served.</li> <li>2. Those who have been sentenced to a temporary term of imprisonment of more than two years will be released conditionally when they have served two thirds of the sentence.</li> <li>3. The first and second paragraph do not apply if: <ol style="list-style-type: none"> <li>a) the judge ordered, on the basis of Article 14a, that a part of the custodial sentence will not be executed,</li> <li>b) the judge issued an order as referred to in the first paragraph of Article 14g,</li> <li>c) the convicted person is a foreign national without the right to reside in the Netherlands within the meaning of Article 8 of the Aliens Act 2000.</li> </ol> </li> <li>4. In application of the first and second paragraph, the time spent by the convicted person in police custody, pre-trial detention or in detention abroad pursuant to a Dutch request for extradition will be included in the term, unless that time, in application of Article 68(1) final sentence of the Dutch Code of Criminal Procedure, has already been deducted from another punishment undergone by the convicted person.</li> <li>5. If the convicted person is to undergo more than one custodial sentence, these will be executed consecutively as much as possible. In such cases, unconditional custodial sentences will be designated jointly as a single custodial sentence, with the exception of imprisonment for non-payment of a fine, to which this Article and Articles 15a to 15l apply.</li> <li>6. Articles 570 and 570a of the Dutch Code of Criminal Procedure apply.</li> <li>7. In derogation of the first and second paragraph, Our Minister of Security and Justice may determine that the conditional release will take place at an earlier time in the case of the execution in the Netherlands of a custodial sentence imposed abroad, if the convicted person would have been released at that earlier time if the execution had not been transferred to the Netherlands.</li> </ol>
Scope of application with regard to transfer of mentally	The transfers of mentally disordered persons into the Netherlands as well as to other countries are only possible if the facilities meet

<sup>2</sup> In case the sentence is converted, please specify whether this is done before or after the transfer has taken place.

disordered persons:	the conditions for an appropriate treatment and meet the criteria from a legal point of view.
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Scope of application with regard to nationals and/or residents:	<p>One of the aims of the Convention on the transfer of sentenced persons is promoting the rehabilitation. A Dutch national has to have a place of residence in the Netherlands.</p> <p>And it is necessary he/she lived in the Netherlands 5 years in the Netherlands prior to the arrest.</p> <p>This also applies to residents. Besides the place of residence, a resident needs a valid residence permit and it is necessary he/she lived in the Netherlands for 5 years <b>uninterrupted</b> prior the arrest.</p> <p>Before agreeing with a transfer, the Dutch Immigration Service examines the case of a Dutch residents and starts (if needed) a procedure to withdraw permit due to the criminal offences committed in a foreign country.</p>
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Other relevant information: (such as practice regarding time limits or revocation of consent)	
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Links to national legislation, national guides on procedure:	
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Link to information about the Convention (according to Article 4) in the official language(s) of the State Party (see also Rec. R (84) 11 of the Committee of Ministers concerning information about ETS <sup>o</sup> 112 and PC-OC INF 12):	
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### For Parties to the Additional Protocol

Information on the implementation of Article 2: ( e . g . i n t e r p r e t a t i o n " f l e e i n g t o " )	<p>The Dutch authorities treat Dutch nationals equally to Dutch residents (who do not lose their permit after an examination by the Dutch Immigration Service) Netherlands as fleeing to the territory of the former Party.</p> <p>Avoiding the execution means according to the Dutch authorities:</p> <ul style="list-style-type: none"> <li>• somebody does not grant the request to join a judicial proceeding in the foreign country and flies from the foreign country</li> <li>• somebody flies while being imprisoned in the foreign country</li> <li>• somebody ignores a request/letter written open him/her by the authorities and flies from the foreign country</li> </ul>
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Information on the implementation of Article 3 (e.g. interpretation of the requirement of a consequential link between the decision on expulsion and the sentence)	As mentioned in the treaty
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Documentation required:	As mentioned in the treaty
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Other relevant information:	
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