

State Party the Netherlands  
 – National procedures for extradition  
 Updated 16/05/19

States Parties are requested to fill in this table with the necessary information and return it to the Secretariat of the PC-OC. The information contained in this table should be updated on a yearly basis.

The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for extradition:	Ministry of Justice and Security Directorate General for the Administration of Justice and Law enforcement Legal and Operation Affairs Department Office for International Legal Assistance in Criminal Matters Postbus 20301 2500 EH The Hague The Netherlands Telephone number: 0031-70-370-7314 Fax number: 0031-70-370 7945 Email: airs@minjenv.nl
If different from the Central Authority the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	-
Channels of communication for the request for extradition (directly, through diplomatic channels or other):	The Netherlands accepts requests for extradition directly, except in the case when international treaty stipulates differently (through diplomatic channels)
Means of communication (eg. by post, fax, e-mail <sup>1</sup> ):	Post, fax, e-mail. But the original extradition request must be send by post.
Language requirements:	The Netherlands made no reservation or declaration concerning language requirements but prefer to receive translations in Dutch or English.

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Documentation required:	<p>Following article 12 of the European Convention on Extradition and 18 of the Dutch Legislation on Extradition (Uitleveringswet) the following documentation is necessary:</p> <ul style="list-style-type: none"> <li>- The request for extradition (preferably with a translation in English or Dutch)</li> <li>- An arrest warrant or a judgement.</li> <li>- In case of a judgement the following information must be included: proof that the judgement is irrevocable, proof that the sentence is not provisional, information on the amount of time already spent undergoing the sentence, information on possible early release.</li> <li>- In case of a judgement in absentia the information stated in article 3 of the Second Additional Protocol to the European Convention on Extradition (to which the Netherlands are party) is needed.</li> <li>- Summary of the facts for which extradition is requested, with information on the date, time and place of these facts.</li> <li>- Relevant articles of national law.</li> <li>- Information on the identity of the requested person.</li> </ul>	
Provisional arrest:	Time limit for presentation of formal extradition request if the person is in provisional arrest	<p>20 days</p> <p>Article 16, paragraph 4 of the European Convention on Extradition states that provisional arrest can be terminated somewhere between 18 days and 40 days if the original request for extradition and accompanying documents are not received by the requested state.</p> <p>Following Dutch legislation, provisional arrest can last no longer than 20 days without the receipt of the original request for extradition and accompanying</p>

		<p>documents. If the original request for extradition and accompanying documents (a fax version is not sufficient) are not received within 20 days after a Dutch judge has ordered the provisional arrest, this provisional arrest must be terminated. Only after the original request for extradition and accompanying documents are received can the requested person be arrested for extradition again.</p>
	<p>Is there a need for an explicit request for prolongation of the provisional arrest beyond the 18 days mentioned in Article 16, paragraph 4 of the European Convention on Extradition (ETS No.24)?</p>	<p>The provisional arrest will last for 20 days and <b>can not be prolonged</b> if the original request is not received.</p>
<p>Extradition procedures: Please describe shortly the different types of procedure (e.g. normal, simplified, other) indicating the main differences:</p>	<p>In the Netherlands both the Court and the Minister of Justice and Security assess a request for extradition. The procedure is as follows. The Minister of Justice forwards a request for extradition to the Public Prosecutor, who will bring the case to one of the 10 District Courts for examination. The decision of the District Court can be appealed in cassation at the Supreme Court. After a decision by the Court and possibly the Supreme Court the Minister of Justice and Security decides whether extradition can be granted. A decision of the court and Supreme Court denying extradition is binding for the Minister of Justice and Security. The decision of the Minister of Justice and Security can be objected by filing an injunction at the Civil Court. This Civil Court usually decides on short notice if the Minister has acted unlawfully by granting the extradition (tort). The decision of this Court can be appealed at the High Court and subsequently appealed in cassation at the Supreme Court. The decision of this last institution finalizes the extradition procedure. Pending the appeals against the Civil Court's decision, the requested person can be extradited.</p>	

	<p>Simplified extradition:</p> <p>According to Dutch law, a simplified extradition is possible. If the requested person consents to simplified extradition the Dutch authorities do not need the original request for extradition and accompanying documents to allow simplified extradition. The Minister of Justice and Security decides whether simplified extradition will take place in case of consent of the requested person. The consent of the requested person must be documented with the examining magistrate. The simplified procedure cannot be followed if the requested person is the subject of prosecution in the Netherlands for a criminal offence or if a Dutch sentence against the requested person has not yet been executed</p>
<p>Detention before and after the receipt of the extradition request, (deadlines, conditional release, etc.):</p>	<p>The duration of the provisional arrest is 20 days in the Netherlands. If the extradition request is received within this 20 days, the wanted person will stay in detention, unless the court decides that there are no legal grounds to keep the person in detention, that is the case when the court has no grounds to believe the person is going to leave the Netherlands.</p>
<p>Statutes of limitation for the purpose of prosecution and for the execution of sentences (general principles):</p>	<p>According to article 70 of the Dutch Criminal Code, prosecution is barred upon the laps of time in six years for offences that can be punished with a sentence of no more than 3 years or a fine, twelve years for offences that can be punished with a sentence over 3 years, and twenty years for offences that can be punished with a sentence of 8 years or more.</p> <p>The right to prosecute for offences that can be punished with a sentence of 12 years or more according to Dutch criminal law does not expire. The same applies to several sexual offenses committed against persons under the age of 18.</p>
<p>Provisions concerning extradition of nationals:</p>	<p>Concerning extradition of Dutch nationals the following is of importance. Article 6 of the European Convention on Extradition allows states the possibility to deny extradition</p>

	<p>of its own nationals. The Dutch declaration to this article states that the Netherlands can only permit the extradition of Dutch nationals for purposes of prosecution if the requesting State provides a guarantee that the person claimed may be returned to the Netherlands to serve his sentence there if, following his extradition, a custodial sentence other than a suspended sentence or a measure depriving him of his liberty is imposed upon him. Concerning the transfer of this sentence the requesting state also needs to guarantee that the procedure of article 11 of the Convention on the Transfer of Sentenced Persons will be allowed.</p> <p>Nationals are to be understood as meaning persons of Dutch nationality as well as foreigners integrated into the Netherlands community insofar as they can be prosecuted within the Kingdom of the Netherlands for the act in respect of which extradition is requested and insofar as such foreigners are not expected to lose their right of residence in the Kingdom as a result of the imposition of a penalty or measure subsequent to their extradition. Requests for extradition of these persons can only be dealt with by the Dutch authorities after receiving the aforementioned guarantee. Without this guarantee extradition must be denied.</p>
Surrender (eg. deadlines):	<p>The wanted person must be surrendered within 30 days after the final decision. If the extradited person could not be surrendered due to an unavoidable obstacle beyond the control of the Dutch authority, the detention can be prolonged for another 30 days. In exceptional cases the detention can be prolonged again. The decision whether the detention can be prolonged is up to the court.</p>
Other particularly relevant information (such as, specific requirements concerning double criminality):	<p>The Netherlands considers the moment when the extradition is assessed when applying the principle of double criminality.</p> <p>Following article 2, paragraph 1, of the European Convention on Extradition and article 5 of the Dutch Legislation on Extradition (Uitleveringswet) extradition can be granted for the prosecution of facts that allow a sentence of at least 1 year imprisonment and for the execution of sentences of at least 4 months of imprisonment.</p>

Links to national legislation, national guides on procedure,	-