

Rehabilitation and mutual recognition – practice concerning EU law on transfer of persons sentenced or awaiting trial

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Section A: General information on existing situation: probation measures, alternative sanctions and supervision measures as an alternative to pre-trial detention

Please add the information required to answer the questions. Provide supporting or explanatory information – highlighting laws, policies and measures which justify the answer.

Q1. Please outline the specific probation measures or alternative sanctions that are available at the post-trial stage in the Member State on which you are reporting:

The conditions attached to a suspended sentence are included in the judgment. The suspended sentence can be revoked when the offender commits a new offence during the probationary period or does not comply with other conditions imposed by the court. The following sentences can be suspended wholly or in part:

- a) a custodial sentence not exceeding 2 years, b) a fine, c) community service. In case of a custodial sentence not exceeding 4 years, a maximum of 2 years of that sentence may be suspended. Prison sentences longer than 4 years may not be suspended.¹

Two types of conditions can be attached to a suspended sentence: two general conditions and several specific conditions. The general conditions are that firstly no crime is committed during the probation period and secondly, in cases where the suspended sentence contains one or more specific conditions, the offender cooperates with supervision by a probation officer. The specific conditions can be subdivided into two types: restraining orders and behavioural orders.² The instructions of the Public Prosecution Service specify three more specific conditions, namely: compensation payments where applicable, care related conditions and other conditions.³

The length of the probation period is determined by the court. In most cases the maximum duration of the probation period is 3 years. Where there is a serious risk that the offender will commit another crime against physical integrity, the probation period can last up to 10 years.⁴

According to the law, consent of the sentenced person is not required. In practice however, the court will not impose a suspended sentence with conditions without the offender's consent.

A wholly or partially suspended (custodial) sentence may be combined with a community service penalty and/or a fine. The Public Prosecutor is responsible for supervising compliance with the conditions attached to the suspended sentence. In practice most of the conditions are supervised by the Probation

¹ Netherlands, Criminal Code (*Wetboek van Strafrecht*), Article 14a, available at: http://wetten.overheid.nl/BWBR0001854/EersteBoek/TitelIII/Artikel14a/geldigheidsdatum_07-06-2015.

² Netherlands, Criminal Code (*Wetboek van Strafrecht*), Article 14c, available at: http://wetten.overheid.nl/BWBR0001854/EersteBoek/TitelIII/Artikel14c/geldigheidsdatum_07-06-2015.

³ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2015), Instruction on suspended custodial sentences and suspension of preliminary custody under conditions 2015A002 (*Aanwijzing voorwaardelijke vrijheidsstraffen en schorsing van voorlopige hechtenis onder voorwaarden, 2015A002*), available at: www.om.nl/vaste-onderdelen/zoeken/@88389/aanwijzing-5/.

⁴ Netherlands, Criminal Code (*Wetboek van Strafrecht*), Article 14b, available at: http://wetten.overheid.nl/BWBR0001854/EersteBoek/TitelIII/Artikel14b/geldigheidsdatum_07-06-2015.

Service, that has to inform the Public Prosecutor about the compliance and non-compliance with the conditions. In case of non-compliance the Public Prosecutor may call on the court to revoke the suspension. The court may revoke the suspended sentence wholly or partially, may extend the probation period, change the conditions or impose a community service.⁵ Electronic monitoring cannot be imposed as an alternative sanction, only as a tool for a successful compliance of the special conditions.⁶

⁵ Netherlands, Criminal Code (*Wetboek van Strafrecht*), Article 14d and 14f, available at: http://wetten.overheid.nl/BWBR0001854/EersteBoek/TitelIII/Artikel14d/geldigheidsdatum_07-06-2015.

⁶ See also: ISTEP Project (2015), *Practical Information about the Netherlands*, available at: www.probation-transfers.eu/default.asp?page_id=88&type=basic&country_id=1.

Q2. Please outline the specific supervision measures as alternatives to pre-trial detention that are available in the Member State:

According to article 80 of the Dutch Criminal Proceedings Act the judge may suspend the pre-trial detention if the suspect declares that he or she is prepared to fulfil the conditions that are set to the suspension.⁷ Legally, the judge may demand a deposit or bail before suspending the pre-trial sentence, but this is rarely done in the Netherlands.⁸ The judge can end the suspension at any time, after having heard the suspect.⁹ The judge may impose several special conditions that are in essence not different from the special conditions of the suspended sentence. Electronic monitoring (or ‘tagging’) is not very popular in the Netherlands due to practical difficulties.¹⁰ Special conditions that are used fairly often are addiction-related treatments, psychological treatments, training courses and restraining orders in respect of location and contact. Supervision is conducted by the Probation Service. Suspects are asked to visit a contact person of the Probation Service regularly. When specific conditions are imposed, such as injunctions on contact and location, the supervision is done by the Public Prosecution Service which delegates the supervision to the police.^{11 12}

⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 80, available at:

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIV/Tweedeafdeeling/4/Artikel80/geldigheidsdatum_26-05-2015

⁸ Netherlands, Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2011), *Voorlopige hechtenis – maar dan anders Verkenning van alternatieven in het kader van schorsing en tenuitvoerlegging*, The Hague, *Raad voor Strafrechtstoepassing en Jeugdbescherming*.

⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 82, available at:

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIV/Tweedeafdeeling/4/Artikel82/geldigheidsdatum_26-05-2015.

¹⁰ Netherlands, Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2011), *Voorlopige hechtenis – maar dan anders Verkenning van alternatieven in het kader van schorsing en tenuitvoerlegging*, The Hague, *Raad voor Strafrechtstoepassing en Jeugdbescherming*.

¹¹ Jacobs, M.J.G., A.M. van Kalmthout & Von Bergh, M.W.J. (2006), *Toepassing van bijzondere voorwaarden bij voorwaardelijke vrijheidsstraf en schorsing van de voorlopige hechtenis bij volwassenen*, Tilburg, IVA.

¹² Netherlands, Public Prosecution Service (Openbaar Ministerie) (2015), *Instruction on suspended custodial sentences and suspension of preliminary custody under conditions 2015A002 (Aanwijzing voorwaardelijke vrijheidsstraffen en schorsing van voorlopige hechtenis onder voorwaarden, 2015A002)*, available at: www.om.nl/vaste-onderdelen/zoeken/@88389/aanwijzing-5/.

Q3. Are there any specific legislative or policy developments regarding alternatives to prison (at the pre- and post-trial stage) of particular suspects/sentenced persons (such as children, persons with disabilities, persons in need of special treatment or mothers with young children)?

In the Netherlands there are no developments with regard to alternative sanctions for particular groups of people. There are several measures however that can be applied for particular groups of people, such as young children, adolescents¹³ or persons in need of supervision.¹⁴ These measures are for instance damage compensation, a prohibition to drive and behavioural and restraining orders. Pursuant to article 37 of the Criminal Proceedings Act people or with intellectual disabilities or mental illness can, within certain conditions, be forced to stay in a psychiatric hospital for a period of one year if they are a danger to others, themselves or to the safety of people or goods.¹⁵

¹³ Netherlands, Criminal Code (*Wetboek van Strafrecht*), Article 77h, available at: http://wetten.overheid.nl/BWBR0001854/EersteBoek/TitelVIII/Artikel77h/geldigheidsdatum_16-01-2015.

¹⁴ Netherlands, Criminal Code (*Wetboek van Strafrecht*), Article 38v, available at: http://wetten.overheid.nl/BWBR0001854/EersteBoek/TitelIII/Vierdeafdeling/Artikel38v/geldigheidsdatum_16-01-2015,

¹⁵ Netherlands, Criminal Code (*Wetboek van Strafrecht*), Article 37, available at: http://wetten.overheid.nl/BWBR0001854/EersteBoek/TitelIII/Tweedeafdeling/Artikel37/geldigheidsdatum_16-01-2015.

Section B: Transfer of suspects/sentenced persons

Please give a response for each of the boxes. If the information is the same in two boxes, duplicate the text. If the question is not applicable, specify why.

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q1. AVAILABILITY OF INFORMATION			
Q1.1. Is information publicly available in ‘issuing states’ concerning the following?: If yes, please specify.			
What information is provided (e.g. conditions for early release for FD 909 or the need for a suspect/sentenced person’s consent to a measure for FD 947 and 829)?	<p>Yes.</p> <p>The website of the Public Prosecution Service¹⁶ provides general information about the Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (<i>Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties</i>, WETS hereafter) (also available in English).</p> <p>The website of the national government provides general</p>	<p>Yes.</p> <p>Factsheets on the Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (<i>Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties</i>) in English²³ and Dutch²⁴.</p> <p>If WETS is not applicable, because there is no applicable law in the executing state, than there is the Enforcement of Criminal Judgments (Transfer) Act (<i>Wet overdracht tenuitvoerlegging</i></p>	<p>The principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention is guaranteed by a new fifth book of the Dutch Code of Criminal Procedure (<i>Wetboek van Strafvordering</i>), which came into force on November 1st, 2013.²⁸</p> <p>Information on this principle is provided by a brochure (<i>“Wet wederzijdse erkenning op beslissingen inzake toezichtmaatregelen als alternatief voor voorlopige hechtenis”</i>), available only in Dutch.²⁹</p>

¹⁶ Netherlands, Public Prosecution Service (*Openbaar Ministerie*), *WETS in Hoofddijnen*, Web page, available at: www.om.nl/onderwerpen/internationaal/wets-hoofddijnen/

²³ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), WETS. Serving a sentence in the Netherlands? Factsheet for foreign prisoners in the Netherlands (from an EU country), available at: [https://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](https://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

²⁴ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), WETS. [tps://www.dji.nl/Images/wets-infoblad-voor-gevangenen-uit-eu-land-in-nederland_tcm93-497755.pdf](https://www.dji.nl/Images/wets-infoblad-voor-gevangenen-uit-eu-land-in-nederland_tcm93-497755.pdf)

²⁸ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*), Wet van 5 juni 2013 tot implementatie van kaderbesluit 2009/829/JBZ van de Raad van de Europese Unie van 23 oktober 2009 inzake de toepassing tussen de lidstaten van de Europese Unie, van het beginsel van wederzijdse erkenning op beslissingen inzake toezichtmaatregelen als alternatief voor voorlopige hechtenis (PbEU L 294), Vol 2013, No. 250, available at: <https://zoek.officielebekendmakingen.nl/stb-2013-250.html>

²⁹ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Wet wederzijdse erkenning op beslissingen inzake*

	<p>information on serving sentences in the Netherlands.¹⁷</p> <p>The Custodial Institutions Agency has developed factsheets, both in English and in Dutch, to inform people about the WETS:</p> <p>Fact sheet for foreign prisoners in the Netherlands (from an EU country): WETS.¹⁸</p> <p><i>Informatieblad voor buitenlandse gevangenen (uit een EU-land) in Nederland</i> : WETS.¹⁹If WETS is not applicable, because there is no applicable law in the executing state, than there is the Enforcement of Criminal Judgments (Transfer) Act (<i>Wet overdracht tenuitvoerlegging strafvonnissen</i>) which is also explained in</p>	<p><i>strafvonnissen</i>) which is also explained in factsheets in English²⁵ and in Dutch²⁶.</p> <p>There is a specific brochure on conditional release (in Dutch).²⁷</p> <p>Also, there is a telephone number for information.</p>	
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toezichtmaatregelen als alternatief voor voorlopige hechtenis, available at: [http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2013/10/31/informatieblad-wet-wederzijdse-erkenning-op-beslissingen-inzake-toezichtmaatregelen-als-alternatief-voor-voorlopige-hechtenis.pdf](http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2013/10/31/informatieblad-wet-wederzijdse-erkenning-op-beslissingen-inzake-toezichtmaatregelen-als-alternatief-voor-voorlopige-hechtenis/informatieblad-wet-wederzijdse-erkenning-op-beslissingen-inzake-toezichtmaatregelen-als-alternatief-voor-voorlopige-hechtenis.pdf)

¹⁷ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2015), *Buitenlandse straf uitzitten*, Web page, available at: www.rijksoverheid.nl/onderwerpen/straffen-en-maatregelen/buitenlandse-straf-uitzitten-in-nederland

¹⁸ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), *WETS. Serving a sentence in the Netherlands? Factsheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

¹⁹ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), *WETS. Straf uitzitten in Nederland? Informatieblad voor buitenlandse gevangenen (uit een EU-land) in Nederland*, available at: www.dji.nl/Images/wets-infoblad-voor-gevangenen-uit-eu-land-in-nederland_tcm93-497755.pdf

²⁵ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), *WETS. Serving a sentence in your own country? Information sheet for foreign prisoners in the Netherlands*, available at: www.dji.nl/Images/information-sheet-for-foreign-prisoners-in-the-netherlands_tcm93-516763.pdf

²⁶ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) https://www.dji.nl/Images/wots-infoblad-voor-buitenlandse-gevangenen-in-nederland_tcm93-497758.pdf

²⁷ Netherlands, Ministry of Justice (*Ministerie van Justitie*), *Wet voorwaardelijke invrijheidstelling*, Factsheet, <http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2010/09/30/wet-voorwaardelijke-invrijheidstelling/06fs2008g879.pdf>

	factsheets in English ²⁰ and in Dutch ²¹ . Also, there is a telephone number for information. ²²		
<ul style="list-style-type: none"> How is the information made publically available (tools, or networks used)? 	Internet, factsheets, telephone information desk (see also Q1.2)	Internet, factsheets, telephone information desk (see also Q1.2)	Internet, factsheets, telephone information desk (see also Q1.2)
<ul style="list-style-type: none"> In which languages is the information provided? 	Dutch, English	Dutch, English	Dutch
Q1.2. Apart from the competent authorities required by the FDs, is there any other national office or point of contact responsible for leading initial discussions about potential transfers (as issuing and executing state)? If yes, please provide brief details.	All sentence transfers regarding FD909 are performed by the department for international transfers of sentences (<i>Internationale Overdracht Strafvonnissen</i> , IOS). This department acts on behalf of the minister. The Department for International Transfers of Sentences of the Ministry of Security and Justice is part of the National Agency of Correctional Institutions (<i>Dienst Justitiële Inrichtingen</i>) in The Hague.	The Public Prosecution Service is responsible for FD947. ³⁰ The competent authority is the Centre for International Legal Aid (IRC) which is responsible for and performs all transfers regarding FD947. ³¹	The Public Prosecution Service is responsible for FD829. The competent authority is the Centre for International Legal Aid which is responsible for and performs all transfers regarding FD829. ³²

²⁰ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WOTS. Serving a sentence in your own country? Information sheet for foreign prisoners in the Netherlands*, available at: www.dji.nl/Images/information-sheet-for-foreign-prisoners-in-the-netherlands_tcm93-516763.pdf

²¹ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WOTS. Strafuitzitten in uw eigen land? Informatieblad voor buitenlandse gevangenen in Nederland*, available at: www.dji.nl/Images/wots-infoblad-voor-buitenlandse-gevangenen-in-nederland_tcm93-497758.pdf

²² Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2015), *Buitenlandse straf uitzitten in Nederland*, Web page, available at: www.rijksoverheid.nl/onderwerpen/straffen-en-maatregelen/buitenlandse-straf-uitzitten-in-nederland

³⁰ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:3, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_11-06-2015#Hoofdstuk3

³¹ Netherlands, Public Prosecution Service (*Openbaar Ministerie*), Internationale samenwerking. Contact, Web page, available at: www.om.nl/onderwerpen/internationaal/contact/

³² Netherlands, Public Prosecution Service (*Openbaar Ministerie*), Internationale samenwerking. Contact, Web page, available at: www.om.nl/onderwerpen/internationaal/contact/

<p>Q1.3. Do the competent authorities collate information about their experience of transfers (such as personal data of the suspect/sentenced person, states involved, issues raised during the transfer process)? If yes, specify the information gathered.</p>	<p>No. Personal data and experiences during transfers are not filed.³³</p>	<p>No³⁴</p>	<p>No³⁵</p>
<p>TOPIC</p>	<p>FD 2008/909</p>	<p>FD 2008/947</p>	<p>FD 2009/829 (ESO)</p>
<p>Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON</p>			
<p>Q2.1. Is there a procedure in the issuing state (e.g. some form of mechanism that ensures it is done in all relevant cases) in place to inform the suspect/sentenced person of the option to transfer the judgment or decision to another Member State? If yes, please briefly provide information (e.g. is it an oral or written procedure) and specify who provides this information.</p>	<p>There is no procedure in place to inform the sentenced person of the option to transfer the sentence to another Member State. Convicted persons are not automatically entitled to sentence transfer, but it will always be considered as an option. They can indicate that they want to be eligible for sentence transfer.³⁶</p>	<p>Sentenced persons are automatically entitled to sentence transfer. They are informed by the public prosecutor by letter.³⁷</p>	<p>Suspects and/or their lawyers may ask the judge to impose a supervision measure as an alternative to provisional detention and to transfer it to the homeland of the suspect. If not, the judge will in most cases discuss the possibility of transfer.³⁸ The suspect must then declare not to withdraw from the supervision measure and be prepared to return to his own country.³⁹</p>

³³ Information from a representative of the Department for International Transfers of Sentences

³⁴ Information from the Centre for International Legal Aid

³⁵ Information from the Centre for International Legal Aid

³⁶ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

³⁷ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

³⁸ Information from the Centre for International Legal Aid

³⁹ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Wet wederzijdse erkenning op beslissingen inzake toezichtmaatregelen als alternatief voor voorlopige hechtenis*, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brochures/2013/10/31/informatieblad-wet-wederzijdse-erkenning-op-beslissingen-inzake-toezichtmaatregelen-als-alternatief-voor-voorlopige-hechtenis/informatieblad-wet-wederzijdse-erkenning-op-beslissingen-inzake-toezichtmaatregelen-als-alternatief-voor-voorlopige-hechtenis.pdf

<p>Q2.2. Is there a procedure in place in the issuing state to obtain the informed consent of the suspect/sentenced person before forwarding the judgment or decision to the executing state? (e.g. a pre-prepared written explanation of the process available in a number of languages). If yes, please briefly specify what information the suspect/sentenced person receives (e.g. information on appeal and release possibilities).</p>	<p>If the prisoner indicates the desire for sentence transfer, the procedure will be initiated by the prison where the prisoner is detained. The prisoner will need to fill in the sentence transfer form. Prison staff can assist with that. The prison will send the form to the Department for International Transfers of Sentences of the Ministry of Security and Justice.</p> <p>The Department for International Transfers of Sentences of the Ministry of Security and Justice checks if the sentence is final and if there is sufficient remaining sentence to serve (at least 10 months of imprisonment left). The Department for International Transfers of Sentences of the Ministry of Security and Justice also checks if the relationship with the destination country is strong enough. All information is collected in the request.⁴⁰</p> <p>The Department for International Transfers of Sentences of the</p>	<p>Formally, the sentence transfer may take place without informed consent, for instance if the sentenced person has the nationality of an EU country and also lives there, or if he or she has been declared an undesirable foreign national in the Netherlands.⁴³ However, since some EU countries set informed consent as a precondition for transfers, a written consent of the sentenced person is always asked.⁴⁴</p>	<p>Formally, the sentence transfer may take place without informed consent, for instance if the sentenced person has the nationality of an EU country and also lives there, or if he or she has been declared an undesirable foreign national in the Netherlands.⁴⁵ However, since some EU countries set informed consent as a precondition for transfers, a written consent of the sentenced person is always asked.⁴⁶</p>
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⁴⁰ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁴³ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁴⁴ Information from the Centre for International Legal Aid

⁴⁵ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁴⁶ Information from the Centre for International Legal Aid

	<p>Ministry of Security and Justice.also asks advice from the Public Prosecutor in the Netherlands. The Public Prosecutor takes the consequences of the crime for society into account for his advice. The Public Prosecutor further checks if no other investigation about the prisoner is ongoing. If there is such an investigation, the sentence transfer will not be followed through (for the time being).</p> <p>If the procedure is started by the State, the prisoner will be asked to give his/her opinion.</p> <p>The sentence transfer may take place without informed consent, for instance if the sentenced person has the nationality of an EU country and also lives there, or if he or she has been declared an undesirable foreign national in the Netherlands.⁴¹</p> <p>The Netherlands has to send a certificate to the executing state. The executing state is in most cases obliged to perform the supervision measure. ⁴²</p>		
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⁴¹ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁴² Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

<p>Q2.3. Does the suspect/sentenced person have the right to revoke his/her consent to the transfer in the issuing state? If yes, please briefly specify until which stage of the procedure this right exists.</p>	<p>Consent of the detained person is not required if he or she lives in the destination country. However, the sentenced person is asked for his or her opinion about the transfer if he or she did not ask for the transfer by his or herself. The minister, de facto the Department for International Transfers of Sentences of the Ministry of Security and Justice, has to take this opinion into account in making the decision. Finally, the sentenced person has always the right to object against the intention of the minister to send a certificate to the destination country at the Supreme Court Arnhem – Leeuwarden.⁴⁷</p>	<p>Formally, there is no right to revoke the consent, because consent is not required. In practice, the sentenced person is asked whether he or she is prepared to cooperate or not.⁴⁸</p>	<p>The suspect has to ask for the transfer or the possibility of transfer is discussed during hearings on the (extension of the) custody. The suspect must then declare not to withdraw from the supervision measure.⁴⁹</p>
<p>Q2.4. Is there any procedure in place in the issuing state to obtain the opinion of the sentenced person concerning the following:? If yes, please briefly specify e.g. is it an oral or a written procedure, are there any checks on actual understanding of the option).</p>			
<ul style="list-style-type: none"> • When consent is not required)? 	<p>Department for International Transfers of Sentences of the Ministry of Security and Justice.asks for the opinion of the prisoner on the sentence transfer by</p>		

⁴⁷ Article 2.27, WETS

⁴⁸ Information from the Centre for International Legal Aid

⁴⁹ Information from the Centre for International Legal Aid

	a letter and questionnaire, sometimes by an interview. ⁵⁰		
<ul style="list-style-type: none"> When consent is required, Article 6 (3) of FD 2008/909/JHA). 	The Department of International Transfers of Sentences of the Ministry of Justice asks for the opinion of the prisoner on the sentence transfer by a letter and questionnaire, sometimes by an interview. ⁵¹		
Q2.5. Does the suspect/sentenced person have the right to change his/her opinion on the transfer? If yes, please briefly specify until which stage of the procedure this right exists and how this is implemented in practice.	In practice, the opinion of the detained person does not influence the transfer process. ⁵²		
Q2.6. Is the suspect/sentenced person assisted by a legal counsel in the issuing state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone)	Article 18 of the Dutch Constitution states that everybody has the right to receive (subsidised) legal aid which means that also in WETS/WOTS cases the suspects/sentenced persons are entitled to request this support. The assistance can be provided face-to-face, or via telephone or videoscreen. ⁵³	Article 18 of the Dutch Constitution states that everybody has the right to receive (subsidised) legal aid which means that also in WETS/WOTS cases the suspects/sentenced persons are entitled to request this support. The assistance can be provided face-to-face, or via telephone or videoscreen. ⁵⁴	Article 18 of the Dutch Constitution states that everybody has the right to receive (subsidised) legal aid which means that also in WETS/WOTS cases the suspects/sentenced persons are entitled to request this support. The assistance can be provided face-to-face, or via telephone or videoscreen. ⁵⁵

⁵⁰ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁵¹ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*), (2013), *WETS. Serving a sentence in the Netherlands. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁵² Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

⁵³ Netherlands, Constitution (*Grondwet*), Article 18, available at: <http://wetten.overheid.nl/BWBR0001840>.

⁵⁴ Netherlands, Constitution (*Grondwet*), Article 18, available at: <http://wetten.overheid.nl/BWBR0001840>.

⁵⁵ Netherlands, Constitution (*Grondwet*), Article 18, available at: <http://wetten.overheid.nl/BWBR0001840>.

<p>Q2.7. Is there a procedure in place to ascertain that the legal counsel speaks and understands the suspect/sentenced person's language in the issuing state? If yes, please specify.</p>	<p>Article 27 (paragraph 4) of the Code of Criminal Procedure (<i>Wetboek van Strafvordering</i>) stipulates the general right for the suspect to call on an interpreter during the entire proceedings, including the right to an interpreter in the communication with his legal counsel.⁵⁶ Article 28 (paragraph 3) of the Code of Criminal Procedure states that if between the suspect and his legal counsel an interpreter is needed, the legal counsel has the responsibility to call on interpreter.⁵⁷</p>	<p>Article 27 (paragraph 4) of the Code of Criminal Procedure (<i>Wetboek van Strafvordering</i>) stipulates the general right for the suspect to call on an interpreter during the entire proceedings, including the right to an interpreter in the communication with his legal counsel.⁵⁸ Article 28 (paragraph 3) of the Code of Criminal Procedure states that if between the suspect and his legal counsel an interpreter is needed, the legal counsel has the responsibility to call on interpreter.⁵⁹</p>	<p>Article 27 (paragraph 4) of the Code of Criminal Procedure (<i>Wetboek van Strafvordering</i>) stipulates the general right for the suspect to call on an interpreter during the entire proceedings, including the right to an interpreter in the communication with his legal counsel.⁶⁰ Article 28 (paragraph 3) of the Code of Criminal Procedure states that if between the suspect and his legal counsel an interpreter is needed, the legal counsel has the responsibility to call on interpreter.⁶¹</p>
<p>Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?</p>	<p>Yes (see Q2.6)</p>	<p>Yes (see Q2.6)</p>	<p>Yes (see Q2.6)</p>

⁵⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

⁵⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

⁵⁸ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

⁵⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

⁶⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

⁶¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:			
<ul style="list-style-type: none"> • While consenting to the transfer? 	<p>Article 27 (paragraph 4) of the Code of Criminal Procedure (<i>Wetboek van Strafvordering</i>) stipulates the general right for the suspect to call on an interpreter during the entire proceedings, including the right to an interpreter in the communication with his legal counsel.⁶² Article 28 (paragraph 3) of the Code of Criminal Procedure states that if between the suspect and his legal counsel an interpreter is needed, the legal counsel has the responsibility to call on interpreter.⁶³</p>	<p>Article 27 (paragraph 4) of the Code of Criminal Procedure (<i>Wetboek van Strafvordering</i>) stipulates the general right for the suspect to call on an interpreter during the entire proceedings, including the right to an interpreter in the communication with his legal counsel.⁶⁴ Article 28 (paragraph 3) of the Code of Criminal Procedure states that if between the suspect and his legal counsel an interpreter is needed, the legal counsel has the responsibility to call on interpreter.⁶⁵</p>	<p>Article 27 (paragraph 4) of the Code of Criminal Procedure (<i>Wetboek van Strafvordering</i>) stipulates the general right for the suspect to call on an interpreter during the entire proceedings, including the right to an interpreter in the communication with his legal counsel.⁶⁶ Article 28 (paragraph 3) of the Code of Criminal Procedure states that if between the suspect and his legal counsel an interpreter is needed, the legal counsel has the responsibility to call on interpreter.⁶⁷</p>
<ul style="list-style-type: none"> • While requesting the transfer? 	Yes (see above)	Yes (see above)	Yes (see above)

⁶² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

⁶³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

⁶⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

⁶⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

⁶⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 27, paragraph 4, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel27/geldigheidsdatum_05-03-2015

⁶⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 28, paragraph 3, available at, http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/Artikel28/geldigheidsdatum_16-03-2015

Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.	Translation service can be done face to face or by telephone. ⁶⁸	Translation service can be done face to face or by telephone. ⁶⁹	Translation service can be done face to face or by telephone. ⁷⁰
Q2.11. Is the suspect/sentenced person's full understanding of the transfer checked on a case by case basis in the issuing state? Please provide brief information.	The issuing state asks the detained person for his or her opinion. If the person agrees to the transfer, he or she is informed about the judicial consequences of the transfer via a factsheet containing all relevant information such as adaptation of the sentence (if applicable) and the date of conditional release. ⁷¹	No ⁷²	No ⁷³
Q2.12. If the executing state adapts, before the transfer, the sentence or measure imposed by the issuing state (as authorised by Article 8.3 of FD 909, Article 9 of FD 947 and Article 13 of FD 829), does the suspect/sentenced person receive any updated information?	See Q2.11	No ⁷⁴	No ⁷⁵
Q2.13. Is there a right to appeal the forwarding of the judgment/decision in the issuing state? If yes, please briefly provide information (e.g. how the suspect is made	There is a right to appeal the decision, if the convicted person does not agree to the sentence transfer. The person must write a letter to that end to the Arnhem-	No ⁷⁷	No ⁷⁸

⁶⁸ The Netherlands, TVcN Tolken Vertaalcentrum (2015), *Tolkdiensten*, Web page, available at: www.tvcn.nl/nl/tolkdiensten/

⁶⁹ The Netherlands, TVcN Tolken Vertaalcentrum (2015), *Tolkdiensten*, Web page, available at: www.tvcn.nl/nl/tolkdiensten/

⁷⁰ The Netherlands, TVcN Tolken Vertaalcentrum (2015), *Tolkdiensten*, Web page, available at: www.tvcn.nl/nl/tolkdiensten/

⁷¹ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

⁷² Information from the Centre for International Legal Aid

⁷³ Information from the Centre for International Legal Aid

⁷⁴ Information from the Centre for International Legal Aid

⁷⁵ Information from the Centre for International Legal Aid

⁷⁷ Information from the Centre for International Legal Aid

⁷⁸ Information from the Centre for International Legal Aid

aware of his/her right to appeal and what support is made available to him/her)	Leeuwarden Supreme Court of Justice within fourteen days after receiving the letter from the Department for International Transfers of Sentences of the Ministry of Security and Justice. The letter must explain the reason of the appeal. The Court will then advise whether the forwarding procedure is to be continued or not. ⁷⁶		
Q2.14. Does the suspect/sentenced person have a right to a regular review of the decision on the transfer in the issuing state? If yes, please briefly provide information (e.g. how often he/she can exercise this right)	The sentenced person has the right and possibility to repeat the wish for a transfer if it was rejected the first time. ⁷⁹	No ⁸⁰	No ⁸¹
Q2.15. Is the suspect/sentenced person assisted by legal counsel in the executing state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone?)	The Supreme Court in Arnhem-Leeuwarden decides in what form the sentence can be served in the Netherlands. When justice is involved, all people have the right to receive (subsidised) legal aid. ⁸²	No information available ⁸³	No information available ⁸⁴

⁷⁶ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), *WETS. Serving a sentence in the Netherlands?. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁷⁹ Information from Department for International Transfers of Sentences of the Ministry of Security and Justice.

⁸⁰ Information from the Centre for International Legal Aid

⁸¹ Information from the Centre for International Legal Aid

⁸² Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

⁸³ Information from the Centre for International Legal Aid

⁸⁴ Information from the Centre for International Legal Aid

<p>Q2.16. Have there been instances where the Member State has refused a transfer based on a pre-determined ground of refusal, as permitted to a varying extent under each FD? If so, please briefly provide details.</p>	<p>No⁸⁵</p>	<p>Yes, in a few cases, when there was insufficient proof of residence or bond of the sentenced person in and with the Netherlands.⁸⁶</p>	<p>Not applicable. There are very few transfers regarding FD829.⁸⁷</p>
<p>Q.2.17. Are there any specific legislative or policy developments regarding the informed consent to the transfer of particular suspects/sentenced persons (such as children or persons with disabilities) in the issuing state? (e.g. the use of healthcare professionals)</p>	<p>The number of transfers each year is relatively low, although rising in recent years. The low numbers do not justify specific treatment of specific groups of people according to experts.⁸⁸ Each transfer is treated individually.</p>	<p>The number of transfers each year is relatively low, although rising in recent years. The low numbers do not justify specific treatment of specific groups of people according to experts.⁸⁹ Each transfer is treated individually. In the past three years, there were 69 incoming transfers and 14 outgoing for FD947 and FD829 (since November 1st, 2012).⁹⁰</p>	<p>The number of transfers each year is relatively low, although rising in recent years. The low numbers do not justify specific treatment of specific groups of people according to experts.⁹¹ There are hardly any transfers with regard to FD829.⁹²</p>

⁸⁵ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

⁸⁶ Information from the Centre for International Legal Aid

⁸⁷ Information from the Centre for International Legal Aid

⁸⁸ Interview with a professor of Criminal law and law relating to foreign nationals

⁸⁹ Interview with a professor of Criminal law and law relating to foreign nationals

⁹⁰ Information from the Centre for International Legal Aid

⁹¹ Interview with a professor of Criminal law and law relating to foreign nationals

⁹² Interview with a professor of Criminal law and law relating to foreign nationals

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q3. DECISION ON TRANSFER			
Q3.1. Are the following factors considered while deciding on forwarding a judgment or decision in the issuing state?			
<ul style="list-style-type: none"> The likely impact on the social rehabilitation of the suspect/sentenced person? 	According to the National Agency of Correctional Institutions (<i>Dienst Justitiële Inrichtingen</i>), rehabilitation in a foreign country (i.e. the Netherlands) is not considered possible. It forms the fundamental reason for the possibility of transfer. ⁹³	According to the National Agency of Correctional Institutions (<i>Dienst Justitiële Inrichtingen</i>), rehabilitation in a foreign country (i.e. the Netherlands) is not considered possible. It forms the fundamental reason for the possibility of transfer. ⁹⁴	According to the National Agency of Correctional Institutions (<i>Dienst Justitiële Inrichtingen</i>), rehabilitation in a foreign country (i.e. the Netherlands) is not considered possible. It forms the fundamental reason for the possibility of transfer. ⁹⁵
<ul style="list-style-type: none"> Fundamental rights implications (such as the right to family life, right to education)? 	Not explicitly. ⁹⁶	Not explicitly. ⁹⁷	Not explicitly. ⁹⁸
<ul style="list-style-type: none"> Others? Please specify. 	None.	None.	None.
Q3.2: While deciding on the transfer, are there any specific criteria/guidelines on the factors considered to be relevant for the purposes of (social) rehabilitation in the issuing state? Please provide any document containing those criteria/guidelines and			

⁹³ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), WETS. *Serving a sentence in the Netherlands?. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁹⁴ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), WETS. *Serving a sentence in the Netherlands?. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁹⁵ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), WETS. *Serving a sentence in the Netherlands?. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

⁹⁶ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

⁹⁷ Information from the Centre for International Legal Aid

⁹⁸ Information from the Centre for International Legal Aid

specify whether the following factors are considered:			
<ul style="list-style-type: none"> Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)? 	There has to be sufficient bond or ‘relationship’ of the sentenced person with the executing state. ⁹⁹ This is primarily determined via the municipal registration of people (<i>Basisregistratie personen</i>) and family ties. Other factors, such as language or cultural ties, are not considered relevant. ¹⁰⁰	There has to be a sufficient ‘relationship’ with the destination country. ¹⁰¹ This means that the convicted person lives, works or studies there and has relatives there. This will be checked. ¹⁰²	There has to be a sufficient ‘relationship’ with the destination country. ¹⁰³ It means that the convicted person lives, works or studies there and has relatives there. This will be checked. ¹⁰⁴
<ul style="list-style-type: none"> Criminal history and criminal ties? 	No. A transfer can be refused if the person is convicted for a “very serious crime”. ¹⁰⁵	No. ¹⁰⁶	No. ¹⁰⁷
<ul style="list-style-type: none"> Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)? 	No ¹⁰⁸	Each case is judged individually on all relevant aspects. ¹⁰⁹	Each case is judged individually on all relevant aspects. ¹¹⁰

⁹⁹ Netherlands, Mutual Acknowledgement and Execution of Detention and Probationary Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:6, available at http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2

¹⁰⁰ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹⁰¹ Netherlands, Mutual Acknowledgement and Execution of Detention and Probationary Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:6, available at http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3

¹⁰² Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), *WETS. Serving a sentence in the Netherlands?. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

¹⁰³ Netherlands, Mutual Acknowledgement and Execution of Detention and Probationary Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:6, available at http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3

¹⁰⁴ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), *WETS. Serving a sentence in the Netherlands?. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

¹⁰⁵ Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2013), *WETS. Serving a sentence in the Netherlands?. Fact sheet for foreign prisoners in the Netherlands (from an EU country)*, available at: [www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](http://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf) [https://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-\(from-an-eu-country\)_tcm93-520147.pdf](https://www.dji.nl/Images/fact-sheet-for-foreign-prisoners-in-the-netherlands-(from-an-eu-country)_tcm93-520147.pdf)

¹⁰⁶ Information from the Centre for International Legal Aid

¹⁰⁷ Information from the Centre for International Legal Aid

¹⁰⁸ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹⁰⁹ Information from the Centre for International Legal Aid

¹¹⁰ Information from the Centre for International Legal Aid

<ul style="list-style-type: none"> • Detention conditions (e.g. issues of overcrowding or availability of courses, such as the <i>Modulos</i> in Spain which has separate units to promote a progressive accountability of inmates) 	No ¹¹¹	<p>The probation service checks whether specific courses, such as an aggression regulation course, are available in the executing state. The probation service informs the public prosecutor about this.¹¹²</p> <p>A community service of 80 hours or less or a probation period of less than 6 months will not be transferred.¹¹³</p>	<p>The probation service checks whether specific courses, such as an aggression regulation course, are available in the executing state. The probation service informs the public prosecutor about this.¹¹⁴</p>
<ul style="list-style-type: none"> • Others? 	No. ¹¹⁵	No information available	No information available
<p>Q.3.3. Are the following persons/entities consulted in the evaluation of the likelihood of social rehabilitation by the issuing state:</p>			
<ul style="list-style-type: none"> • Probation agencies or similar entities in the issuing state? 	Yes, the probation service can be asked to produce a report about the chance for a successful social rehabilitation in the Dutch society. ¹¹⁶	Yes, the foreign desk of the probation service (<i>Bureau Buitenland van de Reclassering</i>) is consulted. ¹¹⁷	Yes, the foreign desk of the probation service (<i>Bureau Buitenland van de Reclassering</i>) is consulted. ¹¹⁸
<ul style="list-style-type: none"> • The competent authorities in the executing state? 	No ¹¹⁹	No ¹²⁰	No ¹²¹

¹¹¹ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹¹² Information from the Centre for International Legal Aid

¹¹³ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:13, available at http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3

¹¹⁴ Information from the Centre for International Legal Aid

¹¹⁵ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹¹⁶ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹¹⁷ Information from the Centre for International Legal Aid

¹¹⁸ Information from the Centre for International Legal Aid

¹¹⁹ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹²⁰ Information from the Centre for International Legal Aid

¹²¹ Information from the Centre for International Legal Aid

• The suspect/sentenced person?	No ¹²²	No ¹²³	No ¹²⁴
• The family of the suspect/sentenced persons, especially with regard to child offenders?	No ¹²⁵	No ¹²⁶	No ¹²⁷
• Any other person/entity?	No ¹²⁸	No ¹²⁹	No ¹³⁰
Q3.4. Are there any specific legislative or policy developments regarding the evaluation of the likelihood of social rehabilitation of particular suspects/ sentenced persons (such as children or persons with disabilities) by the issuing state?	No ¹³¹	No, see Q2.17	No, see Q2.17
Q3.5. Is additional information, other than that required in the certificate (for which the standard form is given in Annex I of the three FDs), provided to the competent authorities of the executing state while forwarding the judgment or decision? If yes, please specify if pre-sentence reports are forwarded.	No ¹³²	Occasionally an expert report about specific treatment has been sent, translated into English. This happens only with informed consent of the sentenced person. ¹³³	It never occurred, mainly because there were hardly any transfers regarding FD829. ¹³⁴

¹²² Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹²³ Information from the Centre for International Legal Aid

¹²⁴ Information from the Centre for International Legal Aid

¹²⁵ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹²⁶ Information from the Centre for International Legal Aid

¹²⁷ Information from the Centre for International Legal Aid

¹²⁸ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹²⁹ Information from the Centre for International Legal Aid

¹³⁰ Information from the Centre for International Legal Aid

¹³¹ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹³² Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹³³ Information from the Centre for International Legal Aid

¹³⁴ Information from the Centre for International Legal Aid

Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	Not applicable (see Q3.5)	Yes, see Q3.5.	Not applicable (see Q3.5)
Q3.7. Are there specific measures, as required by Article 4 (6) FD 909, which constitute the basis on which the competent authorities in the executing State have to take their decisions whether or not to consent to the forwarding of the judgement and the certificate (where required)?	Article 2:25 of the WETS states that the certificate can be sent to the executing without its consent if (a) the convicted person is a native of the executing state and lives there permanently or (b) the convicted person has the obligation to leave the country on the basis of the Aliens Act 2000. ¹³⁵		
Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:			
<ul style="list-style-type: none"> National authorities (consulted in the evaluation of the likelihood of social rehabilitation) in the issuing state? 	Yes , the WETS explicitly allows information exchange by mail, telefax and e-mail. ¹³⁶	Yes , the WETS explicitly allows information exchange by mail, telefax and e-mail. ¹³⁷	Yes , the WETS explicitly allows information exchange by mail, telefax and e-mail. ¹³⁸
<ul style="list-style-type: none"> Authorities in the issuing and executing state? 	Yes , the WETS explicitly allows information exchange between	Yes , the WETS explicitly allows information exchange between	Yes , the WETS explicitly allows information exchange between

¹³⁵ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:25, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2_Afdeling3_1

¹³⁶ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:7 and Article 2:28, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2_Afdeling2 ; Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:7 and article 3:20, available at: wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3_Afdeling2

¹³⁷ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:7 and Article 2:28, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2_Afdeling2 ; Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:7 and article 3:20, available at: wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3_Afdeling2

¹³⁸ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:7 and Article 2:28, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2_Afdeling2 ; Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:7 and article 3:20, available at: wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3_Afdeling2

	issuing and executing state by mail, telefax and e-mail. ¹³⁹	issuing and executing state by mail, telefax and e-mail. ¹⁴⁰	issuing and executing state by mail, telefax and e-mail. ¹⁴¹
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¹³⁹ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:7 and Article 2:28, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2_Afdeling2; Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:7 and article 3:20, available at: wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3_Afdeling2

¹⁴⁰ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:7 and Article 2:28, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2_Afdeling2; Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:7 and article 3:20, available at: wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3_Afdeling2

¹⁴¹ Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 2:7 and Article 2:28, available at: http://wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk2_Afdeling2; Netherlands, Mutual Acknowledgement and Execution of Detention and Probational Sanctions Act (*Wet wederzijdse erkenning en tenuitvoerlegging vrijheidsbenemende en voorwaardelijke sancties*), Article 3:7 and article 3:20, available at: wetten.overheid.nl/BWBR0031814/geldigheidsdatum_12-06-2015#Hoofdstuk3_Afdeling2

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q4. VICTIMS			
Q4.1. Do the victims have the right to receive the following information regarding the transfer from the issuing state:			
<ul style="list-style-type: none"> The decision to transfer 	No ¹⁴² , the legislation does not refer to the victims in the context of transfer. In general, victims may ask and have the right to receive relevant information from the public prosecutor about the case. ¹⁴³	No ¹⁴⁴ , the legislation does not refer to the victims in the context of transfer. In general, victims may ask and have the right to receive relevant information from the public prosecutor about the case. ¹⁴⁵	No ¹⁴⁶ , the legislation does not refer to the victims in the context of transfer. In general, victims may ask and have the right to receive relevant information from the public prosecutor about the case. ¹⁴⁷
<ul style="list-style-type: none"> The status of the transfer 	See above	See above	See above
<ul style="list-style-type: none"> Other? Please specify. 	Not applicable	Not applicable	Not applicable
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify:	No ¹⁴⁸		
<ul style="list-style-type: none"> Is the information provided upon request of the victim? 		Yes, the general criminal procedure applies. ¹⁴⁹	Yes, the general criminal procedure applies. ¹⁵⁰

¹⁴² Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹⁴³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51b, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51b/geldigheidsdatum_2-07-2015

¹⁴⁴ Information from the Centre for International Legal Aid

¹⁴⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51b, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51b/geldigheidsdatum_2-07-2015

¹⁴⁶ Information from the Centre for International Legal Aid

¹⁴⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51b, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51b/geldigheidsdatum_2-07-2015

¹⁴⁸ Information from a representative of the Department for International Transfers of Sentences of the Ministry of Security and Justice.

¹⁴⁹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_11-06-2015

¹⁵⁰ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_11-06-2015

<ul style="list-style-type: none"> Who responsible for providing this information? 		The public prosecutor who was present during the trial is responsible for the communication with the victim(s). ¹⁵¹	The public prosecutor who was present during the trial is responsible for the communication with the victim(s). ¹⁵²
<ul style="list-style-type: none"> Is it a verbal or written communication? 		The communication can be provided verbal or written. ¹⁵³	The communication can be provided verbal or written. ¹⁵⁴
Q4.3. Do the victims have the right to be heard concerning the transfer (in the state you are describing, as issuing or executing state)? (e.g. through submitting an oral or written response)	No, the legislation does not refer to the victims in the context of transfer	No, the legislation does not refer to the victims in the context of transfer	No, the legislation does not refer to the victims in the context of transfer
Q4.4. Do the victims have any other rights concerning the transfer (in the state you are describing, as issuing or executing state)? Please specify.	No, the legislation does not refer to the victims in the context of transfer	No, the legislation does not refer to the victims in the context of transfer	No, the legislation does not refer to the victims in the context of transfer
Q4.5. Do the victims have access to translators/interpreter in order to be kept fully informed of the transfer (in the state you are describing, as issuing or executing state)?	No, the legislation does not refer to the victims in the context of transfer	No, the legislation does not refer to the victims in the context of transfer	No, the legislation does not refer to the victims in the context of transfer

¹⁵¹ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_12-06-2015

¹⁵² Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_12-06-2015

¹⁵³ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_12-06-2015

¹⁵⁴ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at: http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_12-06-2015

<p>Q4.6. Do the victims have the right to be informed of the suspect/sentenced person's release (in the state you are describing, as issuing or executing state)?</p>	<p>There is no procedure for the providing of this information in cases of transfer of the sentences. However, in general procedure, in cases of more serious crimes, the prosecutor has to inform the victim about the release of the sentenced person.¹⁵⁵</p>	<p>Yes, in accordance with regular information provision to the victim(s) (see also Q4.2)¹⁵⁶</p>	<p>Yes, in accordance with regular information provision to the victim(s) (see also Q4.2)¹⁵⁷</p>
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¹⁵⁵ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at:

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_12-06-2015

¹⁵⁶ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at:

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_12-06-2015

¹⁵⁷ Netherlands, Code of Criminal Procedure (*Wetboek van Strafvordering*), Article 51a, available at:

http://wetten.overheid.nl/BWBR0001903/EersteBoek/TitelIII/A/Eersteafdeling/Artikel51a/geldigheidsdatum_12-06-2015