

Guidelines for the execution of sentences in the Netherlands

1 Introductory remarks

1.1 Authority in law

Legal authority to execute an unconditional prison sentence in another state follows from §1a of the Execution of Sentences Act, which reads as follows:

Following a decision by the Norwegian Correctional Services, convicted persons who are sentenced to an unconditional prison sentence, may serve the sentence in another state with which Norway has signed an agreement.

A convicted person who serves a sentence in another state pursuant to subsection 1, is considered to be imprisoned in Norway and shall, with the clarifications provided in subsection 3, have the rights and obligations arising from this.

The Norwegian Correctional Service shall ensure that convicted persons who serve their sentences in another state pursuant to subsection 1, are offered medical care that is equivalent to the offer the convicted person would have been offered while serving the sentence in Norway. The Norwegian Board of Health oversees the Norwegian Correctional Service's obligations under this provision. The Health Services Supervision Act will similarly apply. Chapter 7 of the Health & Rights Act regarding complaints applies to the Norwegian Correctional Service's obligations under this provision. Upon request, the Norwegian Correctional Service shall provide the Board of Health and the district governor with the information they require to carry out their duties under this provision. The information may be given irrespective of a duty of confidentiality.

The King may issue supplementary regulations and establish the exemptions from §4, 7, 8(1) and 27, which are necessary in order for a sentenced to be served in another state pursuant to subsection 1.

The legal authority is temporary and will be repealed on 1 September 2020.

The statutory provision is supplemented by regulations on the execution of sentences in the Netherlands (hereinafter the regulations). The Act relating to the execution of sentences etc. (Execution of Sentences Act) with regulations and guidelines apply insofar as appropriate. These guidelines should be read in conjunction with other regulations for the execution of sentences and take precedence in the event of any conflict with the general guidelines for the Execution of Sentences Act. The guidelines shall be repealed with effect from 1 September 2020.

In addition to the body of rules, relations between Norway and the Netherlands are governed by an agreement between the Kingdom of Norway and the Kingdom of the Netherlands regarding the use of a prison in the Netherlands for the execution of Norwegian prison sentences (hereinafter the agreement between Norway and the Netherlands) and a cooperation agreement signed between the Norwegian Correctional Service and the Dutch Custodial Institutions Agency, which is the responsible department in the Netherlands (hereinafter the cooperation agreement).

1.2 Decision-making authority pursuant to §6 of the Execution of Sentences Act

Whether the decision-making powers rest with the local or regional level shall be determined by §6 of the Execution of Sentences Act and related regulations and guidelines. Where the decision-making power at local and regional level deviates from the general guidelines, it follows from these guidelines. Norgerhaven prison is organisationally a department of Ullersmo Prison, but a Norwegian prison

governor is appointed at Norgerhaven. The prison governor at Norgerhaven prison is granted a number of powers that provide independent decision-making authority. In relation to §6, therefore, the local level will include both Ullersmo prison and Norgerhaven prison. The Norwegian Correctional Services entrusts the governor of region east to decide whether decision-making powers should rest with the prison governor at Ullersmo Prison or Norgerhaven prison.

1.3 Decisions that cannot be implemented in the Netherlands

It follows from Article 9.1 of the agreement between Norway and the Netherlands that any decision whereby a convicted person is granted permission to leave the prison, either temporarily or otherwise, shall not be taken in the Netherlands.

In practice, this will apply to the following decisions:

- Execution of sentence in an institution, cf. §12 of the Execution of Sentences Act
- Execution of sentence in hospital, cf. §13
- Execution of sentence outside prison, cf. §16
- Day-release, cf. §20
- Leave, cf. §33
- Arraignment, cf. §34
- Interruption of sentence, cf. §35

Implementation of these decisions, therefore, also generally requires a decision for permanent or temporary transfer to a prison in Norway pursuant to §14 of the Execution of Sentences Act. Transfer as a result of a decision to implement a sentence in a hospital, arraignment or compassionate leave could be considered as part of the implementation of the decision. See more about this in paragraphs 3.3, 3.8 and 3.9.

Exceptions apply to temporary release as a result of an urgent need for medical care that cannot be provided in prison, cf. Article 12(2) of the agreement between Norway and the Netherlands. See paragraph 3.3.

1.4 The relationship between transfer for execution of sentence in the Netherlands and the transfer of sentenced persons to their home country

Convicted persons who are in the target group for transfer to a prison in the Netherlands may also be candidates for transfer of sentenced persons pursuant to the European Convention of 21 March 1983 on the Transfer of Sentenced Persons (the transfer convention) with the additional protocol of 18 December 1997, or the bilateral agreements in this area. Transfer of sentenced persons' cases shall be processed in line with the Norwegian Correctional Service's guidelines in circulars no. 1/2014 and no. 2/2014. Any preparation for or decision to transfer to Norgerhaven shall not affect the processing of the transfer of a sentenced person's case and, like in cases regarding transfer between prisons in Norway, the transfer of a sentenced person's case shall run in parallel. This means that a convicted person, who is transferred to Norgerhaven, must be returned to Norway when a decision is made for the transfer of a sentenced person.

If a process has been initiated for transfer for execution of sentence in the Netherlands, and the Norwegian Correctional Service makes a decision on the transfer of a sentenced person to the convicted person's country of origin before the convicted person has been transferred to the Netherlands, the process of transfer to the Netherlands shall be temporarily halted.

A convicted person who is the target group for transfer to a prison in the Netherlands, may also be a relevant candidate for Nordic transfer of sentenced persons under the Act relating to enforcement of penal sentences passed in the Nordic states. If a Nordic case for the transfer of sentenced persons has commenced, it must be considered whether it is appropriate to make a decision for transfer to the Netherlands. If a decision is made for a Nordic transfer of sentenced persons before a convicted

person is transferred to the Netherlands, the process regarding transfer to the Netherlands shall be halted.

1.5 Translation

Documents that are directly relevant to the individual's rights and obligations, including warnings and decisions, shall be translated for the convicted person into Norwegian or another language he understands.

The prison governor at Norgerhaven prison shall ensure that information material and rules for convicted persons are translated into several languages.

2 Regulations on the execution of sentences in the Netherlands with guidelines

2.1 Scope, regulation §1

§1 Scope

This regulation applies to the execution of sentences which, under §1a of the Execution of Sentences Act, shall take place in the Netherlands in accordance with the agreement between the Kingdom of Norway and the Kingdom of the Netherlands of 2 March 2015.

2.2 Scope of the Execution of Sentences Act, regulation §2

§2 Scope of the Execution of Sentences Act

The Execution of Sentences Act with regulations applies to the execution of sentences in the Netherlands, with the following exceptions:

- a) Administration services that the Norwegian authorities are unable to perform in the Netherlands, can be purchased or rented there, notwithstanding §4 of the Execution of Sentences Act.*
- b) Dutch employees' duty of confidentiality follows from Dutch law. The rules regarding a duty of confidentiality under §13 et seq. of the Public Administration Act, cf. §7, parts subparagraphs h and i of the Execution of Sentences Act, do not apply for these.*
- c) For Dutch employees, there are requirements for conduct in Dutch law. §8(1) 1 shall not apply.*
- d) Examination under §27(1) of the Execution of Sentences Act can take place in relation to a lawyer or public authority representative, including a diplomatic or consular representative. The limitations in §27(3) do not apply.*

Administrative services, §2a

A convicted person who serves a sentence in the Netherlands is entitled to equal services, regardless of whether the administrative services are provided by Norwegian suppliers or purchased in the Netherlands.

Duty of confidentiality, §2b

Dutch employees are bound by the professional duty of confidentiality in the Netherlands, and this will continue to apply when the prison is leased out to Norway. The scope of the duty of confidentiality in the Netherlands is equivalent to what follows from the Public Administration Act and the Execution of Sentences Act.

The Dutch duty of confidentiality is not an obstacle to Dutch personnel providing relevant information to the Norwegian regulatory agencies.

The Norwegian employees will always be subject to the provisions regarding the duty of confidentiality in the Public Administration Act and the Execution of Sentences Act.

2.3 Operation of the prison regulation §3

§3 Operations of the prison

The Norwegian Correctional Service operates the prison using persons employed by the Dutch authorities.

2.4 Conditions for transfer, regulation §4

§4 Conditions for transfer

Male prisoners over the age of 18, who are sentenced to unconditional imprisonment, can be transferred for execution of sentence in the Netherlands under §14 of the Execution of Sentences Act, cf. §1a. The decision is taken by the Norwegian Correctional Service based on an individual overall assessment, considering the convicted person's health condition, family situation and the nature of the criminal act. Transfer shall not be decided if it is not considered justifiable from a security perspective. The execution of sentence shall have begun in Norway before transfer to the Netherlands can take place. The following convicted persons cannot be transferred:

- a) convicted persons who are Dutch nationals or resident in the Netherlands,*
- b) convicted persons who, according to a decision of the Dutch authorities, is declared to be an undesirable alien in the Netherlands or registered as an alien who must be refused entry to the Netherlands,*
- c) convicted persons who are wanted in the Netherlands in connection with the investigation of criminal offences or criminal prosecution or for execution of a sentence,*
- d) convicted persons who pose an escape risk or a risk to society that exceeds the security level at the prison in the Netherlands,*
- e) convicted persons who are subject to an arrest warrant in the Netherlands or who are wanted in Norway in connection with the investigation of criminal offences or criminal prosecution,*
- f) convicted persons who need healthcare services that cannot be offered in connection with the execution of sentences in the Netherlands,*
- g) convicted persons who receive or shall receive regular visits from their children who they otherwise live permanently with or spend time with, unless the transfer otherwise does not entail a greater restriction on the child's right of access than the visiting scheme or access arrangements which are or will be established,*
- h) convicted persons entitled to receive education according to the Education Act and who have commenced education in Norway.*

Convicted persons covered by subsection 2b and who are registered in the Schengen Information System (SIS) can still be transferred.

The purpose of the provision in subsection 2g is to safeguard the child's right to access to their parents, cf. §3(2) of the Execution of Sentences Act. After a specific assessment, convicted persons who otherwise perform or have performed daily care for children other than their own children, could be covered by the provision.

Exceptions can be made to subsections 2g and 2h if the convicted person himself wishes to be transferred.

Decisions regarding transfer shall be taken after an individual overall assessment based on factors

set out in the first subsection of the provision. The provision's second subsection regulates when there is an absolute obstacle to a transfer. If the convicted person consents, a transfer can be executed even if the convicted person is subject to sub-paragraphs g and h.

Unconditional imprisonment, §4(1)

Convicted persons serving alternative prison sentences due to fines in addition to unconditional imprisonment, can be transferred to the Netherlands.

Residing in the Netherlands, §4(2)a

A convicted person who is resident in the Netherlands shall not be transferred. Resident means persons who are registered as resident in the Netherlands or who have their permanent residence there.

Health, §4(2)f

The provision covers all types of healthcare services. For example, where the convicted person is in a course of treatment with specialist healthcare services for mental illness or substance addiction. In assessing whether the convicted person is in a course of treatment, consideration shall be given to the regularity of the treatment and whether equivalent treatment can be offered in the Netherlands. If possible, a statement should be obtained from the person responsible for the treatment.

A convicted person who is undergoing opioid replacement therapy shall generally not be transferred to the Netherlands. Such a transfer may nevertheless be executed if it is requested by the convicted person and it is deemed appropriate after an assessment by a healthcare professional.

This provision does not prevent the convicted person's transfer for execution of sentence in the Netherlands while awaiting an examination or operation, unless he is dependent on follow-up in the meantime. The convicted person can then serve their sentence in prison in the Netherlands, until the time for the examination or operation.

Visits from children, §4(2)g

Convicted persons who have children of their own, shall not be transferred if this restricts the child's right of contact beyond what would otherwise be the case if the convicted person served their sentence in a prison in Norway. If visiting arrangements or contact arrangements have been agreed with very few visits, e.g. twice a year, however, the convicted person may serve their sentence in the Netherlands until the next visit.

Execution of sentences in the Netherlands shall not prevent a contact arrangement or visiting arrangement being established. If a convicted person has not yet received a visit, but a visiting arrangement is being established, the transfer shall not be carried out. If it is expected to take some time before the arrangement will be established, the transfer can be carried out until the arrangement is established. The convicted person must document that visiting arrangements are being established.

In assessing whether a convicted person, who otherwise exercises or has exercised daily care for children other than their own children, shall be transferred cf. §4(4) of the regulations, consideration shall be given to whether the care task has been performed continuously over an extended period. Consideration should also be given to how long ago the caring role was exercised.

Education, §4(2)h

A convicted person who cannot be transferred to a prison in the Netherlands pursuant to §4h of the regulations, can be transferred and serve their sentence in the Netherlands until the time when he will commence education. Convicted persons who do not avail themselves of the right to education as a result of the fact that he is awaiting a granted place in a school, shall not be transferred unless the offer of a place in a school is not relevant for a long time. A convicted person who has a right to education, but does not avail themselves of this right, can also be transferred to continue execution of

sentence in the prison in the Netherlands.

2.5 Transportation, regulation §5

§5 Transportation

The Norwegian Correctional Service is responsible for the transportation of convicted persons to and from the Netherlands. The Dutch authorities are responsible for transport in the Netherlands according to the Dutch regulations.

The Norwegian Correctional Service is responsible for transport from Norway to the Netherlands. Refer to the instructions for transport to the Netherlands prepared by the Norwegian Correctional Service. The instructions regulate transport from Norway to the Netherlands, and the surrender of the sentenced person to the Dutch authorities for transport from the airport to the prison.

The Dutch authorities are responsible for transport on Dutch territory.

Transport shall be performed by Dienst Vervoer & Ondersteuning, which is a transport entity subject to the Dutch Custodial Institutions Agency (the responsible agency in the Netherlands). During transport, the convicted persons are subject to Norwegian execution of sentence, but the Dutch coercive measures instructions, Geweldsinstructie penitentiaries inrichting, shall apply.

2.6 Criminal offences committed while serving a sentence in the Netherlands, regulation §6

§6 Criminal offences committed while serving a sentence in the Netherlands

Criminal offences committed while serving a sentence in the Netherlands shall be dealt with under Dutch law. A convicted person shall be informed about the differences between the Norwegian and Dutch criminal codes.

The prison governor in Norgerhaven shall ensure that convicted persons are informed about the differences between the Norwegian and Dutch criminal codes before transfer to the Netherlands.

If a convicted person, who is suspected or charged with a crime committed during execution of a sentence in the Netherlands, is arrested and transferred to a Dutch prison, the execution of the Norwegian sentence will be interrupted. The execution of the Norwegian sentence will also be interrupted where convicted persons, without prior arrest, shall serve a prison sentence imposed as a result of an offence committed during the execution of the Norwegian sentence in the Netherlands. Interruptions are granted without a special decision for the time the convicted person is remanded in custody and any other reaction. The interruption will be recorded in Kompis-KIA as with similar events during execution of sentences in Norway.

2.7 External assistance to safeguard peace, order and security, regulation §7

§7 External assistance to safeguard peace, order and security

The Dutch regulations shall apply for external assistance to safeguard peace, order and security.

External assistance includes both assistance from the task force under the Dutch correctional service (External Response Team), the Dutch police and other emergency services.

If a situation arises which cannot be handled without external assistance, the prison governor in Norgerhaven can decide to summon the task force or the Dutch police. Where external assistance is required from the task force, the prison governor shall ensure that their exercise of the coercive

measures instructions, including the use of coercive measures, is in accordance with Norwegian law.

2.8 Telephone calls and video conferences, regulation §8

§8 Telephone calls and video conferences

The convicted person shall be entitled to make telephone calls or conduct video conferences for up to 20 minutes at least three times a week, if this is not prevented due to capacity considerations.

Video conferencing shall be monitored according to the rules on visits in §31, subsections 2,3 and 4 of the Execution of Sentences Act, and §3-28(1) of the regulations on the execution of sentences. Video conferencing shall not take place where it is necessary to monitor by overhearing the conversation according to §31(3) of the Execution of Sentences Act, unless special reasons exist and the specific staffing enables such control.

Video conferences with a lawyer or a public authority representative are similarly governed by §32(6) of the Execution of Sentences Act. Contact with such persons shall not be included in the inmate's weekly allowance according to subsection 1.

Costs incurred by telephone calls shall be borne by the defendant himself. The convicted person shall not pay more than the Norwegian domestic rate for telephone calls to Norway. Video conferencing shall be free of charge.

The Norwegian Correctional Service may issue detailed guidelines about which technology is permitted.

The convicted person's right to telephone calls or video conferences for up to 20 minutes at least three times a week shall apply without means testing.

The prison governor may grant access to use the telephone and/or video conferencing beyond this, cf. §3-29(3) of the regulations of the Execution of Sentences Act.

The conditions in §32 of the Execution of Sentences Act must be met for the implementation of telephone calls. The control measures arising from the same provision are also applicable for telephone calls while serving a sentence in the Netherlands.

Video conferencing may take place using equipment approved by the Norwegian Correctional Service.

In evaluating whether permission can be granted for video conferencing, where it is necessary to exercise control by overhearing the conversation according to the visiting rules in §31(3) of the Execution of Sentences Act, consideration shall be given to whether there are family circumstances or other circumstances, which indicate that it is particularly important for the convicted person to be able to conduct the video conference. If security reasons make it necessary to overhear the conversation, the defendant may be ordered to conduct the conversation in a language that the staff understands.

2.9 Contact with other state agencies, regulation §9

§9 Contact with other state agencies

The convicted person's requirement for contact with Norwegian state agencies must be accommodated while serving a sentence in the Netherlands, including with the Norwegian Labour and Welfare Administration (NAV) and with the health and education authorities. If the convicted person's requirements dictate it, the Norwegian Correctional Service shall facilitate the

implementation of telephone calls and video conferences with the relevant agencies.

Contact with state agencies shall not be included in the inmate's weekly allowance for telephone calls and video conferences, cf. §8(1) of the regulations.

2.10 Remuneration of inmates, regulation §10

§10 Remuneration of inmates

In addition to the ordinary daily allowance according to §19 of the Execution of Sentences Act, a convicted person may be granted financial compensation for execution of sentence in the Netherlands. Further rules on this will be determined by the Norwegian Correctional Service.

A convicted person who serves a sentence in the Netherlands shall be granted economic compensation. The size of the allowance will be determined by the Norwegian Correctional Service.

The allowance can be used for the purchases of goods for personal use in the prison shop and other places approved by the prison governor at Norderhaven. Unlike ordinary daily allowance, the allowance cannot be saved up and withdrawn after completing the sentence.

2.11 Accrual of leave of absence days, regulation §11

§11 Accrual of leave of absence days

A convicted person who serves a sentence in the Netherlands after having obtained leave of absence in accordance with §3-30(5) of the regulations on the execution of sentences, earns a leave of absence allowance of 2.5 days per month. The qualifying period is limited up to six months.

Accrued leave allowance may be used in addition to ordinary leave allowance according to §3-30(2) of the regulations on the execution of sentences.

Accrued leave allowance may only be used after a decision according to §33 of the Execution of Sentences Act.

Accrued leave allowance and leave allowance under §3-30 of the regulations on the execution of sentences may only be used after transfer to Norway, cf. §12(2).

The rules regarding the accrual of leave of absence days in the Netherlands differ from the ordinary rules in that it is possible for convicted persons to earn a leave of absence allowance without first having carried out ordinary leave of absence.

It is a prerequisite to the convicted person's right to make use of the accumulated leave days, that the general conditions for leave of absence are fulfilled at the time the convicted person wishes to use these days. The accrued leave of absence can be used in the usual way after transfer to a prison in Norway.

If a convicted person chooses to continue serving a sentence in the Netherlands for six months after obtaining leave of absence, he will have accumulated 15 days that can be used after transfer to Norway. It shall be possible for accrued leave of absence to be used in addition to the leave allowance he is granted pursuant to §3-30(2) of the regulations, including both regular and extended leave allowance. This means that the assessment of the convicted person's need for extended leave allowance of up to 30 days annually, shall not consider the leave allowance earned during execution of sentence in the Netherlands.

When utilising accrued leave of absence days, the individual leave of absence should not normally exceed 5 days. Limitations in the number of temporary releases as stated in paragraph 3.36 of the guidelines, do not apply to the use of leave of absence days accrued in the Netherlands. The Norwegian Correctional Service shall ensure that the accumulated leave of absence days are utilised

appropriately, taking into account the convicted person's remaining sentence to be served and progressive serving of sentence.

The restriction above regarding the maximum accumulation period of six months does not interfere with the convicted person's possibility to continue the execution of sentence in the Netherlands at their own request, if this is considered advisable by the Norwegian Correctional Service, taken into consideration the convicted person's progression.

2.12 Transfer to Norway, regulation §12

§12 Transfer to Norway

A convicted person who serves unconditional imprisonment in the Netherlands, shall be transferred to Norway at least two months prior to release, unless otherwise specifically agreed between the authorities in Norway and the Netherlands.

Convicted persons who, during execution of sentence in the Netherlands, are granted permission for leave of absence, interruption of sentence, day-release or execution of sentence outside prison pursuant to §12 or §16 of the Execution of Sentences Act, shall be transferred for execution of sentence in Norway before the decision is implemented.

Convicted persons who, during execution of sentence in the Netherlands, are granted permission for arraignment, shall be transferred for execution of sentence in Norway before the decision is implemented, unless it follows from an agreement between the Norwegian and Dutch authorities that the arraignment can be carried out in the Netherlands.

A convicted person whose needs healthcare that cannot be provided during execution of sentence in the Netherlands, shall be transferred for execution of sentence in Norway, unless it follows from an agreement between the Norwegian and Dutch authorities that such healthcare can be provided in the Netherlands.

A convicted person who shall receive regular visits from their children, cf. §4(2)g, shall be transferred for execution of sentence in Norway at the time the visitor or contact arrangement shall begin, if the execution of sentence in the Netherlands would prevent the visitor or contact arrangement.

Convicted persons who wish to avail themselves of the right to education according to the Education Act, shall be transferred for execution of sentence in Norway at the time the education shall begin.

Subsections 1-5 shall not limit the right to transfer to Norway pursuant to §14 and §15 of the Execution of Sentences Act.

If the terms of the execution of sentence in Norway under this provision no longer exist, the convicted person may be transferred back to the Netherlands for execution of sentence, if the conditions under §4 are still fulfilled.

Convicted persons that are transferred for execution of sentence in the Netherlands are entitled to the same opportunities for progressive serving of sentence as if they had served their sentence in Norway. In many cases, therefore, the convicted persons will be transferred to Norway before the minimum time-limit in the provision's first paragraph expires. This will apply, for example, for transfer to a prison with a lower security level or transitional housing and/or implementation of leave of absence and day-release.

By agreement with the Dutch authorities, the prison governor at Norgerhaven can decide on exceptions to the 2-month rule by transferring the convicted person a shorter time before their release. According to the agreement between Norway and the Netherlands, convicted persons who for various reasons also serve the final part of their sentence in the Netherlands, shall nevertheless generally be transferred to Norwegian territory before their release. In practice, this could mean that convicted persons are transferred to an airport in Norway for release or for deportation to a third country, if the convicted person is expelled according to a final decision from the immigration authorities.

In exceptional cases, a convicted person who is finally expelled from Norway may, by specific agreement with the Dutch authorities, be transported directly to their home country after completion of sentence.

Healthcare in subsection 4 of the provision refers to any action that has preventive, diagnostic, therapeutic, health-preserving, rehabilitating or nursing and care purposes and which is performed by healthcare professionals, cf. §3(3) of the Health Personnel Act, cf. §1-3c of the Health and Rights Act.

If a convicted person wishes to avail of the right to education, the prison shall put the convicted person in contact with Akershus county authority through the school department at Ullersmo prison.

If a convicted person is entitled to education and is granted a place at school, he must apply for a transfer to a prison in Norway.

2.13 Commencement, regulation §13

§13 Commencement

This regulation comes into effect immediately. The regulation shall be repealed with effect from 1 September 2020.

3 Guidelines for the provisions in the Execution of Sentences Act

3.1 Execution of sentences in another state, §1a of the Execution of Sentences Act

Subsection 1 of the provision authorises the Norwegian Correctional Service to decide that convicted persons who are sentenced to unconditional imprisonment, can serve their sentences in the Netherlands.

The convicted person shall have commenced the execution of sentence in a prison in Norway, before being transferred to the Netherlands.

Legal authority to decide on transfer to the Netherlands follows from the normal rules for transfer between prisons, cf. §14 of the Execution of Sentences Act.

Subsection 3 of the provision requires the Norwegian Correctional Service to ensure that convicted persons are provided with healthcare in the Netherlands of a quality equal to equivalent healthcare in Norway. If such healthcare cannot be provided in the Netherlands, the convicted person must be returned to Norway.

Exceptions in accordance with subsection 4 of the provision are incorporated into §2 of the regulations on the execution of sentences in the Netherlands.

3.2 Supervisory Council, §9 of the Execution of Sentences Act

The Supervisory Council for the Norwegian Correctional Service' Eastern Region shall supervise the Norgerhaven prison.

Members who perform supervisory duties at the Norgerhaven prison are entitled to receive remuneration according to separate rules established by the Norwegian Correctional Service.

The prison governor shall make arrangements so that the convicted person can conduct video conferences with the supervisory council.

3.3 Execution of sentence in a hospital, cf. §13 of the Execution of Sentences Act

In case of a need for medical treatment or assistance that cannot be provided in prison, a convicted person may be transferred to a medical institution in the Netherlands, cf. Article 12(2) of the agreement between Norway and the Netherlands. Such a transfer can take place if the treatment of the convicted person requires hospitalization in a medical institution for a maximum of three days or if transfer to a medical institution in Norway is not possible for medical reasons. The convicted person shall be transferred to Norway as soon as his medical situation permits.

If a convicted person requires hospitalization beyond what can be provided in the Netherlands, a decision must be taken for execution of sentence in a hospital in Norway, cf. §13 of the Execution of Sentences Act. The transfer to Norway for completion of a hospital stay is considered as part of the execution of the decision and the convicted person may be returned to the Netherlands after completing hospitalization, cf. §12, last paragraph of the regulations. It should be stated in the decision that the transfer is only part of the execution.

If, upon discharge from the hospital, the convicted person is no longer in the target group for execution of sentence in the Netherlands, a decision shall be taken for transfer to another prison in Norway.

Any requirement for accompaniment by healthcare personnel for transfer to Norway shall be accommodated.

If a convicted person is transferred to a medical institution in the Netherlands, Dienst Vervoer & Ondersteuning, which is a transport entity subject to the Dutch Custodial Institutions Agency (the responsible agency in the Netherlands), shall oversee both transportation and security. If a convicted person is transferred to Norway for medical treatment, officers from Ullersmo or, by agreement, officers from a prison close to the medical institution, shall undertake the necessary supervision or security if necessary.

3.4 Decisions on transfer, §14 and §15 of the Execution of Sentences Act

Transfer to Norgerhaven

Decisions on compulsory or voluntary transfer to Norgerhaven shall be made by the prison governor at Norgerhaven prison in those cases where it follows from §6(1) of the Execution of Sentences Act that the local level has decision-making authority. The entity that is relevant as the ceding entity shall always have issued a statement on the matter and decided whether the transfer should take place before a decision is made.

If, after an assessment, the convicted person is not a relevant candidate for transfer, Norgerhaven prison can close the case.

Transfer from Norgerhaven

Decisions on compulsory or voluntary transfer from Norgerhaven shall be made by the prison governor at Norgerhaven prison in those cases where it follows from §6(1) of the Execution of Sentences Act that the local level has decision-making authority. The entity that is relevant as the receiving entity shall always have issued a statement on the matter and decided whether the transfer should take place before a decision is made. If there is disagreement between the receiving prison and Norgerhaven in matters relating to transfer, the matter shall be decided by the Norwegian Correctional Service, Eastern Region.

Decision-making authority for prison sentences of over 10 years

If a convicted person is sentenced to imprisonment for more than 10 years, the regional level has decision-making authority according to §6(2)(2) of the Execution of Sentences Act. The question of transfer to or from Norgerhaven shall in these cases be decided by the Norwegian Correctional Service, Eastern Region.

Where the convicted person is sentenced to imprisonment for more than 10 years, the prison governor at Norgerhaven may nevertheless reject applications for transfer, cf. §2-1 of the regulations on the execution of sentences. The prison governor at Norgerhaven may also close the case if, after assessment, the convicted person is not a relevant candidate for transfer.

Advance notice when transferring to or from Norgerhaven

In case of compulsory transfer, advance notice shall be sent before a decision on transfer is taken, cf. §16 of the Public Administration Act. The convicted person must be given a reasonable deadline to submit comments.

3.5 Personal property, §26 of the Execution of Sentences Act

The governor of Norgerhaven shall prepare a list of permitted personal property.

Inspection of personal property shall be carried out at Ullersmo prison prior to transfer to Norgerhaven prison. Effects that cannot be taken will be stored at Ullersmo.

The prison governor at Norgerhaven may establish rules for the use of private funds.

3.6 Post to and from convicted persons, §30 of the Execution of Sentences Act

Inspection of letters to and from convicted persons shall be carried out at Ullersmo, and all letters must therefore be sent via Ullersmo. Post to convicted persons shall be inspected and sent from Ullersmo to Norgerhaven without undue delay.

Outgoing post from convicted persons shall be sent from Norgerhaven to Ullersmo for inspection. The letters shall be forwarded from Ullersmo without undue delay. The convicted person may send two letters per week free of charge. For other letters, franking shall be without additional costs for the convicted person and at Norwegian postage rates.

Post to and from a lawyer or a public authority representative must always be inspected in the presence of the convicted person, §30(6)(3) of the Execution of Sentences Act. Thus, such post shall not be inspected at Ullersmo.

3.7 Visits to convicted persons, §31 of the Execution of Sentences Act

Flexible solutions shall be arranged when convicted persons receive visits from people outside the Netherlands, for example by visits being possible on several consecutive days, as far as capacity permits.

3.8 Leave of absence, §33 of the Execution of Sentences Act

Ordinary leave

A convicted person who applies for and is granted ordinary leave of absence during execution of sentence in the Netherlands, shall be transferred for continued execution of sentence in Norway.

The entity that is relevant as the receiving entity shall always have issued a statement on the matter and decided whether ordinary leave should be granted, before a decision is made.

Compassionate leave

If a convicted person applies for and is granted compassionate leave, transfer to Norway to take compassionate leave may be considered as part of the implementation of the decision for compassionate leave. A convicted person may thus be returned to the Netherlands after completing compassionate leave, cf. §12, last paragraph of the regulations. If a convicted person shall be returned

to the Netherlands after completing compassionate leave, it shall be stated in the decision that the transfer is only part of the implementation.

If, upon completion of the compassionate leave, the convicted person is no longer in the target group for execution of sentence in the Netherlands, a decision shall be taken for transfer to another prison in Norway.

For convicted persons who shall not be returned to the Netherlands after completing compassionate leave, a decision must also be taken for transfer for continued execution of sentence in Norway.

3.9 Arraignment, §34 of the Execution of Sentences Act

If a convicted person is granted permission for arraignment, he must be transferred to Norway for implementation of the arraignment. The transfer is considered part of the implementation of the decision. The convicted person shall be returned to the Netherlands after the arraignment is completed, cf. §12, last paragraph of the regulations. It should be stated in the decision that the transfer is only part of the implementation of the decision.

If, upon completion of the arraignment, the convicted person is no longer in the target group for execution of sentence in the Netherlands, a decision shall be taken for transfer to another prison in Norway.

3.10 Interruption of sentence, §35 of the Execution of Sentences Act

If a convicted person is granted permission for interruption of sentence, he must be transported back to Norway before the interruption can be implemented. When the interruption is completed, the execution of sentence shall continue in the Netherlands. The convicted person shall report to a specified location and the Norwegian Correctional Service will arrange for transportation from Norway to the Netherlands.

If, upon completion of the interruption of sentence, the convicted person is no longer in the target group for execution of sentence in the Netherlands, a decision shall be taken for transfer to another prison in Norway.

3.11 Coercive measures, §38 of the Execution of Sentences Act

In addition to the Execution of Sentences Act, with regulations and guidelines, the Dutch coercive measures instructions (Geweldsinstructie penitentiare inrichting) shall also apply for execution of sentences in the Netherlands. The instructions deal with which coercive measures may be used and in what situations. The prison governor at Norgerhaven prison shall at all times ensure that the exercise of the coercive measures instructions, including the coercive measures that are used, is in accordance with Norwegian law.

3.12 Death

Article 14 of the agreement between Norway and the Netherlands regulates the practical procedures that shall apply if an inmate in Norgerhaven prison dies.

The prison governor is responsible for organizing the transfer of the deceased to the country of origin. The Norwegian Embassy in the Netherlands can be contacted for practical assistance.