

Fact sheets showing the Dutch situation with regard to the probation
measures within the scope of Framework Decision 2008/947/JHA

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**To: Parties involved in the implementation of Framework Decision
947 in the EU member states**

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To : Parties involved in the implementation of Framework Decision 947 in the EU member states
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Why produce these fact sheets?

The European Council Framework Decision 2008/947/JHA (hereafter referred to as the Framework Decision or FD) is concerned with the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.

The imposition of alternative sanctions and probation measures for foreign nationals will need to be promoted if the objectives of the FD are to be realised. This will necessitate changes in criminal procedures. One of those changes is that *there must be access during the criminal proceedings to reliable information about what is and is not possible regarding the execution of alternative sanctions and probation measures in the EU member states*. The Belgian questionnaire is an excellent start in collecting this information. It will allow a database to be filled that can then be used in criminal proceedings. However, a brief survey of judges and public prosecutors in the Netherlands suggests that the information requirements of public prosecutors and judges may well extend further than what would be provided by the questionnaire.

Information about the execution framework is thought important in addition to information about the legal framework. The execution framework information takes the form of a description for each sanction and probation measure giving an impression of how the law operates in practice.

This document contains draft fact sheets covering the execution framework in the Netherlands for the eleven probation measures. It is an attempt to meet the information requirements that we are assuming are present in the other EU member states as well. The fact sheets can be seen as a detailed answer to question 2 in part I of the Belgian questionnaire.

I hope that these fact sheets can serve as a template for the provision of similar information about the execution framework in other EU member states. I also hope the fact sheets can serve as input for the discussion at the Seminar on the Implementation of FD 947 on 7-9 July in Durbuy, Belgium.

The content of the fact sheets

The content of the fact sheets reflects the elements that dominate the information needs of judges and public prosecutors.

- What are the characteristics of the forms each probation measure can take? For example, the kind of treatment centres or the kind of project places for a community penalty.
- What means are deployed to check compliance with the conditions? This refers, for example, to time registration for a community punishment order or urine tests in the event of a ban on alcohol consumption.
- What does the Probation Service define as non-compliance or failure?
- Which organisation then takes action? How long does it take before action is taken?
- How is the decision made to impose a custodial sentence or detention as a substitute punishment? When does the judiciary decide to impose a custodial sentence?

The fact sheets have the following structure:

- An outline of the Dutch regulations and practice for suspended custodial sentences and conditional release. This is because many of the answers to the above questions are the same for all eleven probation measures. An exception is the community penalty in the Netherlands, which is a principal sanction according to the Dutch Criminal Code and cannot be imposed as a condition. The legal and execution framework for the community penalty is different to that for the suspended sentence and the conditional release; it is described in the 'community penalty' fact sheet.
- Input to procedural agreements on transfer between member states. We hope these points will serve as input for the discussion at the Seminar on the Implementation of FD 947 on 7-9 July in Durbuy, Belgium.
- A fact sheet for each probation measure containing information on the following points:
 - General information on what options there are in the Netherlands for the probation measure.
 - Definition of the probation measure.
 - Suggested wording of the probation measure as the Netherlands, in its capacity of executing state, would like to see it transferred.
 - Aim of the probation measure and target group;
 - Means that are deployed to monitor compliance with the conditions.
 - Any non-standard aspects of the duration of supervision, time limits, the responsible authorities or the procedure in the event of infringement of the conditions that are not covered in the outline of the Dutch regulations and practice for suspended custodial sentences and conditional release.

Fact sheets are still draft versions

I would like to emphasise that the fact sheets presented here are still at the draft stage for a variety of reasons. The first reason is that the fact sheets have still not been fully checked by the responsible parties in the Netherlands. The second reason is that practice in the Netherlands could change between now and the point at which the FD actually comes into effect. The main reason, though, is that international coordination is required on such aspects as:

- What is and is not needed when providing information about the national situation to the other member states.
- Interpretation of what is and is not covered by certain probation measures.
- Procedural agreements between member states concerning contact between the competent authorities of the issuing state and the executing state during (rather than following) the criminal proceedings. For example, agreements about:
 - diagnosis and advice regarding probation measures.
 - how the probation measures should be formulated in the sentence.
 - the action to be taken in various situations concerning the location and accessibility of the suspect/convicted person.

Contents

Outline of Dutch regulations and practice for suspended custodial sentences and conditional release.	5
General remarks.....	5
Allocation of responsibilities for the supervision of conditions	6
Supervision of compliance with the conditions: what is involved?	6
Procedure in the event of infringement of the condition.....	7
The start and duration of supervision	7
Input to procedural agreements on transfer between member states	9
Fact sheet (A.) ‘Obligation for the sentenced person to inform a specific authority of any change of residence or working place’	11
Fact sheet (B.) ‘Obligation not to enter certain localities, places or defined areas in the issuing or executing State’	13
Fact sheet (C.) ‘Obligation containing limitations on leaving the territory of the executing State’	15
Fact sheet (D.) ‘Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity’	17
Bans on drugs or alcohol.....	17
Restriction to certain localities.....	18
Behavioural interventions	20
Remarks on other instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity.....	24
Fact sheet (E.) ‘Obligation to report at specified times to a specific authority’	25
Fact sheet (F.) ‘Obligation to avoid contact with specific persons’	27
Fact sheet (G.) ‘Obligation to avoid contact with specific objects’	29
Fact sheet (H.) ‘Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation’	30
Fact sheet (I.) ‘Obligation to carry out community service’	32
Fact sheet (J.) ‘Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons’	35
Fact sheet (K.) ‘Obligation to undergo therapeutic treatment or treatment for addiction’	37

Outline of Dutch regulations and practice for suspended custodial sentences and conditional release.

General remarks

1. The probation measures mentioned in Article 4 of the Framework Decision (FD) on Probation and Alternative Sanctions could be used in the Netherlands:
 - a. as conditions attached to a suspended custodial sentence.
 - b. as conditions for the conditional release.
2. The obligation in the FD on Probation and Alternative Sanctions to **carry out community service** is a principal sanction according to the Dutch Criminal Code and cannot be imposed as a condition. In the wording of the FD, community service/a community penalty can be classified as an 'alternative sanction'. The legal and execution framework for supervising the execution of the community penalty is different to that for the suspended sentence and the conditional release; it is described in the 'community penalty' fact sheet.
3. Most of the probation measures mentioned in Article 4 of the FD are imposed in the Netherlands on a regular basis. The following probation measures are not imposed as separate conditions:
 - Obligation for the sentenced person to inform a specific authority of any change of residence or working place;
 - Obligation not to enter certain localities, places or defined areas in the **issuing State** (the obligation not to enter certain localities or places in the **executing State** is a familiar measure);
 - Obligation containing limitations on leaving the territory of the executing State
 - Obligation to avoid contact with specific objects that have been used or are likely to be used by the sentenced person with a view to committing a criminal offence.Where applicable, the Dutch Probation Service will carry out the supervision of compliance with these conditions by means of what is known in the Netherlands as an 'obligation to report to the Probation Service' or an 'obligation to cooperate with a probation officer'. This gives the convicted person a moral duty at the very least to comply with the conditions. More information on this subject is given in the fact sheets for the probation measures listed above.
4. A suspended sentence and conditional release are always subject to the **general condition** that the sentenced person shall not commit any criminal offence during the probation period.
5. It is left to the court's discretion (in the case of a suspended sentence) or the Public Prosecution Service's discretion (in the case of conditional release) to determine **what conditions should be attached** (within the general limitations set by fundamental human rights and the requirements of proportionality). This decision is generally taken on the basis of advice by the Probation Service (both in the case of a suspended sentence and in the case of conditional release) and the Custodial Institutions Agency (in the case of conditional release). Many of the conditions mentioned in Article 4 of the FD are regularly imposed in the Netherlands.
6. The list of conditions in Dutch law is not exhaustive and conditions may be combined.
7. Some conditions may be controlled by **electronic monitoring**. The Netherlands as executing state will not apply electronic monitoring if it is not explicitly part of the judgment imposed by the issuing state.

Allocation of responsibilities for the supervision of conditions

1. The Public Prosecution Service is generally responsible for supervising compliance with the conditions attached to conditional release.
2. The Public Prosecution Service will order the Probation Service to assist the person concerned in complying with the conditions attached to the conditional release. Subsequently, the Probation Service will supervise compliance.
3. An exception to point 2 is the condition 'Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation'. Supervision of compliance with this condition has been delegated to the Central Fine Collection Agency (CJIB in Dutch). The CJIB is an administrative organisation that collects payments made for judicial purposes.
4. The Probation Service can bring in other organisations to carry out the supervision of compliance with the conditions. Some examples are using community police officers for checks on compliance with the 'obligation not to enter certain localities', the use of a treatment centre if therapeutic treatment is required or the engagement of a security firm when carrying out electronic supervision. The organisation brought in reports to the Probation Service in such cases. It is the Probation Service that maintains the overview and is in direct contact with the Public Prosecution Service.
5. If there is a high risk of reoffending, the Probation Service will inform the Public Prosecution Service about compliance through quarterly progress reports. If the risk of reoffending is lower, the Public Prosecution Service is only informed in the event of non-compliance.

Supervision of compliance with the conditions: what is involved?

1. At the very least, a check on compliance with the conditions is carried out in the form of face-to-face contact between the person being supervised and a probation officer. Additional instruments of control may also be employed where desirable, depending on the kind of condition, for example electronic supervision in the case of an obligation not to enter certain localities, talks with the supervised person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends), progress reports by the person providing treatment in the case of a therapeutic treatment or urine tests in the case of a ban on the use of drugs.
2. The Probation Service can carry out the supervision at varying levels of intensity, depending on the risk of the convicted person reoffending. The following is applicable here:
 - The greater the risk of reoffending, the greater the frequency of contacts with the Probation Service. There will be contact at least once every three weeks in the initial phase if the risk is low. If the risk is high, contact will be once a week.
 - The greater the risk of reoffending, the more diverse the kinds of checks on compliance. For instance, appointments will take place at the Probation Service offices if there is a low risk of reoffending, rather than through home visits. If there is a high risk of reoffending, there will be appointments both at the convicted person's home and at the Probation Service's offices. Furthermore, there will then often be contact with the formal and the informal networks.
 - The greater the risk of reoffending, the 'stricter' the checks on compliance. Thus electronic supervision is generally only used for convicted persons with a high risk

of reoffending. If checks on the use of alcohol or drugs are relevant, they are less likely to be made if the risk is low than if the risk is high.

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- 3. Other guiding principles for supervision by the Probation Services in the Netherlands are as follows:
 - Supervision always focuses on compliance with the conditions imposed.
 - Supervision is characterised by systematic risk management.
 - Supervision spots the threat of an infringement and takes appropriate action.
 - Supervision is an effective combination of the mutual benefits of control and assistance.
 - Supervision has nationally applicable standards for intensity levels and compliance rules.
 - Supervision does not accept any infringement of agreements or the rules imposed.
 - Supervision involves assisting the convicted person in a controlled return to society in order to prevent him/her from reoffending.

Procedure in the event of infringement of the condition

- If the probation officer sees that a condition has been violated, a formal warning will be issued. The Probation Service always informs the Public Prosecution Service if there is a formal warning.
- If a second infringement is observed, the case is reported back to the Public Prosecution Service. The Public Prosecution Service then decides in consultation with the probation officer involved whether the case should be brought before a judge or whether another formal warning should be issued (for instance, if the infringement is minor or if there was a long interval separating the two infringements).
- If the case is brought to court by the Public Prosecution Service, a court session will be held **within one month** in which the person concerned can defend himself/herself. Afterwards, the judge will decide whether to enforce the suspended sentence or to cancel the conditional release. The sanction can also be enforced in part. It is not possible to lodge an objection or appeal against this. If the judge decides on full or partial enforcement of the suspended sentence, execution will commence within **one month** of the judge's decision.

The start and duration of supervision

- The Criminal Code sets out the following general limitations to the imposition of a suspended custodial sentence:
 - A custodial sentence not exceeding two years may be suspended either in whole or in part.
 - If a custodial sentence exceeds two years but does not exceed four years, a maximum of two years of that sentence may be suspended.
 - A custodial sentence of more than four years cannot be suspended.
- The Criminal Code states that conditional release applies to all non-suspended custodial sentences longer than one year. Conditional release is generally granted after two thirds of the prison sentence has been served. However, prisoners serving a prison sentence of more than one year but less than two years will generally be released after having served

one year plus one third of the remaining term. The length of the probation period is determined by the Public Prosecution Service, but it cannot be longer than the remainder of the sentence. For example, if the prison sentence is nine years, the sentenced person will be conditionally released after six years and the maximum probation period is three years.

- The supervision of the special condition continues throughout the operational period and should in principle start immediately. Supervision will always start within one month of the sentence becoming irrevocable (in the case of a suspended sentence) or within one month of the operational period decision (in the case of a conditional release).
- The start of supervision is defined as being the first contact between the probation officer and the person being supervised.
- During the period of supervision, the Probation Service can advise the Public Prosecution Service to end supervision of compliance with the conditions if this is no longer considered necessary. If the Public Prosecution Service agrees to this, the supervision of compliance with the conditions will be terminated (but the operational period and the conditions will remain applicable for the period specified in the sentence).

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Input to procedural agreements on transfer between member states

1. The imposition of probation measures in the Netherlands is always based on a thorough investigation carried out by the Probation Service during the criminal proceedings. The Probation Service:

- determines the risk of the suspect reoffending, doing so by means of standardised diagnostic tools.
- indicates which probation measures would be appropriate and what the intensity of the supervision of the conditions should be.
- checks the feasibility of the probation measures being recommended, taking into account such aspects as the availability.

In the opinion of the Dutch Probation Service, it would be undesirable for an EU member state to impose very specific probation measures in its capacity as the issuing state (e.g. a specific behavioural intervention such as the ones listed in the answer to question 2) without a detailed investigation of this nature. In such a case, there would be the risk that the probation measure cannot be executed in the Dutch context. Instead of this, we would ask the member state to:

- either **contact** the Dutch competent authority **during (rather than after) the criminal proceedings** to enable an exploratory look at what would be the best way of realising the wishes of the issuing state in the case in question. The Dutch competent authority would very much like to come into contact with the competent authorities of the other EU member states so that agreements can be made on this matter. One of these agreements could be that the Dutch Probation Service carries out an investigation for the judiciary in the issuing state if the suspect is already in the Netherlands.
 - or opt for a **general formulation** of the probation measure if there is not enough time for consultation with the Dutch competent authority. The fact sheets include a proposal for such a general formulation in the sentence.
2. Other than in exceptional cases, the Dutch judiciary will always impose an **obligation to report to the Probation Service** ('meldingsgebod') in addition to any other obligations deemed necessary. The aim of this obligation to report is to:
- a. ensure that the sentenced person visits the Probation Service offices when the supervision of the imposed conditions starts. If the sentenced person does not turn up after repeated requests to do so, this is seen as infringement of the obligation to report.
 - b. assist in checking compliance with other conditions
 - c. introduce structure into the subject's daily life

The Dutch Probation Service thinks it would be difficult to carry out the supervision of the conditions without this obligation to report. That is why the Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report as a matter of course in cases with a suspended sentence or conditional release. This request does **not** apply to **community punishment orders**.

3. A complicating factor for both the request under 1 and the request under 2 is that it is often not certain whether the sentence to be formulated will be transferred, for example because the convicted person files an appeal or successfully lodges an objection to the transfer decision, or because the competent authority in the issuing state does not wish to transfer the sentence. It is also possible that the judiciary in the criminal process is not geared to the fact that the sentence to be imposed may be executed in another EU member state. This all means the sentence can never be formulated on the assumption

that a particular EU member state is definitely going to be executing the sentence. This could be a dilemma:

- a. A sentence formulated in the usual manner for the issuing state could give rise to implementation problems in the executing state after transfer (as would be the case in the Netherlands if there is no explicit mention of any electronic monitoring required or if a reference to an obligation to report has not been included).
- b. Execution of a sentence that is directed too specifically towards transfer to a particular executing state may no longer be feasible in the issuing state if the sentence is not transferred after all.

We would like to discuss this point too with you during the conference.

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Fact sheet (A.) 'Obligation for the sentenced person to inform a specific authority of any change of residence or working place'

Preliminary words

- This probation measure is not imposed as a separate condition in the Netherlands. The Netherlands is, however, able to supervise this condition.
- In practice, this condition will be implemented in the form of an 'obligation to report to the Probation Service'. In this case, the aim of the obligation to report is to keep in regular contact with the convicted person so that the Probation Service can check for changes in the place of residence or work during the period of contact. When the convicted person reports in, the probation officer talks to him/her and asks whether there have been any changes in the place of residence or of work.
- As far as 'change of residence' is concerned, it is important to note that in the Netherlands, the Probation Service registration system is linked to the municipal personal records database. Consequently, the Probation Service is always aware of a change of residence even if this condition has not been imposed (unless the sentenced person neglects to inform the municipality of his/her change of residence).

Definition

The order for the convicted person to report in person to individuals and/or institutions, further to be specified, at specific times or during certain periods, with the aim of enabling the monitoring of changes in the place of residence or work.

The frequency of the reports and the instruments to be used are specified in an action plan in the first interview with the Probation Service.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see also the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The convicted person must keep the Probation Service informed of changes in the place of residence or of work. To this end, the convicted person must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, the convicted person must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during the periods in question.'

Aim of the measure and target group

In this case, the aim of the obligation to report is to keep in regular contact with the convicted person so that the Probation Service can check for changes in place of residence or work during the period of contact. The target group consists of perpetrators whose place of residence and/or work is related to their criminal behaviour and consequently needs to be monitored.

Supervision of compliance with the conditions

An action plan is drawn up with the convicted person when supervision starts. In it, agreements are made between the convicted person and the Probation Service about the

reporting frequency. If the convicted person does not keep to these agreements, this is deemed to be non-compliance.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

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Fact sheet (B.) 'Obligation not to enter certain localities, places or defined areas in the issuing or executing State'

Preliminary words

- This probation measure is known in the Netherlands as a 'locatieverbod' (location ban).
- The Netherlands is not able to provide comprehensive supervision if the requirement is for supervision of compliance with an obligation not to enter certain localities when those localities are in the issuing state rather than in the Netherlands. Where applicable, the Dutch Probation Service will carry out the supervision of compliance with these conditions by means of what is known in the Netherlands as an 'obligation to report to the Probation Service' or an 'obligation to cooperate with a probation officer'. This gives the convicted person a moral duty at the very least to comply with the conditions. The instruments that can be deployed are clarified in this fact sheet.

Definition

The temporary ban on being in one or more location(s) or area(s) at certain times, for example a ban on being at a stadium, in a town district, in a café or in particular streets. The location or area must be specified in detail.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The convicted person is prohibited from being in [*specification of location or area*] during [*specification of designated times*] during [*specification of period*]. The Dutch Probation Service shall determine which instruments are to be used to supervise compliance with this prohibition. The Probation Service is able to amend the period, times and/or location if it considers this necessary in order to be able to carry out the supervision of the special conditions effectively.'

If **electronic monitoring** is considered necessary for compliance with the condition, it must be included explicitly in the issuing state's sentence. Electronic monitoring can only be deployed if it has been included in the sentence.

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to any other conditions (for argumentation, see the Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The aim is to restrict the convicted person's freedom of movement to prevent him/her from having the opportunity to repeat offences linked to the prohibited locations, or to prevent confrontations between the perpetrator and the victim or potential new victims.

The target group consists of perpetrators of offences that are closely (inextricably) linked to certain locations, for example because existing or possible future victims are at those locations or because conditions are to be found at the locations that could tempt the convicted person to revert to former behaviour.

Specifically, the group consists of perpetrators with an average or high risk of reoffending or of being a danger. It is also possible to predict whom or what any repeat offence would be directed against.

Supervision of compliance with the condition

Compliance with the condition will be monitored by the Probation Service. Supervision can consist of one or a combination of the following instruments:

- Face-to-face talks with the perpetrator at a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).
- Dynamic Electronic Monitoring. Dynamic means that the whereabouts of the person concerned can be tracked 24 hours a day through a GPS transmitter attached to the ankle or wrist of the person concerned. So far, electronic monitoring has been limited to within the borders of the Netherlands.
 - The approach taken is to draw a so-called warning area around the prohibited area. The convicted person carries a device on the GPS transmitter that gives him/her a warning when he/she enters the warning area. It is possible to set the device so that an alarm goes off when a warning area is entered. Entering a prohibited area will always generate an alarm. It is essential for the alarm to be followed up: solid agreements are made between the Probation Service and the police for this purpose. The guiding principle for the Probation Service is that the follow-up should always focus on protecting the potential victim.
 - If GPS is used, the Probation Service will delegate the technical implementation of this form of monitoring to a security firm. The Probation Service will then provide this firm with the details of the condition and a timetable of the convicted person's day (the times at which the specific location(s) or area(s) are prohibited for the convicted person). The Probation Service is brought in immediately if there is an infringement. The Service reports the infringement to the Public Prosecution Service and discusses what action should be taken, depending on the seriousness of the infringement and the risk.
 - The Netherlands as executing state will not apply electronic monitoring if it is not explicitly part of the judgment imposed by the issuing state. Electronic monitoring is only recommended by the Dutch Probation Service if strictly necessary and then only for suspects with a high risk of reoffending.

An action plan is drawn up with the convicted person when supervision starts. The details of the obligation not to enter certain localities are worked out in this plan.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

Fact sheet (C.) 'Obligation containing limitations on leaving the territory of the executing State'

- This probation measure is not imposed as a condition in the Netherlands. The Netherlands is, however, able to supervise this condition.
- Where applicable, the Dutch Probation Service will carry out the supervision of compliance with these conditions by means of what is known in the Netherlands as an 'obligation to report to the Probation Service' or an 'obligation to cooperate with a probation officer'. This gives the convicted person a moral duty at the very least to comply with the conditions. The instruments that can be deployed are clarified in this fact sheet.

Definition

The suspect/convicted person is not allowed to leave the country freely to the extent that such movement is covered by the limitations specified in the sentence.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

The sentence should at the very least include the duration for which this condition applies. In addition, there should be a specification of the limitations that are being imposed and what is permitted within those limitations: the frequency with which the person in question is allowed to leave the executing state, and which countries he/she is allowed to travel to and which not.

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to other conditions (for argumentation, see the Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The aim of this condition is to limit the person's freedom of movement outside the Netherlands. The target group consists of persons whose delinquent behaviour is related to their being at locations outside the Netherlands.

Supervision of compliance with the condition

Compliance with the condition will be monitored by the Probation Service. In principle, customs officers and the police will not actively check whether the convicted person is leaving the country. In practice, supervision will take the form of an obligation to report. Supervision can thus consist of one or a combination of the following instruments:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).

An action plan is drawn up with the convicted person when supervision starts. The details of the obligation to report are worked out in this plan.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

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Fact sheet (D.) 'Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity'

Preliminary words

- In the Netherlands, the most common instructions under this heading concern behavioural interventions, bans on drugs or alcohol, and restrictions to certain localities. However, the Netherlands is able to supervise other instructions. This fact sheet describes the most common instructions and ends with some remarks on other instructions.
- In the Netherlands, all the measures mentioned here are only imposed after an intensive diagnostic process. In the opinion of the Dutch Probation Service, it would be undesirable for an EU member state to impose specific behavioural interventions in its capacity as the issuing state without a detailed investigation beforehand. In such a case, there would be the risk that the probation measure cannot be executed in the Dutch context. Instead of this, we would ask the issuing state to:
 - either **contact** the Dutch competent authority **during (rather than after) the criminal proceedings** to enable an exploratory look at what would be the best way of realising the wishes of the issuing state in the case in question;
 - or opt for a **general formulation** of the probation measure, if there is not enough time for consultation with the Dutch competent authority. The Dutch Probation Service can then decide after transfer what would be the most appropriate behavioural intervention.

Bans on drugs or alcohol

Definition:

The suspect/convicted person is prohibited from using certain specified stimulants during a specified period. Physical checks may be used to confirm compliance with this condition. This does not mean treatment for stimulant addiction; addiction is a reason for not imposing this condition. Addiction treatment is seen as therapeutic treatment (see probation measure k).

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The convicted person is prohibited from using [specification of the designated stimulants] during [specification of period]. [Instruments for checks] may be used to check compliance with this special condition. The Probation Service may amend the means of making checks or the manner in which checks are carried out if it considers this to be necessary.'

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to other conditions (for argumentation, see the Outline of the Dutch

regulations and practice for suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The aim of this special condition is to prevent the convicted person or suspect from using the specified stimulants and committing an offence under the influence of said stimulants. This condition is not intended to provide support for the treatment of addiction. The consumption of alcohol or drugs should thus be related to the offence. Alcohol or drugs do not dominate the life of the person concerned and there is therefore no question of serious addiction. Outpatient treatment is the appropriate prescription if there is an addiction problem. Such treatment falls within the scope of therapeutic treatment.

Supervision of compliance with the conditions

Compliance with the condition is monitored by the Probation Service. Checks take the form of contacts with the convicted person during the period when there is an obligation to report. Random checks are carried out to see whether the convicted person has used drugs or alcohol, using urine tests to check for drugs and breathalyser tests for alcohol. If a breathalyser test gives a positive result, a second, more accurate test is carried out using an extensive breath test or blood test. Alcohol consumption is deemed to have been established if this test too is positive. The drugs tests are carried out by a specialised organisation on request by the Probation Service.

Supervision also takes place using the options provided by the obligation to report:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

Restriction to certain localities

Definition

The sentenced person is required to be at a specific locality at specified times during a specified period. This is only covered by the FD if it does not involve deprivation of liberty. Electronic monitoring may be used as a means of checking on compliance with this obligation. The Netherlands as executing state will not apply electronic monitoring if electronic monitoring is not explicitly part of the judgment sent by the issuing state. Electronic monitoring is only recommended by the Dutch Probation Service if strictly necessary and then only for suspects with a high risk of reoffending.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The convicted person is required to be in [*specification of location or area*] during [*specification of designated times*] during [*specification of period*]. The Probation Service is able to amend the period, times and/or location if it considers this necessary in order to be able to carry out the supervision of the locality restriction effectively.'

If electronic monitoring using Radio Frequency Identification (RFID) is desired, it must be explicitly specified in the sentence. Electronic monitoring can be deployed only if it has been included in the sentence.

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to other conditions (for argumentation, see the Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The aim of this special condition is to restrict the freedom of movement of the suspect/convicted person in order to regulate and introduce structure into his/her life and patterns of behaviour. This special condition is also sometimes employed in order to achieve a specific community work objective. The location in question will often be the home, sometimes supplemented by the subject's place of work or education.

The target group for this condition consists of serious offenders. There must be a serious, violent offence in combination with an average or high risk of reoffending. This condition is imposed if the delinquent behaviour is associated with a location that cannot be defined to a sufficient extent for an 'obligation not to enter certain localities'. If there is a potential victim, a restriction to certain localities is appropriate if the potential victim is not to be found at a specific location. An obligation not to enter certain localities is a more obvious approach if the victim is to be found at a specific location.

Supervision of compliance with the conditions

There are various possible means of checking compliance with this condition:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).

- Announced and unannounced checks (home visits, telephone calls, text messages); for example, the requirement to pick up a landline phone at a particular time, or verification that the convicted person is indeed at school/work.
- Static electronic monitoring: an alarm will be triggered if the person concerned rids himself/herself of the transmitter, which is then no longer in contact with the bracelet around the ankle or wrist of the person in question. Radio Frequency Identification (RFID) is used for static electronic monitoring. The Probation Service receives a report afterwards if someone has not kept to a restriction to specific localities. This is then discussed with the convicted person. The Probation Service also contacts the Public Prosecution Service to discuss whether this is a reason for the Probation Service to refer the supervision back.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

Behavioural interventions

Definition

The following forms of behavioural intervention are available in the Netherlands:

- Aggression Replacement Therapy (ART Wiltshire-NL)
- Training in cognitive skills
- Training in cognitive skills for the mentally impaired
- Training in work skills
- Training in dealing with accommodation and living on your own
- Training in budgeting
- Lifestyle training programme
- Short lifestyle training programme for addicted offenders

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The convicted person is required to take part in a behavioural intervention that deals with [a behavioural aspect to be specified]. The Dutch competent authority will determine the behavioural intervention in which participation is required in more detail as well as the period during which the behavioural intervention should take place.'

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to other conditions (for argumentation, see the Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The aim, target group and duration are shown below for the available forms of behavioural intervention.

Name of behavioural intervention	Aim of behavioural intervention	Target group of behavioural intervention	Duration
Aggression Replacement Therapy (ART Wiltshire-NL)	To acquire different behaviour in order to prevent aggressive offences, learn to avoid high-risk situations and learn to take responsibility for own behaviour.	<ul style="list-style-type: none"> • Risk of reoffending is low-average or higher. • There is a risk of injury to others. • A pattern of reactive, interpersonal, violent offences. 	18 sessions of 2 hours and 15 minutes each
Training in cognitive skills	The Cognitive Skills training programme is based on the principle that a lot of antisocial criminal behaviour has its roots in the fact that the perpetrators lack various cognitive skills. The training programme focuses on problem solving, putting things in perspective, empathy, controlling impulses and moral and critical reasoning.	<ul style="list-style-type: none"> • Limited cognitive skills • Risk of reoffending is low-average or higher. • Psychological or addiction problems are unlikely to be a reason for exclusion from the training programme. 	22 sessions of 2.5 hours each
Training in cognitive skills for the mentally impaired	The Cognitive Skills for the Mentally Impaired training programme aims to improve participants' skills so that they are able to think and act in a pro-social manner. The programme focuses on self-control skills, being able to recognise and change unrealistic thoughts, being able to recognise and express emotions, being able to empathise with others, being able to think up and evaluate more than one solution, and being able to apply assertive skills. The training programme is intended for offenders with mild learning disabilities and is	<ul style="list-style-type: none"> • Risk of reoffending is low-average or higher. • IQ tested as being between 65 and 90. • Learning ability not inhibited by excessive use of alcohol or drugs. 	36 sessions of 1.5 hours each

	also suitable for illiterate offenders.		
Training in work skills	The Work Skills training programme aims to give participants insight and teach them skills that will put them in a better position to get work and keep a job. The training programme consists of the modules 'Choosing to work', 'Wanting to work' and 'Looking for work'.	<ul style="list-style-type: none"> • Only appropriate if offender has sufficient cognitive skills, or after taking the Cognitive Skills training programme. • Risk of reoffending is low-average or higher. • Offender has stable, permanent address - or the prospect of such in the near future. 	22 sessions of 2 hours each
Training in dealing with accommodation and living on your own	This training programme is only used as a module supplementing the Cognitive Skills training programme. The Accommodation and Living on Your Own module focuses on the skills required to find and maintain accommodation in the Netherlands.	<ul style="list-style-type: none"> • Risk of reoffending is low-average or higher. • The Cognitive Skills training programme should have been completed. • Offender has stable, permanent address - or the prospect of such in the near future. 	7 sessions of 2.5 hours each
Training in budgeting	This training programme is only used as a module supplementing the Cognitive Skills training programme. The aim of the module is to increase participants' knowledge and understanding of income and expenditure. Participants also learn skills that will enable them to manage their money in a structured manner.	<p>The Budgeting module is for perpetrators who started committing offences partly because of gross financial mismanagement.</p> <ul style="list-style-type: none"> • Risk of reoffending is low-average or higher. • The Cognitive Skills training programme should have been completed. • Should have some form of income. • No addiction. • Permanent home or place to stay. 	7 sessions of 2.5 hours each
Lifestyle training programme	The training programme is aimed at learning that there is a connection between use of stimulants/gambling behaviour	The Lifestyle training programme is intended for offenders with a drugs habit or gambling	16 sessions of 2.5 hours each

	and the participant's delinquent behaviour, recognising personal risk situations and dealing with social pressure, dealing with slip-ups and temporary relapses and taking a fully informed decision to opt for abstinence or controlled use/gambling.	habit that is classified as a medium to serious problem, possibly in combination with problematic alcohol consumption. <ul style="list-style-type: none"> • Risk of reoffending is low-average or higher. • IQ higher than 80. • No criminal conviction for sex offences. 	
Short lifestyle training programme for addicted offenders	The training programme is aimed at motivating participants to change their problematic use of stimulants or gambling behaviour, making them aware of the interrelated effects of delinquent behaviour and addiction problems and teaching them to avoid risk situations or deal with them differently.	The Short Lifestyle training programme is intended for offenders with a drugs habit or gambling habit that is classified as mild to problematic, possibly in combination with alcohol consumption. <ul style="list-style-type: none"> • Risk of reoffending is low-average or higher for high-risk users. • Risk of reoffending is low or higher for high-risk users with health complaints, and addicts. • IQ higher than 80. • No criminal conviction for sex offences. 	10 sessions of 2.5 hours each

Supervision of compliance with the conditions

The behavioural interventions are carried out by the Probation Service or by an institution with the accreditation to carry out the behavioural interventions. The institution keeps the Probation Service informed of progress in the behavioural intervention. If the intervention is aborted due to the actions of the convicted person, this is a reason for reporting back to the Public Prosecution Service.

In addition, supervision can be carried out using the options offered by the obligation to report:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).

- Announced and unannounced checks (home visits, telephone calls, text messages).

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

Remarks on other instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity

- The legal situation concerning limitations on or modalities of carrying out a professional activity.
It is not possible in the Netherlands to impose professional disqualification by means of a suspended sentence or a conditional release (see recital 10 of the FD.) However, limitations can be imposed.
For example, it is not possible to prohibit a sentenced person who is a qualified teacher from working as a teacher, but the person in question can be prohibited from working with children of a certain age.
- Other instructions relating to behaviour, residence, education and training, or leisure activities will primarily be carried out using the instruments specified for 'obligation to cooperate with a probation officer' and 'obligation to report to the Probation Service'. The exact form the supervision will take will need to be tailored to suit. In such cases, the Netherlands would like to liaise with the issuing state during (rather than after) the criminal proceedings to enable an exploratory look at what would be the best way of realising the wishes of the issuing state in the case in question.

Fact sheet (E.) 'Obligation to report at specified times to a specific authority'

Preliminary words

This condition is known in the Netherlands as 'meldingsgebod' (obligation to report). Other than in exceptional cases, the Dutch judiciary will always impose an obligation to report to the Probation Service if there are conditions attached to a suspended sentence or conditional release, in addition to any other obligations deemed necessary.

This obligation to report to the Probation Service is to ensure that the sentenced person appears at the Probation Service offices at the start of the supervision of the imposed conditions. The obligation to report is also used to restrict the sentenced person's freedom of movement with the aim of introducing structure into his/her daily life and of assisting or checking compliance with other conditions.

The instruments available in the Netherlands for this probation measure are similar to the options for the obligation to cooperate with a probation officer.

Definition

The obligation for the convicted person to report in person at specific times or during specific periods to persons and/or institutions, further to be specified. It is customary in the Netherlands for the convicted person to report initially to the local Probation Service office nearest his/her place of residence. An obligation to report to another authority such as a police station is not normal. If necessary, the Probation Service will ask other authorities to help it execute the condition.

The frequency of the obligation to report and the instruments to be used are specified in an action plan in the first interview with the Probation Service.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

This condition serves two objectives:

1. First, this condition is imposed in addition to all the other conditions imposed in order to force the person being supervised to report to the Probation Service at the start of the supervision (see the introductory remarks above). It then functions as a supporting condition for the execution of other conditions.
2. Second, an obligation to report can be imposed independently. The objective then is to restrict the convicted person's or suspect's freedom of movement in a systematic fashion with the aim of introducing structure into his/her daily life and furthering or checking compliance with other conditions.

The target group for the obligation to report consists of perpetrators whose freedom of movement needs to be restricted and for whom this special condition serves as an extra

means of control in ensuring compliance with other conditions. The probation measure is also intended for perpetrators who need the supervision, support and encouragement obtained from the Probation Service through the obligation to report in order to ensure they stick to the new behaviour they have acquired.

Supervision of compliance with the conditions

Compliance with the condition will be monitored by the Probation Service. Supervision can consist of one or a combination of the following instruments:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).
- As mentioned above, it is not customary for the convicted person to have to report to any authority other than the Probation Service.

An action plan is drawn up with the convicted person when supervision starts. The details of the obligation to report are worked out in this plan.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

Fact sheet (F.) 'Obligation to avoid contact with specific persons'

Known and executable in the Netherlands as 'contactverbod' (ban on contact).

Definition

The ban on coming into contact or having contact arranged with specific individuals.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The suspect/convicted person is prohibited from contacting or arranging for contact with [specification of individual(s)] during [specification of period].'

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to other conditions (for argumentation, see the Outline of the Dutch regulations and practice for van suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The aim of the condition is to restrict the convicted person's freedom of movement with the objective of avoiding confrontation between the perpetrator and the victim or potential new victims. The target group consists of perpetrators of offences where there is an identifiable victim (for example, stalkers, perpetrators of domestic violence or other forms of violence, or paedophile offenders).

More specifically, the group consists of perpetrators with an average or high risk of reoffending or of being a danger. It is also possible to predict whom or what any repeat offence will be directed against.

Compliance with the condition will be monitored by the Probation Service. Supervision can consist of one or a combination of the following instruments:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).
- As mentioned above, it is not customary for the convicted person to have to report to any authority other than the Probation Service.

Supervision of compliance with the conditions

Compliance with the condition will be monitored by the Probation Service. Supervision can consist of one or a combination of the following instruments:

- Consulting the individual(s) with whom contact is prohibited.
- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with/consulting the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).

An action plan is drawn up with the convicted person when supervision starts. The details of the obligation not to make contact are worked out in this plan.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

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Preliminary words

- This probation measure is not much used as a separate probation measure in the Netherlands. What is sometimes seen is a ban on using the computer and/or the Internet in the case of a conviction for the possession or distribution of child pornography.
- Bans on driving are not generally imposed under this heading; instead, this is a specific measure provided for by the traffic regulations.

Definition

Obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

The sentence should at the very least include the following:

- The objects concerned.
- The period during which this condition applies.
- What the restrictions involve (what is/is not allowed, the frequency).
- That the Dutch Probation Service is able to change the restrictions.

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to other conditions (for argumentation, see the Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The target group consists of perpetrators for whom there is a link between contact with certain objects and criminal behaviour.

Supervision of compliance with the conditions

Supervision can consist of one or a combination of the following instruments:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with/consulting the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

Fact sheet (H.) 'Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation'

Preliminary words

- This is known and executable in the Netherlands as 'vergoeding van de door het strafbare feit veroorzaakte schade' (compensation for damage caused by the offence).
- This probation measure is not usually imposed within the framework of the conditional release, but it may be imposed within the framework of a suspended sentence.
- If this is the only condition attached to a conditional release or suspended sentence, it is not necessary to impose an obligation to report to the Probation Service (see preliminary remark no. 6).

Definition

Obligation to compensate for the damage caused by the convicted person through his/her offence.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'The suspect/convicted person is required to provide compensation for the damage caused by the offence. [Specification of compensation amount] should be paid to [specification of beneficiary]. The convicted person will be informed in more detail of the method of payment and instalments.'

Aim of the measure and target group

The foremost aim of financial compensation is retribution. This condition can have an educational objective as well: it can be of benefit to the convicted person's development or improve relations with the victim.

Supervision of compliance with the conditions

Compliance with this condition is monitored by the Public Prosecution Service. In practice it is the Central Fine Collection Agency (CJIB in Dutch) that is responsible for the supervision. The CJIB is an administrative organisation that collects payments made for judicial purposes. The sum of money concerned is paid to the CJIB. The CJIB records payments made, monitors payment deadlines and sends reminders if the deadlines are not met. In the event of actual or threatened non-compliance, the Probation Service may also be called in for the purpose of persuading the convicted person to pay.

In the event of infringement

The convicted person will receive a reminder from the CJIB if the payment deadline has passed without a payment being made. If the payment is still not made after the reminder, this is reported back to the Public Prosecution Service. If the CJIB reports back, the Public Prosecution Service will decide whether or not the case should be brought before a judge. The judge decides whether the suspended sentence should be enforced. Non-compliance can be important information for the supervisory body if this condition is combined with a condition that the Probation Service supervises. Accordingly, the latter organisation is always informed of non-compliance or the threat of non-compliance.

DRAFT

Fact sheet (I.) 'Obligation to carry out community service'

The obligation to carry out community service is a principal sanction according to the Dutch Criminal Code and therefore cannot be imposed as a condition to a suspended sentence or conditional release. In the wording of the FD, community service/a community penalty can be classified as an 'alternative sanction'.

Definition

- A community penalty consists of the obligation to perform unpaid work for a defined amount of hours.
- The community penalty must benefit the community. Work is carried out for public bodies such as municipalities or private organisations involved in health care, the environment and the conservation of nature, and social and cultural work.

Legal basis of the community penalty

Article 9.1.a.3^o in combination with Article 22c-22k of the Dutch Criminal Code.

Formulation of the sentence in the Netherlands

'The court sentences the suspect [in respect of offences] to a community penalty consisting of a community punishment order of [specification of number of hours], involving the execution of unpaid work with the order that if the suspect does not carry out this work properly, imprisonment for [number of days] will be enforced as a substitute sanction.'

The number of hours of the community penalty may not exceed 240 hours.

The sentence must specify the detention term to be executed if the community penalty is not complied with. Two hours of the community penalty are the equivalent of one day of detention (thus, the maximum duration of detention in the event of non-compliance is 120 days).

Aim of the community penalty

- Through working in this way, the convicted person keeps in contact with society, and he/she is expected to exercise self-discipline. The aim is to create a better chance of a successful return to society.
- The person undergoing punishment makes himself/herself useful to the community that suffered damage as a result of his/her actions.

Target group of the community penalty

- In law, the community penalty is positioned between the fine and the suspended or enforced custodial sentence. Accordingly, the community penalty is an alternative to a higher fine or a shorter custodial sentence.
- Currently there is no restriction in the Criminal Code as to the kind of offences for which the community penalty may be imposed. A bill is pending in parliament in which the imposition of a community penalty will not be allowed for serious violent and sexual offences (unless it is imposed in combination with a custodial sentence);
- In this bill, the option of a community penalty is also excluded if the suspect is a repeat offender with the previous offence occurring less than five years ago, and if the suspect only received a community penalty for that previous offence.
- Consent of the sentenced person is not required by law for the imposition of the community penalty. In practice the community service penalty is rarely imposed without consent.

- Other reasons not to impose a community penalty are:
 - if the suspect is not able to fulfil the punishment properly due to psychological or psychiatric problems.
 - if the suspect is not able to fulfil the punishment properly due to serious addiction problems.

Duration and statutory terms

- The duration of the community penalty may not exceed 240 hours.
- The community penalty must be completed within twelve months (statutory term). This term may be extended by twelve months by the Public Prosecution Service.
- The sentence must specify the detention term to be executed if the community penalty is not complied with. Two hours of the community penalty are the equivalent of one day of detention (thus, the maximum duration of detention in the event of non-compliance is 120 days).
- An intake interview is planned no more than one month after the sentence has been accepted and all the required client information has been received. The interview is used to determine what would be a suitable place of work.
- The convicted person is allocated a place of work no more than one month after the intake interview.

Combination of sanctions or measures

The community penalty may be combined with a custodial sentence (of no more than six months duration), a suspended custodial sentence or a fine.

Supervision of compliance with the conditions

- The Public Prosecution Service is generally responsible for supervising the execution of the community penalty;
- The Probation Service is responsible for administering and actually executing community penalties. Coordinators have been appointed in each of the nineteen districts. Their task is to canvas for workplaces where the penalty can be carried out. A central office will be set up for the FD. It will act as an intermediary between the FD's competent authority and the coordinators in the nineteen districts.
- In practice, supervision by the Probation Service involves such tasks as the following:
 - Carrying out an intake interview.
 - The convicted person must sign a list of 20 standard Probation Service rules they have to keep to. The rules cover working hours, sickness and absence, benefits and insurance, and drugs and alcohol for instance.
 - Supervision and assistance at the workplace. The person supervising the work project has four roles:
 - Enforcer of order: ensures safety, makes sure everything is clear, monitors the hours worked, and enforces the rules.
 - Guide: allocates tasks, gives instructions about how those tasks should be carried out.
 - Group worker and intermediary: makes sure there is a good working atmosphere and prevents conflicts.
 - Provider of support: gives encouragement, is aware of individuals, listens to their problems.

In the event of infringement

- The Public Prosecution Service may order implementation of the detention specified as a substitute punishment in the sentence if the person concerned has not complied in part or in full with the obligations entailed by the imposed community penalty. When ordering implementation of detention, the Prosecution Service should take into account the part of the community penalty that has been carried out properly.

The Probation Service informs the Public Prosecution Service of any cases of failure to carry out the community penalty.

- The Probation Service informs the Public Prosecution Service about failure if:
 - The community punishment cannot be started because the convicted person does not turn up to the intake interview.
 - The community punishment cannot be completed because the convicted person does not keep to the agreements with the Probation Service and/or does not keep to the 20 standard rules, even after an official warning.
 - Reoffending in the period during which the community punishment is being carried out is not in principle a reason for reporting the community penalty back unless the convicted person is detained in custody for the new offence (in which case the execution of the community punishment is suspended) or the offence took place while the community punishment was being carried out.
- The sentenced person can file an appeal against the order of the Public Prosecution Service to implement the substitute detention. The appeal is dealt with by the court that imposed the community penalty. The appeal does not have a suspensive effect: the convicted person is kept in detention until the appeal is dealt with.

Information about the places where the work can be carried out

- The Probation Service looks for an optimum match between the convicted person and the place of work on the basis of an intake interview. In doing so, the following factors are taken into account, if necessary for the effectiveness of the sanction:
 - The character of the offence that has been committed: the options for influencing risk factors for delinquent behaviour.
 - The capacities of the convicted person (limitations, skills).
 - What the convicted person is able to do given work and private circumstances.
 - Specific features of the convicted person such as his/her age, religion or travelling distance.
- The community punishment is not carried out in the weekend unless there are objective reasons for deviating from this rule, for example the prospect of the loss of a job.
- The convicted person can be put on an external project or a Probation Service project:
 - An external project is a social institution that is prepared to provide work for one or more convicted persons with a community punishment order. The convicted person works alone or with employees of the institution in question. The supervisor/assistant is not employed by the Probation Service but does keep in close contact with the Probation Service. Some examples of external projects are a recycling centre, a kitchen for washing up, a community centre, a care institution, a cultural centre or a riding school.
 - A Probation Service project is managed by the Probation Service. Convicted persons with a community punishment order work together in a group under direct supervision by a Probation Service supervisor. Some examples of Probation Service projects are: clearing branches in the woods, working in parks and garden areas, cleaning.

Fact sheet (J.) 'Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons'

Definition

The obligation for the convicted person to keep to the instructions given by the Probation Service for as long and as frequently as the Probation Service considers necessary, to the extent that the instructions have not already been included in another condition. The convicted person should report to the Probation Service at a time and place to be specified in order to work out the details of the collaboration.

Proposed formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to impose this obligation as follows:

'The convicted person must keep to the instructions given by the Probation Service for as long and as frequently as the Probation Service considers necessary, to the extent that the instructions have not already been included in another condition. The convicted person must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority in order to work out the details of the collaboration.'

Aim of the measure and target group

The aims of this condition are:

- to bring structure into the convicted person's daily life.
- to provide supervision, support and encouragement in order to enable newly acquired behaviour to stick.
- to check that other conditions are complied with.

The target group of this probation measure consists of perpetrators who can benefit from more structure in their daily lives and for whom supervision, support and encouragement are required as an extra means of control in ensuring compliance with other conditions.

Supervision of compliance with the conditions

Compliance with the condition will be monitored by the Probation Service. Supervision can consist of one or a combination of the following instruments:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
- Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
- Announced and unannounced checks (home visits, telephone calls, text messages).

An action plan is drawn up with the convicted person when supervision starts. The details of the instructions are worked out in this plan.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

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Fact sheet (K.) 'Obligation to undergo therapeutic treatment or treatment for addiction'

Preliminary words

In the Netherlands, this covers outpatient treatment for disorders linked to the criminal behaviour. It does not include admission to a care institution for clinical treatment as that is seen as a custodial measure, which is not covered by this framework decision. The outpatient treatment concerned is for mental disorders and addiction.

Definition

The obligation for a convicted person to undergo outpatient treatment for a specific disorder in an institution or by an independent professional such as a psychiatrist.

Formulation of the condition in the sentence

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, to take account of the elements in the following proposed formulation of the sentence. On the subject of the sentence formulation, please see too the discussion points relating to the procedural agreements between countries in the 'input for procedural agreements'.

'Given the direct link between the [specification of disorder] and the convicted person's criminal behaviour, he/she is required to undergo treatment for [specification of disorder] in a treatment centre or by an independent professional to be specified by the Dutch competent authority.'

The Netherlands, in its capacity as executing state, is asking the other EU member states, in their capacity as issuing states, always to impose an obligation to report to the Probation Service in addition to other conditions (for argumentation, see the Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release'). The formulation could be as follows:

'The convicted person/suspect must report to a Probation Service location yet to be decided at a time to be decided by the Dutch competent authority. Afterwards, he/she must continue to report during periods to be determined by the Probation Service and as often as the Probation Service considers necessary during these periods.'

Aim of the measure and target group

The aim of this special condition is to treat the psychological disorder or addiction in such a way that the risk of reoffending is reduced. The target group consists of perpetrators for whom a diagnosis has established that their behaviour can and must change if their disorder is treated. The Dutch Probation Service would very much like to be involved when this diagnosis is made so that it can be sure of giving the right treatments to the right people.

Supervision of compliance with the conditions

The Public Prosecution Service is responsible for supervision and execution. In practice, it is the Probation Service that supervises compliance with the condition. The treatment professional or institution reports to the Probation Service on progress with the treatment. In addition, supervision is carried out using the options offered by the obligation to report:

- Face-to-face talks with the perpetrator with a certain fixed frequency, depending on the risk of reoffending. These talks could take place at the Probation Service offices or at the convicted person's home.
 - Talks with the convicted person's formal network (e.g. the employer, school, treatment provider, community police officer) and informal network (e.g. the partner, children, friends).
 - Announced and unannounced checks (home visits, telephone calls, text messages).
- If the convicted person does not cooperate with the treatment, the decision may be taken to issue a warning or report the infringement of the condition back to the Public Prosecution Service.

Other matters

Please see 'Outline of the Dutch regulations and practice for suspended custodial sentences and conditional release' for information about the duration of supervision, time limits, the authorities responsible for supervision and the procedure in the event of infringement of the conditions.

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