



Ministerie van Justitie

# Operational issues implementing the FD in the Netherlands

Hayke Everwijn | October 7th 2009



## Introduction 1

- Hayke Everwijn
- Supporting Leo Tigges: implementation manager Ministry of Justice for FD's on probation supervision and imprisonment
- Dutch implementation efforts so far
  - Working parallel with legislation
  - Design of new working processes
  - Assessing impact (e.g. new tasks, records to be kept) for involved organizations
  - Expected number of 'transfers'
  - Intensively working together with a group of field-experts



## Agenda

- Introduction
  - Change needed in the Netherlands to stimulate non-custodial sentences / measures to foreigners living in EU (1st issue)
  - Central coordination of the probation tasks by setting up an international probation desk (2nd issue)
  - Knowing what amount of transfers to be expected (3rd issue)



## Introduction 2: Main organizational choices

- Competent authority: Public Prosecution Office
- Advised by the probation service
- In concept, no formal role foreseen for judiciary in deciding on acceptance and possible adaptation to national law



## 1. Change needed to stimulate non-custodial sentences / measures to foreigners

- Statement: FD powerful instrument to do away with ‘imprisonment discrimination’
- Change needed to substitute fines / custodial sanctions to non-custodial sanctions and measures!
  1. Reliable system of ‘detection’ of potential transferable sanctions and change in criteria for asking for pre-sentence reports
  2. Well developed paths of international information transfer helpful in advising. Bottleneck: run-time norms of crime procedures.
  3. Mutual trust in the executing possibilities and quality of member states
  4. Easily accessible and reliable information on executing possibilities in EU states is necessary (database?)
  5. Bottleneck: pre-trial detention



## 2. Central coordination of the probation tasks

- Advantages of centralization:
  - Given: 3 probation services, initial low expected numbers of transfers,
  - Developing knowledge / experience → quality
  - Uniformity
  - Visibility, approachableness, incl. helpdesk function
- Coordination of all tasks concerning ‘transfers’
  1. Central contact point (national / international)
  2. Pre-sentence reports
  3. Advising competent authority
  4. Preparing / translating transferred probation sentence before assigning to local probation service
  5. Role in developing database
  6. Helpdesk function
  7. Monitoring function



### 3. Knowing what amount of transfers to be expected

- Difficult to estimate the amount of transferred probation measures
  - Currently only few transfers: Netherlands 10-15 every year – border regions
  - Questions to be answered:
    - › What is the extent to which foreigners living in EU and natives, comparable on e.g. offence, criminal history, background, do get other types of sentences?
    - › From which sentences do we expect substitution to transferable non-custodial sentences and measures? (e.g. 1-4 months imprisonment → labour penalties)
    - › What is a reasonable fraction of substitution to expect? (25%)
  - Outgoing transfers from the Netherlands, estimation:
    - › 50 community service / labour penalties
    - › 10-20 conditional custodial sentences
    - › 5 supervisions ‘conditional release’



## To conclude with...

- FD is complex
- We did certainly not start too early!
- Looking forward to contacts with member states to learn from one another!

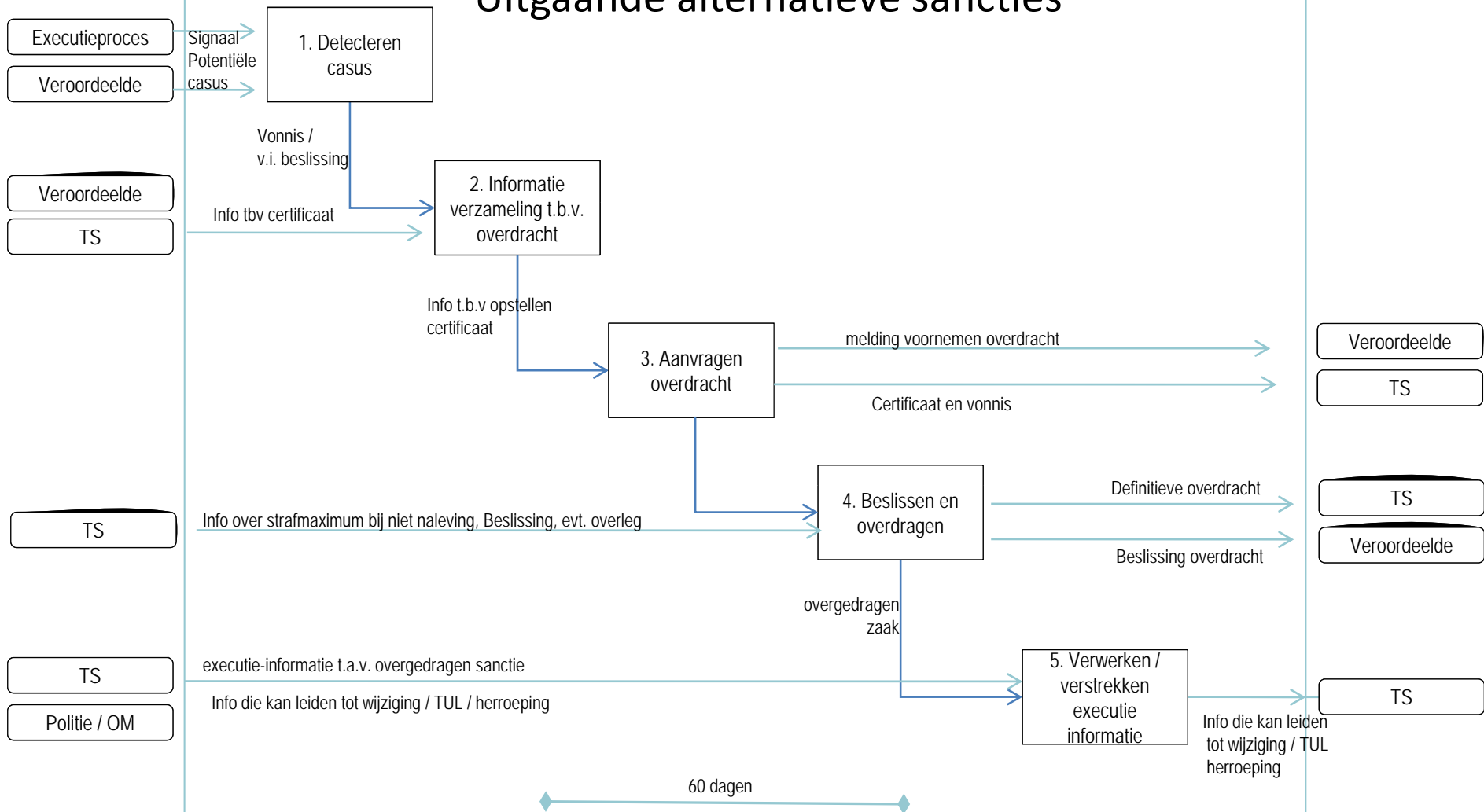




Questions?



## Uitgaande alternatieve sancties





## RASCI – uitgaande alternatieve straffen

	1. Detecteren casus	2. infoverzameling t.b.v. overdracht	3. Aanvragen overdracht	4. Beslissen en overdragen	5. Verwerken verstrekken executie-informatie
MinJus				A	
OM	A/R	A/R/C	A/R	R	A/R/C
3RO		(C)		I	
Politie		C			C
Just-ID	C			I	
CJIB	S/I			I	
TS	(I/C)	(C)	I/(C)	(C)/I	I/C
Veroordeelde	(C)	C	I	I	

RASCI: R=Responsible; A=Accountable; S=Supportive; C=Consulted; I=Informed