

OPENBAAR MINISTERIE

# Practical experiences with FD 947 and FD 829

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# History Central Authority

IRC NH, afd. WETS-ETM is the Central and competent Authority and for:

- Transfer of probation measures (FD 947) since Nov 2012
- Transfer of ESO (FD 829) since Nov 2013
- Transfer of EPO (Dir. 99) since Jan 2015
- Transfer probation measures within the Kingdom of the Netherlands



# Number of cases in The Netherlands 2019

|                          | Incoming<br>947 | Outgoing<br>947 | Incoming<br>829 | Outgoing<br>829 | Incoming<br>EPO | Outgoing<br>EPO |
|--------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| 2019 transfer            | 19              | 43              | 3               | 1               |                 |                 |
| 2019 in progress         | 19              | 49              | 3               |                 | 2               |                 |
| 2019 no transfer         | 2               | 42+<br>25(GPS)  |                 |                 | 1               |                 |
| 2019 refused             | 5               | 28              | 1               |                 |                 |                 |
| Totaal aantal zaken 2019 | 45              | 187             | 7               | 1               | 3               | 0               |

# Contact competent authority

- How to find the competent authority
- The importance of keeping EJV up to date
- The obligation to send the certificate to the competent authority, if it is received by another authority

# EJN website

<https://www.ejn-crimjust.europa.eu/ejn/AtlasChooseCountry/EN>



# Some differences within the EU

- Different procedures of recognition
- Differences subsequent detention of the CS
- Different ages criminal responsibility

# Different procedures of recognition

- Court decides
- Prosecutor decides



# Differences subsequent detention of the CS

| Member state    | Unit CS                     | replacement  |
|-----------------|-----------------------------|--|
| Hungary         | 1 day = 6 hours CS          | 1 day  |
| Spain           | 1 day = 4 hours CS (policy) |  |
| Belgium         | hours                       | 10 hours = 1 month<br>70 hours = 7 months<br>80 hours = 8 months<br>100 hours = 10 m<br>140 hours = 16 m<br>150 hours = 10 m (!)<br>200 hours = 20 m |
| Poland          | 1 day = ?                   | 1 day CS = 0,5 day   |
| Romania         | 1 day = 3 hours (average)   |  |
| The Netherlands | hours                       | 60 hours = 30 days (0,5)   |

# Different ages criminal responsibility

| age     | Member state   |
|---------|--|
| 12      | The Netherlands  |
| 13      | France, Greece, Poland                                     |
| 14 jaar | Bulgaria, Denmark, Germany, Hungary, Italy, Austria, Spain |
| 15 jaar | Scandinavia, Cjech Republic                                |
| 16 jaar | Belgium (unless), Portugal                                 |
| 18 jaar | Luxembourg   |

# Interpretation art. 11, par. 1, under j

- Optional ground for refusal:
- The recognition can be refused if the probationary period or the alternative sanction is shorter than six months
- Explanation:
- Consideration 18 of the Framework Decree indicates that the recognition may be refused if the punishment imposed is a community service that is normally executed within six months.

# Experiences ESO (FD829)

- Release before recognition
- Extension of the ESO
- Information about the ending of the ESO (art. 19 FD)

# Other experiences

- Translation problems
- Neglecting mutual recognition
- Aggravation

# Contact

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