

Agreement

**between the Kingdom of Norway and the Kingdom of the Netherlands
on the use of a prison in the Netherlands
for the purpose of the execution of Norwegian sentences of imprisonment**

The Kingdom of Norway

and

the Kingdom of the Netherlands

(hereinafter the “Parties”),

Whereas there is intensive bilateral cooperation between the Parties in the area of criminal justice in a European context;

Whereas the Parties agree that the execution of prison sentences is an essential part of the functioning of the rule of law;

Whereas Norway is in a situation where there is a shortage of prison capacity and whereas the rental of prison capacity from another State is seen as a short-term solution to this challenge;

Whereas, as a result of the current capacity as regards custodial institutions in the Netherlands, the execution of Norwegian prison sentences can be realised in a prison in the Netherlands;

Whereas the Parties recognise and are bound by international human rights standards and norms;

Whereas the application of this Agreement is governed by these circumstances;

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Use of terms

For the purpose of this Agreement:

- a. «Sending State» means: the Kingdom of Norway;
- b. «Receiving State» means: the Kingdom of the Netherlands;
- c. «the designated authority of the Sending State» means: the Directorate of the Norwegian Correctional Service (*Kriminalomsorgsdirektoratet*);
- d. «the designated authority of the Receiving State» means: the Dutch Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*);
- e. «the prison» means: Norgerhaven prison in Veenhuizen in the municipality of Noordenveld in the Receiving State, which under the law of the Sending State functions as an annex of Ullersmo prison in the municipality of Ullensaker in the Sending State;
- f. «the Governor» means: the Governor of the prison, appointed by the designated authority of the Sending State;
- g. «the Staff- and facility manager» means: the official appointed by the designated authority of the Receiving State, as referred to in Article 6, Paragraph 4;
- h. «prisoner» means: an adult male person upon whom a Norwegian sentence is imposed;
- i. «Norwegian sentence» means: a prison sentence imposed by a final decision of a court which is enforceable in the Sending State.

Article 2

Purpose and scope

This Agreement serves to regulate matters relating to or arising out of the execution of Norwegian sentences in the prison and contains the necessary conditions for that purpose.

Article 3

Mutual obligations

1. The Minister of Security and Justice of the Receiving State shall put the prison, including its personnel and facilities, at the disposal of the Minister of Justice

and Public Security of the Sending State for the purpose of the execution of Norwegian sentences.

2. The Minister of Justice and Public Security of the Sending State shall make use of the prison for a remuneration and in conformity with this Agreement and with the prison's maximum capacity as determined by the Receiving State. Deprivation of liberty in the prison shall be based exclusively on a Norwegian sentence. Deprivation of liberty of other persons than prisoners shall not be allowed.
3. With a view to the implementation of this Agreement the designated authorities of the Sending State and the Receiving State shall conclude a cooperation agreement in which arrangements shall be made concerning the functioning of the prison, the personnel, the facilities, the transport of prisoners and other tasks that may be carried out by the Receiving State.

Article 4 ***Applicable law***

1. The law of the Sending State shall be exclusively applicable to the execution of Norwegian sentences in the prison, including the right of prisoners to request a transfer to the Sending State, unless otherwise provided in this Agreement.
2. The cooperation agreement, as referred to in Article 3, Paragraph 3, shall be governed exclusively by the law of the Receiving State.

Article 5 ***Personal data***

Personal data supplied for the application of this Agreement shall only be used for the purpose of this Agreement, as referred to in Article 2.

Article 6
Competences and responsibilities of the Governor

1. The Governor shall be in charge of the prison.
2. Within the prison the Governor shall be responsible for the proper execution of Norwegian sentences, maintaining order and security and the treatment of prisoners in accordance with the Execution of Sentences Act (*straffegjennomføringsloven*) of the Sending State. To that end, the Governor shall make use of the personnel made available by the designated authority of the Receiving State.
3. In accordance with Paragraph 2, the Governor shall be responsible for the use of direct force against prisoners, including the use of measures of restraint, with a view to maintaining order and security in the prison or for reasons of safety and preventing escape, ensuring that the instruction on the use of force in prisons of the Receiving State (*Geweldsinstructie penitentiaire inrichtingen*) is adhered to.
4. Under the authority and responsibility of the Governor, the Staff- and facility manager shall manage the prison facilities and its personnel.

Article 7
Staff

The Receiving State shall provide the staff necessary to implement the cooperation agreement, as referred to in Article 3, Paragraph 3. Any reduction in staff has to be specifically agreed with the Governor.

PART II

PROVISIONS CONCERNING THE EXECUTION OF SENTENCES

Article 8
Placement of prisoners

1. The designated authority of the Sending State shall ensure that a prisoner will start serving his sentence in a prison in Norway before he is transferred to the prison.

2. The designated authority of the Sending State shall place a prisoner in the prison for the execution of a Norwegian sentence provided that the prisoner, at the time of the decision on the placement:
 - a. is not a national or a resident of the Receiving State;
 - b. is not declared an undesirable alien in the Receiving State, nor registered as an alien who should be denied entry in the Receiving State;
 - c. is not wanted in the Receiving State for the purposes of criminal investigation or prosecution or for the execution of a sentence;
 - d. does not pose a risk of escape or a risk to society that exceeds the security level of the prison as determined by the Receiving State;
 - e. is not the subject of an arrest warrant in the Sending State, nor wanted in the Sending State for the purposes of criminal investigation or prosecution; and
 - f. does not need medical care or other care which cannot be provided in the prison.

3. The designated authority of the Sending State will provide the designated authority of the Receiving State with the information necessary to verify the provisions of Paragraph 2, subsections a up to and including d. The competent authorities of the Sending State and the Receiving State will cooperate on the verification of said provisions. Where appropriate, consultation shall take place between the designated authorities of the Sending State and the Receiving State with regard to the application of Paragraph 2, subsection d.

4. In individual cases and for reasons of public interest the Receiving State may refuse the placement of a prisoner or may request the return of a prisoner to the Sending State. In the latter case the prisoner will be transferred to the Sending State as soon as possible.

Article 9

Execution of leave and release

1. Any decision taken in the Sending State according to which a prisoner is allowed to leave the prison, temporarily or otherwise, shall not be executed on the territory of the Receiving State. The prisoner shall be transferred to the Sending State with a view to the subsequent execution of this decision.

2. Prisoners shall be transferred back to the Sending State at least two months before their release, unless the designated authorities of the Sending State and the Receiving State have derogated from this in individual cases.

Article 10
Complaints and legal actions of prisoners

1. The law of the Sending State shall be applicable to any complaints or legal actions of prisoners concerning the execution of Norwegian sentences.
2. The law of the Receiving State concerning treatment by medical professionals, with the exception of the Penitentiary Principles Act (*Penitenciaire beginselenwet*) and the Penitentiary Regulation (*Penitenciaire maatregel*), shall remain applicable to complaints or legal actions by prisoners in individual cases.
3. Authorities in the Sending State which are competent to deal with the complaints and legal actions, as referred to in Paragraph 1, shall be permitted to conduct an inquiry in the prison in accordance with the law of the Sending State.
4. Lawyers from the Sending State providing legal services to prisoners shall be permitted to do so in the prison.

Article 11
Transport of prisoners

1. The transport of prisoners in the territory of the Receiving State to and from the prison shall take place by order of the Governor or the designated authority in the Sending State, and shall be carried out by officers designated by the Minister of Security and Justice of the Receiving State.
2. During the transport of prisoners, measures of direct force, including the use of measures of restraint, may be used by the designated officers for reasons of safety and the undisturbed progress of the transport, in conformity with the instructions on the use of force in prisons of the Receiving State (*Geweldsinstructie penitenciaire inrichtingen*).
3. The Governor is authorised to sanction any disciplinary breaches committed by a prisoner during the transport to and from the prison in accordance with the law of the Sending State.

Article 12
Medical care outside the prison

1. If a prisoner is in need of medical care which cannot be provided in the prison, the prisoner shall be transferred to a medical centre in the Sending State.
2. By way of derogation from Paragraph 1, a prisoner may be transferred to a medical centre in the Receiving State:
 - a. in case his treatment requires admission to a medical centre for not more than three nights;
 - b. if for medical reasons the transfer to a medical centre in the Sending State is not possible. The prisoner shall be transferred to the Sending State as soon as his medical situation allows.
3. In the situation, as referred to in Paragraph 2, the execution of the Norwegian sentence temporarily takes place in the medical centre in the Receiving State.
4. During the stay in the medical centre in the Receiving State, the prisoner shall be guarded by officers designated by the Minister of Security and Justice of the Receiving State. The officers may use measures of direct force, including the use of measures of restraint, for reasons of safety and the prevention of the prisoner's escape, in conformity with the instructions on the use of force in prisons of the Receiving State (*Geweldsinstructie penitentiaire inrichtingen*).
5. Article 11, Paragraph 3, shall apply *mutatis mutandis*.

Article 13
Escape

In the event of escape from the prison or evasion of supervision during transport or during a stay in a medical centre in the Receiving State, the Governor will immediately inform the Police of North Drenthe in the municipality of Assen, the designated authority of the Receiving State and the National Criminal Investigation Service of the Sending State (*Kripas*), providing the identity of the person concerned and other relevant information.

Article 14
Death of a prisoner

1. In the event of the death of a prisoner in the prison, the Governor will report this death immediately to the public prosecutor of the North Netherlands District. The Governor will then follow all instructions of the competent authorities of the Receiving State, grant them access to the prison, allow them to carry out any necessary investigation into the cause of death and give them every assistance in that regard. The Governor will allow the deceased to be transported, on the orders of the public prosecutor of the North Netherlands District, from the prison to a place for further examination into the cause of death.
2. The Governor will be notified of the result of the investigation into the cause of the prisoner's death.
3. The law of the Receiving State is exclusively applicable to the launch of a follow-up investigation of any kind. However, the Governor is permitted to conduct an administrative inquiry in the prison in accordance with the procedures laid down by the designated authority of the Sending State, insofar as this, in the opinion of the public prosecutor of the North Netherlands District, is compatible with the interests of the follow-up investigation.
4. The Governor will arrange for the transfer of the body to the Sending State, as soon as this is permitted under the law of the Receiving State.

Article 15
Security of the prison

The competent authorities of the Receiving State are responsible for enforcing public order and safety outside the prison. They will take the measures necessary for the undisturbed operation of the prison and, where necessary, measures to prevent the disturbance of public order in the immediate vicinity of the prison.

Article 16

Evacuation of the prison in case of emergency

1. If the prison has to be evacuated in case of an emergency, the prisoners will be transferred to another location designated by the competent authorities of the Receiving State, with a view to their immediate return to the Sending State.
2. This Agreement is applicable *mutatis mutandis* to the other location, as referred to in Paragraph 1, as far as emergency circumstances allow.

PART III

PROVISIONS CONCERNING CRIMINAL LAW

Article 17

Criminal offences committed in the prison

1. Criminal offences committed in the prison are fully governed by the criminal law of the Receiving State.
2. The Governor is obliged to report all criminal offences to the Police of North Drenthe in the municipality of Assen. The Police of North Drenthe will immediately inform the public prosecutor of the North Netherlands District of the report.
3. The Governor will cooperate with any investigation within the prison that is considered necessary by the authorities of the Receiving State responsible for investigating and prosecuting criminal offences.
4. Interviewing prisoners as suspects or witnesses and other investigative acts that affect them shall, where the interests of the investigation permit, take place as far as possible within the prison.
5. A prisoner suspected of a criminal offence:
 - a. may not be transferred to the Sending State other than with the consent of the public prosecutor of the North Netherlands District; and
 - b. may be arrested exclusively on the orders of the public prosecutor of the North Netherlands District and will then be transferred to another custodial institution in the Receiving State.

6. The authorities of the Sending State are not permitted to launch investigations in the prison into criminal offences committed there. However, the Governor is permitted to conduct an inquiry with a view to imposing a disciplinary sanction on a prisoner involved in a criminal offence, insofar as this, in the opinion of the public prosecutor of the North Netherlands District, is compatible with the interests of the criminal investigation.

Article 18

Cooperation in criminal matters with a view to involuntary return to detention

1. Should a prisoner be outside the prison in the territory of the Receiving State, other than during transport, as referred to in Article 11, or during the stay in a medical centre, as referred to in Article 12, Paragraph 2, while the execution of the Norwegian sentence has not been concluded, the conventions and regulations regarding international cooperation in criminal matters applicable between the Receiving State and the Sending State shall remain in full force.
2. Any prisoner who is outside the prison in the territory of the Receiving State as a result of situations, as referred to in Articles 13 and 17, Paragraph 5(b), while the execution of the Norwegian sentence has not been concluded, can be arrested by the competent authorities of the Receiving State at the request of the Governor for no longer than six hours – not including the hours between midnight and 09:00 – pending an alert in the Schengen Information System with a view to his extradition.
3. A prisoner who is outside the prison in the territory of the Receiving State as a result of the situation, as referred to in Article 12, Paragraph 2(a), shall be transferred back to the prison.

Article 19

Criminal investigation for other offences

1. In the event that a prisoner in the prison is wanted by the competent authorities of the Receiving State for any criminal offence committed outside the prison, the conventions and regulations regarding international cooperation in criminal matters applicable between the Receiving State and the Sending State shall remain in full force.

2. In the event that a prisoner in the prison is wanted by the competent authorities of the Sending State for any criminal offence committed outside the prison, the prisoner will be transferred to the Sending State for that purpose.
3. In the event that a prisoner in the prison needs to be interviewed as a witness by the competent authorities of the Sending State, arrangements may be made in accordance with conventions and regulations regarding international cooperation in criminal matters applicable between the Receiving State and the Sending State, including the use of secure video conference.

Article 20

Legal cooperation at the request of third States

1. In the event that the competent authorities of the Receiving State receive an extradition request, a European arrest warrant or a request for legal assistance from a third State with regard to the prisoner in the prison, this will be passed on to the competent authorities in the Sending State. The same applies to requests from international tribunals.
2. In the event that the competent authorities of the Sending State receive an extradition request, a European arrest warrant or a request for legal assistance from a third State with regard to a prisoner in the prison, this will be dealt with by the Sending State with a view to the handling and execution thereof. The prisoner will be transferred to the Sending State when appropriate. The same applies to requests from international tribunals.

PART IV

PRIVILEGES AND IMMUNITIES

Article 21

The grounds of the prison

1. The grounds of the prison are inviolable and can only be entered with the permission of the Governor.
2. The permission, as referred to in Paragraph 1, is deemed to have been obtained in the event of fire or accident in the prison or a calamity or major crisis in or with consequences for the prison, where protective measures need to be taken immediately.

3. The designated authorities of the Sending State and the Receiving State shall make suitable arrangements to enable duly authorized representatives of appropriate public services and inspections to enter the prison.

Article 22
Archives

Regardless of where they are located, all files, documents and other data carriers of the Sending State that the Governor or the personnel have in their possession in the exercise of their duties, are inviolable.

Article 23
Possessions, funds and other property

Regardless of where they are located, the furniture and other items in the prison, the funds, and also the vehicles of the Sending State are exempt from investigation, requisition, attachment or execution measures.

Article 24
Exception from the provisions regarding inviolability and immunity

The provisions regarding inviolability and immunity in Articles 21, 22 and 23 shall not apply in instances where the criminal law of the Receiving State applies.

Article 25
Immunity of the Governor

1. The Governor enjoys immunity from the jurisdiction of the Receiving State in respect of acts performed in the exercise of his or her duties.
2. The immunity provided for in Paragraph 1 is granted in the interests of the proper implementation of this Agreement and not for the personal benefit of the Governor. The Sending State has the duty to waive the immunity of the Governor in any case where it would impede the course of justice and can be waived without prejudice to the purpose for which it is accorded.

3. Paragraph 1 shall not apply in the event of a traffic offence, or in the event of damage caused by a motor vehicle belonging to the Sending State or the Governor and being driven by the Governor.

PART V

COSTS

Article 26

Costs

The costs of executing Norwegian sentences in the prison, as referred to in Articles 27 and 28, will be reimbursed to the Receiving State by the Sending State, with due regard for the provisions of Article 29. Costs of the security of the prison, as referred to in Article 15, will continue to be borne by the Receiving State.

Article 27

Fee for the use of the prison

1. Regardless of the actual number of detention places used, the fee will be a fixed annual amount of € 25,500,000 (*twenty-five million five hundred thousand*) insofar as the number of detention places does not exceed 242.
2. For the years 2015 and 2018 respectively the fee will be a fixed amount of € 2,125,000 (*two million one hundred and twenty-five thousand*) for each month in which the prison is put at the disposal of the Sending State.

Article 28

Other costs

The reimbursement of other costs shall take place in accordance with the arrangements made in the cooperation agreement, as referred to in Article 3, Paragraph 3.

Article 29
Indexing

1. The fees listed in Article 27 and in the cooperation agreement in accordance with Article 28 are based on the 2015 price level. These fees will be indexed annually on 1 January every year, and for the first time on 1 January 2016.
2. The indexing, as referred to in Paragraph 1, will take place based on the indexing figures (*Prijs overheidsconsumptie & Prijs overheidsconsumptie, netto materieel*) determined annually by the Bureau for Economic Policy Analysis (*Centraal Planbureau*) of the Receiving State. The indexing figures relate to the following elements: wage costs, housing, material costs and exploitation.
3. The annual indexing on 1 January takes place based on the indexing figures, as referred to in Paragraph 2, in accordance with the following list:
 - on 1 January 2016 for the years 2016 up to and including 2018;
 - on 1 January 2017 for the years 2017 up to and including 2018;
 - on 1 January 2018 for the year 2018.
4. In case of an extension, as referred to in Article 31, the preceding paragraph shall apply *mutatis mutandis*.

PART VI

FINAL PROVISIONS

Article 30
Term of the use of the prison

The Receiving State shall put the prison at the Sending State's disposal and the Sending State shall use the prison for a period of three years after the entry into force of this Agreement. The Sending State shall see to it that the use of the prison is terminated at the end of this period.

Article 31
Extension

1. The Ministers of Justice of the Sending State and the Receiving State may agree to an extension of the use of the prison for a period of at least one year.

2. The Ministers of Justice of the Sending State and the Receiving State shall decide on the extension of the use of the prison not later than six months before the extension has to come into effect.

Article 32
Additional arrangements

For the purpose of the practical application of this Agreement, representatives of the Sending State and the Receiving State that are involved in the implementation of this Agreement can make additional arrangements between themselves.

Article 33
Consultations and dispute resolution

1. The designated authorities of the Sending State and the Receiving State or their appointed representatives will regularly consult on the implementation of this Agreement. They will also discuss disputes or difficulties regarding the application, implementation or interpretation of this Agreement, in order to reach a resolution.
2. If the discussions, as referred to in Paragraph 1, do not lead to resolutions, they will notify the Ministers of Justice of the Sending State and the Receiving State.

Article 34
Amendment

This Agreement may be amended by mutual consent of the Parties.

Article 35
Application

This Agreement shall apply to the part of the Kingdom of the Netherlands in Europe only.

Article 36
Entry into force and termination

1. This Agreement will enter into force on the first day of the first month after the Parties have notified each other in writing that the legal requirements for entry into force have been complied with.
2. This Agreement will terminate three years after its entry into force or, in the event of the application of Article 31, when the extension period has expired.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE at Veenhuizen on 2 March 2015 in duplicate, in the English language.

For the Kingdom of Norway,

For the Kingdom of the Netherlands,