

Prisoner Transfers between the Netherlands, Germany and Belgium

Empirical Results from the EU Research Project CrossBES

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Some links:

Cross-border cooperation in the execution of sentences between the Netherlands, Germany and Belgium: An empirical and comparative legal study on the implementation of EU framework decisions 2008/909/JHA and 2008/947/JHA

Hofmann, R. & Nelen, H., 14 May 2020, In : Crime, Law and Social Change. p. 1-24 24 p.

<https://link.springer.com/article/10.1007/s10611-020-09900-7>

'Vertrauen ist gut, Anerkennung ist besser' Herausforderungen in der grenzüberschreitenden Strafvollstreckung zwischen Nordrhein-Westfalen und den Niederlanden

Hofmann, R. & Nelen, H., 1 Apr 2020, In : Zeitschrift für Internationale Strafrechtsdogmatik. 15, 4, p. 178-189

http://www.zis-online.com/dat/ausgabe/2020_4_ger.pdf

Youtube European Criminal Justice Channel: Video Lecture on Mutual Recognition and Sentencing

https://www.youtube.com/watch?v=pQ2BkP9-4sE&ab_channel=EuropeanCriminalJusticeChannel



CrossBES – The Project

- Funded by the European Commission from 2017-2019
- Project Leader: Office for Euregional Cooperation of the Prosecution Service in Maastricht (BES Bureau)
- Project Partner: University of Maastricht, University of Leuven



Objectives and Aims

Objective

- A comparative analysis of cross-border cooperation between NL, BE and DE with a focus on the implementation of the relevant EU Framework Decisions in daily legal practice.

Aims

- to create a network of practitioners and to improve the knowledge and cooperation in the field of cross-border sentencing
- a comparative law study on the (new) EU framework decisions
- three in-depth trainings with practitioners from the three countries
- practical guidance and a roadmap on how to successfully execute sentences across borders.

The ‘Transfer Paradox’

EU Commission:

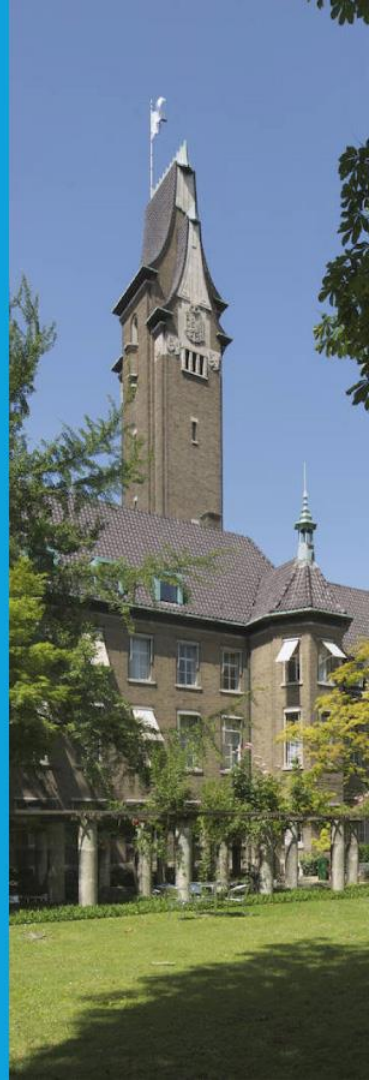
- to ensure that non-residential EU citizens who are subject to criminal proceedings are not treated differently from residents
- to enhance social rehabilitation of prisoners
- to lead to a reduction in prison sentences imposed to non-residential EU citizens
- to reduce prison overcrowding, improve detention conditions
- allow for considerable savings for the budgets spent by the Member States on prisons

Scholars:

“Quite possibly disturbing trend, ‘prisoners are farmed out to serve their sentence in foreign countries, not because of prisoners’ individual circumstances but due to national governmental policymaking.’ (Pakes and Holt 2014)

“Postcolonial and neo-colonial dynamics at work, given the growing number of intra-EU transfers.” (Bosworth et al. 2015)

Suspicion of a “hidden agenda” behind transfers, namely to get rid of criminal migrants, with the welcome side-effect of reducing prison overcrowding (Pleic 2018)



Consent of the prisoner...



Prisoner Transfers pursuant to FD 909 from/to the Netherlands and NRW between 2013-2017 (sources Ministries of Justice)

	2013	2014	2015	2016	2017	total
NL outgoing	1	7	3	5	6	22
NL incoming		35	56	80	207	208
NRW outgoing				61	72	133
NRW incoming				13	24	37



Total outgoing transfers pursuant to FD 2008/909 from NL, BE and NRW aggregated by selected EU Countries (until 2017)

	From BE FD 2008/909	From NRW FD 2008/909	From NL FD 2008/909
BE (Belgium)		5	36
BG (Bulgaria)	3		1
DE (Germany)			17
DK (Denmark)			4
ES (Spain)	3	2	5
FI (Finland)		1	2
FR (France)	38	3	15
HR (Croatia)			2
HU (Hungary)	1		5
IT (Italy)	9	5	2
LT (Lithuania)	2	1	
NL (Netherlands)	77	107	
PL (Poland)		4	10
PT (Portugal)			4
RO (Romania)	30	3	4
UK (U. Kingdom)	3		10
Total	169	133	118



Consent of the prisoner does matter!



Recommendations

- Enhance mutual recognition
- Reliable and consistent assessment of prison conditions
- Varying sentence and execution modalities
- The adaption of sentences
- Calculation of prison time

Future Challenges

- Transfers on basis of absentia proceedings
- Relation of victim's rights to prisoner transfers
- Transfers of minors and persons with mental disorders



Thank you for your attention.

