



# ANNUAL POLICY REPORT 2011

Migration and Asylum in the Netherlands





**ANNUAL POLICY REPORT 2011  
MIGRATION AND ASYLUM  
IN THE NETHERLANDS**

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## Colophon

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# EXECUTIVE SUMMARY

The Annual Policy Report 2011 provides an overview of the most significant developments in Dutch migration and asylum policy from 1 January 2011 up to and including 31 December 2011. On the basis of this report and similar reports issued by the other EU Member States, the European Migration Network (EMN) will draw up a comparative 'European' report.

First of all, the developments in legislation and administrative practice in the Netherlands will be addressed, including the relevant political and public debates.

The most significant developments in 2011 were the elections to the Senate, which were held on 23 May 2011. In substance, the elections to the Senate showed the same results as the elections to the Lower House of Parliament in 2010.

In 2011, the Dutch government furthermore continued carrying out its intentions as formulated in the Coalition Agreement of September 2010.

In 2011, too, there was much discussion about issues concerning immigration, integration, and asylum. The discussion was, among other things, about the planned removal of an Afghan girl and an Angolan boy. The discussion about individual cases led to a more general debate on the removal of children who have rooted in the Netherlands. Other discussions were about the criminalisation of illegal stay, stricter rules for family reunification, the shortening of the asylum procedure, the increase in administrative charges, the 'brain drain' from the Netherlands, the removal of Afghans who were suspected of war crimes, the burka ban, the position of homosexual asylum seekers, the Dublin transfers to Greece, and the fact that the integration requirement for Turks had been ruled illegal.

In the final drafting stage of this report, the Dutch government fell. On 23 April 2012, the Prime Minister rendered the resignation of this government to the Queen. This has resulted in the fact that the government is currently outgoing. New elections to the Lower House of Parliament are expected to be held in the autumn of this year, after which a new government will be formed. At this moment it is unclear what the consequences will be for issues of migration and asylum policy and for the implementation of schemes formulated in 2011.

Just as in 2010, this Annual Policy Report also serves as a progress report for the annual debate of the European Council on the progress of asylum and migration policy. Within the framework of the European Pact on Immigration and Asylum that was adopted in October 2008, the Member States of the EU are obliged to provide annual information on the progress to the European Commission for this debate in the European Council. In addition, the Member States are obliged to report on the commitments made within the

framework of the Stockholm Programme adopted on 11 December 2009. In December 2011, the drafters of this report submitted a list of all Dutch legislative and policy changes, concrete actions and government intentions in connection with these commitments to the European Council. This partial report has been included in the Annual Policy Report as Annex I.

This Annual Policy Report deals with the developments in the area of regular migration and integration, irregular migration and return, border control, asylum, unaccompanied minors, and the general approach to migration, also within the national perspective.

In Section 4 (Legal Immigration and Integration), attention is thus paid to the Bill on Modern Migration Policy and the reasons why this Act did not enter into force on 1 January 2011. This Section will also deal with Dutch labour policy, the introduction of the EU Blue Card, the tightening of the requirements for family reunification, and the publication of the Green Paper on Family Reunification.

Attention will furthermore be paid to issues including Dutch integration policy, measures against forced marriages, the bill banning face-covering clothing in public places, and the preparations of the Dutch government to tighten the requirements for naturalisation.

Section 5 (Irregular Migration and Return) provides a description of the government's plan to combat illegal stay. Attention will be paid to the criminalisation of illegal stay, the implementation of the Directive to combat illegal employment, the implementation of the Return Directive, and Dutch return policy. This Section will furthermore deal with the victims of human trafficking and the Directive on preventing and combating trafficking in human beings.

As explained in Section 6, many developments in the area of border control occurred in the context of the Innovation of Border Management Programme (Programma Vernieuwing Grensmanagement (VGM)). This Section will furthermore deal with the European Visa Information System (EU-VIS) that was put into use in October 2011.

In Section 7 (International Protection, including Asylum), attention is paid to the first results of the so-called Improved Asylum Procedure, which entered into force on 1 July 2010. Section 7 also deals with the policy intentions of the Dutch government for more streamlined and more efficient entry procedures.

The information regarding unaccompanied minors (Section 8) is that in 2011, the Dutch government started its review of its specific policy on unaccompanied minors. The implementation hereof will be effected in 2012.

All developments in the area of the global approach to migration (Section 9) occurred in the context of the commitments made by the Netherlands within the framework of Pact and the Stockholm Programme. These developments include the importance given by the Netherlands to involving diaspora groups in development activities in their countries of origin and (from the EU perspective) in the different partnerships for mobility in which the Netherlands participated.

Section 10 addresses the implementation of EU legislation in the area of asylum and migration. The developments that will be discussed include the implementation of the Return Directive and the Blue Card Directive.

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# 1 INTRODUCTION: PURPOSE AND METHODOLOGY FOLLOWED

This Annual Policy Report provides an overview of the most significant developments in the area of migration and asylum in the Netherlands. In addition, this report serves as a source of information for the progress report of the European Commission to the European Council in connection with the European Pact on Immigration and Asylum and the Stockholm Programme and it will extensively discuss the implementation of EU legislation in the area of asylum and migration.

This Annual Policy Report is an annual publication on the instructions of the European Migration Network (EMN). The EMN, which was established on the initiative of the European Commission, gathers and analyses information on migration and asylum (including information on social debates, academic research, statistical data, policy, and case law). Every year, each national contact point (NCP) for the EMN draws up a national report on the developments in migration and asylum policy. As the National Contact Point for the EMN in the Netherlands, the Information and Analysis Centre (INDIAC), operating under the Directorate for Implementation Strategy and Advice of the Immigration and Naturalisation Service (IND) is responsible for the Dutch report. On the basis of this report and the reports issued by the other EU Member States, the EMN will draw up a comparative 'European' Policy Report 2011.

Within the framework of the European Pact on Immigration and Asylum that was adopted in October 2008, the European Commission publishes an annual progress report on the implementation of this Pact for use during the debate in the European Council. In addition, this report will discuss the progress of the commitments made within the framework of the Stockholm Programme adopted on 11 December 2009 and its accompanying Action Plan.

First of all, the Annual Policy Report will address significant political and institutional developments (Section 2). This is followed by a discussion of the most significant developments in the area of legislation and the relevant political and public debates in the area of asylum and migration (Section 3). The report will subsequently deal in greater depth with the developments in the following subareas: Legal Immigration and Integration (Section 4); Regular Immigration and Return (Section 5); Border Control (Section 6); International Protection, including Asylum (Section 7); Unaccompanied Minors and Other Vulnerable Groups (Section 8); and Global Approach to Migration (Section 9). This arrangement will also be used in Annex I on the Dutch commitments in the context of the European Pact on Immigration and Asylum.<sup>1</sup> Finally, this Annual Policy Report will shed light on the implementation of European legislation in 2011 (Section 10).

<sup>1</sup> A version of Annex I to this Annual Policy Report, submitted to the Commission in December 2011, served as the actual report on the progress made in the Netherlands regarding the commitments made within the context of the Pact and the Stockholm Programme. As a partial report, this Annex contains a short enumeration of all Dutch legislative and policy changes, concrete actions, and government intentions in connection with these commitments. This Annual Policy Report 2011 provides a framework for the partial report.

This report provides the most complete possible overview of the legislative changes in the different policy areas. This report also provides a complete overview of the implementation of European legislation in the area of asylum and migration. Completeness was not sought with regard to the political and social debates and developments; in this context the amount of attention given in Parliament and in the media was decisive. More information on the selection criteria is described in the following Section on methodology.

In the final drafting stage of this report, the Dutch government fell. On 23 April 2012, the Prime Minister rendered the resignation of this government to the Queen. This has resulted in the fact that the government is currently outgoing. New elections to the Lower House of Parliament are expected to be held in the autumn of this year, after which a new government will be formed. At this moment it is unclear what the consequences will be for issues of migration and asylum policy and for the implementation of schemes formulated in 2011.

## 1.1 Methodology

This report is mainly the result of desk research. The report has been drawn up on behalf of the national contact point for the EMN in the Netherlands by drs. H. Wörman, researcher at INDIAC. For this purpose, grateful use was made of the expertise of the Implementation Advice Departments, and the Directorate for Implementation Strategy and Advice of the IND. The Directorate for Migration Policy (DMB) and the Integration/Civic Integration Department of the Ministry of the Interior and Kingdom Relations also rendered their cooperation to this report. In the area of the commitments made by the Netherlands in the context of the Pact and the Stockholm Programme, the help and expertise of other Ministries and cooperating organisations turned out to be essential. The organisations that contributed to the drafting of this report include the Repatriation and Departure Service (DT&V), the Royal Netherlands Marechaussee, and the Ministry of Social Affairs and Employment.

Information on the drafting of legislation and parliamentary debates originates from official sources. The following types of documents have been consulted for this purpose:

- Parliamentary Papers of the Senate and the Lower House of Parliament;
- Proceedings of the Senate and the Lower House of Parliament;
- Official publications of legislation in the Treaty Series, the Dutch Bulletin of Acts and Decrees, and the Dutch Government Gazette.

All these documents can be found in the databases with official publications on the website [www.overheid.nl](http://www.overheid.nl). This website is maintained by the Ministry of the Interior and Kingdom Relations.

The statistical data have been derived from Eurostat and from the IND Information System 'INDIS'. Furthermore the Royal Netherlands Marechaussee and the Seaport Police of the Rotterdam-Rijnmond Regional Police provided statistical data.

In order to obtain information on organisations and their positions, we often consulted the websites of the relevant organisations. Publications of the various organisations on asylum and migration were also obtained from their websites. We furthermore visited the websites of the political parties to list their positions on asylum and migration.

In order to gain insight into the public debate, we primarily used the Internet. The Internet sites of the major national newspapers and news and current affairs programmes on national television (both the public service and commercial broadcasters) were used to examine which migration and asylum-related issues received much media coverage. An important source of information about the social debates were the weekly news feeds on migration law 'Nieuwsberichten Migratierecht.nl', a digital publication of Sdu Uitgevers.<sup>2</sup> In addition to a general list of migration and asylum-related issues, we also looked at media attention for specific issues that were dealt with in parliamentary debates.

The purpose of this Annual Policy Report is to provide an overview of all significant developments in the area of migration and asylum. In order to achieve this purpose, a number of criteria have been used for the concept of 'significant developments'. In this context, a distinction has been made between legislative changes on the one hand and political and social debates on the other hand.

#### Criteria for the significance of legislative changes

The report aims to provide the most complete possible overview of the legislative changes in the different policy areas that will be addressed. All changes and intended changes that imply an actual substantive legislative change have been included in this report. Only minor changes have not been included (for example the annual increase in certain income requirements).

#### Criteria for the significance of political and social debates

Completeness was not sought with regard to the political and social debates and developments. The purpose of the Annual Policy Report is to give an impression of the most significant topics of discussion in the area of asylum and migration in the Netherlands. The following criteria were used to make a selection. In order to be included in the report, a political and social debate had to meet at least the following cumulative conditions:

- The issue has been discussed in parliament.
- The issue has been 'in the news' for a longer period of time. The issue must have been covered in several news media.

### Implementation of European legislation

The Annual Policy Report aims to provide a complete picture of the implementation of European legislation in the area of asylum and migration. All developments in this area will therefore be included in this report.

## 1.2 Terms and Definitions

This report uses the definitions of relevant terms included in the EMN Glossary.<sup>3</sup> The terms and definitions included in the glossary developed by the EMN are intended, among other things, to increase the comparability of the information exchanged between the EU Member States.

## 2 GENERAL STRUCTURE OF THE POLITICAL AND LEGAL SYSTEM IN THE NETHERLANDS

This Section will outline the political, institutional, and legal system in the area of migration, asylum, and integration in the Netherlands. More comprehensive and detailed information on this can be found in the EMN report 'The Organisation of Asylum and Migration Policies in the Netherlands'.<sup>4</sup>

### 2.1 General Structure of the Political System and Institutional Context

The Netherlands is a constitutional monarchy with Her Majesty the Queen Beatrix as its head of state. The Ministers are responsible for the actions of the Queen; she is inviolable. The Netherlands is a parliamentary democracy. The right of decision on the policy to be pursued lies ultimately with parliament. This means that Ministers must have executive power for this policy and the confidence of parliament. Parliament consists of two houses, the Senate and the Lower House of Parliament (referred to jointly as the States General). The Lower House of Parliament is co-legislator with the government, which it also monitors. The Senate also monitors the government, but its co-legislative role is more limited. For example, the Senate is not able to amend bills nor does it have the right to submit a private member's bill.

The government consists of the King and the Ministers. In the Netherlands, the various Ministers and State Secretaries under the leadership of the Prime Minister are referred to as the 'Cabinet'. In this Annual Policy Report, the term 'government' will be used. The government is the executive power and also has legislative powers. Each Minister has political responsibility for a certain policy area and may be assisted by State Secretaries, who are entrusted with a specific policy area. The Prime Minister is the Chair of the Council of Ministers and in this capacity he or she coordinates government policy. The Ministers and State Secretaries are accountable to parliament about policy pursued and to be pursued. If it turns out that the Lower House of Parliament has lost confidence in a Minister and/or State Secretary (or the entire government), the relevant person or the entire government is to step down or to resign.

The Kingdom of the Netherlands is a state that consists of the country of the Netherlands with territory in Western Europe and the Caribbean, where Bonaire, Saba, and St. Eustatius are located, and furthermore the countries of Aruba, Curacao, and S. Maarten. The four countries within the Kingdom are equal parts of the territory of the Kingdom and each have their own governments and parliaments. Bonaire, Saba, and St. Eustatius are special municipalities of the Netherlands. In the Charter for the Kingdom of the Netherlands, a limited number of subjects have been indicated on which the

<sup>4</sup> INDIAC – NL EMN NCP (2009). See <http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?directoryID=114> The information in this report is partly out of date as a result of the reorganisation of the Ministries. An update of this report is expected in the first half of 2012.

bodies of the individual countries do not have any say of their own, but for which the relevant powers have been conferred on bodies within the Kingdom. These subjects include defence, foreign relations, and the regulations concerning Dutch citizenship. The citizens of the four countries hold Dutch citizenship.

## 2.2 General structure of the legal system

### *Migration and Asylum*

In 2011 the responsibility for aliens affairs (including the Netherlands Nationality Act) and integration rests with the Ministry of the Interior and Kingdom Relations. The associated tasks have been divided between the Minister of the Interior and Kingdom Relations and the Minister for Immigration and Asylum. The latter does not have his own Ministry; his staff falls under the responsibility of the Ministry of the Interior and Kingdom Relations. The Minister for Immigration and Asylum has been charged with the tasks in the area of aliens and asylum policy, including the Immigration and Naturalisation Service, the Central Agency for the Reception of Asylum Seekers, the Repatriation and Departure Service, border control in aliens affairs, and the Movement of Persons Kingdom Act. The responsibility for the Netherlands Nationality Act rests with the Minister of the Interior and Kingdom Relations.<sup>5</sup>

The Minister of Foreign Affairs is responsible for visa policy. This Minister is also responsible for the drafting of country reports - which describe the situation in the major countries of origin of asylum seekers - and individual reports - which are used to check facts or documents presented by asylum seekers for correctness and authenticity.<sup>6</sup>

Not all third-country nationals who enter the Netherlands are permitted to work in the Netherlands. The Minister of Social Affairs and Employment is responsible for the admission of third-country nationals to the Dutch labour market.

### *Integration*

By government decision of 16 December 2011, the Minister for Immigration and Asylum is also charged with integration, civic integration and the co-ordination of integration of minorities. By this decision, the title of the Minister was changed into Minister for Immigration, Integration and Asylum Policy.<sup>7</sup> Until that date, the Minister of the Interior and Kingdom Relations had been charged with integration, civic integration, and the coordination of integration of minorities.

### *Organisations involved*

A large number of organisations play a role in the implementation of policy in the area of migration and asylum. The most important organisations are the following:

5 The press release with the complete overview of the portfolio division can be found at [http://www.kabinetformatie2010.nl/portefeuilles\\_kabinet.html](http://www.kabinetformatie2010.nl/portefeuilles_kabinet.html)

6 See INDIAC – NL EMN NCP (2010).

7 In this report the title of Minister for Immigration and Asylum is used.



- The Immigration and Naturalisation Service (IND) - an agency of the Ministry of the Interior and Kingdom Relations - is responsible for the implementation of the Aliens Act and the Netherlands Nationality Act. This service assesses all applications submitted by third-country nationals who want to come to the Netherlands, who want to reside in the Netherlands or who want to become Dutch citizens. On behalf of the Minister of Foreign Affairs, the IND also plays a role in the assessment of applications for short-stay visas. In addition, the IND assesses all applications for a Regular Provisional Residence Permit on behalf of the Minister of Foreign Affairs.
  - The Repatriation and Departure Service (DT&V) is responsible for facilitating the departure of third-country nationals who must leave the Netherlands in a humane and professional manner.
  - The Custodial Institutions Agency (DJI) - an agency of the Ministry of Security and Justice - is responsible for, among other things, the enforcement of custodial orders for the removal of third-country nationals from the Netherlands, including detention (so-called aliens detention).
  - The Central Agency for the Reception of Asylum Seekers (COA) is responsible for the reception of asylum seekers and is a non-departmental public body (NDPB). On the instruction of the Minister for Immigration and Asylum, the COA provides safe accommodation to asylum seekers who are in a vulnerable position and assists them in preparing for their future, in the Netherlands or elsewhere. The COA deals, in particular, with asylum seekers and refugees, and with specific groups such as unaccompanied minors. The COA is an implementing body and has reception centres throughout the Netherlands.
  - UWV WERKbedrijf is a non-departmental public body (NDPB) that works on the instruction of the Ministry of Social Affairs and Employment. The Ministry has charged this body, among other things, with the issuance of work permits to third-country nationals who want to work in the Netherlands.
  - The Council for Legal Aid is a non-departmental public body (NDPB) that is fully financed by the Ministry of Security and Justice. The Council supervises and is responsible for the organisation of the provision of government-funded legal aid by the Legal Aid and Advice Centre, mediators, and lawyers. This body is also responsible for the organisation of the provision of legal aid in asylum cases.
  - The Royal Netherlands Marechaussee - which is part of the Ministry of Defence - plays a role in border control and combating irregular migration and all forms of crime.
  - The Aliens Police is part of the regional police forces. It is engaged in the supervision of the legal stay of third-country nationals.
- \* The municipalities are responsible for housing holders of asylum residence permits and they also play a role in processing applications for naturalisation.

Furthermore, a number of non-governmental organisations are active in the area of migration and asylum. These most important organisations are the following:

- The International Organisation for Migration (IOM), which plays a role in the voluntary return and/or onward migration of third-country nationals;

- The Dutch Council for Refugees, which provides practical support to asylum seekers;
- Stichting NIDOS, a guardianship agency that operates at the national level, in particular for unaccompanied minor refugees and asylum seekers.

### ***Judiciary***

Within the judiciary, the following bodies are engaged in the administration of justice in cases related to aliens policy:

- The Aliens Chamber (Vreemdelingenkamer) forms part of the administrative law section at the Hague District Court and focuses solely on hearing disputes in relation to aliens law. Formally, the Hague District Court is the only court to hear disputes in relation to aliens law. However, the hearings take place not only in The Hague, but also in the so-called subsidiary places of session. All nineteen District Courts in the Netherlands have Aliens Chambers. The Aliens Chambers hear appeals in aliens cases.<sup>8</sup>
- The Administrative Division of the Council of State is the highest general administrative court in the Netherlands. This is also where, among other things, cases in relation to aliens law are decided.

# 3 GENERAL DEVELOPMENTS RELEVANT TO ASYLUM AND MIGRATION

This Section describes the political developments and most significant debates in the area of migration, integration, and asylum. Where possible, the positions and roles of the major political parties and civil society organisations will also be discussed.

## 3.1 General Political Developments

In 2011, the Netherlands was governed by a minority government formed by the liberal People's Party for Freedom and Democracy (VVD) and the Christian Democratic Appeal (CDA) with the passive support from the Party for Freedom (PVV).

### *Provincial Council elections*

On 2 March 2011, the Provincial Council elections were held. In these Dutch elections, the members of the Provincial Councils in the twelve Dutch provinces were chosen for the period from 2011 to 2015.

### *Elections to the Senate*

On 23 May 2011, the elections to the Senate were held. In these elections, the members of the twelve Dutch provinces chose the 75 members of the Senate of the States General. The Island Councils of the special municipalities of Bonaire, St. Eustatius, and Saba did not yet have the right to vote, because the required constitutional amendment had not yet been made. The elections are by secret ballot. The members of the Provincial Councils cast weighted votes in order to do justice to the number of inhabitants they represent. The members usually give their votes to a candidate of their own party, but they are not obliged to do so. Votes that do not result in a seat on the Senate of their own party may be given to a 'friendly' party. Given the small difference between the opposition and the coalition, the allocation of a few seats could have major consequences. Prior to voting, there were many consultations between the parties on the distribution of the surplus votes. Eventually, this had little influence. The distribution of the seats approximately corresponds with the predictions on the basis of the Provincial Council elections. The official results were determined and announced on Wednesday, 25 May 2011, in open session of the Electoral Council.

In substance, the elections to the Senate showed the same results as the elections to the Lower House of Parliament in 2010. The new coalition government also obtained a minority in the Senate. With 37 of the 75 seats in the Senate, the VVD, CDA, and the PVV - the party passively supporting the minority government - did not obtain a majority,

but they could eventually count on the seat of the Calvinist Party (SGP), which promised to support the government.

### 3.2 Main Policy and/or Legislative Debates

In 2011, there was much discussion about issues concerning immigration, integration, and asylum. Below is a concise representation of several of the most significant social debates.

#### *Westernised Afghan girls*

In the first half of 2011, the planned removal of an Afghan girl caused much discussion and media attention. At the time of the planned removal, the girl - Sahar - was a girl of 14 years old who had resided in the Netherlands since she was 3 years old.<sup>9</sup> Various of the family's applications for asylum had been rejected. Sahar was also responsible for much attention and discussion in the Lower House of Parliament. By letter of 8 April 2011, the Minister for Immigration and Asylum announced that - under certain circumstances - it cannot be expected from Afghan girls with a westernised life style to return to their country of origin, Afghanistan.<sup>10</sup>

#### *Minor children rooted in the Netherlands*

In the second half of 2011, the asylum case of an Angolan boy - Mauro - gained national publicity as a result of the possibility of him being removed.<sup>11</sup> Mauro came to the Netherlands as an unaccompanied minor when he was 10 years old, and lived with foster parents for more than eight years. Mauro's initial asylum application was rejected as early as in 2007. Mauro's foster parents tried to adopt Maura, but this turned out to be problematic as Mauro's parents were still alive. His 2009 application for a residence permit on the basis of Article 8 of the European Convention of Human Rights (concisely stated: on the basis of respect for family life with his foster family) was rejected in 2011.<sup>12</sup>

Mauro's possible removal is controversial. In October 2011, a parliamentary debate was held on this issue, despite the fact that parliament usually does not give its opinion on individual cases. Mauro was a guest in various TV programmes and his story dominated the national media for days, not in the least because it was being reasoned that the varying views on his case could not only cause problems in the support coalition but also in the CDA, which is one of the two parties in office.

It became clear that the authorities and society are regularly confronted with children who are obliged to return to their country of origin - with or without their parents - at some time in the future, because all legal remedies to obtain a residence permit have been exhausted.

9 In the media, reference was made to the Afghan girl named Sahar.

10 *Parliamentary Papers II* 2010/2011, 19637, no. 1410.

11 In the media, reference was made to an Angolan boy named Mauro.

12 In June 2011, the notice of appeal submitted by the Minister for Immigration and Asylum was upheld. At the same time, the appeal was declared unfounded. This resulted in the fact that Mauro had exhausted all legal remedies and that return came up for discussion.

In order to prevent future discussions about individual cases such as Mauro from Angola and the Afghan girl Sahar, the opposition parties of the Labour Party (PvdA) and the Christian Union (CU) submitted a bill to amend the Aliens Act 2000 on 28 October 2011, in order to strengthen the position of minor third-country nationals who have rooted in the Netherlands.<sup>13</sup>

The parties submitting the bill established that - in the Netherlands - the entry procedures of third-country nationals sometimes took so much time that the children of those third-country nationals had rooted in the Netherlands in such a degree that they (and also their parents and any other children in the family) still had to be granted a residence permit. For this condition to apply, they had to have been in the Netherlands for more than eight years. Third-country nationals who had entered the Netherlands as unaccompanied minors and who had had a residence permit specifically for unaccompanied minors until they turned 18 years old, should be granted a residence permit if they had rooted in the Netherlands for at least five years. The initiators attached the condition that the third-country nationals had had to have been 'in sight of' the authorities, so that permits were not granted to irregular migrants. They also set the condition that the length of the procedures was due, or partly due, to decisions made by the authorities that proved incorrect later on or to the authorities having let things drift.<sup>14</sup>

On 19 December 2011, the opposition party of Green Left and a large group of Dutch celebrities started a petition for a pardon for children in support of this private member's bill. On the first day, more than 25,000 Dutch citizens supported the social initiative for a pardon for children.<sup>15</sup>

### ***Criminalisation of illegal stay***

The Rutte government considered in its Coalition Agreement of September 2010 that irregularity of third-country nationals in the Netherlands 'is a serious problem'.<sup>16</sup> The problems of irregularity of third-country nationals are caused by the associated forms of nuisance and crime, including human trafficking and living in dehumanising conditions. The Coalition Agreement reveals that the government will commit itself to 'making illegality a criminal offence and will focus enforcement mainly on persons causing nuisance or indulging in criminal behaviour, with the aim of deporting them from the country as soon as possible.' During the budget debate on 30 November 2010 with the Minister for Immigration, Integration and Asylum Policy, the opposition was concerned that churches, hospitals, and other organisations who received irregular migrants or provided medical care would also be punishable. The Minister made it known that aid to irregular migrants would not be prohibited.

In the first half of 2011, the social debate was fed by the plans of the government. Church in Action (Kerk in Actie), a division of the Protestant Church in the Netherlands, is one of the initiators of the 'Coalition against Criminalisation' which presented a statement on 9 March 2011 against the intention of the government to make irregularity a

13 *Parliamentary Papers II* 2011/2012, 33068, no. 2.

14 Up to the end of 2011 there was no official reaction of the Dutch government on this bill.

15 For more information, see: [www.kinderpardon.nu](http://www.kinderpardon.nu)

16 For more information, see: <http://www.government.nl/government/cabinet/coalition-agreement>

criminal offence. This coalition did not only include nearly all Dutch churches, but also the Dutch Trade Union Federation, the National Federation of Christian Trade Unions in the Netherlands, various Dutch municipalities, associations of legal experts, and refugee organisations. In their joint statement, the organisations referred to the possible criminalisation of illegal stay as ‘out of all proportion’ and ‘bad for society’.<sup>17</sup> These organisations were of the opinion that the measure would result in the fact that irregular migrants would no longer seek help, as a result of which they would become even more anonymous and municipalities would lose sight of the irregular migrants within their boundaries.

In July 2011, the Dutch government presented its approach to illegal stay in the form of a number of concrete measures. One of these measures is making illegal stay an offence. The criminalisation of illegal stay is not an objective in itself, it is one of the instruments to prevent and combat illegal entry into and illegal stay in the Netherlands. It is part of a coherent set of measures that is aimed at making illegal stay in the Netherlands unattractive.

### ***Protesting Somalis in Ter Apel (repeated asylum application)***

At the end of 2011, a group of Somali asylum seekers who had exhausted all legal remedies started a protest at the gate of the asylum seekers’ residence centre in Ter Apel. They stated that it was not safe in their country and that they could not return because of this. According to the Minister for Immigration and Asylum, a return to Somalia was, in principle, possible for them, but the Somalis would have to cooperate actively. The protest was meant to force a solution. The statement of the protesters was: ‘We cannot return. Still, we are being turned out into the street without any possibilities to survive. We came here for well-founded reasons and we demand that our fundamental human rights be respected.’<sup>18</sup> Finally, the Somalis in Ter Apel who had exhausted all legal remedies broke camp after consultations with the municipality of Vlagtwedde and accepted the offer of the Immigration and Naturalisation Service to still submit a new asylum application.

### ***Stricter rules for family migration***

In the first half of 2011, the Dutch government announced that it would tighten up the requirements around family migration, enabling newcomers to integrate better in Dutch society. In 2011, the Minister for Immigration and Asylum had several discussions in Europe about these plans. This issue led to discussions in the Dutch media in 2011 on a regular basis. The wish to make family reunification more difficult came, in particular, from the PVV, the party passively supporting the minority government. The stricter rules include a higher income requirement and a higher age limit for marriage migrants.

It would not be useful in the context of this report to list all discussions. Not dealt with in this report, but worth mentioning are discussions about the shortening of the asylum procedure, the increase in administrative charges, the ‘brain drain’ from the Nether-

17 For more information, see: <http://www.trouw.nl/tr/nl/5091/Religie/article/detail/1858190/2011/03/10/Leers-heeft-toch-dezelfde-Bijbel.dhtml>

18 For more information, see: <http://www.doorbraak.eu/?p=8149>.

lands, the removal of Afghans who were suspected of war crimes, the burka ban, the position of homosexual asylum seekers, the Dublin transfers to Greece, and the cancellation of the integration requirement for Turkish third-country nationals.

### 3.3 Broader Developments in Asylum and Migration

In 2011, the Dutch government furthermore continued carrying out its intentions as formulated in the Coalition Agreement of September 2010.

#### *Asylum*

The government declared in the Coalition Agreement that the reception of asylum seekers would preferably take place in the country or region of origin. The government furthermore aims at an effective application of the Dublin Treaty, the Dublin Regulation, and the accompanying legislation, in which context the asylum application will be dealt with by the responsible Member State. In 2011, the Dutch government decided that the policy protecting specific categories of asylum seekers on the basis of the situation in the country of origin will be abolished, including its legal basis. Family members who want to join asylum seekers will no longer automatically be granted an asylum status, but will be placed under regular policy on family migration, in which context no requirements are set on income and civic integration abroad.

On 1 July 2010, the so-called Improved Asylum Procedure entered into force in the Netherlands. The most important result of the new asylum procedure is that the number of asylum applications disposed of in the general eight-day asylum procedure has considerably increased. In the first half of 2011, the average disposal percentage was 54%.<sup>19</sup> This percentage concerns both grants and rejections. This means that a much larger portion of the asylum seekers sooner obtained clarity about their prospect for a stay in the Netherlands (approximately two months after the initial application).

In addition to the implementation of the Improved Asylum Procedure, measures within the framework of the programme 'Streamlining Entry Procedures' are intended to result in further improvement, in particular with regard to follow-up procedures and - further - acceleration of procedures. On 22 February 2011, the Minister for Immigration and Asylum announced the outlines of his policy intentions for more streamlined and more efficient entry procedures.<sup>20</sup>

In 2011, the Dutch government started its review of its specific policy on unaccompanied minors. This review will be translated into concrete terms in 2012. Adjustments to the policy on unaccompanied minors are expected to be implemented in 2012. The purpose of this review is that unaccompanied minors will sooner obtain clarity about their prospects: integration in the Netherlands or return to their country of origin. A consequence of this principle is that the current residence permit specifically for unaccompanied minors will be abolished. The government will also aim for more and more quickly returns of unaccompanied minors who do not need protection in the Netherlands, provided that local accommodation has been arranged in the country of origin.<sup>21</sup>

<sup>19</sup> *Parliamentary Papers II* 2011/2012, 19637, no. 1460.

<sup>20</sup> For more information on the developments in the area of asylum, please refer to Section 7 of this report.

<sup>21</sup> Information obtained from the Directorate for Migration Policy.

### *Family migration*

The government stated in the Coalition Agreement that it intended to set high requirements on family formation and family reunification. These requirements include such training requirements that successful integration is guaranteed in advance, and a higher income requirement and a higher age requirement to be considered for family migration. In this context, the government directed its efforts in 2011 towards amending the European Directive on Family Reunification.

On 16 September 2011, the Council of Ministers agreed to the proposal of the Minister for Immigration and Asylum to tighten the requirements for family migration.<sup>22</sup> By tightening the requirements for family migration, the government wants to ensure that if people come to the Netherlands for long-term or permanent residence, they will have a good chance of successful integration and participation in Dutch society. At the national level, for instance, the government wants to limit the possibility of family formation and family reunification to the core family. The government furthermore intends to implement a waiting period of one year for those migrants who want to have their marriage partner or minor child come over and to increase the period required to be eligible for continued residence (after having stayed with a person holding a non-temporary residence permit) from three years to five years.

On 15 November 2011, the European Commission published the Green Paper on Family Reunification.<sup>23</sup> The Member States were given the opportunity to respond to the questions posed in the Green Paper until 1 March 2012. It is subsequently up to the Commission to make recommendations. The Minister for Immigration and Asylum has indicated that he intends to conduct an open debate with other Member States about the manner in which the Directive may be improved such that it will be better positioned to address the challenges with which the Member States are confronted. In the position paper 'Dutch standpoint on EU migration policy', which was presented to the Lower House and Senate on 16 March 2011, the Minister specified for which points he sees room for improving the Family Reunification Directive.<sup>24</sup>

### *Labour migration*

The government indicated in its Coalition Agreement that it wanted to examine whether and to what extent a tightening of labour migration policy would be possible and desirable. The government furthermore indicated to ensure that furtherance of the knowledge economy will not be hindered by all measures undertaken. The government indicated that it considers the Highly Skilled Migrant Scheme essential, but that it will examine whether this Scheme is misused. On the basis of the outcome of this examination, it may be decided to impose further training requirements.

The Highly Skilled Migrants Scheme has been tightened since 19 June 2011.<sup>25</sup> The Immigration and Naturalisation Service (IND) currently has the possibility of refusing an application for a residence permit for highly skilled migrants if the salary is disproportionately high for the relevant employment (verification of whether the salary is competitive).

22 For more information, see: <http://www.rijksoverheid.nl/regering/het-kabinet/ministerraad/2011/16-september-2011.html>.

23 COM (2011) 735, 15 November 2011.

24 *Parliamentary Papers II 2010/2011*, 30573, no. 65.

25 Dutch Bulletin of Acts and Decrees 2011 no. 291.



The Netherlands transposed the EU Blue Card Directive (2009/50/EC) into national legislation, which entered into force on 19 June 2011.<sup>26</sup> Since this date, it has been possible to rely on this Directive directly. This new Directive provides for the conditions of entry and residence for a period of more than three months of a person who performs highly qualified activities as a holder of an EU Blue Card and that of his family members.

### *Immigration in general*

In its Coalition Agreement, the government formulated in the broader sense that it wanted to limit the migration of third-country nationals whose applications were likely to fail, to facilitate integration, and to combat fraud and misuse. To achieve this, the government indicated in 2011 to tighten the permit requirements, to intensify its return policy, and to tackle irregularity.

### *Integration*

The government emphasised in its Coalition Agreement that qualification is the key to successful participation and integration. In 2011, the government therefore attached great importance to setting higher language and training requirements on entry into and residence in the Netherlands. On 16 June 2011, the government sent its Memorandum 'Integration, Cohesion, and Citizenship' (*Integratie, binding, burgerschap*) to the Lower House of Parliament.<sup>27</sup> In this Memorandum, the government explains its views on integration. This Memorandum furthermore announced several policy intentions aimed at the integration of family migrants and other migrants who have been admitted with a view to permanent residence.

The first basic principle is that each citizen is responsible for building up an independent existence. With regard to migrants, this means that they are responsible for their own integration. From this perspective, the government announced, among other things, that people may be required to finance a civic integration course themselves. Those migrants who are currently not able to pay the civic integration course themselves may rely on an income-contingent loan system. The government indicated that it intends to stipulate that the imputable failure of migrants to comply with the integration obligation in time (i.e. within three years) – with the exception of special circumstances – may result in the decision not to extend the residence permit or to withdraw the residence permit. Persons entitled to asylum are excluded from this requirement. In order to make it easier for migrants to use the skills acquired in their country of origin in the Netherlands, the recognition of diplomas and accreditation of prior learning will be expedited.

The other basic principles of the government, as formulated in the Memorandum, are that no specific policy will be implemented to tackle bottlenecks in specific ethnic groups and, finally, that migrants must be enabled to build up an independent existence just like any other citizen. The latter means that policies in areas such as labour market, education, and housing must be practicable for all citizens in the Netherlands, including newcomers. Where this is not the case, the government will make adjustments.

<sup>26</sup> Dutch Government Gazette 2011 no. 10660.

<sup>27</sup> *Parliamentary Papers II* 2010/2011, 32824, no. 1.

### **3.4 Institutional Developments**

Hardly any institutional developments occurred in 2011. By government decision of 16 December 2011, the Minister for Immigration and Asylum is also charged with integration/civic integration and the co-ordination of integration of minorities. By this decision, the title of the Minister was changed into Minister for Immigration, Integration and Asylum Policy.

## 4 LEGAL IMMIGRATION AND INTEGRATION

In 2010, Dutch Parliament adopted the Bill on Modern Migration Policy. The Modern Migration Policy Act relates, in particular, to legal purposes of stay, such as work, study, and family reunification.<sup>28</sup> The new Act was expected to enter into force on 1 January 2011. This deadline was, however, not met due to the introduction of a new computer system at the Immigration and Naturalisation Service (IND). This computer system is required for the implementation of the Modern Migration Policy Act. In 2011, the Minister informed the Lower House of Parliament about the state of affairs of this new computer system.<sup>29</sup> At the end of 2011, a new date for the entry into force of the Act was not yet known.

According to the government, this Act will make the Netherlands more attractive to those migrants who are needed most to strengthen Dutch economy, culture, and science. The starting point of Modern Migration Policy is selectivity. This means that this policy will be inviting to migrants needed for Dutch economy and restrictive to others.<sup>30</sup> This is to make the Netherlands more attractive as a place of business for international companies and highly skilled migrants, which may contribute to strengthen Dutch economy. One of the purposes of the new Act is a simplification of the system of regular residence permits. In addition, it is supposed to result in more efficient procedures. According to the government, the simplification of the system of residence permits and more efficient residence permit procedures will go hand in hand with more effective enforcement, such as in combating fraud with family migration. The Bill is furthermore supposed to result in a substantial reduction in administrative burden for companies and citizens.

In anticipation of the formal implementation of the Modern Migration Policy, trial projects - referred to as 'laboratories' - have been organised in such a way that the principles of this policy are applied as much as possible.<sup>31</sup> In this way both the IND and its clients gain experience with the new elements of the Modern Migration Policy Act, including ordinary and recognised sponsorship, the Entry and Residence Procedure, the rights and duties of the sponsor and third-country nationals as amended, and information exchange with the cooperating organisations.<sup>32</sup> The experiences gained in the laboratories with the Entry and Residence Procedure appear to indicate that the procedure is workable and that it constitutes an acceleration and simplification for the client.

28 For a more detailed description, please refer to the Annual Policy Report 2011.

29 *Parliamentary Papers II* 2010/2011, 30573 no. 66 and *Parliamentary Papers II* 2011/2012, 30573, nr. 77.

30 *Parliamentary Papers II* 2010/2011, 33000 VII, no. 53.

31 The first laboratory, the Au Pair Laboratory, was launched on 1 July 2008.

32 The following laboratories have been launched by now: Au Pair Laboratory, Highly Skilled Migrant Laboratory, Study Laboratory, and Cultural Exchange Laboratory.

## 4.1 Economic Migration

### 4.1.1 Specific Context

If employers are unable to find workers in the Netherlands, they will look for workers abroad. For the entry of staff from outside the EU (or from new European Member States), the work permit is an important tool. Employers who want to employ people in the Netherlands from outside the EU (or the new European Member States of Bulgaria and Romania) will have to apply for a work permit through the Netherlands Employees Insurance Agency. The basic principle for granting work permits is that the labour supply in the Netherlands and the European Union is sufficient.<sup>33</sup> The Netherlands Employees Insurance Agency, for instance, will examine closely whether people in the Netherlands or in Europe are available to do the job and whether a company has examined this sufficiently. If an employer has failed to do so to a sufficient degree or if the salary offered is too low, the permit will be refused. Highly skilled migrants do not require work permits.

### 4.1.2 Developments within the National Perspective

The Dutch labour market is protected by the Foreign Nationals (Employment) Act (*Wet Arbeid Vreemdelingen*). The Netherlands Employees Insurance Agency is responsible for implementing this Act, and the Social Affairs and Employment Inspectorate for enforcing it. In the Netherlands, the entry policy to the labour market is demand-driven. At the time of submitting the application for a work permit, the relevant labour migrant must already have a job. The applications for work permits (or residence permits in the case of highly skilled migrants) are submitted by the employer.

Dutch labour market policy is based on the following key objectives:

1. Highly qualified labour migrants from outside the EU are welcome if they contribute their knowledge to the Dutch knowledge economy (Highly Skilled Migrant Scheme). The Highly Skilled Migrants Scheme has been tightened since 19 June 2011.<sup>34</sup> The Immigration and Naturalisation Service (IND) currently has the possibility of refusing application for residence permits for highly skilled migrants if the salary is disproportionately high for the relevant employment (verification of whether the salary is competitive).<sup>35</sup>
2. Although the number of work permits has decreased for several years, the government has indicated it intends to reduce the number of work permits still further.<sup>36</sup> Since 1 July 2011, work permits will only be granted to employees from outside the EU, Bulgaria, and Romania in exceptional cases. In order to protect the domestic labour market, only those employees are admitted in respect of whom it has been established that they will be performing a job for which no priority workforce is available (unless the employees concerned are highly skilled migrants). The basic principle for granting work permits is that the labour supply in the Netherlands and the European Union is sufficient.<sup>37</sup> Since 1 July 2011, the Netherlands Employees Insurance

33 *Parliamentary Papers II* 2010/2011, 32144, no. 5.

34 Dutch Bulletin of Acts and Decrees 2011 no. 291.

35 *Parliamentary Papers II* 2010/2011, 32144 no. 5.

36 *Parliamentary Papers II* 2010/2011, 29407, no. 128.

37 *Parliamentary Papers II* 2010/2011, 32144, no. 5.

Agency has tightened its verification of the availability of domestic labour supply and alternatives within the EU with regard to work permit applications from employers.

3. By ensuring that labour migrants are paid in line with the market and receive at least the statutory minimum wage, the government attempts to protect national labour relations and to tackle unfair competition. By letter of 12 November 2010, the Minister of Social Affairs and Employment informed the Lower House of Parliament that the Netherlands Employees Insurance Agency will only grant a work permit to a labour migrant if the third-country national is offered a salary that is in line with the market in order to prevent downward competition of employment conditions by labour migrants.<sup>38</sup> This prevents vacancies from being unattractive to domestic employees due to underpayment. The Social Affairs and Employment Inspectorate may check whether the labour migrant actually receives the salary mentioned by the employer; it may do so on the request of the Netherlands Employees Insurance Agency or on its own initiative.<sup>39</sup>
4. Illegal employment will lead to domestic labour supply being pushed out and is consequently diametrically opposed to the objective of the government to help as many job seekers in finding jobs as possible. In many cases, illegal employment is associated with underpayment of employees, poor working conditions, and tax and premium evasion. This has resulted in unfair competition. The Foreign Nationals (Employment) Act therefore prohibits employers to have persons not having free access to the Dutch labour market work without work permits. The Social Affairs and Employment Inspectorate is responsible for enforcing the Foreign Nationals (Employment) Act. Compliance with the Foreign Nationals (Employment) Act is monitored by means of inspections at companies. These inspections are held on the basis of risk analyses and in the context of projects, intervention teams or tip-offs/reports. Where necessary, the Social Affairs and Employment Inspectorate cooperates with other services during inspections, including the Aliens Police, the Tax and Customs Administration, and the Netherlands Employees Insurance Agency. As from 1 January 2005, enforcement of the Foreign Nationals (Employment) Act has been effected in particular under administrative law. The basic principle for introducing an administrative penalty (€ 8,000 per illegally employed third-country national) is to deal more efficiently and more effectively with the employer who is guilty of illegal employment. The inspections of the Social Affairs and Employment Inspectorate and other government bodies have shown that illegal employment is still prevalent.<sup>40</sup>

On 1 September 2011, the circular migration pilot project was ended prematurely. With this project, the government had wanted to combine labour migration policy and policy on development cooperation. The purpose of the pilot project was that migrants from two developing countries - 100 migrants per country - would come to the Netherlands for two years to work in jobs at secondary-school level. At the end of this two-year period, they were to return to their country of origin. The development dimensions would not only be that they would be able to send money home (remittances), but also that they would acquire relevant work experience that they could apply in their home

38 *Parliamentary Papers II* 2010/2011, 32452, no. 8.

39 *Parliamentary Papers II* 2010/2011, 17050, no. 402.

40 For more information, see [www.wetarbeidvreemdelingen.nl](http://www.wetarbeidvreemdelingen.nl)

country. The pilot project was launched on 1 January 2010, and was conducted with South Africa and Indonesia. However, the party conducting the pilot project did not succeed in finding a sufficient number of vacancies in the Netherlands. Apart from the economic crisis, as a result of which the demand for labour dropped sharply, the employers considered the limited period of employment (not more than two years) too short.

#### **4.1.3                    *Developments from the EU Perspective***

In 2011, the Netherlands introduced a new purpose of residence: the EU Blue Card.<sup>41</sup> The EU Blue Card is a separate purpose of residence in addition to the existing Dutch Highly Skilled Migrants Scheme. This new Directive provides for the conditions of entry and residence for a period of more than three months of a person who performs highly qualified activities as a holder of an EU Blue Card and that of his family members. The purpose of this Directive is to make the EU more attractive to highly qualified workers from around the world and to consolidate its competitiveness and economic growth. In order to be eligible for an EU Blue Card in the Netherlands, the employee must have highly qualified employment for a minimum period of one year and earn a gross annual salary of at least € 60,000. The employee will be considered highly qualified if he or she has completed at least a higher education programme of which the studies needed to acquire the certificate lasted at least three years. This foreign certificate will be compared to the Dutch educational system and Dutch professional requirements must be met. In addition, the employer may not have received a fine for breaching the Dutch Foreign Nationals (Employment) Act or for not paying (or not paying enough) PAYE tax or national insurance contributions. As the national Highly Skilled Migrants Scheme will continue to exist as well, the highly skilled migrant or the employer can choose between residence on the basis of national policy or residence with an EU Blue Card on the basis of the European Directive. Whereas in the national Highly Skilled Migrants Scheme, in principle, only the salary to be received is considered, the Directive also sets a qualification requirement. It is consequently easier to be granted residence in the Netherlands on the basis of the national Highly Skilled Migrant Scheme. Contrary to what the name leads one to suspect, the EU Blue Card does not entitle the migrant to work in a different Member State from the state in which the card was issued. If a holder of a EU Blue Card wants to work in a different Member State, he or she will have to apply for a new EU Blue Card in this Member State. The second Member State may decide to verify again whether all entry conditions are met. The advantages of the EU Blue Card are that it facilitates residence and employment in a different EU Member State and that it is easier for family members of the highly skilled migrant to be eligible for an independent residence permit 'continued residence'. Another advantage of the EU Blue Card is that also the highly skilled migrant who has worked in different Member States may be eligible for the status of long-term third-country national resident. If the conditions of the EU Blue Card are met as well, it may be interesting to opt for the EU Blue Card. The latter will apply, in particular, to employees of companies with offices in several Member States that want to be flexible in relocating their highly qualified staff as well as to the highly qualified employee who prefers to move more freely within Europe.

## 4.2 Family Reunification

### 4.2.1 *Specific Context*

The Dutch government indicated to set stricter requirements on newcomers before coming to the Netherlands, so that those who actually enter the Netherlands are better able to integrate in Dutch society. In order to achieve this, the government formulated its plans in 2011 to tighten the requirements for family migration.<sup>42</sup>

### 4.2.2 *Developments within the National Perspective*

By tightening the requirements for family migration, the government wants to ensure that if people come to the Netherlands for long-term or permanent residence, they will have a good chance of successful integration and participation in Dutch society. In order to realise this, the government established the following:

1. The possibility of family formation and family reunification will be limited to the core family: consequently to those partners who are married or who have entered into a registered partnership.<sup>43</sup> By this limitation, the government wants to prevent relationships from being entered into for the sole purpose of obtaining a residence permit. For couples for whom it is legally impossible to marry abroad, for instance homosexuals, it will nevertheless still be possible to marry or enter into a registered partnership in the Netherlands through a temporary residence permit.<sup>44</sup>
2. A waiting period of one year will be introduced for those who want to bring a marriage partner or a minor child to the Netherlands. The government is of the opinion that this measure will ensure that the individual who wants to bring a marriage partner or minor child to the Netherlands will have been integrated in a sufficient degree.
3. The required period for being eligible for continued independent residence (after having stayed with an individual with a non-temporary residence permit) will be extended from three years to five years.<sup>45</sup> By this measure, the government wants to discourage marriages of convenience. In addition, the possibility of relying on social assistance will be deferred for two years.

In 2011, the Netherlands took several measures to improve integration and full participation of family migrants. These measures are aimed at improving the starting position of family migrants, so that they can prepare themselves for the demands placed upon them by Dutch society even before their arrival in the Netherlands. The Civic Integration Abroad Act (*Wet inburgering buitenland*) sets as a condition that family migrants learn the Dutch language at a basic level in their own country and that they are introduced to the basic concepts of Dutch society. As from 1 April 2011, the Dutch government raised the level of the *Toets Gesproken Nederlands* (Spoken Dutch test) from 'A1 minus' to A1

42 For more information, see: <http://www.rijksoverheid.nl/regering/het-kabinet/ministerraad/2011/16-september-2011.html>.

43 This will end, among other things, the possibility of family formation for unmarried partners and adult children.

44 *Parliamentary Papers II* 2011/2012, 32175, no. 19.

45 A residence permit for continued residence is a kind of 'intermediate station' prior to the permanent residence permit. Similar to the permanent residence permit, the residence permit for continued residence is not linked to a specific purpose, which is the case with a temporary residence permit. An application for a residence permit for continued residence may be submitted when someone has held a temporary residence period for a minimum period of three years (this will be five years in the future).

of the Common European Framework of Reference for Languages and added the test *Toets Geletterdheid en Begrijpend Lezen* (Literacy and Understanding Written Texts test).<sup>46</sup>

### **4.2.3 Developments from the EU Perspective**

In November 2011, the European Commission published the Green Paper on Family Reunification.<sup>47</sup> The Minister for Immigration and Asylum has indicated that he intends to conduct an open debate with other Member States about the manner in which the Directive may be improved such that it will be better positioned to address the challenges with which the Member States are confronted.

On 16 March 2011, the Minister specified in his position paper 'Dutch standpoint on EU migration policy' for which points he sees room for improving the Family Reunification Directive.<sup>48</sup> The government is of the opinion that these proposals, which entail a tightening of the Directive, pertain to the promotion of emancipation and integration of migrants (and women in particular), the promotion of economic self-reliance of migrants, and more effective enforcement of the rules.

In August 2011, the Central Appeals Tribunal ruled that the obligation for Turkish nationals to participate in a civic integration programme was in conflict with the treaties concluded between Turkey and the European Union and the interpretation thereof given by the Court of Justice of the European Union.<sup>49</sup> The consequence of this decision is that Turkish are no longer obliged to participate in a civic integration programme. This does not apply only to Turkish nationals in the Netherlands. Turkish nationals are also no longer required to take the civic integration examination in Turkey in order to be eligible for family reunification in the Netherlands.

## **4.3 Other Legal Migration**

### **4.3.1 Specific Context**

In addition to policies on economic migration and family reunification, Dutch regular migration policy includes several other elements, such as entry for reasons related to religion, medical treatment, and study. This subsection will deal with the developments in 2011 with regard to the purposes of residence that do not fall under economic migration and family reunification.

### **4.3.2 Developments within the National Perspective**

The bill to amend the Aliens Act 2000 relating to national visas and other aspects that was submitted on 5 August 2008 was adopted by the Lower House of Parliament on 1 November 2011. This bill adds rules to the Aliens Act 2000 pertaining to the granting of national visas for stays longer than 90 days. This proposed amendment contains the criteria on the basis of which those national visas (for longer than 90 days) will be granted.

<sup>46</sup> Dutch Bulletin of Acts and Decrees 2010 no. 679.

<sup>47</sup> COM (2011) 735, 15 November 2011.

<sup>48</sup> *Parliamentary Papers II* 2010/2011, 30573, no. 65.

<sup>49</sup> For more information, see: <http://www.rechtspraak.nl/Organisatie/CRvB/Nieuws/Pages/TurkseburgersinNederlandnietverplichttotinburgeren.aspx>



In addition, the bill also contains specific procedural rules that partly derogate from the General Administrative Law Act.<sup>50</sup> As a result of this amendment, the Minister for Immigration and Asylum will be given the power to grant Regular Provisional Residence Permits (MVV) and return visas; the Ministry of Foreign Affairs will continue to be the competent authority to grant short-stay visas.

The Dutch government has decided to abolish two exemptions from the requirement of holding an MVV in order to be eligible for a temporary residence permit with effect from 1 January 2012.<sup>51</sup> By this decision, the exemption from the requirement of holding an MVV has been abolished for the third-country national who was a lawful resident in the Netherlands for five consecutive years before reaching the age of 19 (with a residence permit or as a Dutch citizen) and for the third-country national who is eligible for return to the Netherlands pursuant to the Remigration Act (*Remigratiewet*). The abolition implies that these two groups will have to hold an MVV in order to be eligible for a temporary residence permit. The third-country national who, for instance, lived in the Netherlands from the age of 1 up to the age of 6, subsequently moved to another country, and decides to go to the Netherlands when he or she is 30 years old will have to apply for an MVV. Once the MVV has been issued abroad, the third-country national may enter the Netherlands and apply for a residence permit.<sup>52</sup>

#### **4.3.3                    *Developments from the EU perspective***

No particulars.

### **4.4                        *Integration***

#### **4.4.1                    *Specific Context***

The Netherlands aims not to pursue origin-based policy, but to provide individual arrangements within regular policy where necessary. Integration is considered to be a dynamic process that follows along the lines of a number of statistics: proper schooling, a district where the living conditions are pleasant, good physical and mental health, and permanent employment. The efforts of the government are directed towards actually reaching all groups in Dutch society by means of its policy in these areas. Through regular facilities and policy, each citizen must be enabled to build up an independent existence, where necessary supported by his or her family or immediate circle.<sup>53</sup> Existing specific measures aimed at tackling problems that occur more often in some groups will be embedded in regular policy in the next period. As a corollary to that, the subsidies for integration of specific groups will be terminated.

50 Most of the information about this bill is taken from the Explanatory Memorandum: Parliamentary Papers II 2007/2008, 31549, no. 5.

51 Government Gazette 2011 no. 17053.

52 It is obvious that a separate application for granting a temporary regular residence permit will no longer be necessary from the date on which the Modern Migration Policy Act will have entered into force. From that time onwards, the MVV procedure will have been replaced by the so-called Entry and Residence procedure, on the basis of which the third-country national holding the valid MVV will be granted the temporary regular residence permit automatically as a rule.

53 *Parliamentary Papers II* 2010/2011, 32824, no. 1.

#### 4.4.2 *Developments within the National Perspective*

The government emphasised in its Coalition Agreement that qualification is the key to successful participation and integration. The government therefore attached great importance to setting higher language and training requirements on entry into and residence in the Netherlands. On 16 June 2011, the government sent its Memorandum 'Integration, Cohesion, and Citizenship' (*Integratie, binding, burgerschap*) to the Lower House of Parliament.<sup>54</sup> In this Memorandum, the government explains its views on integration. In addition, this Memorandum announced several policy intentions aimed at integration of family migrants and other migrants who have been admitted for the purpose of permanent residence. Dutch integration policy contains the three important basic principles. The first basic principle (a) is that each citizen is responsible for building up an independent existence. With regard to migrants, this means that they are responsible for their own integration. From this perspective, the government announced, among other things, that people may be required to finance a civic integration course themselves. Those migrants who are currently not able to pay the civic integration course themselves may rely on an income-contingent loan system. The government intends to stipulate that the failure to comply with the integration obligation within three years – with the exception of special circumstances – may result in the withdrawal of the residence permit. In order to make it easier for migrants to use the skills acquired in their country of origin in the Netherlands, the recognition of diplomas and accreditation of prior learning will be expedited. The other basic principles of the government are (b) that no specific policy will be implemented to tackle bottlenecks in specific ethnic groups and, finally, (c) that migrants must be enabled to build up an independent existence just like any other citizen. The latter means that policies in areas such as labour market, education, and housing must be practicable for all citizens in the Netherlands, including newcomers. Where this is not the case, the government will make adjustments.<sup>55</sup>

A forced marriage prevents integration in the Netherlands and is punishable. By letter of 28 April 2011, the State Secretary for Security and Justice announced that the government will undertake measures to prevent forced marriages in addition to its measures to combat forced marriage, polygamy, and first cousin marriages.<sup>56</sup> The measures under private law and criminal law relate to the following four subjects: to discourage marriages entered into forcibly; to prohibit the conclusion of a marriage with a person who has not yet reached the age of 18; to prohibit the conclusion of a marriage entered into with a blood relative in the collateral line to the third or fourth remove; and to curtail the possibility in the Netherlands of recognising polygamous marriages lawfully entered into abroad. In order to realise this, the State Secretary for Security and Justice submitted the Forced Marriage Bill in November 2011.<sup>57</sup>

54 *Parliamentary Papers II* 2010/2011, 32824, no. 1.

55 *Parliamentary Papers II* 2010/2011, 32824, no. 1.

56 *Parliamentary Papers II* 2010/2011, 32175, no. 17.

57 For more information, see: <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2011/11/10/wetsvoorstel-huwelijksdwang.html>

In 2011, it was decided to submit a bill banning face-covering clothing in public places. The bill bans face-covering clothing in the Netherlands in public places, in buildings accessible to the public, in educational institutions, care institutions, and in public transport. The sanction for the failure to comply with the ban is a fine. In September 2011, the Council of Ministers/government agreed to send the bill to the Council of State for its opinion.<sup>58</sup>

#### **4.4.3** *Developments from the EU perspective*

No particulars.

### **4.5** **Citizenship and Naturalisation**

#### **4.5.1** *Specific Context*

The procedure to become a Dutch citizen starts at the municipality. Those who want to naturalise will have to submit an application for naturalisation to become a Dutch citizen, accompanied by the required documents. On the basis of these documents and a series of signed declarations, the municipality will issue advice to the Immigration and Naturalisation Service (IND) and forward the application for naturalisation to the IND.

#### **4.5.2** *Developments within the national perspective*

In 2011, the Dutch government made preparations to tighten the requirements for acquiring Dutch citizenship.

The government formulated the following five measures to realise this tightening:

- Third-country nationals must have income from work and may not have received any benefit payments for at least three years.
- If there is a suspicion of the applicant posing a danger to public order, public morality, or security, Dutch citizenship may be refused.
- Every person who wants to acquire Dutch citizenship is obliged to renounce the nationality of the country of origin. Exceptions to the rule will continue to be recognised for refugees and persons who cannot renounce their nationality.
- People who are entitled to Dutch citizenship by option will also have to take a language test.
- The naturalisation period will continue to be five years. Third-country nationals will then have sufficient time to integrate. This also applies to third-country nationals who have been married to or cohabit with a Dutch citizen.<sup>59</sup>

The measures to realise this tightening are an elaboration of the Coalition Agreement. In September 2011, the Council of Ministers/government agreed to sending the bill to this end to the Council of State of the Kingdom for its opinion.

#### **4.5.3** *Developments from the EU perspective*

No particulars.

<sup>58</sup> ?

<sup>59</sup> The current period for third-country nationals who are married to a Dutch citizen to be eligible for naturalisation is three years.



# 5 ILLEGAL IMMIGRATION AND RETURN

## 5.1 Illegal Immigration

### 5.1.1 *Specific Context*

In July 2011, the Dutch government presented its approach to illegal stay in the form of a number of concrete measures.<sup>60</sup> The measures are part of a comprehensive and coherent package of proposals in the area of immigration and asylum as set out in the Coalition Agreement and Parliamentary Support Agreement.<sup>61</sup> Basic principles in this context are that the Netherlands advocates a strict and just, and also a clear and consistent policy. There are still too many third-country nationals who stay in the Netherlands for a long period of time and who follow successive procedures during their stay without clear prospect for a residence permit. Third-country nationals who are not, or no longer permitted to stay in the Netherlands are obliged to actually leave the Netherlands. Illegal immigration and illegal stay are emphatically discouraged. One of these measures to achieve this is making illegal stay a minor offence.

### 5.1.2 *Developments within the National Perspective*

The criminalisation of illegal stay is one of the instruments to prevent and combat illegal entry into and illegal stay in the Netherlands. It is part of a coherent package of measures that is aimed at making illegal stay in the Netherlands unattractive. The intention is that it has a preventive effect. With the criminalisation of illegal stay, the government also aims at a larger dissuasive effect. This will also give a clear signal to third-country nationals who did not enter the Netherlands in accordance with the entry and/or admission rules and who are not, or are no longer legally present in the Netherlands: they are still present in the Netherlands contrary to aliens legislation and that is punishable. The government established the following:

- Illegal stay will be made a minor criminal offence.
- The sentence will be a fine of not more than EUR 3,800. If this fine is not paid, it will collectable for four years.
- The criminalisation applies to adult third-country nationals, because minors depend on their parents for their stay in the Netherlands.
- Complicity in illegal stay, such as providing accommodation or food to irregular migrants for humanitarian reasons, will not be made a criminal offence.
- Those who are guilty of trafficking in human beings or providing employment to irregular migrants will, however, be prosecuted for these offences.<sup>62</sup>

Enforcement of these measures will focus mainly on persons causing nuisance or indulging in criminal behaviour. All irregular migrants will receive a return decision, and - if

<sup>60</sup> *Parliamentary Papers II* 2010/2011, 19637, no. 1435.

<sup>61</sup> For more information, see: <http://www.government.nl/government/cabinet/coalition-agreement>

<sup>62</sup> For more information, see: <http://www.rijksoverheid.nl/regering/het-kabinet/ministerraad/nieuws/2011/09/16/migratie-en-asielbeleid-aangescherpt.html>.

the irregular migrant has not been given a departure deadline or does not comply with the departure deadline - an entry ban.

### **5.1.3                    *Developments from the EU Perspective***

An important factor of attraction for illegal immigration in the EU is the possibility of finding work. In order to fight illegal immigration, Directive 2009/52/EC prohibits illegal employment and provides for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. The message of this Directive is that the EU acts against illegal migration by (i) setting minimum common standards on sanctions for employers to ensure effective dissuasive penalties in all Member States; (ii) promoting a more equivalent competitive position of companies in the EU; and (iii) discouraging the exploitation of third-country nationals. Member States shall, for instance, ensure that the illegally employed third-country national may introduce a claim against the employer for any outstanding remuneration.

To be able to implement this Directive, it was necessary to amend the Foreign Nationals (Employment) Act and the Aliens Decree 2000 (*Vreemdelingenbesluit 2000*). The amendment to the Aliens Decree 2000 entered into force on 19 June 2011. A bill amending the Foreign Nationals (Employment) Act was submitted to the Lower House of Parliament on 6 July 2011 under the responsibility of the Ministry of Social Affairs and Employment and adopted by the Lower House of Parliament on 20 December 2011.<sup>63</sup>

## **5.2                    Return**

### **5.2.1                    *Specific context***

Dutch return policy is aimed at combating and preventing illegal stay of third-country nationals. The basic principle is that third-country nationals who are not, or no longer legally present in the Netherlands return independently to their country of origin or leave to another country where entry is guaranteed. The third-country national is personally responsible for this. If the third-country national fails to return independently, the return or departure will be forced. Third-country nationals without residence permit who want to return independently to their country of origin may receive assistance in building up an existence once again in their country of origin. The third-country national who returns independently may be eligible for financial contributions or assistance in kind (e.g. in schooling or setting up a business) or a combination of the two.<sup>64</sup>

### **5.2.2                    *Developments within the National Perspective***

In order to ensure that asylum seekers who have exhausted all legal remedies and other third-country nationals will actually return to their country of origin, the Dutch government will take several new measures. In this context, attention will be paid to the return of families with children and unaccompanied minors. For families with minor children who are obliged to leave the Netherlands, but whose departure has not yet been realised, specific centres were equipped early in 2011 which provide a form of accommoda-

<sup>63</sup> *Parliamentary Papers II* 2011/2012, 21109, no. 204.

<sup>64</sup> For more information on the different projects for independent return and reintegration, see subsection 6 of the Annex.

tion until departure is realised, and where this departure is facilitated intensively.<sup>65</sup> Voluntary departure is preferred and is encouraged as much as possible. If third-country nationals are not willing to leave voluntarily, the departure will be forced. Forced departure can be realised only if the countries of origin give their consent to this end. As far as a number of countries of return are concerned, it will only be possible to improve and continue cooperation in forced returns by embedding the issue of return in broader bilateral cooperation.

By means of the programme 'Streamlining Entry Procedures', the government intends to provide third-country nationals clarity about the question of whether they can stay in the Netherlands – as early in the procedure as possible.<sup>66</sup> Stimuli that prompt third-country nationals to extend their stay in the Netherlands by submitting application upon application (submitting repeat applications for a residence permit) will be eliminated.<sup>67</sup>

In the return procedure, the motto of the approach is 'from urging to forcing'. As referred to earlier in this Section, illegal stay will be made an offence. In order to further reduce laxity in the departure process, the government indicated in 2011 that it intended to charge the Repatriation and Departure Service also with the coordination of the departure of third-country nationals who have followed regular application procedures.<sup>68</sup> The government furthermore indicated that it will intensively continue its cooperation with the Association of Netherlands Municipalities (VNG) in order to prevent third-country nationals from ending up in the street and to promote as much as possible that third-country nationals who are obliged to leave the Netherlands actually do so demonstrably.<sup>69</sup>

On 10 June 2011, the State Secretary for Foreign Affairs and the Minister for Immigration and Asylum presented their approach to migration and development. The new approach is supportive of the return policy and aims at conditionality. The Netherlands has indicated that it will increase its efforts to ensure that governments of developing countries cooperate constructively in the return of third-country nationals. If a developing country fails to cooperate, this could have consequences for the bilateral and development cooperation relations with the government of the relevant country.<sup>70</sup>

### **5.2.3 Developments from the EU Perspective**

Simultaneously with the introduction of the European Return Directive, the return decision and the entry ban have also been introduced.<sup>71</sup> Third-country nationals in respect of whom it has been established that they are not entitled to residence in the Netherlands or third-country nationals who are found to be illegally present in the Netherlands will receive a return decision. The return decision is a document stating that the third-country national is to leave the Netherlands as well as the entire Schengen area and that he

<sup>65</sup> *Parliamentary Papers II* 2010/2011, 29344, no. 79.

<sup>66</sup> *Parliamentary Papers II* 2010/2011, 19637, no. 1400.

<sup>67</sup> *Parliamentary Papers II* 2010/2011, 19637, no. 1435.

<sup>68</sup> Such as, for instance, a third-country national whose application for residence with a partner submitted in the Netherlands has been refused.

<sup>69</sup> *Parliamentary Papers II* 2010/2011, 19637, no. 1436.

<sup>70</sup> *Parliamentary Papers II* 2010/2011, 19637, no. 70.

<sup>71</sup> After the partial implementation of the Return Directive in December 2010, it entered into force on 31 December 2011.

or she is given a departure period from 0 to 28 days to leave the country and to comply with the decision. If the third-country national has not been given a departure deadline or does not comply with the departure deadline, an entry ban will be imposed. The result of this ban is that the third-country national will be denied entry to the entire Schengen area for an initial maximum period of five years. The risk of being given an entry ban may in itself be a reason for third-country nationals to depart independently. Upon issuing the return decision, it will be pointed out to the third-country national that if he or she fails to comply with the departure obligation, an entry ban may be imposed after which the stay becomes punishable. This will give an additional stimulus to an independent departure.<sup>72</sup>

In 2011, the Netherlands launched the *European Initiative on Integrated Return Management* (EURINT) project. The EURINT project is a cooperation between the Netherlands (Repatriation and Departure Service, Germany (*Zentrale Ausländerbehörde Stadt Bielefeld*), Belgium (Office for Aliens Affairs), and Romania (Romanian Immigration Service), with the object of operational cooperation in three areas.

The first objective of this project is to undertake joint actions towards approaching authorities of third countries in order to improve cooperation in the area of return (return and readmission, issuance of Laissez-Passers, etc.). This objective is realised by organising joint missions to the following countries: Pakistan, Democratic Republic of the Congo, Nepal, Bangladesh, Tunisia, Mongolia, Togo, Benin, Gambia, and Uganda. During these missions, discussions are held with the responsible authorities, such as consular services and immigration services. Where applicable, it is proposed to come to the above-mentioned Member States for a return visit.

Secondly, the participating countries organise joint task forces which are focused on improving the identification process of the third-country national. In 2011, task forces have come from Armenia, Azerbaijan, and Nepal. In the remaining project period, several task forces will be organised and funded on the basis of the EURINT Project.

In addition, the Netherlands and Germany agreed to also organise joint removals through the EURINT project. In 2011, joint removals were effected to Nepal. These removals were not effected with government flights, but with normal scheduled flights with the deployment of escorts to accompany the third-country nationals. The EURINT project started on 1 February 2011 and will run until 31 December 2012.

In 2011, the Repatriation and Departure Service successfully appealed to the European Return Fund (community actions) for funding the European Reintegration Instrument (ERI). The purpose of this project is to realise a common reintegration project in seven third countries: Afghanistan, Iraq, Pakistan, Morocco, Russia (Chechnya), Nigeria, and Azerbaijan. Partners are Belgium (DVZ and FedAsil), France (OFII), Germany (BAMF), and Sweden (SMB). The official start of this project is expected on 1 June 2012.



The Netherlands furthermore cooperates closely within the EU with other Member States on Joint Return Operations (JRO). One Member State is responsible for the organisation of a JRO and it is carried out in cooperation with the *Return Operations Sector* (ROS) of Frontex.<sup>73</sup>

## 5.3 Actions against Human Trafficking

### 5.3.1 Specific Context

The Dutch government considers human trafficking a serious crime, and tackling human trafficking is consequently government priority.<sup>74</sup> The Coalition Agreement includes the intention of the government that it will direct its efforts towards intensifying the investigation and prosecution of offenders of human trafficking. The B9 Scheme (Chapter B9 of the Aliens Act Implementation Guidelines 2000) enables third-country nationals who are victims or witnesses (or potential victims or witnesses) of human trafficking to temporarily stay in the Netherlands during the investigation and prosecution process in order to continue to be available to the police and the judicial authorities.<sup>75</sup>

### 5.3.2 Developments within the National Perspective

The Dutch government has indicated that it intends to tackle misuse of the B9 Scheme as much as possible and to limit access to a residence permit to those for whom it is intended: victims of human trafficking who cooperate with the authorities within the framework of the criminal-law approach to human trafficking. In order to achieve this objective, the government announced the following measures by letter of 15 November 2011:

1. In order to shorten the duration of the procedures of the B9 Scheme, the Immigration and Naturalisation Service will decide more quickly on applications for continued residence submitted by victims of human trafficking and on applications for reviewing the rejections of these applications.
2. The threshold for pressing charges for human trafficking has been kept low intentionally so as to ensure that no signals of human trafficking are missed out and victims receive maximum protection. In order to prevent people from pressing charges solely for the reason of being able to use the scheme, the Public Prosecution Service will pay more attention to the prosecution of false charges. In this way, a strong signal is given to third-country nationals who would want to misuse the scheme.
3. As soon as the Public Prosecution Service decides to dismiss the criminal case, the residence permit will be withdrawn. This will end the right of residence during the complaints procedure against the dismissal of the case by the Public Prosecution Service.
4. In Rotterdam and Groningen/Leeuwarden, a pilot project on charges that are certain to fail will be launched. The purpose of this pilot project is to develop best practices for a quick and careful investigation and assessment of the charges that are certain to fail. Irregular migrants pressing charges that are certain to fail, or charges with insufficient prospect of conviction, will be offered a residence permit on the basis of the B9 Scheme, but this permit will be withdrawn again after the investigation as soon as

<sup>73</sup> For more information, see Subsection 6 of Annex I.

<sup>74</sup> *Parliamentary Papers II* 2011/2012, 28638, no. 57.

<sup>75</sup> For more information, see also the Annual Policy Report 2010.

possible. For the progress to be expeditious, information on the criminal proceedings and the procedures under aliens law is exchanged immediately. After the evaluation of the pilot project, it will be decided whether the accelerated procedure will be included in the B9 procedure.

5. In order to shorten the benefit payment period for victims or alleged victims of human trafficking, it will be examined whether it is possible to provide the benefit payment after the review of the application only to the extent that provisional provisions are granted.
6. A possible tightening of the rules concerning the time to think the matter over (about whether or not to cooperate with the police in its investigation of the reported offence of human trafficking) is being examined. According to the Minister for Immigration and Asylum, the threshold of access to the temporary residence permit for victims of human trafficking in the Netherlands is low compared to other EU countries. In accordance with the Instructions for Human Trafficking, the Dutch police must give the possible victim time to think the matter over upon the slightest indications of human trafficking. The difference between the concept of 'slightest indications', which is used in the Netherlands, and the concept of 'well-founded reasons', which is prescribed internationally, leaves room for a more detailed definition.

Since 15 November 2011, the authorities have worked on the implementation of measures 1 and 2. Measures 3 and 4 will probably be implemented in the second half of 2012. The last two measures (5 and 6) are complicated and will probably have wider consequences than combating human trafficking. An study into these consequences is currently conducted by an interministerial work group; the results of this study will be made public by mid-2012.<sup>76</sup>

### **5.3.3            *Developments from the EU Perspective***

Within the framework of the UN, the Netherlands is concentrating its efforts on more universal ratification and improved implementation of the UN Protocol on Human Trafficking as well as the UN Convention against Transnational Organised Crime

The Netherlands is active in the Regional European Framework; in the first instance through the EU, but also through the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe. On 1 August 2010, the Netherlands ratified the Council of Europe Convention on Action against Trafficking in Human Beings. As far as the important aspect of the protection of victims is concerned, this Convention goes further than the older UN Protocol. Supplementary to its multilateral efforts, the Netherlands has entered into bilateral relations with the most important source countries for victims found in the Netherlands, such as Romania and Bulgaria. In 2011, the Netherlands examined the possibility of setting up a cooperation project in the Ukraine.

The European Directive on preventing and combating trafficking in human beings entered into force on 15 April 2011. This Directive must have been transposed into national law by 6 April 2013.

## 6 BORDER CONTROL

### 6.1.1 *Specific Context*

Persons who want to enter or exit the Schengen area through the Netherlands will pass a border crossing point and will be submitted to a personal security check. Border controls are performed by the Royal Netherlands Marechaussee or, in the Rotterdam port area, by the Seaport Police of the Rotterdam-Rijnmond Regional Police.

Many developments in the area of security checks and border control of the external borders occurred in the context of the Innovation of Border Management Programme.

### 6.1.2 *Developments within the National Perspective*

The ambition of the Innovation of Border Management Programme (*Programma Vernieuwing Grensmanagement* (VGM)) is to create an effective and efficient border control process, in which maximum use is made of automated border control and risk-oriented actions on the basis of pre-collected data on passengers and their luggage. In this context, there must be an effective balance between maximum security and optimum mobility. The programme is a cooperation among the Royal Netherlands Marechaussee, the Customs, the Seaport Police, the Ministry of Security and Justice, the National Coordinator for Counterterrorism and Security (NCTV), the Immigration and Naturalisation Service (IND), the Schiphol Group, and KLM Royal Dutch Airlines under the umbrella of the Ministry of the Interior and Kingdom Relation. The programme has been divided into two phases, with the first phase running until 2012. For the time being, the programme consists of the following four projects: PARDEX Project ('Passenger Related Data Exchange'), API Project ('Advance Passenger Information'), No-Q Project ('Automatic Border Crossing'), and RT Project ('Registered Travellers'). The Innovation of Border Management Programme will start in 2012 with the tender for an information system in order to enable the different government agencies to store all passenger data which the government agencies are permitted to receive in the performance of their statutory duty. Besides the provision of information, efforts are aimed simultaneously at the establishment of a National Information and Analysis Centre on Border Control in which the agencies concerned will cooperate.

By the entry into force of the Schengen Agreement, the border controls at the land borders of the Netherlands, Belgium, and Germany have no longer been performed. Although the controls between the Schengen countries have no longer been performed, persons with the Schengen area must still be able to prove they are legally present. Several countries have implemented measures to tackle undesired illegal immigration and crime. In the Netherlands, the Royal Netherlands Marechaussee has been charged with Mobile Security Monitoring at the internal borders with Belgium and Germany since May 1994.<sup>77</sup> The purpose of these controls is to tackle illegal immigration and all forms of crime. The controls are performed in the area immediately behind the border and random checks are carried out throughout the Netherlands, on the roads, in the trains, on water, and at air traffic.

77 Formerly referred to as 'Mobile Supervision of Aliens'.

In order to be able to ensure more effective and efficient Mobile Security Monitoring, the Royal Netherlands Marechaussee has developed @MIGO-BORAS. The purpose of this system is to provide the Royal Netherlands Marechaussee technical support in the performance of its duties in the area of enforcement of the Aliens Act. The @MIGO-BORAS system consists of camera positions (fifteen permanent and six mobile camera positions) at the main frontier roads with Belgium and Germany. This system is capable of observing traffic patterns and - on the basis of general data of target group profiles - reporting which passing vehicle may be interesting to check.<sup>78</sup>

### **6.1.3            *Developments from the EU Perspective***

On 17 November 2011, the European Commission asked written questions about the legal basis and objective of the @MIGO-BORAS system, and about the process of putting this system in operation. The government has indicated to answer the questions early in 2012.<sup>79</sup>

## **6.2                    Cooperation with Respect to Border Control**

### **6.2.1                *Specific Context***

Operational cooperation among the Member States in the area of the management of the external borders is coordinated by Frontex (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union).<sup>80</sup>

### **6.2.2                *Developments within the National Perspective***

Since its establishment in 2004, the Netherlands has actively participated in joint operations conducted under the coordination of Frontex. The Dutch contribution consists primarily of the deployment of border guards, interpreters, and light equipment, such as vehicles and small craft. In addition, the Royal Netherlands Marechaussee provides training courses at its Border Security Training Center at Amsterdam Airport Schiphol to border officials from the EU for the purpose of Frontex operations. In 2011, too (until March 2011), the Netherlands contributed furthermore substantially to the deployment of special border intervention teams (RABIT) at the border between Greece and Turkey. The Netherlands also contributed to the 'Poseidon Land Operation', which has replaced the swift intervention teams since March 2011, by the deployment of border guards and interpreters.<sup>81</sup>

### **6.2.3                *Developments from the EU perspective***

On 11 October 2011, the countries of the European Union put a joint information system for Schengen visa into use: the EU Visa Information System (EU VIS). The roll-out will be implemented on a phased basis. The system has also been introduced in six countries in North Africa (Algeria, Egypt, Libya, Mauritania, Morocco, and Tunisia). All embassies and consular posts of all European countries, so including the Netherlands, use the EU VIS in those countries by now. The implementation and phased roll-out of the EU visa system will be continued in 2012.<sup>82</sup>

78 @migo-BORAS is the Dutch abbreviation for Mobilie Informatie Gestuurd Optreden – Better Operational Result and Advanced Security.

79 *Parliamentary Papers II* 2011/2012, 19637, no. 1485.

80 For more information, see: [http://europa.eu/agencies/regulatory\\_agencies\\_bodies/policy\\_agencies/frontex/index\\_nl.htm](http://europa.eu/agencies/regulatory_agencies_bodies/policy_agencies/frontex/index_nl.htm)

81 For more information, see Subsection 9 of Annex I.

82 For more information, see: [http://www.eerstekamer.nl/eu/edossier/e090185\\_visum\\_informatiesysteem](http://www.eerstekamer.nl/eu/edossier/e090185_visum_informatiesysteem)

# 7 ASYLUM

## 7.1 Specific Context

On 1 July 2010, the so-called Improved Asylum Procedure entered into force in the Netherlands. The former Accelerated Asylum Procedure (which aimed at deciding on an asylum application within 48 hours) was extended by the implementation of this new procedure into a General Asylum Procedure of eight days. It is the intention to deal with all asylum applications that do not require any further investigation (applications that are either granted or rejected immediately and part of the Dublin cases) in the General Asylum Procedure. If it is not possible for substantive reasons to make a decision within eight days, the case will be referred to the Extended Asylum Procedure.

The most important result of the new asylum procedure is that more cases will be disposed in an accelerated procedure. In the first half of 2011, the average disposal percentage was 54%.<sup>83</sup> This percentage concerns both grants and rejections. With regard to cases in which appeal is initiated (against a rejection to grant asylum in the General Asylum Procedure), the Court will subsequently generally decide within the departure period of 28 days in the proceedings on the merits or it sees cause to grant injunctive relief, so that the reception conditions be continued until the decision is rendered. The strong increase in the number of cases that will be disposed in the General Asylum Procedure implies that a much larger portion of the asylum seekers sooner obtain clarity about their prospect for a stay in the Netherlands (approximately two months after the initial application). Another result in the new asylum procedure is that essentially in all cases the parties have succeeded in realising continuity of legal aid. This means that the asylum seeker is assisted by one and the same lawyer throughout the asylum procedure. In the rest and preparation period, the Dutch Council for Refugees provides information on the asylum procedure to nearly all asylum seekers and the lawyer conducts an initial interview with the asylum seekers. As a result of this, the asylum seekers start the asylum procedure better prepared. Each asylum seeker is furthermore offered medical advice, so that it will be clear already at an early stage whether there are medical aspects that need to be taken into consideration during the procedure. Nearly all asylum seekers have presented themselves for this advice.

Asylum seekers whose applications have been rejected are obliged to leave the Netherlands within 28 days. The Repatriation and Departure Service starts preparing the asylum seekers for a possible departure already in the General Asylum Procedure and points to the possibilities of independent departure.

Not all the measures undertaken have produced the desired effect yet. The measures undertaken to reduce the percentage of second and subsequent applications have not yet been successful. In the first half of 2011, approximately 20% of the asylum seekers submitted a second or subsequent application.<sup>84</sup>

83 *Parliamentary Papers II 2011/2012*, 19637, no. 1460.

84 *Parliamentary Papers II 2010/2011*, 19637, no. 1460.

## 7.2 Developments within the national perspective

After the implementation of the Improved Asylum Procedure in July 2010, measures within the framework of the programme 'Streamlining Entry Procedures' will have to result in further improvement, in particular with regard to follow-up procedures and the acceleration, or further acceleration of procedures. On 22 February 2011, the Minister for Immigration and Asylum announced his policy intentions for more streamlined and more efficient entry procedures.<sup>85</sup>

1. In the initial asylum application procedure, all asylum and humanitarian grounds are assessed simultaneously. The Immigration and Naturalisation Service (IND) does not examine only whether the asylum seeker is in danger in his or her own country, but also whether the third-country national, for instance, has a family in the Netherlands or whether he or she is a victim of human trafficking.
2. Applications for regular residence permits (for employment, study or family migration) must be submitted from abroad. This will prevent asylum seekers from initiating a regular residence procedure if their asylum application has been rejected.
3. The protection policy for a specific category of asylum seekers, on the basis of which a specific group of asylum seekers is granted asylum due to the overall bad situation in the country of origin, will be abolished. These asylum applications will be assessed individually in the future. As a result of this, Dutch asylum policy is more consistent with European legislation and case law.
4. The burden of proof will rest with the applicant: the asylum seeker will have to demonstrate that he or she needs protection, certainly if he or she does not have any travel documents. The government considers it unacceptable that asylum seekers cause their documents to be lost.
5. With regard to repeated applications, the IND will determine in one day whether new facts and/or circumstances have come to light. If this is not the case, the asylum seeker will receive an intended decision to reject the asylum application. If new facts and/or circumstances have come to light, the IND will accelerate the follow-up procedure.
6. With regard to government-funded legal aid, the basic principle of 'no cure no fee' will become applicable. If repeated applications do not result in a positive outcome for the third-country national, he or she will receive a low amount for legal aid.
7. Immediately after the rejection, the asylum seeker will be transferred to the Repatriation and Departure Service, who will assist the asylum seeker in his or her return to the country of origin.
8. Family members who want to join asylum seekers will no longer automatically be granted an asylum status. They will be granted the status of regular migrant.

Several of the above measure have been implemented in practice in 2011. For instance the increased burden of proof. Implementation of the other measures requires Dutch legislation to be amended. These measures will enter into force in 2013.

### Westernised Afghan girls

By letter of 8 April 2011, the Minister for Immigration and Asylum announced that - under certain circumstances - it cannot be expected from Afghan girls with a westernised life style to return to their country of origin, Afghanistan.<sup>86</sup> Each of the girls concerned in this context must demonstrate individually that due to a combination of factors, return to Afghanistan will cause disproportionate psychosocial pressure. Under specific circumstances, these girls will be eligible for a residence permit subject to the restriction of 'compelling humanitarian grounds' (Section 29(1)(c) of the Aliens Act 2000). The determining factors in this context include the age of the girls in relation to the period of the residence in the Netherlands. The starting point will be a minimum age of 10 years old and a period of residence of at least eight years. Other circumstances that may be taken into consideration in the assessment whether it is a case of compelling humanitarian grounds are, for instance, medical circumstances and the composition of the family.

### Minor children rooted in the Netherlands

In order to strengthen the position of minor third-country nationals who have rooted in the Netherlands, the opposition parties of the Labour Party (PvdA) and the Christian Union (CU) submitted a bill to amend the Aliens Act 2000 on 28 October 2010.<sup>87</sup> The parties that submitted the bill established that - in the Netherlands - the entry procedures of third-country nationals sometimes took so much time that the children of those third-country nationals had rooted in the Netherlands in such a degree that they (and also their parents and any other children in the family) still had to be granted a residence permit. For this condition to apply, they had to have been in the Netherlands for more than eight years. Third-country nationals who had entered the Netherlands as unaccompanied minors and who had had a residence permit specifically for unaccompanied minors until they turned 18 years old, should be granted a residence permit if they had rooted in the Netherlands for at least five years. The initiators attached the condition that the third-country nationals had had to have been 'in sight of' the authorities, so that permits were not granted to irregular migrants. They also set the condition that the length of the procedures was due, or partly due, to decisions made by the authorities that proved incorrect later on or to the authorities having let things drift.

## **7.3 Developments from the EU perspective**

In connection with the poor detention and living conditions for asylum seekers in Greece and the level of the Greek asylum procedure, the European Convention for the Protection of Human Rights and Fundamental Freedoms ruled on 21 February 2011 that a "Dublin" transfer to Greece under the present circumstances is not acceptable. In response to this decision, the Netherlands promised that asylum seekers who are present in the Netherlands will still be included in the Dutch asylum procedure, whereas Greece must be held responsible for handling their asylum applications pursuant to the criteria set out in the Dublin Regulation.

<sup>86</sup> *Parliamentary Papers* // 2010/2011, 19637, no. 1410.

<sup>87</sup> *Parliamentary Papers* // 2011/2012, 33068, no. 2.

The European Commission pursues to complete the Common European Asylum System (CEAS) by 2012. The purpose of CEAS is to achieve a system in which the asylum systems relate to each other in such a way that third-country nationals seeking international protection within the EU may expect the same outcome in all Member States.



## 8 UNACCOMPANIED MINORS (AND OTHER VULNERABLE GROUPS)

### 8.1 Specific context

If the asylum application of an unaccompanied minor is rejected, the unaccompanied minor may be automatically eligible for a temporary regular residence permit subject to a restriction that is related to residence as an unaccompanied minor. The residence permit specifically for unaccompanied minors may also be granted automatically if an asylum residence permit is withdrawn. Only third-country nationals who are minors and unaccompanied may be eligible for a residence permit specifically for unaccompanied minors.

### 8.2 Developments within the national perspective

In section 7.1 attention is paid to the Improved Asylum Procedure. This procedure has also applied to unaccompanied minors. Where necessary, the new procedure includes the possibility to grant unaccompanied minors a longer period of rest and preparation, with a target period of approximately three weeks. The Minister for Immigration and Asylum furthermore promised the Lower House of Parliament to ensure a sound way of continuing secure reception.<sup>88</sup> In 2011, the Dutch government started its review of the specific policy on unaccompanied minors. The results of this review will take shape in 2012. The purpose of this review is that the unaccompanied minor will sooner obtain clarity about his prospect: to integrate in the Netherlands or to return to the country of origin. As a consequence of this basic principle, the residence permit specifically for unaccompanied minors which currently still exists will be abolished. The efforts will also be geared towards returning more unaccompanied minors who do not need protection in the Netherlands and to do so more quickly, provided that local accommodation in the country of origin has been arranged.<sup>89</sup>

### 8.3 Developments from the EU perspective

The European Commission and the Justice and Home Affairs Council (JHA Council) adopted an action plan for unaccompanied minors in June 2010. The purpose of the European action plan is to achieve a common European approach in order to ensure that the decision on the future of unaccompanied minors is made as quickly as possible. The JHA Council called on the Member States and the European organisations to intensify their efforts to improve the reception procedures, to improve cooperation with third countries, and to further facilitate voluntary return to and reintegration in the country of origin.<sup>90</sup> The Netherlands is of the opinion that the position of unaccompanied minors may be improved by giving them a quick and definite answer about their residence prospect. Unaccompanied minors who do not qualify for international protection must return to their country of origin as quickly as possible. This is to prevent young people

<sup>88</sup> *Parliamentary Papers II* 2009/2010, 27062, no. 65.

<sup>89</sup> For more information, see: <http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/rapporten/2010/09/30/regeerakkoord-vvd-cda/regeerakkoord-vvd-cda.pdf>

<sup>90</sup> *Parliamentary Papers II* 2010/2011, 27062, no. 71.

travelling to or in Europe from ending up in situations of exploitation. For this purpose, the Netherlands initiated cooperation with Norway, Sweden, Denmark and the United Kingdom in 2010; this cooperation is aimed, among other things, at tracing the parents of unaccompanied minors and at prevention.<sup>91</sup>

# 9 GLOBAL APPROACH TO MIGRATION

## 9.1 Specific context

All developments occurred in the context of the commitments made by the Netherlands within the framework of Pact and the Stockholm Programme. For a full picture of the global approach to migration, reference is therefore made to Subsection 12 of Annex I.

## 9.2 Developments within the national perspective

In 2011, too, the Netherlands has indicated to attach importance to involving diaspora groups in development activities in their countries of origin. Firstly, the Ministry of Foreign Affairs together with the Ministry of the Interior and Kingdom Relations organised so-called annual consultation meetings for community-based organisations, in particular for the migrant community. During these meetings, discussions were held with various representatives of migrant organisations about national and international policy on migration and development, and in particular on the developments within the Global Forum on Migration and Development (GFMD).

In addition, the Dutch government supports many initiatives of migrant organisations to contribute to the development of their villages, communities, and countries of origin. Examples of this are projects on the basis of which migrants are given the opportunity to return to their country of origin for a few months to use their knowledge and skills in a local organisation or institution. The Dutch government also attempts to increase the positive influence of migration on development in other ways, for instance by training authorities of African countries in developing their policies to involve their diaspora groups more in the development of their country.

## 9.3 Developments from the EU perspective

In 2011, the Netherlands participated in the Mobility Partnerships with Armenia, Cape Verde, and Georgia. With regard to Georgia, the emphasis was on return and reintegration. With regard to Armenia and Cape Verde, the emphasis was on strengthening migration management.<sup>92</sup>

92 *Parliamentary Papers II 2010/2011*, 30573, no. 749.



# 10 IMPLEMENTATION OF EU LEGISLATION

This Section provides an overview of the developments in Dutch legislation in 2011 in the context of the implementation of European legislation.

## 10.1 Transposition of EU Legislation 2011

### 10.1.1 *Return Directive*

**Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L348/98).**

Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals (hereinafter the 'Return Directive') was published on 24 December 2008. The Netherlands should have had transposed the Return Directive into national law by 24 December 2010. The bill implementing the Return Directive was submitted to the Lower House of Parliament in June 2010. Partly due to the fact that the Council of State had given a negative opinion on the bill, the date of 24 December 2010 was not met. In December 2010, partial implementation was effected insofar as amendments were not required. by now, the legislative procedure has been finalised. The Senate adopted the Act on 13 December 2011.

The Act entered into force on 31 December 2011.

### 10.1.2 *Blue Card Directive*

**Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (European Blue Card) (OJEU L155)**

Directive 2009/50/EC entered into force on 19 June by Decision of 15 June 2011 to establish the date of entry into force of components of the Modern Migration Policy Decree and to amend the Aliens Decree 2000, and the Civic Integration Decree in connection with said entry into force.

This Decision was published in the Dutch Bulletin of Acts and Decrees no. 291 of 17 June 2011.

### 10.1.3 *Illegal Employment Directive*

**Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJEU L168)**

The purpose of the proposed Directive is to remove the major pull factors of irregular migration: employment by third-country nationals illegally staying in the EU. The proposed measures are aimed at sanctioning employers who have third-country nationals perform illegal employment.

Directive 2009/52/EC should have been implemented by 20 July 2011. Implementation will be realised by an amendment to the Foreign Nationals (Employment) Act. A bill to this end was submitted to the Lower House of Parliament on 8 July 2011. The bill was adopted by the Lower House of Parliament on 20 December 2011 and must still be assessed by the Senate.<sup>93</sup>

It is not yet known when the Directive will be implemented.

## **10.2 Experiences, Debates in the (non-) implementation of EU Legislation**

The Netherlands adopts a position on each Directive. As set out in Subsection 3.4, the government also published a 'road map' for government initiatives in connection with the issue of 'immigration' at the European level, as set out in the Coalition Agreement. The purpose of the 'road map' is to find and create support within the European Union in order to realise the amendments to European legislation as desired by this government. Depending on the subject and the stage of the decision-making process with regard to the different EU Directives, the government will decide on an appropriate strategy. This Subsection will deal with the Directives by stage - current recasts, new proposals - and will conclude with other wishes of the government. Part of the positions discussed in this context are those of the previous government. Insofar as the Dutch government did not specifically adopt a different position, these positions after all still apply as the official Dutch position.

### **10.2.1 Current recasts**

#### Amendment to the Qualification Directive

**Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJEU L377)**

The recast Qualification Directive amends and, as a result of this, broadens the scope of the Directive that sets minimum standards for the qualification for refugees or for persons eligible for subsidiary protection. The Directive defines the content of the protection granted, and also takes account of the particular integration challenges with which the persons seeking international protection are confronted. The Directive aims, in particular, to the clarification of a number of judicial concepts, the approximation of the

rights and facilities granted to refugees and persons eligible for subsidiary protection, and the facilitation of integration in the EU of beneficiaries of protection.<sup>94</sup>

The recast Qualification Directive (Directive 2001/95/EU) was adopted by the Council on 24 November 2011. The Council and the European Parliament signed the proposal on 13 December 2011.

The Directive must have been implemented by 21 December 2013.

#### Amendment to the Family Reunification Directive

#### **Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJEU L251)**

On 15 November 2011, the European Commission published the Green Paper on Family Reunification.<sup>95</sup> The Member States were given the opportunity to respond to the questions posed in the Green Paper until 1 March 2012. It is subsequently up to the Commission to make recommendations. The Minister for Immigration and Asylum has indicated that he intends to conduct an open debate with other Member States about the manner in which the Directive may be improved such that it will be better positioned to address the challenges with which the Member States are confronted.<sup>96</sup>

#### Amendment to the Asylum Procedures Directive

#### **Amended proposal for a Directive on common procedures for granting and withdrawing the international protection status (Recast).<sup>97</sup>**

Prior to this, in October 2009, the European Commission presented a proposal to amend this Asylum Procedures Directive. This proposal will amend the Directive setting minimum standards on procedures for granting and withdrawing the refugee status. The amendment is to put an end to the large variety of procedures in the EU, thus leading to asylum seekers in all Member States of the EU being subjected to a similar and thorough examination when they apply for international protection. Refugees must be prevented from being sent back to countries where they have to fear prosecution within the meaning of the Geneva Convention on Refugees (*non-refoulement*). The purpose is a single European asylum procedure, thus enhancing access to asylum procedures throughout the European Union, with the aim to achieve the same outcome on each asylum application in each Member State.

The European Commission published an amended proposal for the Asylum Procedures Directive on 1 June 2011.<sup>98</sup>

94 For more information, see also the Annual Policy Report 2010.

95 COM (2011) 735, 15 November 2011.

96 For more information, see also the Annual Policy Report 2010.

97 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0554:FIN:EN:PDF>.

98 Former title: Proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (Recast).

This proposal for a Directive amends Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (Recast). As the Council did not succeed in adopting a position, the European Commission published an amended proposal. According to the Commission, the system proposed in the modified proposal is both efficient and protective. In addition, it is cost-effective and helps tackle potential abusive claims. It guarantees that applications will be treated similarly in all Member States and, according to the Commission, it fully respects fundamental rights. At the same time, it is flexible enough to accommodate the particularities of national legal systems. The rules that compose it are clarified and simplified to ensure effective implementation.

The Senate sent its response to the amended proposals for the Asylum Procedures Directive to the European Commission on 7 October 2011.

#### Amendment to the Long-Term Residents Directive

#### **Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection**

This Directive contains proposals to extend the Long-Term Residents Directive to beneficiaries of international protection. This extension implies that beneficiaries of international protection will be able to obtain a long-term resident status in the Member State which granted them international protection (first Member State) after five years of legal residence, that - subject to specific conditions - they will have the right to reside in Member States other than the one which granted them international protection (second Member State) and that they will be able to obtain the long-term resident status in that second Member State after five years of legal residence.

Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection was published on 19 May 2011.

The Directive must have been implemented by 20 May 2013.

#### **10.2.2            *New proposals***

#### Directive on preventing and combating trafficking in human beings

#### **Proposal for a Directive on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA**

The European Directive on preventing and combating trafficking in human beings (Directive 2011/36/EU) entered into force on 15 April 2011.

This Directive must have been transposed into national law by 6 April 2013.



### Seasonal Workers Directive

#### **Proposal for a Directive establishing common entry and residence conditions for third-country seasonal workers**

This is a proposal for a Directive concerning seasonal employment. The purpose of the proposal is to establish common procedures for entry and residence in the EU and to lay down the rights of third-country seasonal workers.

The proposal is currently debated in the Senate.

### Framework Directive on Labour Migration

#### **Proposal for a Directive of the European Parliament and of the Council on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State**

The proposal was signed by the Council and the European Parliament on 13 December 2011 and will subsequently will be published officially.



# ANNEX I: COMMITMENTS TO THE EUROPEAN PACT AND STOCKHOLM PROGRAMME

## Legal immigration and integration

### 1 Economic migration

#### 1.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

##### *I(a) Implement policies for labour migration*

###### Modern Migration Policy

On 5 July 2010, the Bill on Modern Migration Policy of the then Minister of Justice was adopted by Parliament.<sup>99</sup> Modern Migration Policy relates, in particular, to legal purposes of stay, such as work, study, and family reunification.<sup>100</sup> The new Act was expected to enter into force on 1 January 2011. This deadline was, however, not met due to the introduction of a new computer system at the Immigration and Naturalisation Service (IND). This computer system is required for the implementation of the Modern Migration Policy Act. In 2011, the Minister informed the Lower House of Parliament about the state of affairs of this new computer system.<sup>101</sup> At the moment of drafting this report, a new date for the entry into force of the Act was not yet known. In anticipation of the entry into force of the Modern Migration Policy Act, several trial projects – referred to as ‘laboratories’ – have been launched, in which the work is carried out as much as possible in accordance with the principles of this Act. These laboratories have been organised in such a way that both the IND and its clients gain experience with the new elements of Modern Migration Policy, including ordinary and recognised sponsorship, the procedure for entry and residence, the rights and duties as amended of the sponsor and aliens, and information exchange with the cooperating organisations.<sup>102</sup> So far, the laboratories have shown a positive picture of Modern Migration Policy and have demonstrated that the basic principles of the policy as formulated are practicable.

<sup>99</sup> Dutch Bulletin of Acts and Decrees 2010, no. 290.

<sup>100</sup> For a more detailed description, please refer to the Annual Policy Reports of 2009 and 2010.

<sup>101</sup> Lower House of Parliament, session year 2010-2011, 30573, no. 66 and Lower House of Parliament, session year 2011-2012, 30573, no. 77.

<sup>102</sup> The following laboratories have been started: Au Pair Laboratory, Highly Skilled Migrants Laboratory, Study Laboratory, and Cultural Exchange Laboratory.

### Work permits

The premise for granting work permits is that the labour supply in the Netherlands and the European Union is sufficient.<sup>103</sup> The government has indicated that it wants people receiving benefit payments to be employed first. With regard to applications for work permits from employers, the Netherlands Employees Insurance Agency, for instance, will examine closely whether people in the Netherlands or in Europe are available to do the job and whether a company has examined this adequately. If an employer has failed to do so to a sufficient degree or if the alien is paid too little, the permit will be refused.

### Labour Migration

The Highly Skilled Migrants Scheme has been tightened since 19 June 2011.<sup>104</sup> The Immigration and Naturalisation Service (IND) currently has the possibility of refusing an application for a residence permit for highly skilled migrants if the salary is disproportionately high for the relevant employment (verification of whether the salary is competitive).

## ***(b)                    increase the attractiveness of the EU for highly qualified workers and further facilitate the reception of students and researchers***

### EU Blue Card

As from 19 June 2011, the Netherlands transposed the EU Blue Card Directive (2009/50/EC), into national legislation.<sup>105</sup> Since this date, it has been possible to rely on this Directive directly. This new Directive provides for the conditions of entry and residence for a period of more than three months of a person who performs highly qualified activities as a holder of an EU Blue Card and that of his family members. The purpose of this Directive is to make the EU more attractive to highly qualified workers from around the world and sustain its competitiveness and economic growth. In order to qualify for an EU Blue Card in the Netherlands, the employee must have highly qualified employment for a minimum period of one year and earn a gross annual salary of at least € 60,000. The employee will be considered highly qualified if he or she has completed at least a higher education programme of which the studies needed to acquire the certificate lasted at least three years. This foreign certificate will be compared to the Dutch educational system and Dutch professional requirements must be met. In addition, the employer may not have received a fine for breaching the Dutch Foreign Nationals (Employment) Act (*Wet Arbeid Vreemdelingen*) or for not paying (or not paying enough) PAYE tax or national insurance contributions.

As the national Highly Skilled Migrants Scheme will continue to exist as well, the highly skilled migrant or the employer can choose between residence on the basis of national policy or residence with an EU Blue Card on the basis of the European

<sup>103</sup> Lower House of Parliament, session year 2010-2011, 32144, no. 5.

<sup>104</sup> Dutch Bulletin of Acts and Decrees 2011, no. 291.

<sup>105</sup> Dutch Bulletin of Acts and Decrees 2011, no. 10660.

Directive. Whereas in the national Highly Skilled Migrants Scheme, in principle, only the salary to be received is considered, the Directive also sets a qualification requirement. An additional requirement for obtaining an EU Blue Card is a higher wage criterion. It is consequently easier to be granted residence in the Netherlands on the basis of the national Highly Skilled Migrant Scheme. The advantages of the EU Blue Card are that it facilitates residence and employment in a different EU Member State and that it is easier for family members of the highly skilled migrant to qualify for an independent residence permit 'continued residence'. Another advantage is that also the highly skilled migrant who has worked in different Member States may qualify for the status of long-term third-country national resident. If the conditions of the Directive are met as well, it may be interesting to opt for the EU Blue Card. The latter will apply, in particular, to companies with offices in several Member States and who wish to be flexible in relocating their highly qualified staff as well as to the highly qualified employee who prefers to move more freely within Europe.

#### Pilot project on short-staying highly skilled migrants

As from 2012, a pilot project will be launched in order to facilitate stays lasting less than three months for highly skilled migrants. If highly skilled migrants wish to come to the Netherlands for a residence period shorter than three months, it will no longer be required to verify the labour supply to obtain the required work permit. This will result in much shorter procedures and more alignment with the policy for highly skilled migrants who stay in the Netherlands for a period of more than three months.<sup>106</sup>

### **I(c) *Do not aggravate the brain drain***

#### Circular Migration

In the context of the circular migration pilot project 'Blue Birds', Dutch companies were given the opportunity to employ 80 persons who had completed a secondary vocational programme from both Indonesia and South Africa for a maximum period of two years in regular vacancies which were hard to fill due to a shortage of labour (in particular in technical occupations, logistics, and IT) at competitive salaries. At the end of this period, the migrants had to return to their own country, where they could apply the knowledge acquired in the Netherlands in the country of origin. The purpose of this pilot project was to examine whether circular migration would result in the assumed 'triple-win' situation in which the country of destination was able to meet the needs of its labour market, migrants from third countries brought back expertise, knowledge, and means to their countries of origin upon return, which in turn would be advantageous to their countries of origin. The State Secretary for Foreign Affairs decided to terminate the circular migration pilot project prematurely.<sup>107</sup> The pilot project ceased on 1 September 2011. The

<sup>106</sup> Dutch Bulletin of Acts and Decrees 2011, no. 21341.

<sup>107</sup> Dutch Bulletin of Acts and Decrees 2011, no. 12703.

cessation does not have any consequences for those aliens who had been granted a work permit on the basis of the pilot project prior to 1 September 2011 and who are employed by a Dutch employer or by an employer who has its registered office in the Netherlands. They will be able to serve their contract until the end. An evaluation regarding the implementation of the circular migration pilot project will be conducted in short term.

#### Temporary return – assigning experts abroad

In cooperation with migrant organisations, the IOM (International Organisation for Migration) has launched the Temporary Return of Qualified Nationals project. Migrants in the Netherlands with relevant experience are provided with the opportunity to help with the reconstruction of their country of origin. This concerns the temporary outsourcing of migrants to their country of origin in order to carry out work for which there is no local expertise. In the framework of this project temporary return assignments can be realised to Afghanistan, Bosnia and Herzegovina, Ethiopia, Georgia, Sierra Leone and Sudan. The project is financed by the Ministry of Foreign Affairs. During the first stage of the project, from April 2006 up to and including June 2008 (TRQN I), the IOM facilitated 160 return assignments. The second stage (TRQN II) ended in July 2011. So far, 450 return assignments have been facilitated.<sup>108</sup> TRQN II has, however, been extended by one year (from July 2011 up to and including June 2012) on a budget-neutral basis. A total of 50 temporary return assignments will be realised to Sierra Leone and Afghanistan for a period varying from 2 to 6 months.

## 1.2 Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### **1(b) *Improving skills recognition and labour matching***

In this context, the Dutch government is operating on the premise that migrants, just like any other citizen, will be enabled to build up an independent existence. The latter means that policy, for instance in the area of labour market, must be practicable for all citizens in the Netherlands, including newcomers. Where this is not the case, the government will make adjustments.<sup>109</sup> In this context, for instance, the recognition of diplomas and accreditation of prior learning (APL) will be expedited. Actions will also be aimed at improved information about the benefits and possibilities of credential evaluation and it will be examined whether it will be possible to shorten the procedures for the professional accreditation of medical professions. The possibilities of introducing a system for aliens entitled to asylum that is similar to APL will be examined further.

<sup>108</sup> For more information, please visit: [http://www.iom-nederland.nl/english/Programmes/Migration\\_Development/Projects\\_Migration\\_Development/Temporary\\_Return\\_of\\_Qualified\\_Nationals\\_TRQN\\_II](http://www.iom-nederland.nl/english/Programmes/Migration_Development/Projects_Migration_Development/Temporary_Return_of_Qualified_Nationals_TRQN_II)

<sup>109</sup> Lower House of Parliament, session year 2010-2011, 32824, no. 1.

Since 1 October 2011, applications for credential accreditation are no longer assessed by UWV WERKbedrijf (the work placement branch of the Netherlands Employees Insurance Agency), but must be submitted to the international credential evaluation (IDW). IDW is a cooperation between the Central Office of the National Apprenticeship Training Bodies (COLO) and the Netherlands Organization for International Cooperation in Higher Education (Nuffic).<sup>110</sup> The Expertise Centres International Credential Evaluation of COLO and Nuffic are responsible for laying down this credential evaluation. The Credential Evaluation Information Centre (IcDW) is the central point of contact for submitting applications for credential information.

On 22 June 2011, the European Commission published the Green Paper 'Modernising the Professional Qualifications Directive'.<sup>111</sup> Member States had the opportunity to respond to the questions posed in the Green Paper until September 2011. Partly on the basis of the responses received, the Commission will draft a White Paper in which it will present a concrete proposal for a legislative text.

The Professional Qualifications Directive will provide for a system for the recognition of professional qualifications to contribute to the flexibility of labour markets, to achieve further liberalisation of the performance of services, to increase automatic recognition of the qualifications, and to simplify the administrative procedures. This Directive does not only apply to EU citizens who have acquired their professional qualifications in a different Member State from the Member State where they intend to perform a regulated profession, whether as an employee or on a self-employed basis, but also to third-country nationals who enjoy rights pursuant to European legislation: family members of EU nationals, long-term residents, refugees, and holders of a EU Blue Card will be treated similarly to EU nationals as far as the recognition of professional qualifications is concerned.

### 1.3 Key statistics

<b>First residence permits, by reasons (provisional data)<sup>112</sup></b>					
	Total	Family reasons	Educational reasons	Remunerated activities reasons	Other reasons
First permits	46.027	21.662	10.701	10.961	2.703

<b>Unemployment rates of Member State citizens versus third-country nationals residing in the Member State<sup>113</sup></b>		
	Member State citizens	Third-country nationals
Unemployment rate (%)	4.3	11.5

<sup>110</sup> For more information, please visit [www.idw.nl](http://www.idw.nl).

<sup>111</sup> COM (2011) 467 of 22 June 2011

<sup>112</sup> Source: IND Information System

<sup>113</sup> Source: Statistics Netherlands

## 2 Family Reunification

### 2.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

#### **I(d) To regulate family migration more effectively**

##### Tightening of requirements for family migration

On 16 September 2011, the government agreed to the proposal from the Minister for Immigration and Asylum to tighten the requirements for family migration.<sup>114</sup>

By tightening the requirements for family migration, the government wants to ensure that if people come to the Netherlands for long-term or permanent residence, they will have a good chance of successful integration and participation in Dutch society. In order to realise this, the government established the following:

- The possibility of family formation and family reunification will be limited to the core family: consequently to those partners who are married or have entered into a registered partnership. By this limitation, the government wants to prevent relationships from being entered into for the sole purpose of obtaining a residence permit. For couples for whom it is legally impossible to marry abroad, for instance homosexuals, it will nevertheless still be possible to marry or enter into a registered partnership in the Netherlands through a temporary residence permit.
- A waiting period of one year will be introduced for those who wish to bring a marriage partner or a minor child to the Netherlands. The government is of the opinion that this measure will ensure that the individual who wishes to bring a marriage partner or minor child to the Netherlands will have been integrated.
- The required period for qualifying for continued independent residence (after having stayed with an individual with a non-temporary residence permit) will be extended from three years to five years. By this measure, the government wants to discourage marriages of convenience. In addition, the possibility of relying on social assistance will be deferred for two years.

##### Green Paper on Family Reunification

On 15 November 2011, the European Commission published the Green Paper on Family Reunification.<sup>115</sup> The Member States have been given the opportunity to respond to the questions posed in the Green Paper until 1 March 2012. The Minister for Immigration and Asylum has indicated that he intends to conduct an open debate with other Member States about the manner in which the Directive may be improved such that it will be better positioned to address the challenges with which the Member States are confronted. In the position paper 'Dutch standpoint on EU migration policy', which was presented to the Lower House and Senate on

<sup>114</sup> For more information, please visit <http://www.rijksoverheid.nl/regering/het-kabinet/ministerraad/2011/16-september-2011.html>.

<sup>115</sup> COM(2011)735, of 15 November 2011.



16 March 2011, the Minister specified for which points he sees room for improving the Family Reunification Directive.<sup>116</sup>

The government is of the opinion that these proposals, which entail a tightening of the Directive, pertain to the promotion of emancipation and integration of migrants (and women in particular), the promotion of economic self-reliance of migrants, and more effective enforcement of the rules.

## 2.2 Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### 2(b) *The Directive on family reunification, the importance of integration measures*

The Netherlands is taking several measures to improve integration and full participation of family migrants. These measures are aimed at improving the starting position of family migrants, so that they can prepare themselves for the demands placed upon them by Dutch society even before their arrival in the Netherlands.

The Civic Integration Abroad Act (*Wet inburgering buitenland*) sets as a condition that family migrants learn the Dutch language at a basic level in their own country and that they are introduced to the basic concepts of Dutch society. As from 1 April 2011, the Dutch government raised the level of the *Toets Gesproken Nederlands* (Spoken Dutch test) from 'A1 minus' to A1 of the Common European Framework of Reference for Languages and added the test *Toets Geletterdheid en Begrijpend Lezen* (Literacy and Understanding Written Texts test).<sup>117</sup>

<sup>116</sup> Lower House of Parliament, session year 2010-2011, 30573, no. 65.<0>

<sup>117</sup> Dutch Bulletin of Acts and Decrees 2010, no. 679.

### 3 Other legal migration

#### 3.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

***l(e) to strengthen mutual information on migration by improving existing instruments where necessary;***

The Netherlands also participated actively in the *General Directors' Immigration Services Conference* (GDISC) in 2011. The GDISC is an informal forum for directors of immigration services from Europe (the EU Member States and several other European countries such as Switzerland or countries from the Balkans) to discuss issues regarding policies on asylum and migration.

The Netherlands furthermore participated in the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC). Membership of the IGC consists of industrialised countries, which are chiefly receivers of migration flows and which are interested in exchanging information and best practices regarding asylum procedures, travel documents, integration, and circular migration.

The Netherlands provides statistics on asylum and migration to Eurostat on a regular basis.

The mutual information mechanism (Council Decision 2006/688/EC) continues to be an important instrument to the Netherlands and the activities of the Dutch National Contact Point for the European Migration Network contributed to this Commitment in 2011 as well.

***l(f) Improve information on the possibilities and conditions of legal migration***

IND website

Improving the provision of information about legal migration was also a current topic in 2011. The website of the Immigration and Naturalisation Service (IND) has been renewed and incorporated into the central government visual identify website of the Dutch government. In restyling its website, the IND aimed for clarity and customer focus. The IND Residence Wizard, which contains information and services for clients of the IND, has been given a prominent place on this site. In 2012, the IND website will be renewed further.

#### Dutch immigration portal

The Dutch immigration portal [www.newtoholland.nl](http://www.newtoholland.nl) is a joint initiative of different government organisations and serves as an information contact point for immigrants in the Netherlands.

#### Knowledge base 'Atlas'

The IND and the Ministry of Foreign Affairs use a joint knowledge base to answer questions from aliens and citizens. In 2011, a project was launched to make this knowledge bank 'Atlas' also available to diplomatic posts. The Atlas pilot project (cloud) for these posts will start early in 2012.

#### EU Immigration Portal

On 18 November 2011, European Commissioner for Foreign Affairs, Cecilia Malmström, presented the EU Immigration Portal, a website containing practical information for foreigners who wish to move to the EU. The site also addresses migrants who already live in the EU and who wish to move to another Member State. The site provides specific information about the migration procedures in all 27 Member States for each category of migrants.<sup>118</sup>

The intention is that – in the future – the EMN national contact points inform the Commission of any adjustments that must be made to the Immigration Portal; the portal furthermore refers to national websites for information about national policies and conditions. These links are provided by the national webmasters.

## **3.2 Stockholm Programme**

The relevant commitments in the Stockholm Programme are similar to the Pact objective above, hence no further information required.

## 4 Integration

### 4.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

***l(g) Promote harmonious integration in line with the common basic principles***

The common basic principles may be found in the JHA Council Conclusions of 19 November 2004, doc. 14615/05,<sup>[22]</sup> as well as the Commission Communication COM(2005) 389.<sup>[23]</sup>

On 16 June 2011, the government sent its Memorandum 'Integration, Cohesion, and Citizenship' (*Integratie, binding, burgerschap*) to the Lower House of Parliament.<sup>119</sup> In this Memorandum, the government explains its views on integration. In addition, this Memorandum announced several policy intentions that are aimed at integration of family migrants and other migrants who have been admitted for the purpose of permanent residence.

The Memorandum contains the following important basic principles.

The first basic principle (a) is that each citizen is responsible for building up an independent existence. With regard to migrants, this means that they are responsible for their own integration. From this perspective, the government announced that people may be required to finance a civic integration course themselves, if this course is part of the conditions set. Those migrants who are currently not able to pay the civic integration course themselves may rely on an income-contingent loan system. The government intends to stipulate that the failure to comply with the integration obligation within three years – with the exception of special circumstances - may result in the withdrawal of the residence permit. In order to make it easier for migrants to use the skills acquired in their country of origin in the Netherlands, the recognition of diplomas and accreditation of prior learning will be expedited.

The other basic principles of the government are that no specific policy will be implemented to tackle bottlenecks in specific ethnical groups (b) and, finally, that migrants must be enabled to build up an independent existence just like any other citizen. The latter means that policies in areas such as labour market, education, and housing must be practicable for all citizens in the Netherlands, including newcomers. Where this is not the case, the government will make adjustments.

On 30 September 2010, the House for Democracy and Rule of Law was established. The official opening of ProDemos - House for Democracy and Rule of Law took place on 15 September 2011. ProDemos dedicates itself to increasing involvement in the democratic rule of law and contributing towards increasing the knowledge

[22] Available from [http://www.consiliium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/82745.pdf](http://www.consiliium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/82745.pdf).

[23] Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0389:EN:NOT>.

119 Lower House of Parliament, session year 2010-2011, 32824, no. 1.

of the democratic decision-making process and understanding of the importance and operation of the rule of law among a broad public. ProDemos improves the ability of citizens to participate consciously in the democratic decision-making process. ProDemos addresses different target groups, including migrants who participate in civic integration programmes. Among the available courses for this target group provided by ProDemos is the course 'Knowing Your Way around the Town Hall' (*wegwijs op het gemeentehuis*). In this course, a group of migrants perform activities for one day as 'municipal council'. They are assigned the task to draw up project proposals within their 'political party' for a topic determined by the municipality. These proposals will be submitted to the 'municipal council meeting' and discussed there. The proposal that is adopted with a majority of votes cast will be implemented by the municipality in reality.

**I(h)                    *Promote information exchange on best practices in terms of reception and integration***

The Dutch government ensures information exchange in the following ways:

- Every year, Statistics Netherlands and the Netherlands Institute for Social Research alternately publish the Annual Integration Report on the instruction of the Ministry of the Interior and Kingdom Relations. This report provides a broad, predominantly academic overview of the state of the integration process in different areas.
- In cooperation with municipalities, the government implemented the Common Integration Agenda (GIA) in 2008. An interim evaluation revealed that many municipalities use this guide to develop local integration policy. It is a dynamic document that is adjusted according to current developments, practical experience and changing insights. Partner organisations and municipalities have organised thematic meetings throughout the country to inform and inspire administrators and officers. Views are defined further and tested against practice. In the period 2008-2011, more than sixty thematic meetings were held.<sup>120</sup>
- The Local Integration Policy Service Centre (*Servicecentrum Lokaal Integratiebeleid*) makes knowledge and expertise available that can be used to develop and implement local integration policy.<sup>121</sup>
- The Ministry of the Interior and Kingdom Relations subsidises the knowledge institute FORUM, Institute for Multicultural Affairs, which focuses specifically on integration issues. The Local Integration Policy Service Centre is part of FORUM.

<sup>120</sup> See <http://www.forum.nl/integratieagenda>

<sup>121</sup> See <http://www.forum.nl/si>

## 4.2 Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### 3(b) *to incorporate integration issues in a comprehensive way in all relevant policy areas*

The Netherlands seeks not to pursue a policy on the basis of origin, but to provide individual arrangements within regular policy where necessary. Integration is regarded as a dynamic process that runs along the lines of a number of statistics: proper education, a residential area in which it is pleasant to live together, good physical and mental health, and permanent employment. The efforts of the government are aimed at ensuring that regular policy actually reaches all groups in Dutch society in all these areas. Regular provisions and policy must ensure that each citizen is able to build up an independent existence, if necessary supported by family or his or her immediate environment.

Specific existing measures aimed at tackling the problems that occur more often in specific groups will be incorporated in regular policy in the next period. As a corollary, the subsidies for the integration of specific groups will be terminated. The government is examining if there is support within the private sector to purchase specialist knowledge from self-help organisations about groups that are difficult to reach and if (and how) the government could facilitate such a market. Municipalities will be assisted in incorporating specific knowledge and experience in generic policy and the government will encourage this knowledge and experience to be used by generic institutions.<sup>122</sup>

The specific approach to Dutch at-risk youths of Antillean and Moroccan origin will, for instance, be incorporated into the generic approach to criminal youth groups and youths causing nuisance.

### 3(e) *improved consultation with and involvement of civil society*

In the next few years, the government will focus on strengthening and increasing involved citizenship. In this government period, the government will draw up an agenda on current citizenship together with municipalities, civil society organisations, and citizens. The issues to be put on the agenda will include a variety of issues, including integration.<sup>123</sup>

122 Lower House of Parliament, session year 2010-2011, 32824, no. 1.

123 Lower House of Parliament, session year 2010-2011, 32824, no. 1.

- 3(f)** *to enhance democratic values and social cohesion in relation to immigration and integration of immigrants and to promote intercultural dialogue and contacts*

See 3e, agenda on citizenship.

## Illegal immigration and return

### 5 Illegal Immigration

#### 5.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

- II(a)** *only case-by-case regularisation*

There have not been any new developments since 2010.

- II(c)** *ensure that risks of irregular migration are prevented*

#### i-Map

The Netherlands supports the MTM i-Map project of the International Centre for Migration Policy Development (ICMPD). The MTM i-Map project is an interactive site mapping illegal immigration around the Mediterranean Sea (Mediterranean – MTM). The MTM i-Map was launched by the ICMPD in January 2007 and is a good example of the cooperation among the partner states participating in the MTM dialogue. The MTM i-Map facilitates practical cooperation between the Arabian and European partner states in the area of migration, which is one of the reasons for the Netherlands to support this project. The MTM i-Map seeks to support continuing information exchange among the partner states in the area of migration. The MTM i-Map provides an overview of illegal immigration around the Mediterranean Sea by means of an interactive map. The site also provides access to a large number of data and documents on illegal migration flows.

In 2011, the MTM partner states decided to start a third development stage of the MTM i-Map, which will run until 2014. In this context, the partner states will cooperate closely with partner organisations such as Europol, Frontex, IFAD (*International Fund for Agricultural Development*), Interpol, IOM, UNHCR, and UNODC (*United Nations Office on Drugs and Crime*). Until 2014, i-Map will receive funds

within the framework of the Thematic programme.<sup>124</sup> The Netherlands is not financially involved this time, but it will continue its involvement in the project, among other things, by providing ILO expertise.

#### Silk Route Project

In addition, the Netherlands decided in 2011 to participate in the Silk Route Project. The purpose of this project is to implement measures for the bridging period of countries in humanitarian/emergency situations to long-term developing situations. The objective is to provide the countries concerned with a constructive migration dialogue with their European counterparts, including the Netherlands, and among the relevant countries located on the illegal migration route. In order to obtain an overview of the migration situation in the relevant region, consultations and dialogues are held and investments are made in capacity building and other reconstruction measures. The Netherlands participates in this project by providing financial support, training, and expertise.

#### Carriers

At the national level, a number of carriers that are obliged to photograph, photocopy, or scan the documents of their passengers were designated on 15 April 2010 and on 15 October 2010.<sup>125</sup> The carriers designated for this purpose are those that fly to the Netherlands from specific airports. In order not to burden the airline companies unnecessarily, the list is limited to a number of airports from where undocumented aliens are flown into the Netherlands. To ensure that the measure is as effective as possible, the list of airports is updated twice a year on the basis of empirical data.<sup>126</sup>

#### Capacity building in Liberia

The last stage of the capacity building project for the benefit of the Liberian immigration service was completed in September 2011. This also meant the end of the project. The project concerned was 'Strengthen Institutional Capacity and Competence of the Bureau of Immigration and Naturalisation, Liberia.' The partners involved in this project were the Repatriation and Departure Service (DT&V), the Immigration and Naturalisation Service (IND), and the United Nations.

The project started in June 2009 and was aimed at training more than a hundred Liberian recruits to become immigration employees and more than twenty Liberian immigration employees to become trainers; training was given in Ghana, where the Ghanaian training school of the immigration service is located.

<sup>124</sup> For a more detailed description, please refer to Annual Policy Report 2010.

<sup>125</sup> Decision of the Minister of Justice of 26 March 2010, no 5647371/10 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette no 12691.

<sup>126</sup> Dutch Bulletin of Acts and Decrees 2010, no. 4949 and Dutch Bulletin of Acts and Decrees 2010, no. 15963.



**II(d) *to develop cooperation between Member States, using, on a voluntary basis and where necessary, common arrangements to ensure the expulsion of illegal immigrants***

See 4(f), practical cooperation among the Member States.

**II(g) *take rigorous actions and penalties against those who exploit illegal immigrants***

An important factor of attraction for illegal immigration in the EU is the possibility of finding work. In order to fight illegal immigration, Directive 2009/52/EC prohibits illegal employment and provides for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

The message of this Directive is that the EU acts against illegal migration by (i) setting minimum common standards on sanctions for employers to ensure effective dissuasive penalties in all Member States; (ii) promoting a more equivalent competitive position of companies in the EU; and (iii) discouraging the exploitation of third-country nationals. Member States shall, for instance, ensure that the illegally employed third-country national may introduce a claim against the employer for any outstanding remuneration.

The implementation of this Directive requires amendments to the Labour Act for Aliens (*Wet arbeid vreemdelingen*) and the Aliens Decree 2000 (*Vreemdelingenbesluit 2000*). The amendment to the Aliens Decree 2000 entered into force on 19 June 2011.<sup>127</sup> A bill amending the Labour Act for Aliens was submitted to the Lower House of Parliament on 6 July 2011 under the responsibility of the Ministry of Social Affairs and Employment.

**II(h) *an Expulsion Decision taken by one Member State (MS) should be applicable throughout the EU and entered into the SIS obliging other MSs to prevent the person concerned from entering or residing***

The Return Directive (2008/115/EC) will be incorporated in Dutch legislation. The Lower House of Parliament adopted the bill to this effect on 1 November 2011.<sup>128</sup> On 13 December 2011 the bill is also adopted by the Senate of the States General. The Return Directive will entry into force the day after publication in the Dutch Bulletin of Acts and Decrees. The Return Directive provides for the implementation of a return decision, which means that the alien who has received a return decision is not only obliged to leave the Member State where his residence has

<sup>127</sup> Dutch Bulletin of Acts and Decrees 2011, no. 291.

<sup>128</sup> Dutch Bulletin of Acts and Decrees 2011, no. 19111.

been declared illegal, but that he is also obliged to leave the territory of the European Union.

As the Return Directive has not yet been implemented in legislation, the return decisions are currently being issued without entry bans. The return decision is not recognised automatically among the Member States. The Netherlands issues its return decisions pursuant to Article 6(1) of the Return Directive. In this context, it is not of any importance that the alien has been found staying illegally in another Member State. Return decisions are not registered in SIS. After the implementation of the Directive, the Dutch legislation will provide for entry bans, as referred to in Article 11 of the Directive. These will be registered in SIS. The Netherlands currently does not yet have any experience with registering entry bans in SIS.

## 5.2 Stockholm Programme

Relevant commitments in the Stockholm Programme for this sub-section are in particular:

- 4(j) *more effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes as well as aggregate and comprehensive information which improves our understanding of and response to migratory flows*

Within the framework of COSI, an EU body which focuses on operational cooperation among European services that are charged with internal security, the Netherlands proposed implementing an EU 'Swift Action Teams' (SAT) pilot project. The primary purpose of deploying a SAT in a third country is to prevent possible victims of trafficking in human beings or smuggling of persons as well as other undocumented or improperly documented persons from travelling by aeroplane from a third country to the EU and ending up in exploitative situations. The actual launch of an EU SAT pilot project is currently in preparation.<sup>129</sup>

- 4(k) *increased targeted training and equipment support*

### SIOD

The Social Intelligence and Investigation Service (SIOD), which is part of the Ministry of Social Affairs and Employment, has developed a special training course in the fight against trafficking in human beings. This course of four weeks has been developed by the ICMPD in Vienna (UN observer status) and the SIOD; the name of the course is 'Identification and treatment of (potential) victims of human trafficking.'

The course deals with subject such as the human rights approach, the international legal framework, indications of victimisation, and cooperation among cooperating organisations; the course sessions include simulations and role-play. The European Commission and the National Rapporteur on Human Trafficking have repeatedly emphasised the importance of the position and the rights of victims of trafficking in human beings, as will also be reflected in a new European Directive.

#### Labour Inspectorate

All inspectors of the Labour Inspectorate who carry out the supervision of illegal employment and underpayment have been trained in the scope of application of the Aliens Act, and in recognising false and forged identity documents and so-called 'lookalikes' (profiling). In 2011, the labour inspectors received additional training in recognising signs of potential labour exploitation. They are extra alert to these aspects during their inspections. They have a lot of experience in establishing the identities, nationalities, and residence statuses of the employees they find at the workplace. They provide information about illegality to the police/aliens police. If necessary, they contact the police or the Royal Netherlands Marechaussee and they draw up official reports. Any suspects are handed over to the police at the scene. The Labour Inspectorate takes action against employers who abuse vulnerable workers by means of imposing penalties on these employers for illegal employment, underpayment, and breaching the Working Conditions Act (*Arbeidsomstandighedenwet*) and the Working Hours Act (*Werktijdenwet*). Signs of potential labour exploitation are reported to the Expertise Centre for Human Trafficking and Human Smuggling (EMM) through the Social Intelligence and Investigation Service (SIOD).

As from 1 January 2012, the Labour Inspectorate and the SIOD will merge into one organisation: the Social Affairs and Employment Inspectorate. The SIOD will then be referred to as 'Investigation Department' and the Labour Inspectorate will be referred to as 'Labour Market Fraud'.

#### Police

In 2009, the police academy, in close cooperation with the regional forces and the Expertise Centre for Human Trafficking and Human Smuggling (EMM), developed a course programme that specifically targets migration-related crime. The course started in 2010. The course participant is trained in recognising signs with regard to trafficking in human beings, smuggling of persons, abuse of travel documents, and fraud; drawing up an action plan; and interviewing victims, witnesses, and suspects of these offences. Passing the course will give the course participant the authority to interview victims/witnesses pursuant to the Instructions for Human Trafficking as a certified detective. Although this course programme has been developed for police officers, an abridged version of this course programme is

provided to cooperating organisations such as municipalities, the Labour Inspectorate, Social Intelligence and Investigation Service (SIOD), the Tax and Customs Administration, the Netherlands Employees Insurance Agency, and the Regional Information and Expertise Centres (RIEC).

**4(I) *a coordinated approach by Member States by developing the network of liaison officers in countries of origin and transit.***

On 4 February 2011, the Minister for Immigration and Asylum announced that, in accordance with agreements from the Coalition Agreement, the current Liaison network will be expanded by four additional Liaison Officers (LOs) in order to be able to deal firmly with illegal immigration and migration-related crime in the form of trafficking in human beings and smuggling of persons. These officers of the Immigration and Naturalisation Service (IND) and the Royal Netherlands Marechaussee can also fulfil a role in improving the return of aliens who are not permitted to stay in the Netherlands. As a result of this, the number of liaison officers of the IND and the Royal Netherlands Marechaussee will be 28.<sup>130</sup>

The Liaison Officers must contribute to the fight against illegal immigration, identity and document fraud, and migration-related crime. As far as the fight against migration-related crime is concerned, it was decided to post a liaison of the Royal Netherlands Marechaussee. As far as the fight against undocumented aliens or the improvement of the return, it was considered desirable to post an IND liaison at the relevant location. In compiling the list of liaison officers, account was taken of the existing network of liaisons of the IND, the Royal Netherlands Marechaussee, and the National Police Services Agency.

### 5.3 Key statistics

<b>Third-country nationals regularised</b>	
Third-country nationals regularised	n.a.

## 6 Return

### 6.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

#### *II(b) conclude readmission agreements at EU or bilateral level*

Type of readmission agreement	Third countries Involved	Main purpose of the agreement
(EU or bilateral)		The agreements provide for the return and readmission of the country's own nationals and third-country nationals as well as transit of third-country nationals to a third country
EU Return and Readmission Agreement	Georgia (entered into force on 1 March 2011)	
Protocol of Application	NL/Russian Federation to EU Return and Readmission Agreement (signed on 9 March 2011; entered into force on 1 November 2011)	
Benelux Return and Readmission Agreement	Benelux/Kosovo (signed on 12 May 2011; effective date still to be decided)	

#### *II(f) To devise incentive systems to assist voluntary return and to keep each other informed*

The basic premise of Dutch return policy is voluntary return. Assistance in return is an important stimulus for voluntary return. Former asylum seekers without residence permits who wish to return voluntarily to their country of origin may receive assistance in building up an existence. The alien may return voluntarily with a financial contribution or in-kind assistance (such as further training or assistance in setting up a business) or with a combination of both. In this context, a major role has been assigned to non-governmental organisations and the International Organisation for Migration (IOM) under the auspices of the Repatriation and Departure Service (DT&V).

The IOM implemented the REAN programme (*Return and Emigration of Aliens from the Netherlands*) in 1991. The support provided by the IOM based on this programme includes a financial contribution towards the application costs for travel documents or replacement documents and airline tickets. The purpose of the

REAN programme is to overcome as many obstacles met by aliens as possible in order to enable them to return voluntarily to the country of origin. Aliens may apply to the IOM for assistance in their return.

In addition to the REAN programme, the Return and Reintegration Regulation has offered a financial contribution towards sustainable return since 2004. As from the beginning of 2012, a new subsidy framework will apply to non-governmental and

international organisations that provide in-kind assistance for sustainable return and reintegration to asylum seekers or former asylum seekers.

#### Additional projects for voluntary return and reintegration

- *Assisted Voluntary Return for Families with Underage Children*

On 15 August 2011, the IOM launched the project 'Assisted Voluntary Return for Families with underage Children' (AVR FC). The duration of the project will be 18 months and the contributions from the AVR FC Project complement the contributions from the REAN programme and, if applicable, from the Return and Reintegration Regulation. Within the framework of the AVR FC Project, the target group is entitled to a financial contribution and in-kind assistance.

- *Assisted Voluntary Return from Detention*

In May 2009, the IOM launched the project 'Assisted Voluntary Return from Detention II'. The purpose of this project is to improve the approach to and implementation of voluntary return of migrants from aliens' detention. The project runs until the end of December 2011. The project is co-funded by the European Return Fund.

- *UAM-project*

Unaccompanied minors and adult aliens who have applied for asylum before their 18th birthday are eligible for special reintegration support in the case of a voluntary return assisted by the IOM.

- *Reception of unaccompanied minors in Angola and in the Democratic Republic of Congo*

In both programmes, the Netherlands uses foster homes in the countries of origin where the unaccompanied minors can go to (if necessary).

#### Country-specific projects

The projects for 'Assisted Voluntary Return and Reintegration' of the IOM in Iraq, Sierra Leone, Afghanistan, and Azerbaijan concern in-kind assistance and contain assistance aimed at employment/economic activity (whether or not on a self-employed basis).

### Information about countries of origin

If a migrant decides to return, it is often difficult to find current and reliable information about the country of origin. Aid workers also wish to know what the possibilities of reintegration are. Therefore, the IOM launched the website *Information on Return and Reintegration in Countries of Origin* (IRRI<sup>CO</sup>). By means of the country sheets available on this site, migrants and their aid workers can find practical information in areas such as education, health care, setting up a business, and finding accommodation. The sheets have been drawn up by the countries of origin and are updated on a regular basis. Within this project, the IOM in the Netherlands and eight other European IOM offices (Belgium, England, Greece, Ireland, Malta, Austria, Portugal, and Switzerland) work together with twenty IOM offices in the countries of origin.

### New subsidy scheme regarding voluntary and sustainable return and reintegration

During the Return Conference of the Repatriation and Departure Service (DT&V) on 10 November 2011, the measures regarding voluntary return announced in the

letters to the Lower House of Parliament were elaborated further.<sup>131</sup> This means that organisations that wish to carry out a project for voluntary return and reintegration of former asylum seekers can submit their applications for subsidy to the DT&V. The subsidy scheme makes it possible to combine in-kind assistance with a financial contribution. The subsidies will be paid out of the Migration and Development budget of the Ministry of Foreign Affairs. The projects will be assessed in a steering group of the Ministry of Foreign Affairs and the Ministry of the Interior and Kingdom Relations, including the DT&V. It is the intention that non-governmental organisations (NGOs), intergovernmental organisations (IGOs), and other community-based organisations make use of this subsidy scheme, where necessary supplemented by means from other funds such as the European Return Fund.<sup>132</sup>

### Post-Arrival Assistance

AS of 1 January 2011, the Repatriation and Departure Service has launched four programmes for post-arrival assistance for migrants returning to Afghanistan, Azerbaijan, Burundi, and Sierra Leone.

### Other projects

The Dutch government also finances smaller reintegration projects from other organisations. As from 1 January 2012, all new projects will be financed on the basis of the new subsidy scheme (see above).

<sup>131</sup> Information originates from the Repatriation and Departure Service (DT&V).

<sup>132</sup> Information originates from the Migration Policy Department.

## 6.2 Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

- 4(c)** *ensuring that the objective of the EU's efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices*

In the future, the EU readmission agreements will be geared more towards important countries of origin, in addition to transit countries.<sup>133</sup> As a result of this, these agreements will feature even more prominently in return policies. The Repatriation and Departure Service (DT&V) has indicated that, in general, return and readmission agreements have a positive effect on both the cooperation with countries of origin and the actual return and return process itself. This means in practice that cooperation in a forced return improves; the countries of origin give positive answers more frequently; and that the period between the application and the issue of replacement travel documents (*laissez-passer*) is reduced considerably.

- 4(e)** *assistance by the Commission and Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third states*

The Netherlands did not receive any assistance from or render any assistance to Member States in 2011.  
The Dutch Repatriation and Departure Service (DT&V) did not contribute to the Greek Action Plan of the EU in 2011.<sup>134</sup>

- 4(f)** *increased practical cooperation between Member States, for instance by regular chartering of joint return flights*

### EURINT Project

The 'European Initiative on Integrated Return Management' (EURINT) project is a cooperation among the Netherlands (*Dienst Terugkeer en Vertrek* (DT&V)), Germany (*Zentrale Ausländerbehörde Stadt Bielefeld*), Belgium (*Dienst Vreemdelingenzaken*), and Romania (Romanian Immigration Service) with the objective being operational cooperation in three areas.

The first objective is take joint action towards authorities in third countries with

<sup>133</sup> Senate of the States General, session year 2010-2011, 32732.

<sup>134</sup> Information originates from the Repatriation and Departure Service (DT&V).



the purpose of improving cooperation in the area of return (e.g. return and readmission and the issue of laissez-passers). This objective will be realised by organising joint missions to the following countries: Pakistan, Democratic Republic of Congo, Nepal, Bangladesh, Armenia, and Guinea. During these missions, discussions will be held with responsible authorities such as consular services and immigration services. Where there are grounds for doing so, these services are requested to go to the above-mentioned Member States for a return visit.

In addition, joint task forces are organised that centre on improving the identification process of the alien. So far, task forces are organised in Armenia, Azerbaijan, and Nepal. In the remaining project period, several other task forces will be organised, which will be financed under the EURINT project.

Finally, the Netherlands and Germany have agreed to also effect joint removals under the EURINT project. So far, the joint flights have been organised for removals to Nepal. The flights concerned are not government flights, but removals on scheduled flights with escorts. The EURINT project was launched on 1 February 2011 and will run until 31 December 2012.

#### Joint Return Operations

Within the EU, the Netherlands cooperates closely with other Member States in so-called Joint Return Operations (JRO). A JRO is organised by a Member State and is carried out in cooperation with the Return Operations Sector (ROS) of Frontex. In 2011 (until November), the Netherlands was the organising Member State of three JROs. If suitable candidates are available (i.e. an alien in detention who may be removed lawfully and who has a valid travel document), the Netherlands may decide to participate in a JRO. In 2011 (until November), the Netherlands participated four times in JROs that were organised by other Member States.

The decision whether to organise a JRO or to participate in a JRO is made after consulting the Royal Netherlands Marechaussee on account of the required escort capacity and the foreign representation in the country concerned. The decisions on issues such as the destination chosen, which Member State is able and willing to organise a JRO (OMS), any participating Member State(s) (PMS), flight data, and flight schedules are made during the Core Country Group (CCG), and DCP Frontex consultations. The Netherlands is represented in both consultative bodies by the Direct Contact Point in Return Matters (DCP).

In addition to the Frontex JROs, the Netherlands has the option to participate in national government flights that are organised by other Member States. The costs associated with this participation are settled bilaterally. In 2011, the Netherlands cooperated several times with other Member States with regard to this type of flight: with Belgium to the Democratic Republic of Congo and with Sweden to Iraq.

### 6.3 Key statistics

Third-country nationals ordered to leave and returned (provisional data) <sup>135</sup>				
	Ordered to leave	Returned following an order to leave	Returned as part of forced return measures	Returned through an Assisted Return Programme
Third-country nationals	29.500	9.475	n.a.	n.a.

## 7 Actions against human trafficking

### 7.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

***II(e) cooperation with the countries of origin and of transit, in particular to combat human trafficking and to provide better information to communities under threat***

Within the framework of the UN, the Netherlands is concentrating its efforts on more universal ratification and improved implementation of the UN Protocol on Human Trafficking as well as the UN Convention against Transnational Organised Crime.

The Netherlands is active in the Regional European Framework; in the first instance through the EU, but also through the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe. On 1 August 2010, the Netherlands ratified the Council of Europe Convention on Action against Trafficking in Human Beings. As far as the important aspect of the protection of victims is concerned, this Convention goes further than the older UN Protocol. Supplementary to its multilateral efforts, the Netherlands has entered into bilateral relations with the most important source countries for victims found in the Netherlands, such as Romania and Bulgaria. The Netherlands is considering whether it is also possible to develop a cooperation project in the Ukraine.

In addition, cooperation has been established in West Africa with Nigeria. The Netherlands and the Nigerian National Agency for Prohibition of Traffic in Persons and Other related Matters (NAPTIP) have cooperated closely in deciding on an approach to human trafficking from Nigeria. Following on from this, the Netherlands started a second project in 2011 on the basis of which technical assistance will be provided to this organisation. This project will last three years. The Netherlands furthermore finances a project from the International Organisation for Migration (IOM) which is aimed at improving the reception of victims of trafficking in human beings in that country.

### 7.2 Stockholm Programme

The relevant commitments in the Stockholm are similar to the Pact commitments, hence no further description is required.

### 7.3 Key statistics

<b>Third-country nationals receiving a residence permit as victims of human trafficking<sup>136</sup></b>		
Third-country nationals	450	
<b>Traffickers arrested and convicted</b>		
	Arrested / otherwise involved in a criminal proceeding	Convicted
Traffickers	n.a.	n.a.

# Border Control

## 8 Control and surveillance at external borders

### 8.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

#### **III(a) *more effective control of the external land, sea and air borders:***

The Royal Netherlands Marechaussee is responsible for the border control (with the exception of the Rotterdam Port, for which the Seaport Police of the Rotterdam-Rijnmond Regional Police Force is responsible). The developments that took place in the Royal Netherlands Marechaussee in 2011 include the following:

COSI was established in 2010 upon the entry into force of the Lisbon Treaty.<sup>137</sup> This EU body focuses on operational cooperation among the European services that are charged with internal security. It is the ambition of the Royal Netherlands Marechaussee to initiate and implement a number of joint activities. The implementation of the following proposals started in 2011:

1. General aviation: Strengthening the information position of the enforcement agencies by drawing up profiles together, if desired, to be expanded by other enforcement agencies in Europe. In addition to drawing up profiles, it is possible to organise joint border controls on specific days.
2. Pleasure boating: Setting up information exchange on this segment with different cooperating organisations and other countries in the EU. It is also possible to organise joint border controls on specific days.

The year 2011 saw the establishment of the *Border Security Training Centre* (BSTC). The BSTC provides course programmes and training sessions in the area of border security. The available course programmes target officers who work in the border area of the Netherlands or elsewhere in the Schengen territory. The course programmes are not only suitable for staff of the Royal Netherlands Marechaussee, but also for national and international cooperating organisations, including members of the agency of European border control organisations (Frontex), staff of the Immigration and Naturalisation Service (IND), the Government Road Transport Agency (RDW), Police, Customs, and the Netherlands Forensic Institute (NFI).

<sup>137</sup> See also 5.2, 4 (j).

**III(e) deploy modern technological means for border control:**

The ambition of the Innovation of Border Management Programme (*Programma Vernieuwing Grensmanagement* (VGM)) is to create an effective and efficient border control process, in which maximum use is made of automated border control and risk-oriented actions on the basis of pre-collected data on passengers and their luggage. In this context, there must be an effective balance between maximum security and optimum mobility. The programme is a cooperation among the Royal Netherlands Marechaussee, the Seaport Police, the Ministry of Security and Justice,

the National Coordinator for Counterterrorism and Security (NCTV), the Immigration and Naturalisation Service (IND), the Schiphol Group, and KLM Royal Dutch Airlines under the umbrella of the Ministry of the Interior and Kingdom Relations.

The programme has been divided into two phases, with the first phase running until 2012. For the time being, the programme consists of the following four projects: PARDEX Project ('Passenger Related Data Exchange'), API Project ('Advance Passenger Information'), No-Q Project ('Automatic Border Crossing'), and RT Project ('Registered Travellers').

The Innovation of Border Management Programme will start in 2012 with the acquisition of an information system in order to enable the different government agencies to store all passenger data which the government agencies are permitted to receive in the performance of their statutory duty. Besides the provision of information, efforts are aimed at the establishment of a National Information and Analysis Centre on Border Control in which the services concerned will cooperate. The implementation of the automated border crossing system will be completed on a phased basis in addition to the border crossing system for EU nationals; this will also include the expansion of the Registered Travellers (RT) programmes.

**8.2 Stockholm Programme**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

- 7(i)** *invites the Member States and the Commission to explore how the different types of checks carried out at the external border can be better coordinated, integrated and rationalised with a view to the twin objective of facilitating access and improving security.*

See III(e), technological means.

### 8.3 Key statistics

<b>Visas issued</b>			
	<b>Total Visas</b>	<b>Schengen Visa</b>	<b>National Visa</b>
<b>Visas issued by Royal Netherlands Marechaussee (KMar)<sup>138</sup></b>	<b>10.533</b>	<b>n.a.</b>	<b>n.a.</b>
<b>Visas issued by Seaport Police<sup>139</sup></b>	<b>11.136</b>	<b>10.310</b>	<b>826</b>
<b>Total visas issued</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>

138 Source: Royal Netherlands Marechaussee.

139 Source: Seaport Police.

## 9 Cooperation with respect to border control

### 9.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

**III(b)** *generalise the issue of biometric visas, improve cooperation between MSs' consulates and set up joint consular services for visas:*

On 11 October 2011, the countries of the European Union put a joint information system for Schengen visa into use. The roll-out will be implemented on a phased basis. The system has also been introduced in six countries in North Africa (Algeria, Egypt, Libya, Mauritania, Morocco, and Tunisia). By now, all embassies and consular posts of all European countries, so including the Netherlands, use the visa information system (VIS) in those countries. The implementation and phased roll-out of the EU visa system will be continued in 2012.<sup>140</sup>

**III(d)** *solidarity with MS subjected to disproportionate influxes of immigrants*

Frontex is a body of the European Union and is charged with the coordination of operational cooperation between the Member States in the field of EU external border management (land, sea, and air borders). Since its establishment in 2004, the Netherlands has actively participated in the joint operations performed under the coordination of Frontex. The Dutch contribution consisted primarily of the deployment of border guards, interpreters, and lightweight rolling stock such as vehicles and small boats. In addition to this, the Royal Netherlands Marechaussee has provided training courses for border guards from the EU in its Border Security Training Centre at Amsterdam Airport Schiphol. Since 2010, the Netherlands has also contributed several times by means of heavy rolling stock. Both in 2010 and 2011, two minesweepers participated in the INDALO operation off the South Spanish coast. In September 2010, an aeroplane of the Dutch Coastguard Organisation participated in the Poseidon operation in the Aegean Sea off Greece. The same aeroplane participated in the Hermes operation in the Mediterranean Sea off Italy in March 2011.

From 2007 to September 2011, the Netherlands has participated in nearly ninety operations, including return operations.

Finally, the Netherlands made a substantial contribution to the deployment of special border intervention teams (RABIT) on the country border between Greece



and Turkey from October 2010 to March 2011. The Netherlands made 48 border guards and several interpreters available at the time. The Netherlands also contributed to the Poseidon Land operation, which has replaced the Swift Intervention teams since March 2011, by deploying border guards and interpreters. From March to November 2011, the Dutch deployment consisted of more than 76 border guards.

**III(f) *intensify cooperation with the countries of origin and of transit in order to strengthen border control***

There have not been any new developments since 2010.

**9.2 Stockholm Programme**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

**6(a) *The European Council encourages the Commission and Member States to take advantage of the entry into force of the Visa Code and the gradual roll-out of the VIS***

The Visa Code contains regulations establishing the procedures and conditions for issuing visas for short stays in or visas for transit through the territories of Member States or for an intended stay in the territories of the Member States of not more than three months within a period of six months. In addition to the Visa Code, a Handbook was created that contains instructions and examples regarding the practical application of the Visa Code in order to ensure harmonised application of the Visa Code within the Member States.<sup>141</sup> The Visa Committee will furthermore discuss those issues related to the Visa Code and the accompanying Handbook that still need clarification. All this will enhance harmonised application of the relevant policy.

The entry into force on 5 April 2010 (and on 5 April 2011 as far as the obligation to state the reasons for refusing an application is concerned) proceeded without problems. Part of the Visa Code cannot be applied until the VIS has been implemented fully. The application of the Visa Code will be evaluated Schengen-wide for the benefit of the Council and the European Parliament two years after its entry into force. This means that this evaluation will have to be conducted in the course of 2012. During the evaluation, the results achieved will be reviewed against the objectives of the Visa Code.

<sup>141</sup> Dutch Bulletin of Acts and Decrees 2011, no. 17496.

On 11 October 2011, the European VIS database with the Visa Information System was put into production. The first visas were issued at embassies and consulates of Schengen countries in six North African countries (Algeria, Egypt, Libya, Mauritania, Morocco, and Tunisia). On Tuesday 1 November 2011, the first travellers from these countries with 'VIS' visas arrived at the border crossing point (Amsterdam Airport Schiphol) in the Netherlands and were successfully checked by means of the EU VIS software. The border guards have been trained in using the systems.

An evaluation of the use of the VIS database will be conducted early in 2012 and subsequently the countries from the Middle East will be added.

The implementation of the EU VIS at the Royal Netherlands Marechaussee has been divided into two stages. The year 2011 was dominated by the realisation of the first stage. This first stage is typified by the project-based realisation of the facilities required for the accessibility and use of the EU VIS to support the issue of visas and visa control during border control at the border crossing points of the Schengen external borders. The facilities must support the use of biometric identifiers (photo and fingerprints) at the time the visa is issued and during visa control.

# Asylum

## 10 International Protection

### 10.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

**IV(c)** *solidarity with MS which are faced with specific and disproportionate pressures on their national asylum systems:*

This concerns support provided to (Member) States experiencing specific and disproportionate pressures on their national asylum systems, with regard to the processing of requests for international protection. This could include seconding staff and sending resources or equipment.

The Netherlands participated in the 'Greek Action Plan on Migration Management and Asylum Reform' in 2011. It furthermore provided operational support tailor-made for Greece through the new European Asylum Support Office (EASO). On 1 April 2011, the Greek authorities and the Executive Director of the EASO presented the so-called 'Operating Plan'. This Operating Plan pertains to the implementation of the new Greek asylum system under the responsibility of Greece itself and provides insight into how the EASO will be able to support the Greek authorities in this. In the next two years, 40 to 50 asylum experts from the different Member States will provide assistance to Greece on the spot under the coordination of the EASO. In addition to assistance in modernising the asylum and reception system, assistance will also be provided in areas such as training, distinguishing between refugees and illegal migrants (economic or otherwise), and expertise in the area of vulnerable groups. The Netherlands intends to make a substantial contribution to these EASO asylum assistance teams.<sup>142</sup>

This concerns any action undertaken with regard to the reallocation from (Member) States experiencing specific and disproportionate pressures of beneficiaries of international protection to other (Member) States. This relates to intra-EU movements, for example, as part of EU projects.

Within the framework of the European Refugee Fund (ERF), the European Commission financed the 'European Relocation Malta' (Eurema) project. Eurema is led by Malta and ten Member States participate in this project (France, Germany, the United Kingdom, Portugal, Luxembourg, Hungary, Poland, Slovenia, Slovakia, and Rumania); these Member States have committed themselves to relocating nearly

260 refugees who are stranded in Malta. The UNHCR and the International Organisation for Migration (IOM) also participate in this project.

Although the Netherlands is not participating in this project, it did support Malta in the spirit of Eurema. In the context of this cooperation, the Netherlands relocated 20 aliens who had been admitted to Malta as refugees on the basis of the Resettlement Programme.

**IV(d) *strengthen cooperation with the Office of the United Nations High Commissioner for Refugees to ensure better protection for people outside the territory of European Union Member States who request protection, in particular by moving, on a voluntary basis, towards the resettlement within the European Union***

By letter of 28 January 2008, the Dutch government announced its policy framework for invited refugees in the period from 2008 up to and including 2011 to the Lower House of Parliament.<sup>143</sup> The Dutch government committed itself to relocating 2,000 refugees for the purpose of resettlement in this period. In 2011 (the fourth year), resettlement missions were made in Lebanon, Thailand, Nepal, and Kenya. Short missions were made in Romania and Tunisia within the context of the Emergency Transit Centre. In the past four years, a total of 2,000 refugees have resettled.

In the period of 2012-2015, the Netherlands will relocate another 2,000 refugees (with an average of 500 refugees a year).

**IV(e) *MS are invited to provide the personnel responsible for external border controls with training in the rights and obligations pertaining to international protection***

In the basic training course for border guards of the Royal Netherlands Marechaussee attention is paid to recognising asylum seekers, even if the relevant migrants do not actually apply for asylum. The course also deals with the UNHCR Convention and points to the rights and obligations of persons seeking protection. The role of the border guard is essential in this context and this subject is consequently taught as a part of the basic training course to each border guard.

In conformity with the manner in which the Royal Netherlands Marechaussee has formulated this, the Seaport Police is also responsible for including this subject as a standard component of the basic training course.

This subject has also been included in the Frontex training courses as a special module. The Netherlands furthermore contributed actively to the 'strategy paper' of Frontex on human rights.

## 10.2 Key statistics

<b>Third-country nationals reallocated and resettled to your Member States<sup>144</sup></b>			
	Total	Reallocated	Resettled
Third-country nationals	538	-	538
<b>Training of border guards on asylum</b>			
	Total border guards	Border guards who received training	
Border guards Royal Dutch Marechaussee	700	347	
Border guards Seaport Police	98		
Total border guards	798	347	

# Unaccompanied Minors and other vulnerable groups

## 11 Unaccompanied Minors and other vulnerable groups

### 11.1 European Pact on Immigration and Asylum

No specific commitments are included.

### 11.2 Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

- 5(a)** *develop an action plan, to be adopted by the Council, on unaccompanied minors which underpins and supplements the relevant legislative and financial instruments and combines measures directed at prevention, protection and assisted return*

The European Commission and the Justice and Home Affairs Council (JHA Council) adopted an action plan for unaccompanied minors in June 2010. The purpose of the European action plan is to achieve a common European approach in order to ensure that the decision on the future of unaccompanied minors is made as quickly as possible. The JHA Council called on the Member States and the European organisations to intensify their efforts to improve the reception procedures, to improve cooperation with third countries, and to further facilitate voluntary return to and reintegration in the country of origin.<sup>145</sup>

The Netherlands is of the opinion that the position of unaccompanied minors may be improved by giving them a quick and definite answer about their residence prospect. Unaccompanied minors who do not qualify for international protection must return to their country of origin as quickly as possible. This is to prevent them from ending up in exploitation situations in Europe or on the way to their country of origin. For this purpose, the Netherlands initiated cooperation with Norway, Sweden, Denmark and the United Kingdom in 2010; this cooperation is aimed, among other things, at tracing the parents of unaccompanied minors and at prevention by providing information about the risks of illegal immigration in the countries of origin.<sup>146</sup>

On 1 July 2010, the Improved Asylum Procedure entered into force in the Netherlands. The former Accelerated Asylum Procedure (which aimed at deciding on an asylum application within 48 hours) was extended by the implementation of this new procedure into a General Asylum Procedure of eight days. This is currently

<sup>145</sup> Lower House of Parliament, session year 2010-2011, 27 062, no. 71.

<sup>146</sup> Lower House of Parliament, session year 2010-2011, 32 317, no. 63.

standard procedure for all applications and consequently does not only apply to evident applications as used to be the case in the Accelerated Asylum Procedure. It is the intention that all asylum applications that do not require any further investigation (applications that are either granted or refused immediately and part of the Dublin cases) will be dealt with in the General Asylum Procedure. If it is not possible for substantive reasons to make a decision within 8 days, the case will be referred to the Extended Asylum Procedure.

Since 1 July 2010, the Improved Asylum Procedure has also applied to unaccompanied minors. Where necessary, the new procedure includes the possibility to grant unaccompanied minors a longer period of rest and preparation, with a target period of three weeks. The Minister for Immigration and Asylum furthermore promised the Lower House of Parliament to ensure a sound way of continuing secure reception.<sup>147</sup>

In 2011, the Dutch government started its review of the specific policy on unaccompanied minors. The results of this review will take shape in 2012.

Any adjustments to the policy on unaccompanied minors are expected to be implemented in 2012. The purpose of this review is that the unaccompanied minor will sooner obtain clarity about his prospect as to whether to integrate in the Netherlands or to return to the country of origin. As a consequence of this basic principle, the specific residence permit for unaccompanied minors which currently still exists will be abolished. The efforts will also be geared towards returning more unaccompanied minors who do not need protection in the Netherlands and to do so more quickly, provided that local accommodation in the country of origin has been arranged.<sup>148</sup>

### 11.3 Key statistics

<b>Unaccompanied minors</b>	
<b>Number of unaccompanied minors</b>	<b>484</b>

147 Lower House of Parliament, session year 2009-2010, no. 27 062, no. 65, 18 June 2010.

148 Information originates from the Migration Policy Department.

# Global approach to migration

## 12 External cooperation / Global approach to migration

### 12.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are in particular:

**V(a)** *conclude EU-level or bilateral agreements with the countries of origin and of transit containing clause on legal and illegal migration as well as development*

This concerns information on any (planned) EU level or bilateral agreements (e.g. Mobility Partnerships), which are in addition to those mentioned under Sections 1.1, Pact commitment I(a) Implement policies for labour migration; 7.1, Pact commitment II(b) To conclude readmission agreements; and 11, Pact commitment III(f) intensify cooperation with the countries of origin and of transit in order to strengthen border control. These could include wider, more comprehensive agreements covering various elements related to legal and illegal migration, as well as return.

Type of agreement	Third countries involved	Main purpose of the agreement
EU Mobility Partnership	Armenia (October 2011)	Strengthen migration management
EU Mobility Partnership	Cape Verde (start early in 2011, duration of 36 months)	Strengthen migration management
EU Mobility Partnership	Georgia	Return and reintegration

**V(b)** *offer the nationals of partner countries to the East and South of Europe opportunities for the legal immigration*

The Netherlands does not have country-specific policies on labour migration. Nationals of partner countries can make use of generic schemes such as the Highly Skilled Migrant Scheme and the EU Blue Card.



**V(c) *cooperation with the countries of origin and of transit in order to deter or prevent illegal immigration***

In 2011, the Netherlands participated in the Mobility Partnerships with Armenia, Cape Verde, and Georgia. With regard to Georgia, the emphasis is on return and reintegration. The Repatriation and Departure Service (DT&V) of the Ministry of the Interior and Kingdom Relations is the Dutch participant in this Partnership. With regard to Armenia and Cape Verde, the emphasis is on strengthening migration management. The Immigration and Naturalisation Service (IND) of the Ministry of the Interior and Kingdom Relations is responsible for the activities to be performed for the Netherlands.<sup>149</sup>

**V(d) *More effective integration of migration and development policies***

In July 2011, a letter on migration and development was sent to the Lower House of Parliament.<sup>150</sup> The policy memorandum 'International Migration and Development 2008' will continue to be the starting point in formulating policy, but in line with the Coalition Agreement, the emphasis will be more on return, including the reception and reintegration of unaccompanied minors in the countries of origin as well as the protection and reception of refugees in the region of origin.

The most important instruments from the letter are (i) the development of a new framework for voluntary return which departs from a combination of financial contribution and in-kind assistance; (ii) the continued development of a strategic country-specific approach in which context it will be possible to enter into broader cooperative partnerships with the countries of origin (in particular with those that are priorities from a migration point of view) and to set conditions (if the countries of origin fail to cooperate fully or sufficiently in the return of their own nationals this could have consequences for the bilateral cooperation with these countries, in particular for any development assistance that is provided through the relevant governments). For the purpose of protection in the region, the main focus will be on those countries in the region that receive many Somali refugees such as Kenya. The Netherlands intends to contribute to the 'transition solutions initiative' of the UNHCR and the UNDP (United Nations Development Programme) which aims to improve the alignment between emergency relief and development-oriented activities. In addition, efforts are directed towards a more strategic use of resettlement. Finally, the budget for development cooperation for international migration and development will be open to all countries that qualify for development assistance in accordance with the requirements set by the OECD (Organisation for Economic Cooperation and Development).

149 Lower House of Parliament, session year 2010-2011, 30 573, no. 749.

150 Lower House of Parliament, session year 2010-2011, 32 605, no. 47.

**IS Academy**

Maastricht University conducts policy-supporting research within the framework of the IS Academy 'Migration and Development: A World in Motion'. The duration of the project is from 2009 to 2014. The purpose of financing this policy-supporting research is to enhance the relationship between research and policy. Within this research project, five PhD research projects are conducted on remittances, 'brain drain', return, migration, and development as a part of EU external policy and EU cooperation with third countries in the mobility partnerships. The IS Academy will present concrete policy recommendations in the above-mentioned areas.<sup>151</sup>

**V(e) *promote co-development actions and support instrument for transferring migrants' remittances***

The Netherlands is of the opinion that authorities should, in principle, not take directional action in the application of remittances. The Netherlands does, however, aim to set favourable preconditions to strengthen the relationship between remittances and development. In this context, the first priority is to improve transparency and the Dutch market for remittances, in particular by supporting the website [www.geldnaarhuis.nl](http://www.geldnaarhuis.nl). This website is managed by IntEnt, a foundation whose objective it is to improve transparency in the Dutch remittance market. The website is available in 8 languages and can be used to compare the costs of remittances to 34 countries.<sup>152</sup> The evaluation conducted in 2010 showed that its users considered the website extremely informative and that it contributed to greater transparency of the Dutch remittance market.

An important development that is currently being observed is that organisations (and diaspora organisations in particular) have aimed their actions to an increasing extent at using remittances for the economic development of the country of origin.

## **12.2 Stockholm Programme**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

**11(h) *how diaspora groups may be further involved in EU development initiatives, and how EU Member States may support diaspora groups in their efforts to enhance development in their countries of origin***

<sup>151</sup> Lower House of Parliament, session year 2010-2011, 30 573, no. 749.

<sup>152</sup> For more information, please visit [www.intent.eu](http://www.intent.eu)

The Netherlands considers it important to involve diaspora groups in development activities in their countries of origin. Firstly, the Ministry of Foreign Affairs together with the Ministry of the Interior and Kingdom Relations organises so-called annual consultation meetings for community-based organisations, in particular for the migrant community. During these meetings, discussions are held with various representatives of migrant organisations about national and international policy on migration and development, and in particular on the developments within *the Global Forum on Migration and Development* (GFMD).

In addition, the Dutch government supports many initiatives of migrant organisations to contribute to the development of their villages, communities, and countries of origin. Examples of this are projects on the basis of which migrants are given the opportunity to return to their country of origin for a few months to use their knowledge and skills in a local organisation or institution. The Dutch government also attempts to increase the positive influence of migration on development in other ways, for instance by training authorities of African countries in developing their policies to involve their diaspora groups more in the development of their country. In this context, for instance, the Netherlands co-financed the project 'Capacity Building for Diaspora Ministries in Africa' of the African Diaspora Policy Centre (ADPC) established in The Hague. On the basis of this project, government officials of 12 African countries attended a training course to develop government policy which enables them to involve the diaspora groups more in the development of the countries of origin.

At the international level, such as within the framework of the GFMD and the EU, the Netherlands has repeatedly pointed to the importance of involving migrants in the development of their countries of origin. In this context for instance, the Netherlands is the coordinator on the subject of diaspora ('Diaspora Outreach Initiative') within the partnership that Africa and the EU entered into ('EU-Africa Partnership for Migration, Mobility and Employment'). Together with an African country, the Netherlands furthermore hopes to take the lead in highlighting and enhancing the role of diaspora groups in the development activities within the African continent.

Finally, the Netherlands, together with Switzerland and the IOM, has financed the development of a so-called 'Diaspora Handbook'.<sup>153</sup> This Handbook is primarily intended as an instrument for policy makers to involve their diaspora groups in the countries of origin and destination and to cooperate with them. The purpose of the Handbook is as follows:

1. To identify promising, successful, and innovative policy practices;
  2. To identify major obstacles as well as the actions taken by the authorities and the 'civil society' to overcome these obstacles;
  3. To refer to sources, digital or otherwise, where more information can be found.
- It is expected that the Handbook will be completed at the end of 2011.

## ANNEX II: OVERVIEW OF IMPLEMENTATIONS OF EU DIRECTIVES

State of Affairs on Implementation of EU legislation, as per 31 December 2009

EU legislation	Corresponding national legislation and regulations (status)
<p><b>Directive 2001/51/EC</b> <b>(Schengen Implementation Agreement)</b></p>	<p><i>Ultimate implementation date: 10 February 2003</i> <i>Status: implemented on 15 September 2004</i> <i>Aliens Act 2000</i></p> <ul style="list-style-type: none"> <li>● <i>Act of 13 May 2004 to bring the Aliens Act 2000 in line with Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.</i></li> </ul>
<p><b>Directive 2001/55/EC</b> <b>(Temporary protection of displaced persons)</b></p>	<p><i>Ultimate implementation date: 31 December 2002</i> <i>Status: implemented on 15 February 2005</i> <i>Aliens Act 2000, the Aliens Decree 2000, and Aliens Act Implementation Guidelines 2000</i></p> <ul style="list-style-type: none"> <li>● <i>Act of 16 December 2004 amending the Aliens Act 2000 to implement Council Directive No 2001/55/EC of 20 July 2001 on minimum standards for the provision of temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJEU L 212), Dutch Bulletin of Acts and Decrees 2004, 691.</i></li> <li>● <i>Decision of 12 January 2005 to amend the Aliens Decree 2000 for the purpose of implementing Directive No 2001/55/EC, Dutch Bulletin of Acts and Decrees 2005, 25.</i></li> <li>● <i>Regulation of the Minister for Alien Affairs and Integration of 24 February 2005 amending the Regulations on Aliens 2000 (thirty second amendment), Dutch Government Gazette 53, p. 17.</i></li> </ul>
<p><b>Directive 2003/9/EC</b> <b>(Reception of asylum seekers)</b></p>	<p><i>Ultimate implementation date: 6 February 2005</i> <i>Status: implemented on 3 February 2005</i> <i>Asylum Seekers and Other Categories of Aliens (Provisions) Regulations 2000 (Regeling verstrekkingen asielzoekers en andere categorieën vreemdelingen 2005)</i></p> <ul style="list-style-type: none"> <li>● <i>Asylum Seekers and Other Categories of Aliens (Provisions) Regulations 2005, Dutch Government Gazette 2005 24, p. 17.</i></li> </ul>

<b>Directive 2003/86/EC (Family reunification)</b>	<p><i>Ultimate implementation date: 3 October 2005</i>  <i>Status: implemented on 1 November 2004</i>  <i>Aliens Decree 2000</i></p> <ul style="list-style-type: none"> <li>● <i>Decision of 29 September 2004 to amend Aliens Decree 2000 in connection with the implementation of Directive 2003/86/EC, Dutch Bulletin of Acts and Decrees 2004, 496.</i></li> </ul>
<b>Directive 2003/109/EC (Third-country nationals who are long-term residents)</b>	<p><i>Ultimate implementation date: 23 January 2006.</i>  <i>Status: implemented on 1 December 2006.</i>  <i>Aliens Act 2000, Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, Aliens Employment Act Implementation Regulations (Uitvoeringsregels Wet arbeid vreemdelingen), and the Netherlands Nationality Act Application Manual.</i></p> <ul style="list-style-type: none"> <li>● <i>Act of 23 November 2006 amending the Aliens Act 2000 for the purpose of implementing Council Directive No 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJEU 2004, L16). Dutch Bulletin of Acts and Decrees 2006, 584.</i></li> <li>● <i>Decision of 23 November 2006 to amend the Aliens Decree 2000 in connection with the implementation of Directive No 2003/109/EC, Dutch Bulletin of Acts and Decrees 2006, 585.</i></li> <li>● <i>Regulation of the Ministry of Justice of 7 January 2007 amending the Regulations on Aliens 2000 (fifty-sixth amendment) Dutch Government Gazette 11, p. 6.</i></li> <li>● <i>Decision of the State Secretary for Justice of 16 April 2007, no 2007/04 amending the Aliens Act Implementation Guidelines 2000, Government Gazette no 78, p. 11.</i></li> <li>● <i>Regulation of the State Secretary for Social Affairs and Employment of 21 December 2006, Labour Market Department amending the Aliens Employment Act Implementation Regulations relevant to the Aliens Employment Act Delegation and Implementation Decree, Dutch Government Gazette 1, p. 10.</i></li> <li>● <i>Nationalities Interim Communication (Tussentijds Bericht Nationaliteiten, TBN 2007/5) of the Ministry of Justice, Dutch Government Gazette 67, p. 7.</i></li> </ul>
<b>Directive 2003/110/EC (Removal by air)</b>	<p><i>Ultimate implementation date: 6 December 2005</i>  <i>Status: implemented on 22 December 2005</i>  <i>Aliens Act Implementation Guidelines 2000</i></p> <ul style="list-style-type: none"> <li>● <i>Decision of the Ministry of Justice of 08 December 2005, no 2005/59 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 247, p. 35.</i></li> </ul>

<p><b>Directive 2004/38/EC</b> <b>(Free movement of EU citizens and their family members)</b></p>	<p><i>Ultimate implementation date: 30 April 2006</i> <i>Status: implemented on 29 April 2006</i> <i>Work and Social Assistance Act (Wet werk en bijstand), Student Finance Act 2000 (Wet studiefinanciering 2000), Fees and Educational Expenses (Allowances) Act (Wet tegemoetkoming onderwijsbijdrage en schoolkosten), Aliens Act 2000, Aliens Decree 2000, and the Netherlands Nationality Act Application Manual</i></p> <ul style="list-style-type: none"> <li>● <i>Act of 7 July 2006 amending the Work and Social Assistance Act, the Student Finance Act 2000, the Fees and Educational Expenses (Allowances) Act, and the Aliens Act 2000 in connection with the coming into effect of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, as well as the approval of a reservation associated with the European Treaty on social and medical assistance, Dutch Bulletin of Acts and Decrees 2006, 373.</i></li> <li>● <i>Decision of 24 April 2006 to amend the Aliens Decree 2000 in connection with the implementation of Directive 2004/38/EC, Dutch Bulletin of Acts and Decrees 2006, 215.</i></li> <li>● <i>Nationalities Interim Communication (TBN 2006/3), Dutch Government Gazette 109, p. 25.</i></li> </ul>
<p><b>Directive 2004/81/EC</b> <b>(Human trafficking)</b></p>	<p><i>Ultimate implementation date: 6 August 2006</i> <i>Status: implemented on 1 February 2006</i> <i>No amendments to legislation and regulations</i></p>
<p><b>Directive 2004/82/EC</b> <b>(Passenger data)</b></p>	<p><i>Ultimate implementation date: 5 September 2006</i> <i>Status: implemented on 1 September 2007</i> <i>Aliens Act 2000, Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, and Aliens Act Implementation Guidelines 2000</i></p> <ul style="list-style-type: none"> <li>● <i>Act of 9 July 2007 to bring the Aliens Act 2000 in line with Council Directive No 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (OJEU L 261), Dutch Bulletin of Acts and Decrees 2007, 252.</i></li> <li>● <i>Decision of 27 July 2007 to bring the Aliens Decree 2000 in line with Directive No 2004/82/EC, Dutch Bulletin of Acts and Decrees 2004, 283.</i></li> <li>● <i>Regulation of the Ministry of Justice of 16 August 2007 amending the Aliens Act Implementation Guidelines 2000 (sixty-fifth amendment) Dutch Government Gazette 163, p. 9.</i></li> <li>● <i>Decision of the State Secretary for Justice of 25 September 2007, no 2007/27 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 194, p. 10.</i></li> </ul>

<b>Directive 2004/83/EC (Qualification Directive)</b>	<i>Ultimate implementation date: 10 October 2006. Status: implemented on 25 April 2008.</i>
	<ul style="list-style-type: none"> <li>● <i>Act of 3 April 2008 amending the Aliens Act 2000 to implement Council Directive No 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJEU L 304) Dutch Bulletin of Acts and Decrees 2008, p. 115.</i></li> <li>● <i>Decision of 9 April 2008 to amend the Aliens Decree 2000 and the Youth Care Act Implementation Decree to implement Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJEU L 304), Dutch Bulletin of Acts and Decrees 2008, 116.</i></li> <li>● <i>Regulation of the State Secretary for Justice of 8 May 2008 amending the Regulations on Aliens 2000 (eightieth amendment), Government Gazette no 97, p. 16.</i></li> <li>● <i>Decision of the State Secretary for Justice of 10 November 2008, no 2008/27 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 728.</i></li> </ul>
<b>Directive 2004/114/EC (Student Directive)</b>	<i>Ultimate implementation date: 12 January 2007 Status: implemented on 11 November 2006 Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, and the Aliens Act Implementation Guidelines 2000.</i>
	<ul style="list-style-type: none"> <li>● <i>Decision of 2 October 2006 to amend the Aliens Decree 2000 to implement Directive No 2004/114/EC, Dutch Bulletin of Acts and Decrees 2006, 458.</i></li> <li>● <i>Decision of the Minister for Alien Affairs and Integration of 26 April 2006 amending the Regulations on Aliens 2000 (forty-sixth amendment), Dutch Government Gazette 84, p. 15.</i></li> <li>● <i>Decision of the Ministry of Justice of 3 January 2007, no 2007/01 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 38, p. 7.</i></li> </ul>
<b>Directive 2005/71/EC (Research Directive)</b>	<i>Ultimate implementation date: 12 October 2007. Status: implemented on 12 October 2007. Aliens Decree 2000, Aliens Employment Act Implementation Decree, Civic Integration Decree, Aliens Act Implementation Guidelines</i>

	<p>2000, and the Aliens Act Implementation Guidelines 2000.</p> <ul style="list-style-type: none"> <li>● Decision of 26 September 2007 to amend the Aliens Decree 2000, the Aliens Employment Act Implementation Decree, and the Civic Integration Decree in connection with the implementation of Directive No 2005/71/EC, Dutch Bulletin of Acts and Decrees 2007, 366.</li> <li>● Regulation of the State Secretary for Justice of 16 October 2007 amending the Regulations on Aliens 2000 (seventy-first amendment), Dutch Government Gazette 202, p. 24.</li> <li>● Decision of the State Secretary for Justice of 21 January 2008, no 2008/07 amending the Aliens Act Implementation Guidelines 2000, Government Gazette no 21, p. 9.</li> </ul>
<p><b>Directive 2005/85/EC (Refugee status)</b></p>	<p>Ultimate implementation date: 1 December 2007. Status: implemented on 19 December 2007. Aliens Act 2000, Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, and the Aliens Act Implementation Guidelines 2000.</p> <ul style="list-style-type: none"> <li>● Act of 15 November 2007 amending the Aliens Act 2000 to implement Council Directive No 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (OJEU L 32), Dutch Bulletin of Acts and Decrees 2007, 450.</li> <li>● Decision of 29 November 2007 to bring the Aliens Decree 2000 in line with Directive No 2005/85/EC, Dutch Bulletin of Acts and Decrees 2007, 484.</li> <li>● Regulation of the State Secretary for Justice of 7 December 2007 amending the Regulations on Aliens 2000 (seventy-third amendment), Dutch Government Gazette 240, p. 9.</li> <li>● Decision of the State Secretary for Justice of 7 December 2007, no 2007/38 amending the Aliens Act Implementation Guidelines 2000, Government Gazette no 240, p. 10.</li> </ul>
<p><b>Directive 2008/115/EC Directive)</b></p>	<p>Ultimate implementation date: 24 December 2010. (Return For article 13(4) on 24 December 2011 Status: implemented on 31 december 2011.</p> <ul style="list-style-type: none"> <li>● Directive no 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals (hereinafter: the Return Directive) was published on 24 December 2008.</li> <li>● The Netherlands should have had transposed the Return Directive into national law by 24 December 2010. The bill</li> </ul>



	<p><i>implementing the Return Directive was submitted to the Lower House of Parliament in June 2010. Partly due to the fact that the Council of State had given a negative opinion on the bill, the date of 24 December 2010 was not met. In December 2010, partial implementation was effected insofar as amendments were not required. By now, the legislative procedure has been finalised. The Senate adopted the Act on 13 December 2011.</i></p> <ul style="list-style-type: none"> <li>● <i>The Act entered into force on 31 December 2011.</i></li> </ul>
<p><b>Directive 2009/50/EC (EU Blue Card)</b></p>	<p><i>Ultimate implementation date: 19 June 2011</i> <i>Status: implemented on 19 June 2011</i></p> <ul style="list-style-type: none"> <li>● <i>Directive 2009/50/EC entered into force on 19 June 2011 by Decision of 15 June 2011 to establish the date of entry into force of components of the Modern Migration Policy Decree and to amend the Aliens Decree 2000, and the Civic Integration Decree in connection with said entry into force.</i></li> <li>● <i>This Decision was published in the Dutch Bulletin of Acts and Decrees no. 291 of 17 June 2011.</i></li> </ul>
<p><b>Directive 2009/52/EC (Combating illegal employment)</b></p>	<p><i>Ultimate implementation date: 20 juli 2011</i> <i>Status: It is not yet known when the Directive will be implemented.</i></p> <ul style="list-style-type: none"> <li>● <i>Directive 2009/52/EC should have been implemented by 20 July 2011. Implementation will be realised by an amendment to the Foreign Nationals (Employment) Act.</i></li> <li>● <i>A bill to this end was submitted to the Lower House of Parliament on 8 July 2011. The bill was adopted by the Lower House of Parliament on 20 December 2011 and must still be assessed by the Senate.</i></li> </ul>
<p><b>Directive 2011/51/EC (amending the Long-Term Residents Directive)</b></p>	<p><i>Ultimate implementation date: 20 May 2013</i> <i>Status: It is not yet known when the Directive will be implemented.</i></p> <ul style="list-style-type: none"> <li>● <i>Directive 2011/51/EC amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection was published on 19 May 2011.</i></li> </ul>
<p><b>Directive 2011/36/EU Directive on preventing and combating trafficking in human beings)</b></p>	<p><i>Ultimate implementation date: 6 April 2013</i> <i>Status: It is not yet known when the Directive will be implemented.</i></p> <ul style="list-style-type: none"> <li>● <i>European Directive on preventing and combating trafficking in human beings (Directive 2011/36/EU) entered into force on 15 April 2011.</i></li> </ul>

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Immigration and Naturalisation  
Service  
*Ministry of the Interior and  
Kingdom Relations*



The EMN was established via Council Decision  
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supported by the European Commission.

The European Migration Network (EMN) has been set up by the Council of the European Union. The EMN collects up-to-date, objective, reliable and where possible comparable information on migration and asylum. The EMN publishes reports on a variety of subjects in the field of asylum and migration. The establishment of the EMN is consistent with the aim of the EU to establish an effective asylum and migration policy.

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