



ANNUAL POLICY REPORT 2015

Migration and Asylum in the Netherlands



ANNUAL POLICY REPORT 2015 MIGRATION AND ASYLUM IN THE NETHERLANDS

June 2016

Credits

Title	Annual Policy Report 2015
Subtitel	Migration and Asylum in the Netherlands
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MANAGEMENT SUMMARY

The Annual Policy Report 2015 provides an insight into the most important developments in the migration and asylum policy of the Netherlands in 2015. Themes covered are: regular migration, integration, international protection (asylum), unaccompanied minors and other vulnerable groups, actions addressing trafficking in human beings, irregular migration and border control, returns, and migration and development. The Annual Policy Report has been drawn up by employees at the Research & Analysis division of the Strategy and Implementation Advisory department of the IND and is largely based on desk research.

Public debate in the area of migration has been dominated since July 2015 by the increased influx of asylum seekers. In certain municipalities, for instance, hefty discussions took place about sheltering asylum seekers. Also, the measures taken by government to manage the high influx, such as the introduction of a list with safe countries, raising capacity at implementing agencies, and the deployment of emergency reception locations, were topics that were often dealt with in the media. In addition, the refugee agreement between the EU and Turkey was a topic of public debate. Other migration topics that were extensively discussed in the media in 2015 were the arrival of increasingly more child brides to the Netherlands, and measures against terrorism as a result of the attacks in France. In April 2015, even before the major increase in asylum applications, an intense discussion took place between the two ruling parties, the People's Party for Freedom and Democracy (VVD) and Labour Party (PvdA) about the issue whether asylum seekers who have exhausted all legal means have a right to the "bed, bath and bread" scheme.

In the area of **regular migration**, important developments included the introduction of the new start-up scheme in January 2015, the entry into force of the Law on Prevention of Forced Marriages, and amendment of the au pair policy. Furthermore, the Highly Qualified Migrants Scheme and the orientation-year for graduates have been merged into a single scheme: The 'orientation year for highly educated persons'.

Necessary developments have also taken place in the area of **integration**. In response to the increased influx, the government established a temporary 'Ministerial Committee on Migration', which devotes time to current migration and integration issues. This has resulted in a 'Task force for the Employment and Integration of Refugees', a 'Taskforce for the Higher Education of Refugees', an Administrative Agreement on Housing and a package of measures in respect of asylum seekers and beneficiaries of international protection participating in education. In the agreement on housing, the government and municipalities have agreed on creating facilities to house 14,000 beneficiaries of international protection. Aside from the increased influx, in March 2015 the Dutch Language Requirement Act was adopted, which stipulates that a social assistance benefit can be reduced if the recipient does not have a satisfactory proficiency of the Dutch

language. Furthermore, in 2015 the available loan for civic integration was increased to EUR 10,000. Previously, only beneficiaries of international protection received loans of EUR 10,000 and other migrants EUR 5,000.

In 2015 many measures were taken in the **asylum** area. Some modifications are a direct consequence of the unprecedented high influx of asylum seekers in the second half of 2015. Examples of this are the establishment of the temporary 'Ministerial Committee on Migration', the introduction of a list of safe countries, and development of the multi-track policy. Moreover, not only has capacity in the asylum procedure been raised, but so too in the reception of asylum seekers, in order to face the increased influx of asylum seekers. To this end, COA has made use of emergency and crisis reception locations. In addition, capacity at the IND to deal with asylum applications has been raised; e.g. external staff have been hired and asylum seekers are interviewed both during weekdays and temporarily during weekends.

Independent of the increased influx, a number of planned policy amendments have come into force in 2015. In July, for instance, the European Procedures Directive was implemented. The consequences emanating from this include the introduction of border procedures, the introduction of new settlement grounds, and the introduction of a full and ex nunc examination in judicial review. In anticipation of the standards in the Procedures Directive, the 'comprehensive credibility assessment' was introduced in January 2015. In July 2015, an independent procedure for Dublin claimants was also introduced.

Necessary adaptations were also applied in the area of country-related asylum policy. For a number of countries new risk groups were designated, such as Christians and homosexuals. Further, the Iraqi provinces of Anbar, Ninewa, Salaheddin, Ta'mim and Diyala, as well as parts of the circle 'around' the city of Baghdad (the so-called Baghdad belts) that border along the provinces of Anbar, Salaheddin and Diyala, were generally designated as unsafe areas. At the end of 2015, moratoriums on decisions and returns for asylum seekers from China¹, Yemen and Somalia² came into force. By contrast, the moratorium for asylum seekers from Iraq was discontinued in 2015.

On an international level, the Netherlands was involved in a number of European initiatives and bilateral and multilateral projects. For example, the Netherlands has agreed in European agreements to redistribute asylum seekers within Europe. In this context it has been agreed that 9,000 people from Greece and/or Italy will come to the Netherlands.

In 2015 a number of policy amendments took place in the area of **unaccompanied minors (UAMs) and other vulnerable groups**. With the implementation of the Procedures Directive in July 2015, UAMs may, for instance, only be interviewed about their motives for seeking asylum in the presence of a legal representative, authorised representative or

1 only for Uyghurs

2 only for areas in Central and South Somalia under the control of Al-Shabaab

other legal assistance provider. Another important amendment was the introduction of new reception centre model for UAMs. The new model focuses on small-scaleness and continuity in the reception. In addition, the Minister for Migration has taken measures to better identify and support minor-aged victims of trafficking in human beings.

In terms of **actions addressing trafficking in human beings** a number of developments took place in 2015. In the context of the National Referral Mechanism, for instance, the 'Guide on countering Trafficking in human beings' website was launched and a pilot project on multidisciplinary identification of victimhood was started. Additionally, the 'Report Crimes Anonymous' reporting centre carried out a campaign against «Forced prostitution». A pilot was also started where interview studios were installed at three reception centres for victims of trafficking in human beings. Moreover, research results have been published about the role of municipalities in the protection of victims of trafficking in human beings, and the Netherlands, Belgium and the United Kingdom have intensified their collaborations relating to trafficking in human beings.

Due to the high influx, the countering of **illegal immigration, including human smuggling and border control** were significant topics in 2015. In order to combat human smuggling, border controls by the Royal Netherlands Marechaussee (KMar) were intensified along the Dutch borders and maximum sentences to be imposed for human smuggling have been raised. In addition, the Minister for Migration has expanded the number of Advanced Passenger Information Airports by 54 airports. Now, airline companies flying to the Netherlands must provide detailed passenger information from 108 airports worldwide. On an international level, the Netherlands has joined a number of new projects to improve border control capacities of countries of origin and transition countries, including Turkey and Lebanon. The Netherlands has also been evaluated in terms of the Schengen evaluations.

In the area of **returns**, a couple of changes were implemented in 2015. Measures were taken to counteract the abuse of departure and reintegration support. Also, a number of new return projects run by IOM and various non-governmental organisations were started, and the remand in custody pilot was expanded by the DT&V.

2015 also saw the Netherlands actively carrying out policy in the area of **migration and development**. An important international milestone was the Valletta Summit in November 2015. The result of this summit was a joint EU plan of action for more than thirty countries from North, East, and West Africa. In this, also at the request of the Netherlands, efforts are specifically being made regarding employment and economic growth, with an emphasis on African youths. Within a number of projects, the Netherlands has cooperated with countries of origin mainly to address economic causes of migration (e.g. unemployment). Other projects are geared towards cooperation with diaspora and the prevention of a 'brain drain'.

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1 INTRODUCTION

The EMN Annual Policy Report 2015 offers an overview of the most important developments in the area of migration and asylum policy of the Netherlands in 2015. The report describes the actual situation in the Netherlands. Attention is also paid to national debates and the country-related policy on asylum. This makes the EMN Annual Policy Report 2015 an abridged reference document for Dutch policy makers, employees in the migration process, and other interested parties.

Topics covered in this Annual Policy Report are: regular migration, integration, international protection (asylum), unaccompanied minors and other vulnerable groups, actions addressing trafficking in human beings, migration and development, irregular migration, border control and returns.

The Annual Policy Report is an annual publication for the European Migration Network (EMN). The EMN was established in 2008 by the Council of the European Union, to provide for the need of information of policy makers and authorities of the European Union, and of the individual national Member States in the area of migration and asylum. For this purpose the EMN collects current, objective, reliable and, where possible, comparable information about migration and asylum. The EMN consists of the European Commission and a national contact points (NCPs) in each Member State. The national contact point in the Netherlands is the Research & Analysis division (O&A) of the Strategy and Implementation Advisory department (SUA) of the Immigration and Naturalisation Service (IND). Based on the Netherlands' 2015 Annual Policy Report and the reports published by the other Member States, the EMN draws up a comparative 'European' 2015 Annual Policy Report, also known as a Synthesis Report.

Basic knowledge of the Netherlands' migration and asylum policy helps the reader to recognize the policy amendments dealt with, but is not required as such. If required, the necessary background information (e.g. the working procedure of existing policy) is presented in text boxes. Appendix B provides the reader with an overview of the general structure of the Netherlands asylum and migration policy, and the tasks of the organisations involved.

This Annual Policy Report is mainly the result of desk research. The report has been drawn up by employees at the Research & Analysis division (O&A) of the IND. In so doing, experts from different organisations have provided input, such as:

- The Immigration and Naturalisation Service (IND)
- The Ministry of Security and Justice
- The Ministry of Social Affairs and Employment
- The Repatriation and Departure Service (DT&V)
- The Central Agency for the Reception of Asylum (COA)
- The Royal Netherlands Marechaussee (KMar)
- The National Rapporteur on Trafficking in Human Beings

2 POLITICAL DEVELOPMENTS

2.1 General Political Developments

In 2015 no important political changes occurred. Since November 2012 the Netherlands has been governed by the Rutte II cabinet. This government is a coalition of the liberal People's Party for Freedom and Democracy (VVD) and the social democratic Labour Party (PvdA).

Worth mentioning, is that the Netherlands has prepared itself in 2015 for the EU Presidency of the Netherlands in the first half of 2016. In addition, the Minister of Security and Justice (Ivo Opstelten) and the State Secretary (Fred Teeven) stepped down in March 2015.³ The reason for this was that the Lower House had been incorrectly informed in 2002. They were succeeded by Ard van der Steur as the new Minister of Security and Justice and Klaas Dijkhoff as the new Minister for Migration.

2.2 Political developments and debates in the area of migration and asylum

Public debate in the area of migration has been dominated since July 2015 by the increased influx of asylum seekers. This has resulted in a number of measures. The terrorist attacks in France were also an important topic in the public debate concerning migration and asylum. The most important political developments and debates are outlined below. Where a debate has led to concrete policy amendments, we make reference to the relevant passages of text in the various chapters of the report.

Increased influx is reason for many political developments

In 2015 Dutch authorities have been faced with major challenges due to the processing of an unprecedented high number of asylum applications. In the second half of the year the influx was so massive that the regular COA reception facilities were fully occupied. In order to nonetheless provide them with shelter, COA made use of emergency reception locations and crisis reception locations. For example, asylum seekers were temporarily accommodated in sports halls, schools and even at camping sites. The local reception of asylum seekers was also often a topic in reports by the media. In November 2015 the government and municipalities signed an agreement⁴ to improve the reception of asylum seekers. For more information relating to the reception, see paragraph 5.2.4.

There were also problems with the registration of asylum seekers. A couple of times last summer, the high influx and especially its limited predictability was the reason that asylum seekers had to be sheltered without them having been registered as yet. In response, the Identification and Trafficking in human beings Department of the Aliens Police (AVIM), who is responsible for the registration of asylum seekers, made additional

3 NOS (news broadcaster). (2015). *Bewindslieden Opstelten en Teeven treden af* [Government officials Opstelten and Teeven step down.] <http://nos.nl/artikel/2023760-bewindslieden-opstelten-en-teeven-treden-af.html>

4 Minister of the Interior and Kingdom Relations et al. (2015). *Bestuursakkoord Verhoogde Asielinstroom* [Administrative Agreement on Increased Influx of Asylum Seekers].

personnel available for registrations, and additional locations were put into service where registration could take place (see paragraph 5.2.6).

Moreover, the government took a number of measures to reduce the increasing backlog in dealing with asylum applications. For example, capacity at the IND was raised (more personnel, more space, and opening hours during the weekends), and the government proposed measures to better manage reunification of family members with asylum seekers. Further, in 2015 a list of safe countries was drawn up and the IND developed the multi-track policy which must ensure that asylum applications are finalised faster. In addition, the temporary Ministerial Committee on Migration was established. The committee develops and discusses potential measures to manage the increased influx of asylum seekers. These and other policy amendments are described in detail in paragraph 5.2.

High influx sometimes led to hefty discussions

Sometimes the high influx also led to a hefty response among the community. In December 2015 riots broke out during a debate about the arrival of an Accommodation Centre in Geldermalsen.⁵ However, asylum seekers have also been enthusiastically received by the local population. The various opinions amongst the population about how the Netherlands should cope with migrants, are reflected in the public debate. While, for instance, the PVV leader Geert Wilders advocates dragging boats full of refugees back to where they came from, other parties (e.g. CDA, D66) see it as a moral obligation to take up refugees in the Netherlands.^{6,7}

Cabinet teeters on the brink because of the bed, bath and bread scheme

In April 2015 there was an intense discussion between the two ruling parties VVD and PvdA about the rules concerning the sheltering of asylum seekers who have exhausted all legal means. Many of the papers even spoke of a “government crisis”. The reason was an opinion from the European Committee of Social Rights in November 2014, in which the Committee stated that the Dutch government had to provide shelter, clothing and sustenance (“bed, bath and bread”) to asylum seekers who have exhausted all legal means.⁸ The basic principle of policy in the Netherlands assumes that asylum seekers who have exhausted all legal means who do not want to cooperate in their departure, are not offered any shelter.

The PvdA thought that asylum seekers who have exhausted all legal means should be offered reception, clothing, shelter and sustenance.⁹ The VVD was of the opinion that

5 *Algemeen Dagblad* (newspaper). (2015). *Geldermalsen: debat over mega-azc afgelast na rellen* [Geldermalsen: debate about mega asylum seekers' centre cancelled after riots]. <http://www.ad.nl/rivierenland/geldermalsen-debat-over-mega-azc-afgelast-na-rellen-a47fbaa2/>

6 *RTL Nieuws* (news broadcaster). (2015). *Wilders: Sleep bootvluchtelingen terug* [Wilders: Drag boat-refugees back]. <http://www.rtlnieuws.nl/nieuws/politiek/wilders-sleep-bootvluchtelingen-terug>

7 *Nu.nl* (internet site). (2015). *Dit zijn de vluchtelingen-standpunten van de politieke partijen* [These are the points of view of political parties on refugees]. <http://www.nu.nl/politiek/4146863/vluchtelingen-standpunten-van-politieke-partijen.html>

8 *NOS* (news broadcaster). (2014). *Vier vragen over 'bed, bad en brood'* [Four questions about 'bed, bath and bread']. <http://nos.nl/artikel/2004740-vier-vragen-over-bed-bad-en-brood.html>

9 *Nu.nl* (internet site). (2015). *Hoe 'bed, bad, brood' de coalitie dreigde te splijten* [How 'bed, bath, bread' threatened to split the coalition]. <http://www.nu.nl/dyn/4032012/bed-bad-brood-coalitie-dreigde-splijten.html>

asylum seekers who have exhausted all legal means may only be entitled to 'bed, bath and bread' if they cooperate in their return to their country of origin.¹⁰ After intensive discussions and a great deal of attention in the media, the two coalition partners reached a compromise. For more information about the compromise see paragraph 5.2.4.

Political discussions on the refugee agreement between the EU and Turkey

At the end of November 2015 the EU and Turkey concluded an agreement to reduce the volume of refugees arriving from Turkey to Europe. Amongst other things, the agreement means that Turkey will improve the border surveillance and reception of refugees. For this purpose the EU would make three billion euro available.¹¹ Some parties expressed their criticism on the agreement. The Christian parties (CDA, ChristenUnie and SGP) for example, do not agree with the fact that the agreement also relates to Turkey's membership of the EU.¹² In their opinion, negotiations about the refugee crisis should be separate from the admission negotiations. Amnesty International is also critical of the agreement. They fear that EU funds will also be applied for maintaining detention centres in Turkey for Syrian refugees.¹³

Government takes action after reports on child brides

After a report by RTV North that more and more Syrian child brides come to the Netherlands, a political debate arose on the subject.¹⁴ In response, the Lower and Upper Houses decided to accelerate the legislative proposal procedure 'Opposing forced marriages'. Under the new regulation, marriages concluded abroad by persons who have not yet reached the age of 18, are not recognized in the Netherlands unless both spouses, in the meanwhile, have reached adult-age.¹⁵ On 5 December 2015, a couple of months sooner than planned, the law entered into force.¹⁶ For more information see paragraph 3.2.2.

Discussion on measures against terrorism

The terrorist attacks in Paris in January (Charlie Hebdo) and October 2015 (Bataclan) have also led to political discussions in the Netherlands about the necessity of additional measures against terrorism. Since a number of the perpetrators have arrived in Europe as part of the refugee influx, many of the measures discussed relate to the migration policy. Several parties pleaded for stricter screening and verification of new asylum see-

10 *Nu.nl* (internet site). (2015). *Hoe 'bed, bad, brood' de coalitie dreigde te splijten* [How 'bed, bath, bread' threatened to split the coalition]. <http://www.nu.nl/dvn/4032012/bed-bad-brood-coalitie-dreigde-splijten.html>

11 NOS (news broadcaster). (2015). *EU-top: akkoord met Turkije* [EU summit: agreement with Turkey]. <http://nos.nl/nieuwsuur/artikel/2072034-eu-top-akkoord-met-turkije.html>

12 NOS (news broadcaster). (2015). *Christelijke partijen tegen voorlopige deal EU-Turkije* [Christian parties oppose provisional EU-Turkey deal]. <http://nos.nl/artikel/2063490-christelijke-partijen-tegen-voorlopige-deal-eu-turkije.html>

13 NOS (news broadcaster). (2015). *Amnesty: Turkije detineert en deporteert vluchtelingen* [Amnesty: Turkey detains and deportees refugees]. <http://nos.nl/nieuwsuur/artikel/2075430-amnesty-turkije-detineert-en-deporteert-vluchtelingen.html>

14 RTL Nieuws (news broadcaster). (2015). *Kamer eist direct actie tegen kindbruiden* [Lower House urges immediate action against child brides]. <http://www.rtlnieuws.nl/nieuws/binnenland/kamer-eist-direct-actie-tegen-kindbruiden>

15 Central government. (2015). *Wet tegengaan huwelijksdwang treedt op 5 december 2015 in werking* [Protection against Forced Marriages Act enters into force on 5 December 2015]. <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/nieuws/2015/10/21/wet-tegengaan-huwelijksdwang-treedt-op-5-december-2015-in-werking>

16 NOS (news broadcaster). (2015). *Wet tegen kindbruiden versneld aangenomen* [Accelerated adoption of legislation against child brides]. <http://nos.nl/artikel/2061593-wet-tegen-kindbruiden-versneld-aangenomen.html>

kers who come to the Netherlands.¹⁷ Further, the government was asked to investigate to what extent it is possible to arrest those who have been to Syria who return to the Netherlands.¹⁸ In addition, checks by the military police (KMar) along the Dutch border have been intensified (see paragraph 8.2).

17 RD.nl (internet site). (2015). *Kamer wil meer maatregelen tegen terreur* [Government wants stricter measures against terrorism]. http://www.refdag.nl/nieuws/politiek/kamer_wil_meer_maatregelen_tegen_terreur_1_954599

18 Z24 (internet site). (2015). *Kabinet: extra maatregelen niet nodig na aanslagen Parijs, Nederland al goed voorbereid* [Government: no extra measures needed after attacks in Paris. The Netherlands is already well prepared]. <http://www.z24.nl/economie/kabinet-extra-maatregelen-niet-nodig-na-aanslagen-parijs-nederland-al-goed-voorbereid-6000545>

3 LEGAL MIGRATION

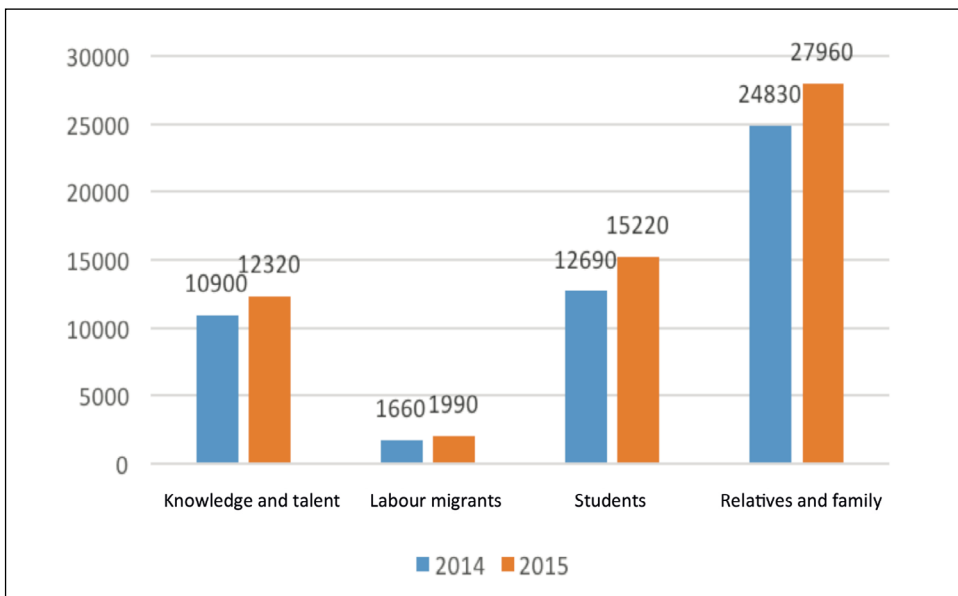
3.1 Introduction

Economic migration

Dutch labour migration policy is geared towards enhancing the knowledge-based economy and attracting highly educated people. For the top segment of the labour market the labour migration policy is inviting. For other third-country nationals who want to come to the Netherlands for economic reasons the admissions policy is restrictive; they must be in possession of a work permit or a combined residence and work permit.

The starting point of Dutch policy for highly skilled migrants is that highly skilled migrants provide an important positive contribution to the Dutch economy. They lift the level of knowledge that is desired by the Dutch knowledge economy to a higher level, and this could enhance the competitive position of the Netherlands. It is not only highly skilled migrants who work in employment that are of great value, but independent entrepreneurs can also serve Dutch interests; certainly where it concerns ambitious, innovative entrepreneurs. The number of third-country nationals who have submitted an application for a residence permit with the purpose of stay being 'knowledge and talent' (such as highly skilled migrants, self-employed persons, those in the Highly Qualified Migrants Scheme, graduates and scientific researchers) has increased in the year 2015. Also the number of applications for a residence permit with the purpose of stay being 'labour migrants' has risen in the year 2015.

Figure 1: Number of residence permit applications



Source: IND

The Dutch economy benefits from students who have international experience. More than 15,000 international students have applied for a residence permit in 2015.

Relatives and family

In 2015 more than 28,000 third-country nationals submitted an application for a residence permit with the purpose of stay being 'Relatives & Family', a slight increase (more than 12%) in respect of the year before (see figure 1). For example, it could be a Dutch national who has met a partner abroad and wants them to come to the Netherlands; but it could also be a foreign national who stays in the Netherlands and wants his family, whom he has left abroad, to come over.

3.2 Policy developments

This paragraph only shows the policy amendments that have taken place in 2015.

3.2.1 *Economic migration*

Knowledge and talent and students

On 1 January 2015 the scheme for start-ups entered into force.¹⁹ With effect from 1 October 2015 the IND does not reject an application for a temporary regular residence permit as a start-up under the restriction of 'working as a self-employed person', owing to the absence of a valid temporary residence permit (MVV). This only applies if all conditions for granting the residence permit as a start-up are complied with.²⁰

Box 1. How does the start-up scheme work?

The scheme makes it possible for ambitious start-ups to apply for a residence permit for a year, to start up an innovative enterprise in the Netherlands. In that year the start-up develops an innovative product or service while being counselled by an experienced counsellor (facilitator). The Netherlands Enterprise Agency (RVO), which is part of the Ministry of Economic Affairs, assesses whether the facilitator is reliable and experienced and whether the start-up qualifies as an innovative enterprise. The IND checks whether the start-up's financial resources are in order and whether the other conditions are complied with. After a year the start-up can apply for a residence permit as a self-employed person.

With effect from 1 January 2016, policy has been adapted so that start-ups with a residence permit can progress easier to the **Self-employed Migrants Scheme**. On 14 December 2015, the Minister for Migration sent a letter to the Lower House in which he notifies his intention to adapt the points system of the Self-employed Migrants Scheme. This aims to provide a better connection of the points system to the start-up scheme. The points system of the Self-employed Migrants Scheme introduces a statement from the facilitator. The facilitator can provide such a statement to the start-up when the counselling process has been satisfactorily completed. The statement then provides a basis for

19 For more information see: www.ind.nl/organisatie/nieuws/Paginas/Nieuwe-verblijfsregeling-voor-ambitieuze-buitenlandse-ondernemers.aspx

20 For more information see: <https://ind.nl/organisatie/nieuws/Paginas/Mvv-vereiste-bij-start-up.aspx>

the Netherlands Enterprise Agency (RVO) to give a favourable recommendation. To this end, the Aliens Regulations 2000 has been amended.²¹

In 2015 the Netherlands has decided to start a **pilot** in which **non-EU students who study in Aachen** and want to live in the Netherlands can get a Dutch residence permit. The pilot will start in 2016 and will last for five years. Every year a maximum of 75 of these students can obtain a Dutch residence permit.

With effect from 1 October 2015 third-country nationals residing lawfully in another Schengen Member State who want to stay longer than 90 days in the Netherlands as a scientific researcher, student or skilled migrant are **exempt from the MVV requirement**. This means that they can apply for a residence permit in the Netherlands without a temporary residence permit (MVV).²²

Box 2. What is a temporary residence permit?

A **temporary residence permit (MVV)** is an entry visa for establishment in the Netherlands. The MVV is applied for at the Dutch embassy in the country of stay, who requests a recommendation from the IND. On receiving a favourable recommendation from the IND the visa is generally issued. The procedure lasts approximately 3 months.

Until 30 May 2013 it was possible first to apply for a free recommendation at IND, prior to applying for the visa. However, this recommendation had to be done by a Dutch sponsor (partner, company, university). No objection was possible against a negative decision from the IND. On the entry into force of the Modern Migration Policy Act and the National Visa Act this application for a free **MVV** recommendation lapsed. A sponsor can start the Entry and Residence procedure to arrange both the **MVV** and the residence permit at the same time.

After arrival in the Netherlands, within three working days the immigrant must register at the municipality in the municipal personal records database (GBA), or make an appointment for this purpose. At that point in time a regular residence permit is applied for (VVR, regular residence permit). The regulations for obtaining an **MVV** are provided for in the Aliens Act (Vw) 2000, the Aliens Decree and the Aliens Act Implementation Guidelines.

Citizens of the EEA and a few other countries (including Japan and the United States of America) do not need an **MVV** to establish themselves in the Netherlands. Only in certain cases should they report to the municipality.

The Netherlands considers it important for highly qualified migrants to be given ample time to find a job or to start their own business in the Netherlands after having completed their studies. To achieve this goal there are plans to modify the Highly Qualified Migrants Scheme. The Highly Qualified Migrants Scheme and orientation-year for graduates will be merged into a single scheme: The '**orientation year for highly educated**

²¹ *Parliamentary Papers II*, 2015–2016, 30573, no. 133.

²² Official Gazette, year 2015, no. 333

persons'. In so doing, most promotional elements from both schemes are combined. Hence for example, the required work permit is revoked for the target group of the Highly Qualified Migrants Scheme. The scheme now not only includes all graduated students in the Netherlands, but also students that have graduated at a top university abroad.²³

3.2.2 *Family formation and family reunification*

On 9 July 2015, the European Court of Justice delivered a judgment in a ruling on how the Netherlands deals with applying the integration requirement as a condition for family reunification.²⁴ According to the Court, implementation of this requirement is in violation of EU law. Based on the principle of proportionality, it is stated that the civic integration requirement may be applied in cases of family reunification, on the proviso that this condition only aims to promote integration of the particular family. On the other hand though, this may not entail any disproportionately high expenses or efforts. According to the Court, the principle of proportionality is not guaranteed on implementation of the Dutch practice; there is not enough leeway to **relieve persons of the civic integration requirement**. According to the Court, costs for the basic examination and preparation package are too high. In a letter of 17 December 2015 the government informed the Lower House on broadening the possibility for exemption and a reduction of costs.²⁵

On 5 December 2015 the **Law on Prevention of Forced Marriages** entered into force. This law determines, among other things, that both partners must be at least 18 years of age to be able to get married in the Netherlands. Marriages concluded abroad with minor-aged partners can only be acknowledged if both partners are at least 18 years old. With effect from 5 December 2015 requests in the context of refugee reunifications and regular family reunification will be rejected by the IND if at least one of the (marriage) partners is younger than 18 years of age.

In May 2015, all authorities involved in asylum and migration matters and criminal justice, together with the SZW Inspectorate, joined forces in a **nationwide action against marriages of convenience**. Specific checks were carried out across the country of people who were suspected of being responsible for a marriage of convenience or for facilitating this.

3.2.3 *Exchange*

An amendment of the Aliens Regulations took place on 30 June 2015. With effect from 1 July 2015 the **au pair** and the host family must sign a declaration of awareness in which the obligations are described.²⁶

23 *Parliamentary Papers II*, 2014-2015, 29 861, no. 36 and Government Gazette no. 46381

24 CJEU, 9 July 2015, C153/14.

25 *Parliamentary Papers II*, 2015-2016, 32005, no. 8.

26 For more information see: www.ind.nl/organisatie/nieuws/Paginas/Wijzigingen-van-het-au-pair-beleid-per-1-juli-2015.aspx

3.3 Conclusion

For the Netherlands it is a major challenge to get the Netherlands to leave a lasting impression in the minds of potential highly skilled migrants. Highly skilled migrants provide a significant positive contribution to the Dutch economy. To this end, the recruitment and binding of international students could play a significant role, for example. The number of international students increased by 20% in 2015. The number of highly skilled migrants in the Netherlands increased in the same year by 8%.

It is not only highly skilled migrants who work in employment that are of great value, but independent entrepreneurs can also serve Dutch interests; certainly where it concerns ambitious, innovative entrepreneurs. In order to facilitate the admission of the latter group the scheme for start-ups was introduced in 2015.

In relation to family reunification, with the coming into force of the Forced Marriages Act, a clear signal is given. Both partners must be at least 18 years old to be able to marry in the Netherlands. Marriages concluded abroad with minor-aged partners can only be acknowledged if both partners are at least 18 years old. Applications in the context of refugee unifications and regular family reunification where one of the (marriage) partners is younger than 18 years, are rejected by the IND.

4 INTEGRATION

4.1 Introduction

The integration policy of the Netherlands is based on the Agenda for Integration which was launched in May 2013. The three main points of the Dutch Agenda for Integration are: *participation and self-reliance; setting limits and educating; and interaction with others and internalising values.*²⁷

The recent increase in the influx of asylum seekers has led to changes in the Asylum and Migration Policy of the Netherlands in 2015. It is systematically investigated where beneficiaries of international protection need assistance, so that within the generic integration policy, this target group can be offered tailored assistance. In August 2015 the government set up a temporary Ministerial Committee on Migration which discusses current migration and integration issues.²⁸ In relation to integration²⁹ this has also brought forth a Task force for the Employment and Integration of Refugees (TWIV), a Task force for Higher Education of Refugees, an Administrative Agreement on Housing and a set of measures relating to the education participation of beneficiaries of international protection. This chapter addresses these developments in more detail.

4.2 Policy developments

In 2015 there were policy amendments specifically focused on language proficiency, housing and labour market integration of beneficiaries of international protection.

4.2.1 *Language proficiency*

On 28 January 2015, together with 29 Dutch employers, the Minister of Social Affairs and Employment signed the **Language Agreement 'Zet in Op Taal!'** [Focus on language!]. This agreement obligates participating employers to invest in the language skills of their employees. For 2016 it is envisaged to expand the number of language agreements on a regional level, so that within each labour market region in Dutch municipalities, civil society organisations and employers are committed to language proficiency. To do this, employers receive reimbursement from Central Government.³⁰

On 6 March 2015 the Ministry of Social Affairs and Employment and the Ministry of Education, Culture and Science introduced the project '**Tel Mee met Taal**' ['Be included with Language'], which aims to combat low literacy among the Dutch population.³¹ This project is not specifically aimed at migrants, but may possibly contribute to integration of migrants into Dutch society.

²⁷ *Parliamentary Papers II*, 2012-2013, 32824, no. 7.

²⁸ *Parliamentary Papers II*, 2015-2016, 19637, no. 2028.

²⁹ For more information about the Ministerial Committee on Migration reference is made to chapter 5. Chapter 4 focuses on developments relating to integration of beneficiaries of international protection.

³⁰ *Parliamentary Papers II*, 2014-2015, 28760, no. 39.

³¹ *Parliamentary Papers II*, 2014-2015, 28760, no. 39.

Since 1 July 2015, all migrants obliged to participate in a civic integration programme are entitled to a maximum loan of EUR 10,000 to spend on a civic integration programme. Previously, the maximum loan for beneficiaries of international protection amounted to EUR 10,000 and EUR 5,000 for other migrants.³² Specifically for beneficiaries of international protection, on successful completion of the civic integration examination it shall apply that they qualify for a remission of their debt. Migrants obliged to participate in a civic integration programme have 3 years to attain their civic integration diploma. If this does not succeed without good reason, then they run the risk of a fine and perhaps a revoking of the residence permit. The latter does not apply for those eligible for asylum.³³

On 26 November 2015, the Minister and State Secretary for Education, Culture and Science introduced measures in respect of the **access of beneficiaries of international protection in (higher) education**.³⁴ In light of the increased influx of asylum seekers, a task force was established consisting of the Dutch Council for Refugees, Association of cooperating Dutch universities, Central Agency for the Reception of Asylum (COA), Netherlands Association of Universities of Applied Sciences, and University Assistance Fund (UAF), who envisage to promote entry and counselling of beneficiaries of international protection in higher education. In the field of language proficiency, the parties involved are making arrangements about the required language level, and they are working together to be able to offer language courses across the country. Offering travel allowances and internet courses is being examined as an option to make it easier to access language courses.

Municipalities are responsible for the housing and integration of beneficiaries of international protection. On 1 January 2015 the Participation Act entered into force. The Participation Act stipulates that every Dutch national and third-country national residing lawfully in the Netherlands has a right, by law, to social assistance benefit if such person does not have sufficient resources available to provide for their necessary costs of subsistence. This law, in principle, is not geared towards migrants as a specific target group, but it does apply to them. On 1 January 2016 the **Dutch Language Requirement Act** entered into force. This law states that social assistance benefit can be reduced if the recipient does not have sufficient proficiency of the Dutch language.³⁵

4.2.2 *Housing*

In the Netherlands asylum seekers stay at a COA reception centre during the asylum procedure. Once they obtain a residence permit, on the basis of a national target programme they are matched to a municipality, who, after being matched, is obliged to find regular housing within six months. As a result of an increased influx of asylum seekers this process is delayed, making it an average of six months before residence permit holders are able to move on. This causes reception centres to become overcrowded. On

32 Amendment to Civic Integration Decree, Article 1, 2 July 2015

33 For more information see: <https://www.rijksoverheid.nl/onderwerpen/nieuw-in-nederland/vraag-en-antwoord/moet-ik-mijn-inburgering-zelf-betalen>

34 *Parliamentary Papers II*, 2015-2016, 34334, no. 1

35 Dutch Language Requirement Act (former WWB)

27 November 2015 the government signed an agreement with municipalities and provinces on timely housing of all residence permit holders. In the agreement, it was agreed that central government, municipalities and housing associations should create housing facilities for 14,000 beneficiaries of international protection.

In order to realise these housing facilities, three measures have been agreed to:³⁶

1. Central government makes a subsidy scheme available to landlords so that new housing can be realised. The subsidy scheme assumes at least four persons in one home. Providers of housing facilities can rely on a subsidy scheme of EUR 6,250 per accommodated residence permit holder. This scheme entered into force on 1 February 2016.
2. The Minister for Housing and the Central Government Sector intend to ease existing regulations, so that housing corporations are facilitated in accommodating beneficiaries of international protection.
3. Central government makes it possible that government premises are leased to municipalities to house beneficiaries of international protection, which falls in line with the Vacant Property Act.

In addition, the **Accelerated Municipal Housing Scheme (GVA)** was established which offers possibilities to municipalities for the temporary housing of 10,000 beneficiaries of international protection. If no (permanent) housing is available, municipalities can accommodate beneficiaries of international protection in temporary housing through the accelerated municipal housing scheme for a maximum period of 24 months. For this type of housing, municipalities receive a housing remuneration of EUR 50 per accommodated adult and EUR 25 per accommodated child per week. By making use of the accelerated municipal housing scheme they also comply with the abovementioned programme target.

4.2.3 *Labour market*

As of 1 January 2015 the civic integration examination has been supplemented with the component **Orientation in the Dutch Labour Market** within the module Knowledge of Dutch Society (KNM).

October 2015 saw the establishment of the **Task force for Employment and Integration of Refugees (TWIV)**, consisting of the Association of Dutch municipalities, Confederation of Netherlands Industry and Employers, Dutch Trade Union Confederation (FNV and CNV), Social and Economic Council of the Netherlands, Central Agency for the Reception of Asylum Seekers (COA), Divosa, Netherlands Refugee Council, Foundation for refugee students UAF, Refugee Organisations in the Netherlands, Royal Association of Small and Medium-sized Businesses Netherlands (MKB), Employee Insurance Agency (UWV), Ministry of Security and Justice, Ministry of Education, Culture and Science, and Ministry of Social Affairs and Employment.³⁷ The purpose of this taskforce is to enhance existing measures to supervise refugees to access employment and to identify and remove bottle-

³⁶ *Parliamentary Papers II*, 2015–2016, 19637, no. 2083.

³⁷ *Parliamentary Papers II*, 2015–2016, 32824, no. 114

necks in the integration process. The Task Force wants to increase labour market participation and integration of beneficiaries of international protection through screening, matching, integration and improve the information exchange. For example through the introduction of an early screening it should become evident at the beginning of the integration process which work experience, degrees/certificates, and talents status holders possess. Moreover, actions are foreseen in the area of matching status holders to the labour market. Information is exchanged between the partners to match up policy implementation with each other.

In November 2015 the government announced that the declaration of participation is a mandatory component of civic integration.³⁸ The declaration of participation is meant to inform newcomers about the rights and obligations and the fundamental values of Dutch society. After amendment of the Civic Integration Act, those who have civic integration obligations who refuse to sign the declaration, will be fined a maximum of EUR 1,250. Moreover, their residence permit can be refused.³⁹ Also, newcomers who refuse to participate in the programme or to sign the declaration, are not eligible for obtaining Dutch citizenship. The aspiration is to introduce it as soon as possible, at the latest by 1 July 2017. In anticipation of the amendment of the Act the declaration of participation is already being offered to beneficiaries of international protection and their family members within the process of social counselling since 1 January 2016.

4.3 Collaboration, consultation and coordination

Aside from the abovementioned Ministerial Committee on Migration, the Taskforce for the Employment and Integration of Refugees (TWIV) and the Task force for Higher Education of Refugees, several other joint ventures were started up in 2015:

The **Knowledge platform on Integration and Society** commenced on 1 January 2015. This Knowledge platform was established with the aim to gather current, objective information on integration issues. This information is then shared with relevant stakeholders.

At the end of 2014, **Platform Opnieuw Thuis** [home again] was established. The task of this Platform is to encourage the process of housing residence permit holders in accordance with Section 28 of the Housing Allocation Act 2014 and to support municipalities in housing residence permit holders. The *Platform Opnieuw Thuis* is a partnership between central government (consisting of representatives from the Ministry of the Interior and Kingdom Relations, Ministry of Security and Justice, Ministry of Social Affairs and Employment), the Association of Netherlands Municipalities (VNG), the Association of Provincial Authorities (IPO), Central Agency for the Reception of Asylum Seekers (COA) and the Association of Housing Corporations Aedes.

³⁸ *Parliamentary Papers II*, 2015-2016, 32824, no. 115.

³⁹ The latter does not apply for those eligible for asylum.

In October 2015, also at the request of *Platform Opnieuw Thuis*, the **Support Team for Asylum Seekers and Residence Permit Holders (OTAV)** was established. The Support Team is geared towards advising municipalities on housing asylum seekers and beneficiaries of international protection. Aside from a helpdesk for questions concerning housing, schooling, counselling, employment and income for asylum seekers and beneficiaries of international protection, OTAV also appoints regional account managers who provide advice to municipalities who face obstacles with housing. They provide municipalities with support, and inform them about rights and obligations that municipalities have in respect of the programme target. Further, the team can be engaged for a short while to conduct studies into housing projects within the municipality.⁴⁰

4.4 Conclusion

The Dutch government values the **self-reliance of third-country nationals** in relation to their integration in Dutch society. Participation and self-reliance are also basic principles in the Agenda for Integration which was launched in May 2013.

By means of a student loan system for civic integration, migrants obliged to participate in a civic integration programme obtain the resources to undertake a civic integration programme in which they gain proficiency in the Dutch language and orientate themselves on Dutch culture and the labour market. The loan to which all persons obliged to participate in a civic integration programme are entitled was raised to EUR 10,000 as at 1 July 2015. Specifically applicable to beneficiaries of international protection, is that on passing the civic integration examination, they are entitled to a remission of their debt. It is expected that all residence permit holders have proficiency of the Dutch language. Since 1 January 2016 those who do not have a sufficient command of the Dutch language can have their social assistance benefit reduced (introduction of the Dutch Language Requirement Act).

The recent **increase in the influx of asylum seekers** has led to changes in the Asylum and Migration Policy of the Netherlands. For the integration policy this means that it is systematically investigated where beneficiaries of international protection need assistance, so that within the generic integration policy, this target group can be offered tailored assistance.

As a result of the increased influx of asylum seekers it can take an average of six months before residence permit holders move on from reception centres to an own rental home. This causes reception centres to become overcrowded. In the agreement concluded between central government, municipalities and provinces about the timely housing of all residence permit holders, among other things, it was agreed that central government, municipalities and housing corporations aim to create housing facilities for 14,000 beneficiaries of international protection.

40 Association of Netherlands Municipalities (VNG) (2015). *Factsheet: het Ondersteuningsteam Asielzoekers en Vergunninghouders* [Fact sheet: the Support Team for Asylum Seekers and Residence Permit Holders]. https://vng.nl/files/vng/publicaties/2015/het-ondersteuningsteam_20151105.pdf

October 2015 saw the establishment of the Task force for the Employment and Integration of Refugees (*TWIV*). The task force must ensure an acceleration and improvement of (labour market) participation and integration of residence permit holders by investing in screening, matching, integration, knowledge exchange and to strengthen the mutual network.

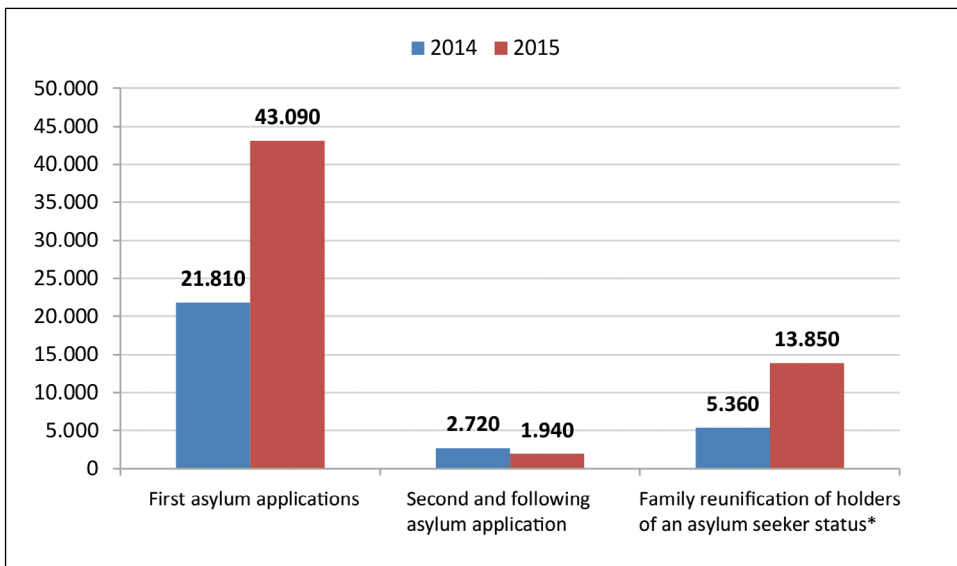
5 INTERNATIONAL PROTECTION (ASYLUM)

5.1 Introduction

5.1.1 Context

2015 was an exceptional year as regards the influx of asylum seekers, but also in respect of policy changes that came into force. Ever since migration statistics have been recorded, the influx of asylum seekers has never been so high as it was in 2015.⁴¹ The total influx in 2015, consisting of first asylum applications, repeat asylum applications and family members of beneficiaries of international protection, reached 59,100. This is just about double in comparison to the influx in 2014 (29,890). In the peak year of 1994, 52,575 asylum seekers came to the Netherlands, mainly as a result of wars in former Yugoslavia and Afghanistan.⁴² In 2015, mainly the number of first asylum applications and reunification family member applications increased strongly (see figure 2). On the other hand, the number of second and repeat asylum applications dropped.

Figure 2. Development of asylum applications 2014-2015



Source: IND. (2016). *De IND in 2015: Jaarverslag* [The IND in 2015: Annual Report].

*this relates to family members of residence permit holders travelling to the Netherlands for family reunification. For more information about family reunification of beneficiaries of international protection see box 9.

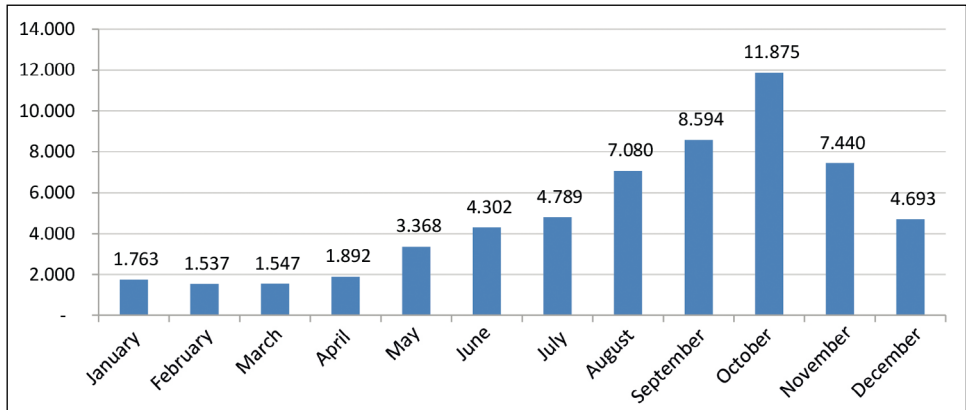
41 Central government. (2016). *Totale instroom 2015 was 59.100* [Total influx for 2015 was 59,100].

<https://www.rijksoverheid.nl/actueel/nieuws/2016/01/08/totale-instroom-2015-was-59-100>

42 NRC (newspaper). (2016). *Sjoemelen politici met asielcijfers? En 62 andere vragen over asielzoekers* [Do politicians cheat with asylum statistics? And 62 other questions about asylum seekers]. <http://www.nrc.nl/nieuws/2016/03/07/de-draad-kwijt-in-het-asieldebiet-hier-vind-je-de-antwoorden#lightbox>

Mainly since May there has been a steady increase in asylum applications (see figure 3). During the peak month of October 11,875 applications were registered. In the months November and December the number of asylum applications dropped again.

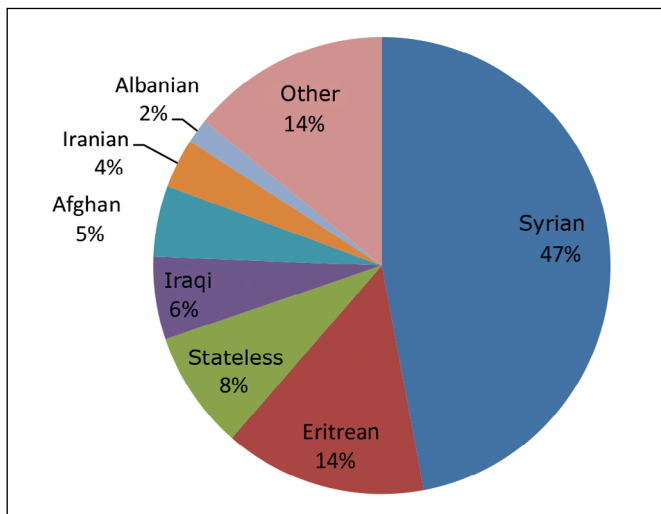
Figure 3. Development of number of asylum applications 2015



Source: IND. (2014). *Asylum Trends: Monthly Report on Asylum Applications in The Netherlands and Europe: December 2014.*

In 2015 almost half of all asylum seekers came from Syria (see figure 4). Other countries of origin included Eritrea, Iraq, Afghanistan, Iran and Albania.

Figure 4. Nationality of asylum seekers



Source: IND. (2014). *Asylum Trends: Monthly Report on Asylum Applications in the Netherlands and Europe: December 2014.*

2015 was also a year of several policy amendments and other developments concerning asylum. Many measures were taken in response to the increased influx, such as development of the multi-track policy, the use of emergency shelters and emergency reception centres, and establishment of the temporary Ministerial Committee on Migration. Furthermore, as expected, the European Procedures Directive (2013/32/EU) was implemented on 20 July 2015.

5.1.2 *Scope and contents of the chapter*

The chapter only reflects policy amendments which took place in 2015. Amendments concerning both refugee status and subsidiary protection are described (for an explanation about the difference between refugee status and subsidiary protection, see box 3).

Box 3. The two statuses in international refugee law: refugee status and subsidiary protection

The international right of asylum distinguishes between two different types of protection: refugee status and subsidiary protection.

A refugee is a third-country national who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country...”.⁴³



A third-country national who is not recognized as a refugee, can nonetheless be eligible for subsidiary protection. Subsidiary protection is granted if compelling grounds exist to assume that when the asylum seeker returns to his/her country of origin, that he/she runs a realistic risk of “serious harm” (Qualification Directive, Article 2 f). Serious harm could mean the “death penalty or execution, torture or inhuman or degrading treatment or punishment, serious and individual threatening of life as a result of indiscriminate violence in the context of an international or internal armed conflict”.⁴⁴

In the Netherlands the rights of a third-country national with refugee status and a third-country national with subsidiary protection are not different. European law, however, provides Member States with ample room to distinguish between the two statuses.

⁴³ Council Directive 2011/95/EU Article 2 d

⁴⁴ Council Directive 2011/95/EU Article 15

5.2 Policy developments

This chapter is structured as follows: Paragraph 5.2.1 deals with institutional changes. Paragraph 5.2.2 deals with changes relating to the substantive assessment of applications for international protection. Then the modifications in asylum procedures are described (paragraph 5.2.3). Further, the modifications in the country-related asylum policy are explained (paragraph 5.2.4). Paragraph 5.2.4 deals with changes regarding reception. Adaptations that relate to efficiency and quality of the Dutch asylum system are dealt with in paragraph 5.2.6. Finally, paragraph 5.2.7 outlines changes or new initiatives in terms of international cooperation.

5.2.1 *Institutional structure*

In 2015, in connection with the high influx of asylum seekers, the government established a **temporary Ministerial Committee on Migration**. Among other things, the committee discusses: 1) measures which reduce the reasons in third countries to migrate to Europe; 2) proposals that contribute to a well-balanced EU policy to limit the migration flow and to achieve a proportional allocation of responsibilities within the EU; and 3) measures that ensure a rapid and careful reception of and procedure for both asylum seekers and residence permit holders in the Netherlands.⁴⁵ The committee comprises ministers from government departments which are most involved.

5.2.2 *Substantive assessment of applications for international protection*

Introduction of a comprehensive credibility assessment

Based on jurisprudence it was common practice in the Netherlands that when an asylum seeker imputably could not hand over any documents to support his/her identity, nationality and/or asylum seeker motives, his/her statements would need to have a 'positive power of persuasion' (POK) in order to become eligible for protection. Therefore a so-called POK test was applied to assess credibility. With effect from 1 January 2015 this assessment framework was abandoned. Since then a 'comprehensive credibility assessment' takes place. This modification has already been applied since January 2015 in anticipation of the introduction of a full and ex nunc examination on appeal on introducing the Procedures Directive on 20 July 2015.

The manner in which the credibility of an asylum claim is assessed has partially been adapted. Much of the assessment is still recognizable from former policy, such as the required consistency in statements. A new aspect is the starting point at the outset of the assessment. Where under the old policy the assessment always began with the question whether imputable documents were absent, under the new policy all 'relevant elements' must first be ascertained. A relevant element is an aspect in the asylum claim that corresponds with legal grounds for granting protection, for example, the political conviction or sexual nature of an asylum seeker. Thereafter the credibility of every element is assessed. On the basis of the relevancy and credibility of the various elements the

decision-making employee at the IND makes a comprehensive assessment and arrives at a conclusion. The idea is that this provides a clearer insight into how the IND has come to its conclusion, which is considered to be of importance in view of the introduction of the full and ex nunc examination on appeal.

New grounds for stay for Dublin claimant who has exhausted all legal means

In the Cimade judgment of the Court of Justice of 27 September 2012 (C-179/11) it is determined that a third-country national who can be transferred on grounds of the Dublin Regulation after a rejecting asylum decision, has a right of residence and entitlement to reception facilities on grounds of the Reception Directive until the effective transfer. Since the Dutch system did not provide for this, a new ground for stay was created for this specific situation in January 2015.⁴⁶ This right of stay terminates on realisation of the effective transfer or if the third-country national has apparently left the Netherlands. Further, due to the amendment, a basis of assessment is offered for issuing an alien's identity card (W-card)⁴⁷. The amendment was incorporated in the Aliens Act (Vw) 2000.

Introduction of a list of 'safe countries of origin'

With effect from 14 November 2015 the Netherlands has drawn up a national list of 'safe countries of origin'.⁴⁸ For an asylum seeker originating from a safe country of origin, this means that, in principle, it is assumed that he/she is not eligible for international protection. The applicant can, however, put forward substantial reasons why the country is not safe in his/her specific case. This means that a heavier burden of proof rests with the third-country national to make it plausible that he/she is eligible for international protection.⁴⁹ The following countries were placed on the list in 2015: Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia, Liechtenstein, Norway, Iceland, Andorra, Monaco, San Marino, Vatican City, Switzerland, Australia, Canada, Japan, the United States of America and New Zealand.⁵⁰

Tightening of policy pertaining to rejecting and revoking an asylum residence permit after a crime

In November 2015 the Minister for Migration proposed tightening policy pertaining to rejecting and revoking asylum permits after crimes are committed.⁵¹ Under the new regulation, the residence permit of refugees who are sentenced to an unconditional and irrevocable minimum imprisonment of ten months, can be revoked or rejected. In the past this was 24 months. Hence the residence permit can now also be rejected or revoked for offences such as distribution of child pornography or the deliberate inflic-

46 *Parliamentary Papers II*, 2014-2015, 34 128, no. 3

47 An alien's identity card (W-card) is meant for third-country nationals who have applied for asylum and have not received a (final) decision on their application yet.

48 The list of countries is incorporated in Appendix 13 of the Aliens Regulations.

49 *Parliamentary Papers II*, 2015-2016, 19 637, no. 2076

50 *Parliamentary Papers II*, 2015-2016, 19 637, no. 2076

51 Central government. (2015). *Staatssecretaris Dijkhoff scherpt beleid om asiolvergunning in te trekken of te weigeren aan* [Minister for Migration Dijkhoff tightens policy to revoke or to reject asylum residence permits]. <https://www.rijksoverheid.nl/actueel/nieuws/2015/11/25/staatssecretaris-dijkhoff-scherpt-beleid-om-asiolvergunning-in-te-trekken-of-te-weigeren-aan>

tion of grievous bodily harm using a weapon (other than a firearm). For recipients of subsidiary protection this limitation lies at an imprisonment of six months (in the past, 18 months). This would involve offences such as acts of public violence resulting in grievous bodily harm or persons who are guilty of frequently committing offences such as bag-snatching or burglary. This new regulation entered into force on 1 February 2016.⁵²

5.2.3 *Procedures for international protection*

In 2015 several changes occurred in the Dutch asylum procedure. The most important changes are briefly explained below.

Implementation of the European Reception and Procedures Directives

The European Reception and Procedures Directives were implemented in 2015 (2013/33/EU and 2013/32/EU). The directives harmonize the standards for asylum procedures and the reception conditions of asylum applicants. Differences in procedures and reception conditions are possibly an important reason for secondary movements of asylum seekers within the EU. By reducing these differences, the EU is aspiring to limit secondary movements of applicants. Furthermore, the directives also aims at ensuring an effective and efficient asylum procedure and for guarantees for asylum seekers in the asylum procedure. The actual changes that the implementation of the directives has brought about are explained below. A detailed explanation of the implementation of the reception and procedure directives is available in the Explanatory Memorandum of the legislative proposal.⁵³

Introduction of the 'border procedure'

Due to the change, the procedure at the reporting centre at Schiphol, which is the former 'procedure at the border', has been structured as a border procedure within the meaning of the Procedures Directive.⁵⁴ That means that a third-country national who arrives at the external EU border (at Schiphol) and applies for asylum, does not gain direct entry into the Netherlands and is placed in border detention (with the exception of minors). Then the IND must decide within four weeks whether an asylum application of the person arriving at Schiphol will not be taken into consideration, is inadmissible or is manifestly unfounded. If that is the case, after rejection of the asylum application the third-country national remains in border detention until he/she can leave the country. If that is not the case, the border procedure is terminated, the border detention is ceased and the application is dealt with further in the normal asylum procedure.

A clear difference between the new border procedure and the former asylum procedure at the border is that the IND can only set aside applications in the border procedure on the basis of a limited number of grounds (namely, not taken into consideration, inadmis-

52 Central government. (2016). *Intrekking of weigering asiolvergunning ook bij voorwaardelijke straf of taakstraf*. [Revoking or rejecting asylum residence permit also on conditional penalty or community punishment order]. <https://www.rijksoverheid.nl/actueel/nieuws/2016/05/25/intrekking-of-weigering-asiolvergunning-ook-bij-voorwaardelijke-straf-of-taakstraf>

53 *Parliamentary Papers II*, 2014-2015, 34 088, no. 3

54 Central government. (2015). *Eerste Kamer akkoord met nieuwe richtlijn voor asielprocedure* [Upper House agreement with new directive for asylum procedure]. <https://www.rijksoverheid.nl/actueel/nieuws/2015/07/07/eerste-kamer-akkoord-met-nieuwe-richtlijn-voor-asielprocedure>

sible or manifestly unfounded). Prior to 20 July 2015, every application that could be dealt with within the general asylum procedure, would generally be dealt with within the closed setting of the Judicial Complex at Schiphol, and no further substantive criteria applied.

Another new aspect in respect of the former system is that the decision regarding the granting or refusal of entry into the Netherlands is deferred or suspended for the duration of the border procedure. In the past, no differentiation was made between a deferred or suspended decision regarding entry. If a third-country national submits an asylum application prior to the refusal of entry (e.g. during the screening at Schiphol), the decision to refuse entry is deferred and border detention is imposed for the duration of the border procedure. If the third-country national submits an asylum application after the refusal of entry, the decision to refuse entry is suspended and border detention is likewise imposed for the duration of the border procedure.

New settlement grounds

The (recast) Procedure Directive gave rise to introduce a number of new settlement grounds in the Dutch Aliens Act (Vw). In the past an asylum application could only be either granted, rejected or not admitted for consideration. The new settlement grounds are:

- Granting the asylum application;
- **Not taking the asylum application into consideration:** This is the case, if under the Dublin Regulation another Member State is responsible for substantive processing of the application for asylum. For this purpose a separate procedure was introduced which deviates from the general asylum procedure;
- **Declaring the asylum application as inadmissible:** This is the case when, briefly summarized, the third-country national already enjoys international protection in another Member State or third country, there is a safe third country, or if there is a subsequent application for asylum on which no new elements or findings are based which may be relevant for assessment of the application;
- **Declaring the asylum application as manifestly unfounded:** This is the case when an application is unfounded and when at least one additional circumstance occurs. Consideration should be given, for example, to applications in which only issues have been raised which are not relevant for answering the question whether an asylum residence permit should be granted (e.g. only socio-economic asylum motives) to third-country nationals who, probably in bad faith, have disposed of their identity or travel documents, and to third-country nationals who, on serious grounds, form a threat to public order or security, or to third-country nationals originating from a safe country of origin;
- **Not admitting the asylum application for consideration:** This is the case when a third-country national has failed to reply to requests to provide information that is essential for evaluation of the application, the third-country national has imputably failed

to appear at a (further) interview, or the third-country national has left with unknown destination;

- Declaring the asylum application as unfounded: This concerns a 'normal' rejection of an asylum application due to a lack of credibility or insufficiently compelling facts and circumstances put forward by the third-country national.

New time limits for decision-making

The directive has an own system of time limits for decision-making. These have been transposed into Dutch legislation. The new situation is explained briefly below (see also figure 5).

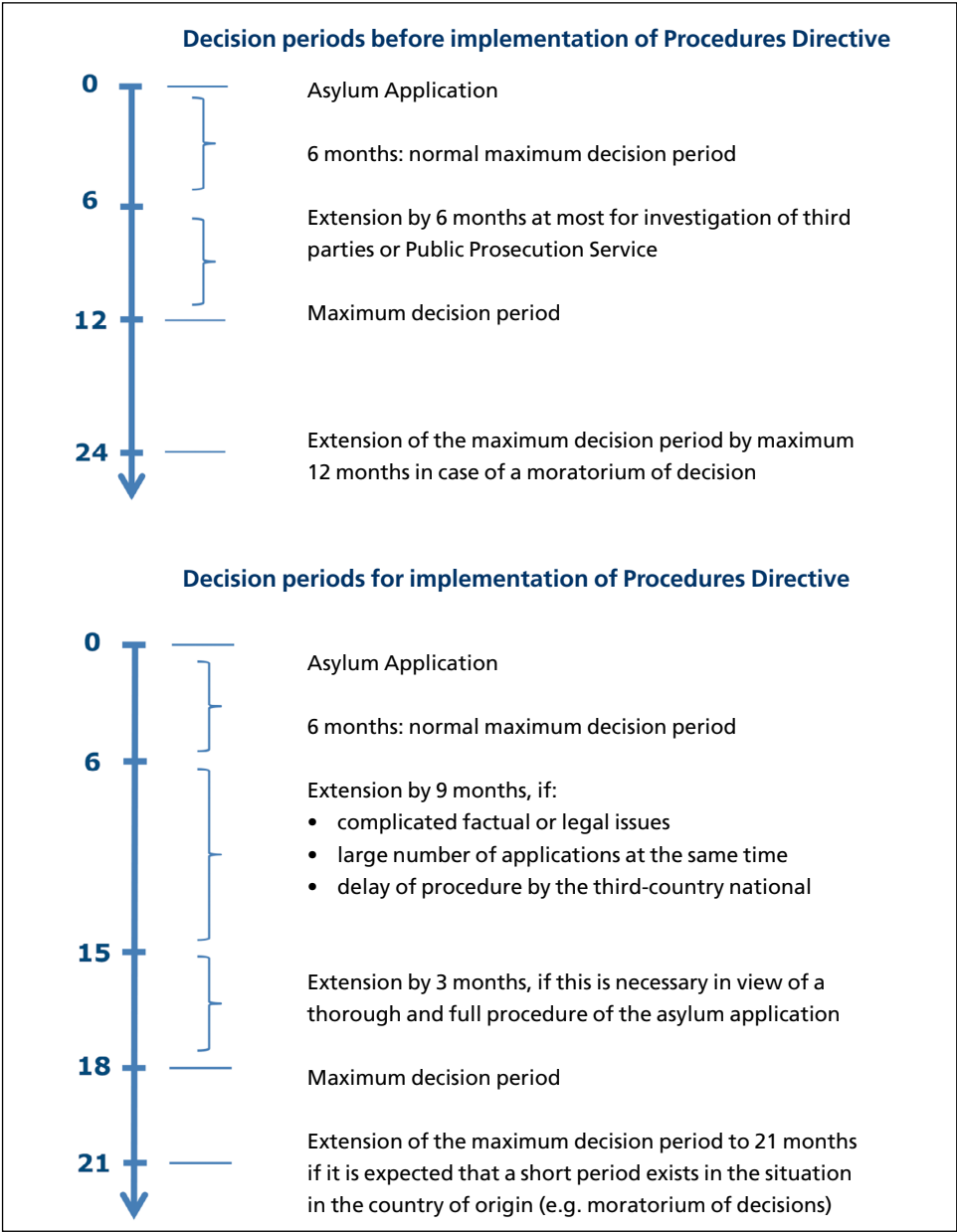
The directive stipulates that the decision-making authority, which is the IND in the Netherlands, must decide on an asylum application within six months. The same period already applied in the former system. In some cases this period can be extended by nine months (formerly six months), when:

- there are complicated factual or legal issues;
- a large number of third-country nationals simultaneously submit an application, making it difficult in practice to finalise the application within the period of six months;
- the delay of application processing is attributable to the third-country national.

A new aspect is that after this extension by a further nine months, the term can be extended by another three months, if necessary, in view of an adequate and comprehensive processing of the asylum application. This possibility should be used with utmost reticence.

With this, a maximum (individually determined) time limit of a total of 18 months applies for the decision. This term, however, can be extended up to a maximum of 21 months (formerly 24 months), if, for a short period, it is expected that uncertainty exists about the situation in the country of origin. This concerns a situation in which a moratorium on decisions is in place.

Figure 5. Time limits for decision-making before and after implementation of the Procedures Directive



Source: *Parliamentary Papers II*, 2015-2014, 34 088 no. 3

Introduction of the obligation to provide grounds for subsidiary protection

Under implementation of the Procedures Directive on 20 July 2015, on granting subsidiary protection it must be motivated why the third-country national is not designated as a refugee. At the same time the national court can declare the appeal of an asylum seeker who is continuing legal proceedings as inadmissible, if the respective permits create the same rights.

IND must arrange a medical examination if relevant for the decision

The Procedures Directive requires that the IND, if deemed relevant for assessment of the asylum application, must arrange a medical examination for clues of past persecution or serious harm. So it is no longer only the third-country national who institutes an investigation into the cause of scarring or psychological symptoms, such obligation may also be placed with the IND. The criterion 'if this is deemed relevant' offers a margin of discretion. The idea is that there will be an obligation to institute an investigation, particularly in cases where it is estimated that investigation results could be a decisive factor in respect of the credibility assessment of statements. So this will not happen in case of a decision to grant an application, or a clearly implausible case.

Confirmation of follow-up interview by asylum seeker

The third-country national must be asked to confirm that the report of the follow-up interview about the reason of his/her asylum application, is a correct representation of his/her statements. A refusal to confirm this, however, does not prevent taking a decision on the asylum application. The third-country national is invited to submit this statement together with corrections and additions. With effect from 1 June 2015 a pilot was started in which, in a limited number of cases, third-country nationals are allowed to make a recording of the follow-up interview. In practice, however, no use is made of this. It's for this reason that the pilot has been introduced on a wider scale, with the same result.

Introduction of a full and ex nunc examination in judicial review

The Procedures Directive requires that the third-country national should have a remedy at law that entails a full and ex nunc examination of both factual and legal grounds. Two important changes stem from this:

- From marginal to full judicial review. In the past the court reviewed the IND assessment about the credibility of the asylum claim with reticence (or marginally). A marginal judicial review means that the court examines whether the IND has reasonably come to the decision in question. It is ultimately up to the judiciary to determine how probing the judicial examination must be. Partly in response to a recommendation from the Administrative Jurisdiction Division of the Council of State, the Explanatory Memorandum, however, emphasizes that, in the opinion of legislature, it should involve an examining and not an assessing court.

- From *ex tunc* (from then) to *ex nunc* (from now) examination. Moreover, the judicial *ex tunc* examination has been replaced by an *ex nunc* examination. Whereas in the past the court considered the case from the point of view that existed at the time of the decision (*ex tunc*), the court now assesses the IND decision from the present situation (*ex nunc*). Developments that have occurred after the decision (e.g. illness, birth of children), are included in the court's assessment.

Time limits for judgments on appeal

The Netherlands has made use of the possibility to establish periods within which a court must pronounce judgment on appeal. So, in cases that are rejected in the general asylum procedure, irrespective of whether the appeal has a suspensive effect or not, judgment⁵⁵ in any case must be pronounced within four weeks. For other cases in which the appeal does have a suspensive effect, judgment must also be pronounced within four weeks. Only in cases that are rejected in the extended asylum procedure and in which there is a suspensive effect on appeal, a longer term of 23 weeks applies for making the decision.

Changed legal basis for detention of asylum seekers

The Reception Directive also creates a substantive context for detention of asylum seekers. Apart from the possibility to deny the third-country national actual entry during a procedure at the border by detaining him/her, this Directive introduced four different grounds for detention of an asylum seeker.⁵⁶ For third-country nationals who could be considered as a danger to the public order and national security, legislation created the possibility in special cases, to detain the asylum seeker up to a maximum of 15 months.

Introduction of an independent procedure for Dublin claimants

The Dublin procedure was modified as at 20 July 2015. Applications by Dublin claimants are no longer dismissed in the general or extended asylum procedure, but in an independent procedure that is more tailored to process steps resulting from the Regulation.

Development of the 'multi-track policy'

One of the most important developments in 2015 was the development of the 'multi-track policy', that was officially introduced on 1 March 2016. Since the actual policy amendment only occurred in 2016, the multi-track policy is only briefly outlined below. The purpose of the multi-track policy is not to allow the waiting time for asylum seekers, which rose substantially in 2015 due to the high influx, to drag on further and to structure the process across the asylum chain as efficiently as possible. A new aspect is that, on application, asylum seekers are immediately allocated to a track with an own procedure. So there is no longer a fixed routine in all cases of the general asylum procedure of eight days. Process steps that are superfluous for certain asylum seekers no longer need to be followed and that must lead to a more efficient procedure.

⁵⁵ Suspensive effect means that during the procedure period of the appeal the asylum seeker may stay in the Netherlands.

⁵⁶ In the Dutch Aliens Act (Vw) these possibilities have been implemented in the new Section 59b of the Aliens Act.

5.2.4 *Country-related asylum policy*

In addition to the generally applicable asylum policy, in certain cases the Netherlands also has a country-related asylum policy. The changes are reflected per country below. An overview of all the changes per type of change, e.g. all new designated risk groups can be found at the end of the paragraph.

Box 4. What is country-related asylum policy and how is it established?

Country-related asylum policy provides for specific policy rules for assessing asylum applications of third-country nationals from certain countries. The aim of establishing country-specific policy rules is to provide clarity for IND employees who assess asylum applications and thus reduce the differences in the assessment of similar asylum applications. The country-related policy is described in part C of the Aliens Act Implementation Guidelines. By the end of 2015, specific policy rules had been defined for 28 countries.

The country-related policy is determined by the Minister for Migration. In most cases he bases this on the official special interest reports from the Ministry of Foreign Affairs. An official special interest report describes the situation in an asylum seeker's country of origin, with special attention for aspects that are relevant for the assessment of asylum applications (e.g. human rights situation, wars/conflicts, etc.). The appearance of a new official special interest report with new relevant information often gives rise to changes in the country-related policy.

Azerbaijan

In 2015 the IND introduced new policy rules relating to the categories of persons who cannot rely on protection from the Azerbaijani authorities.⁵⁷ In terms of the new regulations, for the following categories the IND, in any case, assumes that it is not possible to obtain protection from the authorities:

- Persons belonging to the Armenian population group in Azerbaijan;
- Persons with an Azerbaijani nationality and who are married or maintain a lasting relationship with a person who belongs to the Armenian population group in Azerbaijan;
- Persons belonging to the Armenian population group from Nagorno-Karabakh, of whom the IND has concluded that he/she fears persecution in Nagorno-Karabakh.

The abovementioned policy rules also apply for children from mixed marriages or lasting relationships. If the child has divorced parents, the IND examines the child's situation on the basis of the population group of the parent with whom the child is staying.

China

As a result of a judgment by the Council of State, in August 2015 the Minister for Migration instituted a moratorium on decisions and returns for Uyghurs from China.⁵⁸ The moratorium entered into force for one year on 2 September 2015.

⁵⁷ Whether an asylum seeker can call on protection from the authorities in his/her own country, is an important criteria for the assessment of his/her asylum application.

⁵⁸ *Parliamentary Papers II*, 2014-2015, 19 637, no. 2026

Box 5. What is a moratorium on decisions and returns?

The instituting of a moratorium on decisions means that the legal decision period of current asylum applications, and of asylum applications received during the moratorium, can be extended by a maximum of one year. As at 20 July 2015, due to the implementation of the Procedures Directive, the decision period can be extended to a maximum of 21 months in total, calculated from the date of the asylum application. With a moratorium on returns, asylum seekers who have exhausted all legal means who fall under the moratorium, are not obliged to return to their country of origin. They are also offered reception for the duration of the moratorium on returns. Moratoriums on decisions and returns are mostly instituted simultaneously.

Democratic Republic of Congo

In February 2015 the Minister for Migration concluded, on the basis of a recent official special interest report, that in the regions of Haut-Uele and Bas-Uele there is no longer a question of an exceptional situation of indiscriminate violence.⁵⁹ In terms of this impression, people no longer automatically run a realistic risk of serious harm (e.g. death penalty, torture, threatening of life). People from Haut-Uele and Bas-Uele therefore have no right to protection anymore based solely on the fact that they originate from the particular region (for more information on subsidiary protection pursuant to Article 15 of the Qualification Directive, see box 6). However, the IND will not proceed in revoking permits which were granted in the past on the basis of the unsafe situation in Haut-Uele and Bas-Uele. The revoking of these residence permits can only take place when the situation has sustainably improved. Whether this the case cannot be predicted at this point in time.

Box 6. Subsidiary protection on grounds of a risk of serious harm (Article 15 of the Qualification Directive)

In the event that an asylum seeker is not recognized as a refugee, but he/she runs a real risk of serious harm if he/she should return to their homeland, he/she becomes eligible for subsidiary protection. 'Serious harm' is defined in Article 15 of the European Qualification Directive (2011/95/EC) as consisting of:

- a) the death penalty or execution; or
- b) torture or inhuman or degrading treatment or punishment; or
- c) serious and individual threats to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

Many European countries stipulate which areas they define as '15c-areas' in their country-related asylum policy. In the event that an area is designated as a 15c-area, it means that all asylum seekers who can prove that they originate from that area, and have no settlement alternative in their own country, cannot be returned and, in principle, are given an asylum residence permit.

Iraq

After the termination of the moratorium on decisions and returns for Iraq,⁶⁰ the Minister for Migration introduced a few policy amendments on the basis of new impressions from a recent official special interest report on 16 October 2015.⁶¹ From now on the following areas qualify as being 'unsafe' in the sense that there is indiscriminate violence with a real risk of serious harm (15c-areas):⁶²

- The following provinces:
 - Anbar
 - Ninewa
 - Salaheddin
 - Ta'mim
 - Diyala
- Parts of the circle around the city of Baghdad (the so-called Baghdad belts) which border along the provinces of Anbar, Salaheddin and Diyala.

Furthermore, in 2015 the IND concretized in which cases asylum seekers originating from an 'unsafe' area in Iraq, in principle, have no domestic refuge or settlement alternative. The IND assumes that for the following categories of asylum seekers originating from 'unsafe' areas (i.e. 15c-areas), in principle, no domestic refuge or settlement alternative exists:

- Minor-aged third-country nationals who have no relatives in the area that would qualify as a refuge or settlement alternative;
- Third-country nationals who belong to a vulnerable minority group as defined in the policy (e.g. Christians and Jews from Central and South Iraq etc.).

Further, the IND assumes that a third-country national originating from an unsafe area (i.e. 15c-area) has no domestic refuge or settlement alternative in the Kurdish Autonomous Region (KAR), unless there are concrete contra-indications.

Iran

With reference to the appearance of an official special interest report in May 2015 about the situation of Christians and LGBT's in Iran,⁶³ the Minister for Migration has decided to amend the asylum policy for Iranian Christians.⁶⁴ From now on the following groups of Christians will be designated as groups who are systematically exposed to persecution:

- Christians who are active for 'new churches' or who are evangelizing;
- members of house churches;
- Muslims who have converted to Christianity and openly practise their religion, for example, by attending church services.

60 The moratorium on decisions and returns applied for Iraqi third-country nationals originating from the provinces of Baghdad, Anbar, Ninewa, Salaheddin, Ta'mim (Kirkuk), Diyala and Babil.

61 Ministry of Foreign Affairs. (2015). *Ambtsbericht Veiligheidssituatie in Irak* [Official special interest report on Security situation in Iraq].

62 *Parliamentary Papers II*, 2015-2016, 19 637, no. 2105

63 Ministry of Foreign Affairs. (2015). *Thematisch ambtsbericht situatie van Christenen en van LHBT's in Iran 2015* [Official special interest report on situation of Christians and LGBTs in Iran 2015].

64 *Parliamentary Papers II*, 2014-2015, 19 637, no. 2023

In addition, from now on Christians, Bahais and Sufis are designated as risk groups and no longer as groups for special attention (for more information see box 7).

Box 7. What are 'risk groups'?

The Minister for Migration can designate a population group as a risk group if it appears that third-country nationals belonging to this group are persecuted in the country of origin. To this end, it does not necessarily mean systematic forms of persecution. The Minister for Migration can also designate a population group as a risk group if the persecution has more of an incidental character.⁶⁵ When making a plausible case in their asylum claim, less stringent demands apply for asylum seekers from risk groups than for other asylum seekers.⁶⁶ Those who belong to a risk group are eligible for refugee status.⁶⁷ Examples of groups who are designated in certain countries as risk groups include LGBTs, Christians, journalists and political activists.

Yemen

The asylum policy in respect of Yemeni asylum seekers changed in 2015 on grounds of the fragile situation in the country. Letters from the Minister of Foreign Affairs and the Minister of Foreign Trade and Development Cooperation to the Lower House⁶⁸ have shown that the situation has worsened significantly. The power struggle between Houthi militia and the government of Yemen have led to a disconcerting humanitarian situation. According to a UN estimate, approximately 1,700 civilians died since the beginning of this year (on a total number of more than 3,500 fatalities), and 80% of the population needs humanitarian assistance.⁶⁹ As a result of this, a moratorium on decisions and returns was instituted in July 2015 for the duration of six months. This moratorium on decisions and returns was extended for a further six month in February 2016.⁷⁰

Libya

With reference to a joint report on Libya by the Netherlands, Belgium, Sweden and Norway, the Minister for Migration decided to designate several groups of persons as risk groups.⁷¹ This concerns:

- LGBTs;
- (converted) Christians;
- (stateless) Palestinians;
- political activists;
- human rights activists;
- members of the judicial system;

65 Paragraph C 3.2. of the Aliens Act Implementation Guidelines

66 Dutch Council for Refugees. (n.d.). *Standpunt: risicogroepen* [Opinion: risk groups]. Consulted 8 June 2016, <http://www.vluchtelingenwerk.nl/wat-wij-doen/standpunten/standpunt-risicogroepen>

67 Dutch Council for Refugees. (n.d.). *Standpunt: risicogroepen* [Opinion: risk groups]. Consulted 8 June 2016, <http://www.vluchtelingenwerk.nl/wat-wij-doen/standpunten/standpunt-risicogroepen>

68 *Parliamentary Papers II*, 2014-2015, 32 623, no. 151; *Parliamentary Papers II*, 2014-2015, 32 623, no. 152

69 *Parliamentary Papers II*, 2014-2015, 32 623, no. 2024

70 *Parliamentary Papers II*, 2014-2015, 19 637, no. 2023

71 *Parliamentary Papers II*, 2014-2015, 19 637, no. 1942

- employees of non-governmental organisations;
- journalists;
- women working in the public sector;
- third-country nationals who belong to a tribe of whom it is known that they were loyal to the Gaddafi regime⁷²; and
- third-country nationals who served as (deputy)officers during the Gaddafi regime.

Pakistan

With reference to an official special interest report⁷³ on the situation of Christians and Ahmadis in Pakistan in November 2014, Pakistani Christians were also designated as a risk group (aside from Ahmadis who had previously been designated as a risk group) in February 2015.⁷⁴

Russian Federation

In 2015, lesbian, gay, bisexual and transgender asylum seekers originating from the Russian Federation were designated as risk groups.⁷⁵ The basis for this decision appeared in an official special interest report in August 2015.⁷⁶

Somalia

With reference to a general official special interest report on the situation in Somalia,⁷⁷ in April 2015 the Minister for Migration instituted a moratorium on decisions and returns for asylum seekers originating from areas in Central and South Somalia under the control of Al-Shabaab.⁷⁸ The moratorium was valid for six months and was extended by a further six months in October 2015.⁷⁹

Also in 2015, the following groups were designated as risk groups:⁸⁰

- government officials;
- members of the judicial system;
- members of AMISOM (African Union Mission in Somalia);
- persons working for international organisations or international delegations;
- persons who are suspected by Al-Shabaab of spying for the government;
- journalists.

72 In any event, the IND considers the following tribes of whom it is known that they were loyal to the Gaddafi regime: Tawerghas, Gwelish, Mashashiyas, Tuaregs, and Tobus.

73 Ministry of Foreign Affairs. (2014). *Official special interest report on position of Ahmadis and Christians in Pakistan*.

74 Decree by the Minister for Migration of 16 February 2015, *Government Gazette 2015*, 4961 of the Aliens Act Implementation Guidelines (Amendment) Decree (WBV 2015/3)

75 Parliamentary Papers II, 2015-2016, 19 637, no. 2029

76 Ministry of Foreign Affairs. (2015). *Algemeen ambtsbericht Russische Federatie* [General official special interest report on Russian Federation].

77 Ministry of Foreign Affairs. (2014). *General official special interest report on Somalia*.

78 *Parliamentary Papers II*, 2014-2015, 19 637, no. 1992

79 *Parliamentary Papers II*, 2015-2016, 19 637, no. 2052

80 *Parliamentary Papers II*, 2014-2015, 19 637, no. 1992

Sudan

In 2015, policy was amended in respect of groups who face risks in Sudan. Where previously a few groups such as the Nuba and alleged followers of SPLM-N were specifically designated as a risk group and vulnerable minority group, this has been extended to all (alleged) followers of the (armed) opposition.⁸¹

Overview of amendments in the country-related policy

An overview of the most important amendments per type is reflected in table 1.

81 Decree by the Minister for Migration of 18 November 2015, *Government Gazette 2015*, 43131; *Parliamentary Papers II*, 2015-2016, 19 637, no. 2074

Table 1. Overview of amendments in 2015

Groups that are systematically exposed to persecution	Newly designated groups who are systematically exposed to persecution <p>Iran</p> <ul style="list-style-type: none"> • Christians who are active for 'new churches' or who are evangelising • Members of house churches • Muslims who have converted to Christianity who openly practise their religion
Risk groups	Newly designated risk groups <p>Iran</p> <ul style="list-style-type: none"> • Christians • Bahais • Sufis <p>Libya</p> <ul style="list-style-type: none"> • LGBTs • (converted) Christians • (stateless) Palestinians • political activists • human rights activists • members of the judicial system • employees of non-governmental organisations • journalists • women working in the public sector • third-country nationals who belong to a tribe of whom it is known that they were loyal to the Gaddafi regime • third-country nationals who served as (deputy)officers during the Gaddafi regime. <p>Pakistan</p> <ul style="list-style-type: none"> • Pakistani Christians designated as a risk group <p>Russia</p> <ul style="list-style-type: none"> • LGBTs <p>Somalia</p> <ul style="list-style-type: none"> • government officials • members of the judicial system • members of AMISOM • persons working for international organisations or international delegations

	<ul style="list-style-type: none"> • persons who are suspected by Al-Shabaab of spying for the government • journalists <p>Sudan</p> <ul style="list-style-type: none"> • all (alleged) followers of the (armed) opposition
15c-areas	<p>New 15c-areas</p> <p>Iraq</p> <ul style="list-style-type: none"> • provinces: Anbar, Ninewa, Salaheddin, Ta'mim, and Diyala • parts of the circle 'around' the city of Baghdad (the so-called Baghdad belts) which border along the provinces of Anbar, Salaheddin and Diyala <p>No longer 15c-areas</p> <p>Congo</p> <ul style="list-style-type: none"> • Haut-Uele and Bas-Uele regions
Moratoriums on decisions and returns	<p>New moratoriums on decisions and returns</p> <p>China</p> <ul style="list-style-type: none"> • August 2015: moratorium on decisions and returns for Uyghurs from China for the duration of one year <p>Yemen</p> <ul style="list-style-type: none"> • July 2015: moratorium on decisions and returns for the duration of six months • February 2016: moratorium extended by six months <p>Somalia</p> <ul style="list-style-type: none"> • April 2015: Moratorium on decisions and returns for asylum seekers originating from areas in Central and South Somalia under the control of Al-Shabaab for six months • October 2015: moratorium extended by six months <p>Terminated moratoriums on decisions and returns</p> <p>Iraq</p> <ul style="list-style-type: none"> • October 2015: termination of the moratorium on decisions and returns for Iraq

5.2.5 Reception

Temporary emergency reception of asylum seekers

Due to the increased influx of asylum seekers in 2015, COA has made use of emergency reception locations and crisis reception locations. In the Netherlands asylum seekers stay in a reception centre run by the Central Agency for the Reception of Asylum Seekers (COA) during the asylum procedure. COA is responsible for reception and counselling of asylum seekers at locations throughout the Netherlands. It was a challenge in the second half of 2015, due to the increased influx, to offer all asylum seekers a place to sleep. Because regular reception centres were full, COA occupied emergency accommodations (e.g. sports halls and schools) at various places across the Netherlands. Emergency reception centres were created very quickly in cooperation with municipalities. Since September 2015 there has been an ongoing use of crisis reception locations, because capacity at regular reception centres and emergency reception locations was insufficient for the major influx. Thanks to hiring a sufficient number of new (emergency) reception locations, the crisis reception locations could be phased out completely by the end of 2015.

Government and municipalities make arrangements about (emergency)reception

In November 2015, the government and municipalities concluded an agreement⁸² for the (emergency)reception and housing of asylum seekers and beneficiaries of international protection. The aim was to prevent a shortage of reception facilities and to accelerate the progression of beneficiaries of international protection from reception centres to municipal housing. In the Netherlands asylum seekers stay at a COA reception centre during the asylum procedure. Once they get a residence permit, on the basis of a national target programme they are matched to a municipality, who, after being matched, is obliged to find regular housing within six months. As a result of the increased influx of asylum seekers this process has delayed. This causes reception centres to become overstretched. On 27 November 2015 the government concluded an agreement with municipalities and provinces to create additional reception capacity, and housing for all residence permit holders. The most important agreements in the area of reception of asylum seekers include:⁸³

- **Additional reception capacity.** The agreement primarily addresses the extended number of (emergency)reception locations (2500 additional reception places per province). The planning processes for this purpose had to be ready by 1 February 2016. Further, until the end of 2015, 500 additional emergency reception places per safety region would be created (there are 25 safety regions in the Netherlands) for the duration of three to six months.
- **Reimbursement for crisis reception locations.** Further reimbursement of costs incurred by municipalities for crisis reception locations have been considered. Municipalities have been reimbursed EUR 40 for each place per night. This amount has retroactively been increased to EUR 100.

82 Minister of the Interior and Kingdom Relations et al. (2015). *Bestuursakkoord Verhoogde Asielinstroom* [Administrative Agreement on Increased Influx of Asylum Seekers].

83 Central Agency for the Reception of Asylum Seekers. (2015). *Bestuurlijke afspraken 'Verhoogde asielinstroom'* [Managerial agreements 'Increased influx of asylum seekers']. <https://www.coa.nl/nl/nieuws/bestuurlijke-afspraken-verhoogde-asielinstroom>

The agreement also contains arrangements about the housing of beneficiaries of international protection. These are explained in paragraph 4.2.2.

Policy amendments in terms of the “bed, bath and bread” scheme

In 2015 there was an intense discussion about the rules concerning the reception of asylum seekers who have exhausted all legal means. The reason was an opinion from the European Committee of Social Rights in November 2014, in which the Committee stated that the Dutch government had to provide shelter, clothing and sustenance (“bed, bath and bread”) to asylum seekers who have exhausted all legal means.⁸⁴ The basic principle of policy in the Netherlands assumes that asylum seekers who have exhausted all legal means who are unwilling to cooperate in their departure, are not offered any reception (see box 8 on policy until mid 2015).

Box 8 Reception policy for asylum seekers who have exhausted all legal means until mid 2015

Within the present system, reception facilities are provided during the asylum procedure. When a residence permit is granted, this reception is followed by municipal housing. On rejection of the application, the third-country national is given a certain amount of time to realise departure (supported by the government). If the departure has not been realised after this period, the third-country national could receive further shelter at the Freedom-restricting Centre (VBL) to organise the departure. A condition though, is that the third-country national must indicate a willingness beforehand to cooperate in the departure. If the third-country national does not indicate a willingness to depart, then no placement in the VBL takes place and the possibility of enforceable return is considered. If enforceable return is possible, then that will take place (possibly after a detention). If enforceable return is not possible and the third-country national is not willing to cooperate on (voluntary) departure, the third-country national will end up on the street. Even when a third-country national is homeless, he/she is still able to be placed back in the system by working on a departure anyway. This is followed by placement in the VBL.

In addition to the above, there are family locations for families with minor-aged children. That is where families with minors are placed even if they do not cooperate in their departure. The reason for this is that children are not allowed to become victims of the choice of the parents.

Source: Parliamentary Papers II, 2014-2015, 19 637, no. 1994

After intensive discussions and a great deal of attention in the media, the coalition parties VVD and PvdA reached a compromise. Amongst other things, the compromise provides for the following amendments in current policy:⁸⁵

84 NOS (news broadcaster). (2014). *Vier vragen over ‘bed, bad en brood’* [Four questions on ‘bed, bath and bread’]. <http://nos.nl/artikel/2004740-vier-vragen-over-bed-bad-en-brood.html>

85 *Parliamentary Papers II*, 2014-2015, 19 637, no. 1994

- **Introduction of a pre-phase Freedom-restricting Centre (VBL).** Under the present system a third-country national can only get access to the VBL if he/she indicates in advance that he/she is prepared to cooperate with departure. The government has decided to adapt this precondition by introducing a pre-phase. In real terms this means the following. The third-country national is first given some leeway in which he/she only receives general information about return and gets familiar with the location. This is followed by a period with departure interviews to stimulate the third-country national's willingness to return. Part of this process is to provide perspective again in view of the return. If there is a (sincere and demonstrable) willingness present to return, reception is continued in the regular VBL in Ter Apel to be able to eventually effectuate the departure. If, after this period, there is no question of willingness to return, the third-country national is vacated from the facility. The duration of the stay in the pre-phase amounts to a limited number of weeks in order to assure importance of the effectiveness of the return policy.
- **New pre-phase VBL locations.** The pre-phase VBL will only be available at a limited number of locations; namely, Ter Apel, Amsterdam, Rotterdam, The Hague, Utrecht and Eindhoven. Central government and municipalities will jointly be responsible for these locations, where state funding is linked to the degree of success in having third-country nationals returned. The government will structurally make EUR 15 million available from general budgetary resources for the intended adaptations in the VBL and the pre-phase VBL locations.
- **Reducing bed, bath and bread scheme in other municipalities.** The compromise further envisages that the other municipal reception locations for non-cooperating asylum seekers who have exhausted all legal means, are closed.

In November 2015, the Council of State assessed that, if a third-country national refuses to cooperate in working on his departure, then shelter may be refused. This judgment is in line with the previously detailed compromise by the ruling parties. At this point in time central government is still having discussions with municipalities about the concrete elaboration of policy amendments outlined above.⁸⁶ However, negotiations have been delayed. Municipalities want more reception places and lengthier periods of reception.⁸⁷

5.2.6 *Efficiency and quality of the Dutch asylum system*

Measures to better manage the reunification of family members of asylum seekers

In 2015 the government announced measures to ensure orderly management of reunifications of family members of asylum seekers (see box 9):⁸⁸

- In 2015 the Minister for Migration detailed a proposal to extend the period within which the Netherlands must decide on family reunification to nine months (formerly six months). Nine months is also the maximum waiting time permitted in the EU

⁸⁶ *Parliamentary Papers II*, 2015-2016, 19 637, no. 2106

⁸⁷ Gemeente.nl (internet site). (2016). *Gemeenten oneens over bed-bad-brood* [Municipalities disagree on bed, bath and bread scheme]. <http://www.gemeente.nu/Sociaal/Nieuws/2016/2/Gemeenten-oneens-over-bed-bad-brood-2759137W/>

⁸⁸ *Parliamentary Papers II*, 2015-2016, 19 637, no. 2086

family reunification directive. That means it could take longer before family members are able to come to the Netherlands. At the same time the period within which a family reunification application must be submitted will also be extended from three to six months. However, the Lower House must still take a decision on this proposed amendment of legislation.

- The IND intends to investigate whether costs for DNA testing in the context of family reunifications, can be charged to the applicant. Costs for DNA testing will be brought into account in advance. On a positive result, this will be refunded.
- In order to relieve COA's reception locations as much as possible, which are sorely needed to shelter new asylum seekers, family members who seek family reunification will be housed in municipalities as fast as possible. Better data exchange between the IND, COA, and municipalities provide municipalities with an early insight into the arrival of family members seeking reunification. They can then start looking for suitable housing sooner.

Box 9. How do family reunifications work?

Family reunifications means that beneficiaries of international protection can have their family members come over to the Netherlands.

However, family reunifications are subject to a number of conditions, namely:

- Only certain family members may come to the Netherlands for family reunifications, being:
 - The spouse or partner
 - Minor-aged children and foster children
 - Adult-aged children who are dependent on the beneficiary of international protection
 - If the beneficiary of international protection is unaccompanied and minor-aged: one or both parents
- The application must be submitted within three months (otherwise the third-country national must submit a separate application for a regular residence permit, which also means that the income requirement must be complied with.)⁸⁹
- The marriage or partnership already existed prior to the asylum seeker arriving in the Netherlands.

In addition, the applicant and his/her family must undergo a number of steps. Firstly, the beneficiary of international protection must apply for a regular provisional residence permit (MVV) (see box 1) for his/her family members. To obtain the MVV, the applicant and/or the family members must prove that they were a family up to the time of refuge. The best proof of this is official documentation such as a marriage or birth certificate. The IND checks this documentation for its authenticity. If this documentation is missing, the people are given the opportunity to explain why these documents are missing. If they make a

89 The Minister of Migration has proposed to extend the term of submission of the application from 3 to 6 months. See: *Parliamentary Papers II*, 2015-2016, 19 637, no. 2086

plausible case that they have no documentary evidence, the family members undergo DNA testing or are offered an identification interview which enables them to prove that they belong to the family of the principle migrant in the Netherlands. When it concerns families without children or only foster children, then the family members are interviewed extensively about their relationship with each other. By way of these interviews, an embassy employee in the country of origin determines whether they are indeed a family. Aside from documents about the family relationship, family members must also hand over official identification documents. When the family members arrive in the Netherlands, they receive a so-called humanitarian protection status. Family members may also choose to submit an independent asylum application and thus perhaps becoming eligible for an own asylum status.

Sources: Dutch Refugee Council of the Netherlands. (n.d.). *Gezinshereniging: welke voorwaarden zijn er?* [Family reunification: what are the conditions?] Consulted 22 June 2016. <http://www.vluchtelingenwerk.nl/feiten-cijfers/procedures-wetten-beleid/gezinshereniging/gezinshereniging-welke-voorwaarden-zijn-er>

Dutch Refugee Council of the Netherlands. (n.d.). *Drie stappen naar gezinshereniging* [Three steps to family reunification]. Consulted 22 June 2016. <http://www.vluchtelingenwerk.nl/feiten-cijfers/procedures-wetten-beleid/gezinshereniging/drie-stappen-naar-gezinshereniging>

More staff and more space for registration of asylum seekers

The substantially increased influx is a heavy burden for the process of registration of asylum seekers by the Identification and Trafficking in human beings Department of the Aliens Police (AVIM). A couple of times last summer, this influx and its limited predictability was the reason why asylum seekers had to be sheltered without them having been registered.

That is why the AVIM employed additional staff in 2015 for registration tasks, and an additional location has been occupied where this registration can take place. In Ter Apel, COA has occupied a new pavilion where asylum seekers can wait on days with large numbers of arrivals, until the AVIM has registered these asylum seekers.⁹⁰

Increase in IND capacity for handling asylum applications

In order to handle the amounts of work that arose after the peak influx of 2014 in good time, the IND also opened during the weekends since February 2015. As the influx of asylum seekers was low at that point in time, the IND succeeded in clearing the backlog of work faster than expected. So opening during the weekends was ceased again at the end of March 2015. In the course of 2015 the influx of asylum seekers rose rapidly again. Later in 2015, this caused the IND to be faced with a shortage of personnel to assess all the asylum applications in good time. So, where possible, IND redeployed their staff from other work processes in the asylum process. Furthermore, external staff was hired. In June 2015, IND hired 100 people externally and in September 2015 a further 100 people were hired. Besides, in October 2015 the IND again opened during the weekends so

as to make a more efficient use of the interview rooms and to be able to deploy a larger pool of interpreters. IND has also expanded the number of available interview rooms.⁹¹

New information leaflet for asylum seekers

Since October 2015 asylum seekers receive a letter from the Minister for Migration about what they can expect from the Dutch asylum procedure, family reunification procedure, and reception centre facilities. The letter is available in the following languages: Dutch, English, French, Arabic, Russian, Somali, Chinese, Farsi and Tigrinya. Additionally at the end of 2015, IND started developing an app in which new asylum seekers can find information in the Netherlands (such as: What can I expect here in the Netherlands? What are the customs here? Where must I be for what?).⁹²

5.2.7 International collaboration

Collaboration with the European Asylum Support Office (EASO)

In 2015, EASO called on Member States to provide 374 experts to establish hotspots and a relocation procedure. The Netherlands has appointed six experts who will be involved full time over the next two years. In addition, the Dutch experts participated in working groups and provided training courses (e.g. accreditation and certification working group).⁹³

Support of other EU countries / Relocation

The Netherlands has agreed with European arrangements to reallocate asylum seekers in Europe. Italy and Greece have requested this. It has been agreed that, in this context, 9,000 people will come to the Netherlands.⁹⁴

Resettlement

2015 saw the finalisation of the multi-annual resettlement policy framework for the years 2012-2015. In this period a total of about 2,000 people were resettled through resettlement missions and also dossier selections. Refugees have been resettled who originated from Pakistan, Iraq, the Democratic Republic of Congo, Uganda, Ethiopia, Eritrea as well as Stateless Palestinians, among others. In addition, in 2015 (as in 2014) at least 250 places were filled by Syrian refugees.⁹⁵

In 2015, the long-term resettlement policy framework for the years 2016-2019 was also established and maintained, on a total resettlement of 2,000 people (about 500 per year). In the EU context, in light of the voluntary EU resettlement programme, the Netherlands has committed to a resettlement of 1,000 people in a period of two years.

91 *Parliamentary Papers II*, 2014-2015, 19 637, no. 2027

92 IND. (2015). *Staatssecretaris Dijkhoff informeert asielzoekers met brief over asielprocedure* [Minister for Migration Dijkhoff informs asylum seekers by letter about asylum procedure]. <https://ind.nl/organisatie/nieuws/Paginas/Staatssecretaris-Dijkhoff-informeert-asielzoekers-met-brief-over-asielprocedure.aspx>

93 *Parliamentary Papers II*, 2015-2016, 32 317, no. 359

94 NOS (news broadcaster). (2015). *Nederland start voorzichtig met herverdeling asielzoekers* [The Netherlands starts cautiously with redistribution of asylum seekers]. <http://nos.nl/artikel/2067379-nederland-start-voorzichtig-met-herverdeling-asielzoekers.html>

95 *Parliamentary Papers II*, 2015-2016, 19 637 no. 2087

This corresponds with the national quota for this period. The implementation of this programme is progressing. From 2015 until the end of this programme in 2017, resettlement will take place from the areas referred to in the Council conclusions, particularly from regions in the Middle East and North Africa, including Turkey.⁹⁶

Twinning projects

Also in 2015, once again the Netherlands was involved in various Twinning projects⁹⁷ concerning asylum. The Communications Division of the IND supported the Serbian asylum services in the development of two communications campaigns. The first campaign aimed to inform Serbian citizens about the situation of the asylum seekers in order to create greater public support. The second campaign was geared towards Serbian citizens, and then particularly aimed at the Roma population who want to apply for asylum in EU Member States. The aim of this campaign was to reduce unfounded asylum applications in the visa-free regime. In view of the project, IND staff travelled several times to Belgrade to organise the campaigns. In addition, a new multi-annual Twinning project concerning migration and asylum was started in Kosovo on 1 March 2015.⁹⁸

5.3 Conclusion

A number of important policy amendments took place in 2015. Some adaptations are a direct consequence of the unprecedented high influx of asylum seekers in 2015. Examples of this are the establishment of the temporary 'Ministerial Committee on Migration', the introduction of a list of 'safe countries', and development of the multi-track policy. Also raising the capacities in the asylum process and in the reception of asylum seekers aimed to tackle the increased influx of asylum seekers. To this end, COA has made use of emergency and crisis reception locations. IND's capacity to deal with asylum applications has also been increased; for instance, external staff have been hired and asylum seekers have temporarily been interviewed during the weekends. Furthermore, the government and municipalities have agreed to accelerate the transfer of beneficiaries of international protection from reception centres to municipal housing. That includes the creation of housing facilities for 14,000 beneficiaries of international protection.

Independent of the increased influx, a number of planned policy amendments entered into force in 2015. In July the European Procedures Directive (2013/32/EU) was implemented. The consequences emanating from this include the introduction of border procedures, the introduction of new settlement grounds, and the introduction of a full and ex nunc examination in judicial review. In anticipation of the standards in the Procedures Directive, the 'comprehensive credibility assessment' was also introduced in January. This replaces the regime of the 'positive power of persuasion'. In July 2015, an independent procedure for Dublin claimants was also introduced.

⁹⁶ *Parliamentary Papers II*, 2015-2016, 19 637 no. 2087

⁹⁷ Twinning projects are international exchange projects in which an EU country, for example the Netherlands, helps new Member States, candidate countries and neighbouring countries of the EU to introduce European regulations.

⁹⁸ IND. (2016). *IND helpt Kosovo bij doorontwikkeling uitvoering migratiebeleid* [IND helps Kosovo in continued development of migration policy implementation]. <https://ind.nl/organisatie/nieuws/Paginas/IND-helpt-Kosovo-bij-doorontwikkeling-uitvoering-migratiebeleid.aspx>

Necessary adaptations were also applied in the area of country-related asylum policy. New risk groups are designated for several countries which include Christians and LGBTs in various countries. Furthermore, the Iraqi provinces of Anbar, Ninewa, Salaheddin, Ta'mim and Diyala, and parts of the so-called Baghdad belts where the battle against ISIS is being fought, have been designated as 15c-areas. At the end of 2015, moratoriums on decisions and returns for asylum seekers from China⁹⁹, Yemen and Somalia¹⁰⁰ came into force. By contrast, the moratorium for asylum seekers from Iraq was discontinued in 2015.

On an international level, the Netherlands was involved in a number of European initiatives and bilateral and multilateral projects. For example, the Netherlands has agreed in European agreements to redistribute asylum seekers in Europe. In this context it has been agreed that 9,000 people from Greece and/or Italy will come to the Netherlands. Further in 2015, the long-term resettlement policy framework for the years 2016-2019 was developed for a total resettlement of 2,000 people (about 500 per year).

99 only for Uyghurs

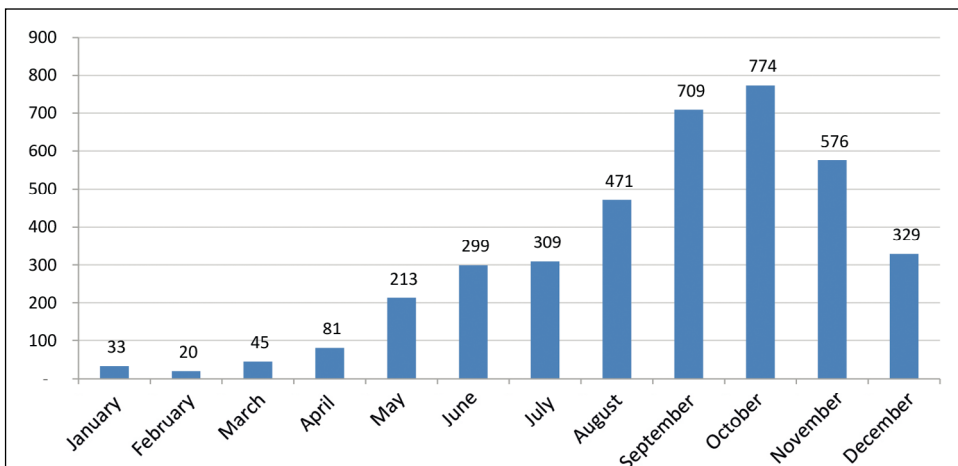
100 only for areas in Central and South Somalia under the control of Al-Shabaab

6 UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

6.1 Introduction

In line with the high influx of asylum seekers in 2015, the number of unaccompanied minors (UAMs) also rose substantially in 2015. When compared with 2014, almost four times as many UAMs came to the Netherlands (3,859 in 2015¹⁰¹ in comparison to 984 in 2014¹⁰²). From April to October, every month more UAMs applied for asylum in the Netherlands (see figure 6). During the peak month of October, 774 applications were registered. However, in the months of November and December the numbers dropped again.

Figure 6. Development of the number of asylum applications of unaccompanied minors in 2015

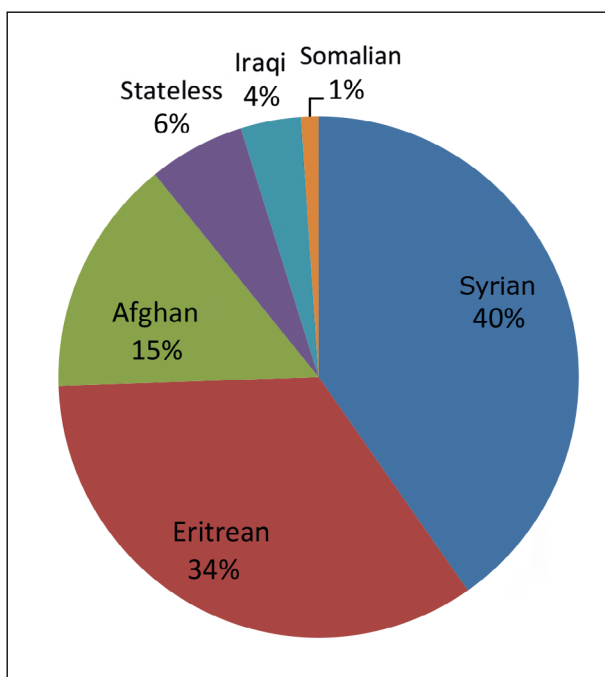


Source: IND. (2014). *Asylum Trends: Monthly Report on Asylum Applications in The Netherlands and Europe: December 2014*.

In 2015 most of the UAMs came from Syria (40%), Eritrea (15%) and Afghanistan (15%) (see figure 7).

101 IND. (2014). *Asylum Trends: Monthly Report on Asylum Applications in The Netherlands and Europe: December 2014*.

102 IND. (2015). *Asylum Trends: Monthly Report on Asylum Applications in The Netherlands and Europe: December 2015*.

Figure 7. Nationality of unaccompanied minor asylum seekers

Source: IND. (2014). *Asylum Trends: Monthly Report on Asylum Applications in The Netherlands and Europe: December 2014*.

6.2 Policy developments

A number of developments occurred in 2015 for unaccompanied minors (UAM) and other vulnerable groups. Changes involved the interviewing of unaccompanied minors during the asylum procedure, their reception and housing, and dealing with victims of trafficking in human beings. The most important changes are briefly explained below.

6.2.1 Interviewing of unaccompanied minors

In the implementation of the Procedures Directive on 20 July 2015, unaccompanied minors may only be interviewed about asylum motives in the presence of a legal representative, authorised representative or other legal assistance provider. In the Dutch context this would especially involve NIDOS¹⁰³ and/or the Dutch Council for Refugees.¹⁰⁴

6.2.2 New reception model for unaccompanied minors

On 16 September 2014 the Minister for Migration presented a new reception model for unaccompanied minors (UAMs).¹⁰⁵ The reception model that entered into force on 1 January 2016 was developed by the Central Agency for the Reception of Asylum Seekers (COA) in conjunction with Stichting NIDOS (foundation). The new model focuses on **small-scaleness**. All UAMs who are younger than 15 years (formerly: 12 years) are taken

¹⁰³ Stichting NIDOS (foundation) is the legal guardian of UAMs in the Netherlands.

¹⁰⁴ *Parliamentary Papers II*, 2014-2015, 34 088, no. 3

¹⁰⁵ *Parliamentary Papers II*, 2013-2014, 27 062, no. 95

care of by foster families under the responsibility of NIDOS. The UAMs aged 15 years and older, and UAMs younger than 15 who cannot be placed in a foster family, will be taken care of by COA in small-scaled housing facilities clustered close to each other. Together, these consist of a maximum of 16 to 20 beds. Formerly UAMs between 15 and 18 years were housed in three special UAM campuses with approximately 100 beds per campus. In the new housing facilities, 24-hour counselling is present, unless the youngsters in the housing facility require less counselling. When counselling UAMs, account is kept of their prospects: integration, if a residence permit is granted or return, if the application is rejected. In the new model, UAMs staying at the COA reception centre who have received a residence permit, are placed by NIDOS in a foster family to be able to work from within this context on their civic integration.

Aside from small-scaleness, the new model also aims to keep UAMs in the **same environment** or region as much as possible when they go from one to another reception facility. This has various advantages: This could enable UAMs, for example, to maintain their social contacts, and continuity of healthcare and education can be guaranteed as much as possible. Moreover, in future, UAMs with a permit also count in the programme target. The programme target is an annual obligation for municipalities to house a set number of beneficiaries of international protection.

6.2.3 *Better detection and analysis of minor-aged victims of trafficking in human beings*

The Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children published a report in June 2015: 'Mensenhandel, Naar een kindgericht beschermingssysteem voor alleenstaande minderjarige vreemdelingen' [Trafficking in human beings, A child-oriented protection system for unaccompanied minors]. Although it is concluded in this report that much is being done in the Netherlands for this specific group, according to the National Rapporteur, there are concerns and improvements are nevertheless needed. To this end, the Rapporteur has five recommendations. In response to the report, the government is planning to follow up on the following aspects of the recommendations:¹⁰⁶

- The procedure at Application Centre (AC) Ter Apel will be structured as such that detection is flagged to other relevant authorities. At Ter Apel a revised working method has already been put in place which flags detection of trafficking in human beings in general and for UAMs in particular. This method of working has already been implemented at AC Ter Apel. NIDOS, IND and the police work closely together to recognize those minors who are eligible for protected reception. Further, NIDOS is currently investigating how they can improve their present screening instrument so that all possible victims of trafficking in human beings can be identified.
- Care will be taken that every youngster in protected reception will be subjected to a multidisciplinary risk analysis, in which their vulnerabilities are identified. At present

a consultation structure for this purpose is already being developed, namely the protected reception casuistic discussion (COBO). The parties involved (police, NIDOS, responsible reception provider, IND etc.) are further elaborating in what way this recommendation can best be put into practice within this existing structure.

Box 10. Protected reception

Youths who run an increased risk of disappearing or because they are or will possibly become a victim of trafficking in human beings, are placed in protected reception.¹⁰⁷ This often concerns victims of sexual exploitation (e.g. prostitution) or economic exploitation.¹⁰⁸

6.3 Conclusion

In 2015 several policy amendments occurred in the area of unaccompanied minors. With the implementation of the Procedures Directive in July 2015, UAMs may, for instance, only be interviewed about asylum seeker motives in the presence of a legal representative, authorised representative or other legal assistance provider. Another important amendment was the introduction of new reception centre model for UAMs. The new model focuses on small-scaleness and continuity in the reception. In addition, a number of procedural actions were taken to better identify and to support minor-aged victims of trafficking in human beings.

107 Schulink. (2016). *Kwaliteit beschermde opvang alleenstaande minderjarige vreemdelingen onvoldoende* [Quality of protected reception is inadequate for unaccompanied minor third-country nationals]. <http://www.schulink.nl/nieuws/2016/kwaliteit-beschermde-opvang-alleenstaande.733836.lynkx>

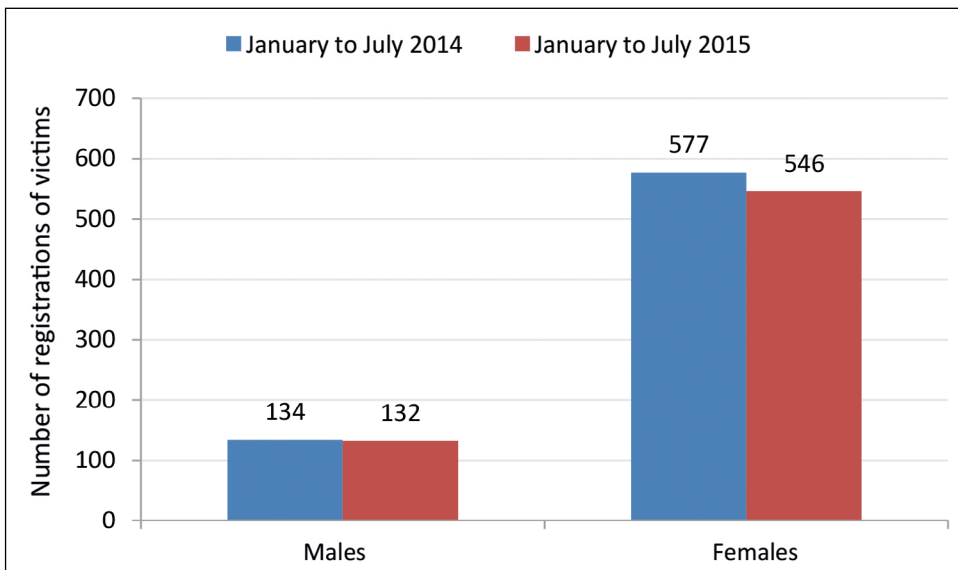
108 Jade Zorggroep [care group]. (n.d.). *Beschermde opvang* [Protected reception]. Consulted 8 June 2016. <http://www.jadezorggroep.nl/opvang-slachtoffers-mensenhandel>

7 ACTIONS ADDRESSING TRAFFICKING IN HUMAN BEINGS

7.1 Introduction

The number of reports of victims of trafficking in human beings reduced slightly in the first half of 2015 in comparison to the first half of 2014.¹⁰⁹ Figures for the whole of 2015 are not known as yet.

Figure 8. Number of registrations in the period 1 January to 31 July 2014 and 1 January to 31 July 2015

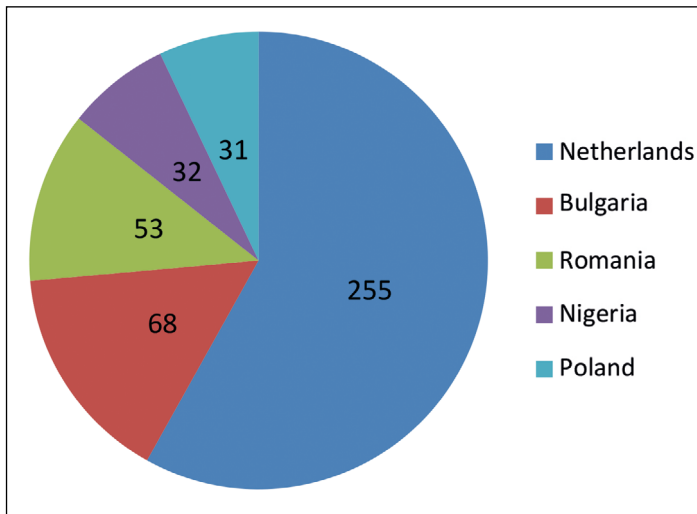


Source: CoMensha. (2015). Report January to July 2015.

Most registrations are done by the police (58% of all reports from January to July 2015). Of the 678 victims who registered in the period from January to July 2015, most have the Dutch nationality, followed by people with Bulgarian, Romanian, Nigerian and Polish nationalities.¹¹⁰ Most of the registered victims (68%) were exploited for sexual services.

¹⁰⁹ Figures on the number of victims of trafficking in human beings are collected in the Netherlands by the CoMensha foundation. CoMensha receives this data from investigation services such as the police, the Royal Netherlands Marechaussee, reception centres and other partners. When CoMensha receives the data of (suspected) victims, those people are registered.

However, the figures published by CoMensha are incomplete, because not all of the victims are reported or identified.
¹¹⁰ CoMensha. (2015). Report January to July 2015.

Figure 9. Top 5 nationalities of victims registered from January to July 2015

Source: CoMensha.
(2015). *Report January to July 2015*.

In order to counteract trafficking in human beings and the exploitation of victims of trafficking in human beings, a number of measures were taken in 2015. Most measures are not specifically geared towards third-country nationals. They are, however, indeed of significant importance to counteract trafficking in human beings in this group. The most important developments are explained below.

7.2 Policy developments

7.2.1 *Launching of the website 'Guide on countering Trafficking in human beings'*

On 18 June 2015, the website 'Guide on countering Trafficking in human beings' was launched.¹¹¹ The Guide is a central and supportive component not only for victims, but also for professionals who work with victims, and citizens who need information. This website has a lot of information on facilities made available and rights of victims. In addition, the website is used as a point of reference to find relevant service organisations that provide support to victims of trafficking in human beings. Since this website was launched, more emphasis is laid on tailoring: The Guide refers those who need help to an expert who can offer help. Here the emphasis lies on providing specific support for the victim's needs. At present the Guide is being modified for further optimization with the ultimate goal to provide for a well-functioning referral mechanism. The launching of the guide is part of the inter-ministerial project 'National Referral Mechanism' (see box 11 for more information).

Box 11. What is the National Referral Mechanism ?

In October 2013, on a recommendation from the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, the project 'National Referral Mechanism' was started. The objective of the project is to improve the amount of assistance and support, and having access thereto, for all victims of trafficking in human beings. This happens by way of identifying support services, regulations and rights for victims of trafficking in human, and perhaps ascertaining any bottlenecks. Furthermore, the focus lies on identifying and protecting victims. Besides, the referral mechanism is important for identifying and prosecuting perpetrators. After all, proper protection can contribute to the willingness of victims to report, and accordingly to a successful prosecution of people traffickers. The project was set up by the Ministry of Security and Justice, Ministry of Public Health, Welfare and Sport, and the Ministry of Social Affairs and Employment.

Source: Guide on countering Trafficking in human beings. (n.d.). *Algemene informatie* [General Information]. Consulted 10 June 2016. <http://www.wegwijzermensenhandel.nl/algemeneinformatie>

7.2.2 *Pilot project on multidisciplinary identification of victimhood*

In the context of the national National Referral Mechanism, a (pre)pilot project was started in relation to multidisciplinary counselling regarding victimhood of trafficking in human beings.¹¹² The reason for this was an exploratory study instituted by the Minister for Migration in 2014. A phased pilot project must show whether the model proposed by the researchers would lead to the desired result in practice: namely, a useful multidisciplinary advice on victimization of trafficking in human beings, with added value for the victim. The Crime Victims' Compensation Fund is implementing the pilot project. At a positive result of the first exploratory pilot phase, an operational pilot phase will be started in the second half of 2016.

7.2.3 *Campaign «Forced prostitution»*

The independent reporting centre 'Report Crimes Anonymous' carried out the «Coerced prostitution» campaign from June 2014 to April 2015 to further counteract coercion and exploitation in prostitution.¹¹³ Visitors to prostitutes, sex workers and care professionals were informed via films, workshops, a brochure and online campaign material on being alert to signals of exploitation, and they were encouraged to report this at the reporting centre.

The campaign was successful, as was apparent from an increase in the number of anonymous reports relating to coercion and exploitation in prostitution and of prostitution at non-licensed locations. These reports were an increase of 34% (from 222 to 297) in comparison to the same period last year. Two-thirds of the reports, according to investigation agencies, contributed substantially to investigations. Taking the success of the campaign in 2015 into consideration, a follow-on campaign will be started in 2016.

¹¹² *Parliamentary Papers II* 2015-2016, 28 638, no. 140

¹¹³ *Parliamentary Papers II*, 2015-2016, 28 638, no. 139

7.2.4 Pilot interview studios on location

At the end of 2014, the pilot interview studios on location were started, where interview studios were established at three reception centres for victims of trafficking in human beings.¹¹⁴ The aim is to make it easier for victims to report, by being able to do this at his/her own reception centre. The pilot will run to the end of June 2016.¹¹⁵

7.2.5 Investigation into the role of municipalities

Together with the Dutch umbrella organisation for women's shelters, Federatie Opvang, the Association of Netherlands Municipalities (VNG) appointed a Commission to investigate responsibilities and bottlenecks at municipalities for the protection of victims of human trafficking. The relevant report was presented on 9 April 2015. The most important advice given is to place responsibility for victims of human trafficking with the municipality where the relevant victims live.¹¹⁶

7.2.6 The Netherlands, Belgium and the United Kingdom are jointly working on an approach to trafficking in human beings

In November 2015, the Netherlands, Belgium and the United Kingdom jointly signed a declaration to be able to better tackle human trafficking. Operational cooperation will take place between the three countries to combat organised crime. In addition, more information will be exchanged between the countries and know-how and experience is shared.¹¹⁷

7.3 Conclusion

In 2015 a number of developments occurred in the area of trafficking in human beings. In the context of the National Referral Mechanism, for example, the website 'Guide on countering Trafficking in human beings' was launched, and a (pre)pilot project on multidisciplinary identification of victimhood was started. Additionally, the 'Report Crimes Anonymous' reporting centre carried out a campaign against «Coerced prostitution». A pilot was also started where interview studios were installed at three reception centres for victims of trafficking in human beings. Moreover, research results have been published relating to the role of municipalities in the protection of victims of trafficking in human beings, and the Netherlands, Belgium and the United Kingdom have intensified their collaborations relating to trafficking in human beings.

¹¹⁴ *Parliamentary Papers II*, 2015-2016, 28 638, no. 140

¹¹⁵ *Parliamentary Papers II*, 2015-2016, 31 839, no. 500

¹¹⁶ Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. (2015). *Gemeenten aan zet in de bescherming van slachtoffers van mensenhandel* [Municipalities must act to protect victims of trafficking in human beings]. <https://www.nationaalrapporteur.nl/actueel/nieuws/Archief2015/gemeenten-aan-zet-in-de-bescherming-van-slachtoffers-van-mensenhandel.aspx?cp=63&cs=59417>

¹¹⁷ Central government. (2016). *Nederland, België en Verenigd Koninkrijk versterken aanpak mensenhandel* [The Netherlands, Belgium and United Kingdom improve approach to trafficking in human beings]. <https://www.rijksoverheid.nl/actueel/nieuws/2015/11/13/nederland-belgie-en-verenigd-koninkrijk-versterken-aanpak-mensenhandel>

8 ILLEGAL IMMIGRATION AND BORDER CONTROL

8.1 Introduction

Taking the high influx of migrants in 2015 into consideration, the countering of illegal immigration, including human smuggling and border control, were significant topics in 2015. In 2015, the Royal Netherlands Marechaussee apprehended about 330 suspects on suspicion of human smuggling.¹¹⁸ That is about 20% more than in 2014. At that time the number of apprehensions was approximately 270. The following chapter addresses the most important policy amendments in the area of illegal immigration and border control.

8.2 Policy developments

8.2.1 *Intensification of controls along Dutch borders*

In view of increasing migration flows to the Netherlands, the Mobile Supervision on Security (MTV) at the country's borders with Belgium and Germany was intensified in mid September.¹¹⁹ The intensification of controls envisage the following effects:¹²⁰

- combating illegal immigration in general and cracking down on human smuggling in particular;
- prevention of inhuman incidents (such as the death of asylum seekers in a truck in Austria in August 2015);
- prevention of substantial incidents for the public order and national security of the Netherlands (e.g. the attack in the Thalys).

Box 12. What is Mobile Supervision on Security (MTV)?

Mobile Supervision on Security is a check on people who travel from Belgium or Germany to the Netherlands, and is carried out by the Royal Netherlands Marechaussee.¹²¹ The purpose of MTV, amongst other things, is to counteract irregular stay, human smuggling and document fraud as early as possible.¹²² MTV takes place in the area directly after the border. The Royal Netherlands Marechaussee mainly checks on the basis of risk profiles and does random checks. In the context of Mobile Supervision on Security, checks take place in trains, on the waterways, for air traffic and on roads.

118 Central government. (2016). *Aantal aanhoudingen mensensmokkel in 2015 gestegen* [Number of apprehensions relating to human smuggling rose in 2015], <https://www.rijksoverheid.nl/actueel/nieuws/2016/02/05/aantal-aanhoudingen-mensensmokkel-in-2015-gestegen>.

NB: This concerns the total number of apprehensions reflected in Mobile Supervision on Security (MTV), border control (GB) and investigation projects.

119 Central government. (2015). *Staatssecretaris Dijkhoff bezoekt het Mobiel Toezicht Veiligheid van de Koninklijke Marechaussee* [Minister for Migration Dijkhoff visits the Mobile Supervision on Security of the Royal Netherlands Marechaussee], <https://www.rijksoverheid.nl/actueel/nieuws/2015/11/09/staatssecretaris-dijkhoff-bezoekt-het-mobiel-toezicht-veiligheid-van-de-koninklijke-marechaussee>

120 *Parliamentary Papers II*, 2015-2016, 19 637, no. 2077

121 Anonymous. (n.d.). Wat betekent MTV? [What does MTV mean?]. Consulted 8 June 2016, <https://www.wat-betekent.nl/wat-betekent-mtv/>

122 *Parliamentary Papers II*, 2012-2013, 19 637, no. 1647

An intensification of the MTV is carried out by the Royal Netherlands Marechaussee, with assistance from other defence divisions and other partners such as the police and customs department. Checks take place randomly, on the road, at airports, on international trains and on the waterways. Intensified surveillance mainly consists of more and lengthier checks on the road and in trains.¹²³

The intensification of checks appears to lead to results. Between 13 September 2015 and 31 December 2015 there were 82 apprehensions carried out in the MTV on suspicion of human smuggling. Since the intensification, the number of apprehensions has averaged 5 per week. Before that it was an average of 3 per week.¹²⁴

8.2.2 Expanding number of 'Advanced Passenger Information' Airports

By means of a legislative amendment, the Minister for Migration has expanded the number of Advanced Passenger Information Airports by 54 airports.¹²⁵ Airline companies who offer flights from these airports, are obliged to provide passenger details (name, nationality, travel route, etc.) to the Royal Netherlands Marechaussee. Coverage by all 108 airports now involves slightly less than 75% of all incoming flights at Schiphol. The 54 new airports were selected because an increased risk of illegal immigration has been observed on these travel routes.

8.2.3 Raising of maximum sentences for human smuggling

In November 2015 the government proposed a law amendment to raise the maximum sentences for human smuggling. This was instigated by a proposal from the temporary Ministerial Committee on Migration (see paragraph 5.2.1). The proposal provides for the following amendments:^{126 127 128}

- The maximum sentence for the basic offence of human smuggling will be raised from 4 to 6 years.
- It will also be possible to impose a higher penalty if there is a question of human smuggling in the performance of one's duties or profession; in that case, imprisonment will be raised from 6 to a maximum of 8 years.
- In the case of professional activities or activities in an organised context, the maximum sentence will be 10 years instead of 8 years.
- If a victim becomes seriously injured due to human smuggling, then the maximum sentence will be 15 years, which used to be 12 years.
- If human smuggling results in death, the maximum sentence of 15 years will be raised to 18 years.

123 Central government. (2015). *Staatssecretaris Dijkhoff bezoekt het Mobiel Toezicht Veiligheid van de Koninklijke Marechaussee* [Minister for Migration Dijkhoff visits the Mobile Supervision on Security of the Royal Netherlands Marechaussee], <https://www.rijksoverheid.nl/actueel/nieuws/2015/11/09/staatssecretaris-dijkhoff-bezoekt-het-mobiel-toezicht-veiligheid-van-de-koninklijke-marechaussee>

124 *Parliamentary Papers II*, 2015-2016, 19 637, no. 2180

125 Regulation by the Minister for Migration of 28 September 2015, Government Gazette. 2015 32655

126 Central government. (2016). *Steun in Eerste Kamer voor wetsvoorstellen Veiligheid en Justitie* [Support in Upper House for legislative Security and Justice proposals]. <https://www.rijksoverheid.nl/actueel/nieuws/2016/05/24/steun-in-eerste-kamer-voor-wetsvoorstellen-veiligheid-en-justitie>

127 *Parliamentary Papers II*, 2015-2016, 34 345, no. 3

128 RTL Nieuws (news broadcaster). (2015). *Mensensmokkel harder aangepakt, straffen omhoog* [Human smuggling tackled harder, punishments raised]. <http://www.rtlnieuws.nl/nieuws/politiek/mensensmokkel-harder-aangepakt-straffen-omhoog>

8.2.4 *New projects to improve border control capacities of countries of origin and transition counties*

In 2015, the Netherlands started several new projects aimed at improving the border control capacity of countries of origin and transition counties. For example, the Royal Netherlands Marechaussee joined in a Twinning Project focusing on Turkey under the leadership of the United Kingdom. The purpose is to build up intelligence and analysis capability. In addition, together with the International Centre for Migration Policy Development (ICMPD), the Netherlands has already launched a project with Lebanon to train Lebanese border guards in the Lebanese Armed Forces.¹²⁹

8.2.5 *The Netherlands has been evaluated in terms of the Schengen evaluations*

In September and October 2015 the Netherlands was evaluated in the context of Schengen evaluations. The Netherlands was last evaluated in 2009. Led by the European Commission, various expert teams from Member States have carried out evaluation visits in the following six areas: border control (maritime and air), electronic exchange of information, police cooperation, visas, data protection, and returns. The review of the results of the evaluation is expected in 2016.¹³⁰

8.3 Conclusion

Due to the high influx of migrants in 2015, the countering of illegal immigration, including human smuggling, and border control, were significant topics in 2015. In order to combat human smuggling, border controls by the Royal Netherlands Marechaussee were intensified along the Dutch borders and maximum sentences to be imposed for human smuggling have been raised. In addition, the Minister for Migration has expanded the number of Advanced Passenger Information Airports by 54 airports. Now airline companies must provide detailed passenger information for flights from a total of 108 airports. On an international level, the Netherlands has joined a number of new projects to improve border control capacities of countries of origin and transition counties, including Turkey and Lebanon. The Netherlands has also been evaluated in terms of the Schengen evaluations.

¹²⁹ *Parliamentary Papers II*, 2014-2015, 19 637, no. 1959

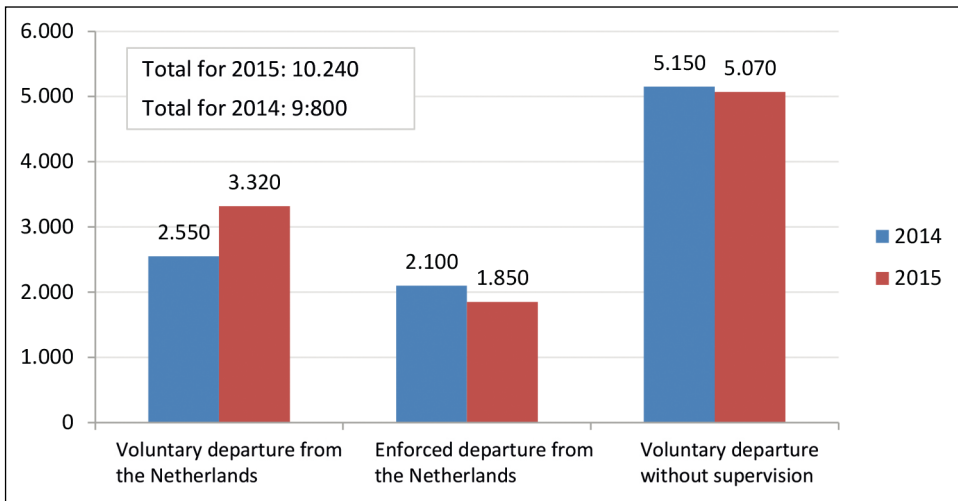
¹³⁰ Royal Netherlands Marechaussee. (2015). *Schengenevaluatie 'grenzen' in september* [Schengen evaluation of 'borders' in September]. https://magazines.defensie.nl/kmarmagazine/2015/04/08_kmarkort_4-2015

9 RETURNS

9.1 Introduction

In 2015, the Repatriation and Departure Service (DT&V) registered 10,240 third-country nationals who have left the Netherlands, whether proven or not, in the context of return to their own country or alternatively to another country where admission is guaranteed.¹³¹ That is a slight increase when compared with 2014; at that time 9,800 people returned.¹³² The bulk of the returnees left voluntarily (8,390), most of them without supervision (5,070).¹³³ Of those third-country nationals who left voluntarily, more than one-third (2,940) made use of a return programme (see box 13).¹³⁴ People from this group mainly came from the following countries: Mongolia, the Ukraine, Albania, Iraq and Serbia.¹³⁵ The following chapter addresses the most important policy amendments in the area of returns.

Figure 10. Number of returned persons registered by DT&V in 2014 and 2015



Source: Repatriation and Departure Service (DT&V). (2016). *Figures and infographics*. <https://www.dienstterugkeerenvertrek.nl/organisatie/cijfers-en-infographics/#paragraaf2>.

NB. Third-country nationals at the border who were sent back, are not included in the figures.

¹³¹ Repatriation and Departure Service (DT&V). (2016). *Figures and infographics*. <https://www.dienstterugkeerenvertrek.nl/organisatie/cijfers-en-infographics/#paragraaf2>. NB. Third-country nationals at the border who were sent back, are not included in the figures.

¹³² Repatriation and Departure Service (DT&V). (2016). *Figures and infographics*. <https://www.dienstterugkeerenvertrek.nl/organisatie/cijfers-en-infographics/#paragraaf2>.

¹³³ Repatriation and Departure Service (DT&V). (2016). *Figures and infographics*. <https://www.dienstterugkeerenvertrek.nl/organisatie/cijfers-en-infographics/#paragraaf2>.

¹³⁴ Ministry of Security and Justice. (2016). *Report on Immigration process: Period January - December 2015*.

¹³⁵ Ministry of Security and Justice. (2016). *Report on Immigration process: Period January - December 2015*.

9.2 Policy developments

In the area of returns, a few changes took place in the implementation of policy in 2015. The most important change in 2015 concerned the countering of abuse of departure and reintegration support. In 2014, a total of about 2,300 third-country nationals requested such support, in 2015 there were about 3,000. However, research has shown that asylum seekers from a number of countries have made improper use of reintegration support. So in July and August 2015 this led to Mongolian Dublin claimants and Kosovars being excluded from participation in projects for additional repatriation support.¹³⁶ These third-country nationals could still appeal for basic support from the REAN programme. To prevent further undesirable effects, it was also decided to completely cancel additional repatriation support for nationals from countries with a visa exemption as of 1 January 2016.

Box 13. What is a return programme?

Third-country nationals who want to return to their country of origin could be eligible, under certain conditions, for return support. A return project supports the third-country national in his/her departure from the Netherlands and his/her reintegration in the country of origin.¹³⁷ Support can include assistance in kind such as information, advice, a training, medical support, help in finding employment or the starting of a business, and financial support.

As administrator of the return policy, the Repatriation and Departure Service (DT&V) tries to encourage independent and sustainable returns. To this end, the DT&V maintains subsidy relationships with intergovernmental and non-governmental organisations who implement return projects.¹³⁸ In the Netherlands various organisations take care of return projects and provide return support, including the International Organisation for Migration (IOM), Dutch Council for Refugees and various other civil society organisations such as Stichting WereldWijd [Worldwide foundation], Stichting ROS [foundation] and Bridge to Better.

More information on various return projects is available at www.infoterugkeer.nl.

Further, in 2015 a number of **new repatriation projects** by IOM and various non-governmental organisations were launched with funding from the European Asylum, Migration and Integration Fund (AMIF), co-financed by the Ministry of Foreign Affairs. These projects, however, are largely a continuation of previous projects for reintegration support.

136 Volkskrant (newspaper). (2015). Vertrekpremie asielzoekers Mongolië en Kosovo geschrapt [Severance payment for asylum seekers from Mongolia and Kosovo cancelled]. <http://www.volkskrant.nl/binnenland/vertrekpremie-asielzoekers-mongolie-en-kosovo-geschrapt-a4114468/>

137 European Migration Network. 2014. Asylum and Migration Glossary 3.0: a tool for better comparability produced by the European Migration Network.

138 Repatriation and Departure Service (DT&V). (n.d.). Subsidies. Consulted 14 July 2016. <https://www.dienstterugkeerenvertrek.nl/projectsubsidies/>

In some countries of origin **DT&V implements reintegration projects** for forced returnees (regardless of asylum or non-asylum). This is organised through the European Reintegration Network (ERIN) project or a bilateral agreement (like in Armenia and the Ukraine) with a local NGO/IGO. In 2015 the following countries were targeted ERIN countries: Afghanistan, Democratic Republic of Congo, Guinea (Conakry), Iraq, Iran, Morocco, Nigeria, Pakistan, Russian Federation, Somaliland and Sri Lanka.¹³⁹

The **remand in custody pilot** by DT&V was extended to all family locations in the spring of 2015. For families with minor-aged children, remand in custody today is more than ever the last resort; aside from the usual conditions, in principle, remand in custody with a view to deportation may only last for a maximum of two weeks. By getting DT&V to implement remand in custody, the family no longer needs to go to the police station and the process can be shortened.¹⁴⁰

In 2015, the Netherlands was additionally involved in detailing a number of **implementation protocols** of EU readmission agreements, among others for the countries Azerbaijan, Armenia and the Cape Verde Islands.

Box 14. What are EU readmission agreements?

A readmission agreement is an international agreement for the purpose of easing the takeover of nationals from affiliated countries.¹⁴¹ This refers to the readmission of third-country nationals who do not (or no longer) have right of residence within the territory of countries who have mutually concluded an agreement.¹⁴² Often EU readmission agreements are concluded with third countries on behalf of the EU Member States; those are so-called 'EU readmission agreements'. The details of these EU readmission agreements are often elaborated in implementation protocols together with the relevant third country. At this point in time, there are 17 EU readmission agreements in force.¹⁴³

9.3 Conclusion

In the area of returns, a couple of changes were implemented in 2015. For example, measures were taken to counteract abuse of departure and reintegration support. In addition, a number of new return projects of IOM and various non-governmental organisations were started. Further, the remand in custody pilot was expanded by DT&V.

139 Repatriation and Departure Service (DT&V). (2015). *Europese samenwerking op gebied van herintegratie* [European collaborations in the area of reintegration]. <https://www.dienstterugkeerenvertrek.nl/actueel/2015/02/index.aspx?cp=66&cs=17113>

140 *Parliamentary Papers II*, 2015-2016, 19 637, no. 2065

141 Repatriation and Departure Service. (n.d.). *Return and Takeover agreement (T&O)*. Consulted 8 June 2016, https://www.dienstterugkeerenvertrek.nl/Terugkeer_en_vertrek/Terugkeerproces/Reis-mogelijkheden/terug-en-overnameovereenkomst.aspx

142 Repatriation and Departure Service. (n.d.). *Return and Takeover agreement (T&O)*. Consulted 8 June 2016, https://www.dienstterugkeerenvertrek.nl/Terugkeer_en_vertrek/Terugkeerproces/Reis-mogelijkheden/terug-en-overnameovereenkomst.aspx

143 European Commission. (2016). *Return & readmission*. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/return-readmission/index_en.htm

10 MIGRATION AND DEVELOPMENT

10.1 Introduction

At the end of November 2014, the Minister of Foreign Affairs announced that the policy for migration and development would be updated.¹⁴⁴ In the first place, the choice was made to focus on a limited number of policy priorities, in those areas where the needs are the greatest. In the second place, efforts are concentrated on the effectiveness and efficiency of the migration and development programmes. In this context only a select number of projects, which have proved to be most successful on the basis of monitoring and evaluations, will be continued and expanded in the forthcoming years.

10.2 Policy developments

In 2015, policy developments in this regard have taken place in the area of cooperation with countries of origin and diaspora as well as efforts to restrict 'brain drain' and remittances.

10.2.1 *Cooperation with countries of origin*

Prevention

During the Valletta Summit on Migration on 11 and 12 November 2015, the EU and more than thirty countries from North, East, and West Africa agreed to a political declaration and a concrete plan of action. In the joint approach to tackle migration issues in Europe, ways to eliminate the root causes of migration are also taken into consideration. In this, partly at the request of the Netherlands, efforts are specifically being made regarding employment and economic growth, with the emphasis on African youths. The action plan, which will begin in 2016, provides for concrete actions such as facilitating private investments in African agriculture and starting projects to stimulate employment for young people. The tackling of root causes of migration are funded from an EU emergency trust fund for Africa, established in Valletta.¹⁴⁵

Via the Dutch Good Growth Fund (DGGF), the Netherlands supports young start-ups and developing entrepreneurs to create more job opportunities. By providing financing and guarantees, the Ministry of Foreign Affairs and the DGGF make developments relevant to trade and investments possible with 68 countries. By offering people prospects of a good future in their own country, alternatives are created for irregular migration. In this way the Netherlands expects to create thousands of jobs in low-income countries.

In addition, social organisations and social entrepreneurs can submit project proposals via the new subsidy scheme Local Employment in Africa for Development (LEAD), which contribute to youth employment in eight African countries. The subsidy scheme has been developed by the Ministry of Foreign Affairs. The LEAD programmes were selected in the last week of November 2015 and started in January 2016. The envisaged result is to create a total of more than 15,000 jobs in three years.

¹⁴⁴ *Parliamentary Papers II*, 2015–2015, 29 344, no. 128

¹⁴⁵ *Parliamentary Papers II*, 2015–2016, 21 501–20, no. 1052

Further, the Addressing Root Causes Fund (ARC) of EUR 125 million for the period 2016-2021, was set up for subsidy applications from NGOs to remove the root causes of conflict, instability and forced migration. This ARC Fund, which has been developed by the Ministry of Foreign Affairs, specifically concentrates on safety for people, a functioning system of government including political processes, a legitimate and capable government, as well as employment and social security services. The ARC Fund is geared towards Afghanistan, Pakistan, Jordan, Lebanon, Ethiopia, Somalia, Sudan, South Sudan, Mali, Burundi and the Democratic Republic of the Congo.

Returns

The Advisory Committee for Migration Affairs (ACVZ) presented a report to the government in June 2015, entitled "*Tussen wens en werkelijkheid*" [Between wish and reality]. This report is about the 'strategic country approach to migration', an instrument to improve cooperation of countries of origin in the enforced return of their nationals who may not or may no longer stay in the Netherlands. The approach assumes that cooperation from countries of origin in the enforced return, can be improved by making use of positive or negative incentives, good customer relations and customization. An example is, greater or fewer investments in development cooperation.

According to the ACVZ, persuasion and pressure do not automatically lead to cooperation from countries of origin. Other factors such as political interests or other priorities, can also be of influence to cooperation in enforced return. The ACVZ is critical about the effectiveness of negative conditionality ('less-for-less' policy), especially when the relationship is established with policies outside the scope of migration. The use of negative conditionality beyond the scope of migration, according to the ACVZ, is not effective because it does not affect people or institutions in the country of origin who are involved in readmission policy. Negative incentives could undermine the relationship with countries of origin. Within the scope of migration, negative conditionality can be effective on the proviso that it is proportionate and geared towards people that have influence on readmission policy.

From the government's response¹⁴⁶ to the advice from ACVZ, it is apparent that the government thinks that establishing positive links is the most effective way to get countries of origin to cooperate in the forced return of their nationals. According to the 'more-for-more' principle, positive incentives could be, for example, support in the re-integration of returnees in countries of origin. In this, the government also relies on experiences with Ghana, in which a negative link in development cooperation indeed had a negative effect on cooperation with this country regarding forced returns.

If positive conditionality cannot persuade countries of origin to cooperate in forced returns, the government thinks that, in certain cases, negative conditionality can be effective. In that case, the government will first and foremost focus on measures within the scope of migration which are felt immediately.

Cooperation with diaspora

One of the policy priorities that has been discussed in the 'Migration and development' progress report, is the involvement of diaspora in the development of their country of origin. The programmes mentioned under 10.2.2 show this. Diaspora members in the Netherlands have unique knowledge about their country of origin, which is invaluable for designing and implementing Dutch migration and development policies. For instance, diaspora organisations in the Netherlands are consulted in the preparation of events, such as its regional development and protection programme (RDPP) for the Horn of Africa and country-related policy.

The Research Documentation Centre (WODC) of the Ministry of Security and Justice has instituted a study into the role that diaspora organisations could play in the migration issue, and what the Ministry of Security and Justice and Ministry of Foreign Affairs could learn from this. This study commenced in December 2015. This study will also investigate which diaspora organisations in the Netherlands are active in the area of migration in the Netherlands, which interests they manage for their members, and what role they can play in the return of third-country nationals to the country of origin or in the welcoming of migrants. This study also looks at how collaborations progress between ministries and diaspora and what opportunities there are to improve collaborations.

10.2.2 *Efforts to limit the 'brain drain'*

Within the new priorities of migration policy, the focus in the migration and development subsidy programme will assume cooperation with governments from countries of origin, in the Northern half of Africa and the region of Syria. One of the aims is to improve 'brain gain' by means of migration. In this, the diaspora in the Netherlands fulfils a significant bridge function between the Netherlands and the country of origin. A database is being set up by Dutch people with a migration background, who are willing to work (temporarily) for companies, NGOs or public authorities in their country of origin. Below are examples of programmes in this area.

The IOM programme entitled *Temporary Return Qualified Nationals* (TRQN), aims to contribute to development in a number of countries (Armenia, Cape Verde Islands, Ghana, Iraq, Morocco and Somalia), by deploying migrants in the Netherlands who originate from these countries, for building capacity at public authorities and non-governmental institutions. This programme ended at the end of 2015. Evaluations have shown that the programme was successful, but also mentions clear points for improvement. One of the main recommendations is to bring about more focus in the programme on a number of countries and sectors, to embed the contribution of diaspora more strategically in the longer-term development of those countries. At present the IOM is working on a follow-up proposal, which includes these points of action.

In collaboration with the African Diaspora Policy Centre (ADPC), African policy makers are given assistance in the development of their migration policies, in particular, through

involvement of their own diaspora in the development of their country. Since 2009, 25 government representatives from 19 African countries have been trained, and various demand-driven training missions have taken place in Kenya, Uganda and Rwanda. At the request of the Ethiopian government, the ADPC organised a workshop over a number of days, in which an online training tool was developed. In addition, in cooperation with the ADPC and partners, training courses are provided to diaspora in the Netherlands and European Union, which allow them to contribute to peace-building and development in their country of origin.

Furthermore, together with the organisations Spark (2014-2016)¹⁴⁷ and Seva (2011-2015)¹⁴⁸ assistance is offered to diaspora in the Netherlands who want to start up an enterprise in countries of origin. Examples are Morocco, Afghanistan, Iraq, Rwanda, Ghana and Somalia. Spark is aspiring to get a total of 1,200 entrepreneurs to participate in the training programme. The diaspora organisation Seva trained 89 migrants from 2011-2013, which resulted in the start-up of 26 enterprises in India, Rwanda, Ghana and Suriname. They have already created 529 jobs. In 2014, 13 new enterprises were started up. At the end of 2016 the government will evaluate these programmes and decide on their follow-up.

10.2.3 Money transfers by migrants

In relation to the post-2015 Development Agenda, in the Open Working Group outcome document, and in the synthesis report of the Secretary-General of the United Nations, it is proposed to reduce costs of remittances (money transfers by migrants) to 3%. The Netherlands supports both documents. From the study, *The Remittances Market in the Netherlands* conducted by TNU (The Network University), it was apparent that mainly development of new technologies for electronic payments provide opportunities to reduce costs of remittances.

These mobile money transfers have not been acknowledged in the Netherlands as yet as a formal payment channel, because money transfers are difficult to trace. The government supports new developments of European regulations for innovative methods of payment that can lower the costs of money transfers.

10.3 Conclusion

The policy developments addressed in this chapter show that the Netherlands cooperates with countries of origin and diaspora to remove the alleged root causes of migration and to restrict brain drains. This happens both on a multinational scale via collaborations with several countries (Valletta) as well as on a bilateral scale by one-on-one cooperation with countries of origin via organisations and diaspora. In addition, the Dutch government considers the deployment of development cooperation as a positive or negative conditionality in the return of illegal migrants as a possibility, and the government supports new developments for reducing the costs of remittances.

¹⁴⁷ For more information see www.spark-online.org

¹⁴⁸ For more information see www.oneworld.nl.

ANNEX A :

METHODOLOGY AND DEFINITIONS

Methodology

This Annual Policy 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 Laura Seiffert and Henrika Wörmann, both working as researchers at the Research and Analysis division of the IND. In so doing, thankful use has been made of expertise at the Strategy and Implementation Advisory department of the IND and the Migration Policy Department of the Ministry of Security and Justice. The following have also provided a contribution to the coming about of this report: the Integration and Community Department and the Labour Relations Department of the Ministry of Social Affairs and Employment, the Repatriation and Departure Service of the Ministry of Security and Justice, the Royal Netherlands Marechaussee of the Ministry of Defence, the National Rapporteur on Trafficking in Human Beings, the Law Enforcement and Crime Prevention Branch of the Ministry of Security and Justice, and the Consular Affairs and Migration Policy Department of the Ministry of Foreign Affairs.

Information about the coming about of legislation and regulations and on parliamentary debates originate from official sources. The following document types were consulted:

- Parliamentary Papers of the Upper and Lower Houses of Parliament;
- Proceedings of the Upper and Lower Houses of Parliament;
- Official publications of legislation and regulations in the Treaty Series, the Bulletin of Acts and Decrees and the Government Gazette of the Netherlands.

All these documents can be found in the database of official publications on the website www.overheid.nl. This website is maintained by the Ministry of the Interior and Kingdom Relations.

In order to obtain information about organisations and their points of view, mainly the websites of those organisations were consulted. Also, publications by various organisations about asylum and migration were mostly obtained at their websites.

Use was particularly made of the internet to gain an insight into the public debate. By making use of the internet sites of the major national newspapers and the news and actuality programmes on national television (both by public and commercial broadcasters), research was undertaken into which asylum and migration-related topics got a great deal of attention in the media. An important source of information on the social debates were the weekly news items published on *Migratierecht.nl*, an online publication by Sdu Publishers.¹⁴⁹ Aside from a general inventorisation of asylum and migration-

¹⁴⁹ Available on the non-public website www.migratierechtonline.rijksweb.nl

related topics, research included media attention for specific topics which were dealt with in the parliamentary debate.

The aim of the Annual Policy Report is to reflect all important developments relating to migration and asylum. In order to achieve this objective, a number of criteria have been used for the term 'important developments'. Hence a differentiation is made between amendments in legislation and regulations on the one hand, and political and social debates on the other.

Criteria for the importance of amendments in legislation and regulations

The report strives towards providing as complete an overview as possible of the (intended) amendments in legislation and regulations for the various policies that are dealt with. All (intended) amendments which mean an actual adaptation of this legislation and regulations, are incorporated in the report. Only minor changes have not been included (for example, the annual increase of certain income requirements).

Criteria for the importance of political and social debates

For the political and social debates and developments, no completeness is intended. The aim of the Annual Policy Report is to give an impression of the most important discussion topics relating to asylum and migration in the Netherlands. The following criteria were used in the selection process. In order to be included in the report, a political and social debate must at least comply with the following cumulative preconditions:

- The topic has been dealt with in parliament.
- The topic has been 'in the news' for quite a long time. Reports must have appeared in a number of news media.

Implementation of European legislation and regulations

The Annual Policy Report envisages providing a complete picture of the implementation of European legislation and regulations relating to asylum and migration. Hence all the developments in this area are included in the report.

Terms and definitions

This report assumes the definition of relevant terms in the *EMN Asylum and Migration Glossary 3.0*.¹⁵⁰ The terms and definitions in this explanatory glossary developed by the EMN aim to increase comparability of the information exchanged between EU Member States.

¹⁵⁰ *Asylum and Migration Glossary 3.0 - a tool for better comparability produced by the European Migration Network October 2014 (EC – EMN 2014)*. Available on http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/glossary/index_a_en.htm

ANNEX B: STRUCTURE OF THE ASYLUM AND MIGRATION POLICY OF THE NETHERLANDS

In the Netherlands various ministries and other organisations play a role in the development and implementation of policy in the area of asylum and migration.¹⁵¹ The task of every organisation in the area of asylum and migration is briefly explained below (see also the figure below):

- The **Minister for Migration** is responsible for policy in the area of admission, residence and return of third-country nationals. Further, the Minister for Migration develops policies for the immigration process.
- The **Minister of Social Affairs and Employment** is responsible for the admission of foreign nationals to the Dutch labour market. In addition, the Minister of Social Affairs and Employment is responsible for civic integration.
- The **Minister of Foreign Affairs** is responsible for the visa policy. The Minister of Foreign Affairs is also responsible for the coming about of general official reports which describe the situation of asylum seekers in important countries of origin, and individual official reports with which the facts or documents presented by an asylum seeker are assessed on accuracy and authenticity.
- The **Minister of Defence** is responsible for the policy on admission and surveillance at the border.
- The **municipalities** are responsible for the accommodation of holders of an asylum seekers' permit and also have a role in the handling of naturalisation applications. Municipalities also have a duty to care for the civic integration and participation of immigrant population groups and local implementation of the asylum policy.
- The **Immigration and Naturalisation Service (IND)**, an agency of the Ministry of Security and Justice is responsible for the execution of the Aliens Act and the Netherlands Nationality Act. This agency assesses all applications by foreign nationals who (want to) live in the Netherlands or who want to become Dutch nationals. The IND also plays a role on behalf of the Minister of Foreign Affairs in the assessment of applications for a short stay visa. In addition, on behalf of the Minister of Foreign Affairs, the IND assesses all applications for a temporary residence permit (MVV).
- The **Repatriation and Departure Service (DT&V)**, as an agency of the Ministry of Security and Justice, is responsible for encouraging the departure of third-country nationals who have to leave the Netherlands, in a humane and professional manner.
- The **Central Agency for the Reception of Asylum Seekers (COA)**, an independent administrative authority, is responsible for the reception of asylum seekers. Commissioned by the Minister for Migration, the COA offers people safe housing and supports them in preparing for their future in the Netherlands or elsewhere. It mainly concerns asylum seekers and refugees, and specific groups such as unaccompanied

¹⁵¹ A comprehensive description of the organisation of the Asylum and Migration Policy in the Netherlands is available in the EMN report *The Organisation of the Asylum and Migration Policy in the Netherlands*. Rijswijk: INDIAC–NL EMN NCP 2012. http://www.emnnetherlands.nl/EMN_publicaties/2012/Organisatie_van_het_Asiel_en_Migratiebeleid_in_Nederland

minors. The COA is an implementing body with reception centres throughout the Netherlands.

- The **Legal Aid Board** is an independent administrative authority that is fully financed by the Ministry of Security and Justice. Among other things, this organisation is responsible for arranging the granting of legal aid in asylum matters.
- The **Dutch Custodial Institutions Service (DJI)**, an agency of the Ministry of Security and Justice, is responsible for executing custodial measures for the deportation of foreign nationals from the Netherlands, including remand in custody (the so-called detention of foreign nationals).
- The **Royal Netherlands Marechaussee (KMar)**, part of the Ministry of Defence, has an important task to enforce the Aliens Act. KMar is responsible for border guarding, border control and border surveillance. By way of this programme target, KMar contributes to the combating of illegal immigration, for example. In the maritime domain, the Seaport police fulfil the border-guarding task.
- The **Identification and Trafficking in human beings Department of the Aliens Police (AVIM)** is part of the National Police of the Netherlands. They supervise the lawful residency of foreign nationals.
- The **Seaport police**, also part of the National Police of the Netherlands, is responsible for border surveillance in the Port of Rotterdam.
- The **Employee Insurance Agency (UWV)** is an independent administrative authority that is commissioned by the Ministry of Social Affairs and Employment. Among other things, it is charged by the ministry for a binding ruling on applications for a combined residence and work permit (single permit) for foreign nationals who want to work in the Netherlands and for the issuing of work permits.
- **Diplomatic posts** are Dutch embassies, consulates, consulates-general and permanent representations at international organisations. The diplomatic posts process applications for a short-stay visa. Further, foreign nationals who want to become Dutch nationals, can submit an application for naturalisation to a diplomatic post. That is also where they can sit their mandatory civic integration examination and attend the mandatory naturalisation ceremony.
- The **Council of State** is an independent advisor to the government on legislation and orders in council (AMvBs), and the highest general administrative court of the Netherlands. The Administrative Jurisdiction Division also assesses issues in which third-country nationals do not agree with decisions by the government.
- The **Advisory Committee for Migration Affairs (ACVZ)** is an independent advisory committee that provides solicited and unsolicited policy and legislative advice to the government and parliament in matters of immigration law and migration policy.
- The **Research and Documentation Centre (WODC)** is part of the Ministry of Security and Justice. The WODC is charged with conducting research which includes the evaluation of policy and policy programmes, providing advice on proposed policy and policy programmes, and the development, maintenance and accessibility of data.
- The **International Organisation for Migration (IOM)**, an intergovernmental organisation, plays a prominent role in the Netherlands in the voluntary return and/or transi-

tion migration of third-country nationals.

- The **Dutch Council for Refugees** provides practical assistance to asylum seekers and manages their interests in the political debate.
- Stichting **NIDOS** (foundation), in conformity with the Dutch Civil Code, is appointed as the institution who is charged with the temporary guardianship of unaccompanied minors.

Policy development

Ministry of Security and Justice

- Responsible for policy re admission, residency and return of third-country nationals
- Support and management of the immigration process

Ministry of Defence

- Responsible for border control policy

Ministry of Foreign Affairs

- Issuing of visas at embassies and consulates
- Publishing of official special interest reports

Ministry of Social Affairs and Employment

- Responsible for labour market policy and integration

Municipalities

- Responsible for the housing holders of an asylum residence permit
- Support with civic integration and naturalisation

Repatriation and Departure Service (DT&V)

- Responsible for encouraging the departure of third-country nationals who are obliged to leave the Netherlands

Immigration and Naturalisation Service (IND)

- Assesses all applications of third-country nationals who (want to) live in the Netherlands or who want to become Dutch nationals

Diplomatic posts

- Process applications for a short-stay visa
- Administering civic integration examinations

Central Agency for the Reception of Asylum (COA)

- Responsible for reception of asylum seekers

Employee Insurance Agency (UWV)

- Supports migrants in the search for employment
- Issuing of work permits

Legal Aid Board

- Responsible for organising the granting of legal aid in asylum cases

Implementation

Custodial Institutions Agency (DJI)

- Responsible for executing liberty-deprivation measures for the return of third-country nationals from the Netherlands

Royal Netherlands Marechaussee (KMar)

- Plays a role in the border surveillance and the countering of illegal immigration and all forms of migration criminality

Identification and Trafficking in human beings Department of the Aliens Police (AVIM)

- Supervision on (the residency of) third-country nationals
- Support in the return procedure

Seaport police (ZHP)

- Responsible for border surveillance in the Port of Rotterdam

Case law

Administrative Jurisdiction Division of the Council of State

- Deals with appeals in Alien Affairs

Advice

Advisory Committee for Migration Affairs (ACVZ)

- Provides independent opinions to the government and parliament in matters of immigration law and policy

Research and Documentation Centre (WODC)

- Conducts research and provides advice (e.g. on policy evaluations) in the field of migration policy

Support and protection of interests

Dutch Council for Refugees

- Practical support of asylum seekers
- Protection of interests of refugees

IOM Netherlands

- Facilitating voluntary return and support with reintegration
- Support of resettlement

NIDOS

- Provides guardianship for unaccompanied minor asylum seekers



Immigration and Naturalisation
Service
Ministry of Security and Justice



The EMN was established via Council
Decision 2008/381/EC of 14 May 2008
and is financially 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.

www.emnnetherlands.nl