



# 2018 ANNUAL REVIEW

Migration and Asylum in the Netherlands



# 2018 ANNUAL REVIEW MIGRATION AND ASYLUM IN THE NETHERLANDS

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## Credits

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**Photo cover** Status holders attend integration course in Winterswijk.  
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# SUMMARY

The 2018 Annual Review provides insight into the most important developments to the Dutch migration and asylum policy in 2018. Themes addressed in it are, in the following order, regular migration, international protection (asylum), unaccompanied minors and other vulnerable groups, integration, border protection, visa policy and Schengen, Dutch citizenship and statelessness, irregular migration, measures against trafficking in human beings, and return. The 2018 Annual Review was compiled by the Research and Analysis (O&A) Department of the Immigration and Naturalisation Service (IND) and is predominantly based on desk research. For this research, experts provided input for the various themes.

In 2018, two large changes took place in the Netherlands in the field of migration and asylum policy. In March 2018, the Rutte III government presented its Comprehensive Agenda on Migration, by which the government wants to respond to the dynamic, multifaceted and complex issue of migration through a 'six-pillar agenda'. Furthermore, the Minister of Social Affairs and Employment (SZW) informed the House of Representatives in July 2018 of his intention to thoroughly reform the system for civic integration following the conclusion of an evaluation of the 2013 Civic Integration Act (Wib), which found that the current system is too complex and demanding.

In 2018, the **public debate** was mostly dominated by the Lili and Howick case. The State Secretary for Justice and Security ultimately used his discretionary power to grant these Armenian children, who had exhausted all legal means, a residence permit after all. Other topics related to migration that were discussed extensively in the media were asylum seekers causing nuisance and the Dutch government's endorsement of the UN migration pact.

In the field of **regular migration**, an important focus point in 2018 was economic and student migration. For example, in the field of economic migration, intra-corporate transferees are now permitted to work on a self-employed basis, the combined work and residence permit (GVVA) has become non-applicable to intra-corporate transferees who do not fall under the Intra Corporate Transferees Guideline and the target group of trainees has been expanded so that third-country graduates are also able to do a work placement for a Dutch employer. To promote internationalisation in education, third-country students are allowed from now on to work 16 hours per week parallel to their studies, a national action plan has been agreed to reach a solution for the housing shortage among students (including international students), and a proposal was submitted to change legislation on accessibility of higher education to international students in particular. The change in legislation aims inter alia to make room in the law for organising programmes in a language other than Dutch.

Important developments also took place in 2018 in relation to **international protection** (asylum). For example, the substantial assessment of the credibility of LGBTIs and converts was revised, Dublin claims to Hungary were suspended for the time being and a further intensification of measures was announced against nuisance-causing asylum seekers, where perpetrators will be placed in the Extra Counselling and Supervision Location (EBTL) faster. To improve the efficiency and quality of the asylum system, new FTEs were promised to the IND. Furthermore, an independent committee of inquiry was formed with the purpose of investigating the aspects that contribute to the long-term stay of rejected asylum seekers in the Netherlands as a result of long-term residence rights procedures.

In 2018 there was also attention to further development of the protected reception of **unaccompanied minors**. Various studies were conducted into the quality of the reception of unaccompanied minors. As of this time, a start has been made in following-up the recommendations. In addition, because of increased nuisance caused by unaccompanied minors, placement in the EBTL was made possible for unaccompanied minors older than 16 years.

As a result of the continued decrease in the number of asylum seekers in 2018, the focus has further shifted in the field of **integration** from creating a sufficient supply of courses to improving the quality of civic integration education. For example, the inspection of civic integration education was increased, improvements were implemented in the current civic integration system, and in the new civic integration system municipalities will be responsible for the availability of quality courses. Moreover, various measures were taken to improve newcomers' language skills. In addition, the emphasis in 2018 was on early integration and the participation of newcomers. In this context, the programme Further Integration into the Labour Market (VIA) was organised with the purpose of strengthening the position of Dutch nationals with a migration background on the labour market. In 2018 various measures were also taken in the field of social support of beneficiaries of international protection. For example, the intention is that in the new civic integration system municipalities will provide all beneficiaries of international protection with a system that unburdens them during the first period. Furthermore, the government made efforts to counter discrimination, including employment discrimination and ethnic profiling.

In the field of **borders, visa and Schengen**, various policy changes were implemented in 2018. For example, more money has been made structurally available for border control, documents of third-country nationals who emigrated are recorded in the Schengen Information System (SIS) to avoid abuse, it will become possible to impose an entry ban on a third-country national who is the holder of a residence permit issued by another Member State, and it will be made compulsory to provide information about passengers of ocean-going vessels in advance. In addition, a transition visa will become compulsory for Cubans who travel to a non-Schengen destination via the Netherlands.

With respect to **Dutch citizenship and statelessness**, the rehabilitation term for obtaining Dutch citizenship was extended from four to five years. In addition, Dutch citizenship law will be modernised. This concerns an easing of the possibility of possessing multiple nationalities for new first-generation migrants. Simultaneously, a compulsory time of choice will be introduced for later generations. Moreover, a proposal will be submitted to change legislation, introducing a procedure to allow the court to establish statelessness.

To counter **irregular migration**, efforts were made in 2018 for the prevention of irregular migration through awareness campaigns and the expansion and strengthening of the Dutch network of embassies, consulates general and permanent representations. Attention was also given to monitoring and identification of irregular migration routes.

In 2018, firm efforts were made to step up the combat of **human trafficking** by way of the presentation by the government of the integral programme 'Together against the trafficking in human beings'. A pilot programme was also started to determine the plausibility of victimisation in cases of human trafficking.

In the field of **return**, policy changes were implemented that make it easier to impose travel bans in certain situations. In addition, the regulations were clarified for imposing a departure period on first-time applicants for a residence permit. It was also decided to enable support through the REAN programme for a number of migrant categories. Finally, the EU programme ERRIN started, with the purpose of tackling returns from the European Union using a joint approach.

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# 1 INTRODUCTION

Developments in migration and asylum policies follow one another in rapid succession. Member States of the European Union (EU) are working on a joint policy for migration and asylum. This is important because movement of persons is free within the European Union. Moreover, Europe engages in economic competition with other parts of the world, for example when attracting highly-educated staff. For this joint policy, objective, reliable and comparable information is needed about migration and asylum in EU Member States. As the European research network for migration and asylum, the European Migration Network (EMN), provides this information.<sup>1</sup>

The eleventh EMN Annual Migration and Asylum Review (previously Policy Report) gives an overview of the developments in Dutch migration and asylum policy for the year 2018, including the integration policy for newcomers. The report describes the actual situation in the Netherlands. In doing so, attention is also given to the most important national debates and the implementation of European policy in the Netherlands. This makes the 2018 Annual Review a concise source for Dutch policy makers, staff members at organisations cooperating in the immigration process and other interested parties.

Themes discussed in this Annual Review are, in the following order, regular migration, international protection (asylum), unaccompanied minors and other vulnerable groups, integration, border protection, visa policy and Schengen, Dutch citizenship and statelessness, irregular migration, measures against trafficking in human beings, and return.

On the basis of the Dutch 2018 Annual Review and the reports issued by other Member States, the EMN has compiled the 2018 Annual Report on Migration and Asylum. This international comparative annual report and the annual reviews from the other Member States are available on the European EMN website.<sup>2</sup>

Basic knowledge of Dutch migration and asylum policy will assist the reader in understanding the policy changes discussed, but it is not required as such. If necessary, the background information required (for instance, for the methods of an existing policy) are provided in text boxes. This eleventh Annual Review is predominantly the result of desk research. More information about the methodology and an overview of the various experts who provided input is given in Appendix A. Appendix B provides the reader with an overview of the general structure of Dutch migration and asylum policy, and tasks of the organisations involved.

Before the above-mentioned themes are addressed in the Annual Review, first, in chapter 2, the general political developments and public debates that took place in 2018 in the field of asylum and migration in the Netherlands are discussed.

1 More information about EMN Netherlands is available on our website: <http://www.emnnetherlands.nl/over-het-emn> (in Dutch).

2 *European Commission*, 'European Migration Network (EMN)': [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/nationalreports\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/nationalreports_en).



## 2 POLITICAL DEVELOPMENTS IN THE FIELD OF ASYLUM AND MIGRATION

In this chapter, the general political developments in the Netherlands in 2018 and their consequences for policies in the field of asylum and migration are first discussed. Next, the public debates that took place during this period are addressed, for example the Lili and Howick case. Where debates led to concrete changes in policy, reference is made to the relevant sections of text in the various chapters of this report.

### 2.1 General political developments

In 2018 no important political developments took place. The Rutte III government is the current Dutch government. It is led by Prime Minister Mark Rutte and was sworn in on 26 October 2017 as the successor of the Rutte II government, after the elections for the House of Representatives on 15 March 2017 and the government formation that followed.<sup>3</sup> The government is a coalition of the liberal People's Party for Freedom and Democracy (Volkspartij voor Vrijheid en Democratie, VVD), the social-liberal Democrats 66 (Democraten 66, D66), the Christian Democratic Appeal (Christen Democratisch Appèl, CDA) and the Christian Union (ChristenUnie, CU).

Within the Rutte III government, the State Secretary for Justice and Security, Mark Harbers, is responsible for tasks in the field of asylum and migration:

- Aliens affairs/Migration
- The Immigration and Naturalisation Service (IND), Central Agency for the Reception of Asylum Seekers (COA), and the Repatriation and Departure Service (DT&V)
- Article F1 of the Convention on Refugees
- Border control in aliens affairs
- The Netherlands Nationality Act (Rwn)
- Trafficking of human beings (including smuggling of migrants) and prostitution
- The international migration policy

The integration policy falls under the responsibility of the Minister of Social Affairs and Employment (SZW), as well as the labour migration policy. The Minister of Foreign Affairs (BZ) is responsible for the visa policy. The Minister of Foreign Affairs is also responsible for the compilation of official reports that describe the situation in important countries of origin of asylum seekers, and individual official reports used in the assessment of facts or documents presented by an asylum seeker for correctness and authenticity.

#### *Comprehensive agenda on migration*

On Friday, 30 March 2018, the Rutte III government presented the 'Comprehensive

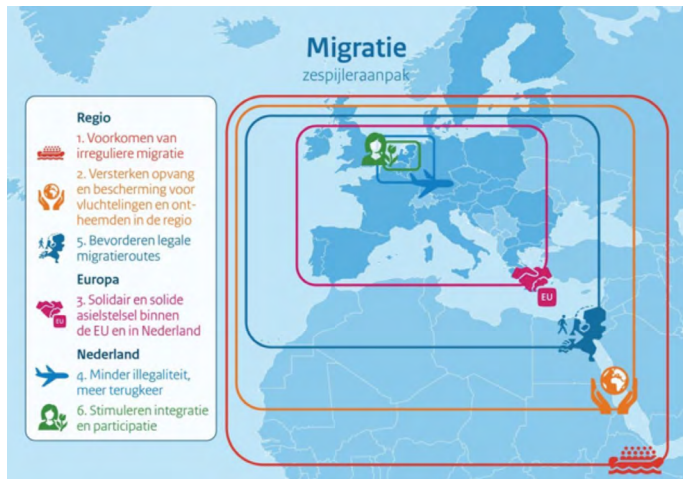
3 For more information, see: *Government Formation Communications Agency (Bureau Woordvoering Kabinetsformatie)*, 'Kabinetsformatie 2017' ['2017 Government Formation'], [www.kabinetsformatie2017.nl/kabinetsformaties/k/kabinetsformatie-2017](http://www.kabinetsformatie2017.nl/kabinetsformaties/k/kabinetsformatie-2017).

Agenda on Migration', which expresses Dutch migration policy. The Dutch government aims to make the migration policy future-proof by adopting a broad, comprehensive approach. By means of a 'six-pillar agenda', which links the intended policies from the 2017 coalition agreement, the government wants to respond to the dynamic, multi-faceted and complex issue of migration.<sup>4</sup>

*The six pillars are:*

1. Prevention of irregular migration
2. Strengthening reception and protection of refugees and displaced people in the region
3. Solidarity and a solid asylum system within the European Union and the Netherlands
4. Less irregularity, more return
5. Facilitation of legal migration routes
6. Stimulation of integration and participation

The comprehensive approach means that government actions in various fields cannot be viewed separately from one another, that it is necessary to take action on all points of the migration route, and that cooperation of all relevant actors at all different levels is crucial. In this way, addressing the root causes, perspective in the region and the prospect of return can ensure that migrants refrain from a dangerous journey across the Mediterranean Sea.<sup>5</sup>



Source: Ministry of Justice and Security

<sup>4</sup> *Parliamentary Papers II*, 2017-2018, 19637, no. 2375 (in Dutch).

<sup>5</sup> *National Government*, 'Kabinet presenteert integrale migratieagenda' ['Government presents Comprehensive agenda on migration'], <http://www.rijksoverheid.nl/actueel/nieuws/2018/03/30/migratiebeleid-toekomstbestendig>, consulted on 19/12/2018.

### *Prinsjesdag 2018*

During Prinsjesdag (Budget Day), every third Tuesday of September, King Willem-Alexander announces the policy plans and budgets for the coming year in his 'Speech from the Throne'. In doing so, he opens the new parliamentary year for the States General (the Senate and the House of Representatives). The Speech from the Throne contains the most important government plans for the coming year. The most important measures of Prinsjesdag 2018 in the field of migration and asylum are discussed below. The aim of the Dutch government is to implement the Comprehensive Agenda on Migration in practice in 2019. In the coming year, considerable steps must be taken towards an aligned and smooth identification and registration process for the asylum procedure.<sup>6</sup> It also ought to become clear more quickly what the prospects of an application for international protection being granted are and which follow-up procedure will be needed. It is expected that by the end of 2019, the Aliens Decree (Vb) will be amended so that no hearing will be needed for repeat applicants for international protection for whom it is evident that they have no chance of succeeding. Together with other measures, this should lead to repeat applications being processed faster.

It is also the government's ambition in 2019 to bring together all partners cooperating on migration under one common roof in Immigration Co-locations (GVLs), such as Ter Apel, which should lead to faster and better cooperation. This will also contribute to the desired reduction and better management of the processing times in the asylum process. In addition, agreements will be made about the return of subjects to their countries of origin that are considered safe.

For those third-country nationals who do not have a right to residence, the Ministry of Justice and Security (J&V), together with the municipalities, will set up a network of eight National Immigration Facilities (LVVs). In these National Immigration Facilities, third-country nationals who have exhausted all legal means will be given temporary shelter and receive counselling for a sustainable solution (see chapter 11.2.2). And to encourage more highly skilled migrants to come to the Netherlands, efforts are being made to ensure shorter, simpler admission procedures and more digital services. Finally, efforts are being made to modernise nationality law. In the first quarter of 2019, a legislative proposal will be submitted for consultation (see chapter 8.2.1).<sup>7</sup>

## **2.2 Public debates**

In 2018, the public debate was dominated by the themes of nuisance-causing asylum seekers, support by the Dutch government of the UN migration pact and the Lili and Howick case.

### *UN migration pact*

In November 2018, the Rutte III government announced that it will endorse the UN migration pact (officially named the Global Compact for Safe, Orderly and Regular Migration), after having added an addendum emphasising that the agreements in the pact cannot be

<sup>6</sup> *Parliamentary Papers II*, 2017-2018, 19637, no. 2375 (in Dutch).

<sup>7</sup> *Ibid.*

legally binding.<sup>8</sup> The Compact is also called the Marrakech pact, after the city where the Compact was signed on 10 December 2018. The official endorsement took place in New York on 19 December 2018, during the General Assembly of the United Nations.<sup>9</sup> The migration pact is to form the basis of constructive international cooperation between countries of origin, transit and destination, working towards safe, orderly and regular migration.<sup>10</sup> The Compact aims to counter the excesses of migration, such as trafficking in human beings, smuggling and abuse of migrants, and other breaches of human rights. In addition, the Compact aims to address the causes of migration in countries of origin, such as poverty, and to better organise the return of migrants to countries of origin, but also to improve legal migration.<sup>11</sup>

The UN migration pact states that it is not legally binding, but it has nonetheless received a lot of criticism from the Western world. Opponents fear that the Compact will open the borders widely for mass immigration. Various countries, including a number of EU member states and the United States, have therefore withdrawn themselves. In the Netherlands there was also a lot of resistance, particularly among a number of opposition parties.

### *Nuisance-causing asylum seekers*

Just like in previous years, there was a lot of media attention for nuisance-causing asylum seekers. In May 2018 it emerged that the Municipality of Weert had been experiencing considerable nuisance in and around the reception centre. In an interview with the newspaper *De Telegraaf*, the mayor of Weert called for measures from the government.<sup>12</sup> In other municipalities, such as Westerwolde,<sup>13</sup> asylum seekers are also causing much unrest among the residents.<sup>14</sup> Nuisance mostly concerns theft, vandalism, verbal violence and intimidation. Nuisance is predominantly caused by asylum seekers from safe countries of origin (such as Morocco and Algeria), and minor asylum seekers who have little prospect of a residence permit.

On 8 June 2018, the State Secretary for Justice and Security, in a letter to the House of Representatives, wrote that nuisance-causing asylum seekers will be dealt with more firmly.<sup>15</sup> For example, nuisance-causing asylum seekers will be placed in an Extra Counsel-

8 For more information, see: *National Government*, 'Kabinet steunt VN Global Compact voor Veilige, Geordende en Reguliere Migratie' ['Government backs Global Compact for Safe, Orderly and Regular Migration'], <https://www.rijksoverheid.nl/actueel/nieuws/2018/11/30/kabinet-steunt-vn-global-compact-voor-veilige-geordende-en-reguliere-migratie>.

9 *United Nations*, 19 December 2018, <https://www.un.org/press/en/2018/ga12113.doc.htm>, consulted on 22 December 2018.

10 *United Nations*, 'Global Compact for Safe, Orderly and regular Migration': <https://www.un.org/pga/72/wp-content/uploads/sites/51/2018/07/migration.pdf>

11 For more information, please see: *UN Refugees and Migrants*, 'Global compact for migration', <https://refugeesmigrants.un.org/migration-compact>.

12 *Telegraaf* (15/05/2018), 'Burgemeester Weert: "Polderen heeft problemen verergerd"' ['Mayor of Weert: "Political compromise has exacerbated problems"'], <http://www.telegraaf.nl/nieuws/2035683/burgemeester-weert-polderen-heeft-problemen-verergerd>, consulted on 15/12/2018.

13 The Municipality of Westerwolde is where the village of Ter Apel is; this is where the largest national reception centre is located.

14 *Dagblad van het Noorden* (09/05/2018), 'Westerwolde en Weert naar Den Haag over probleem asielzoekers' ['Westerwolde and Weert to The Hague for problems with asylum seekers'], <http://www.dvhn.nl/groningen/Westerwolde-en-Weert-naar-Den-Haag-over-probleem-asielzoekers-23168743.html>, consulted on 15/12/2018.

15 *Parliamentary Papers II*, 2017–2018, 19637, no. 2391 (in Dutch).

ling and Supervision Location (EBTL) (see chapter 4.3.3), the Immigration and Naturalisation Service (IND) will be given extra staff to process Dublin cases<sup>16</sup> faster and the IND will discuss with district courts whether asylum cases of persons who cause serious nuisance can be prioritised, enabling a faster rejection.

#### *The Lili and Howick case*

Finally, there was again attention for individual cases in the field of return in 2018. The most prominent example was the large-scale attention in politics and the media for the imminent removal of the Armenian children Lili (12) and Howick (13).

The Ministry of Justice and Security announced on Saturday, 8 September 2018 that State Secretary Mark Harbers had used his discretionary power<sup>17</sup> to allow the Armenian children Lili and Howick to remain in the Netherlands after all. According to the Ministry, 'current developments' had resulted in insufficient assurance of the children's wellbeing and safety.

The children Lili and Howick, who grew up in the Netherlands, had come to the Netherlands in May 2008 with their mother. In 2009, their first application for international protection was rejected because Armenia is considered a safe country. After this, they continued to appeal for years in the hope of being granted a residence permit after all. On 24 August 2018, the Administrative Jurisdiction Division of the Council of State (AbRvS) judged that the State Secretary was allowed to remove the children to Armenia. The judgment led to considerable social consternation and exceptional media attention. With the case of Lili and Howick, the asylum debate in the Netherlands was intensified with respect to the Children's Pardon.<sup>18</sup> Because of the case of Lili and Howick, the State Secretary formed an independent committee of inquiry that will look into the problems of asylum seekers whose applications for asylum are rejected but who nonetheless often stay in the Netherlands for a long time (see chapter 4.3.3).<sup>19</sup> The committee has been asked to make recommendations for the structure and duration of (repeat) residence status procedures.<sup>20</sup> In addition, the commission is investigating the influence of facilities on the willingness of third-country nationals to return and the available options and instruments to actually effect departure.

16 In Dublin cases, a different EU Member State is responsible for the asylum application, for example because the asylum seeker entered Europe via a different member state.

17 The freedom of a minister or state secretary to independently take a decision and thus deviate from the rules.

18 Children's Pardon: The generally applicable amnesty scheme for minor asylum seekers who have exhausted all legal means and are still granted a residence permit.

19 Letter to parliament about formation of committee of inquiry into long-term resident third-country nationals without permanent right of residence: <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/10/08/tk-onderzoekscommissie-langdurig-verblijvende-vreemdelingen-zonder-bestendig-verblijfsrecht>.

20 National Government, 'Onderzoek naar langdurig verblijf zonder verblijfsrecht' ['Inquiry into long-term residence without right of residence'], <https://www.rijksoverheid.nl/actueel/nieuws/2018/10/08/onderzoek-naar-langdurig-verblijf-zonder-verblijfsrecht>, consulted on 13-03/2019.

## 3 REGULAR MIGRATION

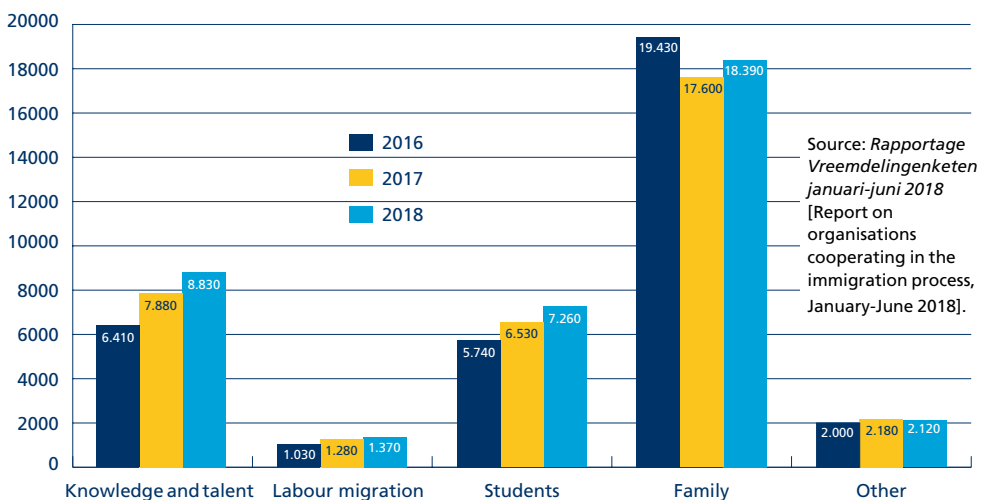
### 3.1 Introduction

In this first thematic chapter, important policy developments in 2018 are discussed in the field of regular migration in the Netherlands. Regular migration is a broad concept and can be divided into different migration categories.<sup>21</sup> The migration categories used in this chapter are economic migration (including highly skilled and talent migration and labour migration), student migration, and other forms of regular migration (such as exchange). There were no policy changes for the migration category of Family in 2018, and hence this category will not be discussed in section 3.2.

First, the number of applications for residence permits is discussed below for regular migration in the first six months of 2018. The full figures of 2018 had not been published at the time this 2018 EMN Annual Review was being written.<sup>22</sup> Next, the policy developments are set forth per migration category.

The total number of applications for regular residence permits was 37,960 in the first six months of 2018. This is a 7% rise compared to the 35,470 applications in 2017. In addition, 6,463 applications were filed in all of 2018 in the context of asylum family reunification (family reunification with a beneficiary of international protection),<sup>23</sup> a 55.4% decrease compared to the 14,490 applications in 2017.

**Figure 1:** The number of applications for regular residence permits in the period of 1 January to 30 June inclusive for 2016, 2017 and 2018



21 The Immigration and Naturalisation Service (IND) uses the cluster categorisation as introduced by the Modern Migration Policy Act (MoMi).

22 The annual statistics on Regular migration 2018 are expected to be published around 30 April 2019 on: *National Government, 'Rapportages Vreemdelingenketen'* ['Reports on organisations cooperating in the immigration process'], <https://www.rijksoverheid.nl/documenten/publicaties/2018/01/01/rapportages-vreemdelingenketen>.

23 For statistics on asylum family reunification, see chapter 4.2.

### 3.2 Policy developments

In 2018, various policy changes were implemented in the field of regular migration. The policy developments will be displayed below by migration category in the following order: economic migration, student migration and other types of regular migration. First, a number of general changes will be addressed with respect to regular migration.

#### *Time of applying for a residence permit (or its renewal) changed*

Since 1 January 2018, the time has been changed for when applications for residence permits may be filed.<sup>24</sup> The rules applied by the Immigration and Naturalisation Service (IND) have been clarified by this change. If the application is filed before the time mentioned, the application will be rejected. These terms have been established, among other reasons, to prevent third-country nationals from filing applications too early, while certain conditions have not yet been met.<sup>25</sup> To the renewal of a temporary regular residence permit applies that the application may be filed from three months before the date on which the current residence permit expires. The same applies for an application for a permanent regular residence permit.<sup>26</sup>

#### *Lowered fees for applications for residence permits*

Since 3 May 2018, fees for applications for a number of residence permits have been lowered. For example, the fees for the application for a residence permit for work as a highly skilled migrant have been lowered from €938 to €582, for a residence permit for seasonal labour from €802 to €570 and a residence permit for study from €321 to €192.<sup>27</sup> The principle for the calculation of fees is that they must cover the expenses where possible. The fees applicable prior to 3 May 2018 had been calculated before the work process at the IND changed radically as a result of the Modern Migration Policy Act (MoMi). A new calculation demonstrated that most fees could be adjusted downwards. This was, among other reasons, because of faster processing of applications as a result of digitisation.

#### *New working method for applications because of the abolished notification procedure*

The notification procedure, which used to apply to certain types of applications, was abolished. The notification procedure entailed that a third-country national first had to present all information relevant to the application before filing the application.<sup>28</sup> This gave the Immigration and Naturalisation Service (IND) the opportunity to request the third-country national to supplement the data first, if necessary, before the application was processed. The Administrative Jurisdiction Division of the Council of State (AbRvS) ruled that there was no legal foundation for this procedure. As a result of this ruling, a new working method was introduced and the notification procedure was abolished.<sup>29</sup> This

24 Immigration and Naturalisation Service (IND), 'Tijdstip van indienen wijzigt voor verlengen verblijfsvergunning en aanvraag verblijfsvergunning onbepaalde tijd' ['Time of application changes for renewal of residence permit and application for permanent residence permit'], <https://ind.nl/nieuws/paginas/tijdstip-van-indienen-wijzigt-voor-verlengen-verblijfsvergunning-en-aanvraag-verblijfsvergunning-onbepaalde-tijd.aspx>, consulted on 30/11/2018.

25 Government Gazette, 2018, no. 70919 (in Dutch).

26 B12/1.1 Aliens Act Implementation Guidelines (Vc) 2000 (in Dutch).

27 Parliamentary Papers II, 2017-2018, 30573, no. 138 (in Dutch).

28 Parliamentary Papers II, 2017-2018, 19637, no. 2328 (in Dutch).

29 Government Gazette, 2018, no. 42459 (in Dutch).

change allows for the application to be filed immediately, after which the IND may give the applicant the time to correct any omissions. In that case, the decision term of the IND is suspended until the necessary documents have been supplied.

### 3.2.1 *Economic migration*

Economic migration is a form of legal or regular migration. Economic migrants are migrants from outside the European Union (EU) who come to the EU for work, such as highly educated professionals, employees of a company, entrepreneurs and seasonal workers.

The core of the Dutch policy for economic migration is selectivity: the Netherlands is inviting to migrants for whom there is an economic need and restrictive if this is not the case. For the top of the labour market, the labour migration policy is inviting. For example, the policy is lenient for highly qualified migrants who can make a positive contribution to the Dutch economy. Other third-country nationals who wish to enter the Netherlands for economic reasons must possess a work permit for third-country nationals (TWV) or a combined permit for residence and employment (GVVA). They are only welcome if there is no supply within the Netherlands and the EU/EEA.<sup>30</sup>

Within economic migration, a distinction is made between third-country nationals with the residence purpose of 'highly skilled and talent' (such as highly skilled migrants, self-employed, people under the highly educated persons scheme and researchers) and other labour migration (such as regular paid employment).<sup>31</sup> The legal framework in the Netherlands for economic migration is the Modern Migration Policy Act (MoMi) of 2013 and the Aliens Employment Act (Wav).<sup>32</sup>

#### **Box 1: Modern Migration Policy Act (MoMi)**

On 1 June 2013, the Modern Migration Policy Act (MoMi) became effective. The act made a number of considerable changes to the regular admission policy. Key concepts of the Modern Migration Policy are being selective and inviting to migrants who can contribute to the Dutch economy; simplification and acceleration of procedures; implementation of a sponsor system placing a lot of responsibility for admission with the sponsor; and focused supervision and enforcement by means of more exchange with other government services.<sup>33</sup>

#### *Inspection visits to recognised sponsors by the IND*

Since the implementation of the Modern Migration Policy Act (MoMi), the Immigration and Naturalisation Service (IND) has had the task of supervising recognised sponsors. A recognised sponsor is an organisation, such as an employer, a research or educational

30 The European Economic Area (EEA) includes all EU countries plus Liechtenstein, Norway and Iceland.

31 EMN Netherlands, 'Economische migratie' ['Economic Migration'], <https://www.emnnetherlands.nl/migratiethemas/economische-migratie>, consulted on 20/03/2019.

32 The Aliens Employment Act (Wav) forbids employers and private individuals having foreign labourers work for them without a valid work permit for third-country nationals (TWV) or combined permit for residence and employment (GVVA) if they do not have free access to the Dutch labour market.

33 EMN Netherlands (2014): 2013 Policy report, Migration and Asylum in the Netherlands.



institution, or an au pair agency, that has an interest in the arrival in the Netherlands of an employee, researcher, student, or au pair from outside the European Union (EU). The advantage of recognised sponsorship is that the application procedure for residence permits is relatively fast and smooth. The recognised sponsor must, however, meet a number of requirements. For example, highly skilled migrants, researchers, students and au pairs must be recruited and selected correctly, and records must be kept of all relevant information (for example, a passport copy). In addition, the IND must be informed of changes in the sponsor's or third-country national's situation.

As of January 2018, the Immigration and Naturalisation service has started inspection visits.<sup>34</sup> Every week, inspectors of the IND Enforcement and Supervision Team (HTO) visit a number of recognised sponsors to check whether all conditions and requirements are met correctly. In the case that the IND observes breaches, this may lead to a warning or an administrative fine. In the case of very serious malpractice or breach, it may be decided to revoke recognised sponsorship or the employee's, researcher's, student's or au pair's residence permit. In addition to these inspection visits, the IND participates in joint inspections with the Inspectorate of the Ministry of Social Affairs and Employment (SZW), where the latter additionally checks for compliance with the Aliens Employment Act (Wav).

#### *Work on a self-employed basis permitted for intra-corporate transferees*

As of 1 October 2018, the Aliens Employment Implementation Decree was changed in connection to the implementation of hybrid entrepreneurship for third-country nationals working in the context of a transfer within an enterprise.<sup>35</sup> This change allows intra-corporate transferees to work on a self-employed basis parallel to the work for this specific purpose of residence without having to apply for a work permit for third-country nationals (TWV).<sup>36</sup> This is in alignment with the scheme for highly skilled migrants and students (Section 1d, sub 2, BuWav), who were already permitted to work on a self-employed basis parallel to their job as highly skilled migrant, with the purpose of strengthening the position of the Netherlands as an internationally competitive highly skilled economy and retaining international talent within the Netherlands.<sup>37</sup> The change also applies to holders of a residence permit for transfer within an enterprise who received their residence permit before 1 October 2018. This means that they do not need to exchange their document to qualify for the new scheme.

#### *Adjustment of the application procedure for intra-corporate transferees who do not fall under the ICT Directive*

As of 1 October 2018, the GVVA procedure (combined permit for residence and employment; Single Permit) has been applicable to intra-corporate transferees who do not fall within the application boundaries of the Intra-Corporate Transferees Directive 2014/66/

34 Immigration and Naturalisation Service (IND), 'Controlebezoeken bij erkende referenten' ['Inspection visits of recognised sponsors'], <https://ind.nl/nieuws/paginas/controlebezoeken-bij-erkende-referenten.aspx>, consulted on 26/02/2019.

35 Bulletin of Acts and Decrees, 2018, no. 310 (in Dutch).

36 A work permit for third-country nationals (TWV) is a work permit for an employee from outside the EEA or Switzerland who will stay to work less than 3 months. For working students and asylum seekers it does not matter how long these persons will come to work.

37 Bulletin of Acts and Decrees, 2017, no. 134 (in Dutch).

EU (ICT Directive).<sup>38</sup> This means that the employer applies to the Immigration and Naturalisation Service (IND) for one permit for residence and labour. Within the framework of the application, the IND requests advice from the Employee Insurance Agency (UWV)<sup>39</sup> about the labour market part. Previously, the employer had to apply to the UWV for a work permit for third-country nationals (TWV) – if necessary – and additionally to the IND for issuance of a Regular Provisional Residence Permit (MVF) or renewal of a regular temporary residence permit.

### *Expansion of the target group of trainees in higher education*

International students who studied in the Netherlands could previously also be granted a work permit for third-country nationals (TWV) or combined permit for residence and employment (GVVA) if they came to the Netherlands for a work placement that was necessary for completing their programme. With the amendment of section 30 of the Aliens Employment Act Implementation Regulations (RuWav) of 23 May 2018, this scheme has been expanded. The amendment also entails that third-country graduates who obtained a diploma at the level of higher professional education (HBO) or university (WO)<sup>40</sup> can do a work placement at a Dutch employer of up to one year.<sup>41</sup> One condition is that they have completed a programme at a Dutch higher education institution no more than two years before the date of the application for the permit. In addition to a copy of the diploma, a trainee agreement must be submitted with a description of the work placement programme in which the educational objectives and learning components of the placement have been laid down. It should be evident from this description that the placement does not replace a regular job. This amendment is a result of the implementation of EU Directive 2016/801.

### **3.2.2      *Student migration***

Students and researchers often come to the European Union (EU) and the Netherlands for their studies or research project. The European Union and the Netherlands want to be attractive for these highly skilled migrants because they are highly educated and contribute to the highly skilled economy. They often return to their own country after their stay. The point of departure of the Netherlands is stimulating the internationalisation of education as much as possible. Incoming students can contribute to the highly skilled economy and innovative clout of the Netherlands.

The Netherlands has its own national policy for student migration by which means the Netherlands wants to facilitate the arrival of students and researchers and retain them for the Dutch labour market. An educational or research institution always acts as a sponsor for a student or researcher. This institution is then the migrant's recognised sponsor, as

38 Government Gazette, 2018, no. 52887 (in Dutch).

39 The Employee Insurance Agency (UWV) is a government agency in the Netherlands that provides benefits (including unemployment benefits) and assists job seekers in finding a job.

40 The higher education system in the Netherlands is binary: a distinction is made between higher professional education and university. Nuffic (2018) 'Onderwijssysteem Nederland' ['Education system of the Netherlands'], <https://www.nuffic.nl/publicaties/onderwijssysteem-nederland/>, consulted on 06/12/2018.

41 Government Gazette 2018 no. 23392 (in Dutch).

laid down in the Modern Migration Policy Act (MoMi). In the Netherlands, students may stay an additional year after their graduation to find work.<sup>42</sup>

#### *Raised limit of number of hours of work parallel to studies*

Students from third countries who study in the Netherlands are, from now on, allowed to work 16 hours per week parallel to their studies.<sup>43</sup> Previously this was 10 hours per week. The amendment is pursuant to EU Directive 2016/801 and became effective on 23 May 2018 (when the directive was implemented in the Netherlands). The same conditions apply as before, such as the application for a work permit for third-country nationals (TWV) by the employer, because international students from third countries do not have free access to the Dutch labour market. A transition scheme is in force. Work permits for third-country nationals that were issued before the effective date of this regulation and that were still valid at the time when the amendment became effective are regarded as permits that were issued on the basis of the amended regulation. This means that students with this permit are also entitled to 16 hours of work per week. This standard also applies to international students who are allowed to stay up to 360 days in the Netherlands in the context of mobility.<sup>44</sup>

#### *Proposal for amendment of the Language and Accessibility of Higher Education and Senior Secondary Vocational Education Act*

In 2018, the Ministry of Education, Culture and Science (OCW) submitted a proposal for the amendment of the Higher Education and Research Act (Whw). This amendment will have consequences for institutions and students (including international students) in senior secondary vocational education and higher education. The proposal for legislation was opened for internet consultation in December 2018, and the pathway ran until the end of January 2019.<sup>45</sup> The proposed amendments pertain to the accessibility of higher education, in particular to international students, and the language policy in higher and senior vocational secondary education. The proposal aims, among other things, to create room in the law for providing programmes in a language other than Dutch. In addition, the Act will provide clarity about the obligations of institutions for justification and language policy. A greater emphasis will be placed on the duty to maintain the quality and accessibility of education for Dutch students in the case of education in a language other than Dutch. In doing so, the Act will give the Minister of OCW a clear basis for gaining insight into the choices made by institutions, and it will become easier to enforce the law. Moreover, the Act will aim to assure more transparency about decisions by institutions to implement a *numerus clausus*. This by means of a permission requirement for the implementation of a *numerus clausus* requested from the Minister of OCW. Finally, a *maximisa-*

42 European Migration Network Netherlands (EMN), 'studiemigratie' ['student migration'], <https://www.emnnetherlands.nl/migratiethemas/studiemigratie>, consulted on 20/03/2019.

43 Government Gazette, 2018, no. 23392 (in Dutch).

44 This means that the authorised educational institution or else the individual third-country national has sent a notification to the IND from which it becomes evident that he/she meets the requirements for incoming mobility, including that the third-country national possesses a valid residence permit for study issued by another EU Member State, where the requested mobility fits within the validity period of this document (see B3/2.1 of the Aliens Act Implementation Guidelines).

45 For more information, please see: *Overheid.nl*, 'Wet taal en toegankelijkheid HO en MBO' ['Language and Accessibility of Higher Education and Senior Secondary Vocational Education Act'], <https://www.internetconsultatie.nl/toegankelijkheidho>, consulted on 29/01/2019.

tion is proposed for the amount of institutional tuition fees that institutions can charge EEA students. The purpose is to keep education accessible for students who want to participate in two programmes of higher education. Because the maximisation will only apply to EEA students, educational institutions can use the level of tuition fee to guide the number of non-EEA students enrolling on a programme.

### *National Action Plan for Student Housing*

The 2018-2021 National Action Plan for Student Housing was published on 5 October 2018 and sent to the House of Representatives.<sup>46</sup> This action plan is a response to the lack of housing for students (including international students) and was signed by the G4,<sup>47</sup> Netwerk Kennissteden Nederland (Netherlands Knowledge City Network),<sup>48</sup> Association of Universities in the Netherlands (VSNU), Association of Universities of Applied Sciences (VH), Kences,<sup>49</sup> Vastgoed Belang (Real Estate Interest),<sup>50</sup> National Student Union (LSVb), Nuffic, the Ministry of Education, Culture and Science (OCW), and the Ministry of Interior and Kingdom Relations (BZK). These parties have agreed to this action plan and agreement on student housing 2018-2021 in order to find a long-term solution for the housing shortage, with special attention for international students (including EU/EEA students). This plan aims to build local cooperation within the next three years, which will ensure that within ten years a local balance between supply and demand will have arisen.<sup>51</sup> This will be done by, among other things, commitment to better (statistical) insight into the supply and demand for student housing, agreements between local parties and strengthening the information position of students.

### **3.2.3 Other types of regular migration**

#### *Clarification of the concept of incidental labour in the context of the Working Holiday Scheme (WHS)/Working Holiday Program (WHP), extension of the WHP with South Korea and start of WHP with Hong Kong*

The Netherlands has an agreement with a number of countries on the basis of which young people may stay in the Netherlands for one year within the framework of a cultural exchange. To support their holiday in the Netherlands financially, young people on exchange may work incidentally without their employer requiring a work permit for third-country nationals (TWV). The Aliens Act Implementation Guidelines (Vc) and the Aliens Employment Implementation Decree (BuWav) of August and September 2018 explained in more detail what actually constitutes occasional labour. It has been decided that labour may serve as financial support, but that the main purpose of residence

46 *Parliamentary Papers II*, 2018-2019, 33104, no. 20 (in Dutch).

47 These are the four municipalities in the Netherlands with more than 250,000 inhabitants: Amsterdam, Utrecht, The Hague and Rotterdam.

48 The Netwerk Kennissteden Nederland (Netherlands Knowledge City Network) was set up in 2009 by the towns/cities and universities of Amsterdam, Delft, Eindhoven, Enschede, Groningen, Leiden, Maastricht, Nijmegen, Rotterdam, Tilburg, Utrecht and Wageningen, VSNU, Association of Universities of Applied Science and Kences.

49 A sector organisation for student housing.

50 Association of private investors in real estate.

51 *National Government*, 'Actieplan studentenhuysvesting 2018-2021' ['Action plan for student housing 2018-2021']. <https://www.rijksoverheid.nl/documenten/publicaties/2018/10/05/actieplan-studentenhuysvesting-2018-2021> consulted on 5/10/2018.

(exchange) must remain foremost.<sup>52</sup> Limitation of the duration of work emphasises the occasional and supportive nature of the work. Young persons on exchange may work twelve consecutive weeks for the same employer. After this, the work for this employer must be ended. The young person on exchange is, however, allowed to work twelve subsequent weeks for a different employer. In addition, the Working Holiday Program with South Korea was continued as of 1 October 2018, in principle for the duration of two years. Furthermore, young people from Hong Kong can participate in a WHP from January 2019.<sup>53</sup>

52 *Government Gazette*, 2018, no. 23392, and *Bulletin of Acts and Decrees*, 2018, no. 310 (in Dutch).

53 *Immigration and Naturalisation Service (IND)*, 'Nederland en Hong Kong starten per 1 januari 2019 met internationaal uitwisselingsprogramma' ['On 1 January 2019, the Netherlands and Hong Kong started an international exchange programme'], <https://ind.nl/nieuws/Paginas/Nederland-en-Hong-Kong-starten-per-1-januari-2019-met-internationaal-uitwisselingsprogramma.aspx>, consulted on 18/01/2019.

# 4 INTERNATIONAL PROTECTION (ASYLUM)

## 4.1 Introduction

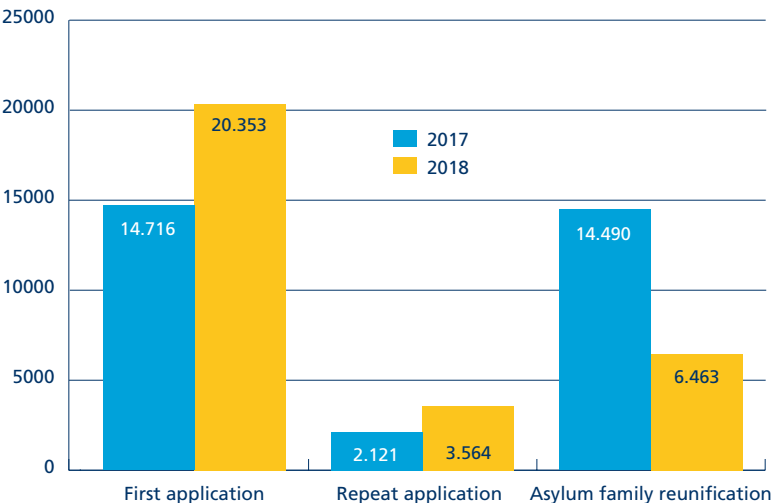
In this chapter, Dutch policy developments that relate to international protection of asylum seekers are elucidated. More particularly, developments are discussed in relation to the substantive assessment of applications for international protection, procedures for international protection and developments pertaining to reception, efficiency and the quality of the Dutch asylum system. Finally, statistics are given for the number of persons who came to the Netherlands on the basis of relocation or resettlement. The influx levels of international protection in 2018 are discussed below first.

## 4.2 Influx

In 2018, a total number of 30,380 applications were filed for international protection, while this was 31,327 in 2017. This concerns first applications for international protection as well as repeat applications and applications for asylum family reunification.

The total number of first applications in 2018 was 20,353. This is an increase of 5,637 compared to 2017, when 14,716 first applications for international protection were filed.

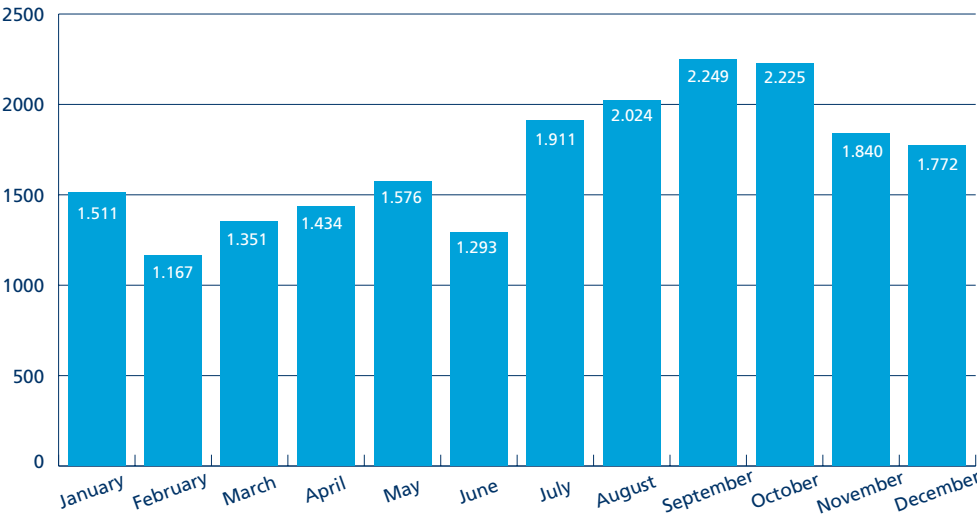
**Figure 2: 2017-2018 asylum application trends**



IND (2018), Asylum trends. Monthly report on asylum applications in the Netherlands and Europe, December 2018.

More specifically, 1,511 first applications for international protection were filed in January 2018. In February, however, the number decreased to 1,167, after which the number of applications gradually rose in the subsequent months to 2,249 in September 2018. After September, the number of first applications again lowered to 1,772 in December.

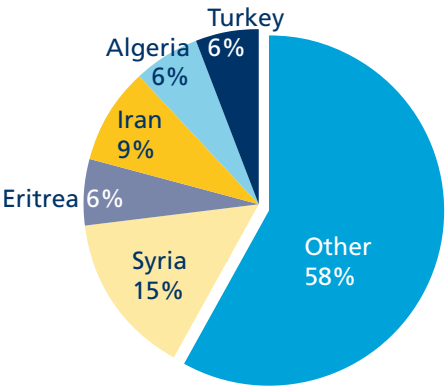
**Figure 3: The number of first asylum applications per month in 2018**



IND (2018), Asylum trends. Monthly report on asylum applications in the Netherlands and Europe, December 2018.

In 2018, the top three nationalities of first-time applicants were Syrian (15%), Iranian (9%) and Turkish (6%). In 2017 the top three consisted of Syrian (15%), Eritrean (7%) and Moroccan (7%).

**Figure 4: 2018 nationalities of asylum seeker influx**



IND (2018), Asylum trends. Monthly report on asylum applications in the Netherlands and Europe, December 2018.

The number of repeat applications was 3,564 in 2018. This is an increase of not less than 1,443 applications compared to 2017 (2,121). The top three nationalities of repeat applicants were Iraqi (18%), Afghan (18%) and Iranian (12%). As a result, the top three nationalities of repeat applicants has remained unchanged since 2017.

In total, 6,463 people entered the Netherlands in 2018 in the context of asylum family reunification. Entries for asylum family reunification formed only 21.3% of the total number of applications for international protection in 2018, 25% less than the year before. The top three nationalities of persons entering the country for asylum family reunification were Eritreans (40%), Syrians (33%) and Afghans (4%).

### 4.3 Policy developments

This section consecutively discusses policy developments in relation to the substantive assessment of applications for international protection; developments with respect to procedures for international protection; developments with respect to reception, efficiency and quality of the Dutch asylum policy; and developments with respect to relocation and resettlement.

#### 4.3.1 *Substantive assessment of applications for international protection*

##### *Assessment of the credibility of LGBTIs and converts*

In response to discussions with interest groups and expert sessions, the State Secretary announced in a letter of 4 July 2018 that he will revise the assessment of the credibility of LGBTI asylum seekers<sup>54</sup> and converts (also see chapter 5.2.2).<sup>55</sup> When assessing LGBTIs, less emphasis will be placed on the awareness process and self-acceptation, because these aspects are too strongly founded on Western concepts and on the basic assumption that all asylum seekers are able to produce a psychologically well-supported narrative. For this reason, the work instructions will be adapted to put a greater emphasis on an authentic narrative, where as many open questions as possible will be asked about personal experiences and meaning in relation to the asylum seeker's reference framework and education. All themes from the working instructions will be weighed in conjunction by the IND without disproportionate weight being attached to one aspect of the third-country national's story.

With respect to applications by converts, the following revisions will be made. The internal information notice, the basis on which the IND assesses applications by converts, will be published in the form of work instructions, which should lead to more transparency. In the work instructions, more insight and background information will be given to IND staff as well about what conversion is and how this can be brought about, i.e. via an active or passive form of conversion. The input given by church organisations and interest groups has also been taken into consideration in the instructions. Just as in the assessment of LGBTIs, convert asylum seekers will also be asked more open questions about their perso-

<sup>54</sup> The abbreviation LGBTI stands for lesbian women, gay men, bisexuals, transgenders and intersexual persons.

<sup>55</sup> *Parliamentary Papers II*, 2017-2018, 34775 VI, no. 67 (in Dutch).



nal experiences. Likewise, this mainly concerns the asylum seeker's authentic narrative. Regarding the three pillars in the conversion assessment (motives and process, knowledge, and activities), it will be examined what can and may be expected from a third-country national in relation to the three pillars. The assessment will then include the three pillars in conjunction.

More training courses in the assessment of the aforementioned applications for international protection will also be provided for IND staff members. The IND will also include in the work instructions for assessment of LGBTIs and converts that it must be substantiated in the asylum decision how account has been taken of statements contributed by third parties or why they have or have not led to a different assessment of credibility. This is because it is not always clear to third parties in what way their contribution has been taken into consideration, according to the State Secretary. Finally, there are convert coordinators at all locations; such a national network of coordinators will also be established for LGBTIs.

#### *Reassessment of safe countries of origin*

In 2015, a list of safe countries of origin was introduced in the Netherlands. Until now, the following countries of origin have been marked as safe: Albania, Algeria, Andorra, Bosnia-Herzegovina, Brazil, Canada, Georgia, Ghana, Iceland, India, Jamaica, Japan, Kosovo, Liechtenstein, Macedonia, Morocco, Monaco, Mongolia, Montenegro, New Zealand, Norway, Ukraine, San Marino, Senegal, Serbia, Togo, Trinidad and Tobago, Tunisia, Vatican City, the United States, and Switzerland. In 2017 and 2018 a quick reassessment took place of the countries included in the list of safe countries of origin. In a quick reassessment the country in question is reviewed on the basis of the following criteria: democratic government, protection of a person's right to freedom and safety, freedom of expression, freedom of religion and association, protection against discrimination and persecution by third parties, access to independent investigation, access to an independent judicial authority and to legal remedies. If there has been a considerable decline in one of the first three points or if a decline is observed in a majority of the criteria, a comprehensive reassessment of the country of origin will follow. In the meantime, the safe country policy is suspended with respect to that country.

**Box 2: Safe countries of origin**

A country is considered a safe country of origin by the Netherlands if the country in general sustainably refrains from persecution, for example on the basis of race or religion, torture or inhumane treatment.<sup>56</sup> Asylum seekers from safe countries have almost no prospect of a residence permit for international protection. Their applications for international protection are prioritised and processed on a fast track. Applications for international protection by asylum seekers from safe countries of origin may be rejected as manifestly unfounded. This means that the rejected asylum seeker must leave the Netherlands immediately. Moreover, an entry ban will be imposed on him/her for the entire Schengen area for a period of two years. Asylum seekers from safe countries of origin are, however, given the opportunity to demonstrate why their country is unsafe in their specific situation.

In a letter of 11 June 2018, the State Secretary for Justice and Security concluded that the list of safe countries of origin had remained unchanged, with the exception of Ukraine and Georgia, where increased attention will be given to LGBTIs.<sup>57</sup> In a letter of 7 December 2018, the State Secretary announced that he will subject Togo to an extensive reassessment considering the decline in that country of, among other things, the protection of a person's right to freedom and safety. In the meantime, the designation of Togo as a safe country of origin will be suspended.

**4.3.2 Procedures for international protection*****Dublin claims to Hungary suspended for the time being***

The State Secretary for Justice and Security announced in a letter to parliament that, for the time being, he will not send any Dublin claims to Hungary.

**Box 3: Dublin claim**

The Dublin Regulation (officially the Dublin III Regulation) is a European Regulation. It stipulates how it can be determined which Schengen country is responsible for processing an application for international protection (asylum).

In most cases, the country where the third-country national first entered the Schengen area is responsible. But another country may also be responsible because family members are living there who have a residence permit.

If it turns out from an investigation that a country other than the Netherlands is responsible for an asylum application, the asylum application will not be processed. Third-country nationals who do not apply for asylum in the Netherlands, but did so previously in another Schengen country, may be transferred to that other country.<sup>58</sup>

56 For the full list of safe countries of origin, see: *National Government*, 'lijst van veilige landen van herkomst' ['list of safe countries of origin'], <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/vraag-en-antwoord/lijst-van-veilige-landen-van-herkomst>.

57 *Parliamentary Papers II*, 2017-2018, 19637, no. 2392 (in Dutch).

58 For more information, see: *Repatriation and Departure Service (DT&V)*, 'Dublin-claim' [Dublin claim], <https://www.dienstterugkeerenvertrek.nl/werkindeuitvoering/reismogelijkheden/dublin-claim.aspx>.

The State Secretary decided this in response to an AbRvS ruling, as well as in response to questions about the compatibility with European law of new Hungarian asylum legislation. Moreover, Hungary categorically rejects Dublin claims from the Netherlands, according to the State Secretary. For that matter, the Netherlands had in fact already stopped transferring any Dublin claimants to Hungary.<sup>59</sup> Therefore, no more Dublin claims are now being sent either.

In 2018 no changes took place to the residence permits that were issued to beneficiaries of international protection. From now on, the government does, however, intend to grant residence permits for international protection for an initial period of three years instead of the current five years. Afterwards, the persons involved may qualify again for a temporary permit. If someone still meets the requirements for an international protection status after these two temporary residence permits, he/she will be granted a permanent residence permit.<sup>60</sup>

### 4.3.3 *Reception, efficiency and quality of the Dutch asylum policy*

#### *Measures against nuisance-causing asylum seekers*

In addition to the range of measures under criminal, administrative and aliens law available for dealing with asylum seekers who cause nuisance and criminality, in 2018 the State Secretary for Justice and Security announced further intensification.<sup>61</sup> This in response to signals from various municipalities of nuisance caused by a limited group of asylum seekers. This concerned nuisance at the locations of the Central Agency for the Reception of Asylum Seekers (COA)<sup>62</sup>, but also outside of them, such as nuisance on public transport or shoplifting. This nuisance causes undesirable social consequences and has a negative effect on support for the reception of asylum seekers. In addition, it places a heavy burden on staff members working at reception centres and the organisations cooperating in the immigration process. Nor is it acceptable that other residents of a reception centre feel unsafe. It is therefore very important to tackle this adequately. The aforementioned intensification in reception centres relates, inter alia, to strengthening consultation between organisations cooperating in the immigration process, imposing measures more strictly, and reporting to the police. Furthermore, it relates to placing nuisance-causing asylum seekers in the Extra Counselling and Supervision Location (EBTL) sooner.<sup>63</sup> Intensi-

59 *Parliamentary Papers II*, 2017-2018, 19637, no. 2374 (in Dutch).

60 2017-2021 Coalition agreement 'Confidence in the future', 10/10/2017, VVD, CDA, D66 and ChristenUnie, <https://www.kabinetformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst> (in Dutch).

61 *National Government*, 'hardere aanpak overlastgevende asielzoekers' [tougher approach to nuisance-causing asylum seekers], <https://www.rijksoverheid.nl/actueel/nieuws/2018/06/08/hardere-aanpak-overlastgevende-asielzoekers>, consulted on 12/12/2018.

62 Commissioned by the Ministry of Justice and Security, the Central Agency for the Reception of Asylum Seekers (COA) provides reception for asylum seekers who come to the Netherlands. COA is responsible for the placement and reception of asylum seekers in reception centres all over the Netherlands, until a decision has been made about their application for international protection.

63 The EBTL (Extra Counselling and Supervision Location) is a separate reception centre for nuisance-causing asylum seekers with a strict and more sober regime. Asylum seekers can be placed here who (repeatedly) behave aggressively towards co-residents or staff, vandalise, or discriminate or intimidate co-residents. On the one hand, placement in the EBTL is intended to confront persons causing nuisance with the consequences of their behaviour and aims for behavioural change. On the other hand, placing persons causing nuisance in a separate centre assures the safety and well-being of other residents. See: *Parliamentary Papers II*, 2016-2017, 19637, no. 2336 and *Parliamentary Papers II*, 2018-2019, 19637, no. 2446 (in Dutch).

fication also includes additional capacity for the IND, as well as making further efforts for intensive file compilation in the organisations cooperating in the immigration process in the cases of asylum seekers causing nuisance, for the purpose of imposing farther-reaching measures, with detention as the ultimate measure. Lastly, the State Secretary announced that the IND will consult the judicial authorities in order to have courts handle cases of asylum seekers who cause serious nuisance with priority, so that they will have clarity more quickly and in case of rejection return can be effected more quickly.<sup>64</sup> A broad evaluation study of the EBTU is expected to be delivered in the second half of 2019.

### *Measures against the trafficking in human beings*

In the fight against trafficking in human beings, the Central Agency for the Reception of Asylum Seekers (COA), in cooperation with the national Coordination Centre for Human Trafficking (CoMensha), the Red Cross and the Dutch Council for Refugees (VWN), recently developed an e-learning module for the identification of human trafficking, and the aforementioned organisations are developing informative materials for migrants. In addition, COA has also developed its own training course in the recognition of signs of trafficking in human beings and smuggling of migrants in cooperation with the Coordination Centre for Human Trafficking (CoMensha), the Expertise Centre for Human Trafficking and Human Smuggling (EMM), the Centre of Expertise on Aliens, Identification and Human Trafficking (EVIM)<sup>65</sup> and Jade Zorggroep. All COA staff members receive basic training and the contact persons for the trafficking in human beings receive extra training. In addition, the contact persons are updated twice a year on developments in relation to trafficking in human beings and smuggling of migrants. The EVIM and CoMensha are also associated with this and, depending on the topic, other organisations are invited as well. Lastly, the Federatie Opvang (Reception Federation)<sup>66</sup> and COA are examining at the moment whether it is possible to cooperate in the reception and counselling of adult victims of human trafficking.<sup>67</sup>

### *New positions at IND*

To enhance the efficiency and quality of the asylum system, the State Secretary for Justice and Security has promised in 2018 that 120 new FTEs will be made available at the IND, for which 116 persons had been recruited by 6 November 2018. Apart from that, the IND has recently decided to create 78 vacancies. The newly recruited staff members will first be trained internally in an onboarding pathway before they can get started.<sup>68</sup>

### *Formation of independent committee of inquiry into the aspects that contribute to long-term stay of third-country nationals in the Netherlands*

The State Secretary has formed an independent committee of inquiry to investigate those aspects that contribute to the long-term stay of third-country nationals in the Nether-

64 *Parliamentary Papers II*, 2018-2019, 19637, no. 2446 (in Dutch).

65 The Expertise Centre for Human Trafficking and Human Smuggling (EMM) supports the investigation services which are responsible for trafficking in human beings and smuggling of migrants. The EMM gathers information, knowledge and experience on trafficking in human beings and smuggling of migrants. In doing so, the EMM supports investigation services.

66 Organisation that maps out trafficking in human beings and makes efforts for the interests and rights of victims of trafficking in human beings in the Netherlands.

67 *Parliamentary Papers II*, 2017-2018, 28638, no. 161 (in Dutch).

68 *Proceedings Parliamentary Papers II*, 2018-2019, no. 19, item 4 (in Dutch).

lands.<sup>69</sup> The 'Committee of Inquiry into Long-Term staying third-country nationals without a permanent right of residence' has been given the assignment of conducting an independent investigation into:

- all aspects that contribute to the fact that, despite rejection of an application for admission and the corresponding obligation to depart, third-country nationals often stay for a long time in the Netherlands, with special attention to children and families with children;
- and, on the basis of this study, to make recommendations aimed at relevant aspects that contribute to such long-term stay without a permanent right of residence, and also to address at least: the structure and duration of (repeated) residence rights procedures; the influence of government and local facilities, as well as the environment on the willingness of persons to depart; and the possibilities and instruments available to bring about actual departure, as well as the practical and legal limitations involved.

The reason for this study was a series of imminent removals of rejected asylum seekers who had already stayed in the Netherlands for a considerable time as a result of prolonged residence procedures or multiple residence procedures. Several of those cases concerned families with children whose children had already stayed in the Netherlands for a considerable time. A number of those cases reached the media, which led to public commotion.

#### 4.3.4 *Relocation and resettlement*

##### **Box 4: Relocation and resettlement**

###### **Resettlement:**

Most refugees are provided with reception in the region. Refugees who are more vulnerable than other refugees for a range of reasons may be nominated by the UNHCR<sup>70</sup> for resettlement. After nomination by the UNHCR, it is established prior to arrival in the Netherlands that the persons involved qualify for international protection in the Netherlands. Globally, around thirty countries have resettlement programmes, including the Netherlands.

###### **Relocation:**

Relocation refers to a transfer of asylum seekers from one EU Member State to another. This is an internal EU process in which Member States assist another Member State in order to ease the pressure of a relatively large asylum population by taking on the responsibility for a number of these asylum seekers, accepting them in their national asylum procedure.<sup>71</sup>

#### *Fair share in the context of relocation decisions*

The Dutch government coalition agreement of October 2017 talks about taking a fair share in the context of relocations.<sup>72</sup> The relocation decisions ended on 26 September

69 *Parliamentary Papers II*, 2018-2019, 19637, no. 2423 (in Dutch).

70 The UNHCR (United Nations High Commissioner for Refugees) is the United Nations refugee organisation.

71 For more information, please see: *United Nations High Commissioner for Refugees (UNHCR)*, 'begrippenlijst' ['terminology']: <https://www.unhcr.org/nl/media/begrippenlijst/>.

72 2017-2021 *Coalition agreement 'Confidence in the future'*, 10/10/2017, VVD, CDA, D66 and ChristenUnie, <https://www.kabinetformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst> (in Dutch).

2017, but the European Commission called upon Member States to continue relocating on a voluntary basis. Further to this call, the Netherlands decided to promise still to relocate 50 persons a month from Italy (of whom 10 unaccompanied minors at most) in any case in November and December 2017 and January 2018.

#### *Implementation of current EU resettlement programme*

On 1 January 2018 the Netherlands implemented the commitments it made in relation to the current EU resettlement programme for the resettlement of 50,000 refugees up to and including October 2019 (European Commission Recommendation of 27 September 2017).<sup>73</sup> The Netherlands committed itself for the entire period from 2018 up to and including October 2019 to resettle 1,250 refugees under the national policy framework and 1,750 on the basis of European migration agreements.<sup>74</sup>

#### *Implementation of national resettlement policy framework*

On 1 January 2018, the Dutch government raised the annual national resettlement quota from 500 to around 750 refugees.<sup>75</sup> In this context, resettlement missions took place in, among other countries, Lebanon, Jordan, Egypt, Uganda and the Emergency Transit Mechanism in Niger. The Netherlands also resettled individual refugees on a file basis. In general, refugees arrive in the Netherlands six months after the selection mission. For most refugees selected in 2018, this is in 2019.

#### *Relocation and resettlement arrivals*

Throughout the year 2018, 159 relocations took place, of which 127 persons came from Eritrea, 20 from Sudan, 6 persons from Iraq and 6 persons from Syria.

In 2018, 528 resettled refugees arrived in the Netherlands in total on the basis of the national resettlement policy framework. Most persons (129) came from the Democratic Republic of Congo, making up 24% of the total number of persons who came to the Netherlands on the basis of resettlement. In addition, resettlement took place in 2018 on the basis of European migration agreements, specifically the EU-Turkey deal. On the grounds of the EU-Turkey Statement, the Netherlands resettled 726 Syrian refugees from Turkey in 2018. In 2017, this number was still 2,126, because in that year the Netherlands made use of the option to use the EU relocation reserve assigned to the Netherlands for the resettlement of Syrian refugees from Turkey.<sup>76</sup>

<sup>73</sup> Resettlement is a humanitarian programme implemented by countries on a voluntary basis; it is not compulsory.

<sup>74</sup> *Parliamentary Papers II*, 2017-2018, 32317, no. 497 (in Dutch).

<sup>75</sup> 2017-2021 Coalition agreement 'Confidence in the future', 10/10/2017, VVD, CDA, D66 and ChristenUnie, <https://www.kabinetformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst>. On 1 January 2019, the Dutch government again reversed this increase of the annual national resettlement quota to 500 refugees.

<sup>76</sup> *Immigration and Naturalisation Service (IND)*, Asylum Trends Appendix: Relocation and Resettlement (2018). Available at: [https://ind.nl/en/Documents/Asylum%20Trends%20\(Relocation%20and%20Resettlement\)%20December%202018.pdf](https://ind.nl/en/Documents/Asylum%20Trends%20(Relocation%20and%20Resettlement)%20December%202018.pdf).

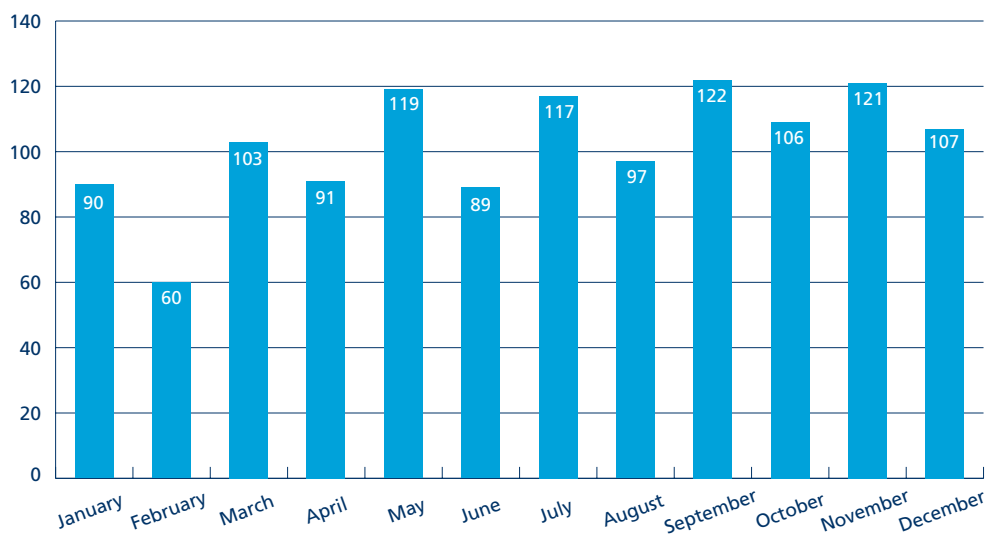
## 5 UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

### 5.1 Introduction

In this chapter, policy changes and measures are discussed for unaccompanied minors and other vulnerable groups. First, the number of applications and the most common nationalities of unaccompanied minors in the Netherlands will be represented. No statistics are available on other vulnerable groups.

The number of applications by unaccompanied minors increased slightly in 2018 (1,181 in 2017 compared with 1,225 in 2018).<sup>77</sup> The number of applications for international protection by unaccompanied minors was lower in the month of January 2018 (90 applications) than in the month of December (107 applications). During the peak month of September, 122 applications were registered. In the subsequent months, the numbers lowered again.

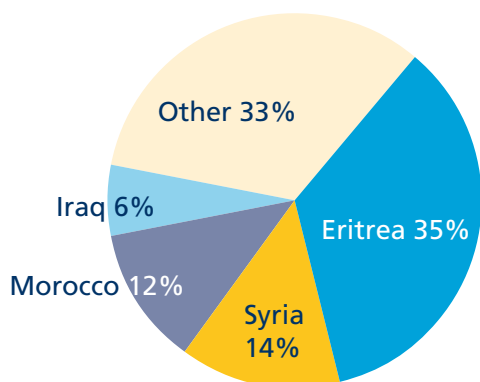
**Figure 5: Development of the number of applications for international protection by unaccompanied minors in 2018**



Source: IND (2018). Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2018.

In 2018, most unaccompanied minors came from Eritrea (35%), Syria (14%), Morocco (12%) and Iraq (6%).

<sup>77</sup> Immigration and Naturalisation Service (IND), Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2018: [https://ind.nl/en/Documents/Asylum%20Trends%20\(Hoofdrapport\)%20December%202018.pdf](https://ind.nl/en/Documents/Asylum%20Trends%20(Hoofdrapport)%20December%202018.pdf).

**Figure 6: Nationality of unaccompanied minors in 2018**

Source: IND (2018), Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2018.

## 5.2 Policy developments

In the field of unaccompanied minors and other vulnerable groups, a number of policy developments took place in 2018. Changes primarily relate to improvement measures for the protected reception of unaccompanied minors and measures against unaccompanied minors causing nuisance. The most important changes have been concisely explained below.

### 5.2.1 Unaccompanied minors

#### *EBTL placement for unaccompanied minors causing nuisance*

On 8 June 2018 the State Secretary for Justice and Security announced that asylum seekers who cause nuisance will be dealt with more firmly.<sup>78</sup> As a result of a series of incidents at and around centres of the Central Agency for the Reception of Asylum Seekers (COA), persons who cause nuisance will be placed more quickly in the Extra Counselling and Supervision Location (EBTL)<sup>79</sup>. In addition, because of increased nuisance caused by, among others, unaccompanied minors, it was made possible in individual cases, and with permission of the Nidos Foundation<sup>80</sup> guardian, for unaccompanied minors older than 16 years to be placed in the EBTL. The Immigration and Naturalisation Service (IND) will also consult the judicial authorities to see what the possibilities are for courts to prioritise asylum cases of persons causing serious nuisance so that they obtain clarity more quickly and departure can be effected more quickly in case of rejection.<sup>81</sup>

<sup>78</sup> Also see chapter 4.3.3, 'Measures against nuisance-causing asylum seekers'.

<sup>79</sup> In the EBTL (Extra Counselling and Supervision Location), stricter rules apply than at a regular reception centre. Inhabitants are only allowed to go to a limited number of places outside the centre and are obliged to report when they leave the centre or return. There is a daily duty to report. Unlike in regular reception centres, inhabitants do not receive financial allowances.

<sup>80</sup> Pursuant to Dutch law, Nidos Foundation has been appointed as the organisation entrusted with the temporary guardianship of unaccompanied minors.

<sup>81</sup> *National Government*, 'Hardere aanpak overlastgevende asielzoekers' ['Nuisance-causing asylum seekers addressed more firmly'], <https://www.rijksoverheid.nl/actueel/nieuws/2018/06/08/hardere-aanpak-overlastgevende-asielzoekers>, consulted on 12/12/2018.



From interviews with COA, the Custodial Institutions Agency (DJI) and Nidos Foundation, it emerged that a suitable option is already available for a considerable portion of unaccompanied minors causing nuisance.<sup>82</sup> It turned out for instance that for some unaccompanied minors, placement in a secure institution of JeugdZorgPlus<sup>83</sup> (Youth Care Plus) was indicated. Specialised reception and counselling is needed for the group of unaccompanied minors for whom no fitting measure is available and the available options within COA's existing counselling and supervision are insufficient, but for whom intervention is required for their transgressive behaviour. To provide for this, a pilot project<sup>84</sup> will be started in which Nidos Foundation, in coordination with COA, will receive and counsel these unaccompanied minors in an adapted setting with a maximum of 12 places to be able to work on, among other things, behaviour and prospects for the future in or outside the Netherlands. Reception of these unaccompanied minors will take place in close cooperation with the contract partners of Nidos Foundation who have JeugdZorgPlus status. For the time being, the pilot project will last one year, during which evaluation of performance will take place.

### *Three studies on unaccompanied minors*

The Work Programme of the Ministry of Justice and Security was published on 29 October 2018. This Work Programme is a specific elaboration of the 2018-2020 Multi-annual programme for 2019 of the Inspectorate of the Ministry of Justice and Security. In this programme a follow-up study will be conducted in cooperation with the Inspectorate for Health and Youth Care (IGJ), into the quality of the reception of unaccompanied minors.<sup>85</sup> In addition, the new reception model that entered into effect on 1 January 2016 was evaluated by ABDTOPConsult.<sup>86 87</sup> The Research and Documentation Centre (WODC)<sup>88</sup> also examined what the reasons are why unaccompanied minors choose to apply for international protection in the Netherlands.

According to the WODC study, the main reasons for unaccompanied minors of Syrian, Eritrean and Afghan origin for choosing the Netherlands are the following: the organisation of the procedures in the Netherlands (in particular, faster and easier international protection and family reunification procedures) and the future possibilities for education and work.<sup>89</sup>

The study by ABDTOPConsult, which has evaluated the new reception model, concludes that reception has clearly been improved compared to the situation before 1 January 2016. At least two out of three targets of the new reception model have been achieved,

82 *Parliamentary Papers II*, 2018-2019, 19637, no. 2423 (in Dutch).

83 JeugdZorgPlus is a very intensive form of specialised youth services in which the freedom of the young person can be restricted to prevent the young person from absconding from or being made to abscond from the assistance he or she needs.

84 This pilot was started in February 2019.

85 *Ministry of Justice and Security* (2018), 2019 Work Programme, Implementation of 2018-2020 Multi-annual programme. Available at: <https://www.rijksoverheid.nl/documenten/rapporten/2018/10/29/tk-bijlage-werkprogramma-2019> (in Dutch).

86 *Parliamentary Papers II*, 2018-2019, 27062, no. 107 (in Dutch).

87 ABDTOPConsult is a small team of experienced senior civil servants who can be deployed quickly for complex or urgent issues. The members have been appointed by the Cabinet. ABDTOPConsult is part of and available to the (central) government.

88 The Research and Documentation Centre (WODC) is an independent part of the Ministry of Justice and Security and carries out (policy-focused) research.

89 *Parliamentary Papers II*, 2018-2019, 27062, no. 107, Annex 1 (in Dutch).

namely small-scale reception and offering reception in line with the future prospects of the unaccompanied minor. The picture emerges from the investigations by the Inspectorates as well as from the evaluation by ABDTOPConsult that the staff of COA and Nidos Foundation are characterised by their involvement and diligence, that they devote positive attention to the young people, are interested in how things are going with the unaccompanied minor and make efforts to ensure that they can function independently after their eighteenth birthday. A point of concern is, however, the job turnover amongst mentors and guardians of unaccompanied minors, which can make it difficult to exchange information. In addition, different points for improvement are mentioned in the two studies that correspond to one another, particularly where the counselling of unaccompanied minors is concerned. An improvement process is necessary to ensure that unaccompanied minors can develop themselves optimally and continue their lives independently after they turn eighteen.<sup>90</sup>

COA and Nidos Foundation will prepare an action plan in 2019 for the recommendations of the Inspectorates. Special attention will be paid to the recommendations the Inspectorates make on the theme of safety. The House of Representatives will be informed of the improvement measures in more detail in the spring of 2019.<sup>91</sup>

#### *Supervision of age assessment of unaccompanied minors*

On 29 October 2018, the Ministry of Justice and Security decided that from 2019 the Inspectorate of the Ministry of Justice and Security (IV&J)<sup>92</sup> will supervise the assessment of the ages of unaccompanied minors in collaboration with the Inspectorate for Health and Youth Care (IGJ) and the Authority for Nuclear Safety and Radiation Protection (ANVS). Age assessment in the Netherlands is carried out, inter alia, using X-Rays of the hand-wrist area. This is a new supervisory task for the Inspectorate and is connected with the dissolution in 2016 of the former Age Assessment Supervisory Committee.<sup>93</sup>

#### *Recommendations in the report on 'living conditions of children in asylum seekers centres and family locations'*

In June 2018, the report 'Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties' ('Living conditions of children in asylum seekers centres and family centres') was published. The report was compiled by the research agency Avance, commissioned by the working group *Kind in azc* (Children in reception centres) and the Central Agency for the Reception of Asylum Seekers (COA).<sup>94</sup> The report contains 92 recommendations, partially addressed to COA and the Ministry of Justice and Security and partially to institutions responsible for healthcare and education. In 2018, the Ministry and COA started to incorporate a portion of the recommendations into the on-going process at

90 *Parliamentary Papers II*, 2018-2019, 27062, no. 107, Annex 2 (in Dutch).

91 *Parliamentary Papers II*, 2018-2019, 27062, no. 107 (in Dutch).

92 The Inspectorate of the Ministry of Justice and Security is a government agency that supervises on behalf of the Ministry of Justice and Security the work field of migration, among other things.

93 *Ministry of Justice and Security (2018)*, 2019 Work Programme, Implementation of 2018-2020 Multi-annual programme. Available at: <https://www.rijksoverheid.nl/documenten/rapporten/2018/10/29/tk-bijlage-werkprogramma-2019> (in Dutch).

94 *UNICEF Report*, 'Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties, Rapportage 1: Conclusies en aanbevelingen' ['Living conditions of children in reception centres and family centres, Report 1: Conclusions and recommendations'], [https://www.unicef.nl/files/1\\_online.pdf](https://www.unicef.nl/files/1_online.pdf), consulted on 12/12/2018.

COA under the title of 'Verbeteren leef- en speelomgeving' ('Improvement of the living and playing environment'). The development of the recommendations takes place in conformity with the response by the State Secretary to the House of Representatives of 12 November 2018. The starting point is that from 2019, the lessons learnt from the 'Avance' report and the process 'Verbeteren leef- en speelomgeving' will be included in the regular work of COA. There where improvement areas focus on the healthcare or education of children, COA consults with the institutions responsible. For example, work is in progress on parental support, assertiveness trainings, information about swimming (COA participates in the national campaign 'All of the Netherlands safe to swim') and professional days for COA staff members to share safeguard, and where necessary improve knowledge and experience.

In 2018 the State Secretary for Justice and Security formed an independent committee of inquiry to investigate all aspects that contribute to the long-term stay of third-country nationals, even after one or more rejections, as well as possible solutions to prevent long-term stay without a permanent right of residence.<sup>95</sup> The committee expects to be able to publish its findings around June 2019.

COA also developed child-friendly information material (a strip cartoon) about safety, which will be distributed and used during the inflow into the COA reception centres. In addition, swimming vlogs have been developed by and for the benefit of young people (from the target group) to show the dangers of swimming in open water in the Netherlands.

### **5.2.2 Other vulnerable groups**

#### *Amendment of Section 29 paragraph C2/3.2 LGBTI asylum seekers*

On 20 September 2018 the State Secretary for Justice and Security amended several matters in relation to the Aliens Act Implementation Guidelines (Vc) 2000. This included clarification of how to deal with future expressions of the sexual orientation of LGBTIs in their countries of origin. A certain 'lower limit' was the starting point. This lower limit entails the actual expression of their own orientation and entering into relationships in a way that is not essentially different from that of heterosexuals accepted in the particular country of origin. If the third-country national states that he/she wants to express his/her sexual orientation in a way that goes beyond this 'lower limit' the Immigration and Naturalisation Service (IND) then assesses the credibility of such expression and the way in which the third-country national intends to express it in his/her country of origin. If the asserted farther-reaching expressions are not credible, the IND then checks whether giving shape to sexual orientation in accordance with the 'lower limit' may lead to persecution. It included in addition that the IND may use visual material in assessing applications by LGBTIs for international protection, such as photographs depicting the third-country national's day-to-day life. This explicitly excludes and will exclude visual material with sexual overtones.<sup>96</sup>

<sup>95</sup> *Parliamentary Papers II*, 2018-2019, 19637, no. 2439 (in Dutch).

<sup>96</sup> Section 29, paragraph C2/3.2, Aliens Act (Vw) 2000 (in Dutch).

*Adaption of IND Work Instruction for LGBTIs and converts*

The IND adapted the way in which it assesses the credibility of LGBTI asylum seekers and converts (also see chapter 4.3.1). In July 2018 this was recorded in the IND Work Instructions for LGBTI asylum seekers<sup>97</sup> and for converts.<sup>98</sup> A change in this respect is that the internal information notice for the assessment of convert cases has been converted into a public work instruction. This makes it visible for everyone how the IND assesses applications by converts. The work instruction for LGBTIs was already public. In addition, most weight in LGBTI cases is no longer attached to the awareness process and the level of self-acceptance. Because the hearing and decision-making staff at the IND ask questions about personal experiences and sense of meaning, an authentic narrative emerges during the hearing. By emphasising the authentic narrative, it is expected that fraud committed by telling a standard, rote-learned story can also be prevented. In addition to adapting the work instructions, the IND is making extra investments in the schooling and training of staff, and it is providing better supporting argumentation than before in decisions on international protection regarding how account is taken of statements contributed by third parties (such as partners, witnesses and interest organisations) concerning LGBTI and convert cases.<sup>99</sup>

97 *IND Work Instruction 2018/9*, Hearing and deciding in cases in which LGBTI orientation is put forward as a motive for international protection.

98 *IND Work Instruction 2018/10*, Converts (in Dutch).

99 *Parliamentary Papers II*, 2017-2018, 19637, no. 2414 (in Dutch).

## 6 INTEGRATION

### 6.1 Introduction

Central to this chapter are the policy developments in the field of Dutch integration policy. In the Netherlands, the Ministry of Justice and Security (J&V) is responsible for migration policy and the Ministry of Social Affairs and Employment (SZV) is responsible for integration policy.

Integration is important for migrants who wish to settle in the Netherlands for a longer term or permanently. Integration measures concern language, education, the labour market and the social counselling of newcomers. Most migrants from outside the European Union have to participate in civic integration first. This requirement also applies to most residence permits. Civic integration means learning the Dutch language and getting to know Dutch society.

On 2 July 2018, the Minister of Social Affairs and Employment (SZW) informed the House of Representatives in a letter to parliament named 'Main features of the task of changing civic integration' ('Hoofdlijnen verandering opgeving inburgering') of his plans for a new system for civic integration.<sup>100</sup> In his letter, the Minister wrote that 'in the past decennia, various visions on civic integration and growing insight into the best and fastest way for newcomers to fully become a part of Dutch society have led to a large number of changes in policy.'<sup>101</sup> The Minister asserted that, despite all these changes, no civic integration system has yet been found in which persons undergoing civic integration achieve the desired target adequately and in large numbers. According to the Minister, the current system, which assumes that newcomers are able to integrate independently, also does not meet the expectations. In his letter, the Minister stated that the promise made in 2013, when the current system was implemented, 'has not been kept' because the system is 'too complex and ineffective.' According to the Minister of SZW, for this reason, the current system for civic integration must be thoroughly revised. The objective is for newcomers to start working faster and to follow an integration programme that is directed at work, participation, and learning the language. In an intake, it will be established what someone is able to achieve and which programme is most appropriate. Municipalities will again be made responsible for organising civic integration.<sup>102</sup> The student loan system for beneficiaries of international protection, which such beneficiaries currently use to purchase their civic integration, will be abolished. In his letter, the Minister of SZW strove for the new Act on civic integration to become effective by mid-2020, but on 15 February 2019 the Minister announced in a letter to parliament 'Progress in change of civic integration to date' ('Tussenstand verandering inburgering') that in order to make adequate preparations, the targeted effective date will be moved to 1 January 2021.<sup>103</sup>

100 *Parliamentary Papers II*, 2017-2018, 32824, no. 223 (in Dutch).

101 *Ibid.*

102 For more information, see: *National Government*, 'Inburgering op de schop: nieuwkomers zo snel mogelijk aan het werk, leenstelsel afgeschaft' ['Civic integration revised: newcomers should start working as soon as possible, student loan system abolished'], <https://www.rijksoverheid.nl/actueel/nieuws/2018/07/02/inburgering-op-de-schop-nieuwkomers-zo-snel-mogelijk-aan-het-werk-leenstelsel-afgeschaft>.

103 *National Government*, 'Kamerbrief Tussenstand verandering inburgering' ['Letter to parliament: Progress in change of civic integration to date'], <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/02/15/kamerbrief-tussenstand-verandering-opgeving-inburgering>.

## 6.2 Policy developments

This chapter discusses measures taken in 2018 in the fields of civic integration education, language control, the labour market, social support, provision of information and anti-discrimination policy. A number of these measures are specifically directed at the integration of beneficiaries of international protection. The most important measures will briefly be discussed below.

### 6.2.1 *Quality of civic integration education*

In 2018, the following measures were taken on a national level in the Netherlands to improve the quality of civic integration education.

#### *Inspection of civic integration courses*

In the current system, participants in civic integration programmes determine on their own how they prepare themselves for the civic integration examination. Almost all participants in the civic integration programme take a course and to pay for this course and examinations they can make use of a loan from the Education Executive Agency (DUO). Courses are supplied by way of the free market. In order to pay a course invoice using the DUO loan (a loan from the Dutch government for which participants in civic integration programmes can be eligible), the provider of the course must have the Mind at Work (Blik op Werk) quality mark. All providers of language courses for participants in civic integration programmes must have this quality mark. At the request of the Ministry of SZW, all providers of language courses were inspected in 2017 and 2018 for meeting the conditions for civic integration education and for whether they are worthy of the Mind at Work quality mark. These inspections were started in July 2017. Besides inspection of the quality of education, a project team was set up to combat fraud in civic integration education. To this effect, from mid-2018 financial audits were started at course institutions. The aim of this project team is to develop and apply a more detailed financial instrument to the course providers. Because these audits show that the current system is sensitive to fraud, the Minister of SZW announced that on 1 April 2019 a stricter procedure will be instituted for the admission of prospective language schools that provide civic integration courses to newcomers. In addition, from that date language schools will not be able to submit invoices to the DUO in advance. Invoices will be paid only if digital proof can be submitted for them.<sup>104</sup>

#### *Civic integration regulations*

The main improvements in the current civic integration system were implemented by way of an amendment to the Civic Integration Regulations that entered into effect on 1 July 2018.<sup>105</sup> This amendment comprises, inter alia, the following:

- Both the hours spent on a course in Dutch as a second language (NT2) and the attempts to pass the NT2 State Examination will count towards an exemption for demonstrable efforts made. These hours and examination attempts also count towards the extension

<sup>104</sup> The DUO is the implementing organisation for education of the National Government. DUO finances (student financing for students and teachers) and informs participants in education and educational institutions and organises exams.

<sup>105</sup> *Parliamentary Papers II*, 2017-2018, 32824, no. 221 (in Dutch).

- of the civic integration term for non-culpability, whereas this was not allowed before;
- Completing a programme on at least MBO-2 level will become a ground for extension of the civic integration period, whereby the duration of the extension will be linked to the duration of the programme;
- Literacy training hours and civic integration hours can be added together for the exemption on the basis of demonstrable efforts made.

At the same time, on that date the policy rule on the setting of civic integration fines entered into effect.<sup>106</sup> In it the amount is set of the fine to be imposed on a participant in a civic integration programme if he/she does not pass the civic integration programme within the period set.

#### *Main features of the Civic Integration Change Task*

On 2 July 2018, the Ministry of Social Affairs and Employment (SZW) announced changes to the civic integration system in a letter to parliament named 'Main features of the civic integration change task.'<sup>107</sup> A second letter with a further elaboration was sent to the House of Representatives on 15 February 2019.<sup>108</sup> The Minister is striving to implement the new Civic Integration Act in 2021. To achieve better civic integration, the Minister of SZW is aiming at a number of lines that are innovative with respect to previous systems. For example, the procedure concerning civic integration courses will be changed. Municipalities will be given a leading role in civic integration. They will give guidance and make sure quality lessons are available. They will receive funds for this from the national government. With that, the current loan for beneficiaries of international protection will lapse. For a lot of people who did not meet the requirement of civic integration within the prescribed term, repayment is a problem. For asylum migrants this loan could rise to a maximum of €10,000.

Another change is intensification in the form of learning pathways in line with the capacities of the participants in civic integration programmes. At the start of the new system, the municipality will prepare a Personal Civic Integration and Participation Plan (PIP), in which the municipality together with the participant makes agreements on the civic integration programme.<sup>109</sup> This way, a final target and a learning pathway will be set out for participants in line with the capacities of each participant. Both the municipality and the participant must commit themselves to the PIP. The intention is that this will produce a personal programme for learning the language in combination with work, volunteer work, studies or a work placement. For young people the transfer to education will be facilitated and for people with limited learning skills a practical pathway will be set out that is aimed at self-reliance, activation and learning the language at a lower level. In this way civic integration will become more effective (programmes in line with the personal situation), and abuse, for example by fraudulent language training institutions, can be prevented as much as possible.

<sup>106</sup> *Government Gazette*, 2018, no. 15704 (in Dutch).

<sup>107</sup> *Parliamentary Papers II*, 2017-2018, 32824, no. 223 (in Dutch).

<sup>108</sup> *Parliamentary Papers II*, 2018-2019, 32824, no. 245 (in Dutch).

<sup>109</sup> *Ibid.*

It will remain the responsibility of newcomers to comply with the civic integration obligation within the period of three years. At present, it is being worked out per pathway how people can comply with the obligation. An schedule for implementation was sent to the House of Representatives in October 2018 and an interim update in February 2019.<sup>110</sup>

### *Unburdening beneficiaries of international protection*

To achieve better civic integration, the Minister of SZW aims at unburdening beneficiaries of international protection in addition to raising the language level and counselling by municipalities.<sup>111</sup> The intention is that municipalities will provide all beneficiaries of international protection with a system that unburdens them during the initial period. In this period, the municipalities will pay the fixed costs out of the social assistance benefits for beneficiaries of international protection, such as rent, energy bills and the compulsory insurances. The duration of this support varies between participants and will be established in the personal Civic Integration and Participation Plan (PIP), in which the agreements about the learning pathway will also be laid down.

### *Municipal initiatives for new civic integration system*

Commissioned by municipalities (the G4 and G40),<sup>112</sup> a new inventory was made of initiatives at a local level that already operate in line with the new civic integration system.<sup>113</sup> This concerns an intake interview, more guidance during civic integration, combining civic integration/language learning and participation, and pathways that are suitable for people who learn slowly, where the focus is placed on independence and activation. This inventory contributes to the impulse the new system gives to evidence-based working, knowledge exchange and monitoring in the new civic integration system.

## **6.2.2 Language proficiency**

In 2018 the following measures were taken on a national level in the Netherlands to improve the language proficiency of newcomers:

### *State Examination in Dutch temporarily discontinued*

After the circulation of descriptions of previously taken State Examinations on social media, the 'writing' examination of Curriculum I of the State Examination in Dutch as a second language (NT2) was suspended from 16 October 2018 to January 2019.<sup>114</sup> After further investigation, descriptions of the other sections of the NT2 State Examination were also found on the Internet. Therefore, in line with this, all other examinations for Curriculum I as well as Curriculum II of the NT2 State Examination were discontinued from 14 November to March 2019; the Minister of OCW informed the House of Representatives

110 *Parliamentary Papers II*, 2018-2019, 32824, no. 238 and no. 245 (in Dutch).

111 For more information, see: *National Government*, 'Kamerbrief Tussenstand verandering inburgering' ['Letter to parliament: Progress on change of civic integration to date'], <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/02/15/kamerbrief-tussenstand-veranderopgave-inburgering>.

112 The four large cities (with over 250,000 inhabitants) of The Hague, Utrecht, Rotterdam and Amsterdam (G4) and 40 middle-sized cities (the G40).

113 Jonge, F.T. de (14/03/2018), *Position Paper*: 'Werk voor asielzoekers en vergunninghouders' ['Work for asylum seekers and permit holders'], G40 City Network, <https://bit.ly/2WrNcoL>, consulted on 28/1/2019.

114 *Parliamentary Papers II*, 2018-2019, 32824, no. 237 (in Dutch).



about continuation on 22 March 2019.<sup>115</sup> All participants in civic integration programmes who had wanted to take the NT2 State Examination in order to comply with their civic integration obligation will be granted an extension of their civic integration period. The examinations administered in 2018 for the writing component will remain valid. It is impossible to find out who might have benefitted from the prior knowledge.

*Temporary discontinuation of administration of the component Writing Skills of the civic integration examination*

After discontinuation of the administration of the NT2 State Examination, the questions of the civic integration examination were also investigated.<sup>116</sup> It emerged from this that questions from the civic integration examination were also circulating on the Internet. The questions found were suspended. It was, however, impossible to find out the extent to which candidates benefitted because the questions were known on the Internet. Because of this the examinations taken will remain valid.

For the component 'writing', so many questions were known that it was no longer responsible to administer this examination component. Thereupon, the writing skills component was discontinued from 1 November 2018 to 7 November 2018. In the meantime, new versions of the examinations were compiled on the basis of questions that had not become known and new material. Writing examinations have been administered again since 8 November 2018.

*Raising the language level in the civic integration examination*

In the future civic integration system, as set out in the letters to parliament of July and October 2018 and February 2019, the required language level will be raised.<sup>117</sup> At present the required level is A2; this will become B1. The government has made additional funds available for this. If an objective test shows that B1 is not feasible, the participant in the civic integration programme can fall back on A2 level. In the new system, participants in civic integration programmes who cannot attain this level either can make use of the Z pathway (for illiterate participants and participants with a low level of learning ability). The intention is that participants in a civic integration programme start learning the Dutch language from day one. For participants in a civic integration programme who attain a lower level of language, everything is aimed at enabling them to become self-reliant as soon as possible.

Another element in the improvement of civic integration as set out in the letter to parliament is that participants in a civic integration programme will be stimulated to combine learning the Dutch language with work, voluntary work or a work placement. They are expected to learn Dutch more quickly in this way. Municipalities will have a leading role in this context.

<sup>115</sup> For more information, see: *National Government*, 'Aanbiedingsbrief beantwoording vragen over Staatsexamen NT2'

['Accompanying letter for answers to questions about the NT2 State Examination'], <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/03/22/aanbiedingsbrief-beantwoording-vragen-over-staatsexamen-nt2>.

<sup>116</sup> *Parliamentary Papers II*, 2018-2019, 32824, no. 239 (in Dutch).

<sup>117</sup> *Parliamentary Papers II*, 2017-2018, 32824, no. 223 (in Dutch).

### *Development of an app to engage an interpreter immediately*

In April 2018, Livewords GO was developed by translation and interpreting agency Livewords, which supports professionals and volunteers in communicating with beneficiaries of international protection.<sup>118</sup> Livewords is responsible for the deployment of interpreters in reception centres. Users of the app can connect with a professional interpreter of one of 144 different languages within 40 seconds. In the app, users are not only allowed to choose the language, but also to indicate whether they prefer a male or female interpreter.

### **6.2.3 Labour market**

In 2018, the following measures have been taken on a national level for the benefit of integration of newcomers into the labour market:

#### *Further Integration into the Labour Market (VIA) Programme*

The Further Integration into the Labour Market (VIA) programme was set up to improve the position on the labour market of Dutch nationals with a migration background, who are structurally lagging behind.<sup>119</sup> By now, sufficient insights have been gathered into the extent, background and causes of these disadvantages. However, there is insufficient insight into which instruments or activities are effective to bring about change. For this reason, the VIA programme makes efforts to map out effective instruments and elements, to then implement them more widely in a next phase. This way, the current upturn, in which the options on the labour market are increasing, can be utilised to structurally stabilise the improving labour market opportunities for people with a migration background in the long term.

To map out these effective instruments, various (experimental) pilot programmes are currently being set up and furnished with sound evaluation studies. To achieve this, particular account is taken as early as in the development phase of the assessability of the pilot programmes. The pilots will be designed and implemented in close cooperation with specialised researchers, employers, municipalities, schools, and other government agencies and departments. The Ministry of Finance is involved in the design and evaluation of the VIA programme, in part because this programme, due to its objectives and approach, is closely connected to the Insight into Quality (Inzicht in Kwaliteit) programme operated by the Ministry of Finance. The Ministry of Education, Culture and Science (OCW) is closely involved in the design and implementation of pilot programmes that deal with the relationship between education and the labour market.

<sup>118</sup> Association of Netherlands Municipalities (VNG), 'App om onmiddellijk een tolk in te schakelen' ['App to deploy an interpreter immediately'], <https://vng.nl/onderwerpen/index/asiel/asielbeleid-en-integratie/nieuws/app-om-onmiddellijk-een-tolk-in-te-schakelen>, consulted on 12/12/2018.

<sup>119</sup> *Parliamentary Papers II*, 29544, no. 848 (in Dutch).

Within the VIA programme, eight experimental pilots are being developed. In 2019, all the pilot programmes will have started; the first (interim) results will become available in the second half of 2021. These are pilot programmes for the following subjects:

- Parental involvement in career orientation and counselling (LOB): Efforts for more intensive involvement of parents in prevocational secondary education (VMBO) for the choice of a training programme with better labour market perspectives;<sup>120</sup>
- Transition to senior secondary vocational education and the labour market: Professionalisation and preparation for the labour market and broader labour market orientation;
- Nudging in recruitment and selection: Countering prejudices through adjustments in employers' recruitment and selection processes;
- Cultural barometer: Making insight into cultural diversity in the workforce possible for employers by means of a database connection with Statistics Netherlands (CBS);<sup>121</sup>
- Retention: Strengthening retention and advancement of staff with a non-Western migration background;
- Outflow from unemployment benefit (WW): Better connection of UWV services to persons with a non-Western migration background receiving benefit under the Unemployment Insurance Act (WW), to have a better chance of finding a new job;
- On-the-job training programmes: Improving the labour market position of Dutch nationals with a migration background by combining training and work;
- Intensive counselling: Using various instruments to enhance the opportunities on the labour market for long-term unemployed with a non-Western migration background (including persons with a Somali background).

By these means, the VIA programme is directed at various target groups (young people and their parents, persons entitled to unemployment benefit, persons entitled to social assistance), different agents (employers, government agencies) and different phases (choice of training programme, connection between education and labour market, finding a job, retaining this job, re-integration), tackling the issue of disadvantages for people with a non-Western migration background on the labour market in their entirety.

### *New educational pathway*

To achieve better civic integration, the Minister of Social Affairs and Employment (SZW) will use the new civic integration system to aim at a number of lines that are innovative with respect to previous systems.<sup>122</sup> For example, there will be a new pathway directed at counselling for a fast transition of young persons in civic integration to a Dutch vocational training programme or higher education. In this pathway, a Dutch diploma is seen as the best starting position on the labour market.

<sup>120</sup> Prevocational secondary education, usually abbreviated to VMBO, is one of the four levels of secondary education in the Netherlands.

<sup>121</sup> An independent administrative body in the Netherlands, Statistics Netherlands (CBS) is the designated institution where collection, processing and publication of statistics has been centralised for the benefit of the government, researchers and businesses.

<sup>122</sup> *Parliamentary Papers II*, 2017-2018, 32824, no. 223; *Parliamentary Papers II*, 2017-2018, 32824, no. 238 (in Dutch).

#### 6.2.4 Social support

In 2018, new measures were taken in the field of social support for newcomers:

*Guide to the health and well-being of children of beneficiaries of international protection*  
Based on the Support Programme for the Health of Beneficiaries of International Protection, a guide was developed for municipalities that should help them promote the health and well-being of children of beneficiaries of international protection.<sup>123</sup> It was presented to municipalities in March 2018. The guide mainly contains practical tips for the prevention of health problems, but it also emphasises for third-country nationals the importance of a good reception at school, a healthy lifestyle, spending leisure time in a positive manner and financial means to enable them to 'join in'.

*Guide to prevention and care regarding the sexual health of beneficiaries of international protection*

Based on the Support Programme for the Health of Beneficiaries of International Protection, a guide was developed for municipalities that should help them promote the sexual health and well-being of beneficiaries of international protection to prevent (health-related) problems.<sup>124</sup> It was presented to municipalities in June 2018. The aim is to urge municipalities to give beneficiaries of international protection sex education and increase their knowledge of sexual risks. In addition, this guide aims at cooperation within a comprehensive approach, early identification and good and timely direction to care and treatment.

*Impetus procedure for the municipal approach for Eritrean beneficiaries of international protection*

On 1 June 2018, based on the Support Programme for the Health of Beneficiaries of International Protection, the Association of Netherlands Municipalities (VNG), Asylum Seekers and Permit Holders Support Team (OTAV), started a procedure aimed at supporting municipalities in their approach to relatively vulnerable Eritrean beneficiaries of international protection.<sup>125</sup> In this context, the VNG works together with the Ministry of Social Affairs and Employment (SZW). This impetus procedure is part of the support programme 'Health of Beneficiaries of International Protection' that was started at the end of 2016. The aim of this impetus procedure is to develop a municipal approach on the basis of experiences and insights of experts and examples of good practice from municipalities. The six participating municipalities are Haarlem, Hellendoorn, Leeuwarden, Katwijk, Roosendaal and Zutphen.<sup>126</sup>

123 Association of Netherlands Municipalities (VNG), 'Handreiking: Bevorderen gezondheid en welzijn van kinderen van statushouders' ['Guide to the Health and well-being of children of beneficiaries of international protection'], <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/handreiking-gezondheid-en-welzijn-van-kinderen-statushouders>, consulted on 10/12/2018.

124 Ibid.

125 Association of Netherlands Municipalities (VNG), 'Impuls integratie Eritrese nieuwkomers: meld uw gemeente aan' ['Impetus procedure for the integration of Eritrean newcomers: sign your municipality up'], <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/impuls-integratie-eritese-nieuwkomers-meld-uw-gemeente-aan>, consulted on 13/12/2018.

126 Association of Netherlands Municipalities (VNG), 'Meld u aan voor het kennisnetwerk Eritrese nieuwkomers' ['Sign up for knowledge network on Eritrean newcomers'], <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/meld-u-aan-voor-het-kennisnetwerk-eritese-nieuwkomers>, consulted on 13/12/2018.

### *Subsidy improving the support of beneficiaries of international protection*

From August 2018 on, municipalities and care providers have been able to apply for a subsidy for research into practical projects for strengthening the position and supervision of beneficiaries of international protection.<sup>127</sup> The subsidy programme is also open to research projects for early identification of psycho-trauma in beneficiaries of international protection.

### *Together We Will Stand*

The Ministry of Social Affairs and Employment (SZW) has provided funding for 2018 and 2019 for a support function as a result of the need for support in elaborating on a social initiative in the context of the UN Decade for People of African Descent (Communities of African Descent: of Sub-Saharan African, Surinamese, Antillean and other Afro-Caribbean descent).<sup>128</sup> The purpose of the support function is to stimulate and advise organisations and involved, socially active people from the African communities in giving shape to and implementing promising social initiatives. This should lead to more qualitative projects with substantial impact and more visibility for projects from the African communities that focus in particular on combatting racism, facilitating inclusion and connection with society; and that function with subsidies from private funds, and/or subsidies from relevant public funds, and/or municipal and provincial subsidies, and/or possibly personal contributions (capacity/resources), and/or individual donations from society. The advice will have a national range within the Netherlands itself, and in the Caribbean Netherlands on the islands of Bonaire, Sint Eustatius and Saba.

## **6.2.5 Improved provision of information**

### *Provision of information by the Immigration and Naturalisation Service*

In a press release of March 2018, the Immigration and Naturalisation Service (IND) announced that it had a team of information officers: staff members who, in addition to their day-to-day work in the primary process (for example, as information desk assistants, asylum hearing and decision-making staff members, decision-making staff members on regular residence or representative of the IND in court), regularly provide information on the work of the IND.<sup>129</sup> They explain to a wide range of target groups (interest groups, organisations, government services and educators) among other things the working method, procedures and legislation for the various 'products' of the IND. By responding in detail to these types of questions during information meetings, the IND hopes to foster a correct impression. Some of the information officers are also available to explain work at the IND and how they experienced it to the media, for example what the procedures comprise.

127 *Association of Netherlands Municipalities (VNG)*, 'Subsidie voor verbeteren ondersteuning statushouders' ['Subsidy for improving the support of beneficiaries of international protection'], <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/subsidie-voor-verbeteren-ondersteuning-statushouders>, consulted on 12/12/2018.

128 *African Descent*, 'Overzicht Decade-activiteiten' ['Decade Activities Overview'], <https://www.africandescent.nl/home/wiki/181988/activiteiten-decade>, consulted on 13/12/2018.

129 *Immigration and Naturalisation Service (IND)*, 'Voorlichting op locatie' ['On-site information'], <https://ind.nl/contact/Paginas/Voorlichting-op-locatie.aspx>, consulted on 13/12/2018.

### *SamenNL (TogetherNL) pilot programme*

On 15 February 2018, the SamenNL (TogetherNL) digital platform (a pilot project) started.<sup>130</sup> This is a platform for presenting initiatives that bring people with different cultural and ethnic backgrounds together. The aim of this is to have these initiatives inspire others to also undertake activities to bring people with different backgrounds together. SamenNL is an initiative of the Ministry of Social Affairs and Employment.

### *Statushouders in beeld (Focus on Beneficiaries of International Protection) website*

In March 2018, the website 'Statushouders in beeld' (Focus on Beneficiaries of International Protection) was launched by the Turning Point Foundation, where films and interviews on the integration of beneficiaries of international protection are presented.<sup>131</sup> These films are about such things as the approach to integration problems in the Municipalities of Amsterdam and Utrecht. In addition, there are interviews with forty beneficiaries of international protection and fifty professionals about their experiences with various facets of the civic integration process.

### *New website of the Dutch Council for Refugees (VluchtelingenWerk Nederland) launched*

In August 2018 the Dutch Council for Refugees (VWN)<sup>132</sup> launched a new website where beneficiaries of international protection can find information on the asylum procedure, family reunification, housing, healthcare, work and civic integration.<sup>133</sup> The information is available in eight languages.

## **6.2.6 Anti-discrimination policy**

In 2018, the following developments took place with respect to the improvement, implementation and monitoring of the anti-discrimination policy:

### *Government's approach to discrimination*

In April 2018, the government's approach to discrimination and the second progress report of the National Action Plan against Discrimination were published and sent to the House of Representatives.<sup>134</sup> The efforts to combat discrimination are aimed primarily at:

- Countering labour market discrimination, including:
  - Countering discrimination in relation to job application procedures, pregnancy and a strong enforcement role for the Inspectorate of the Ministry of Social Affairs and Employment (the SZW Inspectorate);<sup>135</sup>

130 Ministry of Social Affairs and Employment (SZW), 'Platform SamenNL online' ['SamenNL online platform'], <https://www.nieuwsszw.nl/platform-samennl-online/>, consulted on 13/12/2018.

131 Association of Netherlands Municipalities (VNG), 'Website statushouders in beeld gelanceerd' ['Focus on Beneficiaries of International Protection website launched'], <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/statushouders-in-beeld-gelanceerd>, consulted on 12/12/2018.

132 The Dutch Council for Refugees is an independent organisation that promotes the interests of refugees and asylum seekers in the Netherlands.

133 Association of Netherlands Municipalities (VNG), 'site met informatie voor vluchtelingen online' ['website with information for refugees online'], <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/site-met-informatie-voor-vluchtelingen-in-nederland-online>, consulted on 12/12/2018.

134 *Parliamentary Papers II*, 2017-2018, 30950, no. 156 (in Dutch).

135 The Inspectorate of the Ministry of Social Affairs and Employment monitors whether employers and employees abide by the legislation and regulations for working conditions, the labour market, industrial relations and social security.

- The further integration into the labour market of Dutch nationals with a migration background (see chapter 6.2.3 for more information);
- An inclusive government and an exemplary role for the government employer.
- Effectively countering discrimination under criminal law.
- Countering discrimination locally, including:
  - Strengthening anti-discrimination provisions;
  - Stimulating local anti-discrimination policies.
- Tightening the legal framework:
  - Exploring the added value of a separate ‘hate crime section’ in countering crimes with a discriminatory motive under criminal law;
  - Increasing the maximum sentence for inciting hate and violence.

Different programmes and approaches can be distinguished within the broad approach, such as, inter alia, combatting ethnic profiling, labour market discrimination and local action. But in this regard equal opportunities in education, the cultural diversity code for publicly funded cultural institutions and clarification of the citizenship task for primary and secondary education are also important. In addition, there are also specific activities aimed at combatting, inter alia, anti-Semitism, discrimination of Muslims and discrimination based on skin colour. An example of a specific activity within this approach in 2018-2019 is the support of social initiatives by the government which made funding available to two funds: the VN Decennium Fonds Sociaal (Oranje Fonds) (UN Decade Social Fund) and the VN Decennium Fonds Cultuur (Prins Bernhard Cultuurfonds) (UN Decade Culture Fund). From these funds (innovative) cultural and social initiatives are supported aimed at combatting (anti-black) racism.

### *Local approach*

In the Netherlands a system unique for Europe exists of anti-discrimination facilities: organisations where victims of discrimination can go for free advice and assistance. Each municipality has organised or joined such a facility. They operate at a local or regional level. In April 2018, a guide for municipalities was developed and presented to give further shape to local anti-discrimination policy.<sup>136</sup> The guide offers municipalities tips, good examples and background information on discrimination and legislation.

### *Ethnic profiling*

In 2017 the police also conducted a small-scale pilot project with independent complaint mediators in relation to complaints about ethnic profiling.<sup>137</sup> This pilot project was evaluated in April 2018 with the staff of the National Ombudsman.<sup>138</sup>

The police have adopted an action framework for more aware and careful conduct of pro-active inspections. From March 2018 until the end of October 2018, a pilot project ran in which ten teams took part. The purpose was to test the action framework and the “Meos app” (More effective mobility on the street app) for proactive inspection. The

<sup>136</sup> *Parliamentary Papers II*, 2017-2018, 30950, no. 156, Annex 840637 (in Dutch).

<sup>137</sup> Ibid.

<sup>138</sup> The National Ombudsman is an independent officer who handles complaints by citizens about improper conduct by the government.

Meos app supports the conduct of pro-active inspections because it provides more specific information about the person or vehicle (for example, on any previously conducted inspections or fines).<sup>139</sup> All staff members in the pilot teams receive training. The Police Academy monitors the pilot. This provides insights for successful national implementation. In the meantime, all staff members involved in the units are being informed of the action framework.

### *Labour Market Discrimination Action Plan*

In 2018, the Labour Market Discrimination action plan was revised.<sup>140</sup> The action plan is aimed at all employers, employees and citizens. The focus of the action plan is on combatting discrimination on all grounds during recruitment and selection, fighting pregnancy discrimination and preventing pay discrimination between women and men. The further elaboration of the action plan was sent to the House of Representatives in November 2018.

*The action plan is structured according to three main lines:*

1. *Supervision and enforcement:* In the renewed action plan for labour market discrimination it was announced that the powers of the SZW Inspectorate will be broadened, so that supervision and enforcement will be possible in relation to the availability of employers' recruitment and selection policies, which must include sufficient safeguards to prevent and combat discrimination of job applicants. It will also be examined how the SZW Inspectorate, in conjunction with supervision of employers' recruitment and selection policies, can supervise third parties who provide services in recruitment and selection procedures, including temporary employment agencies;
2. *Investigation and instruments:* Applicable instruments will be developed for employers, human resource officers and works council members to combat prejudice in recruitment and selection;
3. *Knowledge and awareness:* Knowledge and awareness will be stimulated of discrimination and exclusion on the labour market and what willing employers can do to prevent this. In addition, the importance of an inclusive and diverse shop floor is brought to people's attention by way of campaigns and meetings.

### *COA Guide to Ideology*

The Guide to Ideology gives staff of the Central Agency for the Reception of Asylum Seekers (COA) guidance and approaches in situations where a resident's philosophy or their expression of it plays a role, or when religious or ideological organisations around a centre contact COA and/or its residents. In doing so, the Guide also gives these organisations insight into how COA deals with this theme and what they can or may expect from COA.

COA makes efforts to inform asylum seekers about Dutch rules, norms and values and to foster awareness. Important aspects are abidance by Section 1 of the Constitution, freedom of religion and the non-discrimination principle. In the recent past, COA worked on this by means of the following activities:

<sup>139</sup> *Parliamentary Papers II*, 2017–2018, 30950, no. 156, Annex 840633 (in Dutch).

<sup>140</sup> *Parliamentary Papers II*, 2017–2018, 29544, no. 834 (in Dutch).



1. Founding a working group on the provision of information about fundamental rights. This working group consists of around 20 civic and religious organisations who play an advising and monitoring role with respect to COA's information for asylum seekers about fundamental rights, discrimination and religion.
2. In collaboration with civic organisations for religion and ideology, a pilot project for the provision of information about fundamental rights was carried out at two reception centres. The purpose was to have in-depth conversations with residents about the interpretation of Section 1 of the Constitution. In 2019, the tested approach in the pilot with religious and civic organisations will become part of the information and training programme 'Residence and Life at a COA Centre' (WLCL).<sup>141</sup>

<sup>141</sup> For more information, see: *Central Agency for the Reception of Asylum Seekers (COA)*, 'Programma Wonen en leven op een COA-locatie' ['Residence and Life at a COA Centre Programme'], <https://www.coa.nl/nl/asielopvang/wonen-op-een-asielzoekerscentrum/begeleiding-en-voorlichting/programma-wonen-en-leven-op>.

# 7 BORDERS, VISA AND SCHENGEN

## 7.1 Introduction

This chapter briefly discusses policy developments in the field of border control, visa policy and Schengen.

## 7.2 Policy developments

In the field of borders, visa and Schengen, various policy changes were implemented in 2018. The two sections below explain the most important developments and measures: more funds available for border control, registration of SIS documents, adjustment of the procedure for detecting an entry ban imposed on a third-country national with a residence permit in another Member State, providing information in advance about passengers on board of an ocean-going vessel, and making a transit visa compulsory for Cubans who travel via the Netherlands. These changes and measures are explained below.

### 7.2.1 Border control

#### *More funds available for border control*

In the 2017 Spring Memorandum, the Rutte II government made €20 million in additional funds structurally available per year for the border policing duties of the Royal Netherlands Marechaussee (KMar). This measure was aimed at continuing the already deployed reinforcement of the capacity for border control by 135 FTE<sup>142</sup> and adding 65 FTE, at the airports among other locations.<sup>143</sup> In addition to this, in the 2018 budget, €23.4 million will structurally be released from 2019 for further intensification of the border control duties. With the structural budget promised from 2019, the Royal Netherlands Marechaussee can increase its staff further by 417 FTE.<sup>144</sup>

#### *Registration of SIS documents*

To prevent documents of third-country nationals who emigrated or have left for an unknown destination from still being used as identity documents or documents to enter the Netherlands, the policy in Paragraph A2/12.2 of the Aliens Act Implementation Guidelines (Vc) has been changed. With this change, it has been laid down in the policy that the documents of these third-country nationals will be registered in the Schengen Information System (SIS) for the remaining time of their validity.<sup>145</sup>

#### *Adjustment of the procedure upon identification of an entry ban of a third-country national with residence status in another Member State*

In connection with the case law of the European Court of Justice<sup>146</sup> on the procedure upon identification of an entry ban in case a third-country national has residence status in ano-

142 FTE stands for full-time equivalent. It is a unit of account used to express the size of a job. One FTE equals a full-time working week.

143 *Parliamentary Papers II*, 2017-2018, 34775X, no. 2 (in Dutch).

144 *Ministry of Defence*, 'Rijksbegroting 2019 X Defensie' ['National 2019 X Defence budget'], 19/09/2018.

145 *Government Gazette*, 2018, no. 52887 (in Dutch).

146 *Judgment of the Court of Justice*, 16 January 2018, no.. C-240/17.

ther Member State, the policy in A4/2.2 of the Aliens Act Implementation Guidelines (Vc) was adjusted.<sup>147</sup> This policy change makes it possible to impose an entry ban or a strict entry ban on a third-country national in possession of a valid residence permit issued by another Member State. This change also makes it possible to deny these third-country nationals entry into the Netherlands for a longer time when serious threats to public order are identified in order to protect society.

*Prior provision of information on the passengers on board of an ocean-going vessel*

The Aliens Regulations have been amended in the interests of the shipping companies, passengers and the Dutch border control authorities. This amendment is in line with the reinforcement of border checks of citizens of the European Union introduced last year.<sup>148</sup> This amendment requires authorities to transmit information relating to a threat to public order and national security to the head of the border crossing point via an electronic platform prior to disembarkation.<sup>149</sup>

## 7.2.2 Visa policy

*Transit visa required for Cubans travelling via the Netherlands*

The Minister of Foreign Affairs decided that, from 29 January 2018 on, Cubans who travel via the Netherlands to a destination outside the Schengen area must be in possession of a transit visa. A transit visa is a visa allowing a traveller at a Dutch airport to transfer to a destination outside the Schengen area. The visa (also called an A visa) does not allow entry to the Netherlands or another Schengen country, so the traveller may not leave the airport.<sup>150</sup> The reason for introduction of the transit visa is that a sharp increase was observed in the number of Cubans who, via the Netherlands, were under way to a destination outside the Schengen area, but who broke off the journey at Schiphol and then submitted an application for asylum. The possibility to transit visa-free does not have the purpose of offering travellers the possibility of applying for asylum in the country of transit. Instituting an airport transit visa obligation enables better checking of whether a traveller's documents (in particular the ticket and the border crossing document) are in accordance with the purpose of travel and the traveller's intentions.<sup>151</sup>

<sup>147</sup> Ibid.

<sup>148</sup> See: *Regulation EU 2017/258 of the European Parliament and of the Council* of 15 March 2017 amending Regulation EU 2016/399 as regards reinforcement of checks against relevant databases at external borders (Official Journal of the EU, 18 March 2017, L74/1).

<sup>149</sup> *Government Gazette*, 2018, no. 17763 (in Dutch).

<sup>150</sup> *Immigration and Naturalisation Service (IND)*, 'Transitvisum verplicht voor Cubanen die via Nederland reizen' ['Transit visa required for Cubans who travel via the Netherlands'], <https://ind.nl/nieuws/Paginas/Transitvisum-verplicht-voor-Cubanen-die-via-Nederland-reizen.aspx>, consulted on 5/12/2018.

<sup>151</sup> Appendix to Proceedings II, 2017-2018, no. 1306 (in Dutch).

## 8 DUTCH CITIZENSHIP AND STATELESSNESS

### 8.1 Introduction

In this chapter, the Dutch policy developments are discussed for Dutch citizenship and statelessness.

#### *Registered stateless persons in the Netherlands*

Currently, over 4000 people are registered as stateless in the Municipal Personal Records Database (BRP) in the Netherlands.<sup>152</sup> This is only a small portion of the estimated 80,000 people whose nationality is unknown. The group of registered stateless people include Moluccans, Roma, people of Surinamese origin, Rohingya from Myanmar, migrants from the former Soviet Union and stateless Palestinians from Syria. The group of stateless Moluccans is considered equal to Dutch citizens under law. They have a special position according to the Facilities Act (Faciliteitenwet).

#### **Box 5: Statelessness**

The National government describes the concept of 'statelessness' as follows: stateless means that no country considers the person involved as its citizen.<sup>153</sup> Because stateless people are not considered citizens by any county, and therefore do not have a nationality, they cannot call upon a government to protect them. After having been registered as 'stateless' in the Municipal Personal Records Database (BRP), they are eligible for a permanent residence permit. This is because it has been agreed internationally that it is a human right to have a nationality.<sup>154</sup>

The national government is currently working on a new legislative proposal (see section 8.2.2 of this chapter). Stateless people may obtain a court decision about their status if they are unable to provide documents to demonstrate that they are stateless. If the court determines that the person involved is stateless, he/she will acquire the rights associated with statelessness.<sup>155</sup>

<sup>152</sup> For more information, see: *National government*, 'Nederlandse nationaliteit, Staatloosheid' ['Dutch nationality, statelessness'], <https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/staatloosheid>.

<sup>153</sup> Ibid.

<sup>154</sup> For more information, please see: *United Nations High Commissioner for Refugees (UNHCR)*, 'Staatloosheid in Nederland' ['Statelessness in the Netherlands'], <http://www.unhcr.org/nl/wp-content/uploads/UNHCR-Staatloosheid-in-Nederland-NLD.pdf>.

<sup>155</sup> Persons who are able to register their statelessness in the Municipal Personal Records Database (BRP) may apply for travel documents and become Dutch nationals via a more flexible regulation. They may then apply for Dutch nationality at lower fees after three years of legal residence.

## 8.2 Policy developments

A number of important policy developments took place in 2018 in the relation to obtaining Dutch citizenship and the determination of statelessness. These changes are explained briefly below.

### 8.2.1 Dutch citizenship

*Term for the application for Dutch citizenship after a serious offence extended from four to five years*

As of 1 May 2018, the rehabilitation term has been extended from four to five years.<sup>156</sup> This means that if a third-country national wants to obtain Dutch citizenship, he/she must not have been convicted of any serious offences in the five years before the application. Before 1 May 2018 this was still four years. The amendment applies to naturalisation applications as well as to option procedures.<sup>157</sup> The application will also be rejected if at the time of filing or deciding there is a serious suspicion that the applicant has committed a crime subject to punishment.

*Modernisation of nationality law*

In accordance with the 2017 Coalition Agreement, the State Secretary for Justice and Security informed the House of Representatives of the modernisation of nationality law.<sup>158</sup> The legislative change consists of two components that are being prepared in conjunction. This concerns broadening the possibility of possessing more than one nationality for future first generations of emigrants and immigrants. At the same time, there will be a compulsory time of choice for following generations that will actually lead to the retention of no more than one nationality. The choice to limit the constant and expanding possession of multiple nationalities in this way has been determined by the consideration that, as a result of multiple nationalities, the person involved is subject to more than one legal system, which could lead to conflicting legal situations when principles under Dutch law are incongruous with those under a different legal system.<sup>159</sup> Rights and obligations may conflict as a result of multiple nationalities. The State Secretary is expected to submit a draft legislative proposal for consultation in the first quarter of 2019.

<sup>156</sup> Decision by the State Secretary for Justice and Security of 19/01/2018, number WBN 2018/1, pertaining to the amendment of the manual for the Netherlands Nationality Act (Rwn) 2003.

<sup>157</sup> The option procedure is a short (three-month), simple procedure to obtain Dutch nationality. To be eligible, one must be a fall into the special category referred to in the Act.

<sup>158</sup> Letter to parliament of 11 September 2019 about the modernisation process of nationality law: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2018/09/11/tk-proces-modernisering-nationaliteitsrecht/tk-proces-modernisering-nationaliteitsrecht.pdf>.

<sup>159</sup> Mr C. Riezebos's answer on behalf of the State Secretary for Justice and Security, Mark Harbers, to the open letter of 18 October 2018 to the State Secretary about dual nationality on behalf of the Dutch Nationals Abroad (NIHB) organisation. Dutch Nationals Abroad (NIHB), 28/10/2019: <https://www.nihb.nl/overheid-formaliteiten/dubbele-nationaliteit/het-antwoord-op-de-open-brief-aan-staatssecretaris-harbers/>.

## 8.2.2 *Statelessness*

### *Legislative Proposal on the determination of statelessness*

On 5 February 2018, the State Secretary for Justice and Security answered parliamentary questions from members of the coalition party D66 about stateless children. A legislative proposal on the determination of statelessness was brought forward at this time. At present, this legislative proposal is at the Council of State (RvS) and will be submitted afterwards to the House of Representatives.<sup>160</sup>

The starting point of the Netherlands Nationality Act (RWN) is that, on their birth, children may acquire Dutch citizenship only by operation of law if one or both parents are Dutch nationals. Currently, the Netherlands Nationality Act does offer a solution for stateless children born in the Netherlands. At present, stateless children born in the Netherlands can become Dutch nationals independently after three years of lawful residence by way of an option procedure. With the entry into effect of the legislative proposal on the determination of statelessness, it will also be possible within the 'foreseeable future' for stateless children born in the Netherlands without lawful residence to become Dutch nationals by way of an option procedure. This is because the government has decided, under certain conditions, also to grant an option right to these children.

The Advisory Committee on Migration Affairs (ACVZ)<sup>161</sup> concluded in 2013 that the Netherlands did not have an adequate procedure to determine statelessness.<sup>162</sup> The legislative proposal on the determination of statelessness will fill this gap. This legislative proposal introduces a procedure to allow the court to determine statelessness. If the court determines that the person involved is stateless, he/she will acquire the rights associated with statelessness.<sup>163</sup> With the legislative proposal, progress will have been made with respect to the present situation because more persons are expected to be able to demonstrate their statelessness. This mainly concerns persons who are staying legally in the Netherlands but who have been documented poorly or not at all. With the new determination procedure, part of the group of third-country nationals who have now been recorded in the Personal Records Database (BRP) with 'nationality unknown' can henceforth be registered as 'stateless'.<sup>164</sup>

<sup>160</sup> *Appendix to Proceedings II*, 2017-2018, no. 1066 (in Dutch).

<sup>161</sup> The independent Advisory Committee on Migration Affairs (ACVZ) provides the government and parliament with solicited and unsolicited advice about migration.

<sup>162</sup> ACVZ *Advisory Report* (2013), 'Geen land te bekenen' ['No country to be seen']: <https://acvz.org/pubs/geen-land-te-bekennen/>.

<sup>163</sup> People for whom statelessness can be determined may apply for a travel document and become a Dutch national via a more flexible regulation: they may apply for Dutch nationality at lower fees after three years of legal residence.

<sup>164</sup> *Appendix to Proceedings II*, 2017-2018, no. 1066 (in Dutch).

### *Statelessness of Palestinians from Syria, the Gaza Strip, the West Bank, Iraq, Jordan and Lebanon*

Palestinians from Syria, the Gaza Strip, the West Bank, Iraq, Jordan and Lebanon will be registered as stateless only if such statelessness is sufficiently substantiated by documents. The third-country national must submit a total of three original documents.<sup>165</sup> These are: (1) an identity document, (2) a birth certificate and (3) a document of the GAPAR<sup>166</sup> or UNRWA.<sup>167</sup> If the Palestinian third-country national can show at least one document from each of these three aforementioned document categories, statelessness will then be assumed. This has been in effect since 1 September 2017 and attained the status of an important policy line in the course of 2018. Such registration of statelessness is important in connection with inclusion of this fact in the Personal Records Database (BRP).<sup>168</sup> If statelessness is recorded in the BRP, this will entail important rights, such as the right to accelerated naturalisation. Details of statelessness must therefore have a high degree of reliability.<sup>169</sup>

165 For more information, see: *News item Dutch Association for Civil Affairs (NVVB)*, 15/09/2017, 'Staatloosheid bij Palestijnen' ['Statelessness of Palestinians']: <https://nvvb.nl/nl/communicatie/nieuwsberichten/staatloosheid-bij-palestijnen/>.

166 The General Authority for Palestine Arab Refugees (GAPAR) is a department of the Syrian government entrusted with the processing of Palestinian refugee cases.

167 The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is the United Nations refugee organisation that is focused on aid and development of Palestinian refugees in the Middle East.

168 The Dutch municipalities register personal records in the BRP.

169 News item *Dutch Association for Civil Affairs (NVVB)*, 15/09/2017, 'Staatloosheid bij Palestijnen' ['Statelessness of Palestinians']: <https://nvvb.nl/nl/communicatie/nieuwsberichten/staatloosheid-bij-palestijnen/>.

## 9 IRREGULAR MIGRATION

### 9.1 Introduction

This chapter discusses the most important policy changes that have been implemented in the field of irregular migration and smuggling of migrants. The changes apply in particular to the prevention of irregular migration and smuggling of migrants. Attention is also given to monitoring and identification of irregular migration routes. In 2018, the Netherlands aimed at, among other things, the prevention of irregular migration through awareness campaigns. In this context, bilateral relations with the most important migration countries were strengthened during visits by the Minister of Foreign Affairs to Nigeria, Niger and Tunisia and the Minister of Foreign Trade and Development Cooperation<sup>170</sup> to Libya and Tunisia.

### 9.2 Policy developments

The national government implemented several policy changes in 2018 in the field of irregular migration and the smuggling of migrants. The most important changes are explained concisely below.

#### 9.2.1 *Prevention of irregular migration*

##### *Prevention of irregular migration by way of awareness campaigns*

Just as in previous years, the Netherlands again made efforts to prevent irregular migration in 2018 by way of awareness campaigns. In 2018 several programmes funded by the Netherlands ran in countries of origin (Ethiopia, Gambia, Guinea, Iraq, Mali, Nigeria, Senegal, and Tunisia) to make potential irregular migrants aware of the risks of irregular travel and of staying in the European Union. For example, via the 'social enterprise' See-far, one-on-one sessions were held with confidential counsellors, discussion meetings were held, and support was provided in telephone conversations and interventions by way of other media.<sup>171</sup> The International Organisation for Migration (IOM)<sup>172</sup> supported migrants returning from countries, including Libya, in sharing their experiences and entering into discussion with peers about the risks of irregular migration and alternatives. In Ethiopia, IOM supported the government in discussions of irregular migration and alternatives in communities of origin. The Netherlands also supported the Ethiopian government in using performing artists as role models. In Mali, the Netherlands supported the making of a film about the dangers of irregular migration. The Netherlands and Germany together co-financed an IOM awareness campaign in Tunisia, which started at the end of

<sup>170</sup> The Minister of Foreign Trade and Development Cooperation is a minister without portfolio (without an own ministry), who is based at the Ministry of Foreign Affairs (BZ). The Minister makes efforts for Dutch trade with other countries and more stability and growth in developing countries.

<sup>171</sup> Information supplied by the Ministry of Foreign Affairs on 10/12/2018.

<sup>172</sup> The international organisation IOM plays an important role in the Netherlands in the voluntary return and reintegration of third-country nationals.



2018. The Asylum, Migration and Integration Fund (AMIF) paid for 90% of this project.<sup>173</sup> Germany and the Netherlands each contributed 5%. The main purpose of the co-financing was to promote coordination and cooperation between EU Member States on this level.

The importance of coordination and cooperation and better efforts for quality and effectiveness are also the basis of a Dutch initiative to form a working group at the European level within the framework of the European Migration Network (EMN).<sup>174</sup> The initiative received wide support and the Information Campaign working group was formally established at the end of 2018.<sup>175</sup> During its cooperation with IOM, in 2018 the Netherlands placed a special accent on enabling evaluation of the effectiveness of the programmes. With support from the Netherlands, IOM started a pilot project for evaluation according to the most scientifically responsible method. This was something new for awareness campaigns. All aforementioned programmes and activities were set up according to current insights on conducting effective information campaigns, in accordance with government efforts, and are funded by the Ministry of Foreign Affairs (BZ).<sup>176</sup>

In 2018 the Ministry of Foreign Affairs issued a call for tenders under which non-governmental organisations could submit project proposals, including proposals for awareness campaigns, and it also started assessing these proposals.<sup>177</sup>

Expanding and strengthening the Dutch network for diplomatic representation abroad In the 2017 Coalition Agreement 'Vertrouwen in de toekomst' (Confidence in the future), the government announced that it would expand and strengthen the Dutch network of embassies, consulates general (CGs) and permanent representations (PVs).<sup>178</sup> During this expansion and strengthening, the following priorities are being maintained: ring of instability, migration, safety, opportunities for economic growth and stronger focus on Europe.<sup>179</sup>

The Dutch government aims to combat irregular migration by tackling the root causes in countries of origin, reception in the region and migration management. To do so, it is necessary for the Netherlands to improve and intensify cooperation with countries of origin and transit countries. In 2018 embassy offices were opened in Burkina Faso, Niger and Chad. The missions in Abuja, Bamako, Khartoum, Amman, Tunis and New York (Permanent Representation of the Netherlands at the UN) were reinforced for this purpose in 2018, and it was decided to reinforce missions further in the ring around Europe.

173 The Asylum, Migration and Integration Fund (AMIF) is part of the subsidy scheme for the 2014-2020 European migration and security funds and provides funding for projects focusing on asylum and reception, integration and return.

174 Letter to parliament of 22/03/2017 about 'WODC onderzoek Informatiecampagnes' [WODC research on Information Campaigns]: <https://www.rijksoverheid.nl/documenten/kamerstukken/2017/03/22/tk-wodc-onderzoek-informatiecampagnes>.

175 The Netherlands was chosen to co-chair the working group. This task will be performed by the Ministry of Foreign Affairs (BZ). The European Commission is the other co-chair.

176 Information supplied by the Ministry of Foreign Affairs on 10/12/2018.

177 Information supplied by the Ministry of Foreign Affairs on 22/01/2019.

178 2017-2021 Coalition agreement 'Confidence in the future', 10/10/2017, VVD, CDA, D66 and ChristenUnie, <https://www.kabinetformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst>, consulted on 19/12/2018.

179 *Parliamentary Papers II*, 2017-2018, 32734, no. 31 (in Dutch).

### *More attention for international migration policy*

In 2018 a number of projects were started in the focus countries Lebanon, Iraq and Jordan aimed at protecting and supporting refugees and their host communities.<sup>180</sup> The bilateral relations with other important migration countries were strengthened as well after the visit by, among others, the Minister of Foreign Affairs to Nigeria, Niger and Tunisia at the end of October and beginning of November 2018, as well as the visit by the Minister of Foreign Trade and Development Cooperation to Libya and Tunisia.<sup>181</sup> The Netherlands supports these countries with programmes aimed at socio-economic development as well as the international combatting of human trafficking and migrant smuggling. The Netherlands supported the IOM and UNHCR programmes in the Sahel and North Africa aimed at the search and rescue of irregular migrants and their voluntary return to, and reintegration in, their country of origin. Another example is Dutch support of the civil EU mission EUCAP Sahel Niger. In this context, the Netherlands is financing a project for the purpose of forming and commissioning mobile border control teams composed of Nigerian police officers. The border control teams will operate along the border of Niger with Nigeria.<sup>182</sup>

## **9.2.2      *Monitoring and identifying irregular migration routes***

### *Study of irregular migration flows*

In 2018, the International Organisation for Migration (IOM) completed a study into irregular migration flows from Nigeria, Somalia, Ethiopia and Iraq to Europe, using its Displacement Tracking Matrix (DTM).<sup>183 184</sup> This study resulted in a large dataset on characteristics of, among other things, irregular migrants, motives for migration, choice of migration routes, provision of information to irregular migrants, use of smugglers, idea of the journey and the destination. IOM also issued a number of reports on the basis of the data. The study was funded by the Ministry of Foreign Affairs. The Ministry of Foreign Affairs also financed worldwide strengthening of the DTM, better regional analysis of migration in Africa and collection and analysis of migration data in Chad.

180 Letter to parliament of 14 December 2018 on 'Theories of Change en geografische focus ontwikkelings-samenwerking' ['Theories of change and geographic focus on development cooperation']: <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/12/14/kamerbrief-over-theories-of-change-en-geografische-focus-ontwikkelingssamenwerking>.

181 *Parliamentary Papers II*, 2018-2019, 34952, no. 33, also see the travel reports by the Ministry of Foreign Affairs, available at among other places: <https://www.rijksoverheid.nl/regering/bewindspersonen/stef-blok/nieuws/2018/11/01/nederland-investeert-in-contraterrorismesamenwerking-met-tunesie> and <https://www.rijksoverheid.nl/regering/bewindspersonen/stef-blok/nieuws/2018/10/31/minister-blok-investeert-in-veiligheid-sahel>. The remaining information was supplied by the Ministry of Foreign Affairs on 10/12/2018.

182 *Parliamentary Papers II*, 2017-2018, 29521, no AC (in Dutch).

183 The Displacement Tracking Matrix (DTM) is a system, implemented in 72 countries worldwide, to track and monitor movement and population mobility.

184 Information supplied by the Ministry of Foreign Affairs on 22/01/2019.

# 10 MEASURES AGAINST THE TRAFFICKING IN HUMAN BEINGS

## 10.1 Introduction

This chapter will discuss policy developments in 2018 in the field of measures against trafficking in human beings. Human trafficking is an extremely serious form of organised crime. Combatting human trafficking is a priority of the Netherlands and the European Union (EU). Victims of human trafficking often belong to the most vulnerable groups in society, such as asylum seekers and irregular resident migrants. Human trafficking includes various kinds of forced labour and exploitation in which people are deprived of their personal freedom. This may concern forced labour under sub-standard working conditions, child labour, forced prostitution or forced cooperation to criminal activities. Victims and witnesses who do not have a valid residence permit in the Netherlands may qualify for a residence permit if they report human trafficking to the police.<sup>185</sup> This way, the Netherlands aims to stimulate reporting to the police.

Statistics about the number of potential victims of human trafficking in the Netherlands are compiled for the National Rapporteur on Trafficking in Human Beings by the CoMensha foundation (Coordination Centre for Human Trafficking). The National Rapporteur will publish the annual statistics of 2018 no later than 1 October 2019.<sup>186</sup>

## 10.2 Policy developments

In 2018, various measures were taken to combat trafficking in human beings. The most important developments and measures are explained below. At this point it must be noted that these are general measures against human trafficking, so not measures taken exclusively in the context of asylum and migration.

### 10.2.1 General developments

*Presentation of the programme 'Samen tegen mensenhandel' ('Together against human trafficking') to the House of Representatives*

In the overall programme 'Samen tegen mensenhandel'<sup>187</sup> ('Together against human trafficking'), which was presented to the House of Representatives on 13 November 2018, the government took a firm stance against trafficking in human beings and made strong efforts to intensify the tackling of trafficking in human beings. In this case, 'together' stands not only for interdepartmental cooperation, but more importantly also for coope-

<sup>185</sup> EMN Netherlands, 'Mensenhandel' ['Trafficking in human beings'], <https://www.emnnetherlands.nl/migratiethemas/mensenhandel>.

<sup>186</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children: <https://www.nationaalrapporteur.nl/>

<sup>187</sup> National government, 'Aanbieding van het programma "Samen tegen mensenhandel"' ['Presentation of the programme "Together against human trafficking"', <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/11/13/tk-aanbieding-van-het-programma-samen-tegen-mensenhandel>, consulted on 5/12/2018.

ration with partners such as municipalities, the Public Prosecution Service (OM), the National Police, the Inspectorate of the Ministry of Social Affairs and Employment, the Royal Netherlands Marechaussee (KMar), the Immigration and Naturalisation Service (IND), reception and care institutions, youth services, non-governmental organisations, private parties and international partners.

Besides the funds made available earlier to the Public Prosecution Service and the police (2 million euros), there is a substantial investment in tackling of trafficking in human beings in the Coalition Agreement. Additional funds were made available in the Coalition Agreement for the reception of victims of trafficking in human beings (2 million euros) and, in addition, within the 50 million euros for the Inspectorate of the Ministry of Social Affairs and Employment the fight against labour exploitation will be carried out.<sup>188</sup> Part of the 291 million euros for the police will be used as well for, inter alia, additional police liaisons for dealing with trafficking in human beings. The government is also aiming at a better regulation of the prostitution sector and the prevention of abuses such as trafficking in human beings in that sector. It is doing so by way of legislation that provides, inter alia, for a licence obligation for all forms of sexual services on a commercial basis, and by making the facilitation of illegal prostitution for profit motives a criminal offence, the so-called pimp prohibition. Sexual offence legislation will also be modernised.<sup>189</sup>

The programme 'Samen tegen mensenhandel' ('Together against Human Trafficking') formally started on 4 December 2018. The programme envisages the following aims:

1. The government aims to prevent as much as possible that people become victims of trafficking in human beings.
2. The government wants (potential) victims to be identified quickly and adequately, to be taken out of the situation and to receive care and support.
3. The government aims to thwart and combat offenders in all kinds of ways, under criminal and administrative law, as well as by putting up barriers. At the same time efforts are being made to prevent recidivism.

In the programme several actions are clustered around five lines of action. These concern reinforcing the basic strategy against trafficking in human beings, countering labour exploitation, preventing victimhood and offending, reinforcing the municipal strategy against trafficking in human beings, and sharing knowledge and information.<sup>190</sup>

The programme is aimed at all forms of trafficking in human beings designated as threats in the 2017 National Threat Assessment, namely sexual exploitation, labour exploitation, criminal exploitation and forced provision of services, with regard to adults as well as young people. It is aimed at Dutch victims as well as EU and third-country national victims.

188 See for the allocation of funds: *Parliamentary Papers II*, 2018-2019, 29544, no. 846 (in Dutch).

189 *Parliamentary Papers II*, 2017-2018, 29279, no. 427 (in Dutch).

190 *National Government*, 'Formele start Samen tegen Mensenhandel' ['Formal start of Together against Human Trafficking'], <https://www.rijksoverheid.nl/actueel/nieuws/2018/12/06/formele-start-samen-tegen-mensenhandel>, consulted on 16/01/2019.

*Evaluation report about the Netherlands published by the International Group of Experts against Trafficking in Human Beings (GRETA)*

The second evaluation report by the GRETA about the Netherlands was published on 19 October 2018.<sup>191</sup> In this report, core recommendations are given on trafficking in human beings. The overall programme 'Samen tegen mensenhandel' ('Together against Human Trafficking') follows one of the core recommendations that the GRETA made in its second report on the Netherlands, where GRETA called upon the Netherlands to start implementing a 'national action plan'. The programme 'Samen tegen mensenhandel' provides for such a plan.<sup>192</sup>

### **10.2.2 Identification of victims**

*Pilot programme Plausibility of victimhood of trafficking in human beings started on 1 January 2018*

Since 1 January 2018, a pilot project has been in progress at the Violent Offences Compensation Fund (Schadefonds Geweldsmisdrijven) in order to determine the plausibility of victimhood of trafficking in human beings. The Victimhood of Human Trafficking Committee, which have been studying this, have been handling the initial applications since the beginning of 2018. After their investigation, they will issue a so-called experts' report. This states whether the Committee considers it plausible that a person is the victim of trafficking in human beings.

The experts' report by the Victimhood of Human Trafficking Committee can help to foster a more informed consideration by the Immigration and Naturalisation Service (IND) of applications for continued residence. The report is one of the elements the Immigration and Naturalisation Service includes in its assessment of a residence permit application. It does not immediately lead to residence permit applications being granted or rejected. The experts' report can also be used for other facilities to which victims of trafficking in human beings are entitled, for example certain municipal facilities, specialist care or a contribution from the Violent Offences Compensation Fund (Schadefonds Geweldsmisdrijven).

The aim of the pilot project is to find out whether the Victimhood of Human Trafficking Committee can actually assess the plausibility of victimhood and whether the experts' report by the Committee has added value for the parties involved, such as the Immigration and Naturalisation Service, reception institutions and victims.<sup>193</sup>

191 *National government*, 'Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands', <https://www.rijksoverheid.nl/documenten/rapporten/2018/11/13/tk-bijlage-2-greta-second-evaluation-convention-against-trafficking-in-human-beings-by-nl>, consulted on 16/01/2019.

192 *National government*, 'Aanbieding van het programma "Samen tegen mensenhandel"' ['Presentation of the programme "Together against human trafficking"'], <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/11/13/tk-aanbieding-van-het-programma-samen-tegen-mensenhandel>, consulted on 16/01/2018.

193 *National government*, 'Commissie slachtofferschap mensenhandel neemt eerste aanvragen in behandeling' ['Victimhood of Human Trafficking Committee processes first applications'], <https://www.rijksoverheid.nl/actueel/nieuws/2018/03/01/commissie-slachtofferschap-mensenhandel-neemt-eerste-aanvragen-in-behandeling>, consulted on 14/12/2018.

# 11 RETURN

## 11.1 Introduction

This chapter discusses the policy developments in the field of the return of migrants from third countries.

The chapter begins with a summary of the most important statistics related to the return of migrants to third countries. In the three sections that follow, the most important policy developments are discussed: imposition of a departure period in the case of frustration, the intention procedure for imposing an entry ban at the border crossing point, imposition of a strict entry ban on third-country nationals with a residence permit in a different EU Member State, the support contribution for assisted voluntary return, the legislative proposal for the Repatriation and Detention of Aliens Act, the legislative proposal to provide a legal basis for stopping and questioning, transferring and retaining among others Dublin claimants, the adaption of the basis for detaining asylum seekers in the appeal phase, redesign of the identification and registration process as part of the asylum process, the passport statement in the event of medical circumstances, National Immigration Facilities (LNVs), the European Return and Reintegration Network (ERRIN), and the inclusion of biometric material for identification in the Schengen Information System (SIS).

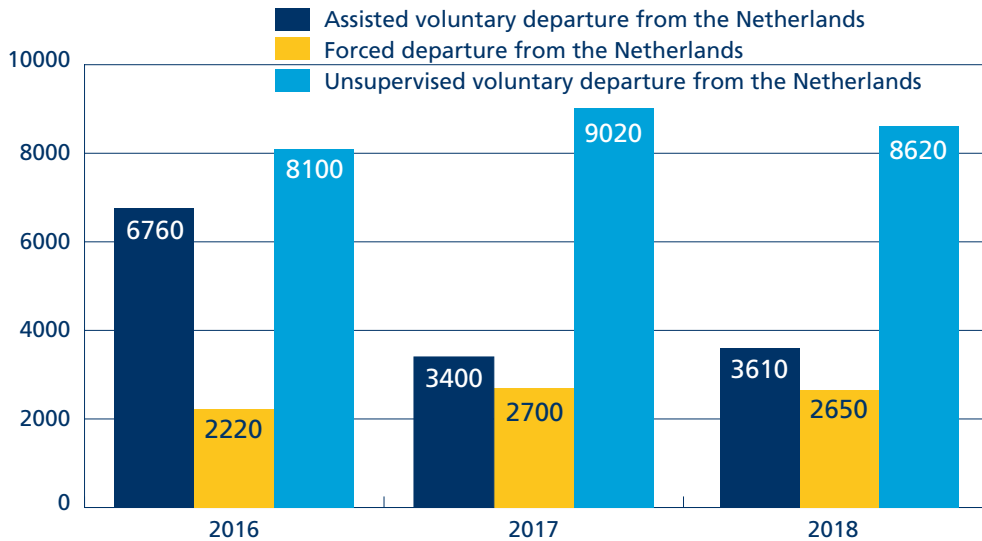
In 2018, the Repatriation and Departure Service (DT&V) registered 14,880 migrants from third countries who had left the Netherlands, whether or not this could be proven.<sup>194</sup>

This is a marginal decrease compared to 2017 (around 1.6%): in that year the DT&V registered 15,120 migrants from third countries who had departed from the Netherlands. The percentage composition of the group has remained almost the same as in 2017.

In 2018 the group 'independent return from the Netherlands' became considerably smaller compared to 2016. And while the group 'independent return without supervision' still showed a clear expansion in the period of 2016-2017, a slight reduction (around 4.4%) compared to 2017 is visible in 2018.

<sup>194</sup> *Repatriation and Departure Service (DT&V), 'Vertrekcijfers 2018' ['2018 Departure Statistics'], <https://www.dienstterugkeerenvertrek.nl/mediatheek/vertrekcijfers/index.aspx>.*

**Figure 7: The number of returnees registered by the DT&V in 2016, 2017 and 2018.**



Source: Repatriation and Departure Service (DT&V), Departure statistics.<sup>195</sup>

## 11.2 Policy developments

In 2018 various policy changes were implemented in the field of return. These changes concern, among other things, entry bans in the context of return, adaptation of the REAN return programme, the reception of migrants without a right to residence and collaboration in an EU context.

### 11.2.1 *Faster, sustainable and effective return*

#### *Clarification of imposition of departure period in the case of frustration*

The Aliens Act Implementation Guidelines (Vc)<sup>196</sup> have been clarified with regard to the rules for imposing a departure period on first-time applicants for a residence permit for international protection.<sup>197</sup> In some cases, the third-country national may the actual processing of the application for international protection, for example by not providing information or not attending a hearing. It has been decided that, in such cases when a third-country national does not comply with their obligations and the case will therefore not be considered, a departure period will be denied. Nonetheless, it still applies in those cases that individual circumstances may lead to a departure period being granted after al.

<sup>195</sup> Absolute correctness cannot be guaranteed for the data recorded in the registration system of the DT&V. This is for two reasons. Firstly, it takes some time to process files administratively. Secondly, registration is done manually, because of which the data provided may contain imperfections.

<sup>196</sup> The Aliens Act Implementation Guidelines (Vc) contain most policy rules and implementation instructions that apply to aliens policy.

<sup>197</sup> *Government Gazette*, 2018, no. 18081 (in Dutch).

*Intended decision procedure for issuing an entry ban at the border crossing point*

To execute the European Return Directive,<sup>198</sup> the Aliens Act Implementation Guidelines (Vc) were amended with respect to the procedure for imposing an entry ban.<sup>199</sup> If it is determined at the airport that a third-country national who is leaving the country has stayed irregularly in the Netherlands and the third-country national receives a return decision, an entry ban will be imposed in addition.<sup>200</sup> In practice, however, this has meant that there was often not enough time to issue a return decision and an entry ban before the departure of the flight booked by the third-country national. Previously, a procedure was chosen in which no return decision or entry ban was imposed in such situations, so that the third-country national could nevertheless exit on the scheduled flight. The policy change enables an intended decision procedure to start at the border crossing point if there are grounds for imposing an entry ban but the entry ban cannot be issued before departure. In that case, the third-country national will be told that an intention exists to impose an entry ban, even if the third-country national complies with the obligation to depart and will therefore no longer be in the Netherlands at the time it is imposed. The third-country national will be offered the possibility to express his/her views on this within four weeks. Within eight weeks after the period for putting forward one's views has expired, it will be decided whether the entry ban will actually be imposed.

*Residence status in another Member State and imposing a strict entry ban*

With respect to imposing an entry ban on third-country nationals, the Administrative Jurisdiction Division of the Council of State (AbRvS)<sup>201</sup> decided in January 2018 that a strict entry ban may also be imposed in cases in which another Member State has issued a valid residence permit to a third-country national.<sup>202</sup> This will make it possible to still deny a third-country national entry to the Netherlands when a serious public order aspect plays a part, even if the third-country national has valid residence status in another Member State. In this context, the European Court of Justice has explained the desired procedure in a ruling.<sup>203</sup> The Member State that granted the residence status must be consulted and asked whether it sees reason to withdraw the right of residence. The Netherlands has adjusted its policy accordingly.

*Support contribution for assisted voluntary return*

The State Secretary for Justice and Security announced on 8 June 2018 that efforts would be made to reinforce effective and efficient return to countries of origin, also including assisted voluntary return. In that context, the State Secretary decided to make the support offered by the REAN programme (Return and Emigration Assistance from the Nether-

198 Directive 2008/115/EC. Within a fixed term, the Member States of the European Union must convert European Directives into national legislation. The purpose of a directive is to ensure that the legislation of the different Member States is aligned. The Member States may determine individually how they work out the directive.

199 *Government Gazette*, 2018, no. 49154 (in Dutch).

200 Upon exit, only an entry ban is imposed at the external borders, no return decision.

201 The Administrative Jurisdiction Division of the Council of State (AbRvS) is the highest administrative court in the Netherlands.

This means that it is the highest court of justice that can pass judgment in disputes between citizens and the government.

202 AbRvS, 26/01/2018, no. 201604375/1; AbRvS, 31/01/2018, no. 201608027/1 (in Dutch).

203 EC CoJ, 16/01/2018, no. C-240/17.



lands)<sup>204</sup> possible for several categories of migrants.<sup>205</sup> This was done in response to an evaluation of a prior decision which made these categories no longer eligible for a support contribution. First of all, third-country nationals from visa-free countries are again able to make use of the REAN programme for assisted voluntary return to the country of origin or resettlement with IOM. This means that these third-country nationals may be eligible for a flight ticket, assistance in obtaining a travel document and a support contribution not exceeding two hundred euros per person. In addition, the State Secretary decided that third-country nationals coming from one of the countries mentioned in the groups below can also make use of the REAN programme, whereby they may be eligible for a support contribution of up to one hundred euros per person:

1. The Western Balkans<sup>206</sup>
2. Moldova, Ukraine and Georgia
3. The ring around Europe<sup>207</sup>

This support contribution is only granted to third-country nationals who possess insufficient means to travel on to their final destination after arrival. Furthermore, third-country nationals from the Western Balkan countries Moldova, Ukraine and Georgia are only eligible if they belong to the caseload of the Repatriation and Departure Service (DT&V). Vulnerable migrants from these countries who do not belong to the caseload of the DT&V may also return via the REAN programme.

#### *Legislative proposal: Repatriation and Detention of Aliens Act*

The House of Representatives adopted the legislative proposal for the Repatriation and Detention of Aliens Act on 19 June 2018. At present, the legislative proposal is being prepared in writing by the Senate.<sup>208</sup> The purpose of the legislative proposal is to provide a new administrative law framework for the detention of third-country nationals in the context of forced return. The legislative proposal also introduces a single, uniform regime for persons in territorial detention and third-country nationals in border detention. Aliens detention is a last resort in a range of return measures and is intended to keep third-country nationals available for removal from the country if they do not cooperate in their departure or constitute a realistic risk of absconding. In relation to return, a third-country national may only be placed in aliens detention if less drastic measures are not possible.<sup>209</sup> Those less drastic return measures are emphasised in this legislative proposal. To this effect the provisions in the Aliens Act (Vw) on stopping and questioning, provision of security, restriction of freedom and deprivation of liberty have been amended.

204 The REAN programme is the basic scheme of the International Organisation for Migration (IOM) for the voluntary return of migrants from the Netherlands. Basic provisions for departure are facilitated by this programme, such as counselling, a flight ticket and support in obtaining travel documents.

205 *Parliamentary Papers II*, 2017-2018, 29344, no. 134 (in Dutch).

206 Western Balkans means the countries Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. In addition, the same applies to Moldova, Ukraine and Georgia if they fall under the DT&V caseload. For more information, please see: <https://www.infoterugkeer.nl/terugkeerprojecten/overzicht-projecten/Projectdetails/rean.aspx>, consulted on 07/03/2019.

207 By the ring around Europe means the countries Morocco, Algeria, Tunisia, Egypt, Lebanon, Turkey, Belarus and Russia. For more information, please see: <https://www.infoterugkeer.nl/terugkeerprojecten/overzicht-projecten/Projectdetails/rean.aspx>, consulted on 7/03/2019.

208 For more information about the most recent state of affairs of the legislative proposal concerned, please see: [https://www.eerstekamer.nl/wetsvoorstel/34309\\_wet\\_terugkeer\\_en](https://www.eerstekamer.nl/wetsvoorstel/34309_wet_terugkeer_en), consulted on 18/02/2019.

209 *Parliamentary Papers II*, 2015-2016, 34309, no. 3 (in Dutch).

*Legislative proposal: A legal basis for stopping and questioning, transfer and retention of Dublin claimants and asylum seekers*

On 15 October 2018, a legislative proposal<sup>210</sup> was submitted to the House of Representatives to provide a legal basis for the stopping and questioning, transfer and retention of, among others, Dublin claimants.<sup>211</sup> If a third-country national is awaiting a decision on a residence permit application or transfer to another Member State pursuant to the Dublin Regulation,<sup>212</sup> it may be necessary in some cases to place the third-country national in aliens detention. To assess whether to proceed with placement in aliens detention under this provision, it may be necessary first to stop and question the third-country national, transfer him/her to a location intended for hearing and retain him or her there for some time. Under the existing powers this is permitted only if there is a reasonable suspicion of irregular stay. A Dublin claimant or a third-country national who has applied for international protection will usually be a legal resident, owing to which there is no legal basis for stopping and questioning the third-country national. The legislative proposal provides a legal basis for the stopping and questioning, transfer and retention for the purpose of detention. The compulsory measure of aliens detention exists to keep third-country nationals available for removal if they do not cooperate actively to their departure. The legislative proposal is intended to prevent detention from having to be lifted, while in itself it is justified for substantive reasons.

*Amendment of the basis for detention of asylum seekers in the appeal stage*

In the European Court of Justice judgments C-181/16 (Gnandi) and C-269/17, the European Court of Justice concluded that an asylum seeker whose application for international protection has been rejected and who has instituted a provisional ruling (vovo) during the appeal proceedings may well be irregular, but cannot be placed in detention under the Return Directive for the purpose of his/her removal from the country. In view of these judgments, an amendment was made to the procedure of detention of asylum seekers in the appeal stage. While they were initially placed in aliens detention under Section 59 of the Aliens Act (Vw) after rejection of the application for international protection, asylum detention is now extended under Section 59b of the Aliens Act.

*Redesign of the identification and registration process in the asylum procedure*

In 2015 and 2016, at the time of the European migrant crisis, the Netherlands was faced with an increased asylum influx. The government's Comprehensive Agenda on Migration, presented by the Rutte III government on 30 March 2018, states that adjustments will be made to the asylum procedure and relevant work processes, for the purpose of being able to respond better to fluctuations in the influx.<sup>213</sup> In the context of this flexibilisation of the cooperating organisations within the asylum system, it was to be examined in 2018 whether the identification and registration process of the National Police could also be organised differently.<sup>214</sup> At present, tests are being carried out on an accelerated identifi-

210 *Parliamentary Papers II*, 2018-2019, 35056, no. 3 (in Dutch).

211 The act became effective on 27 February 2019: *Nederlands Juristenblad* [Netherlands Law Journal], <https://www.njb.nl/wetgeving/staatsbladen/staandehouding-dublin-claimanten.29459.lynx>

212 The Dublin Regulation is a European regulation that clarifies which country is responsible for processing an application for asylum. Usually, the country where the third-country national enters the Schengen area is responsible.

213 *Parliamentary Papers II*, 2017-2018, 19637, no 2375. (in Dutch).

214 *Parliamentary Papers II*, 2017-2018, 19637, no 2415. (in Dutch).

cation and registration process and on the use of a multidisciplinary control panel so that the different cooperating organisations will jointly be able to aim sooner and better at the identification and registration process and the follow-up steps in an efficient asylum procedure and an effective return process. This contributes to an efficient asylum procedure and an effective return process.<sup>215</sup>

#### *Passport statement in the event of medical circumstances*

Third-country nationals can apply for postponement of departure on the basis of medical reasons (Section 64 of the Aliens Act) if, given the condition of their health, they are not able to travel to their country of origin at the time of removal from the country. The Aliens Act Implementation Guidelines (Vc) prescribe that, along with their applications, third-country nationals must submit a 'Passport statement in the event of medical circumstances'.<sup>216</sup> In it, the third-country national states that he/she will show identity documents to the Repatriation and Departure Service (DT&V) if, later in the procedure, accessibility to the necessary medical treatment in the country of origin needs to be investigated. DT&V assesses actual accessibility to medical care on return to the country of origin as soon as the third-country national has made it sufficiently plausible that medical care is inaccessible to him/her. It is stated on the application form that the person possesses a valid identity document, and a copy of this document must also be enclosed with the application form.

### **11.2.2      *Return of rejected asylum seekers***

#### *National Immigration Facilities (LVVs)*

A passage is included in the 2017 Coalition Agreement about the reception of migrants without a right to stay or National reception who are unable to return to their country of origin (in the foreseeable future). It provides that the national government and municipalities must strive together to make agreements on establishing National Immigration Facilities (LVVs).<sup>217</sup> These are shelter and counselling facilities in municipalities for third-country nationals without a right of residence or to Dutch national Government reception, who report to a municipality to claim (shelter) facilities. The planned National Immigration Facilities can help to prevent irregular stay and to limit the consequences of irregular stay for the local environment, with a central place for cooperation between the municipality and the national government. By providing asylum seekers who have exhausted all legal means with counselling for an assisted voluntary return, migration to a different country or, if applicable, legalisation of stay, the corresponding care and/or safety issues are addressed.

On 29 November 2018, the Ministry of Justice and Security reached an agreement with the Association of Netherlands Municipalities on the construction of the National Immigration Facilities. Five cooperative pilot projects will be started at the beginning of 2019

<sup>215</sup> *Parliamentary Papers II*, 2018-2019, 19637, no. 2443 (in Dutch).

<sup>216</sup> *Government Gazette*, 2018, no. 18081 (in Dutch).

<sup>217</sup> 2017-2021 *Coalition Agreement 'Confidence in the Future'*, 10/10/2017, VVD, CDA, D66 and ChristenUnie. Also see: National government, 'Programmastart Interbestuurlijk Programma (IBP)' ['Start of Inter-administrative Programme (IBP)'], <https://www.rijksoverheid.nl/documenten/rapporten/2018/02/14/programmastart-interbestuurlijk-programma-ibp>.

in the Municipalities of Amsterdam, Rotterdam, Utrecht, Eindhoven and Groningen.<sup>218</sup> If successful, a substantive administrative agreement will be concluded, after which work can be done on a network of eight National Immigration Facilities with national coverage.

### 11.2.3 *Common EU approach*

#### *European Return and Reintegration Network (ERRIN)*

The EU-programme European Return and Reintegration Network (ERRIN) started on 1 January 2018.<sup>219</sup> The aim of this programme is to address return from the European Union jointly to increase its effectiveness. The starting point is counselling during the return process, whereby third-country nationals receive assistance in returning through the provision of information and support in reintegration. The Netherlands uses these means of reintegration for forced return. In addition, ERRIN provides for the technical exchange of working methods among EU Member States and projects aimed at better cooperation with countries of origin. The focus in the ERRIN programme is placed on innovative and connecting solutions. This programme is implemented under the chairmanship of the Netherlands, for which the Repatriation and Departure Service (DT&V) is responsible. Besides being a member, the Netherlands is also chair of the strategic and operational steering group.

#### *Inclusion of biometric material for identification in the SIS*

In 2018, the first stage of the AFIS (Automatic Fingerprint Identification System) was launched in the Schengen Information System (SIS).<sup>220</sup> Where possible, the Dutch authorities involved in the identification process have taken measures to add biometric material (photographs and fingerprints) to the identification of persons who have been recorded in the Schengen Information System for the purpose of denying entry to the Schengen area. The purpose of these measures is to optimise the effectiveness of the AFIS.<sup>221</sup>

<sup>218</sup> *Parliamentary Papers II*, 2018-2019, 19637, no. 2445 (in Dutch).

<sup>219</sup> For more information, see: *International Centre for Migration and Policy Development (ICMPD)*, 'European and Global Initiatives', <https://www.icmpd.org/our-work/capacity-building/european-and-global-initiatives>, consulted on 16/01/2019.

<sup>220</sup> For more information, see: *EU-LISA*, 'EU-LISA successfully launches SIS II AFIS Phase One', <https://www.eulisa.europa.eu/Newsroom/News/Pages/eu-LISA-successfully-launches-SIS-II-AFIS-Phase-One.aspx>, consulted on 04/01/2019.

<sup>221</sup> Information provided by the Ministry of Justice and Security on 21/12/2018.

# APPENDIX A METHODOLOGY AND DEFINITIONS

## *Methodology*

This eleventh Annual Review is predominantly the result of desk research. The review was drawn up on behalf of the national EMN contact point in the Netherlands by Stefan Mancini, Anna Matus and Bas Donders. In doing so, they greatly benefitted from expertise at the Strategy and Implementation Advise Department (DSUA) of the Immigration and Naturalisation Service (IND) and the Migration Policy Department (DMB) of the Ministry of Justice and Security. The following parties have also provided a contribution to the compilation of this review: the Community and Integration Department and the Labour Relations Department of the Ministry of Social Affairs and Employment (SZW), the Ministry of Education, Culture and Science (OCW), the Repatriation and Departure Service (DT&V) and the Central Agency for the Reception of Asylum Seekers (COA) of the Ministry of Justice and Security (J&V), the Royal Netherlands Marechaussee (KMar) of the Ministry of Defence, the National Rapporteur on Trafficking in Human Beings, the Law Enforcement and Crime Prevention Branch (DRC) of the Ministry of Justice and Security, and the Consular Affairs and Visa Policy Department (DCV) of the Ministry of Foreign Affairs, the Public Prosecution Service, the National Police, the Education Executive Agency (DUO), and Nuffic.

Information on the preparation of legislation and regulations and on parliamentary debates originates from official sources. The following types of documents were consulted:

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

All these documents are available in the database of official publications on the website [www.overheid.nl](http://www.overheid.nl). This website is maintained by the Ministry of the Interior and Kingdom Relations.

Information about organisations and their viewpoints has mostly been obtained by consulting the websites of these organisations. Publications by various organisations with respect to asylum and migration have often been obtained from the websites of these organisations as well.

To gain insight into the public debate, use has mostly been made of the Internet. By means of the internet sites of large national newspapers and news and current affairs programmes on national television (by both public and commercial broadcasters), it was determined which topics related to asylum and migration were given much attention in

the media. An important source of information about social debates was the weekly *Nieuwsberichten* (news items) about migration on *Migratierecht.nl*, a digital publication by Sdu Uitgevers.<sup>222</sup> In addition to a general survey of topics related to asylum and migration, research also included specific topics debated in parliament.

The objective of the Annual Review is to reflect all the important developments in the fields of migration and asylum. In order to achieve this objective, a number of criteria were used for the definition of ‘important developments’. In these criteria, a distinction was made between changes in law and regulations on the one hand, and political and social debates on the other.

#### *Criteria for the importance of changes in law and regulations*

The review strives to provide as complete an overview as possible of the changes and intended changes in law and regulations in the various policy domains addressed. All changes and intended changes that entail an actual substantive change to these laws and regulations have been included in the report. Only minimal changes have not been included (for example, the annual increase of certain income requirements).

#### *Criteria for the importance of political and social debates*

The review does not aim at completeness with respect to the political and social debates and developments. The objective of the Annual Review is to give an impression of the most important topics of debate in the field of asylum and migration in the Netherlands. The following criteria have been used to make a selection. To be included in the review, a political or social debate must meet at least the following cumulative requirements:

- The topic was brought up for debate in parliament;
- The topic was ‘in the news’ for a longer period. In that case, it must have been reported on by various news media.

#### *Implementation of European legislation and regulations*

The Annual Review aims at giving a complete picture of the implementation of European legislation and regulation in the fields of asylum and migration. Hence, all developments in this field have been addressed.

#### *Terms and definitions*

This review has adopted the definitions of relevant terms in the EMN Asylum and Migration Glossary 6.0.<sup>223</sup> The terms and definitions in this glossary, developed by the EMN, aim, inter alia, at improving comparability of information exchanged between EU Member States.

<sup>222</sup> Available on the non-public website: <https://migratierecht.sdu.nl/> (in Dutch)

<sup>223</sup> *Asylum and Migration Glossary 6.0 – a tool for better comparability produced by the European Migration Network*, May 2018. Available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en).

## APPENDIX B STRUCTURE OF THE DUTCH ASYLUM AND MIGRATION POLICY

In the Netherlands, various ministries and other organisations play a role in the development and implementation of policies in the field of asylum and migration. The task of every organisation in the field of asylum and migration is briefly explained below (see also the illustration below):

- The **State Secretary for Justice and Security** is responsible for policies in the field of admissions, residence and return of third-country nationals. In addition, the State Secretary leads the organisations cooperating in the immigration process.
- The **Minister of Social Affairs and Employment** is responsible for the admission of third-country 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 visa policy. The Minister of Foreign Affairs is also responsible for the compilation of official reports, which describe the situation in important countries of origin of asylum seekers, and individual official reports, used for the assessment of facts or documents presented by an asylum seeker for correctness and authenticity.
- The **Minister of Defence** is responsible for the policy on admission and control at the border.
- The **municipalities** are responsible for the accommodation of holders of residence permits for international protection and also have a role in handling 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 Justice and Security, is responsible for the implementation of the Aliens Act and the Netherlands Nationality Act. This agency assesses all applications from third-country nationals who stay or want to stay 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, the IND assesses all applications for a regular provisional residence permit (MVV) on behalf of the Minister of Foreign Affairs.
- The **Repatriation and Departure Service (DT&V)**, an agency of the Ministry of Justice and Security, is responsible for organising a humane and professional departure of third-country nationals who have to leave the Netherlands.
- The **Central Agency for the Reception of Asylum Seekers (COA)**, an independent administrative body, is responsible for the reception of asylum seekers. Commissioned by the State Secretary of Justice and Security, COA offers people safe housing and supports them in preparing for their future in the Netherlands or elsewhere. This mainly concerns asylum seekers and refugees, and specific groups such as unaccompanied

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

- The **Council for Legal Aid (RvR)** is an independent administrative body that is responsible for subsidised legal aid in the Netherlands on behalf of the Ministry of Justice and Security. The responsibilities of this organisation include arranging the provision of legal aid in asylum cases.
- The **Custodial Institutions Agency (DJI)**, an agency of the Ministry of Justice and Security, is responsible for executing freedom-restricting measures for the removal of third-country nationals from the Netherlands, including detention (the so-called aliens detention).
- The **Royal Netherlands Marechaussee (KMar)**, part of the Ministry of Defence, has the important task of enforcing the Aliens Act. The KMar is responsible for border monitoring, border control and border surveillance. By way of this task, the KMar also contributes, inter alia, to the combating of irregular immigration. In the maritime domain, the Seaport Police fulfil the border-control task.
- The **National Police, Unit Foreign National's Identification and Human Trafficking (AVIM)** is part of the National Police. It supervises the lawful residence of third-country nationals.
- The **General Intelligence and Security Service (AIVD)** provides the IND with information when subjects of investigation are concerned against whom the IND can take action in the interest of national security.
- The **Seaport Police (ZHP)**, also part of the National Police, are responsible for border surveillance in the Port of Rotterdam.
- The **Employee Insurance Agency (UWV)** is an independent administrative body that is commissioned by the Ministry of Social Affairs and Employment. Among other things, it is entrusted by the ministry with the task of providing binding advice on applications for a combined residence and work permit (single permit) for third-country nationals who want to work in the Netherlands and for the issuing of work permits.
- The **Netherlands Enterprise Agency (RVO)** is part of the Ministry of Economic Affairs and Climate Policy (EZK), but also performs assigned tasks on behalf of other ministries, including the Ministry of Foreign Affairs and the Ministry of the Interior and Kingdom Relations. Additionally, the RVO is commissioned by the European Union. For a number of residence permits, the IND calls for advice from the Netherlands Enterprise Agency.
- **Diplomatic missions** are Dutch embassies, consulates, consulates general and permanent representations at international organisations. The diplomatic missions process applications for short-stay visas. Moreover, third-country nationals who want to become Dutch nationals abroad can file their applications for naturalisation with diplomatic missions. This is also where they can sit their mandatory civic integration examination and attend the mandatory naturalisation ceremony.
- The **Council of State (RvS)** is an independent adviser to the government on legislation and orders in council (AMvBs), and it is 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 policy on foreign nationals.
- The **Research and Documentation Centre (WODC)** is part of the Ministry of Justice and Security. The WODC is entrusted with the task of conducting research, including 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 an important role in the Netherlands in the voluntary return and reintegration of third-country nationals.
- The **Dutch Council for Refugees (VWN)** is a foundation that provides practical assistance to asylum seekers and promotes their interests in the political debate.
- **Nidos Foundation** has been appointed as the organisation entrusted with the temporary guardianship of unaccompanied minors (UAMs) pursuant to the Dutch Civil Code (Bw).

# Netherlands

## Institutional Framework for asylum and migration\*

### Ministries

**Ministry of Defense**  
<https://english.defensie.nl/>  
**Bordercontrol**

**Ministry of Justice and Security (J&V)**  
[www.government.nl/ministries/ministry-of-justice-and-security](http://www.government.nl/ministries/ministry-of-justice-and-security)  
**Policy development and EU Funds**  
**Directorate-General Migration**

- Responsible for (strategic) policy development on entry, stay and return of foreign nationals, acquisition and loss of Dutch citizenship
- Support and steer the organisations that implement this policy
- Authority over the Royal Netherlands Marechaussee and the National Police regarding the supervision of foreign nationals

**Ministry of Foreign Affairs**  
[www.government.nl/ministries/ministry-of-foreign-affairs](http://www.government.nl/ministries/ministry-of-foreign-affairs)  
**Policy development, Relations with third countries, Visa**

- Grant visas at the embassies and consulates
- Draft general official notices COI

**Ministry of Social Affairs and Employment (SZW)**  
[www.government.nl/ministries/ministry-of-social-affairs-and-employment](http://www.government.nl/ministries/ministry-of-social-affairs-and-employment)  
**Policy development, Labour market access, (Civic) Integration**

- Responsible for labour market policy and Integration

**Administrative Law Division of the Council of State (AbRvS)**  
**Ultimate appeals in immigration cases**

**Council for Legal Aid (RvR)**  
**Organization of subsidised legal aid in asylum cases**

### Courts and legal aid

### Executive organisations

**Royal Netherlands Marechaussee (KMar)**  
**Border and visa control, Entry, Prevention of illegal migration**

- Border Control
- National supervision of foreign nationals
- Support in asylum procedure
- Escort returnees

**Immigration and Naturalisation Service (IND)**  
**Entry and admission, Residence permits, Naturalisation (citizenship), Asylum applications**

- Decision-making on residence permit applications
- Implementation and development of policy on the above (policy regarding foreign nationals/aliens)
- Decision-making on naturalisation and citizenship

**Central Agency for the Reception of Asylum Seekers (COA)**  
**Reception and housing, Unaccompanied minors**

- Arrangement of reception and housing for asylum applicants

**Repatriation and Departure Service (DT&V)**  
**Return**

- Responsible for the facilitation of return by third-country nationals who must leave the Netherlands

**UWV WERK-bedrijf**  
**Work permits**

- Gatekeeper for the Dutch labour market
- Supports migrants looking for work
- Grants work permits

**National Police, Unit Foreign National's Identification and Human Trafficking (ZIVIM), Seaport Police (ZHP)**  
**Illegal residence/Migration crime, Border control**

- Combating migration crime/human trafficking
- Identification and registration of asylum seekers
- Border control

**Custodial Institutions Agency (DJI)**  
**Removal**

- Arrange the remand to alien's detention for the purpose of removal

**Netherlands Enterprise Agency (RVO)**  
(Part of Ministry of Economic Affairs and Climate Policy)  
**Self-employed persons and start-ups**

- Advising the IND on permit conditions for self-employed persons and start-ups

**Municipalities**  
**Integration, Naturalisation, Social service**

- Cooperation with all kinds of partners
- Registration of foreign nationals
- Intake of naturalisation requests
- Civic integration
- Naturalisation ceremony

- ..... Cooperation
- Coordination

\*Please note that this institutional chart provides an indicative overview of the asylum and migration system in the Netherlands in 2019.



Immigration and Naturalisation  
Service  
*Ministry of Justice and Security*



Funded by the European Union's  
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#### **EMN Netherlands**

The European Migration Network (EMN) is an EU network of migration and asylum experts who work together to provide objective, comparable policy-relevant information. The European Commission coordinates the European Migration Network. National Contact Points (NCPs) are established in all Member States (except Denmark) and Norway. EMN Netherlands is the Dutch contact point of the network, housed at the Immigration and Naturalisation Service (IND) in The Hague. EMN Netherlands cooperates with policy makers, scientists and representatives of social organizations. EMN Netherlands supports the development of a fact-based migration policy, in the Netherlands and Europe.  
[www.emnnetherlands.nl](http://www.emnnetherlands.nl)