

Annual Report 2021

Migration and asylum in the Netherlands

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ABOUT THE EUROPEAN MIGRATION NETWORK

The European Migration Network (EMN) is an EU network of migration and asylum experts. The EMN plays a key role in providing policymakers and the wider public with up-to-date, objective, reliable and comparable information on migration and asylum. This is essential for the EU to better respond to the challenges in these areas. The EMN was legally established under the Council Decision 2008/381/EC. The European Commission (Directorate- General for Migration and Home Affairs) coordinates the EMN, supported by a Service Provider (ICF), in cooperation with National Contact Points (EMN NCPs) appointed by EU Member States plus Georgia, Moldova and Norway. EMN NCPs are located within the ministries of interior and of justice, specialised government agencies dealing with migration, research institutes, non-governmental organisations or national offices of international organisations. In their own countries, the EMN NCPs form national networks with a wide range of relevant stakeholders.

Summary

The 2021 Annual Report of the European Migration Network Netherlands (EMN Netherlands) provides insight into the main developments in Dutch migration and asylum policy in 2021. Themes addressed are: main topics within the political and public debate, legal migration, international protection (asylum), unaccompanied minors and other vulnerable groups, integration, citizenship and statelessness, border control, visa policy and Schengen, irregular migration, measures against human trafficking, return, and migration and development cooperation.

The report was drafted by EMN Netherlands and is based on desk research and the input from experts of the Dutch migration authorities, such as the Immigration and Naturalisation Service (*Immigratie- en Naturalisatiedienst* - IND) and ministries responsible for (elements of) migration and integration policy, such as the Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid* – JenV) and the Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid* - SZW). The EMN has also produced an overarching Annual Report on migration and asylum policies in the Member States. This international comparative report as well as the national annual reports from the other Member States are available on the European EMN website.¹

Main developments and topics within the political and public debate in the field of migration in 2021 included the crisis in Afghanistan and the resulting evacuations; the shortage of reception capacity for asylum seekers and housing for beneficiaries of international protection; a report by a number of migration lawyers about the human dimension in the Dutch migration and asylum policy; the backlog in asylum cases and (the criticism of) the Taskforce appointed to reduce this backlog; the problem of nuisance caused by a group of asylum applicants and corresponding policy developments; and the political discussion surrounding the legislative changes to the general asylum procedure. In addition, for the majority of 2021 a caretaker cabinet was in place, resulting in legislative proposals being put on hold until the new government presented its coalition agreement at the end of the year.

In relation to **legal migration**, most policy developments took place in the area of economic migration and family migration. For economic migration, developments included measures to prevent misuse of the regulations of some kind. For example, due to signals of misuse of the regulation on specialized Asian cooks, the regulation was suspended. In addition, as of 2021, more documents of proof were requested in applications for intra-corporate transferees by sponsors. The purpose of this policy development is to enable the authorities to better examine whether the conditions for transfers are met and whether the Dutch branch performs economic activities. Furthermore, a new regulation took effect that offers a residence permit to essential start-up personnel. In relation to family migration, new cooperation agreements were established with the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR), in order to ensure faster completion of applications by family members joining beneficiaries of international protection in the Netherlands.

Concerning **asylum**, the shortage of reception capacity for asylum applicants was a prominent theme in 2021. Before the end of the year, a minimum of 2.000 extra reception places were necessary. In addition, several changes to the asylum procedure came into effect to respond better to fluctuations in the asylum influx. In the field of safe countries of origin, certain countries were reassessed, which is something that is done periodically. Furthermore, previously confidential country reports of the IND have been made public in 2021. In addition, a decision and departure moratorium was installed for the Ethiopian region of Tigray as well as for Afghanistan. The evacuation framework for Afghanistan was also an important subject in 2021. Around 2.200 Afghan nationals were evacuated during August 2021, all of which have completed a shortened asylum procedure and received a positive decision. The framework for the evacuations will be extensively evaluated in order to identify areas of improvement.

¹ European Commission, 'EMN Annual reports': https://ec.europa.eu/home-affairs/networks/european-migration-network-emn/emn-publications/emn-annual-reports_en.

As for **minors and other vulnerable groups**, in 2021 additional funds were made available to improve the primary and secondary school education of third country national minors. Furthermore, several policy changes were introduced specifically with regard to *unaccompanied* minors (UAMs). These include the introduction of prolonged reception and support to UAMs transitioning into adulthood; the possibility to apply for family reunification for UAMs who live with a family member in the Netherlands; and the obligation to investigate the adequacy of reception facilities in the country of origin before issuing a return decision – and not only before carrying out the return decision – in accordance with a ruling of the Court of Justice of the EU (ECLI:EU:C:2021:9). With regard to other vulnerable groups, the Dutch Parliament issued a draft resolution to improve the safety for gay, bisexual, transgender, queer or questioning, and intersex (LGBTQI) asylum seekers in reception centres.

As for **integration**, the most important development was the new civic integration act (*Wet Inburgering 2021*) that came into effect as of January 2022, and for which preparations were ongoing throughout 2021. The new act aims at ensuring a better and faster integration process and envisages a more substantial involvement of municipalities in this process. Extra funding was made available for municipalities in order to achieve this goal. Furthermore, a range of different developments took place in the area of integration. For example, the civic integration period was extended for third country nationals who were experiencing delays due to COVID-19 measures. In addition, several measures took place in the area of anti-discrimination, as the Dutch government is committed to strengthening the awareness of effects of discrimination and discriminative behaviour in governmental organisations. The driver of these developments was the Dutch childcare benefits affair (the so-called *kinderopvangtoeslagaffaire* or *toeslagenaffaire*). This affair concerned false allegations of fraud made by the Tax and Customs Administration while attempting to regulate the distribution of childcare benefits. The procedures used to select and investigate cases in which suspicions arose, led to parents without the Dutch nationality being more likely to be investigated by the Tax and Customs Administration.

In relation to **Dutch citizenship**, a development took place regarding the so-called RANOV (*Regeling ter afwikkeling nalatenschap oude Vreemdelingenwet - RANOV*) permit holders, foreign nationals who fell under the 2007 general amnesty and therefore received a legal residence permit. RANOV permit holders who wish to become naturalised as a Dutch citizen were exempted from the requirement to submit a valid foreign passport and birth certificate. The objective of this change is to overcome the biggest challenge faced by RANOV permit holders in the naturalisation procedure, i.e. the document requirement. Furthermore, a bill that initiates a procedure to determine a person's statelessness was discussed in the Parliament in 2021. The processing of the bill continued in 2022.

In the field of **border management**, specifically regarding COVID-19, the quarantine obligation 'Quarantine obligation for travellers entering the Netherlands act' (*Wet quarantaineverplichting inreizigers*) entered into force. In addition, the Schengen Evaluations on return and external borders took place. Also, developments took place concerning digitalization and the implementation of EU law regarding border management.

Concerning **irregular migration and migrant smuggling**, the conditions for residence permits for au pairs have been refined in order to combat misuse. In addition, the Netherlands invested in improving awareness raising campaigns to prevent irregular migration, and in pilots to achieve sustainable solutions to prevent irregular stay. In the area of migrant smuggling, a new (organized) route via Belarus was identified.

In the field of **trafficking in human beings**, the municipal approach to combatting human trafficking was strengthened, and the Minister for Migration accepted several policy recommendations made by the National Rapporteur on the Trafficking in Human beings and Sexual Violence against Children. With regard to international cooperation, the Netherlands established joint investigation teams under the

umbrella of the European Multidisciplinary Platform Against Criminal Threats (EMPACT). The Netherlands also launched the Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS) in cooperation with the IOM, which amongst other things aims to raise awareness regarding human trafficking. Finally, in the context of the Khartoum process the Netherlands organized a four-module Webinar Series on human trafficking in cooperation with the International Centre for Migration and Policy Development (ICMPD).

In the area of **return**, a policy change now allows for the issuing of an entry ban by e-mail if a migrant has already left the territory of the Netherlands. In addition, in 2021 returns were temporarily halted for third country nationals from Afghanistan and from the regional state Tigray in Ethiopia, as well as for ethnic Tigrayans. Concerning **voluntary return**, the Dutch uptake of the Frontex Application for Return (FAR, a web-based platform to enable the exchange of information between Frontex and EU Member States) was expanded to foreign nationals who leave the Netherlands voluntarily, and Sierra Leone was added to the remigration benefit scheme of the Dutch Social Insurance bank. With regard to **forced return**, following a policy amendment a new fourth element must be included in the return decision, namely information about the country of return of the third country national.

Finally, in the field of **international cooperation** the Netherlands launched COMPASS in cooperation with the IOM (see also above under trafficking in human beings). The Netherlands further funded the National Assisted Voluntary Return and Reintegration mechanism in Turkey in cooperation with the International Centre for Migration Policy Development (ICMPD), and implemented EU readmission agreements with Bosnia-Herzegovina and Moldova.

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1

Introduction

The migration domain is highly dynamic. Every year, adjustments are made within migration and asylum policies of the Member States of the European Union (EU) in response to different international and national developments. Drivers for policy changes can include evaluations of policy as well as elections. However, revision of policy can also stem from events at the national level or abroad, which impact migrants in such a way that the policy no longer suits the situation at hand. In addition, legal and policy changes on the EU-level are also reflected in national policy developments.

In 2021, a range of policy developments in the field of migration took place in the Netherlands. Just like the previous year, 2021 was impacted by the COVID-19 pandemic. Even so, several measures in the migration and asylum domain adopted in 2020 due to the pandemic were lifted in 2021. This included previously installed travel restrictions for family members of migrants residing in the Netherlands. In addition, asylum seekers were able to attend more physical interviews than in 2020. Another major development in 2021 concerned the crisis in Afghanistan following the retreat of all American military personnel. The subsequent takeover of the country by the Taliban resulted in evacuations from Afghanistan to other countries, including the Netherlands, which caused a demanding situation for the relevant migration authorities. Furthermore, in March 2021 new general elections took place in the Netherlands, though the elected parties were unable to form a new government until January 2022. This meant that the previous cabinet retained its demissionary status until the end of 2021. As a consequence, the introduction and treatment of several legislative initiatives in the House of Representatives and the Senate was postponed in 2021.

The European Migration Network (EMN), as an EU research network for migration and asylum, plays a key role in informing policymakers, researchers and the wider public on policy developments. EMN reports provide up-to-date, objective, reliable, and comparable information on migration and asylum in the Member States. This is essential for the EU to better respond to challenges in these areas. The European Commission (Directorate-General for Migration and Home Affairs) coordinates the EMN, supported by a Service Provider, in cooperation with National Contact Points (EMN NCPs) appointed by EU Member States as well as Georgia, Moldova and Norway.

Each year, EMN Netherlands produces a national Annual Report on migration and asylum. This report provides for an overview of the most important developments within migration and asylum policy in the Netherlands. The Annual Report also highlights important topics within the political and public debate in the migration domain. The information on national developments is not only useful to the wider public and national stakeholders; it is also of importance for policymakers in the European Commission in determining the impact of EU legislation and policies.

The EMN has also produced an overarching Annual Report on migration and asylum policies, based on input of the EMN Member States and EMN observers. This international comparative report and the national annual reports from other countries are available on the European EMN website.² Additionally, EMN Country Factsheets are composed. These factsheets provide a succinct summary of the main developments in each EMN Member State and EMN observers in a given year. The EMN Country Factsheets also provide an overview of most recent migration and asylum-related statistics.

² European Commission, 'EMN Annual reports': https://ec.europa.eu/home-affairs/networks/european-migration-network-emn/emn-publications/emn-annual-reports_en.

2 Main topics within the political and public debate in the field of migration

This chapter addresses major topics within the political and public debate in the field of migration in 2021 in the Netherlands. It also discusses the caretaker government that was in place for the majority of the year, which had important political consequences including in the field of migration. Please note that only the most important debates are highlighted in this chapter, and that it is therefore not exhaustive. In addition, this chapter focuses on developments that took place in 2021. For this reason, the follow-up debates and actions in 2022 are (mostly) not addressed.

2.1 Demissionary (caretaker) cabinet and new coalition agreement

The resignation of the Dutch cabinet and the formation of a new government in 2021 had important political consequences in the Netherlands, including in the area of migration and asylum. On 15 January 2021, the Dutch cabinet resigned and thereby assumed a so-called demissionary status. The Prime Minister announced the resignation in reaction to the findings of a report³ issued by the Parliamentary Interrogation Committee on Childcare Benefits, which investigated the position of families who were accused of fraudulent use of the Dutch childcare benefits system by the Tax and Customs Administration (*Belastingdienst*).⁴ The majority of the Ministers and State Secretaries continued their positions in a caretaker administration. A demissionary or caretaker government only takes care of ongoing as well as urgent and pressing matters – including measures to combat the consequences of the COVID-19 pandemic – until a new cabinet assumes office. This means that it does not decide on matters which are deemed ‘controversial’ by the States General (which is comprised of the House of Representatives and the Senate), and it does not initiate ‘controversial’ legislation.⁵ In March 2021, new general elections took place, however the elected parties were unable to form a new government until January 2022. This meant that the previous cabinet retained its demissionary status until the end of 2021. As a consequence, the introduction and treatment of several legislative initiatives in the House of Representatives and the Senate was postponed in 2021. These included important legislative initiatives that aim to introduce changes in Dutch asylum and migration laws:

- In July 2020, the Temporary Penalty Payments by the IND Suspension Act (*Tijdelijke wet opschorting dwangsommen IND*) entered into force. This meant that asylum seekers whose asylum application was not dealt with in a timely manner by the IND were no longer entitled to compensation (penalty costs). As a follow-up to this Temporary Act, in March 2021 the Minister for Migration proposed an amendment to the Aliens Act that allows for the permanent abolishment of entitlement to compensation for all aliens who issue a request under the Aliens Act and fail to receive a timely decision on their request (*Wet herziening regels niet tijdig beslist in vreemdelingen zaken*). This legal initiative was deemed controversial by the House of Representatives, and was therefore not treated in 2021.⁶

3 House of Representatives, ‘Final report of the parliamentary commission of inquiry on child care allowance (Eindverslag parlementaire ondervragingscommissie kinderopvangtoeslag)’, https://www.tweedekamer.nl/sites/default/files/atoms/files/20201217_eindverslag_parlementaire_ondervragingscommissie_kinderopvangtoeslag.pdf, last accessed 19 May 2022.

4 Dutch Central Government, ‘Declaration of the Prime Minister Mark Rutte on the resignation of the cabinet’ (Verklaring van minister-president Mark Rutte over het aftreden van het kabinet), <https://www.rijksoverheid.nl/documenten/publicaties/2021/01/15/verklaring-van-minister-president-mark-rutte-over-het-aftreden-van-het-kabinet>, last accessed 19 May 2022.

5 Dutch Parliament, ‘Controversial’, <https://www.parlement.com/id/vkd6cdn4i4va/controversieel>, last accessed 19 May 2022.

6 House of Representatives, ‘Wijziging van de Vreemdelingenwet 2000 teneinde te voorzien in herziening van de regels voor niet tijdig beslissen op aanvragen op grond van de Vreemdelingenwet 2000 (Wet herziening regels niet tijdig beslissen in vreemdelingen zaken)’, <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=-2021Z04092&dossier=35749>, last accessed 31 May 2022.

- In 2020, the Senate had suggested an amendment to the proposed but not yet adopted Return and Immigration Detention Act (*Wet terugkeer en vreemdelingenbewaring*).⁷ The Act governs the conditions under which aliens can be detained as a result of a measure of administrative law. That is, the administrative detention of aliens in the Netherlands is currently governed by the Border Accommodation Regime Regulation (*Reglement Regime Grenslogies*) and the Penitentiary Principles Act (*Penitentiaire beginselenwet*), which means that aliens who are detained as a result of such a measure fall under the criminal justice regime. The proposed Return and Immigration Detention Act ensures that the administrative detention of aliens is no longer governed by these laws. After the Advisory Division of the Council of State reviewed the Act, the Minister for Migration introduced an amendment.⁸ This proposed amendment to the Act has been deemed controversial by the House of Representatives, which is why the proposal was halted and has not yet been treated in 2021.⁹
- In December 2020, the cabinet had proposed an amendment to the Aliens Act (*Vreemdelingenwet*), which aims to shorten the validity period of temporary asylum permits.¹⁰ The current validity period of temporary asylum permits in the Netherlands is five years. After this time period, the permit holder can apply for a permanent residence permit or a renewal of the temporary permit. Under the legislative proposal, the validity period of residence permits for both asylum seekers who have been recognized as refugees and those who have been recognized as beneficiaries of subsidiary protection is shortened to three years. This would mean that a beneficiary of international protection will be required to once again apply for another temporary asylum permit after three years before he/she is able to apply for a permanent residence permit. The legislative proposal was deemed controversial by the House of Representatives and was therefore not treated in 2021.¹¹

On 15 December 2021, a new coalition agreement between the political parties who would form the next government was presented; and on 10 January 2022, a new cabinet took office.¹² The 50-page coalition agreement lays out the main policy plans and priorities for the new government (2022-2025), and contains paragraphs on (civic) integration and migration. In the area of integration, the agreement mentions both the need for the migrant to take responsibility and of society to provide the opportunity to participate fully. In the area of migration, the agreement reiterates the commitment to a just, humane and effective asylum and migration policy, with an emphasis on well-managed migration. Two pillars are mentioned, on the one hand improving and strengthening legal migration and on the other hand limiting irregular migration, combatting nuisance and misuse, as well as promoting return in case of irregular stay. The coalition agreement further contains proposals in the areas of labour migration, asylum, strengthening the organisation of migration, and in the area of reception and return. The overarching objective(s) of the migration policies of the new government are for migration to follow a structured course as much as possible, to prevent as much as possible unwanted migration flows, and to maintain and strengthen support for migration in Dutch society. The overarching aim of the integration policies of the new government are to ensure that in Dutch society a person's future is not determined by his or her background.¹³

7 Dutch Senate, 'Return and Immigration Detention Act', https://www.eerstekamer.nl/wetsvoorstel/34309_wet_terugkeer_en, last accessed 19 May 2022.

8 The Advisory Division of the Council of State considered that the maximum duration of an imposed lockdown (as proposed in the Act) should not exceed a time period which is strictly necessary to ensure the return of order and safety, the Minister for Migration adjusted the duration of the lockdown from the proposed maximum of six weeks to a maximum of four weeks.

9 House of Representatives, 'Wijziging van de Wet terugkeer en vreemdelingenbewaring met het oog op het handhaven van de mogelijkheden om maatregelen te nemen ten aanzien van overlastgevende vreemdelingen', <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=2020Z11768&dossier=35501>, last accessed 19 May 2022.

10 *Parliamentary Papers II*, 2020-2021, 35691, no. 3.

11 *Parliamentary Papers II*, 2020-2021, 5718, no. 90.

12 Dutch Central Government, 'Fourth Rutte Government Sworn in', <https://www.government.nl/latest/news/2022/01/10/fourth-rutte-government-sworn-in>, last accessed 31 May 2022.

13 Dutch Central Government, 'Coalition agreement 'Looking out for each other, looking ahead to the future'', <https://www.government.nl/documents/publications/2022/01/10/2021-2025-coalition-agreement>, last accessed 19 May 2022.

2.2 Afghanistan crisis

The crisis in Afghanistan and the resulting evacuations had a major impact in the Netherlands in 2021. Following the announcement of US president Biden on 14 April 2021 that all American military personnel would have fully retreated by 11 September, NATO decided to terminate its Resolute Support Mission. Between 19 - 24 April 2021, the Dutch Ministries of Foreign Affairs and Defense visited Kabul to analyse threats against local staff, assess which measures international partners were taking, and to update plans for the staff's evacuation (i.e. by designing plans for a non-combatant evacuation based on various security scenarios).

In the second quarter of June 2021, the Dutch government decided to **ease the documentary requirements** for the granting of travel permits to interpreters from Afghanistan. In addition, the Dutch government looked at the possibility of providing laissez-passers to Afghan interpreters to ease the process of leaving Afghanistan and traveling to the Netherlands. However, this was not possible since the requirements of the Afghan authorities did not allow for this (i.e. all persons wanting to leave Afghanistan had to be in possession of valid travel documents).¹⁴ On 11 August, the Ministry of Justice and Security announced a postponement of decision-making of asylum applications and returns of Afghans (a **decision and departure moratorium**), due to the uncertain situation in Afghanistan.¹⁵ Until the takeover of Kabul by the Taliban on 15 August, 111 interpreters and other persons working for the Dutch military or police missions, including their core families (in total approximately 500 persons) were evacuated to the Netherlands, the majority of which arrived in 2018.¹⁶

On 9 August, a crisis team was established within the Ministry of Foreign Affairs, which was expanded on 13/14 August.¹⁷ On 18 August, a motion was approved in the Dutch House of Representatives (motion Belhaj) to **broaden the group of persons who qualified for evacuation**. The House concluded that not only interpreters, but also other categories of local employees who worked for the Netherlands (including human rights activists and journalists) were entitled to international protection in line with the EASO Country Guidelines on Afghanistan.¹⁸ On 26 August, the Dutch **evacuation operation ended**.¹⁹

Evacuees from Afghanistan were accommodated by the Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan opvang Asielzoekers* – COA) in **emergency reception locations** (some provided by the Dutch military service).²⁰ Special teams of the Immigration and Naturalisation Service (*Immigratie- en Naturalisatiedienst*– IND) were sent to these locations to process the **asylum applications** through a shortened procedure.²¹ On 30 August, it was announced that the **pre-registration** of approximately 1900 Afghan evacuees was completed.²² Furthermore, the IND assisted evacuees from Afghanistan arriving at Schiphol, and liaison officers were placed in Islamabad and Tbilisi.²³

In September 2021, the **Ministers of Defense and Foreign Affairs were heavily criticized** by the House of Representatives for what was considered a chaotic evacuation operation. Following a motion of

14 *Parliamentary papers II*, 2020-2021, 35 570 X, no. 94; this information was supplemented by the Directorate for Migration Policy (DMB) of the Ministry of Justice and Security (JenV).

15 *Parliamentary papers II*, 2020-2021, 19637, no. 2825.

16 Dutch Ministry of Defence, 'Evacuation flights Afghanistan', <https://www.defensie.nl/onderwerpen/evacuatievluchten-afghanistan>, last accessed 19 May 2022.

17 This information was provided by the Ministry of Foreign Affairs on 8 June 2022.

18 *Parliamentary papers II*, 2020-2021, 27 925, no. 788; this concerns Afghans who worked for the Netherlands or as part of the Netherlands' contribution to international military or police missions and face an elevated risk as a result. This group includes, in particular, staff of Dutch development projects, human rights and women's rights defenders and journalists and their fixers; see Dutch Central Government, 'Letter to the Parliament on the implementation of the motion Belhaj et al. concerning the expansion of categories relating to the special procedure for interpreters', <https://www.government.nl/documents/kamerstukken/2021/08/18/letter-parliament-motion-belhaj-expansion-categories-special-procedure-interpreters>, last accessed 8 June 2022.

19 Dutch Ministry of Defence, 'Evacuation flights Afghanistan', <https://www.defensie.nl/onderwerpen/evacuatievluchten-afghanistan>, last accessed 19 May 2022.

20 This information was provided by the Directorate for Migration Policy (DMB) of the Ministry of Justice and Security (JenV).

21 IND, 'increased IND-deployment for evacuees from Afghanistan', <https://ind.nl/nieuws/paginas/ind-inzet-voor-afghaanse-evacu%C3%A9s-uitgebreid.aspx>, last accessed 19 May 2022.

22 IND, 'Pre-registration evacuees from Afghanistan completed', <https://ind.nl/nieuws/paginas/voorregistratie-afghaanse-evacu%C3%A9s-afgerond.aspx>, last accessed 19 May 2022.

23 IND, 'increased IND-deployment for evacuees from Afghanistan', <https://ind.nl/nieuws/paginas/ind-inzet-voor-afghaanse-evacu%C3%A9s-uitgebreid.aspx>, last accessed 19 May 2022.

censure by the House, first the already outgoing (see section 2.1) Minister of Foreign Affairs (Sigrid Kaag), and then the outgoing Minister of Defense (Ankie Bijleveld) resigned.²⁴

After the official end of the Dutch evacuation mission, the government **continued to facilitate the transfer to the Netherlands with the help of and via neighbouring countries** (for persons that were still eligible for transfer to the Netherlands). The Netherlands also provided funds to the Afghanistan Humanitarian Fund for humanitarian emergency assistance, as well as funds to the UNHCR's Regional Refugee Response Plan.²⁵ Between 15 August 2021 and 21 March 2022, a total of 3.100 persons were evacuated from Afghanistan to the Netherlands.²⁶

2.3 Shortage of reception capacity and housing

The shortage of asylum reception capacity and housing for beneficiaries of international protection was subject of an ongoing public and political debate in 2021.

The high influx of asylum seekers, in combination with the prolonged stays of beneficiaries of international protection in reception centres pending housing in municipalities, created severe pressure on reception capacity and an urgent need to create additional asylum reception centres.²⁷ Therefore, in August 2021 the national government appealed to the regional and local governments to support the search for (emergency) reception locations for asylum seekers.²⁸ In October 2021, the Central Agency for the Reception of asylum seekers (*Centraal Orgaan opvang Asielzoekers* - COA) reported that an extra number of emergency reception locations would be opened temporarily.²⁹ In addition, it was

Reception of Afghan evacuees in Harskamp

Photo: Immigration and Naturalisation Service (IND), 2021



24 De Telegraaf, 'Onduidelijk hoe nu verder met achtergeblevenen Kabul na aftreden Kaag en Bijleveld', <https://www.telegraaf.nl/nieuws/726392331/onduidelijk-hoe-nu-verder-met-achtergeblevenen-kabul-na-aftreden-kaag-en-bijleveld#>, last accessed 18 May 2022; Please note that a motion of censure does not oblige a minister to step down.

25 Dutch Central Government, 'The Netherlands invests 10 million euro for humanitarian help in Afghanistan', <https://www.rijksoverheid.nl/actueel/nieuws/2021/08/22/humanitaire-hulp-afghanistan>, last accessed 19 May 2022.

26 Parliamentary papers II, 2021-2022, 27925, no. 892.

27 See e.g. Central Agency for the Reception of Asylum Seekers (COA), 'Kabinet luidt noodklok: asielopvang vol', <https://www.coa.nl/nl/nieuws/kabinet-luidt-noodklok-asielopvang-vol>, last accessed 7 December 2021.

28 Dutch Central Government, 'Ollogren en Broekers-Knol luiden noodklok: asielopvang vol', <https://www.rijksoverheid.nl/actueel/nieuws/2021/08/25/ollongren-en-broekers-knol-luiden-noodklok-asielopvang-is-vol>.

29 Central Agency for the Reception of Asylum Seekers (COA), 'Update noodopvang en tijdelijke opvanglocaties', <https://www.coa.nl/nl/nieuws/update-noodopvang-en-tijdelijke-opvanglocaties>, last accessed 31 May 2022.

announced that €50 million would be made available for municipalities to create additional housing for vulnerable groups, including beneficiaries of international protection (for further information, please see chapter 4 on international protection).³⁰ However, there was still a lack of reception capacity for asylum seekers, both in general as well as specifically for unaccompanied minors. In response, on 25 October the national government appealed to regional governments to provide 100 reception places for asylum seekers within 48 hours for the duration of three or four weeks.³¹ Although several provinces responded, the provided number of beds was insufficient. Therefore, the national government instructed four municipalities to provide specific emergency reception locations for asylum applicants in these municipalities.³² This instruction led to a public debate on whether there was a legal basis for this instruction, as the instruction was interpreted by municipalities, the media and legal scholars to be intended by the government as legally binding. The government later stated that the instruction was never intended as a legal obligation to provide reception capacity, but rather as an urgent administrative request.³³ Please also see chapter 4 for policy developments in relation to the shortage of reception capacity.

2.4 The human dimension in the Dutch asylum and migration system

In April 2021, several Dutch asylum and migration lawyers presented a report to four lawyers (who are now members of the House of Representatives) and a member of the Council of State.³⁴ The report contained examples of cases in which asylum seekers, other migrants and/or their family members in the Netherlands were exposed to difficult conditions following decisions by the IND and/or courts of first instance and the Dutch court of appeal. The report noted a connection between these selected cases and the presence of systemic wrongs in the Dutch asylum and migration system. Among other things, the report argued that the personal circumstances of individual migrants were not sufficiently taken into account by the IND. The report further mentioned problems due to cutbacks on the financing of the IND, institutionalized mistrust against asylum seekers and other migrants, and a lack of effective judicial protection against exposure to exceptionally harsh conditions. The report drew a parallel between these situations and the conclusions of the Parliamentary Interrogation Committee on Childcare Benefits following their investigation into the Dutch childcare benefits system (see also section 2.1 of this report). The presence of such shortcomings in the Dutch immigration and asylum and their comparability to the conditions of the Dutch childcare benefits system was reiterated by a group of Dutch asylum experts.³⁵

On 8 July 2021, the Minister for Migration reacted to the report in a letter to the House of Representatives. She announced that following the report, the IND conducted an internal analysis of the cases included in the report; the analysis concluded that whilst the decisions in the selected cases were legally correct, the personal circumstances of individual migrants could have been taken into account to a greater extent (which then could have led to a different outcome of the cases). In addition, earlier in 2021 a working group including the IND, the COA, and the Repatriation and Departure Service (*Dienst Terugkeer en Vertrek - DT&V*) was established to evaluate the legal framework and implementation of migration policies, and specifically the extent to which they allow for the consideration of personal circumstances. The Minister further announced that the Parliament would be informed about the outcomes of the evaluations and possible follow-up actions.³⁶

30 Association of Dutch Municipalities (VNG), '31 miljoen beschikbaar voor huisvesting aandachtsgroepen', <https://vng.nl/nieuws/eu-31-miljoen-beschikbaar-voor-huisvesting-aandachtsgroepen>, last accessed 31 May 2022.

31 *Parliamentary Papers II*, 2020-2021, 19637, no. 2779.

32 *Parliamentary Papers II*, 2020-2021, 19637, no. 2806.

33 This information was provided by the Directorate for Migration Policy (DMB) on 23 June 2022.

34 Vereniging van Asieladvocaten en juristen in Nederland (VAJN) en Specialisten Vereniging Migratierecht Advocaten (SVMA), 'Ongehoord Onrecht in het Vreemdelingenrecht', https://www.vajn.org/wp-content/uploads/2021/04/boek_ongehoord_onrecht-in-het-vreemdelingenrecht.pdf, last accessed 2 June 2022; see also: <https://www.vajn.org/ongehoord-onrecht-in-het-vreemdelingenrecht/>.

35 Nederlands Juristenblad, 'Ongezien onrecht in het vreemdelingenrecht', https://www.njb.nl/media/4297/njb14_art1wetenschap.pdf, last accessed 2 June 2022.

36 *Parliamentary Papers II*, 2020-2021, 19637, no. 2758.

2.5 Backlog and Taskforce

In 2020, the IND had incurred a backlog of approximately 15.000 asylum cases. Therefore, the Minister for Migration installed a Taskforce to reduce this backlog. Because the Taskforce was not able to process all overdue asylum applications in 2020, its work continued in 2021. In July 2021, the Minister announced that the great majority of cases had been dealt with by the taskforce.

However, in July 2021 the Inspectorate of the Ministry of Justice and Security (*Inspectie JenV*) published a report which criticized the process by which the Taskforce was established, as well as the quality of its decisions.³⁷ It noted that the Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid – JenV*) did not assess beforehand whether the duties of the Taskforce were feasible with the available employees and means. It also noted that there was strong political and governmental pressure to provide quick (production) results. Hence, members of the Taskforce were required to perform their duties with insufficient training. On 7 January 2022, the Minister for Migration reacted to the report of the Inspectorate by means of a letter to the House of Representatives. In the letter, the Minister emphasized that the Taskforce was able to significantly reduce the backlog in asylum cases, especially given the difficulties caused by the COVID-19 pandemic. However, the Minister also acknowledged some of the conclusions of the Inspectorate, and noted that similar challenges had been identified in other (internal) evaluations of the IND and the Dutch asylum procedure. The Minister reported that the IND continues to work on implementing structural changes to its organization, including to improve the quality of its processes and procedures. Lastly, the Minister noted that an external evaluation of the Taskforce is planned in 2022.³⁸

2.6 Nuisance caused by applicants for international protection

In 2021, as in previous years, there was public and political debate on the issue of nuisance caused by a select group of applicants for international protection in the Netherlands.

In recent years, a relatively small but varying group of asylum seekers has been displaying disproportionate disruptive and transgressive behavior, both within and outside reception centres. This has received much attention in the media and in Parliament, and risks undermining public support for the reception of asylum seekers.³⁹ Therefore, the Minister for Migration has been taking several measures within the limits of international regulations to counter disruptive and transgressive behavior of asylum seekers since 2016.⁴⁰ As reported in the previous Annual Report of 2020, a toolbox was developed including all potential measures that can be taken by different parties (such as the COA, IND, DT&V, or the National Police) in response to disruptive behavior by asylum seekers.⁴¹ In May 2021, the Dutch government made available one million euros in financial assistance to municipalities for the implementation of measures to tackle nuisance caused by asylum seekers, which is a follow-up to the financial scheme initiated in 2020 (for more information, see chapter 4 of this report).⁴²

In June 2021, the Inspectorate of the Ministry of Justice and Security warned that it was difficult to correct the behavior of these individuals displaying disruptive and/or transgressive behavior. It noted that the most effective intervention appears to be the placement in a special supervised location called the *handhaving en toezichtlocatie* (htl), which however has only limited capacity. The Inspection further

37 Inspectorate of the Ministry of Justice and Security, 'Brief monitor Taskforce IND', <https://www.inspectie-jenv.nl/Publicaties/brieven/2022/01/07/brief-taskforce-ind#>, last accessed 2 June 2022.

38 *Parliamentary Papers II*, 2021-2022, 19637, no. 2816.

39 EMN Netherlands, 'Ad Hoc Query AHQ 2021.9: Measures to deal with those asylum seekers who are involved in disproportionate disruptive and transgressive behaviour', 16 February 2021.

40 EMN Netherlands, 'Ad Hoc Query AHQ 2021.9: Measures to deal with those asylum seekers who are involved in disproportionate disruptive and transgressive behavior', 16 February 2021.

41 However, note that any incidents taking place outside of the reception centres falls under public order regulations (this information was provided by the Central Agency for the Reception of Asylum Seekers (COA) on 5 November 2021).

42 Dutch Central Government, 'Extra budget voor lokale maatregelen tegen overlast door asielzoekers', <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/nieuws/2021/05/17/extra-budget-voor-lokale-maatregelen-tegen-overlast-door-asielzoekers>, last accessed 7 December 2021.

concluded that nuisance is often caused by asylum seekers from safe countries of origin, who have little chance of being granted international protection but who often have complex personal (e.g. drug-related or psychiatric) problems.⁴³ In a letter to the House of Representatives, the Minister for Migration acknowledged that the problem of tackling nuisance continues to be a difficult task, and committed to further strengthening the approach of the government to combat disruptive behavior by these individuals.⁴⁴

The prevention and sanctioning of nuisance caused by asylum seekers remains one of the pillars in the new coalition agreement in the field of migration policy (see section 2.1 above).

2.7 Changes to the general asylum procedure

In 2021, several adjustments were made to the Aliens Decree (*Vreemdenlingenbesluit*) to increase the efficiency and flexibility of the general asylum procedure (*Algemene Asielprocedure-AA*).⁴⁵ Under the new system, the first detailed interview is combined with the application interview, which takes place before the rest and preparation period and before asylum seekers have access to legal assistance to prepare for this interview. A new element in this interview is a short inventory of the asylum motives. As a result of combining the two interviews, the general asylum procedure now covers a time period of six days rather than eight days (which was the case previously).

On 24 March 2021, the Advisory Division of the Council of State had criticized aspects of the changes to the Aliens Decree in its advisory opinion on the proposed amendment. Amongst other things, it supported the retaining of legal assistance for asylum seekers in the application phase. It also considered that the Minister for Migration ought to provide additional reasoning to support the equal treatment of minor asylum seekers to adult asylum seekers. On 25 May, the Minister for Migration reacted to the advice, and presented a number of clarifications and minor amendments to the legislative proposal.⁴⁶ Amongst other things, she argued that the provision of legal assistance before the official start of the general asylum procedure was neither (legally) required nor necessary, since nothing the asylum seeker states in this stage on the asylum reasons will be held against him or her later in the procedure (with a few exceptions). In addition, it was clarified that the proposed changes do not alter the rules for the treatment of minor asylum applicants. Having said that, the Minister considered that holding a detailed application interview with minors above the age of twelve is responsible and in their best interest, which however does not mean that minors will be treated in the same manner as adult asylum seekers. For more information on the changes to the general asylum procedure, see chapter 4 of this report.

43 Inspectorate of the Ministry of Justice and Security, 'Zorgwekkende situatie asielcentra door overlastgevende asielzoekers', <https://www.inspectie-jenv.nl/actueel/nieuws/2021/06/15/zorgwekkende-situatie-asielcentra-door-overlastgevende-asielzoekers?msclkid=9acf0a66d07011eca7535f46c92d8860>, last accessed 2 June 2022.

44 *Parliamentary Papers II*, 19637, no. 2744.

45 *Parliamentary Papers II*, 19637, no. 2652; *Government Gazette (Staatscourant)*, 2021, no. 250.

46 Council of State, 'Wijziging van het Vreemdelingenbesluit 2000, in verband met het regelen van de aanmeldfase, het vervallen van het eerste gehoor in de algemene asielprocedure en het doorvoeren van enkele technische aanpassingen', <https://www.raadvanstate.nl/>, last accessed 2 June 2022.

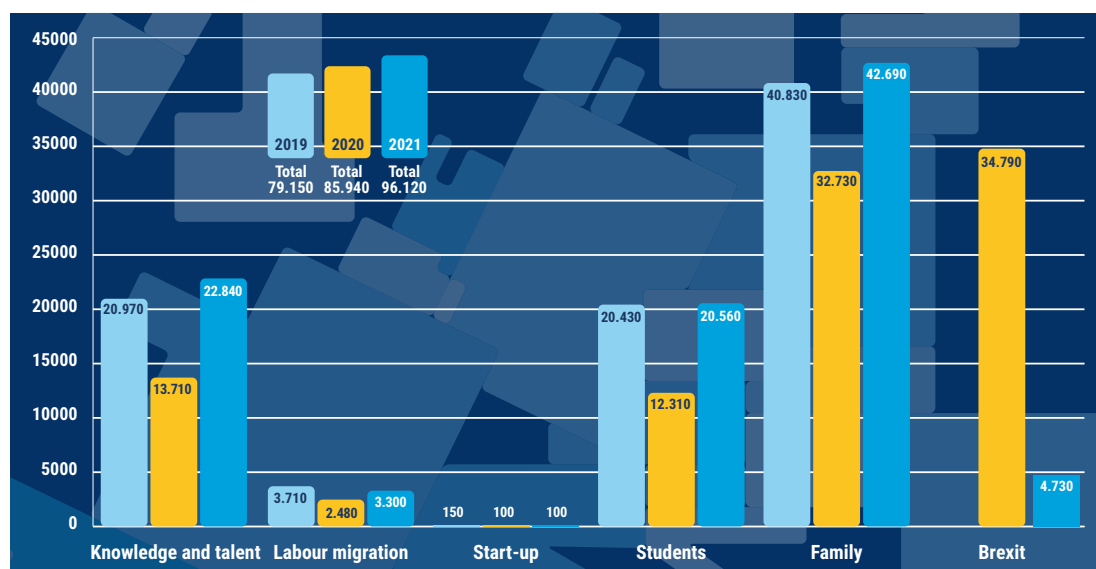
3 Legal migration

Legal migration can be broken down into different groups of migrants, depending on the grounds of stay.⁴⁰ This chapter deals with policy developments in the field of economic and family migration, including family reunification with beneficiaries of international protection. There were no significant policy developments in 2021 in relation to study and research migration or migration in the context of exchange programmes.

In 2021, 94.220 applications for legal residence permits were submitted in the Netherlands.⁴⁷ This is a decrease of around 2% compared to 2020, when 96.120 applications were submitted. The higher number of applications in 2020 can be explained by the 34.790 applications of British citizens securing their right of residence after Brexit. Please note that these figures do not include applications for family reunification with beneficiaries of international protection that are lodged within three months after their family member has received a temporary asylum residence permit, since these are dealt with through the asylum procedure. The figures for family reunification with beneficiaries of international protection can be found in chapter 4 on international protection (asylum).

Figure 1:
Number of applications for legal residence permits in 2019, 2020 and 2021 (excluding exchange, humanitarian and special stay, and family reunification with beneficiaries of international protection)

Source: Immigration and Naturalisation Service (IND), Annual numbers 2021



EMN reports on legal migration

The EMN published two reports on legal migration in 2021. EMN produced an overarching report on the impact of COVID-19 on migration, based on information of several Informs of 2020.⁴⁸ Next to this, an Inform was published on the exploration of legal pathways to fulfil labour needs in the future.⁴⁹

⁴⁷ Immigration and Naturalisation Service (IND) (2020), 'Jaarverslag 2020: door corona minder aanvragen ingediend', < Jaarverslag 2020: door corona minder aanvragen ingediend | Immigratie- en Naturalisatiedienst (IND) > 8 June 2021; In this Annual Report, the annual and semi-annual figures are reported based on national definitions. This is because the figures according to the Eurostat definition are not yet available. The difference in the definitions used may cause the figures to differ from the Eurostat figures.

⁴⁸ This study can be found on the website of EMN Netherlands via <https://www.emnnetherlands.nl/onderzoeken/overkoepelend-onderzoek-gevolgen-covid-19-op-migratie-en-asielbeleid-2020>.

⁴⁹ This study can be found on the website of EMN Netherlands via <https://www.emnnetherlands.nl/onderzoeken/onderzoek-europese-commissie-verkent-nieuwe-legale-migratiekanalen>.

3.1 Overarching policy changes

Grace period for application residence documents under the Brexit Withdrawal agreement extended

The Dutch government decided to extend the grace period for application residence documents from 1 July to 1 October 2021, meaning that British citizens in the Netherlands who did not apply on time for the new residence documents under the Brexit Withdrawal agreement were still able to do so. If it can be established that the applicant falls under the Withdrawal Agreement, their lawful residence will be revived. The goal of this development is to avoid a large group of Brits losing their right of residence and face other consequences due to Brexit.

After the end of the grace period, British citizens are considered to be unlawfully present if they have not applied for the new residence documents, the consequences of which are far-reaching. Examples include loss of benefits, subsidies, permits, and work. It is also no longer possible, when staying in the Netherlands irregularly, to have health insurance, receive allowances, or take out a mortgage.⁵⁰

Digital litigation in legal migration cases

Since 1 March 2021, advocates have the option to litigate digitally in legal migration cases. Some changes in the current system were made by the Judiciary to make this possible.⁵¹ The objective of this change was to overcome the burdensome process for lawyers and the IND to litigate the more than 10.000 regular migration cases on paper and ease the process by making it digitally available. Doing everything on paper can be a burdensome process for lawyers and the IND, especially during the COVID-19 pandemic.

Exemption of collecting the MVV because of COVID-19 measures

The COVID-19 measures made it difficult for some migrant groups legally present in the Netherlands (e.g. on the basis of a short stay visa) to travel to their country of origin or permanent residence and apply for a residence permit and/or collect their Regular Provisional Residence Permit (*Machtiging tot Voorlopig Verblijf* - MVV)⁵². The MVV is a visa that is required for certain nationalities in order to get a residence permit in the Netherlands. The reason for the exemption was that travel was discouraged and restricted due to COVID-19 measures. Consequently, the Minister for Migration decided to temporarily allow third country nationals concerned to obtain the residence permit from within the Netherlands, without first needing to obtain a MVV in the country of origin or permanent residence.⁵³

Leniency measures for the civic integration exam because of COVID-19

Since the downscaling of non-essential consular services due to the COVID-19 pandemic in March 2020, the Ministries of Foreign Affairs, Justice and Security, and Social Affairs and Employment have continuously looked for solutions to safely resume civic integration examinations at Dutch embassies and consulates general.⁵⁴ This was done to provide alternatives and leniency measures to third country nationals who would otherwise not be able to take their civic integration exams due to the COVID-19 measures. Also, third country nationals were allowed to take their civic integration exam at an embassy or consulate general in another country if the nearest embassy could not yet facilitate this service. At the beginning of June 2020, Dutch embassies and consulates general started to resume regular consular services – including civic integration exams – if local circumstances allowed so. Please also see section 6.1 of this report for further information.

50 Government Gazette (*Staatscourant*), 2021, no. 42134, no. 31591; *Parliamentary papers II*, 2020-2021, 35393, no. 46.

51 Migratieweb, Nieuwsbericht [Rechtspraak.nl](https://migratieweb.nl/Rechtspraak.nl) 'Advocaten kunnen vrijwillig digitaal procederen in reguliere vreemdelingenzaken', <http://stichtingmigratierecht.nl/>, last accessed 16 December 2021.

52 Two types of visas exist: Schengen visa's (a short stay visa up to 90 days in any 180-day period) and national visa's (long-stay visa's for over 90 days). In the Netherlands a long-stay visa is called an authorisation for temporary stay (*Machtiging tot Voorlopig Verblijf*, MVV).

53 IND, 'Temporary easing of the requirement of authorisations for a temporary stay (MVV) due to Covid-19', [https://ind.nl/en/news/pages/temporary-easing-of-the-requirement-of-authorisation-for-a-temporary-stay-\(mvv\)-due-to-covid-19.aspx](https://ind.nl/en/news/pages/temporary-easing-of-the-requirement-of-authorisation-for-a-temporary-stay-(mvv)-due-to-covid-19.aspx), last accessed 3 February 2022.

54 *Parliamentary papers II*, 2020-2021, 19637, no. 2757.

3.2 Economic migration

Economic migrants

Economic migrants are third country nationals who come to the EU for work, such as highly educated professionals, employees of a company, entrepreneurs and seasonal workers.

The Dutch policy is welcoming towards highly qualified migrants. It facilitates for example highly skilled migrants and migrants that graduated in the Netherlands who are looking for a job. In order to speed up the application procedure, the system of recognized sponsorship applies.⁵⁵ This entails that a recognized sponsor (for example an employer that has been recognized by the Immigration and Naturalisation Service (IND)) gets responsibilities in relation to the admission procedure. For residence applications of entrepreneurs and employees of start-ups, the system of recognized sponsorship does not apply.

For other migrants that want to come to the Netherlands for economic reasons, protection of the national labour market is the starting point of the concerned policies. First, the employer needs to prove that the vacancy cannot be filled by Dutch citizens, EU-citizens, or migrants already legally residing in the Netherlands and who are available on the labour market. If this is not the case, then third country nationals can apply for a work permit and (if necessary) a residence permit.

Highly skilled migrants

Orientation year for highly educated persons who want to find a job in the Netherlands

In 2021, there was a policy change in relation to the orientation year for highly educated persons⁵⁶ who previously studied or conducted research at an educational institution outside the Netherlands listed in the international top-200 university rankings. The educational institution now needs to be listed on at least two of the ranking lists instead of one, in order for these former students and researchers to be eligible for the orientation year in the Netherlands.⁵⁷ The aim of this change is to reduce the improper use of the orientation year for highly educated persons.⁵⁸ It was observed that the improper use came

Skilled Pakistani migrants in Breda, The Netherlands

Photo: Piet den Blanken, ANP/Hollands Hoogte, September 2021



⁵⁵ Immigration and Naturalisation Service (IND), 'Werkgever: erkennig als referent', https://ind.nl/werk/werkgever/Paginas/Erkenning_als_referent.aspx?subject=.

⁵⁶ During this year, former students and researchers are able to stay in the Netherlands in order to seek employment or to start a business.

⁵⁷ Government Gazette (Staatscourant), 2021, no. 32028.

⁵⁸ Parliamentary Papers II, 2020-2021, 30 573, no. 183.

from a small group of highly educated migrants who did not come to seek employment or start a business, but to apply for asylum immediately after arrival.⁵⁹ These former students/researchers often came from educational institutions that were only listed in one ranking.

Additionally, the change aims to reduce discrepancies between the top-200 ranking list. The top-200 rankings are published by three publishers⁶⁰, and are either general, per faculty or per discipline. These rankings can overlap (educational institutions are then listed in different rankings). Nevertheless, the Minister for Migration stated that there were significant discrepancies between the rankings.

Labour migrants

Regulation for specialized Asian cooks suspended

As of October 2019, it was possible for Asian restaurants to get specialised cooks to the Netherlands without an annual quota and without first having to make recruitment efforts. As of 1 January 2022, the regulation has been suspended for new cases to prevent potential misuse of the regulation and/or human trafficking and human smuggling.⁶¹ Measures were taken as two Dutch newspapers (*Trouw*⁶² and *de Groene Amsterdammer*⁶³) and Dutch representatives and Immigration Liaison Officers in China indicated misuse of the regulation and signaled potential human trafficking and human smuggling.⁶⁴ Because of the severity of the signals, the parliament found it reasonable to take this measure (see also chapter 10 of this report).

As of 1 January 2022, the regular procedure for work permits applies to specialized Asian cooks. This means that a labour market test applies to first assess whether Dutch nationals, legally residing third country nationals who are allowed to work, or nationals from other EU Member States are available to fulfill the vacancy.

Temporary regulation for employees on the Floriade Expo

On 1 July 2021, a special regulation took effect for the Floriade Expo, an international horticulture exposition planned for April-October 2022 in the Netherlands.⁶⁵ The regulation eases the examination of whether someone can temporarily stay in the Netherlands and work for the Floriade. The objective of this regulation is to encourage countries to participate in this international event, by easing the criteria to employ personnel from abroad.⁶⁶ International participants of the Floriade Expo will want to employ personnel from the country of origin, as only they will meet the specific criteria to carry out the exposition of that participating country. The employment activities for the Floriade include exhibitors or artists. The regulation will expire on 1 January 2023.⁶⁷

Documents of proof in applications for intra-corporate transferees

As of 1 October 2021, more documents of proof are requested in applications for intra-corporate transferees by sponsors.⁶⁸ The purpose of this development is to enable the IND and the Netherlands Employees Insurance Agency (*Uitvoeringsinstituut werknemersverzekeringen*- UWV) to better examine whether the conditions for an intra-corporate transfer are met and whether the Dutch branch performs economic activities.⁶⁹ The driver were signals of misuse of the regulation.⁷⁰

59 *Parliamentary Papers II*, 2020-2021, 30 573, no. 183.

60 These rankings are published by three publishers: ShanghaiRanking Consultancy, Quacquarelli Symonds and Times Higher Education.

61 *Parliamentary Papers II*, 2020-2021, 29544, no. 1061.

62 *Trouw*, 'Misstand in de horeca: 500 koks uit Azië naar Nederland gehaald terwijl er meestal geen werk voor hen was', <https://www.trouw.nl/binnenland/misstand-in-de-horeca-500-koks-uit-azie-naar-nederland-gehaald-terwijl-er-meestal-geen-werk-voor-hen-was~b6c8c6a7/>, last accessed 30 November 2021.

63 *De Groene Amsterdammer*, 'Hij heeft me gewoon opgelicht', <https://www.groene.nl/artikel/hij-heeft-me-gewoon-opgelicht>, last accessed 30 November 2021.

64 *Parliamentary Papers II*, 2020-2021, 29 544, no. 1061.

65 This information was provided by the Immigration and Naturalisation Service.

66 *Government Gazette (Staatscourant)*, 2021, no. 33594.

67 *Government Gazette (Staatscourant)*, 2021, no. 33594.

68 IND, 'Voorwaarden ICT-aanvraag niet erkend referenten gewijzigd', <https://ind.nl/nieuws/paginas/voorwaarden-ict-aanvraag-niet-erkend-referenten-gewijzigd.aspx>, last accessed 2 December 2021.

69 *Government Gazette (Staatscourant)*, 2021, no. 41948.

70 This information was provided by the Ministry of Social Affairs and Employment on 15 January 2022.

The amendment concerns several documents, such as the proof of registration at the Chamber of Commerce (*Kamer van Koophandel* - KvK).⁷¹ This new measure only applies to sponsors (=organisations that have an interest in the migrant coming to the Netherlands) that are not (yet) recognized by the IND. To become a recognized sponsor, certain criteria need to be met.⁷² Being a recognized sponsor results in more responsibilities as well as certain advantages within the application procedure.

Start-ups

New residence permit for essential staff of start-ups

As of 1 June 2021, a pilot started for a new residence permit for essential/experienced staff of start-ups.⁷³ The permit is supposed to make it possible and/or easier for young, innovative businesses in the Netherlands to attract staff from outside the European Union (EU).⁷⁴ The driver of this change were signals from the business sector that start-ups experienced barriers when trying to employ staff, because the residence permit for highly skilled migrants is not yet fitting in relation to the starting character of their company.⁷⁵ Therefore, a lower salary criterion applies for this new residence scheme, with the additional requirement that the desired employee is given a share in the company. The pilot has a duration of four years and will be evaluated.⁷⁶

Au pairs

Au pair regulation amended to prevent misuse

On 15 November 2021, the conditions for residence permits for au pairs have been refined. According to the new rules, an au pair must be unmarried, must not have any (foster) children, and cannot be older than 25 years. The aim of this development is to prevent misuse of the au pair regulation and ensure that the permit is used for the purpose of 'cultural exchange' only. Next to this, the policy change aims to reduce the vulnerability of au pairs. The driver for this change were continued signals that the regulation for au pairs was misused for the facilitation of labour instead of cultural exchange, even after certain interventions taken such as intensification of enforcement policies.⁷⁷

3.3 Family migration

Family migration

Family migration covers applications for family formation and reunification. The Family Reunification Directive (2003/86/EC) provides the legal base at EU level for migration of these third country nationals. Family reunification can concern a Dutch national who has met a partner abroad and wants to bring him/her to the Netherlands, or a third country national who stays in the Netherlands and would like to have family living abroad to join him/her in the Netherlands. It also applies to family members of beneficiaries of international protection.⁷⁸

New cooperation agreement between the IND and IOM

On 22 April 2021, the IND and the International Organization for Migration (IOM) signed a new cooperation agreement.⁷⁹ The aim of the cooperation agreement is to make sure that the Netherlands can complete the applications for family members joining beneficiaries of international protection faster. The driver is that the Ministry of Foreign Affairs, which usually collects DNA samples, had less

71 Government Gazette (*Staatscourant*), 2021, no. 41948.

72 IND, 'Employer: recognition as sponsor', <https://ind.nl/en/work/Pages/Recognition-as-a-sponsor.aspx>, last accessed 2 December 2021.

73 Government Gazette (*Staatscourant*), 2021, no. 26846.

74 IND, 'Pilot residence permit essential start-up personnel', <https://ind.nl/en/news/pages/pilot-residence-permit-essential-start-up-personnel.aspx>, last accessed 1 December 2021.

75 *Parliamentary Papers II*, 2018-2019, 30573, no. 174.

76 IND, 'Pilot residence permit essential start-up personnel', <https://ind.nl/en/news/pages/pilot-residence-permit-essential-start-up-personnel.aspx>, last accessed 1 December 2021.

77 *Parliamentary Papers II*, 2020-2021, 19673, no. 2782.

78 However, please note that family reunification with beneficiaries of international protection who have received a temporary asylum permit in the last three months are dealt with through the asylum procedure.

79 Immigration and Naturalisation Service (IND), 'IOM helps IND collecting DNA in asylum related applications for family reunification', <https://ind.nl/en/news/pages/iom-helps-ind-collecting-dna-in-asylum-related-applications-for-family-reunification.aspx>, last accessed 6 December 2021.

IOM assistance in Sudan

Photo: Muse Mohammed, International Organisation for Migration (IOM), 2021



or no possibilities to perform this task as a consequence of COVID-19. This led to a backlog. As the IOM had more possibilities to facilitate this process, the IND and IOM agreed to work together on DNA research.

IOM currently collects DNA samples on individual case basis from family members in Greece, Turkey, Sudan and Lebanon who applied for family reunification with migrants who have been admitted in the Netherlands. IOM can also act in a number of cases in which the Ministry of Foreign Affairs cannot contribute to the collection of DNA samples, for example because family members cannot reach a country where the DNA could be collected by the Ministry.⁸⁰

Agreement between UNHCR and the IND

On 19 May 2021, an agreement between the United Nations High Commissioner for Refugees (UNHCR) and the IND was signed, in order to establish a cooperation in applications for family reunification with beneficiaries of international protection.⁸¹ The aim of the agreement between UNHCR and the IND is to establish video calls for the purpose of interviewing in family reunification applications, in order to catch up with the delay in the processing of these applications. The delay was due to COVID-19, since diplomatic posts had to (temporarily) limit the regular consular services or even close their doors. Video consultations with family members also came to a standstill. Consequently, there was a delay in the processing of applications for family reunification.

⁸⁰ This information was provided by the Ministry of Foreign Affairs on 18 January 2022.

⁸¹ Immigration and Naturalisation Service (IND), 'Temporary cooperation between IND and UNHCR in family reunification cases', <https://ind.nl/en/news/pages/temporary-cooperation-between-ind-and-unhcr-in-family-reunification-cases.aspx>, last accessed 6 December 2021.

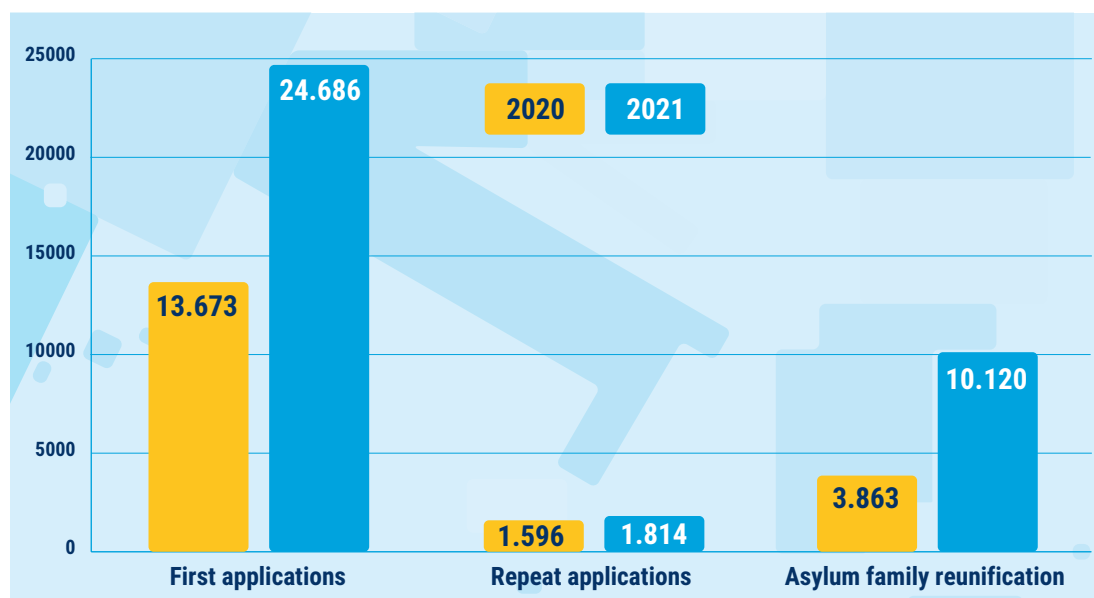
4 International protection (asylum)

Asylum is granted to refugees who have well-founded fear of being persecuted in their country of origin based on race, religion, nationality, political persuasion or because of belonging to a certain social group.⁸² Furthermore, subsidiary protection can be offered to third country nationals in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to their country of origin, would face a real risk of suffering serious harm.⁸³

This chapter deals with policy developments in relation to access to the asylum procedure, reception, the Dublin and border procedure, safe countries of origin, as well as operational aspects. In 2021, a total number of 36.620 applications for asylum were submitted,⁸⁴ as opposed to 19.132 applications in 2020.⁸⁵ This concerns first applications for international protection as well as repeat asylum applications (second/further asylum applications) and asylum family reunification influx.⁸⁶ The latter concerns applications of family members within three months after their family member received a temporary asylum residence permit in the Netherlands.⁸⁷ These figures are included here because applications by family members of beneficiaries of international protection lodged within three months after their family member received an asylum permit are dealt with through the asylum procedure. However, please note that all policy changes that concern family reunification, including with beneficiaries on international protection, are addressed in section 3.3 above (family migration).

Figure 2:
Development of asylum
applications, 2020-2021

Source: Immigration and Naturalisation Service (IND). Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2021



82 Immigration and Naturalisation Service (IND), 'Asielzoeker', <https://ind.nl/asiel/Paginas/Asielzoeker.aspx>.

83 EMN Glossary, 'Person eligible for subsidiary protection', https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/person-eligible-subsidiary-protection_en.

84 Immigration and Naturalisation Service (IND) (2021), 'Asylum trends. Monthly report on asylum applications in the Netherlands and Europe, December 2022', https://ind.nl/en/Documents/AT_Februari_2022_Hoofdrapport.pdf.

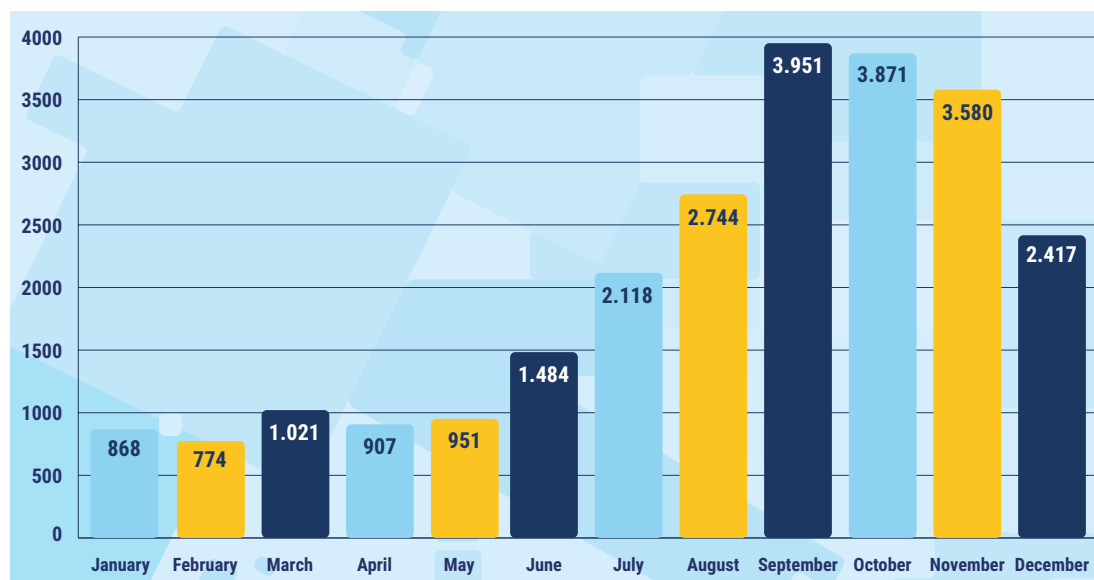
85 IND, 'Asylum trends. Monthly report on asylum applications in the Netherlands and Europe, February 2022', https://ind.nl/en/Documents/AT_Februari_2022_Hoofdrapport.pdf.

86 In this Annual Report the figures are reported on the basis of national definitions. They differ from the Eurostat definitions and figures.

87 Immigration and Naturalisation Service (IND), 'Nareis asiel: veelgestelde vragen', <https://ind.nl/Paginas/Veelgestelde-vragen-nareis.aspx>.

Figure 3:
Number of first
asylum applications
per month, 2021

Source: Immigration and Naturalisation Service (IND). Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2021



The numbers consist of a total of 24,686 first-time applications, compared to 13,673 in 2020. The top three nationalities of first-time applicants in 2021 were Syrian (34%), Afghan (12%) and Turkish (10%). In 2020, the top three nationalities were Syrians (29%), Algerians (7%) and Turkish (7%). There was a noticeable peak of applications for asylum in September 2021. This was the period when the Taliban seized power in Afghanistan.

The number of repeated applications in 2021 was 1,814. This is an increase by 13.7 percent compared to 2020 (1,596). The top three nationalities of these applicants were Afghan (17%), Iranian (12%) and Syrian (8%).

In total 10,120 migrants entered the Netherlands in 2021 in the context of asylum family reunification. In 2020, this number was 3,863, which indicates an increase of 162 percent. This concerned mostly Syrian (64%), Eritrean (7%) and Turkish nationals (7%). The increase in most categories was mainly in the second half of 2021 and could be explained by the lifting of (travel) restrictions due to the COVID-19 pandemic.

4.1 Asylum

The asylum procedure

The asylum procedure starts with registration at the central application centre in Ter Apel. Asylum seekers can submit an application for asylum. The registration and identification procedure takes place, after which the rest and preparation period of at least six days begins. During this time, the asylum seeker can recover from his/her journey.⁸⁸ During the general asylum procedure (AA, for more information see below), the asylum seeker can explain what he/she has experienced in his/her country of origin and why he/she had to leave. An interpreter is present during the interview. After several steps, the Immigration and Naturalisation Service (*Immigratie- en Naturalisatiedienst* - IND) assesses the asylum application. In case more time is needed, the applicant enters the extended asylum procedure.⁸⁹ According to the law, this should be completed within 6 months at the most, although it is possible to extend the period for making a decision up to 18 months.⁹⁰

It is possible that an asylum seeker enters the Netherlands via a Dutch airport or seaport, and applies for asylum there. In that case, the border procedure will start instead. This procedure takes eight days, and can be extended to 28 days. During this time, asylum seekers stay in a closed reception centre near Schiphol airport.⁹¹

⁸⁸ Immigration and Naturalisation Service (IND), 'Asylum seeker', <https://ind.nl/en/asylum/Pages/Asylum-seeker.aspx>.

⁸⁹ Immigration and Naturalisation Service (IND), 'Hoe verloopt het aanvragen van asiel?', <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/vraag-en-antwoord/procedure-asielzoeker>.

⁹⁰ Immigration and Naturalisation Service (IND), 'Extended Asylum procedure', <https://ind.nl/en/Pages/extended-asylum-procedure.aspx>, last accessed 18 May 2021.

⁹¹ Immigration and Naturalisation Service (IND), 'Asylum procedures', <https://ind.nl/en/Pages/extended-asylum-procedure.aspx>, last accessed 18 May 2021.

Changes for a more flexible asylum procedure

From 25 June 2021 onwards, several changes to the asylum procedure have entered into effect.⁹² The purpose of these changes is to process asylum applications more efficiently, an ambition that was expressed in the Coalition Agreement 'Confidence in the future' of October 2017, with the aim to redesign the asylum system in order to achieve a more flexible and effective asylum system. One of the objectives is to be able to better respond to fluctuations in the asylum influx. As a consequence, the Flexible Asylum Chain programme (*Programma Flexibiliserend Asielketen*) was initiated in 2018. Within this programme a number of measures were designed, among which the following:

- **Termination of the initial personal interview in the general asylum procedure:** before 25 June 2021, the asylum seeker was asked in the registration interview, which precedes the asylum procedure, about his/her identity, nationality and travel route. Within the general asylum procedure (AA), an initial personal interview took place, in which the same themes were covered as in the registration interview. To avoid duplication, there is no longer a separate initial personal interview within the general asylum procedure. Instead, the asylum seeker is asked about a brief statement for his/her reasons for seeking asylum in the registration interview (which before was asked in the initial interview).
- **Rest and preparation period (RVT):** The possibilities to cancel the Rest and preparation period (RVT) have been adjusted and expanded (e.g. in case of caused nuisance in a reception facility). During the RVT, the asylum seeker has six days in order to rest from the travel to the Netherlands and prepare for the AA.
- **Shortening of the general asylum procedure and possibility for extension:** The general asylum procedure has been shortened and a possibility for extension is added. Before, the length of the AA was eight days. Previously, the preparation of the detailed interview by the applicant and by the legal assistance provider took place on the second day of the AA. Now the preparation has been moved to the RVT, and the AA will start with the detailed interview. In the new situation, without the (initial) personal interview and with the moving of the preparation by the legal assistance provider to the RVT, the AA takes six days. In addition, the possibility was added to extend the AA by three days (the AA+). Whether extension is necessary, needs to be decided before the start of the AA. In the AA+ there is an additional day for a further hearing, subsequent discussion with the legal assistance provider, the intended decision and stating of views. This extension can be used in complex cases expected to take more time, and in cases where there are special procedural guarantees or a medical advice indicating that more time is needed for the interview. In order to be able to decide whether an extension is needed before the asylum procedure has started, the statement of reasons for seeking asylum is requested in the application/registration interview.
- **Asylum applications by persons coming from a safe country of origin or who have asylum protection in another EU Member State:** Applications in channel 2 (i.e. asylum applications by persons coming from a safe country of origin or who are entitled to asylum protection in another EU Member State) have been expanded with several new categories. These are, for example, applications with little chance of success that are expected to almost never occur in practice (e.g. an asylum application by an EU citizen). This means that the channel 2 procedure itself does not change; rather, more types of applications will be dealt with under channel 2. Moreover, the working method for asylum applications of persons from safe countries of origin or persons who have asylum protection in another EU Member State has been formalized. This means that the third country national will be informed by his/her legal assistance provider and the Dutch Council for Refugees (*Vluchtelingenwerk Nederland* - VVN), and that there will be one day for submission of views.

Documents in standard procedure

On 10 June 2021, the Court of Justice of the European Union ruled in the case C-921/19 (LH) that Member States are required to consider documents submitted in a subsequent application for international protection, including documents that have not been submitted before and even if their authenticity can-

⁹² Government Gazette (*Staatscourant*), 2021, 28439; Immigration and Naturalisation Service (IND), 'Application interview and first interview combined, flexible general asylum system (AA) introduced, <https://ind.nl/en/news/pages/application-interview-and-first-interview-combined-flexible-general-asylum-procedure-aa-introduced.aspx>, last accessed 7 December 2021.

not be established. This development is a departure from previous case law in the Netherlands, according to which the subsequent application could be declared inadmissible if the authenticity of newly submitted documents could not be established. In order to bring Dutch policy in line with the ruling of the Court of Justice of the European Union, paragraph C1/2.9 of the Aliens Act Implementation Guidelines (*Vreemdelingencirculaire*) has been adjusted to incorporate the change.⁹³ The subsequent application can no longer be declared inadmissible on the sole ground that the authenticity of the newly submitted documents cannot be proven.⁹⁴ Two criteria need to be assessed before a subsequent application can be declared admissible or inadmissible: firstly, the application needs to contain new elements; and secondly, the new elements should significantly increase the chances of receiving international protection. These policy changes have been implemented as of 1 October 2021. Previous cases in which the subsequent application was declared inadmissible on the sole ground that the authenticity of documents could not be established, would be reconsidered.⁹⁵

Data management

On 29 January 2021, the House of Representatives was informed that the Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan opvang Asielzoekers* – COA) was no longer providing its daily occupancy data to the National Aliens Information Intersection (*Nationaal Vreemdelingen Informatie Knooppunt* – NIVK), which is a department of the National Police. This information was mainly used for the analysis and information products of the NIVK. The purpose of this change was to bring the COA's data provision to the police in line with data protection legislation. An external assessment requested by COA concluded that while the necessity of sharing the data with NIVK was motivated clearly, the proportionality - meaning that the impact the processing has on data subjects should be proportionate to the purpose - could not be sufficiently established.

Data and privacy

In 2021, the National Police halted a pilot project that turned out to be at odds with privacy legislation. As part of the project, which was initiated in 2016, data from data carriers (e.g. mobile phones) confiscated from asylum seekers during identification and registration were compared with criminal data, such as phone numbers of convicted smugglers. The National Police decided to halt the pilot project following a privacy assessment, which revealed that the project was at odds with privacy legislation introduced in 2018. According to the National Police, the project was in line with privacy legislation at the start of the project in 2016. The data have been deleted from police systems.

4.2 Dublin procedures

Dublin procedure

The Dublin Regulation⁹⁶ establishes the criteria to determine which Member State is responsible for the examination of an application for international protection lodged in one of the Member States.⁹⁷ Often, the country where the third country national first entered the Schengen Area, or the country where other family members or relatives are already staying with a residence permit is responsible. If it is determined that another Member State is responsible for an application, a Dublin transfer takes place. The applicant will then be transferred to the Member State responsible for the examination of the merits of an application.⁹⁸

New work instruction medical advice

The IND drafted a new work instruction to provide guidelines on how, and in which situations, the IND should ask for medical advice if a third country national is subject to the Dublin procedure. The aim of the new work instruction is to protect third country nationals who have a mental or physical condition

93 Government Gazette (*Staatscourant*), 2021, no. 41948.

94 Court of Justice of the European Union, ECLI:EU:C:2021:478.

95 *Parliamentary Papers II*, 2020-2021, 19637, no. 2761.

96 Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person.

97 EMN Glossary 6.0, 'Dublin Regulation'. https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/dublin-regulation_en.

98 EMN Glossary 6.0, 'Dublin transfer'. https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/dublin-transfer_en.

and are subject to a Dublin transfer, and to bring the IND's procedures in line with case law. Following case law of the Court of Justice of the EU and the Administrative Jurisdiction Division of the Council of State of the Netherlands,⁹⁹ the IND needs to assess the risk that a Dublin transfer would have serious or irreversible impact on the health of third country nationals with a severe mental or physical condition. Importantly, according to the Court of Justice of the EU, the third country national must be able to have the decision to transfer them to the responsible Member State reviewed during the transfer decision procedure, and not only in the proceedings against the actual transfer. It is the responsibility of the authorities of the Member State arranging the transfer to dispel any serious doubts about the impact of the transfer on the third country national's health status.

According to the new work instruction, if a third country national invokes the abovementioned case law, and if he or she provides proof of being treated by a medical doctor, and it can be concluded based on objective medical details that a Dublin transfer would have serious or irreversible impact on their health, the IND must request its Medical Assessment Section (*Bureau Medische Advisering* - BMA) to provide independent advice on the health situation of the third country national. To this end, the third country national needs to provide up-to-date medical information to the BMA. The BMA can then determine whether the third country national is fit to travel and under which conditions he or she can do so. However, the BMA cannot estimate the full impact of the Dublin transfer, as this is outside of their medical expertise.¹⁰⁰ The BMA's advice applies, in principle, for six months.

4.3 Reception of asylum applicants

Reception

Migrants that apply for asylum in the Netherlands have a right to housing.¹⁰¹ This reception is provided for by the Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan opvang asielzoekers* - COA). Different reception centres exist for different stages in the asylum procedure.

Quarantine obligation for travellers entering the Netherlands

On 1 June 2021, the new 'Quarantine obligation for travellers entering the Netherlands act' (*Wet quarantaineverplichting inreizigers*) entered into force. The aim of this development was to implement the act with regards to the reception of applicants for international protection, thus preventing the spread of (new mutations of) the COVID-19 virus. In light of the COVID-19 pandemic, the act was particularly driven by the recommendations of the Outbreak Management Team which advises the Dutch government on how to prevent the spread of the virus. Following the entry into force of this act, temporarily all asylum seekers arriving to the application centre were required to quarantine. Separate quarantine facilities were created in the application centre and in reception centres for this purpose. In July 2021, the quarantine obligation for all arriving asylum seekers was terminated after analysis showed that the travel routes of most asylum seekers did not cross with the most recent list of 'very high risk' areas. As of that moment, only asylum seekers who had travelled through such areas were required to quarantine, and the designated quarantine facilities were discontinued.¹⁰²

Shortage of reception capacity

On 25 August 2021, the Dutch House of Representatives appealed to the regional and local governments to support the search for (emergency) reception locations for asylum seekers, due to the high influx of asylum seekers.¹⁰³ The House of Representatives also appealed for housing solutions for beneficiaries of international protection, due to a lack of housing in general in the Netherlands. The aim

99 Rulings of the Court of Justice of the EU (ECLI:EU:C:2017:127) and the Administrative Jurisdiction Division of the Council of State (ECLI:NL:RVS:2017:2986 and ECLI:NL:RVS:2017:2980).

100 Work Instruction IND/SUA, 2021/3, 'BMA advies tijdens de Dublinprocedure n.a.v. arrest C.K.' (BMA advice during the Dublin procedure following case C.K.), https://ind.nl/Documents/WI_2021-3.pdf, last accessed 16 December 2021.

101 Central Agency for the Reception of Asylum Seekers (COA), 'Opvang en begeleiding tijdens de asielaanvraag', <https://www.coa.nl/nl>, last accessed 29 April 2021.

102 *Parliamentary Papers II*, 2020-2021, 19637 no. 2757.

103 Central Agency for the Reception of Asylum Seekers (COA), 'Kabinet luidt noodklok: asielopvang vol', <https://www.coa.nl/nl/nieuws/kabinet-luidt-noodklok-asielopvang-vol>, last accessed 7 December 2021.

Arrival of refugees in the emergency reception centres of the Central Agency for the Reception of Asylum Seekers (COA) in Goes, the Netherlands

Photo: Jonas Roosens, ANP/Hollands Hoogte, September 2021



of these developments was to urgently create additional reception capacity for asylum seekers, while also seeking structural solutions to prevent the need for emergency reception facilities to be opened in the future. In September 2021, it was reported that the COA continuously saw more arrivals than departures. All regular reception locations and the emergency location in Goes reached their capacity limit by October 2021. Because of the general lack of housing in the Netherlands, there is not always enough possibility for beneficiaries of international protection to move from reception locations to other housing options in municipalities.

The COA opened its first emergency reception location for asylum seekers on 27 September 2021 in the municipality of Goes.¹⁰⁴ On 20 October, COA reported that a number of extra locations had been opened temporarily: for example, in Almere the Ministry of Defence and the Red Cross helped create emergency shelters for asylum seekers by placing pavilions. COA also reported that in a number of cities, such as Groningen and Leeuwarden, reception places would soon be available.¹⁰⁵ However, in October there still was a lack of reception capacity. Next to a lack of regular capacity of COA locations, there was a significant lack of reception places for unaccompanied minors due to a higher influx.¹⁰⁶ Therefore, UAMs could not always be placed in facilities specifically for UAMs. Moreover, shortage of staff in these specific facilities influenced the quality of guidance for UAMs.

On 22 October the national government appealed to the regional governments to provide 100 reception places for asylum seekers within 48 hours for the duration of three or four weeks. These locations would be financed by the national government. Several provinces responded to the appeal.¹⁰⁷ This urgent appeal was due to the situation that too many asylum seekers were residing in emergency facilities in the municipality of Westerwolde, which threatened the safety and comfort of asylum seekers, employees and citizens.¹⁰⁸

In December 2021, the Minister for Migration resorted to the measure of appointing locations in specific municipalities (Enschede, Gorinchem, Venray and Rotterdam) for the reception of asylum seekers,

¹⁰⁴ Central Agency for the Reception of Asylum Seekers (COA), 'Noodopvang asielzoekers in zeelandhallen Goes', <https://www.coa.nl/nl/nieuws/noodopvang-asielzoekers-zeelandhallen-goes>, last accessed 7 December 2021.

¹⁰⁵ Central Agency for the Reception of Asylum Seekers (COA), 'Update en tijdelijke opvanglocaties', <https://www.coa.nl/nl/nieuws/update-noodopvang-en-tijdelijke-opvang-locaties>, last accessed 7 December 2021.

¹⁰⁶ *Parliamentary Papers II*, 2020-2021, 19 637, no. 2774.

¹⁰⁷ *Parliamentary Papers II*, 2021-2022, 19 637, no. 2779.

¹⁰⁸ *Parliamentary Papers II*, 2021-2022, 19637 no. 2768, 2771, 2773, 2779.

due to an acute emergency situation.¹⁰⁹ This instruction led to a public debate on whether there was a legal basis for this instruction, as the instruction was interpreted by municipalities, media and legal scholars to be intended by the government as legally binding. The government later stated that the instruction was never intended as a legal obligation to provide reception capacity, but rather as an urgent administrative request (see also section 2.3).¹¹⁰

Financial assistance to tackle disturbance

On 17 May 2021, the Dutch Government made available one million euros in financial assistance for the implementation of measures to tackle disturbance caused by asylum seekers.¹¹¹ Because many municipalities have regularly faced asylum seekers causing disturbance, they joined forces with the national Government for the implementation of measures to tackle the disturbance locally. Moreover, there is much attention for this topic in the Parliament and the media. Municipalities can apply for, and use the financial assistance themselves to develop their local approaches in tackling disturbance caused by a relatively small group of asylum seekers. It is a follow-up to a financial scheme initiated in 2020.

4.4 (Safe) countries of origin

Safe countries of origin

In the Netherlands, a country is considered a safe country of origin if in general and in a sustainable manner there is no persecution, for example due to race or religion, no torture or inhumane treatment.⁷² Asylum seekers from safe countries of origin have virtually no chance of an asylum residence permit. Their asylum applications are handled with priority and expeditiously. Asylum applications by asylum seekers from a safe country of origin can be rejected as manifestly unfounded. This means that the rejected asylum seeker must leave the Netherlands immediately. Moreover, he/she will have an entry ban imposed for the entire Schengen Area for a period of two years. Asylum seekers from safe countries of origin will however be given the opportunity to demonstrate why the country is not safe in their specific situation.

Reassessment safe countries of origin

In 2021, the Minister for Migration initiated a re-assessment of the qualification of some of the countries that are considered to be safe countries of origin¹¹² to determine whether the safe country label still applies. The Minister for Migration has started reassessing countries identified as safe countries of origin, following a decision¹¹³ by the Administrative Jurisdiction Division of the Dutch Council of State on the reassessment procedure on 7 April 2021 that this needs to be done periodically. Countries are reassessed based on the following criteria: democratic government; protection of the 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 one or more of the criteria, a comprehensive reassessment of the country of origin will follow. In the meantime, the safe country policy will be suspended with respect to that country.

The re-assessment started by evaluating the qualifications of Morocco, Tunisia, Georgia and Algeria, due to the relatively high influx of nationals from these countries in the Netherlands. In May 2021, the Minister for Migration informed the House of Representatives that Georgia, Morocco and Tunisia have still been designated safe countries of origin after reassessment.¹¹⁴ In June 2021, the Minister for Migration informed the House of Representatives that Albania, Montenegro and North Macedonia have

¹⁰⁹ *Parliamentary Papers II*, 2021-2022, 19 637, no. 2806.

¹¹⁰ This information was provided by the Directorate for Migration Policy (DMB) on 23 June 2022.

¹¹¹ Dutch Central Government, 'Extra budget voor lokale maatregelen tegen overlast door asielzoekers', <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/nieuws/2021/05/17/extra-budget-voor-lokale-maatregelen-tegen-overlast-door-asielzoekers>, last accessed 7 December 2021.

¹¹² *Parliamentary Papers II*, 2020-2021, 19637, no. 2743.

¹¹³ ECLI:NL:RVS:2021:738.

¹¹⁴ *Parliamentary Papers II*, 2021-2021, 19637, no. 2726.

been reassessed and are still considered as safe countries of origin, but that Algeria could no longer be classified as a safe country of origin due to the receiving of new authoritative reports which show that the situation in Algeria has deteriorated in certain respects.¹¹⁵ In July, the Minister for Migration communicated that Ghana, Ukraine and Senegal are still considered safe countries of origin, with exceptions of certain groups.¹¹⁶ In November, the Minister for Migration communicated that Brazil, Jamaica and Serbia are still considered safe countries after reassessment, with the exception of certain groups (such as journalists reporting on corruption/crime and are critical towards the government in Brazil). Moreover, Bosnia and Herzegovina, Kosovo and Mongolia are still considered safe countries after reassessment, although in Mongolia there is heightened attention to persons persecuted for being gay, bisexual, transgender, queer or questioning, and intersex (LGBTQI) and for being human rights activists.¹¹⁷

Public country reports

Previously confidential country reports of the IND with extensive information on countries of origin have been made publicly available since 18 February 2021.¹¹⁸ The aim of the public country reports is to inform both IND employees and other parties involved with asylum seekers on the general situation in a country or the position of a certain group in a specific area in a country. By making them public, all IND employees and other parties have access to the country reports and it is traceable where information comes from. The decision to make country reports publicly available comes as a result of the report *Measuring and knowing (Wegen en weten)* from the Advisory Committee for Immigration Affairs (*Adviescommissie voor Vreemdelingenzaken - ACVZ*).¹¹⁹ These reports are important sources for decision-making in asylum procedures, but can also be useful for other parties involved with asylum seekers. The information in these country reports is mostly based on the official country report from the ministry of Foreign Affairs, however when information is missing other sources are used. The Ministry asked ACVZ for advice on how to use sources other than the official country report from the ministry of Foreign Affairs, because of concerns that the use of information on countries based on other sources is not embedded in a transparent manner in policy or practice. This means it is often not clear whether this information is trustworthy and when the source should or should not be used.

Decision and departure moratorium Tigray

A decision and departure moratorium was installed for third country nationals from the regional state Tigray in Ethiopia and for ethnic Tigrayans on 10 July following the publication of an official country report by the Ministry of Foreign Affairs. This meant that the IND would temporarily not take any decisions on asylum applications from these persons, and rejected asylum seekers would not be returned, until more information was available on the situation in the regional state Tigray in Ethiopia. The decision and departure moratorium was installed following the publication of an official country report on Ethiopia by the Ministry of Foreign Affairs. At that moment, more information was needed on the safety situation in the regional state Tigray and how this would develop, as well as the situation of ethnic Tigrayans in Ethiopia. To that end, the Minister for Migration requested the Ministry of Foreign Affairs to issue a thematic country report focusing on the regional state Tigray and ethnic Tigrayans in Ethiopia.¹²⁰ The decision and departure moratorium was terminated on 18 November 2021 following the publication of a thematic country report, after which ethnic Tigrayans and perceived supporters of Oromo Liberation Front (OLF) or Oromo Liberation Army (OLA-Shene) were considered risk groups, and female ethnic Tigrayans were considered a vulnerable minority group.¹²¹

115 *Parliamentary Papers II*, 2020-2021, 19637, no. 2780.

116 *Parliamentary Papers II*, 2021-2021, 19637, no. 2755.

117 *Parliamentary Papers II*, 2020-2021, 19637, no. 2778.

118 Immigration and Naturalisation Service (IND), 'Landenrapport IND voortaan openbaar', <https://ind.nl/nieuws/paginas/landenrapporten-IND-voortaan-openbaar.aspx>, last accessed 6 December 2021.

119 Adviescommissie voor Vreemdelingenzaken (ACVZ), 'Advies: Geen land te bekenen', <https://www.adviescommissievoorvreemdelingenzaken.nl/publicaties/publicaties/2013/12/4/geen-land-te-bekennen>, last accessed 6 December 2021.

120 Immigration and Naturalisation Service (IND), 'Temporary stop on decisions for Tigray (Ethiopia)', [https://ind.nl/en/news/pages/temporary-stop-on-decisions-for-tigray-\(ethiopia\).aspx](https://ind.nl/en/news/pages/temporary-stop-on-decisions-for-tigray-(ethiopia).aspx), last accessed 16 December 2021; *Parliamentary Papers II*, 2021-2021, 19637, no. 2750.

121 *Government Gazette (Staatscourant)*, 2021, no. 46956.

Decision and departure moratorium Afghanistan

On 11 August 2021, a decision and departure moratorium was issued for third country nationals from Afghanistan, for a period of six months, to temporarily halt decisions on asylum applications by persons from Afghanistan, and to halt returns to Afghanistan.¹²² The moratorium was issued due to the crisis situation in Afghanistan in August 2021. Decision and departure moratoriums can be issued when the security situation in a country of origin is developing fast or when more information is needed on how this will develop.

4.5 Evacuations from Afghanistan

Afghanistan evacuation the Netherlands

The crisis in Afghanistan and the evacuations of Dutch and local staff led to important developments, which were extensively described in chapter 2. Emergency reception locations were established, a departure moratorium was installed and the Ministers of Defence and Foreign Affairs resigned because of heavy criticism. This section concerns specifically the policy changes regarding the evacuation framework and evaluations following the crisis and evacuations.

Evacuation framework for Afghanistan

The evacuation framework for persons from Afghanistan was adopted prior to 31 August 2021, and most evacuations took place during that month. The aim of the Dutch government was to evacuate the Dutch nationals still in the country, interpreters who have worked for the Netherlands as part of an international military or police mission and local embassy staff and their families, and Afghans who have worked for the Netherlands or as part of the Netherlands' contribution to international military or police missions and face an elevated risk as a result. This group includes, in particular, staff of Dutch development projects, human rights and women's rights defenders and journalists and their fixers.¹²³ The target groups of evacuation was broadened following the motion-Belhaj,¹²⁴ adopted on 17 August 2021, which called on the government to evacuate various groups who had worked for or supported the Dutch mission in Afghanistan. After the end of the acute evacuation phase on 26 August, the abovementioned groups were designated as risk groups for applications for international protection.¹²⁵

Around 2.200 Afghan nationals were evacuated during August 2021, all of which had completed the (shortened) asylum procedure and received a positive decision on their asylum application by 14 December 2021. Around 150 Afghan nationals were evacuated from September 2021 onwards. For some of them, the asylum procedure was still pending by December 2021.¹²⁶

The evacuation of Afghan nationals is considered humanitarian admission in the framework of the EU 2021-2022 resettlement and humanitarian admission programme. The Netherlands has pledged the humanitarian admission of 3.159 Afghan nationals for the period 2021-2022. Currently, the Dutch government is still transferring persons that are part of the abovementioned groups from Afghanistan to the Netherlands.

¹²² *Parliamentary Papers II*, 2021-2021, 19637, no. 2767.

¹²³ Letter of 18 August 2021 from the Minister of Foreign Affairs, the Minister of Defence and the Minister for Migration on the implementation of the motion submitted by Salima Belhaj et al. concerning the expansion of categories relating to the special procedure for interpreters, 18-8-2021, <https://www.government.nl/documents/parliamentary-documents/2021/08/18/letter-parliament-motion-belhaj-expansion-categories-special-procedure-interpreters>, last accessed 3 January 2022.

¹²⁴ *Parliamentary Papers II*, 27925, no. 788.

¹²⁵ Letter to Parliament from the Ministers of Foreign Affairs and Defence and the Minister for Migration of 11 October 2021.

¹²⁶ Immigration and Naturalisation Service (IND), 'Residence permit for over 2 000 Afghan evacuees', 14 December 2021, <https://ind.nl/nieuws/paginas/verblijfsvergunning-voor-ruim-2-000-afghaanse-evacu%C3%A9s-.aspx>, last accessed 3 January 2022. See also the updates provided by the Ministers of Foreign Affairs and Defense and the Minister for Migration on 11 October 2021 and 16 November 2021.

Evaluations and lessons learned

On 14 September 2021, the Government announced two external evaluations would be conducted on the results of the Dutch involvement in Afghanistan and the management of the crisis, including the evacuations from Kabul to the Netherlands in 2021, in order to draw lessons for possible future evacuations.

In addition, following a motion adopted by Parliament, the government asked an external expert to support the Ministries of Foreign Affairs, Defence and Justice and Security in identifying areas for improvement in the exchange of knowledge and information within and between these Ministries, and to draw lessons for the planning and execution of possible future evacuations and the reception of future evacuees. To this end, the Afghan evacuation operation of the Netherlands would be compared with France, Germany, the United Kingdom, Denmark and Norway.¹²⁷

Evacuation operations at the international airport in Kabul, Afghanistan, in the days following the fall of Kabul to Taliban movement

Photo: ANP/Abaca-press.com, August 2021



¹²⁷ Letter to Parliament from the Ministers of Foreign Affairs and Defence and the Minister for Migration of 11 October 2021.

5 Minors and other vulnerable groups

This chapter discusses policy developments regarding minors and other vulnerable groups, whom are often in need of specific protection and support. Most policy developments in 2021 in this category concern (unaccompanied) minors, although measures were also installed to better protect gay, bisexual, transgender, queer or questioning, and intersex (LGBTQI) asylum seekers.

Vulnerable persons

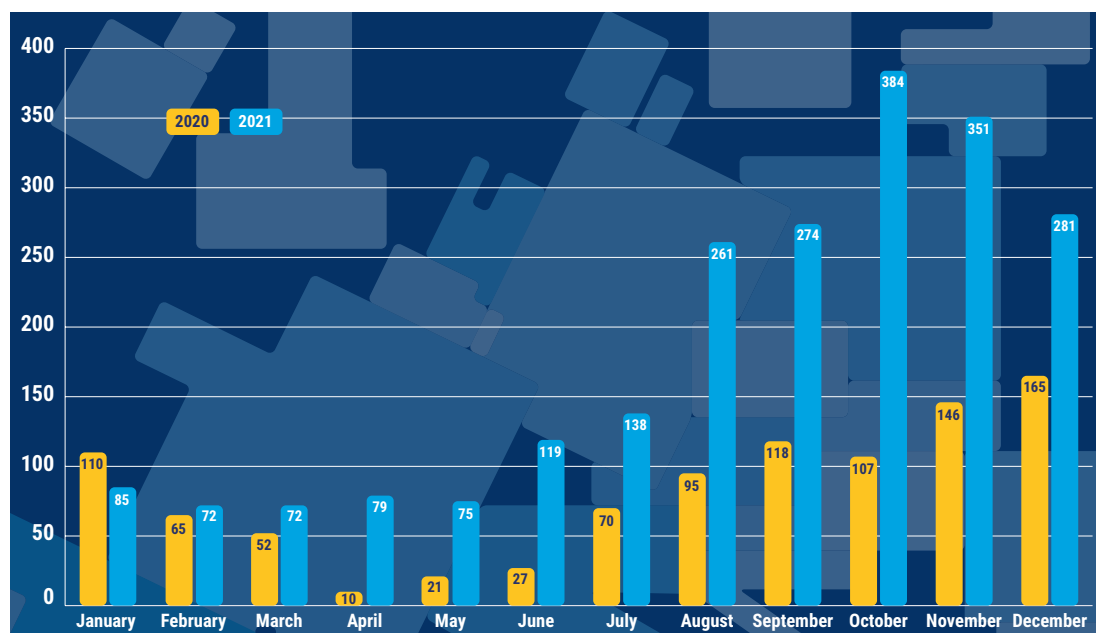
The EMN Glossary defines vulnerable persons as “minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.”¹²⁸ However, victims of trafficking in human beings are not included in this chapter, as they are specifically covered by chapter 10 of this report.

In the Netherlands, statistics are available for applications for international protection by unaccompanied minors (UAMs) but are not as clearly distinguished for other vulnerable groups. Therefore, only statistics for UAMs will be provided for.

In 2021, there were more applications for international protection by UAMs in the Netherlands in 2020 (2,191 compared to 986).¹²⁹ Figure 4 shows that especially from June onwards, there was a vast increase in the number of asylum applications from UAMs, with the highest peak in October and November. In the months January to May 2021, the number of asylum applications by UAMs was also higher compared to the previous year, but remained rather steady.

Figure 4:
Development of the
number of asylum
applications by UAM
in 2020-2021.

Source: Immigration and Naturalisation Service (IND). Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2021



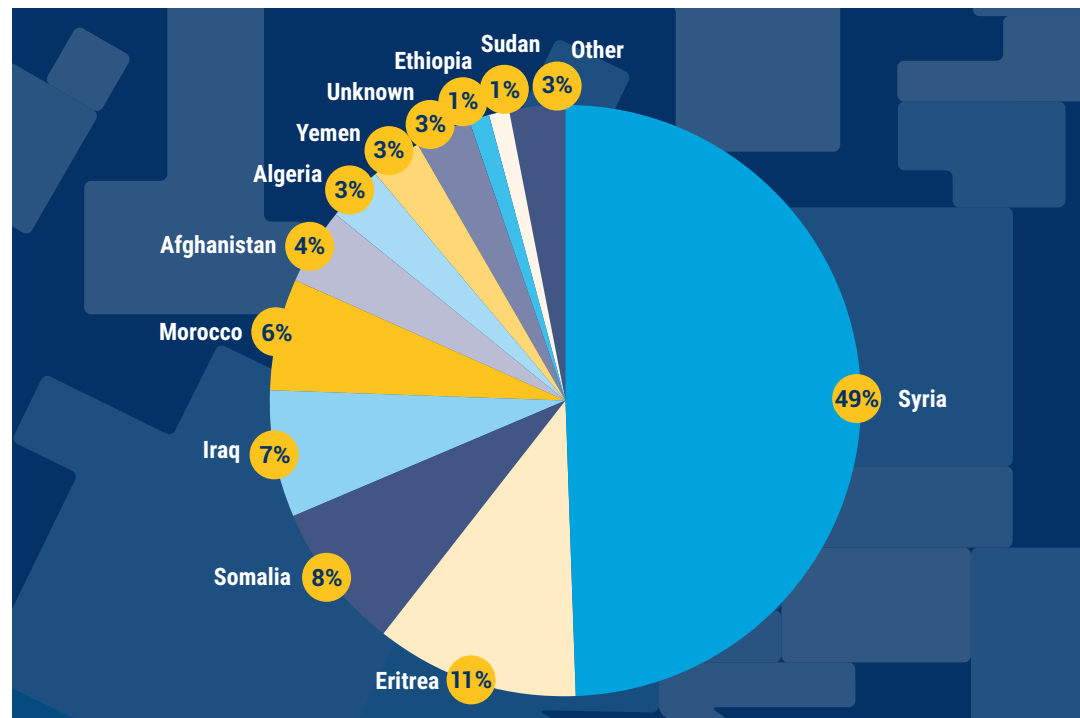
¹²⁸ EMN Glossary 6.0, “vulnerable person” [vulnerable person | Migration and Home Affairs \(europa.eu\)](#).

¹²⁹ Immigration and Naturalisation Service (IND), Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2021.

In 2021, most UAMs came from Syria (49%), Eritrea (11%), and Somalia (8%). In 2020, the top three countries of origin were Syria (45%), followed by Morocco (15%) and Eritrea (7%). In 2021, UAMS from Morocco only constituted 6% of the total population UAMs who filed an asylum application, making it the fifth most represented country of origin of UAMs. The percentages of other nationalities can be found in Figure 5.

Figure 5:
Nationalities of UAM
in 2021

Source: Immigration and Naturalisation Service (IND).
Asylum Trends: Monthly Report on Asylum applications in the Netherlands, December 2021



5.1 Minors

In 2021, there were multiple law and policy changes concerning minors. Some regarded all minors and others were specifically applicable to UAMs. These policy developments will be explained in the stated order.

Minors

The EMN Glossary defines a minor as “a person who, according to the law of their respective country, is under the age of majority, i.e. is not yet entitled to exercise specific civil and political rights.” The term minor is used in a legal context and the preferred term to use when referring to an individual. The term “child” should be used to describe the relationship with other family members.¹³⁰

All minors

Additional funds for primary and secondary education of third country national minors

In May 2021, the Dutch government decided to provide additional funds for the primary and secondary education of third country national minors, in order to compensate for the influence of the COVID measures on the education of third country nationals.¹³¹ Primary schools are now able to request financing for asylum seekers and other third country nationals who have remained in the Netherlands for a maximum of four years, instead of only for asylum seekers who have been in the Netherlands for a maximum of two years and other third country nationals who have been in the Netherlands for a maximum of one year. In addition, third country nationals will receive the same funds as asylum seekers in

¹³⁰ EMN Glossary 6.0, ‘Minor’, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/minor_en.

¹³¹ Letter from the Minister of Education, Culture and Science and the Minister of Primary and Secondary Education and Media to the House of Representatives, 21 May 2021, 28 197785. <https://open.overheid.nl/repository/ronl-25a4dc57-8665-4fb0-b627-1f06db93355c/1/pdf/nadere-uitwerking-nationaal-programma-onderwijs.pdf>, last accessed 27 January 2022.

their first year, in order to remedy their language deficiency. Furthermore, secondary schools may now request additional funding for third country nationals who remained in the Netherlands for a period shorter than two years¹³² and who followed education in the International Intermediate Class (*Internationale Schakelklas*) or regular education.

Unaccompanied minors

Unaccompanied Minors (UAMs)

The Dutch government defines an UAM as a person who arrives in the Netherlands when underaged (18 years or younger) from outside of the European Union (EU) without parents or a guardian. Nidos is conform the Dutch law the organization responsible for the temporary custody for UAMs.¹³³

Prolonged reception and support for unaccompanied minors

On 25 November 2021, the Ministry of Justice and Security announced its plan to provide for prolonged reception and support for unaccompanied minors (UAMs) with an asylum status who reach legal adulthood.¹³⁴ The need for adequate care for former UAMs was repeatedly emphasized in recent debates, and the provision of prolonged reception and support for this group aims to guarantee this care where it is found to have been lacking. The previous government had already established prolonged support for former UAMs on an incidental basis for 2022, and the new government will decide whether structural financing will be provided.

Possibility of family reunification for UAMs who live with a family member

On 22 September 2021, the policy for family reunification for (unaccompanied) minors was officially amended, in order to enhance the family reunification procedure for UAMs who live with an adult family member in the Netherlands. Before the amendment, minors who lived with a (distant) family member in the Netherlands could only apply for family reunification under Art. 8 of the European Charter of Human Rights (ECHR), and not under the Family Reunification Directive.¹³⁵ However, an inquiry by the Minister for Migration demonstrated that more children than expected were affected by this limitation, and that the diversity and heterogeneity of affected cases requires individualized assessments.¹³⁶ Therefore, following the amendment third country national minors with a residence permit are eligible for family reunification under the Family Reunification Directive, even if they are being cared for by and live with an adult family member in the Netherlands.¹³⁷

Research needed about adequacy of reception facilities for UAMs before return decision

On January 14 2021, the Court of Justice of the EU ruled (ECLI:EU:C:2021:9) that before issuing a return decision to unaccompanied minors (UAMs), Member States need to argue that there is adequate care for these UAMs in the country of origin. Previously, every unaccompanied minor that was not granted a residence permit in the Netherlands received an official return decision. In practice however, return was not possible in cases where there was no adequate reception for the UAMs in the country of origin.

- In order to streamline the national procedure with the CJEU ruling, the new rule is that the Netherlands is required in each specific case to do research about the adequacy of reception centres for UAMs in their countries of origin before issuing a return decision. If this research indicates that there are insufficient or inadequate reception facilities for UAMs in their country of origin, a return decision cannot be issued.

¹³² Specifically between 1 April 2020 and 1 April 2021.

¹³³ Dutch Central Government, 'Alleenstaande minderjarige vreemdeling' (unaccompanied minor), <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/alleenstaande-minderjarige-vreemdelingen-amv>, last accessed 17 January 2022.

¹³⁴ Dutch Central Government, Answers to questions from the House of Representatives from the first term of the deliberation on the budget of the department of Justice and Security, 25-11-2021, <https://www.rijksoverheid.nl/documenten/rapporten/2021/11/25/tk-bijlage-aanbieding-beantwoording-begrotingsbehandeling-jenv-voor-2022>, last accessed January 17th 2022.

¹³⁵ Immigration and Naturalisation Service (IND), 'IND adjusts procedure for applications for journeys in connection with family reunification on the part of minors', <https://ind.nl/en/news/pages/ind-adjusts-procedure-for-applications-for-journeys-in-connection-with-family-reunification-on-the-part-of-minors.aspx>, last accessed 14 December 2021.

¹³⁶ Immigration and Naturalisation Service (IND), 'IND adjusts procedure for applications for journeys in connection with family reunification on the part of minors', <https://ind.nl/en/news/pages/ind-adjusts-procedure-for-applications-for-journeys-in-connection-with-family-reunification-on-the-part-of-minors.aspx>, last accessed 14 December 2021.

¹³⁷ Government Gazette (*Staatscourant*), 2021, no. 41581; Immigration and Naturalisation Service (IND), 'IND adjusts procedure for applications for journeys in connection with family reunification on the part of minors', <https://ind.nl/en/news/pages/ind-adjusts-procedure-for-applications-for-journeys-in-connection-with-family-reunification-on-the-part-of-minors.aspx>, last accessed 14 December 2021.

- The implementation of the aforementioned policy amendment requires an official change of law, which takes a certain amount of time. In order to meet the obligation under the CJEU ruling during this transition period, the Aliens Act Implementation Guidelines (*Vreemdelingencirculaire*) have been amended. This amendment provides UAMs whose asylum request has been rejected - but for whom it has not been ascertained that there is adequate reception in their country of origin - with a form of legal residence in the Netherlands, for the duration of the investigation on the adequacy of these reception conditions. During this period, the issuing of a return decision is postponed.¹³⁸

EMN reports on children in migration

In 2021, the EMN carried out a study on Children in migration in Europe.¹³⁹ As a follow-up, in October 2021 EMN Netherlands organized a webinar on the transition to adulthood of (unaccompanied) minor applicants for international protection.¹⁴⁰

5.2 Other vulnerable groups

Other vulnerable groups

For the purpose of this report, 'other' vulnerable groups include disabled people, elderly people, lesbian, gay, bisexual, transgender, queer or questioning, and intersex (LGBTQI) people, pregnant women, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical, or sexual violence, such as victims of female genital mutilation.¹⁴¹

In the Netherlands, the Minister for Migration can designate specific groups as a vulnerable minority group or a group at risk of persecution in certain countries of origin. For this determination, the extent of random violence and the extent of random human rights violations are examined, in relation to the position of the group in the country of origin. If a group in a certain country is considered vulnerable, this is registered in the country-specific asylum policies in the Netherlands. Consequently, a country of origin is generally determined as safe, but if an asylum seeker belongs to a designated vulnerable group, the asylum application is not subjected to the accelerated procedure for safe countries of origin and for legal residence in other EU-countries, but will instead be processed in the regular asylum procedure.¹⁴²

Outline resolution to improve safety for LGBTQI asylum seekers

On 26 November 2020, the Dutch Parliament issued a resolution requiring the government to develop a strategy to improve the safety of living conditions in reception centres for LGBTQI asylum seekers and religious converted asylum seekers. The resolution was issued following numerous reports of violent incidents against these vulnerable groups in asylum reception centres. As a response to the resolution, on 5 March 2021 the Minister for Migration outlined in a letter to the House of Representatives how the government intends to improve the safety of the living conditions in reception centres for this vulnerable group, by reducing and preventing the occurrence of (violent) discriminatory acts. It was further announced that the Research and Documentation Center of the Ministry of Justice and Security (*Wetenschappelijk Onderzoeks-en Documentatiecentrum* - WODC) was conducting research on these issues, which will in turn guide the further development and implementation of respective policies.¹⁴³ The following concrete points of action were presented in the letter, which are being implemented gradually:

- Improving the visibility of these vulnerable asylum groups, as well as increasing awareness of and knowledge on these groups for employees of the Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan opvang Asielzoekers* – COA);

¹³⁸ Court of Justice of the European Union, ECLI:EU:C:2021:9.

¹³⁹ The study can be found at: EMN study: [Children in migration in Europe | EMN Nederland - Europees Migratienetwerk Nederland \(emn.nl\)](#)

¹⁴⁰ The report of the webinar can be found at: [Report webinar EMN Netherlands on children in migration | EMN Nederland - Europees Migratienetwerk Nederland](#)

¹⁴¹ Definition used in the EMN Annual Report 2020.

¹⁴² Work instruction IND, no. 2013/14, https://ind.nl/Documents/WI_2013-14.pdf.

¹⁴³ *Parliamentary Papers II*, 19637, no. 2705.

- Developing minimum working standards at the locations of the COA, and;
- Registration of suspicion of discriminatory acts against these vulnerable groups.

In addition, the new coalition agreement (see section 2.1 of this report) specifies that the government will enhance the expertise of IND employees regarding LGBTQI and conversion asylum cases.¹⁴⁴ This is also a consequence of the aforementioned resolution by the Dutch Parliament.¹⁴⁵

¹⁴⁴ Parliament Formation 2021, Coalitieakkoord 'Omzien naar elkaar, vooruitkijken naar de toekomst' (Coalition Agreement 'Looking after each other, looking ahead to the future'), <https://www.kabinetsformatie2021.nl/documenten/publicaties/2021/12/15/coalitieakkoord-omzien-naar-elkaar-vooruitkijken-naar-de-toekomst>, last accessed 17 December 2021.

¹⁴⁵ This information was provided by the Directorate for Migration Policy (DMB) on 30 May 2022.

6 Integration

Integration

Integration includes those aspects that are intended to help the migrant to faster become part of and take part in the Dutch society. This includes, for example, learning the language, starting to work, and actively participate within the Dutch society.

This chapter focuses on the developments in Dutch integration policy in 2021. In the Netherlands, integration is partly a responsibility of the municipalities. However, this report discusses the integration policy developments on the national level.

In the Netherlands, newcomers who are obligated to integrate have three years to meet certain requirements. In this period, they should learn the Dutch language and get to know Dutch norms and values. In addition, newcomers should explore their possibilities on the Dutch labour market. The civic integration period is completed after successfully finishing the civic integration exam. This examination tests Dutch language skills and knowledge of Dutch society. Newcomers can be exempted from the civic integration exam, for example based on other diplomas.¹⁴⁶

Newcomers who are obliged to integrate can be divided into three categories: 1) Persons entitled to asylum, 2) family migrants, and 3) other. Examples of newcomers in the category 'Other' are family members of children that received a residence permit based on the general amnesty for long-term resident children and clerics.

Figure 6:
Number of people who are required to do the integration exam and the status in 2020 and 2021

	Persons entitled to asylum		Family migrants		Other	
	2020	2021	2020	2021	2020	2021
Completed	1.618	158	1.315	508	125	44
Exempted	39	15	24	9	*	12
Still required to integrate	11.120	17.119	5.515	7.487	378	579
*Numbers are too small to report because of privacy reasons						

Source: DUO, Progress figures civic integration in the Netherlands, reference date: 1 May 2022

6.1 General civic integration measures

New civic integration act

The amended civic integration act (*Wet Inburgering* 2021) came into force on 1 January 2022.¹⁴⁷ The new law aims at ensuring that those obliged to civically integrate are able to learn the Dutch language and participate in the Dutch society (preferably through paid employment) faster and better. This will be done, for instance, through more involvement of municipalities in the integration process (which has been mostly an individual responsibility of the migrant until now). The Dutch government is of the

¹⁴⁶ Ministry of Education, Culture and Science, 'Voortgangscijfers Inburgering Totaal Nederland', <https://duo.nl/zakelijk/inburgering-ketenpartners/cijfers-over-inburgeren/cijfers-inburgeren.jsp>, last accessed 17 May 2021.

¹⁴⁷ *Parliamentary Papers II*, 2020-2021, 35483, no. 73.

opinion that the former Dutch integration system has not been adequately capable of ensuring that all of those who are obliged to civically integrate, can do so swiftly. This was underpinned by an evaluation of the current integration law,¹⁴⁸ which then led to the conclusion that changes need to be made to the law to improve its effectiveness.¹⁴⁹

In order for municipalities to prepare the implementation and to guide the group of newcomers to whom the current civic integration act (*Wet Inburgering* 2013) still applies, in total €36,5 million of extra funding has become available.¹⁵⁰

The new civic integration law is aimed at newcomers. In order to apply for a permanent residence permit or for naturalisation, several civic integration exams need to be passed as well. However, the policy framework for the integration requirements for persons applying for permanent residency or Dutch citizenship was not ready yet on 1 January 2022, when the new civic integration law came into effect.¹⁵¹

Beneficiaries of international protection from Turkey and Syria successfully completed their courses for starting a teaching job in the Netherlands

Photo: Jean-Pierre Jans, ANP/Hollands Hoogte



Therefore, a temporary framework has been developed for the transition period, which mainly ensures that the current integration requirements remain valid during the transition period. This means that for applicants for permanent residency or naturalisation it is for example possible to pass the civic integration exam with language level A2, and not yet at B1-level (as is the case with the new civic integration law).

Continued funding for KIS

On 28 April 2021, it was decided by the Dutch Ministry of Social Affairs and Employment that the Knowledge Platform Integration & Society (*Kennisplatform Integratie en Samenleving*-KIS) continues to be funded for the next four years.¹⁵²

¹⁴⁸ *Parliamentary Papers II*, 2017-2018, 34584.

¹⁴⁹ Senate, 'Wet inburgering 2021', https://www.eerstekamer.nl/wetsvoorstel/35483_wet_inburgering_20, last accessed 4 January 2021.

¹⁵⁰ *Parliamentary Papers II*, 20, 32 824, 297.

¹⁵¹ *Parliamentary Papers II*, 2021-2021, 32 824, no. 346.

¹⁵² *Parliamentary Papers II*, 2020-2021, 32824, no. 326.

¹⁵³ Kennisplatform Inclusief Samenleven (KIS), 'About us', <https://www.kis.nl/about-us>, last accessed 16 December 2021.

The platform offers research, consultation, practical advice and tools with regard to issues of integration, migration and diversity in the Netherlands.¹⁵³ This platform was evaluated in 2021 for the second time and it was concluded that KIS will continue its activities. The evaluation also provided a number of recommendations, which KIS will implement in 2022.

Extension of integration term due to COVID-19 measures

Due to the COVID-19 measures, third country nationals have a weaker position on the labour market and experience more obstacles to participate in civic integration. The Dutch government put measures into place to limit this negative impact of the COVID-19 pandemic. This was done, for example, by extending the integration term by four months for third country nationals who are experiencing delays due to the COVID-19 measures and who are approaching the end of the civic integration term.¹⁵⁴ On 11 June 2021, the measures taken to limit the negative impact of the pandemic on civic integration consisted of an extension of the civic integration term, stimulating distance learning, opening the test locations in the evening and on Saturdays, and extra financial support for vulnerable groups on the labour market.¹⁵⁵

Solutions for spouses abroad in relation to the integration examination during the pandemic

In case a spouse or partner of a person who has legal residency in the Netherlands wishes to join him or her, the spouse usually needs to pass the basic civic integration examination abroad at a Dutch embassy or consulate general. Because of the COVID-19 pandemic, many embassies and consulates had to scale down their services (although in July 2020, the Minister for Migration reported that Dutch embassies and consulates have started most of their regular consular services again since May 2020). Please also see section 3.1 of this report on legal migration.¹⁵⁶

In 2021, solutions were offered to persons who could not take their civic integration exam abroad due to COVID-19. For example, persons who were unable to travel were in some cases allowed to apply for a residence permit without first passing the civic integration exam abroad. Also, exemption of the exam was possible in case it was difficult to take the exam due to circumstances at hand. If a person was temporarily not able to take the exam, this alone was not a reason for exemption, but it was taken into consideration.

The driver for this development was a motion (parliamentary procedure in which a formal proposal is done in order to take action) which requested action from the Parliament and the embassies, consulates and other relevant organisations.¹⁵⁷

Financial support for municipalities to construct housing for beneficiaries of international protection

On 6 October 2021 the Association of Netherlands Municipalities (*Vereniging van Nederlandse gemeenten* - VNG) communicated that, on the basis of the Regulation reception for attention groups (*Regeling huisvesting aandachtsgroepen*), municipalities were able to request a one-time payment by the end of November 2021 for the construction of housing for specific groups in need of extra attention. These groups included beneficiaries of international protection.¹⁵⁸ The aim is to enlarge the housing possibilities for specific groups, as there is a general lack of housing capacity. In total, €50 million has been made available, of which €18 million is specifically meant for beneficiaries of international protection.

¹⁵⁴ *Parliamentary Papers II*, 2020-2021, 32824, no. 322.

¹⁵⁵ *Parliamentary Papers II*, 2020-2021, 32824, no. 328.

¹⁵⁶ *Parliamentary Papers II*, 2020-2021, 19637, no. 2757.

¹⁵⁷ *Parliamentary Papers II*, 2020-2021, 35483, no. 71. This concerns the motion of the parliament members Van den Berge and Paternotte.

¹⁵⁸ Association of Netherlands Municipalities (VNG), '€31 miljoen beschikbaar voor huisvesting aandachtsgroepen', <https://vng.nl/nieuws/eu-31-miljoen-beschikbaar-voor-huisvesting-aandachtsgroepen>, last accessed 7 December 2021.

Preventing discrimination within governmental organisations

The Dutch childcare benefits affair (*kinderopvangtoeslagaffaire* or *toeslagenaffaire*) is a political scandal in the Netherlands concerning false allegations of fraud made by the Tax and Customs Administration while attempting to regulate the distribution of childcare benefits. The procedures followed to select and investigate cases in which suspicions arose, led to a situation where parents without the Dutch nationality were more likely to be checked by the Tax and Customs Administration (see also section 2.1 and previous chapters in this report).

As a consequence of this affair, the Dutch government is committed to strengthening the awareness of effects of discrimination and discriminative behaviour in governmental organisations in order to prevent it from happening.¹⁵⁹ On 26 October 2021, the Minister of Interior Affairs and the Minister of Finance reported on the progress made on this topic. In order to strengthen the awareness of effects of discrimination and discriminative behaviour in governmental organisations, more trainings will be offered on this topic by the Netherlands Institute for Human Rights and the Ministry of the Interior and Kingdom Relations. Moreover, more trainings on diversity and inclusion will be offered throughout the Dutch governmental organisations.

In addition to this, instruments in order to fight discrimination are being developed. For example, the Code Good Digital Public Administration (*Code Goed Digitaal Openbaar Bestuur*)¹⁶⁰ is used for governmental organisations that make use of algorithms. Moreover, developers of algorithmic systems are trained to develop in such a way that the chance of discrimination is minimised.

Moreover, a National Coordinator discrimination and racism has been appointed on 15 October 2021, with the aim to prevent and combat discrimination and racism.

¹⁵⁹ *Parliamentary Papers II*, 2021-2022, 26643, no. 799.

¹⁶⁰ *Parliamentary Papers II*, 2021-2022, 26643, no. 765.

7 Dutch citizenship and statelessness

This chapter deals with policy developments in 2021 concerning the obtainment of Dutch citizenship through naturalisation and option. In 2021, 59.680 applications for naturalisation were received in the Netherlands, compared to 43.660 in 2020.¹⁶¹ The IND reports that this is the result of a higher number of residence applications a number of years back, such as asylum applications in 2015 and 2016. After a few years of residence, these migrants can apply for Dutch citizenship.¹⁶² The acceptance rate laid on 98%. This chapter will also address developments in relation to the prevention of statelessness.

7.1 Dutch citizenship

Acquisition of Dutch citizenship

In the Netherlands, migrants can acquire the Dutch nationality via two different procedures. First, this is possible through naturalisation. Naturalisation is defined by the EMN Glossary as “any mode of acquisition after birth of a nationality not previously held by the target person that requires an application by this person or their legal agent as an act of granting nationality by a public authority.”¹⁶³ In the Netherlands, this procedure is available for persons who lived in the Netherlands with a valid residence permit continuously for five years and who meet the requirements with regard to the naturalisation test, including the civic integration exam.¹⁶⁴

A second possibility is obtaining Dutch citizenship through option. This is a faster procedure, but not available to everyone. To be eligible to apply for acquisition of the Dutch citizenship via the option procedure, the third country national must fall under certain specific categories.¹⁶⁵

Naturalisation of RANOV permit holders

In June and November 2021, policy was amended for the RANOV permit holders who had not been naturalised as a Dutch citizen yet. RANOV permit holders who wish to naturalise are exempted from the document requirement (i.e. from submitting a valid foreign passport and birth (registration) certificate).¹⁶⁶ Furthermore, RANOV permit holders are no longer obliged to renounce their original nationality.

RANOV permit holders are foreign nationals who fell under the 2007 general amnesty (the Regulation on Settlement of the Legacy of the Old Aliens Act, RANOV) and therefore received a legal residence permit. It concerned 28.000 migrants who had submitted an asylum application before 1 April 2001 and had stayed in the Netherlands without a residence permit for several years before the general amnesty.¹⁶⁷

The objective of this change is to overcome the biggest challenge (the document requirement)¹⁶⁸ of RANOV permit holders in the naturalisation procedure. Since RANOV permit holders are former asylum seekers, they do not always possess identity documents. Migrants with an asylum residence permit

161 Immigration and Naturalisation Service (IND), ‘IND Jaarverslag 2021’, <https://magazines.rijksoverheid.nl/ind/indjaarverslag/2021/01/naturalisatie>.

162 Immigration and Naturalisation Service (IND), ‘IND Jaarcijfers 2021: Ondanks corona toch druk jaar voor IND’, <https://ind.nl/nieuws/Paginas/IND-Jaarcijfers-2021-Ondanks-corona-toch-druk-jaar-voor-IND.aspx>, last accessed 23 May 2022.

163 EMN Glossary 6.0, ‘Naturalisation’, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en

164 Immigration and Naturalisation Service (IND), ‘Becoming a Dutch national through naturalisation’, <https://ind.nl/en/dutch-citizenship/becoming-a-dutch-national-through-naturalisation>.

165 Immigration and Naturalisation Service (IND), ‘Becoming a Dutch national through option’, <https://ind.nl/en/dutch-citizenship/Pages/Option.aspx>.

166 IND, ‘RANOV-groep vrijgesteld van documenteneis naturalisatie’, <https://ind.nl/nieuws/paginas/ranov-groep-vrijgesteld-van-documenteneis-naturalisatie.aspx>, last accessed on 29 November 2021; IND, ‘Volwassenen met RANOV-vergunning kunnen vanaf 1 november het Nederlanderschap aanvragen’, <https://ind.nl/nieuws/paginas/volwassenen-met-ranov-vergunning-kunnen-vanaf-1-november-het-nederlanderschap-aanvragen.aspx>, last accessed 29 November 2021.

167 IND, ‘Nederlander worden met een RANOV-vergunning’, <https://ind.nl/Paginas/ranov.aspx>, last accessed 29 November 2021.

168 WODC, ‘Factsheet 2021-1, (N)ooit Nederlander worden? Naturalisatie van Ranov-vergunninghouders’, last accessed 29 November 2021.

were already exempted from the requirement to submit identity documents. Several studies highlighted the challenge of the document requirement for this particular group (e.g. in 2014 by the Dutch Council for Refugees, in 2015 by the Immigration and Naturalisation Service and in 2021 by the Research and Documentation Centre of the Ministry of Justice and Security - WODC).

7.2 Statelessness

Stateless persons

The EMN Glossary defines a stateless person as a person who is not considered a national by any state under the operation of its law.¹⁶⁹ A migrant can become stateless because of state succession (in which a new state is established coming from another state that was previously recognized), unclear or discriminating laws with regard to determination of nationalities, displacement/forced migration or having stateless parents.¹⁷⁰

Act for statelessness determination procedure

On 28 December 2020, a bill was proposed to initiate a procedure to determine statelessness in relation to the ratification of the international convention on statelessness.¹⁷¹ The objective of this development is to overcome a gap in legislation on the identification of stateless people by establishing a determination procedure. With this procedure in place, more people should be able to prove statelessness.¹⁷² The bill was drafted on the basis of an advice given in 2013 by the advisory committee for immigration affairs (*Adviescommissie voor Vreemdelingenzaken-ACVZ*) to establish such a procedure for persons who cannot prove their statelessness by means of documents.¹⁷³

On 26 May 2021, the bill was discussed in Parliament and it was received well. However, questions were asked to clarify, among other things, the duration of the process and how extensive the problem regarding statelessness is in the Netherlands.¹⁷⁴ The processing of the bill continued in 2022. On 31 May 2022, the bill was adopted by the House of Parliament. The bill is currently being reviewed in the Senate.

¹⁶⁹ EMN Glossary 6.0, 'Stateless person', https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/stateless-person_en.

¹⁷⁰ Dutch Central Government, 'Staatloosheid', <https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/staatloosheid>.

¹⁷¹ House of Representatives, 'Wetsvoorstel Vaststellingsprocedure staatloosheid 18 December 2021' (Bill proposal procedure for determining statelessness), <https://zoek.officielebekendmakingen.nl/kst-35687-2.html>, last accessed 17 December 2021.

¹⁷² *Parliamentary Papers II*, 2020 – 2021, 35687, no. 4.

¹⁷³ *Parliamentary Papers II*, 2020 – 2021, 35687, no. 4; Adviescommissie voor Vreemdelingenzaken (ACVZ), 'Advies: Geen land te bekennen', <https://www.adviescommissie-voorvreemdelingenzaken.nl/publicaties/publicaties/2013/12/4/geen-land-te-bekennen>, 11 March 2021.

¹⁷⁴ *Parliamentary Papers II*, 2020 – 2021, 35687, no. 5.

8

Borders, visa and Schengen

In 2021, several developments took place in relation to management of the external borders of the European Union (EU). In the Netherlands these external borders comprise the international seaports and airports, and, on land, the rail connections with the United Kingdom. These are the areas where passengers and goods from outside the EU arrive when entering the Netherlands other than through borders of neighboring countries. Developments also took place in relation to the Schengen acquis (regulations on internal borders within the Schengen Area).

The Netherlands issued 116.227 short-stay visas to third country nationals in 2021. 115.775 of these were issued to third country nationals coming directly from countries outside the EU/European Economic Area (EEA), and 452 visas were issued to third country nationals who were staying in a different EU-country.¹⁷⁵ The total number of short-stay visas issued was lower than in 2020, where about 137.535 short-stay visas were issued.¹⁷⁶

8.1 Borders

European integrated border management

The concept of European integrated border management entails national and international coordination and cooperation among relevant authorities and agencies involved in border security and trade facilitation. This is intended to establish effective, efficient and coordinated border management at the external borders of the EU.¹⁷⁷

Travel restrictions due to COVID-19

On 1 June 2021, the 'Quarantine obligation for travellers entering the Netherlands act' (*Wet quarantaine-verplichting inreizigers*) entered into force. The new Act was driven by the COVID-19 pandemic, and in particular by the recommendations of the Outbreak Management Team which advises the Dutch government on how to reduce the spread of the virus. This act makes it possible to require travellers coming from designated 'very high risk' areas to quarantine for 10 days. The quarantine can be terminated sooner if the traveller tests negative for COVID-19 after five days. Prior to the entry into force of this act, travellers could not be obligated to quarantine but instead they were strongly advised to do so.¹⁷⁸

Digitalization of external border control

On 16 July 2021, the Minister of Justice and Security informed the House of Representatives of ongoing developments in the area of digitalization of border control. The aim of these developments was to improve the cybersecurity of border control systems at the international airport Schiphol, driven by the response to recommendations made by the Court of Audit in its report 'Digitalisation at the border' to improve the cybersecurity of border control systems at the international airport Schiphol.¹⁷⁹

Implementation of EU developments at external borders

On 15 December 2021, the Council of State, the Netherlands' highest advisor on legal matters, advised on the draft national implementation law regarding EES, ETIAS, SIS, VIS and Interoperability. The purpose of the Smart Border regulations is to improve the quality of border controls to combat irregular migration, increase security and facilitate travel. The developments are a direct consequence of the implementation of the EU Smart Border and Interoperability Framework. Advice from the Council of

¹⁷⁵ This information was provided by the Ministry of Foreign Affairs on 13 April 2022.

¹⁷⁶ This information was provided by the Ministry of Foreign Affairs on 30 March 2021.

¹⁷⁷ EMN Glossary 6.0, 'European integrated border management', https://ec.europa.eu/home-affairs/content/european-integrated-border-management_en#:~:text=The%20European%20integrated%20border%20management,as%20migrant%20smuggling%2C%20trafficking%20in.

¹⁷⁸ *Parliamentary Papers II*, 2020-2021, 35808 no. 3.

¹⁷⁹ *Parliamentary Papers II*, 2020-2021, 26643 no. 774; Court of Audit (Algemene Rekenkamer), 'Digitaliseren aan de grens (Digitalisation at the border)', 20 April 2020; *Parliamentary Papers II*, 2019-2020, 26643 no. 677.

State is mandatory before sending the draft law to Parliament. The Council of State addressed some matters of attention regarding the draft implementation law, but otherwise advised that the draft law was of sufficient quality to be sent to Parliament once these matters had been attended to.¹⁸⁰

Judicial and criminal investigation

On 28 September 2021, the Dutch government submitted a legal proposal to amend the Judicial and criminal investigation data act (*Wet justitiële en strafvorderlijke gegevens*).¹⁸¹ The amendment aims to implement EU rules regarding the European Criminal Records Information System (ECRIS) (Directive 2019/884) and the future database regarding third country nationals and stateless persons, ECRIS-TCN (Regulation 2019/816). The legal proposal does not seek to make any other changes besides those required by the Regulation and Directive.¹⁸²

8.2 Visa

Visa

Visa policy that allows for the entry of a legal visitor into the EU, falls to a large extent under the competence of the EU. A common visa policy deems to ensure the security and functioning of the free movement of persons within the Schengen Area.¹⁸³

Two types of visa exist: a Schengen visa (a short-stay visa up to 90 days in any 180-day period¹⁸⁴), and national visa (long-stay visa for over 90 days¹⁸⁵). In the Netherlands, a long-stay visa is called an authorisation for temporary stay (*Machtiging tot Voorlopig Verblijf - MVV*).

Immigration liaison Ukraine

In 2021, the Netherlands decided to remove its immigration liaison officer (ILO) stationed in Ukraine in order to reduce costs. This was done because it was no longer considered necessary to deploy an ILO to Ukraine; this decision was made on the basis of a cost-benefit analysis. The reasons to remove the ILO were that the capacity of border guards in Ukraine was high, as well as their will to cooperate. In addition, Frontex also assists in border management in Ukraine, and passengers with Ukrainian nationality and a biometric passport were no longer subject to a visa requirement for the Netherlands.

8.3 Schengen

Schengen

The Schengen *acquis* concerns a set of EU-regulations that ensure that no internal border controls exist between participating countries in the Schengen Area. The regulations also allow for the free movement of persons within the participating countries, other EU-countries and certain third countries.¹⁸⁶

This paragraph reports on possible developments in relation to these internal borders, the new Schengen *acquis* (new regulations) and Schengen evaluations. All Member States are evaluated in order to monitor the implementation of the Schengen *acquis*. The aim of this evaluation is to ensure effective and consistent application of the Schengen regulations.¹⁸⁷

¹⁸⁰ Information provided by the Ministry of Justice and Security on 8 February 2022.

¹⁸¹ *Parliamentary Papers II*, 2021-2022, 35916 no. 1.

¹⁸² *Parliamentary Papers II*, 2021-2022, 35916 no. 3.

¹⁸³ European Commission, 'Visa policy', https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy_en.

¹⁸⁴ European Commission, 'The Schengen visa', [The Schengen visa \(europa.eu\)](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/schengen-visa_en).

¹⁸⁵ Dutch Central Government, 'Staying in the Netherlands for longer than 90 days (long-stay visa)', <https://www.netherlandsworldwide.nl/travel/visas-for-the-netherlands/long-stay-visa-mvv>.

¹⁸⁶ Europe now, 'Akkoord van Schengen', https://www.europa-nu.nl/id/vh7dowjo3mzi/akkoord_van_schengen_schengen.

¹⁸⁷ European Commission, 'Schengen evaluation and monitoring', https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/schengen-area/schengen-evaluation-and-monitoring_en.

Temporary regulations

On 7 October 2021, a new bill was proposed for temporary regulations in regards of the Schengen Information System (SIS) regulation until the implementation of the legislation of the EU-regulation 2018/1862 and the commissioning of the new SIS. These temporary regulations are proposed with the purpose of being ready for the launch of the new SIS and for the appointed organisations to be able to use the new SIS system by right of access or a direct search within the system. The temporary regulations will expire the moment the new legislation Borders and Security (*Grenzen en Veiligheid*) is implemented, as this is still being developed. The temporary regulations regulate the right of admittance, accessibility and purpose of access of the SIS by (Dutch) government officials.¹⁸⁸

Schengen evaluations: return and external borders

Due to the COVID-19 situation, the Schengen evaluations of 2020 for the policy areas Borders and Return took place in March 2021. Furthermore, in May 2021 the Netherlands was evaluated on the SIS and police cooperation. Evaluation of Visa policy was postponed to 2022. The objective of these evaluations is to ensure national compliance with the Schengen acquis for Border Control.¹⁸⁹

The report of the Schengen Evaluation Return was presented to the Schengen Committee in late July 2021, and the recommendations were presented in the Working party for Schengen Matters in November 2021. The Netherlands objected to two recommendations. Therefore, in early 2022, the Contact Group on Return Directive reconvened to discuss the interpretation of the Return Directive on these matters.¹⁹⁰ The Netherlands is participating actively in the negotiations regarding the new Schengen evaluation and monitoring mechanism regulation.¹⁹¹

With regards to external borders, a total of 22 recommendations were formulated by the on-site team. By the Commission prioritised recommendations are targeted at:

- (no. 1) improving data submission for the Vulnerability Assessment conducted by Frontex;
- (no. 6) carrying out risk analysis by Seaport Police and Coastguard in accordance with the Common Integrated Risk Analysis Model (CIRAM);
- (no. 10) more coherent strategic planning for resources of all relevant authorities;
- (no. 12) establishing both a legal framework and better working procedures with harbour masters to ensure systematic reporting of all incoming and departing pleasure boats to and from third countries;
- (no. 19) ensuring a coherent maritime border surveillance strategy, operational planning and command & control functions.¹⁹²

¹⁸⁸ *Parliamentary Papers II*, 2021-2022, 35935, no. 2 and no. 4.

¹⁸⁹ Information provided by the Netherlands Royal Marechaussee on 14 January 2022.

¹⁹⁰ Information provided by the Repatriation and Departure Service on 14 January 2022.

¹⁹¹ Information provided by the Ministry of Justice and Security on 8 February 2022.

¹⁹² Information provided by the Netherlands Royal Marechaussee on 14 January 2022.

9 Irregular migration and migrant smuggling

In this chapter, developments concerning irregular migration and migrant smuggling are discussed. The most important themes in this regard are the prevention of irregular migration, the prevention of irregular stay, and the monitoring and identification of irregular migration routes.

9.1 Irregular migration

Irregular migration

Irregular migrants do not have any valid documents to enter a country or to stay in a country. A person could not have a passport or have falsified documents, for instance. The responsibility of preventing irregular migration lies with the Dutch authorities, for which they can use measures such as border controls.¹⁹³

Tackling misuse of the au pair regulation

On 15 November 2021, the conditions for residence permits for au pairs have been refined. According to the new rules, an au pair must be unmarried, must not have any (foster) children, and cannot be older than 25 years. The aim of the amendment was to prevent potential misuse of the au pair regulation and to ensure that the permit is used for the purpose of 'cultural exchange' only. The reason for the change was that continued signals indicated that the regulation for au pairs was misused for the facilitation of labour instead, even after certain interventions were taken such as intensification of enforcement.¹⁹⁴

Prevention of irregular migration

In 2021, the Netherlands invested in improving the effectiveness of awareness raising campaigns aimed at making (potential) migrants aware of the risks of irregular migration and the legal alternatives, through an evaluation of four Dutch-funded awareness raising campaigns in Nigeria, Iraqi Kurdistan and Afghanistan.¹⁹⁵ The reason behind this was the acknowledgement of the need to enhance knowledge about the effectiveness of awareness raising campaigns, and to inform choices about funding such campaigns in the future.¹⁹⁶

Prevention of irregular stay

Five municipalities started pilots in 2019 to achieve sustainable solutions for irregularly staying third country nationals without a right of residence or reception by the government. On 28 June, it was announced that an interim evaluation was made to evaluate the pilots of the five municipalities. According to the evaluation, the cooperation between the different actors within the pilots improved. These actors can be local or national partners who are involved with long-term irregularly staying migrants. It was not possible yet to draw any conclusions about the effectiveness of the pilots and the sustainability of the solutions, as the running time was too short and COVID-19 was limiting the possibilities for return of irregularly staying migrants. However, overall it was concluded that the pilots had a positive influence in the participating municipalities on achieving social tranquillity; a better view of the target group; a coherent approach; administrative tranquillity; and sustainable solutions for harrowing situations. By letter to parliament of 28 June the pilots were first prolonged until 1 July 2022 and by letter of 17 December 2021 they were prolonged until the end of 2022. The extension of the pilots aims to provide more time to the new government to decide on the continuation and implementation of the best practices in an administrative agreement.¹⁹⁷

¹⁹³ EMN Glossary 6.0, 'Irregular migration', https://home-affairs.ec.europa.eu/pages/glossary/irregular-migration_en.

¹⁹⁴ *Parliamentary Papers II*, 2020-2021, 19673, no. 2782.

¹⁹⁵ Information provided by the Ministry of Foreign Affairs on 17 December 2021.

¹⁹⁶ Information provided by the Ministry of Foreign Affairs on 14 January 2022.

¹⁹⁷ *Parliamentary Papers II*, 19637 no. 2748; 19637 no. 2808.

9.2 Migrant smuggling

Smuggling of migrants

The EMN Glossary defines the smuggling of migrants, in accordance with the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air (supplementing the UN Convention against Transnational Organised Crime), as “the procurement in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a person into a (UN) Member State of which the person is not a national or a permanent resident.”¹⁹⁸

Monitoring and identifying irregular migration routes

With regard to identifying migration routes to prevent irregular migration, in practice the new (organised) route via Belarus was identified, together with irregular migration as a means to set pressure on the European Union.¹⁹⁹

¹⁹⁸ EMN Glossary 6.0, 'Smuggling of migrants', https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/smuggling-migrants_en.

¹⁹⁹ Information provided by the Netherlands Royal Marechaussee on 14 January 2022.

10 Measures against trafficking in human beings

This section deals with policy developments in 2021 in relation to measures against adult human trafficking. Trafficking in human beings is an exceptionally serious form of organised crime. Therefore, combating human trafficking is a priority of the Netherlands as well as the European Union (EU). Victims of human trafficking are often among the most vulnerable groups in society.

In 2021, there were several national strategic policy developments in relation to trafficking in human beings. Whereas some of them concerned only third country national victims of human trafficking, others were (also) applicable to Dutch and EU citizens. There were no specific developments regarding the identification and provision of information to third country national victims, however there were several developments concerning international cooperation in the field of trafficking in human beings.

Human trafficking

According to the EMN Glossary, human trafficking involves the recruitment, transportation, transfer, harbouring or reception of persons by means of the threat or use of force or other forms of coercion, for the purpose of exploitation.²⁰⁰ This can concern having to work under duress and poor working conditions, child labour, forced prostitution, or being involved under duress in criminal activities. Victims and witnesses of trafficking in human beings, who do not have a valid residence permit in the Netherlands, can become eligible for a residence permit if they report human trafficking.²⁰¹

Victims of human trafficking can be both EU-nationals and third country nationals. However, as the scope of this Annual Report concerns third country nationals, the developments described in this chapter are limited to the measures that (also) apply to this group. In addition, this chapter covers adult victims of human trafficking only, since human trafficking of minors is addressed in chapter 5 of this report.

10.1 National strategic policy developments

Please note that certain policy developments described below do not only concern third country national victims of human trafficking, but also Dutch and EU citizens who are (potential) victims of human trafficking. This will be specified per policy amendment.

Suspension of specialized regulation for Asian restaurants

In October 2021, it was announced that the particular regulation for Asian restaurants in the Netherlands to hire specialized cooks from outside the EU/EEA without an annual quota, and without first having to make recruitment efforts, provisionally ends as of 1 January 2022. This special regulation had been introduced in 2019, but there were signals of misuse of the regulation that could indicate human trafficking and/or human smuggling. For example, in interviews lawyers and cooks indicated that the cooks needed to pay high amounts to intermediaries taking care of the (migration) procedures. In addition, the cooks stated that they were exploited due to long working days and low salaries. These signals were indicated by two Dutch newspapers (*Trouw*²⁰² and *de Groene Amsterdammer*²⁰³), and signals received by Dutch representations abroad and Immigration Liaison Officers in China.²⁰⁴ Because of the severity of the signals, the parliament found it reasonable to change the policy with regard to

200 EMN Glossary 6.0, 'Trafficking in human beings', https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/trafficking-human-beings_en.

201 For more information, please see: EMN Netherlands, 'Mensenhandel' <https://emnetherlands.nl/migratiethemas/mensenhandel>.

202 Trouw, 'Misstand in de horeca: 500 koks uit Azië naar Nederland gehaald terwijl er meestal geen werk voor hen was', <https://www.trouw.nl/binnenland/misstand-in-de-horeca-500-koks-uit-azie-naar-nederland-gehaald-terwijl-er-meestal-geen-werk-voor-hen-was~b6c8c6a7/>, last accessed 30 November 2021.

203 De Groene Amsterdammer, 'Hij heeft me gewoon opgelicht', <https://www.groene.nl/artikel/hij-heeft-me-gewoon-opgelicht>, last accessed 30 November 2021.

204 Parliamentary Papers II, 2020–2021, 29 544, no. 1061.

specialized Asian cooks. Therefore, as of 1 January 2022, the regular procedure for work permits applies to specialized Asian cooks.²⁰⁵ This means that a labour market test applies to first assess whether there are Dutch nationals, legally residing third country nationals who are allowed to work, or nationals from other EU Member States available to fulfil the vacancy (see also chapter 3 of this report).

Strengthening of municipal approach to combat trafficking in human beings

NB: this policy development does not only concern third country national victims of human trafficking, but also Dutch and EU citizens who are (potential) victims of human trafficking.

On 1 February 2021, the Minister Migration reported that the municipal approach to combatting human trafficking was strengthened in the context of the interdepartmental Government programme Together against Human Trafficking (*Samen tegen Mensenhandel*). The driver of the refined approach was a motion filed in the Dutch Parliament in July 2019, urging the Minister for Migration to develop a com-

Portraits of victims of trafficking in human beings in Amsterdam, the Netherlands

Photo: Maarten Brante, ANP/Hollands Hoogte



mon framework for the municipal approach to human trafficking in cooperation with the Association of Netherlands Municipalities (*Vereniging van Nederlandse Gemeenten* - VNG) and individual municipalities. The motion was launched in light of the mostly inexistent or insufficient policy framework regarding human trafficking at the municipal level.²⁰⁶ In light of this, a common framework (*Kader*) has been established to help municipalities develop and monitor policies to prevent and combat human trafficking.²⁰⁷ For this purpose, the VNG launched a digital tool to help municipalities develop an effective approach to combatting human trafficking (the so-called 'Compass' or *Kompas Aanpak Mensenhandel*); a governance network for human trafficking (*Bestuurlijk netwerk mensenhandel*) has been established; and three pilots were initiated that aim to strengthen the regional approach in the fight against human trafficking.²⁰⁸

²⁰⁵ *Parliamentary Papers II*, 2020–2021, 29544, no. 1061.

²⁰⁶ *Parliamentary Papers II*, 2018–2019, 28638, no. 167.

²⁰⁷ Association of Dutch Municipalities (VNG), 'Kader voor de aanpak van mensenhandel door gemeenten' (Framework for the approach to human trafficking by municipalities), <https://kompas.vng.nl/kader/>, last accessed 13 December 2021.

²⁰⁸ *Parliamentary Papers II*, 2020–2021, 28638, no. 187.

Acceptance of the recommendations by the National Rapporteur on the Trafficking in Human beings and Sexual Violence against Children

N.B: This general policy development does not only concern third country national victims of human trafficking, but also Dutch and EU citizens who are (potential) victims of human trafficking. However, below only the policy changes that are specifically relevant for third country national victims are highlighted.

On 11 January 2021, the Minister for Migration accepted the policy recommendations made in the Human Trafficking Victims Monitoring Report 2015-2019²⁰⁹ published by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (the National Rapporteur).²¹⁰ In addition, on 19 February 2021, the Minister for Migration accepted all three policy recommendations in the Offenders Monitoring Report 2015-2019²¹¹ published by the National Rapporteur.²¹² The general purpose of the policy recommendations is to contribute to developing a structural and integral approach to human trafficking. A number of recommendations are specifically relevant for third country national victims, and are intended to enhance insights into less visible phenomena and victim groups (i.e. third country nationals falling under the Dublin Regulation),²¹³ and to enhance knowledge concerning labour exploitation on a local level.²¹⁴ The policy recommendations that are relevant specifically for third country national victims of human trafficking are: a) enhancing knowledge on the victimhood of third country nationals subject to the Dublin Regulation (following the Victims Monitoring Report),²¹⁵ and b) examining vulnerable sectors and employees locally to steer the approach towards labour exploitation, i.e. through the municipal framework and pilots described above (following the Offenders Monitoring Report).²¹⁶

10.2 Cooperation with third countries

Cooperation with third countries

The Netherlands is cooperating with third countries of origin or transit in order to prevent human trafficking. This concerns, for example, support to programmes focused on capacity building of local authorities and the judicial sector.²¹⁷

Joint investigation teams under the umbrella of EMPACT

In 2021, the Netherlands established long-term cooperation with Vietnam, Nigeria, and China under the umbrella of EMPACT, whereby the Netherlands is in the lead for trafficking in human beings. This is a response to the increase in victims identified in Europe from China, Vietnam and Nigeria and the need to cooperate with the source countries to investigate the whole of the criminal organization involved.

209 For more information, see: National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Victims Monitoring Report 2015-2019', <https://www.dutchrapporteur.nl/publications/reports/2020/12/14/human-trafficking-victims-monitoring-report-2015-2019>, last accessed 3 February 2022.

210 For more information, see: National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Victims Monitoring Report 2015-2019', <https://www.dutchrapporteur.nl/publications/reports/2020/12/14/human-trafficking-victims-monitoring-report-2015-2019>, last accessed 3 February 2022.

211 For more information, see: National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Offenders Monitoring Report 2015-2019', <https://www.dutchrapporteur.nl/publications/reports/2021/01/21/human-trafficking-offenders-monitoring-report-2015-2019-summary>, last accessed 3 February 2022.

212 Letter from the Minister for Migration on 19 February 2021, 28638, no. 188.

213 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Fundament voor structurele aanpak mensenhandel gelegd voor volgend kabinet' (Fundament for structural approach to human trafficking established for next cabinet), <https://www.nationaalrapporteur.nl/actueel/nieuws/2021/01/11/fundament-voor-structurele-aanpak-mensenhandel-gelegd-voor-volgend-kabinet>, last accessed 13 December 2021.

214 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Fundament voor structurele aanpak mensenhandel gelegd voor volgend kabinet' (Fundament for structural approach to human trafficking established for next cabinet), <https://www.nationaalrapporteur.nl/actueel/nieuws/2021/01/11/fundament-voor-structurele-aanpak-mensenhandel-gelegd-voor-volgend-kabinet>, last accessed 13 December 2021.

215 *Parliamentary Papers II*, 2020-2021, 127487.

216 Letter from the Minister for Migration on 19 February 2021, 28638, no. 188.

217 Ministry of Justice and Security, Ministry of Social Affairs and Employment, Ministry of Foreign Affairs, Ministry of Health, Welfare and Sport (2018), 'Samen tegen mensenhandel, een integrale programma-aanpak van seksuele uitbuiting, arbeidsuitbuiting en criminele uitbuiting'.

Information and prevention campaigns: COMPASS

At the beginning of 2021, the International Organisation for Migration (IOM) and the Ministry of Foreign Affairs of the Netherlands launched the Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS). This project adopts an ecological approach to combating human trafficking and facilitating voluntary returns. COMPASS focuses on the needs of individual victims, while recognizing that the consideration of their broader socio-cultural environment (such as their families and wider communities) is crucial for the development and implementation of sustainable solutions.²¹⁸ For more information on COMPASS, please see chapter 11 and 12 of this report.

Khartoum Process

Due to the COVID-19 pandemic, the Dutch Chairmanship of the Khartoum Process was extended and continued in 2021 (see also chapter 12). The Khartoum Process is a platform for migration dialogue and cooperation amongst the countries along the migration route between the Horn of Africa and Europe. In this context, the Netherlands organised – in cooperation with International Centre for Migration Policy Development (ICMPD) as Secretariat of the Khartoum Process – the four-module Webinar Series titled “Trafficking in Human Beings: The 4Ps Revisited” (March – June 2021).²¹⁹

²¹⁸ This information was provided by the Ministry of Foreign Affairs on 15 September 2021.

²¹⁹ This information was provided by the Ministry of Foreign Affairs on 17 December 2021.

11 Return

This chapter discusses developments with regard to return and readmission, either forced or voluntary. This includes general policy amendments intended to facilitate swift, effective and sustainable returns; policy amendments concerning (assisted) voluntary return; policy amendments regarding forced return; and cooperation mechanisms with third countries in the field of return.

Return

According to the EMN Glossary, return concerns the movement of a person going from a host country back to a country of origin, country of nationality or habitual residence. The return can be voluntary or forced, assisted or spontaneous.²²⁰ When no lawful residence is granted to a person in the Netherlands, a return decision is issued and the person is obliged to return. The person usually receives 28 days to voluntarily leave the country. If a person wants to return voluntarily they can receive assistance, for instance from the International Organisation for Migration (IOM). If the person does not cooperate with voluntary return proceedings, a procedure for forced return will be started.

Figure 7:
Third-country nationals who demonstrably left the Netherlands following an order to leave, voluntary or forced, in 2021

Source: Eurostat, 2021

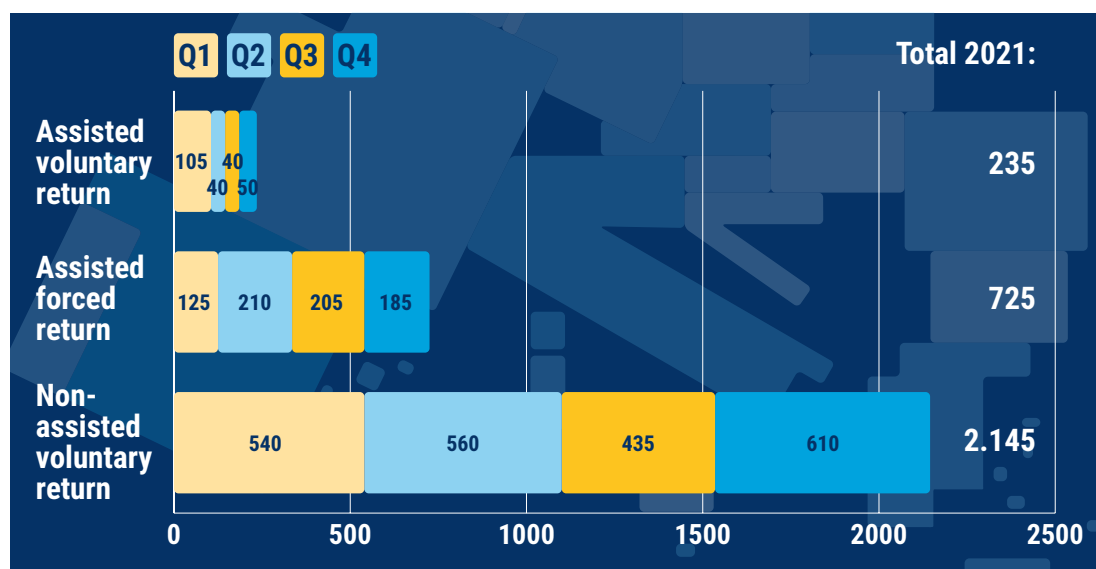


Figure 7 shows the number of third country nationals who returned and demonstrably left the Netherlands following an order to leave, by type of return. These numbers include return to the country of origin, as well as return to other countries. In total 235 third country nationals voluntarily returned with assistance, while 2.145 did so without assistance. Furthermore, 725 assisted forced return procedures took place. The numbers are based on return registered by the National Police, the Royal Netherlands Marechaussee and the Repatriation and Departure Service (*Dienst Terugkeer en Vertrek* - DT&V).

Since the total number of returns registered by the National Police, the Royal Netherlands Marechaussee and the DT&V has only been registered in Eurostat from 2021 onwards, these numbers are not comparable with other return statistics of previous years (including those in the EMN Annual Report 2020).

²²⁰ EMN Glossary 6.0, 'Return', https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf.

11.1 Swift, sustainable and effective return

Issuance of an entry ban by e-mail if a migrant has already left the territory

1 October 2021, the Aliens Act Implementation Guidelines (*Vreemdelingencirculaire*) were amended, in order to allow for the issuance of entry bans following an intention procedure, even if the migrant has left the territory of the Netherlands (and thereby improve the ability of border authorities). Specifically, paragraph A4/2.4.3. of the Aliens Act Implementation Guidelines was changed to better reflect the standing policy on the conditions under which entry bans can be issued to migrants who have left the territory of the Netherlands. The paragraph changes the contents of model M107-B, which is used to conduct an intention procedure before an entry ban can be issued to a migrant. Following the changes, the model allows for the transfer of an entry ban decision to the last known e-mail address of the migrant concerned, even if he/she is not available to receive the entry ban in person.

Temporary halting of returns for third country nationals from the regional state Tigray in Ethiopia, for ethnic Tigrayans, and for third country nationals from Afghanistan

From 10 July until 18 November 2021, a decision and departure moratorium for third country nationals from the regional state Tigray in Ethiopia and for ethnic Tigrayans was installed. This was done following the publication of an official country report by the Dutch Ministry of Foreign Affairs. In addition, on 11 August 2021 a decision and departure moratorium for third country nationals from Afghanistan was issued, due to the crisis and rapidly escalating conflict in the country (for more information on the situation concerning Afghanistan, see also chapter 4 on international protection).

11.2 Voluntary Return

Voluntary return

Voluntary return refers to the assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee. Assisted voluntary return or voluntary departure refers to support by logistical, financial and/or other material assistance.²²¹

Expansion of Frontex Application for Return (FAR) to voluntary returns

In 2021, the Dutch uptake of the FAR (Frontex Application for Return, a web-based platform to enable the exchange of information between Frontex and EU Members States) was expanded to foreign nationals who leave the Netherlands voluntarily. Prior to this, the Netherlands had already been using the FAR system to book flight tickets for foreign nationals who leave the Netherlands non-voluntarily. The intensified cooperation with Frontex is intended to increase the Netherlands participation in Frontex return and reintegration activities and to allocate Dutch financial resources more cost-efficiently, due to the positive experience with the usage of FAR in relation to non-voluntary returns and the 100% coverage of the ticket costs. Important to note is that the above-mentioned target group is not the same as the group which leaves the Netherlands voluntarily with the International Organisation for Migration (IOM). Considering the expanded mandate of Frontex in the field of return (including voluntary return) and reintegration, the Netherlands has started dialogue with IOM Netherlands in this regard.

Sierra Leone added to the remigration benefit scheme

On 10 August, Sierra Leone was added to the list of destination countries for the remigration benefit scheme of the Dutch Social Insurance Bank. This was done to facilitate the remigration of third country nationals who wish to migrate back to Sierra Leone. In general, the remigration benefit scheme is intended for people who live in the Netherlands but who want to return to their country of origin. Under the said scheme, they can get a monthly payment for their living costs. The driver for adding Sierra Leone to the scheme was a person who wished to remigrate to Sierra Leone and who found that he couldn't make use of the remigration measure.²²²

221 EMN Glossary 6.0, 'Voluntary Return', https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf.

222 Government Gazette (*Staatscourant*), 2021, no. 38394.

11.3 Forced Return

Forced return

According to the EMN Glossary, forced return concerns the obligatory return of an individual to the country of origin, transit or third country (i.e. country of return), on the basis of an administrative or judicial act.²²³

New fourth element included in the return decision about the country to where the third country national needs to return

On 30 September 2021, a new rule was implemented for the inclusion of a new, fourth element in return decisions. This was done after the Administrative Jurisdiction Division of the Dutch Council of State introduced a new fourth element that has to be included in the return decision in a ruling on 2 June 2021 (ECLI:NL:RVS:2021:1155). Previously, the elements that need to be in a return decision were not included in the Aliens Act Implementation Guidelines. Therefore, all four elements were added in a new subparagraph of the Implementation Guidelines, in order to clarify which elements should be included in the return decision. The description now exists of four cumulative conditions that are based on article 3 of the Return Directive:

- Determination that a third country national does not/no longer resides in the Netherlands legally;
- The obligation to leave the territory of the EU;
- The time period in which the third country national has to leave, and;
- Appointing the country/the countries to where the third country national needs to return.²²⁴

11.4 International cooperation

International cooperation

The Netherlands cooperates with other EU and third countries to facilitate swift and effective returns. This includes, for example, the implementation of EU readmission agreements or cooperation mechanisms with third countries of origin or transit.

Launch of COMPASS

At the beginning of 2021, the International Organization for Migration (IOM) and the Ministry of Foreign Affairs of the Netherlands launched the Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS). COMPASS is a global initiative, in partnership with 12 countries, and is designed to protect people on the move, combat human trafficking and smuggling, and support dignified (voluntary) return while promoting sustainable reintegration. In addition to global activities, COMPASS specifically focuses on the following partner countries: Afghanistan, Chad (DTM), Egypt, Ethiopia, Iraq, Lebanon, Libya, Mali, Morocco, Niger, Nigeria, and Tunisia. The initiative is centred on a whole-of-society approach which, in addition to assisting individuals, works across all levels – households, communities, and the broader society including the State. The reason for developing such a comprehensive, whole-of-society approach was the recognition that the consideration of victims' broader socio-cultural environment is crucial for the development and implementation of sustainable solutions to combat human trafficking and smuggling and facilitate voluntary returns; and the need to realize Dutch policy objectives in a strategic and comprehensive manner with IOM, which is the largest international partner organization for migration cooperation for the Netherlands.²²⁵

See also chapter 10 and 12 for more information on COMPASS.

²²³ EMN Glossary 6.0, 'Obligatory Return', https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf.

²²⁴ Government Gazette (Staatscourant), 2021, no. 41948.

²²⁵ International Organization for Migration (IOM), 'COMPASS', <https://www.iom.int/compass#>, last accessed 13 December 2021; EMN Netherlands, study on detection, Identification and Protection of Third country National Victims of Trafficking in Human Beings 2021; this information was supplemented by the Ministry of Foreign Affairs on 17 December 2021 and 14 January 2022.

Funding of the National Assisted Voluntary Return and Reintegration mechanism in Turkey

In 2021, the Netherlands funded a project with the International Centre for Migration Policy Development (ICMPD) aimed at supporting and further strengthening the newly established National Assisted Voluntary Return and Reintegration mechanism in Turkey. This project will be implemented from 2021-2023 and is co-funded by Denmark and Norway.²²⁶

Implementation of EU readmission agreements

On 1 August 2021, the Bilateral Implementing Protocol to the EU Readmission Agreement between the Netherlands, Belgium and Luxembourg and Bosnia-Herzegovina has entered into force. In addition, the Bilateral Implementing Protocol to the EU Readmission Agreement between the Netherlands, Belgium and Luxembourg and Moldova has entered into force in 2021.

²²⁶ This information was provided by the Ministry of Foreign Affairs on 17 December 2021.

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Migration and development cooperation

Migration and development cooperation

The sustainable development of countries of origin contributes to addressing the root causes of irregular migration. This chapter pays attention to the cooperation with countries of origin in the form of development projects.

Launch of COMPASS

At the beginning of 2021, the International Organization for Migration (IOM) and the Ministry of Foreign Affairs of the Netherlands launched the Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS) (see section 11.4 above).

Khartoum Process

Due to the COVID-19 pandemic, the Dutch Chairmanship of the Khartoum Process was extended and continued in 2021. The Khartoum Process is a platform for migration dialogue and cooperation amongst the countries along the migration route between the Horn of Africa and Europe.²²⁷ In this context the Netherlands organized – in cooperation with ICMPD as the Secretariat of the Khartoum Process – the four-module Webinar Series titled “Trafficking in Human Beings: The 4Ps Revisited” (March – June 2021).

²²⁷ This information was provided by the Ministry of Foreign Affairs on 18 January 2022.

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Appendix A - Methodology and definitions

Methodology

This Annual Report is predominantly the result of desk research. The report was drawn up on by the national EMN contact point in the Netherlands. In doing so, EMN Netherlands greatly benefitted from expertise of the Immigration and Naturalisation Service (IND) and the Migration Policy Department (DMB) of the Ministry of Justice and Security (JenV). The following parties have also provided a contribution to the compilation of this report: the Community and Integration Department and the Labour Relations Department of the Ministry of Social Affairs and Employment (SZW), the Inspectorate SZW, the Ministry of Education, Culture and Science (OCW), the Education Executive Agency (DUO), the Repatriation and Departure Service (DT&V) and the Central Agency for the Reception of Asylum Seekers (COA) of JenV, the Royal Netherlands Marechaussee (KMar) of the Ministry of Defence, the Law Enforcement and Crime Prevention Branch (DRC) of JenV, and the Consular Affairs and Visa Policy Department (DCV) and the Department for Stabilisation and Humanitarian Aid Migration and Development (DSH-MO) and the Bureau Migration policy of the Ministry of Foreign Affairs, the National Police and Nidos.

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.Rijks-overheid.nl. This website is maintained by the Ministry of the Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties* - BZK).

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

To gain insight into the public debate, the internet was consulted. 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 by the media. 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 Report is to reflect all the important developments in the fields of migration and asylum. In order to achieve this objectively, a number of criteria was 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 public debates on the other.

Criteria for the importance of changes in law and regulations

The report strives to provide an overview of the main changes and intended changes in law and regulations in the different policy domains addressed. All developments that entail an actual substantive change to these laws and regulations have been included in the report. Minimal changes have not been included.

Criteria for the importance of political and public debates

The report does not aim at completeness with respect to the political and public debates and developments. The objective of the Annual Report is to give an impression of the most important topics of debate in the field of asylum and migration in the Netherlands. To make this selection, a topic within the political or public 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 various news media must have reported on the topic.

Implementation of European legislation and regulations

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

Terms and definitions

This report has adopted the definitions of relevant terms in the EMN Asylum and Migration Glossary 6.0.²²⁸ The terms and definitions in this Glossary, developed by the EMN, aim, inter alia, at improving comparability of information exchanged between EU Member States.

²²⁸ Asylum and Migration Glossary 6.0 - a tool for better comparability produced by the EMN, Available at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en.

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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 on page 62):

- The **Minister for Migration (Ministerie van Justitie en Veiligheid - JenV)** is responsible for policies in the field of admissions, residence and return of third country nationals. In addition, the Minister for Migration leads the organisations cooperating in the immigration process.
- The **Minister of Social Affairs and Employment (Ministerie van Sociale Zaken en Werkgelegenheid - SZW)** 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 (Ministerie van Buitenlandse Zaken - BZ)** 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, assess option applications to become a Dutch national, and they 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 (Immigratie- en Naturalisatiedienst - IND)**, an agency of the Ministry of Justice and Security (JenV), is responsible for the implementation of the Aliens Act and the Netherlands Nationality Act. This agency assesses all applications of third country nationals who wish to reside in the Netherlands or who want to become a Dutch national by naturalisation. The IND also plays a role on behalf of the Minister of Foreign Affairs in the procedure of objection and appeal for applications for a short-stay visa. In addition, the IND assesses all applications for a regular provisional residence permit (MVV).
- The **Repatriation and Departure Service (Dienst Terugkeer & Vertrek - DT&V)**, an agency of the Ministry of Justice and Security (JenV), is responsible for organising a humane departure of third country nationals who are obliged to leave the Netherlands.
- The **Central Agency for the Reception of Asylum Seekers (Centraal Orgaan opvang Asielzoekers - COA)**, an independent administrative body, is responsible for the reception of asylum seekers. Commissioned by the Minister for Migration, COA offers migrants 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.
- The **Council for Legal Aid (Raad voor de Rechtspraak - 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 (JenV). The responsibilities of this organisation include arranging the provision of legal aid in asylum cases.
- The **Custodial Institutions Agency (Dienst Justitiële Inrichtingen - DJI)**, an agency of the Ministry of Justice and Security (JenV), 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 (Koninklijke Marechaussee - KMar)**, part of the Ministry of Defence, has the 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 combating irregular immigration. In the maritime domain, the Seaport Police fulfils the border-control task in the harbor of Rotterdam and the KMar fulfils the maritime border control task in all harbors.
 - The **National Police, Unit Foreign National's Identification and Human Trafficking (Afdeling Vreemdelingen Identificatie en Mensenhandel - AVIM)** is part of the Netherlands National Police. It supervises the lawful residence of third country nationals.
 - The **General Intelligence and Security Service (Algemene Inlichtingen- en Veiligheidsdienst - 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 (Zeehavenpolitie - ZHP)**, also part of the Netherlands National Police, is responsible for border surveillance in the Port of Rotterdam.
 - The **Employee Insurance Agency (Uitvoeringsinstituut Werknemersverzekeringen - UWV)** is an independent administrative body commissioned by the Ministry of Social Affairs and Employment (SZW). 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 **Education Executive Agency (Dienst Uitvoering Onderwijs - DUO)** is responsible for the execution of several acts and regulations, such as student grants and information management. These acts are commissioned by the Minister of Education, Culture, and Science (OCW).
 - The **Netherlands Enterprise Agency (Rijksdienst voor Ondernemend Nederland - 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 (BZ) and the Ministry of the Interior and Kingdom Relations (BZK). 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, and issue regular provisional residence permits (MVV) on behalf of the IND. Moreover, third country nationals who want to become Dutch nationals abroad can file their applications for naturalisation with diplomatic missions. This is where they can also complete their mandatory civic integration examination and attend the mandatory naturalisation ceremony.
 - The **Council of State (Raad van 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 (Adviescommissie voor Vreemdelingenzaken - 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 (Wetenschappelijk Onderzoek- en Documentatiecentrum- WODC)** is part of the Ministry of Justice and Security (JenV). 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 Organization for Migration (Internationale Organisatie voor Migratie - 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 (Vluchtelingenwerk Nederland - VWN)** is a foundation that provides practical assistance to asylum seekers and promotes their interests in the political debate.
 - **CoMensha** is the national, independent expertise and coordination centre that defends the rights and interests of victims of human trafficking in the Netherlands.
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- The *National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children* reports on the nature and extent of human trafficking and sexual violence against children in the Netherlands, and on the effects of the government policies pursued.
 - *Nidos* focusses on unaccompanied minors. For children who apply for asylum in the Netherlands without their parents, Nidos will assure authority by means of temporary guardianship. Nidos will also carry out the child protection measure when it concerns migrant families who are in the asylum procedure and stay at a COA location.
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Organizational chart

Netherlands: Institutional framework for asylum and migration

