



# ANNUAL POLICY REPORT 2013

Migration and Asylum in the  
Netherlands





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## Colophon

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# EXECUTIVE SUMMARY

The Annual Policy Report 2013 charts the developments in the Dutch migration and asylum policy from 1 January 2013 to 31 December 2013. The European Migration Network (EMN) compiles a comparative 'European' report on the basis of this report and similar reports published by the other EU Member States. This is done on the basis of four EMN policy briefs (*EMN inform*). These policy briefs offer a short summary of the main findings relevant to policy in four sub-areas.

This report primarily pays attention to the structure of the asylum and migration policy in the Netherlands (Chapter 1). The report then outlines the most important developments in the area of asylum and migration, such as the developments concerning the detention of foreign nationals (Chapter 2).

This Annual Policy Report also serves as progress report for the benefit of the European Council's annual debate on the progress of the Asylum and Migration Policy. Under the scope of the European Pact on Immigration and Asylum, which was adopted in October 2008, the EU Member States are obliged to provide information about the progress annually to the European Commission for the purpose of discussion in the European Council. Moreover, the Member States are required to report on the commitments that have been made under the scope of the Stockholm Programme that was adopted on 11 December 2009. In December 2013, the authors of this report submitted a list of all the Dutch legislative and policy amendments, concrete actions and government plans under the scope of these commitments to the European Commission. The information from this partial report has been included in this report.

This Annual Policy Report examines the developments in the area of legal migration and mobility, irregular migration and return, asylum, unaccompanied minors, measures against trafficking in human beings and migration and development, also in a national perspective. Finally, this Annual Policy Report sheds light on the implementation of European legislation in 2013. Methodology and definitions are set out in Annex 1, and national statistical data are set out in Annex 2.

Chapter 3 (legal migration and mobility) discusses the Modern Migration Policy bill and the implementation of the INDiGO information system. Other topics to be discussed here are Dutch labour market policy, family reunification and the purposes of residence of study and research. Attention is also given to Dutch integration policy, along with citizenship and naturalisation. Developments in the area of management and mobility, such as visa policy, Schengen governance, the intensification of border controls and Frontex activities are addressed as well.

Chapter 4 addresses changes to the asylum procedure in 2013. Chapter 4 also pays attention to developments concerning the reception of asylum seekers, integration of asylum seekers and the Common European Asylum System.

As regards unaccompanied minors (Chapter 5), it can be reported that the new policy on unaccompanied minors entered into force on 1 June 2013.

Chapter 6 explains that the Dutch government considers trafficking in human beings to be a very serious crime and the approach trafficking in human beings is therefore given priority by the government.

Chapter 7 focuses on the six policy priorities that form the basis of the migration and development policy.

Chapter 8 details the government's plan to avoid irregular residence. Attention is paid to the government's plans to criminalise irregular residence.

Chapter 9 focuses on Dutch return policy. In 2013, the Netherlands lead and/or participated in a number of European projects with the aim of promoting cooperation in the area of return.

Attention is given in Chapter 10 to the implementation of EU legislation in the area of asylum and migration. Chapter 11 briefly discusses other important policy developments in the area of asylum and migration.

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# 1 INTRODUCTION

This Annual Policy Report charts the most important developments in the area of migration and asylum in the Netherlands. The Annual Policy Report is an annual publication on the instructions of the European Migration Network (EMN). Information about migration and asylum is gathered and analysed by the EMN, which was set up on the initiative of the European Commission, by means of social debates, scientific research, statistics, policy and case law. Every national contact point of the EMN compiles an annual national summary of the developments in the area of migration and asylum. For the Netherlands, this is the Information and Analysis Centre (INDIAC) of the Directorate for Implementation Strategy and Advice (DUSA) of the Immigration and Naturalisation Service (IND). The EMN will compile a comparative 'European' Annual Policy Report 2013 on the basis of this report and the reports published by the other Member States. This is done on the basis of four EMN policy briefs (*EMN inform*). These policy briefs offer a short summary of the main findings relevant to policy in four sub-areas.

The Annual Policy Report primarily pays attention to the structure of the asylum and migration policy in the Netherlands (Chapter 1). This is followed by the most important developments in the area of asylum and migration (Chapter 2). The report then goes into further detail from the national and European perspectives relating to the developments in the following sub-areas: legal migration and mobility (Chapter 3), asylum (Chapter 4), unaccompanied minors (and other vulnerable groups) (Chapter 5), measures against trafficking in human beings (Chapter 6), migration and development (Chapter 7), irregular migration (Chapter 8) and return (Chapter 9). Finally, this Annual Policy Report sheds light on the implementation of European legislation in 2013 (Chapter 10). Chapter 11 pays attention to other important developments in the area of asylum and migration. Methodology and definitions are set out in Annex 1, and national statistical data are set out in Annex 2.

This report offers the most complete review of the (proposed) changes in legislation and regulations in the various different policy areas. In addition, this report also provides a complete review of the implementation of European legislation and regulations in the area of asylum and migration. It has not been attempted to give a fully comprehensive view of the political and social debates and developments, however, since this is determined by the level of attention given by both parliament and the media. More information about the selection criteria can be found in Annex 2 on methodology and definitions.

## ***Structure of the asylum and migration policy***

Various different ministries and government members play a role in the Netherlands in the execution of the policy in the area of asylum and migration.<sup>1</sup>

The State Secretary for Security and Justice is responsible for the Immigration and Naturalisation Service, the Repatriation and Departure Service and the Central Agency for the

1 A thorough description of the organisation of the asylum and migration policy in the Netherlands can be found in INDIAC – NL EMN NCP (2012a).

Reception of Asylum Seekers.<sup>2</sup> The Minister of Social Affairs and Employment is responsible for integration and civic integration.

Not all foreign nationals who come to the Netherlands are permitted to carry out work in the Netherlands. The Minister of Social Affairs and Employment is responsible for the admission of foreign nationals to the Dutch labour market.

The Minister of Foreign Affairs is responsible for visa policy. The Minister of Foreign Affairs is also responsible for the realisation of Official Country Reports, which describe the situation in important countries of origin of asylum seekers, and Official Individual Reports, in light of which the facts or documents presented by an asylum seeker are assessed for correctness and authenticity.

### ***Organisations involved***

A large number of organisations play a role in the execution of the policy in the area of asylum and migration. The following gives a summary of the most important organisations involved:

- The Immigration and Naturalisation Service (IND), an agency under the Ministry of Security and Justice, is responsible for the implementation of the Aliens Act and the Netherlands Nationality Act. This service assesses all applications from foreign nationals who (want to) stay in the Netherlands or become Dutch citizens. The IND also plays a role on behalf of the Minister of Foreign Affairs in assessing the applications for a short stay visa. In addition to this, the IND assesses on behalf of the Minister of Foreign Affairs all applications for a Regular Provisional Residence Permit.<sup>3</sup>
- The Repatriation and Departure Service (DT&V) is responsible for humanely and professionally promoting the departure of foreign nationals who have to leave the Netherlands.
- The Custodial Institutions Agency (DJI), and agency under the Ministry of Security and Justice, is responsible for carrying out detention measures in the process of the removal of foreign nationals from the Netherlands, including detention (the so-called aliens detention).
- The Central Agency for the Reception of Asylum Seekers (COA), an independent administrative body, is responsible for the reception of asylum seekers. Under assignment of the State Secretary for Security and Justice, the COA offers people safe accommodation and supports them in preparation for their future either in the Netherlands or elsewhere. This predominately involves asylum seekers and refugees, as well as specific groups such as unaccompanied minors. The COA is an implementing body with reception locations throughout the Netherlands.
- The Employee Insurance Agency (UWV) is an independent administrative body that works under assignment of the Ministry of Social Affairs and Employment. One of the tasks which it carries out is issuing work permits to foreign nationals who want to work in the Netherlands.

2 See below for further information about the Immigration and Naturalisation Service, the Repatriation and Departure Service and the Central Agency for the Reception of Asylum Seekers.

3 With the introduction of Modern Migration Policy on 1 June 2013, the regular application procedures were simplified. The procedure for a regular provisional residence permit and the procedure for a regular residence permit were combined into a single entry and residence procedure. For further information see chapter 3 of this Annual Policy Report.

- The Legal Aid Council is an independent administrative body that is financed entirely by the Ministry of Security and Justice. This organisation is responsible for the organisation of providing legal assistance in asylum cases.
- The Royal Netherlands Marechaussee, which is part of the Ministry of Defence, plays a role in border control and counteracting irregular migration and all forms of migration crime.
- The Aliens Police form a part of the regional police forces. They are concerned with controlling the lawful residence of foreign nationals.
- The municipalities are responsible for housing those people who hold asylum permits and they also play a role in handling applications for naturalisation.
- The International Organisation for Migration (IOM), an intergovernmental organisation, plays an important role in the voluntary return and/or transit migration of foreign nationals.

There are also a number of non-governmental organisations that are active in the area of asylum and migration. The most important of these are:

- the Dutch Council for Refugees, which offers practical support to asylum seekers;
- Nidos (child protection for refugees), a nationwide guardianship agency working specifically for unaccompanied minor refugees and asylum seekers.



## 2 OVERVIEW OF ASYLUM AND MIGRATION POLICY DEVELOPMENTS

This chapter looks into the political developments in the area of asylum and migration. More information about the legal and institutional context within which these developments take place can be found in the 2011 Annual Policy Report.<sup>4</sup> In 2013, there were no institutional changes in the area of migration and asylum.

### 2.1 Political developments

In 2013, the Netherlands was governed by the Rutte II government. This government, which took office on 5 November 2012, is a coalition between the Dutch People's Party for Freedom and Democracy (VVD) and the Dutch Labour Party (PvdA).

### 2.2 Overall developments in asylum and migration

#### *Developments in the area of asylum and migration*

The year 2013 saw a number of important developments in the area of migration. The main points of the policy are set out in the coalition agreement of the Rutte II government.<sup>5</sup> A short summary of the most important policy developments can be found below:

#### *Modern Migration Policy Act passes into law*

The Modern Migration Policy Act entered into force on 1 June 2013. Keywords for the Modern Migration Policy are selective and inviting to migrants who can make a contribution to the Dutch economy, simplification and acceleration of procedures, introduction of a sponsor system placing great responsibility for admission on the sponsors and targeted supervision and enforcement through increased exchange of information with other government services.<sup>6</sup>

#### *INDiGO*

INDiGO is the IND's new computer system which has replaced the old information system (INDIS). The Immigration and Naturalisation Service (IND) is an organisation within which an enormous amount of files are handled. In the past this was carried out using hard copies of files, which made the work labour-intensive. By using INDiGO large parts of the process are digitised. INDiGO became the IND's primary system in early 2013. The implementation of INDiGO and the conversion (transferring the data from INDIS to INDiGO) were completed in 2013.<sup>7</sup>

4 For further information see chapter 2 of the Annual Policy Report 2011, INDIAC–NL EMN NCP (2012).

5 For further information see chapter 2 of the Annual Policy Report 2012, INDIAC – NL EMN NCP (2013).

6 For further information about the introduction of the Modern Migration Policy Act, see chapter 2 of this Annual Policy Report.

7 *Parliamentary Papers II* 2013–2014, 30 573, no. 121.

### *Admission scheme for wealthy foreign nationals*

Since 1 October 2013, wealthy foreign nationals may qualify for a residence permit if they invest in the Dutch business sector. One of the conditions is that they have assets at least amounting to 1,250,000 euros and that they invest this amount in the Dutch business sector. The aim of this new purpose of residence is to stimulate the Dutch economy.<sup>8</sup>

### *Biometrics on residence documents*

The Netherlands issues residence documents on which, in addition to a photograph and signature, fingerprints are stored in the chip. The fingerprints were taken and placed in the residence document in stages over each target group. The preparations for the last target groups were completed at the end of December 2013.

### *Social debates in the area of asylum and migration*

In 2013, a number of social debates were held in the area of asylum and migration. An overview of the most important debated can be found below.

#### *Suicide of Russian asylum seeker - careful handling of information and legal and medical assistance*

Aliens detention in the Netherlands received substantial national and international media attention due to the suicide of the Russian asylum seeker during the night of 16 January 2013 in his cell in the Rotterdam Detention Centre.

The asylum seeker had applied for asylum because he believed that his life was in danger in Russia. His asylum application was rejected, after which his lawyer lodged an appeal. In principle, as a result of an administrative error, he was wrongly considered to be residing in the Netherlands illegally, after which he was placed in aliens detention.<sup>9</sup>

The Inspectorate of Security and Justice (IV&J) conducted a further investigation into the death of the Russian asylum seeker. The IV&J was asked to answer the question "Has the government acted negligently when the Russian asylum seeker was placed in detention, and during the period he was detained?"

The resulting investigation report was critical and concluded that the government had, at various times, acted negligently in this case, not only as regards his unjustified detention, but also as regards the legal and medical assistance offered to the Russian asylum seeker when he was detained as a foreign national. The State Secretary stated that he takes the fate of people entrusted to the government's care very seriously. In April, he stated that the recommendations from the IV&J report will be followed.<sup>10</sup>

At a political level, this case received a lot of attention in the House of Representatives. The House of Representatives asked critical questions and the lack of a "human dimension" in the course of affairs regarding the Russian asylum seeker was a frequently discussed item.<sup>11</sup>

8 *Parliamentary Papers II* 2013-2014, 30 573 no. 120. For further information see chapter formation

9 Inspectorate of Security and Justice, "Het overlijden van Alexander Dolmatov" [The Death of Alexander Dolmatov], 28 March 2013. Annex to *Parliamentary Papers II*, 2013-2014, 19637 no. 1648.

10 *Parliamentary Papers II*, 2013-2014, 19637 no. 1648.

11 "Teeven: the treatment of asylum seekers will be investigated", NRC newspaper, 18 April 2013.

The State Secretary reported on the improvements that had been achieved so far, including new agreements on the transfer of medical data and newly developed training courses for staff of all organisations cooperating in the immigration process within the context of mutual exchange of information.<sup>12</sup>

### *Hunger and thirst strikes*

In May, the Rotterdam Detention Centre was also in the news, as was the Schiphol Criminal Justice Complex. This was due to the fact that a number of foreign nationals staying there refused to eat and drink in protest against their detention. These actions have not resulted in a policy change, nor in the granting of residence permits on this ground.<sup>13</sup> However, the State Secretary informed the House of Representatives in a letter that he finds it important for the stay of persons in aliens detention to proceed as smoothly as possible, and that the staff play an active role in this.

### *Questions about border detention*

In January, the Dutch Labour Party asked Parliamentary questions to the State Secretary for Security and Justice about border detention, based on the call from the Dutch Council for Refugees for the abolition of border detention in our country. In his answer, the State Secretary referred to European laws and regulations, which, according to him, do not leave any room for allowing foreign nationals not complying with the entry conditions to enter the Schengen area.<sup>14</sup> In such a situation, foreign nationals will immediately return to their country of origin, if possible. (Temporary) border detention is for those who cannot immediately return. In May, Parliamentary questions about border detention were asked again, this time by the Dutch Socialist Party (SP). The reason was a suicide attempt by an asylum seeker placed in border detention at the Schiphol Criminal Justice Complex. The State Secretary's response was that he was investigating the possibilities of alternatives to border detention for specific groups, called Dublin claimants and asylum seekers with psychological problems.

### *Criminalisation of illegality*

It was agreed in the coalition agreement of the Rutte II government in 2012 that irregular stay will be criminalised.

The Criminalisation of Irregular Stay bill has been debated in the Senate since 7 January 2013. The bill provides that irregular stay is an offence subject to punishments varying from imprisonment up to 4 months to a fine of the second category, up to € 3,900. Although the bill provides that irregular stay is a punishable offence, humanitarian help offered to illegal immigrants will not be a punishable offence. People who are guilty of smuggling persons/trafficking in human beings or offering work to irregular migrants are, however, subject to punishment. The bill also provides that irregular migrants remain entitled to necessary medical care in the Netherlands and that their children have a right of education. It is proposed that the criminalisation does not apply to irregular (unaccompanied) minors.<sup>15</sup>

12 Parliamentary Papers II, 2013-2014, 19637 no. 1748.

13 Parliamentary Papers II, 2013-2014, 19637 no. 1667.

14 Parliamentary Papers II, 2013-2014, appendix number 1357.

15 For further information see chapter 8 of this Annual Policy Report.

The State Secretary for Security and Justice has stated that the further debate on the bill has been postponed pending the results of the evaluation of the Return Directive – implemented by the European Commission – and the results of a national study of the Return Directive – conducted by the Research and Documentation Centre (WODC).<sup>16</sup>

*Protests from asylum seekers who have exhausted all legal means*

Since 2011, various groups of asylum seekers who have exhausted all legal means have put up protest camps in order to draw attention to their situation.

In 2013, there were also a series of protests from asylum seekers against the Dutch asylum policy. After tent camps had been evicted at the end of 2012, a large group of asylum seekers who had exhausted all legal means moved into a vacant church in Amsterdam, which was given the name 'Refugee Church'.<sup>17</sup> The owner of the Refugee Church then agreed to the refugees staying in his church. The refugees stayed in the church during the first six months of 2013, after which they stayed in a block of flats and an office building in Amsterdam for a few months. On 6 December 2013, the mayor of Amsterdam offered bed, bath and bread in a former detention centre to foreign nationals who, when staying in the 'Refugee Church', had applied for their asylum file to be investigated by the Dutch Council for Refugees.<sup>18</sup> Here, the new residents can work on creating prospects for the future, under the supervision of volunteers and professionals.<sup>19</sup> Another group of foreign nationals is staying in the 'Refugee House' in The Hague.

The State Secretary stated that he is convinced that the protests in Amsterdam and The Hague cannot constitute a reason to offer reception to the foreign nationals outside the existing policy frameworks or to grant them a residence permit.

16 *Parliamentary Papers II* 2013–2014, 33 512, no. 10. On 1 April 2014, the State Secretary for Security and Justice announced that irregular residence will not be criminalised.

17 More information can be found in the Annual Policy Report 2012.

18 In 2007, the Ministry of Justice and the Association of Netherlands Municipalities agreed that, as from 1 January 2010, municipalities will no longer offer emergency accommodation and that the Central Government will balance reception policy. For humanitarian reasons and dangers to public order and public health, municipalities still opt for emergency accommodation in order to accommodate asylum seekers who have exhausted all legal means and are living on the streets. The accommodation offered by municipalities is contrary to the Central Government's policy not to accommodate illegal immigrants and persons who have exhausted all legal means.

19 More information can be found on the website of the Refugee Church at [www.vluchtkerk.nl](http://www.vluchtkerk.nl) or of the Refugee House at <http://www1.rechttopbestaan.nl/>.



## 3 LEGAL MIGRATION AND MOBILITY

### ***Modern Migration Policy Act***

The Modern Migration Policy Act entered into force on 1 June 2013. Keywords for the Modern Migration Policy are selective and inviting to migrants who can make a contribution to the Dutch economy, simplification and acceleration of procedures, introduction of a sponsor system placing great responsibility for admission on the sponsors and targeted supervision and enforcement through increased exchange of information with other government services.<sup>20</sup>

*Simplification of procedures:* Selectiveness is achieved by a quick and simple admission of migrants whom the Netherlands needs. Firstly, the separate procedures for obtaining a regular provisional residence permit and a regular residence permit have been combined into a single procedure. Cooperation between various agencies within a combined desk reduces the processing time of the application procedures for a residence permit and work permit. The time required in order to process the application for a residence permit is reduced by placing great responsibility on a migrant's sponsor. Finally, the system of residence permits has been simplified considerably.

*Introduction of sponsor system:* In the old migration system (prior to 1 June 2013), sponsors did not have an independent position by law. This changed with the introduction of the Modern Migration Policy. Sponsors now have a greater responsibility in a statutory system of rights and obligations. Sponsors are expected to provide timely, correct and complete information about a migrant's admission, residence and departure. In case of highly qualified third-country nationals, the sponsor will often be a company or a training or research institution. Exceptions only apply to self-employed persons and migrants who qualify for an orientation year (see 3.1.1) or who are admitted for humanitarian reasons. They can be admitted without a sponsor.

*Supervision and enforcement:* An important supervision and enforcement tool is a sponsor's obligation to provide and retain information. If a sponsor violates these obligations, an administrative penalty may be imposed on them. Serious cases may result in prosecution and a suspension or withdrawal of the status of recognition as sponsor.

### **3.1 Promoting legal migration**

#### **3.1.1 *Students and Researchers***

##### ***Foreign graduates***

The government wants to attract and keep highly educated foreign students for the Dutch labour market by means of two schemes: the Highly Educated Migrants Scheme and the Orientation Year for third-country students who graduated in the Netherlands. With the entry into force of the Modern Migration Policy on 1 June 2013, these two

<sup>20</sup> A sponsor is a person or organisation (e.g. a company or educational institution) that has an interest in the transfer of a foreign national.

schemes were placed under a single purpose of residence ('looking for and performing labour whether or not as an employee'), under various conditions.

#### *The Orientation Year for Graduates Scheme*

Students from outside the EU who have successfully completed a higher education degree programme or academic study in the Netherlands are given the possibility to find a job as a highly skilled migrant or start a business within one year after the date of completion of their study or degree programme. A reduced income requirement of at least € 27,336 gross per year applies. The scheme was introduced in 2008 in order to keep highly educated foreign nationals who graduated in the Netherlands for the Dutch labour market.<sup>21</sup> The difference with the Highly Educated Migrants Scheme is, for example, that only students who graduated in the Netherlands can make use of the orientation year and that graduates who obtained their PhD in the Netherlands do not qualify for the orientation year for graduates, but have to make use of the Highly Educated Migrants Scheme.

#### *The Highly Educated Migrants Scheme*

The Highly Educated Migrants Scheme was introduced in the Netherlands on 1 January 2009. The aim of this scheme is to attract foreign top talent for the Dutch knowledge economy. Within the context of the scheme, highly educated foreign nationals may be granted a residence permit for one year in order to find a job as a highly skilled migrant or start a business in the Netherlands during this orientation year. If the highly educated person finds a job as a highly skilled migrant, a reduced income requirement of € 27,336 gross per year will apply. The Highly Educated Migrants Scheme was evaluated by the WODC in 2011 and 2013.<sup>22</sup>

#### **Students**

With the entry into force of the Modern Migration Policy Act on 1 June 2013, educational institutions became the legal sponsors of foreign students.

Foreign students who need a residence permit for study purposes can only come to the Netherlands if there is a relation with an educational institution that has been recognised by the Immigration and Naturalisation Service. Under international regulations, students who meet the conditions of Directive 2004/114/EC can be exempted from this.<sup>23</sup>

#### **Scientific researchers**

The Dutch highly skilled migrants policy has specific policy for scientific researchers. Trainee specialists are also subject to this policy. They are considered to be highly skilled migrants. (Scientific) researchers can be admitted to the Netherlands in two ways: through the scientific researchers directive 2005/71/EC and through the highly skilled migrants scheme. With the entry into force of the Modern Migration Policy Act on 1 June 2013, the policy was changed in the sense that employers of scientific researchers have to be recognised sponsors.

21 INDIAC (2011), Evaluation of the Highly Educated Migrants Scheme. The knowledge economy strengthened?

22 INDIAC (2011), Evaluation of the Highly Educated Migrants Scheme. The knowledge economy strengthened?

23 DIRECTIVE 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.

In early 2013, the fees for the handling of applications for a residence permit for the purpose of study or scientific research were lowered. Students and scientific researchers pay €300 in fees for an application. This used to be €600.

### **3.1.2 Other legal migration**

#### ***Fines for illegal employment***

On 1 January 2013, the fines for illegal employment were increased from € 8,000 to € 12,000 for each foreign national illegally working for a legal entity and from € 4,000 to € 6,000 for a natural person who illegally employs foreign nationals.

#### ***Approach to fraudulent employment agency sector***

Specifically for the employment agency sector, the 'Approach to Fraudulent Employment Agencies' (*Aanpak Malafide Uitzendbureaus, AMU*) intervention team was set up in mid-2012 in order to put an end to fraudulent practices in this sector.<sup>24</sup> Every year, a large group of victims are subject to labour exploitation, illegal employment and underpayment. They are often hired by intermediaries or companies calling themselves employment agencies. Moreover, these companies are often guilty of serious forms of evading taxes and contributions. The Inspectorate SZW, the Tax and Customs Administration, the Employee Insurance Agency and the Public Prosecution Service cooperate in the AMU. The investigation focuses on the entire chain in the employment agency sector. The introduction of the Modern Migration Policy Act on 1 June 2013 offered the possibility of an employment agency acting as a recognised sponsor. In order to build a long-lasting relationship between the IND and the employment agency, an additional condition is that the employment agency is listed in the register of the Labour Standards Association (*Stichting normering arbeid*).

#### ***Au pair policy***

With the introduction of the Modern Migration Policy Act on 1 June 2013, foreign nationals who want to stay in the Netherlands as an au pair can only be admitted through a sponsor (an intermediary agency) recognised by the IND. A recognised sponsor is given statutory obligations: a duty of care, an obligation to provide information and a duty to keep records. This gives the IND more possibilities to take action against sponsors who fail to comply with their obligations, for example by imposing an administrative fine.<sup>25</sup>

## **3.2 Economic migration**

The 1995 Labour Act for Aliens (*Wet arbeid vreemdelingen*) formulates a restrictive admission policy for labour migrants by providing that a foreign national from outside the European Union (EU) is only allowed to work in the Netherlands if no suitable labour supply is available in the Netherlands or the rest of the EU. The Labour Act for Aliens also aims to prevent distortions in the labour market by avoiding competition on employment conditions.

<sup>24</sup> *Parliamentary Papers II 2012–2013*, 17 050, no. 427.

<sup>25</sup> *Parliamentary Papers II 2012–2013*, 19 637, no. 1631

Following the coalition agreement of the Rutte I government, research was conducted into a possible tightening of legislation and possible abuse of the highly skilled migrants scheme. The research results were offered to the House of Representatives on 11 April 2011.<sup>26</sup> The conclusion of the research was that no structural revision of the Labour Act for Aliens was required, but that a number of aspects of the Act needed to be tightened in order to improve the effects of the Act. This tightening makes it more difficult for employers to hire employees from outside the European Union. On 9 November 2012, the Rutte II government submitted the Labour Act for Aliens (Revision) Bill to the House of Representatives.<sup>27</sup> The bill was debated in the Senate on 5 November 2013. A number of aspects of the Act will be amended.

#### *Tightening up the testing of priority labour supply*

The first item in line for tightening up of the Labour Act for Aliens goes hand-in-hand with the ambition of the Rutte II government that everyone should be able to participate in society according to their own strengths. According to the government, there are still too many people who can work and receive benefits. Only if job vacancies in the Netherlands cannot be filled with workers from the Netherlands and workers from the other EU countries will opportunities be open to employees from outside the EU. In view of the high number of benefit claimants in the Netherlands who are available for work, a work permit will only be issued in exceptional situations.<sup>28</sup>

The duration of a work permit will be limited to a maximum of 1 year.<sup>29</sup> Moreover, the extension of a work permit is no longer possible. In case of an extension under the revised Labour Act for Aliens, it will be necessary to apply for a new work permit and to reassess whether no workers are available within the Netherlands or other EU countries (labour market test).<sup>30</sup>

#### *Quota scheme*

The revised Labour Act for Aliens makes it possible to set a quota for certain categories of work. For example, a quota can be set if many work permits are issued for a certain category of work in a sector, and the relevant sector has failed to make every effort to ensure that potentially suitable workers are educated or trained in order to fill the vacancies for which a work permit is requested. For it could be that there are no jobseekers in the labour market who are suitable for these vacancies, but there are jobseekers who have the potential to be suitable in due course. In that case, the quota scheme serves as a stimulus for employers to guide these jobseekers to the vacancies. A quota can be set by an order in council.<sup>31</sup>

26 *Parliamentary Papers II* 2010-2011, 32144, no. 5.

27 *Parliamentary Papers II* 2012-2013, 33475, no. 3.

28 *Parliamentary Papers II*, 2012-2013, 33 475, no. 6.

29 Musicians, artists, sportsmen, intra corporate transferees and employees performing work in the Netherlands within the context of international trade contacts qualify for a work permit for three years.

30 *Parliamentary Papers II* 2012-2013, 33475, no. 3.

31 *Parliamentary Papers II* 2012-2013, 33475, no. 6.

### ***Amendment to the Labour Act for Aliens (Implementation) Decree***

An amendment to the Labour Act for Aliens (Implementation) Decree was implemented on 1 October 2013. A few examples of the provisions made therein:

- The cancellation of the requirement of a work permit for *all researchers* and teachers from outside the European Economic Area (EEA) if they come to work here for less than three years. This change means a particular relaxation for higher education or university teachers.
- If international companies offer short training courses or programmes in the Netherlands to employees from subsidiary or sister companies from other countries, a work permit will no longer be required.
- The current exemption scheme for a work permit for crew members of seagoing vessels will be extended to crew members of fishing ships and dredgers.<sup>32</sup>

These measures will make it easier for these employees to be admitted to the Netherlands.

### ***Stimulation of the knowledge economy***

The coalition agreement expressed the Rutte II government's ambition of the Netherlands being one of the top five knowledge economies of the world. Knowledge is crucial for the economy in order for a country to be internationally competitive. That is why the Netherlands has attractive admission schemes for foreign nationals who are expected to make a positive contribution to our (knowledge) economy. The restrictive admission policy does not apply to them. A few categories are allowed to work in the Netherlands without a work permit (e.g. highly skilled migrants and scientific researchers at Dutch universities).

There is also a category of labour migrants for whom a work permit must be requested, but for whom no labour market test is performed (e.g. staff temporarily transferred by the head office of a company established abroad to a key position in the company's Dutch branch).<sup>33</sup>

The government has asked the Social and Economic Council of the Netherlands (SER) to issue a recommendation on the possible contribution of labour migration to the Dutch economy in the future and under which conditions labour migrants can best make use of their talents in the Dutch labour market.<sup>34</sup> The government asked the SER to also focus on how the Netherlands can remain attractive to highly educated third-country nationals in the longer term as well.<sup>35</sup> The recommendation will be published in 2014.

32 *Parliamentary Papers II*, 2012-2013, 33475, no. 6.

33 *Parliamentary Papers II*, 2012-2013, 33475, no. 6.

34 The Social and Economic Council of the Netherlands (SER) advises the government and parliament on the main features of the social and economic policy to be pursued. The SER also carries out administrative and supervisory duties. Independent Crown-appointed members, employers and employees cooperate in the SER.

35 More information can be found at <http://www.ser.nl/nl/actueel/persberichten/2010-2019/2013/20130711-adviesaanvraag-arbeidsmigratie.aspx>

***Irregular staying student trainee***

In 2012, the fact that foreign nationals without a residence permit are entitled to education (if they started their course before they turned eighteen), but cannot do a traineeship was a frequently discussed item in the Netherlands. Under the old Labour Act for Aliens, a traineeship required a work permit, which could not be issued to a foreign national without a (correct) residence permit. Because there was no possibility to do a traineeship, irregular staying migrant youth were unable to obtain a diploma. By letter of 8 December 2012, the Minister of Social Affairs and Employment announced that the government considered this situation to be undesirable. As a result of the above-mentioned amendment to the Labour Act for Aliens (Implementation) Decree, it is still possible for these migrants to do a traineeship, if the traineeship has to be done in order to complete the training course, the irregular staying migrant started this training course before the eighteenth year of his life, the training course is part of a vocational programme in senior secondary vocational education and the traineeship is unpaid.<sup>36</sup> No work permit requirement applies to these cases.<sup>37</sup>

***The self-employment scheme***

The self-employment scheme was amended on 1 August 2013.<sup>38</sup> It has become easier for innovative foreign self-employed persons from outside the European Union to take up residence in the Netherlands. These persons are, for example, self-employed workers without employees in the creative sector, who use their speciality to make an additional contribution to the Dutch economy. A points system is used to check if the foreign self-employed persons make a contribution that is of essential interest to the economy. The assessment includes criteria such as education, experience as a self-employed worker, financing and innovativeness. The amended self-employment scheme ensures that the points system is tailored more to developments in the national and international market.

***Seasonal workers***

Since 1 June 2013 (entry into force of the Modern Migration Policy Act), employers have become the legal sponsors of labour migrants who want to perform seasonal labour. Recognition as sponsor is not mandatory for employers who hire seasonal workers, but is possible.

**3.3 Family Reunification**

On 1 October 2012, the possibility of family reunification with unmarried partners was cancelled due to an amendment to the Aliens Decree 2000 to that effect which had become effective under the Rutte I government.

36 Decree of 20 September 2013 amending the Labour Act for Aliens (Implementation) Decree in connection with the revision of the Labour Act for Aliens. This Decree entered into force on 1 October 2013.

37 *Parliamentary Papers II* 2012-2013, 32144 no. 21.

38 Policy Rules of the Minister of Economic Affairs of 2 July 2013, no. WJZ / 13044772, amending the 2010 Policy Rules on recommendation on admission of foreign nationals as self-employed persons in the Netherlands (Government Gazette 2013 no. 20787) and Regulations of the State Secretary for Security and Justice of 24 July 2013, number 409590, amending the Aliens Regulations 2000 (hundred and twenty-first amendment) (Government Gazette 2013 no. 21696).

The Decree of 24 May 2013 on amending the Aliens Decree 2000 (family reunification of unmarried partners) entered into force on 1 June 2013. The amendment means that partners of third-country nationals or of Dutch nationals who come from outside the EU may, even if they do not have a marriage certificate or certificate of registered partnership, qualify for family reunification again if they can demonstrate that they have a long-lasting, exclusive relationship. This amendment resulted in the cancellation of the temporary marriage licence, which entered into force on 1 October 2012. The purpose of this temporary marriage licence was to enable partners who, by law, have no possibility to enter into a marriage or registered partnership in the country of origin, because they are of the same sex or have different religions, to marry/register in the Netherlands and, on the basis hereof, obtain a residence permit for a stay with a spouse/registered partner. This licence is no longer required as it became possible again on 1 June 2013 to be granted a residence permit in the Netherlands as an unmarried partner.

#### *Fees*

On 1 February 2013, the fees for the application for a residence permit for family reunification and family formation (including adopted and foster children) were lowered from € 1,250 to € 225. The fees for an application for an extension of the period of validity were lowered from € 375 to € 225.

On 1 October 2013, the fees for the application for a residence permit for non-temporary humanitarian reasons after family reunification and family formation (including adopted and foster children) were lowered from € 950 to € 225. The fees for the application for an extension of the period of validity were lowered from € 375 to € 225.

The new fees have retroactive effect from 9 October 2012. This is the date on which the Administrative Jurisdiction Division of the Council of State delivered a judgment on the amount of the fees. Applicants qualify for a refund of the overpaid fees for all applications in respect of which no final decision was made yet on that date. The IND has actively contacted applicants who qualified for this and refunded the fees paid in excess.

#### ***Plan of action against marriages and relationships of convenience***

In 2013, a start was made with drawing up a plan of action against marriages and relationships of convenience. Measures have already been taken in order to prevent and recognize marriages and relationships of convenience (simultaneous interviews, provision of information, supervision by the Aliens Police). The organisations cooperating in the area of immigration and criminal law are currently working on providing a better overview of the various manifestations and on the problems regarding the approach to marriages and relationships of convenience. The current measures to prevent marriages and relationships of convenience are reviewed and, where necessary, new measures are developed. In 2014, these measures will be taken up by the cooperating organisations.

### 3.4 Integration

The government aims not to carry out a policy on the basis of origin, but to offer individual arrangements where necessary within the regular policy. Integration is seen as a dynamic process that follows the lines of a number of strategic important variables: good schooling, a neighbourhood where it is pleasant to live, good physical and mental health and sustainable work. The input hereby is that the regular policy in these areas actually reaches all groups within Dutch society. Every citizen should be able to build up an independent existence through regular provisions and policy, possibly with the support from family or their immediate circle.<sup>39</sup> Steps will be taken if the general policy does not work.

The Dutch integration policy of the current government is based on the Integration Agenda that was published on 19 February 2013.<sup>40</sup> In the years to come, efforts will focus on the following three key themes:

1. Participating and being self-reliant: language and civic integration, participation agreement for newcomers, approach to unemployment of migrant youth, stimulating social entrepreneurship.
2. Setting limits and educating: approach to crime and nuisance, improving parent involvement.
3. Dealing with one another and interiorization of values: knowledge of social rules and competences, prevention of discrimination, promotion of gay acceptance among ethnic minorities, prevention of forced marriages.

The Dutch policy is aimed at preparing foreign nationals who come to the Netherlands for a long-term stay for participation in Dutch society. Part of this policy is to inform new migrants about their rights and obligations and to familiarize them with Dutch society. For EU migrants, there is the 'New in the Netherlands' brochure, with practical information for the first months in the Netherlands. A comparable brochure is being drafted for migrants from outside Europe. Civic integration is another part of immigration policy. This part is about having a command of the Dutch language and knowledge of Dutch society. The government will expand the civic integration requirements with a part for the promotion of labour market participation.

Dutch integration policy is based on the responsibility of each citizen to build an independent life. For migrants, this means that they primarily take personal responsibility for their own integration. Some migrants are not obliged to participate in a civic integration programme (EU citizens, Turks and those coming to the Netherlands for a temporary stay), and other migrants are (family migrants and asylum seekers).

The Civic Integration Act was amended on 1 January 2013. From now on, migrants who are obliged to participate in a civic integration programme have to arrange and pay for

<sup>39</sup> Information from the Integration and Society Department.

<sup>40</sup> More information can be found in: Integration Agenda.



their civic integration themselves. Migrants who have a low income can take out a social loan in order to finance their course and examination. The government makes sure that there are enough qualified courses available. Immigrants from the EU are not obliged to participate in a civic integration programme. Through the provision of information about the importance of language and about the possibilities of learning the Dutch language (at low costs), they are stimulated to attend a course. New migrants from the European Union, Turkey and those with a temporary right of residence can make use of the social loan system if they want to participate in a civic integration programme voluntarily. For the initial guidance of asylum seekers who have been admitted, municipalities are given 2,000 euros per person (1,000 euros prior to 2013). Municipalities continue to be responsible for the civic integration of immigrants who already started with their civic integration before 1 January 2013.

#### *Prevention of forced marriages*

Integration policy is aimed, among other things, at the prevention of forced marriages and, in 2012, the Plan of Action for the prevention of forced marriages was submitted to the House of Representatives.<sup>41</sup> The plan of action is continued during this government's term of office. The purpose of this plan of action is the prevention and timely detection of (impending) forced marriages by taking measures, such as making taboo topics a subject of discussion within people's own circles, raising awareness among youth and their social environment, stimulation through a multimedia campaign and enhancing skills of professionals.

#### *Labour market participation*

Poor labour market participation of migrants constitutes a problem. In particular, unemployment levels among migrant youth are relatively high. There is cooperation with a number of municipalities (Amsterdam, Rotterdam) in order to develop a specific approach to strengthen the position of migrant youth in the labour market. Part of this approach is an early introduction of migrant youth and their parents to the labour market. Moreover, the Ministry of Education, Culture and Science and the Ministry of Health, Welfare and Sport intend to work on improving the alignment of healthcare, education and the labour market, for example by focussing on suitable career choices that are in line with supply in the labour market (technology/healthcare). Moreover, the prevention of school drop-out will continue to be a key issue.<sup>42</sup>

#### *Discrimination*

The government pursues an active policy to prevent discrimination. As stated in the coalition agreement 'Building bridges', everyone has to be able to build a life of his or her own without being hindered by discrimination. Various parties (the Central Government, police, judicial authorities, municipal authorities, anti-discrimination facilities and social organisations such as schools and housing associations) are closely cooperating in the fight against and prevention of discrimination.

41 *Parliamentary Papers II* 2011–2012, 32 175, no. 35.

42 *Parliamentary Papers II*, 2012–2013, annex to Parliamentary Paper 32824 no. 7.

### *Effects of civic integration on participation*

Civic integration should enable newcomers to take their first steps in Dutch society. Over the past few years, various studies have been published on the effects of civic integration on participation. Worth mentioning in this connection is the report titled 'Contribution of civic integration to participation of migrants in Dutch society', which was sent by the Minister of Social Affairs and Employment to the House of Representatives on 9 September 2013. This research provides an overview of the findings on the results and effects of civic integration from various studies. It also sets out the contribution of civic integration on various dimensions of participation, based on a quantitative analysis. The research results emphasise the value and social benefit of civic integration. Civic integration contributes to a better command of the Dutch language, increased knowledge of Dutch society and enhances participation. More specifically, the research shows that civic integration makes a positive contribution to labour participation of newcomers and voluntary participants in a civic integration programme.<sup>43</sup>

### *Cooperation with municipalities and migrant organisations*

The national government and municipalities work together on various issues. Local and national diversity police is enhanced through information exchange and mutual coordination. In 2012 the manual 'Living together binds differences: integration in (accelerated) transition' was published.<sup>44</sup> The content of this manual goes deeper into the integration policy and various good examples are provided for the municipalities by way of inspiration. Since the Ministry of Social Affairs and Employment has been responsible for integration policy (November 2012), the 'Gemeenteloket' (Municipal Desk), a website of the Ministry which serves to inform municipalities about ministerial policy, has been used as well. Projects set up by local partners are also given financial support from the European Integration Fund.

The dialogue with migrant organisations and interest groups is very important for the development of policy. For instance, the Ministry of Social Affairs and Employment and the various migrant organisations organise expert meetings and round-table conversations on specific themes. These talks provide a means for gaining a picture of signals, charting problems and making an inventory of directions for solutions.

### *Cooperation at European level*

The Netherlands takes part actively at a European level in the discussions between the national contact points for integration. The Netherlands is also a member of the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), whereby the Netherlands often participates in integration and immigration working groups sharing policy and practical experiences.

In 2013, working visits within the context of the International Knowledge Sharing project were paid to, for example, Denmark, the United Kingdom, France and Germany. During these visits, the countries exchanged information about the approach to migrants

43 More information can be found at [http://www.regioplan.nl/publicaties/slug/type/rapporten/slug/volgsysteem\\_effecten\\_inburgering](http://www.regioplan.nl/publicaties/slug/type/rapporten/slug/volgsysteem_effecten_inburgering)

44 More information can be found at <http://www.rijksoverheid.nl/documenten-en-publicaties/richtlijnen/2012/07/23/samen-leven-bindt-verschillen-integratie-in-versnelde-transitie.html>.

lagging behind in education, labour market, youth policy, local integration initiatives, forced marriages and civic integration. The working visits focussed on gaining good examples of integration policy, especially at a local level. These examples, and a broader analysis of integration policy in the European countries that were visited, were recorded by the Migration Policy Institute in a final report, which was published in November 2013. This final report will be presented during a conference in early 2014.

### 3.5 Citizenship and naturalisation

On 30 August 2013, the State Secretary for Security and Justice stated that he wants to make it possible for participation in a terrorist organisation to automatically result in the loss of Dutch citizenship. This was evidenced by a bill sent by the State Secretary to the Advisory Committee on Migration Affairs for advice.

According to the State Secretary, changing societal views on terrorist or paramilitary organisations and guerrilla groups are enough reason to change the current regulations. However, a final criminal conviction is a condition for this because high requirements have to be set on the proof of participation in these groups. A criminal judgment will constitute a sufficient factual basis that justifies the loss of Dutch citizenship.

The State Secretary also wants to make it possible for Dutch citizenship to be revoked after a final conviction for assistance in preparations for a terrorist crime by providing information, knowledge and skills or by making resources available. Just as with other terrorist crimes which currently allow for Dutch citizenship to be revoked, the relevant person will, in this case, turn against the essential interests of the state in such a manner that the ties between him and the Kingdom can no longer exist. The two new measures may not result in statelessness.<sup>45</sup>

### 3.6 Managing migration and mobility

#### 3.6.1 *Visa policy and Schengen governance*

The Netherlands will follow the EU VIS roll-out as provided by Brussels.

In July 2013, an agreement was reached on proposals on the Schengen evaluation mechanism and the temporary reintroduction of border controls based on the Schengen Borders Code. These were discussed as a package. The Regulation was adopted in the JHA Council of 7/8 October 2013. These regulations entered into force on 27 November 2013. Both Regulations have a direct applicability. Laws and regulations need not be amended. In order for the Schengen evaluation mechanism to be implemented, a list of experts who can participate in evaluation missions will have to be drawn up. Moreover, input has to be offered for the format of the questionnaires in which specific questions will be asked on integrity aspects of the authorities responsible for the implementation of the Schengen acquis.<sup>46</sup>

<sup>45</sup> More information can be found at <http://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/nieuws/2013/08/30/deelname-aan-terroristische-organisatie-leidt-tot-verlies-nederlandschap.html>.

<sup>46</sup> Information from the Directorate for Migration Policy of the Ministry of Security and Justice.

Moreover, a technical amendment to the Schengen Borders Code entered into force on 19 July 2013, which sets out a new calculation of the permit-exempt term, among other things.

In 2013, the European Commission conducted an impact assessment within the context of the evaluation of the visa code, which will form the basis for the Commission's proposal to amend the Visa Code. This proposal is expected to be presented at the end of March 2014.

On 17 December 2013, the European Parliament and the Council agreed on an amendment to Regulation 539/2001. This amendment will introduce the reciprocity mechanism and the suspension mechanism, also called the emergency brake procedure.

### **3.6.2 Border monitoring**

People who want to enter or leave the Schengen Area via the Netherlands pass a border crossing point and undergo a personal control. This border monitoring is carried out by the Royal Netherlands Marechaussee or, in the Rotterdam port area, by the Seaport Police of the Rotterdam-Rijnmond Regional Force.

#### ***Intensification of border control***

The Dutch government is working on the intensification of the border controls through the use of new technology, such as the use of passenger details of certain groups of passengers and the use of biometrics in the border security process. This will be realised by means of two programmes comprising a large IT component: Reform of Border Management and Biometrics and the Foreign Nationals Chain.

The Reform of Border Management programme was divided into two phases, the first phase lasting until 2012 and the second phase until 2013. The programme comprises the following four projects: Project API (*Advanced Passenger Information*), Project No-Q (*Self-service Passport control*), Project RT (*Registered Travellers*) and Project PARDEX (*Passenger-related Data Exchange*).<sup>47</sup>

#### ***Project No-Q***

Automatic Border Crossing (Self-service Passport control) was introduced in phases as a pilot project in 2012 and 2013. Self-service Passport control uses e-gates which allow for automatic border crossing. At the new e-gates, passengers aged 18 and older and coming from the European Union, Norway, Iceland, Liechtenstein or Switzerland can, with an electronic passport (a passport with a chip on biometric data are stored) make use of automatic border crossing based on face recognition.

#### ***Project API***

In order to assess whether a person should be refused entry to the Netherlands, the Royal Netherlands Marechaussee is able to use API (*Advanced Passenger Information*).

<sup>47</sup> The arrival of the Rutte II government and the related review of the estimated investment and exploitation costs for PARDEX, it was decided in 2012 to stop investments in the PARDEX project. For further information see the Annual Policy Report 2012, INDIAC-NL EMN NCP (2012).

The control with API details was started in practice in 2012. Airline companies provide passenger details from so-called risk routes beforehand to airline companies for the benefit of border controls and against irregular migration. API are the passenger details that are provided by the carriers. This enables the Royal Netherlands Marechaussee to act increasingly often aimed at risk and in light of information received.

Since 1 January 2012, airline companies have been obliged to provide API details of flights into the Netherlands. At the end of October 2012, new risk routes were established on the basis of findings from the Royal Netherlands Marechaussee and the IND and the list of risk routes was further expanded in 2013.

### *Project RT*

It is important for border management that the border security authorities have passenger information at the earliest possible stage. One way of achieving this is by creating known passenger groups. This includes business travellers who travel frequently between certain destinations. By means of registration on the basis of personal details and biometric characteristics and examination of a person's history they can participate in a programme on the basis of which they can cross a border under a computerised system.

There has been collaboration such as this for some years now between the Netherlands and the United States of America. Bilateral talks are held with Canada, South Korea and other countries in order to further expand this project.

### ***Biometrics and the Foreign Nationals chain***

On 5 March 2012 the former Minister of Immigration, Integration and Asylum sent the legislative proposal concerning biometrics and the foreign nationals chain to the House of Representatives. The bill offers a statutory basis for storing fingerprints and digital passport photos in a central file in order to improve the identification of foreign nationals when applying for a residence permit. The bill is expected to enter into force on 1 March 2014.

By using fingerprints and photos in the control, identity fraud, document fraud and illegality can be tackled more successfully. All services that are involved with issuing and controlling residence permits will be working with the same fingerprints and digital passport photos: the Immigration and Naturalisation Service (IND), the Aliens Police, the Seaport Police, the Royal Netherlands Marechaussee, the Central Agency for the Reception of Asylum Seekers, the Custodial Institutions Agency, the Repatriation and Departure Service and diplomatic posts abroad. People applying for a residence permit will be required to supply their fingerprints and a passport photo once only.<sup>48</sup> After this their identity can be checked with a scan of their fingerprints and comparison with their photo. Those biometric characteristics will be recorded in a central file and in a chip in the residence document. The Personal Data Protection Act applies to the biometric details.<sup>49</sup>

48 Nothing changes for asylum seekers; their photograph and fingerprints are already taken now during their asylum application. In this way it can be checked whether they have submitted an application for asylum previously in another European country, or under another name in the Netherlands.

49 More information can be found at <https://www.ind.nl/organisatie/nieuws/Paginas/vingerafdrukken-bij-aanvraag-verblijfsvergunning-vreemdelingen1210-313.aspx>.

### ***Mobile Security Monitoring***

The Royal Netherlands Marechaussee is charged with Mobile Security Monitoring (MSM). Since 1 August 2012, the Royal Netherlands Marechaussee has used the @migoboras system as technical support during this monitoring. The Royal Netherlands Marechaussee conducts MSM in respect of traffic entering the internal borders of the Netherlands: road traffic, railway traffic, air traffic (intra-Schengen) and shipping traffic. The aim of MSM is to prevent irregular stay, trafficking in human beings and document and identity fraud at the earliest possible stage. In this connection, foreign nationals can be supervised upon entry by road, in an area up to twenty kilometres inland.

Every day, many thousands of motor vehicles pass the border via the road network, especially on motorways. The @migoboras system allows the Royal Netherlands Marechaussee to select vehicles from the flow of traffic on the basis of predetermined criteria.<sup>50</sup>

During the period between August 2012 and November 2013, the system was used for the following activities of the Royal Netherlands Marechaussee:

1. *Anonymous collection and analysis for the purpose of MSM profiles*

Cameras are used to obtain and analyse anonymous data of passing vehicles, such as types and numbers of cars and origin of the registration numbers. This information can be used to prepare general profiles which will allow for more targeted monitoring in the future.

2. *Observation and selection for the purpose of stopping vehicles*

The general profiles prepared on the basis of the collection and analysis of earlier results are used to observe and select vehicles for MSM controls.

3. *Assistance with a Quick Alert that has been set up.*

In very serious cases, it will be possible to set up a Quick Alert; @migoboras is then used to follow up an alert.

By letter dated 29 November 2013, the State Secretary for Security and Justice informed the House of Representatives of the initial results of @migoboras during the period between August 2012 and June 2013. Based on the initial results of the @migoboras system, the conclusion can be drawn that @migoboras has helped the Royal Netherlands Marechaussee to improve its intelligence position within the internal border zone. The initial results also show that the information-based actions by the Royal Netherlands Marechaussee based on general profiles of motor vehicles has to be developed further. During the coming period, measures will be taken to ensure that, in 2014, the @migoboras system will form an integral part of information-based actions by the Royal Netherlands Marechaussee.

### ***Maritime Single Window***

In 2012, under the management of the Ministry of Infrastructure and the Environment, a start was made with the development of a Maritime Single Window (MSW). The MSW

is an electronic platform where seagoing vessels entering and leaving seaports can report via one electronic way. By means of the MSW, the administrative transactions carried out by the maritime border controls will be streamlined and the Directive 2010/65/EU (report formalities for seagoing vessels) implemented. The MSW contributes to reducing the number of reports that shipowners and masters are repeatedly required to provide to the various different port authorities and other government bodies. The Maritime Single Window will soon also provide the crew and passenger details to be supplied for border control purposes.

The e-Counter not only means a reduction in the administrative burden. The electronic exchange of data with the government also makes improved risk management possible on the basis of timely provided data sets. As a result, the MSW promotes coastal navigation as well as safer maritime external borders. The MSW is due to be operational by mid-2015.

### ***Eurosur***

In addition to this, a start has been made in 2012 with the implementation procedure for the European border control system Eurosur. Eurosur is being developed with a view to tackling irregular migration and cross-border crime and also protection of the lives of illegal migrants at the external borders of the European Union. Eurosur involves a network of national coordination centres between which information is shared via situation images and the deployment of high-grade technology. In the Netherlands, the Royal Netherlands Marechaussee is the designated national coordination centre. Eurosur makes it possible to act at an early stage and on the basis of information at the external borders of the EU. The Netherlands must have a national coordination centre by 1 December 2014.

### ***Frontex***

The Netherlands makes an important contribution to Frontex by deploying border guards, experts, interpreters, but also by supplying materials to land, sea and air operations in Member States. Within the framework of Frontex, the Netherlands has assigned experts to support Member States in the prevention of and fight against irregular migration and improvement of border monitoring. This is done, for example, on the basis of documents training, support at border crossing points, ports and airports in the area of irregular migration and cross-border crime.

The Netherlands is represented by the Royal Netherlands Marechaussee in the Management Board Frontex and coordinates through the *National Point of Contact* all the Dutch input relating to Frontex. Together with the IND, the Repatriation and Departure Service, the Seaport Police and Coastguard Organisation, the Royal Netherlands Marechaussee provides support by way of personnel and equipment for the operations coordinated by Frontex and the Training Centre of the Royal Netherlands Marechaussee is a *partnership academy* for Frontex trainings, mainly in the area of documents.

In 2013, the Netherlands actively participated in maritime operations in the Mediterranean, land operations at the Greek/Bulgarian - Turkish border and in air operations (various ports within the EU Member States). The Netherlands also makes a significant contribution to the Attica capacity building project (in Greece) with the aim of creating an effective return policy in this country.

In 2013, the Netherlands supplied materials to various Frontex operations, such as coast-guard aircraft, vehicles, small vessels, binoculars and fingerprint taking stands. The obligation to implement the Eurosur European Border Surveillance System is executed in cooperation with Frontex.



## 4 INTERNATIONAL PROTECTION INCLUDING ASYLUM

In 2013, the influx of asylum seekers into the Netherlands increased by 31 percent compared to the year before that. In 2013, 17,190 people applied for asylum, compared to 13,170 people in 2012.<sup>51</sup>

There was a particular rise in the number of asylum seekers coming to the Netherlands and filing a first asylum application. In 2013, the percentage of first asylum applications increased by 48 percent compared to the year before that. This resulted in a total of 14,400 first asylum applications compared to 9,715 in 2012. This increase can largely be ascribed to the rising number of Syrians seeking protection in the Netherlands. In 2013, 2,675 Syrians applied for asylum in the Netherlands, compared to 455 in 2012. There was also an increase in the number of Somalis, especially family reunification migrants, and Eritreans filing a first asylum application. The number of asylum seekers coming from Russia, Afghanistan and Iraq actually decreased compared to 2012.

The influx of asylum seekers shows a decrease in the number of second and subsequent asylum applications. The number of asylum seekers filing an application for the second or third time decreased by 19 percent from 3,456 in 2012 to 2,790 in 2013. Especially people from Afghanistan, Iran and Iraq filed a second or third asylum application.<sup>52</sup>

In 2013, first applicants mostly came from Syria (around 2675), Somalia (around 3080), Eritrea (around 980), Iraq (around 1095), Iran (around 730), Afghanistan (around 670), Serbia (around 270) and Russia (265).<sup>53</sup>

In the second quarter of 2013, the Netherlands was one of the top 5 destination countries of the EU Member States for asylum seekers from well-known countries such as Iraq, Afghanistan and Somalia, in addition to Syria, Serbia, Iran, Sri Lanka, Eritrea, Armenia, Egypt and Sudan.<sup>54</sup>

### 4.1 International protection procedures

For the handling of asylum application, the Immigration and Naturalisation Service (IND) works with case responsibility. This way, it will be instantly clear to asylum seekers which staff member is in charge of the progress of the asylum procedure. During the year, the IND interviewers and decision-makers are given the opportunity to keep their knowledge up-to-date. The IND Training Centre offers various EAC (European Asylum Curriculum) modules for asylum staff members to attend. In 2013, almost all interview-

51 Source: 2013 Asylum Figures of the Immigration and Naturalisation Service. Figures rounded to 5.

52 More information can be found at <http://www.rijksoverheid.nl/nieuws/2014/01/30/hogere-asielinstream-in-2013.html>.

53 Asylum Trends, figures rounded to 5.

54 Eurostat Data in focus, 8 October 2013. Note: the data for the whole of 2013 were not yet known when this Annual Policy Report went to press. The picture could be different if the definitions did not include repeat applications. For, as stated above, especially people from Afghanistan, Iraq and Iran did not only apply for asylum in the Netherlands for the first time, but also for the second or third time.

wers and decision-makers attended the EAC IVP (Interviewing Vulnerable Persons) module as a compulsory part. This module included a national one-day module focusing on decisions on applications filed by vulnerable asylum seekers. This module pays attention to, among other things, the substantiation of decisions and to the assessment of medical reports submitted by or on behalf of a foreign national.

### ***Resettlement missions***

It is only possible to apply for asylum in the Netherlands in person, not at the diplomatic posts abroad. Apart from the procedure for spontaneous asylum seekers, the Netherlands pursues a quota policy for invited refugees who are received abroad by UNHCR and are recommended for resettlement in a country that is a member of the UNHCR resettlement programme. The quota offers room for 500 invited refugees every year. The Netherlands carries out resettlement missions to various reception countries every year. There were no changes in 2013.

### ***The asylum procedure***

Since 1 January 2013, the Schiphol Application Centre has formed part of the Schiphol Criminal Justice Complex, which, in addition to the application centre, also houses a detention centre and a court. As a result of the circumstance that the level of the facilities for foreign nationals who (from detention) follow the general asylum procedure in the Schiphol Application Centre has improved considerably compared to the facilities in the former Schiphol Application Centre, the procedure for these foreign nationals has changed. Just as foreign nationals who file their asylum application in one of the land-based application centres, foreign nationals in the Schiphol Criminal Justice Complex have, since 1 January 2013, gone through a (full) rest and preparation period of six days, prior to submitting the asylum application. This procedural change has been laid down in the Aliens Act Implementation Guidelines.

The Netherlands does not make use of an accelerated asylum procedure as defined in the EU Procedures Directive. In principle, asylum applications in the General Asylum Procedure are handled within eight days. If any further investigation is required or other circumstances demand more time, the application will be handled further during the Extended Asylum Procedure.

On 1 January 2014, an accelerated asylum procedure was introduced for asylum seekers who file a second or subsequent asylum application.

In case of a first registration for the filing of an asylum application, the General Asylum Procedure is preceded by a Rest and Preparation Period. Asylum seekers are given the opportunity to rest, are introduced to their legal assistance provider and are given information about the asylum procedure. If they want, they will be examined by Medifirst, which advises their lawyer and the IND as to whether they are medically fit to be interviewed and to make coherent statements, or whether they require more rest or additional support from the interviewer in order to properly tell their story.<sup>55</sup> The IND, the

<sup>55</sup> In October 2013, Medifirst made a change to the protocol, providing that Medifirst may include in the medical advice that the person concerned will not be interviewed by the IND on events in the country of origin, but is only asked about his reaction to the consequence of a Dublin claim, namely a transfer within the EU to another Member State.

Royal Netherlands Marechaussee and the Aliens Police conduct preparatory investigations. In 2013, the Rest and Preparation Period is still preceded by the filing of an asylum application. As a result of the implementation of the Dublin Regulation, the sequence will be reversed as from 2014.

The IND can make a positive decision on an asylum application both during the General Asylum Procedure and during the Extended Asylum Procedure.

If the IND rejects a first asylum application during the General Asylum Procedure, a departure period of 28 days will apply in principle. If a foreign national appeals against a decision made during the General Asylum Procedure, the court must deliver judgment within the departure period. If the court dismisses the appeal, the rejection of the asylum application will be final.

### ***Rejection of an asylum application and remedies at law***

It is possible to lodge an appeal against a rejection of the asylum application. The court may uphold a decision or set it aside, but does not make a decision itself which replaces the IND's decision. An appeal against a decision made during the Extended Asylum Procedure has a suspensive effect.<sup>56</sup>

The court does not conduct a factual investigation, but performs a test for reasonableness. This means that the court assesses whether the IND can reasonably arrive at its opinion on the credibility of the asylum seeker.<sup>57</sup>

An appeal can be lodged against the court's decision on the appeal to the Administrative Law Division of the Council of State. The lodging of this appeal has no suspensive effect, but through expedited proceedings, a provisional ruling, it is possible for a foreign national to ask the highest court to suspend the removal until a decision has been made on the appeal. The decision on the appeal will, in principle, be made within 23 weeks after receipt of the notice of appeal.

### ***Asylum assessment framework***

National and international grounds for protection have been detailed in Article 29(1) of the Aliens Act. The EMN Annual Policy Report 2012 describes these grounds in detail. When an asylum application is assessed, these grounds will be assessed successively in accordance with the policy as determined by the responsible government member. The policy has been laid down in Part C of the Aliens Act Implementation Guidelines. This part provides, among other things, that applications are assessed on the basis of credibility and, if necessary, the weight of the motives. If the application is filed by an accountable undocumented foreign national, the IND will assess the credibility on the basis of the positive persuasiveness of the motives for requesting asylum.

<sup>56</sup> If the appeal has a suspensive effect, this means that the consequences of the (government) decision against which the appeal is lodged will be postponed temporarily, pending the judgment on appeal by the independent court.

<sup>57</sup> In the fall of 2013, a member of the House of Representatives submitted a proposal to amend the law, the test for reasonableness being replaced by a full test. See Parliamentary Papers II 2013-2014, 30830 no. 12. With this proposal, the Member of Parliament also aims at implementation of Article 46(3) of the EU Procedures Directive. Even without this initiative from the House of Representatives, the official preparations for the implementation of the Procedures Directive are well under way.

For the separate parts of Article 29 of the Aliens Act, the assessment of the safety situation has been detailed in the country policy for specific population groups and regions in part C7 of the Aliens Act Implementation Guidelines.

The EMN Annual Policy Report 2012 extensively discusses the background to the classification into groups. The country policy was updated in 2013. The following provides an overview of the developments in 2013.

### *Testing on ground a of Article 29 of the Aliens Act*

#### *Group persecution:*

The policy set in June 2012 which designated Iraqi lesbians, gays, bisexuals and transgenders (LGBTs) as a group who are systematically exposed to the practice of acts of serious violation of human rights, therefore group persecution, was continued in 2013.<sup>58</sup>

#### *At-risk groups:*

In 2013, just as in 2012, the following at-risk groups applied:

- Afghanistan: people who come from an area where they belong to an ethnic or a religious minority, as well as LGBTs.
- Sudan: SPLM/North supporters, the ethnic Nuba, non-Arab population groups from Darfur.

Somalia: by a policy change of February 2013, the Reer Hamar no longer form an at-risk group. The change has no consequences for the earlier asylum residence permits issued on this ground.

In 2013, Pakistan Ahmadis were designated as a new at-risk group.<sup>59</sup>

### *Testing on ground b of Article 29 of the Aliens Act*

The following groups are tested in relation to Article 29 1 b of the Aliens Act (Article 3 ECHR, Article 15 EU Qualification Directive):

#### *Exceptional situation (Article 15c of the EU Qualification Directive)*

In 2013, the situation in Mogadishu, Somalia, was no longer designated as exceptional. A result of this change is that protection merely on the basis of the general safety situation in Mogadishu is no longer offered in new cases. However, the change in itself has no consequences for existing cases. The IND will not proceed to a reassessment and withdrawal or to a refusal of the extension of earlier asylum residence permits issued on the basis of the exceptional situation.<sup>60</sup>

58 Decree from the Minister of Immigration, Integration and Asylum dated 15 August 2012, number WBV 2012/19, containing revision of the Aliens Act Implementation Guidelines 2000, Government Gazette 2012, 17337. This decree follows the previous review decree taken on 29 March 2012, number WBV 2012/9, containing revision of the Aliens Act Implementation Guidelines 2000, Government Gazette 2012, 7615. In the review decree of 29 March 2012 it was included that Iraqi LGBTs were also designated, besides being a risk group, as vulnerable minority group, meaning that they are eligible sooner for protection. The extremely worrying reports in June 2012 about the position of LGBTs led to an expansion of the policy whereby the individualisation requirement for LGBTs is further limited.

59 *Parliamentary Papers II* 2012–2013, 19 637, no. 1590 and WBV 2013/7. Date of entry into force: 8 May 2013.

60 *Parliamentary Papers II* 2012–2013, no. 19637 and WBV 2013/3, decree of 6 February 2013, date of entry into force: 12 February 2013

The 2012 policy in respect of an exceptional situation was continued for Sudan:

- Sudan: North and South Darfur. For non-Arabic population groups, for the other population groups there is alternative accommodation in other parts of Sudan.
- Sudan: South Kordofan (including Abyei) and Blue Nile. There is alternative accommodation in other parts of Sudan, but not for people who are connected with supporting rebel groups (especially SPLM/Supporters of the North and Nuba)

*Systematically exposed to a treatment in violation of Article 3 ECHR*

The policy set in June 2012 which designated Iraqi LGBTs as a group who are systematically exposed to the practice of acts of serious violation of human rights, therefore group persecution, was continued in 2013.

*Vulnerable minority groups*

During 2013, the same groups were designated as vulnerable minority groups in the country of origin as in 2012:

- Afghanistan: people who come from an area where they belong to an ethnic or a religious minority, as well as single women and LGBTs.
- Iraq: Christians, Mandaean, Yazidi, Jews, Shabak and Kakais (all religious minority groups), LGBTs. In 2013, Palestinians from Iraq were no longer designated as a vulnerable minority group, as their situation improved.<sup>61</sup>
- Libya: LGBTs
- Sudan: the ethnic Nuba and the non-Arab population groups from Darfur.

*Westernised*

Since 2012, the possibility of a violation of Article 3 ECHR has been assumed for Somali asylum seekers who have fled from Al Shabaab and have resided in the West for some time and can be considered to have westernised. This was reported in the EMN Annual Policy Report 2012.

*Particulars as regards Eritrea*

Eritrean asylum seekers who left Eritrea illegally will, in principle, be issued with a residence permit on ground b.

Independent return still remains possible for people who left Eritrea legally and with permission from the Eritrean authorities. It is true that these people do not undergo a forced removal, but they are not given preferential eligibility for the issue of a residence permit on ground b.

*Particulars as regards Syria*

Asylum seekers from Syria who are not active supporters of the regime are eligible for a residence permit on ground b.

*Testing on ground c of Article 29 of the Aliens Act<sup>62</sup>*

This national ground for protection offers protection against a return on compelling

61 WBV 2013/2, decree of 29 January 2013, date of entry into force: 9 February 2013

62 This ground for granting a permit will be cancelled on 1 January 2014.

humanitarian grounds. Specific population groups can be designated who qualify for asylum on this ground.

As in 2012, this policy applied to the following specific population groups in 2013:

- Afghanistan: single women and westernised minor girls attending school (and their family members).
- Iran: LGBTs.

*Testing on ground d of Article 29 of the Aliens Act<sup>63</sup>*

The asylum residence permit on ground d of Article 29(1) of the Aliens Act 2000, categorical protection, can be issued to a foreign national who, on return to the country of origin, would suffer exceptional harshness in connection with the general situation there. This ground d therefore does not offer protection on individual grounds, but for merely belonging to the group and is a residual category for group protection.

In 2013, categorical protection did not apply to any country.

*Postponement of decision*

In 2013, a postponement of decision and departure was introduced for foreign nationals belonging to the Tutsi population group from the provinces of North and South Kivu and the Haut-Uele and Bas-Uele districts of Congo DRC.<sup>64</sup>

A postponement of decision and departure was also introduced for six months and extended by six months for Tibetan asylum seekers from China.<sup>65</sup>

*Assessment framework for country policy on unaccompanied minors*

Within the country policy, a change was implemented in 2013 for the group of unaccompanied minors for Eritrea, the reception of unaccompanied minors is no longer considered to be adequate in a general sense. This means that the existence of adequate reception must be assessed individually.<sup>66</sup>

In 2013, there was no adequate reception either for unaccompanied minors from Afghanistan, Azerbaijan, Burundi, Colombia, Guinea, Iraq, Iran, Ivory Coast, Libya, Nepal, Nigeria, Pakistan, Russia, Somalia, Sri Lanka, Sudan, Syria.

In 2013, there was adequate reception in Angola, Bosnia and Herzegovina, China, Congo DRC, Mongolia, Sierra Leone.

***Regulation for long-term resident children***

The Netherlands has minor foreign nationals who have been staying in the Netherlands for many years without any prospects of a residence permit. The long duration of their stay can be explained by conducting procedures (which sometimes took a long time) and the failure to cooperate in their departure, or a combination of these factors. In order to

63 This ground for granting a permit will be cancelled on 1 January 2014.

64 WBV 2013/16, decree of 27 June 2013, date of entry into force: 10 July 2013

65 WBV 2013/11, decree of 28 May 2013, date of entry into force: 8 June 2013

66 WBV 2013/17, decree of 28 August 2013, date of entry into force: 3 September 2013

prevent these young persons from being adversely affected by this, the Rutte II government decided in 2012 to make an arrangement (a final arrangement and a transitional arrangement) based on which these young persons may still qualify for a residence permit under certain conditions. This final arrangement came into operation on 1 February 2013. This arrangement applies to children who have been staying in the Netherlands for many years and their family members and the unaccompanied minors.

The transitional arrangement provides clarity to minor children with an asylum background, who have been staying in the Netherlands for a long time. The final arrangement should prevent any new discussions in the future on minor children who have been staying in the Netherlands for a long time and the role and responsibility of the government in respect of these foreign nationals, who have usually exhausted all legal means.<sup>67</sup>

In principle, minor foreign nationals qualify for the transitional arrangement and the final arrangement if they have filed an asylum application in the Netherlands as least five years before the 18th year of their life. They must however actually have been living in the Netherlands during that five-year period, and must not have evaded the supervision of the government of the Netherlands for longer than three months during that period.

On 1 September 2013, the IND had decided on virtually all applications under the transitional arrangement in first instance. At that time, 620 children had been given a residence permit under the regulation for long-term resident children. Moreover, 690 family members of the children received a permit as well. For the transitional arrangement a total of about 3,260 applications were submitted by both the minors as their family members. Approximately 1,800 applications were rejected in the first instance.<sup>68</sup>

After 1 September 2013 the settlement of the appeals are instigated. The aim is the completion of all the appeals before 1 April 2014.

### ***Progress of Programme for Streamlining Admission Procedures***

The previous editions of this Annual Policy Report extensively discussed the package of measures which serves to prevent an accumulation and repetition of procedures. The previous editions stated that the act would enter into force in 2013. The debate on the legislative amendment took longer than anticipated. The act will enter into force in its entirety on 1 January 2014, but will be implemented in phases. The amendment to the Aliens Act provides for a cancellation of the national grounds for asylum (grounds c and d) on 1 January 2014. Here, it was decided that the policy will not be tightened. Traumatized people and specific vulnerable minority groups, such as LGBTs from Iran and westernised girls from Afghanistan continue to qualify for protection. Trauma policy will, on 1 January 2014, become a residual test within Article 29(1)(b) of the Aliens Act. The policy for westernised minor girls from Afghanistan who attend school has been moved from Chapter C7/2.6.2 to the chapter describing the temporary humanitarian grounds: Chapter B8, paragraph 10.<sup>69</sup>

<sup>67</sup> For further information see chapter 4 of this Annual Policy Report.

<sup>68</sup> *Parliamentary Papers II* 2013-2014, 19 637 no. 1724.

<sup>69</sup> WBV2013/26, 5 Dec 2013.

The most important other measures are: ex officio tests for journeys in connection with family reunification, including humanitarian regular grounds in the test in case of a rejection of a first asylum application; including (other) humanitarian grounds in the test in case of a rejection of a first humanitarian regular application; accelerated completion of second and subsequent asylum applications and humanitarian regular applications for a one-day test); acceleration of the Dublin procedure by combining the initial interview and Dublin interview; changes to medical procedures. These measures will be implemented at a later point in time.

## **4.2 Reception of applicants for international protection**

All asylum seekers in the first general asylum procedure are entitled to reception. Repeat asylum applicants are only entitled to reception after the signing of the successive asylum application on the day they have a date for an appointment with the IND at an Application Centre.

The rights of reception have been detailed in the Regulation for Provisions for Asylum Seekers and other categories of foreign nationals 2005. These include the provision of accommodation, food, pocket money and medical care. New asylum seekers who enter the Netherlands by land have a right of reception from their first registration at the Ter Apel Application Centre. The first few days, during the rest and preparation period, they stay at the Central Reception Location. For the handling of their application in the General Asylum Procedure, they stay at a Process Reception Location. The application can be handled at an IND Application Centre in Ter Apel, Zevenaar or Den Bosch. The Process Reception Location is located near the Application Centre. Asylum seekers move from the Application Centre to an Asylum Seekers' Centre. During the departure period, asylum seekers are entitled to reception.

Dublin claimants will, even if they have exhausted all legal means in the asylum procedure, stay at the reception facilities until their transfer to the Member State responsible for their asylum application has been completed or until the transfer period has expired without an appeal being lodged.

The Central Agency for the Reception of Asylum Seekers (COA) arranges for reception. This is a non-departmental public body of the government of the Netherlands. The Minister of Security and Justice bears ultimate responsibility. Dutch reception centres are open: foreign nationals can come and go. Within the context of their admission procedure, however, the Aliens Police generally imposes on them a duty to report periodically.

If a family with minors is rejected they have the possibility to stay in a family centre. From this location, the families can arrange for their departure from the Netherlands. These accommodation facilities are not of the same level as reception facilities and do



not fall under the Regulation for Provisions for Asylum Seekers and other categories of foreign nationals. A freedom-restricting measure is imposed on the families, which means that they are not allowed to leave the municipality where they are staying.

Until 2012, the Netherlands was mostly dealing with a decrease in occupation of the reception centres. The decline was caused by, among other things, the decreasing influx of asylum seekers and a shorter duration of stay at reception centres due to the introduction of a new asylum procedure. That number has not been this high since 2002. A number of reception centres that were closed earlier reopened in 2013.

### **4.3 Integration of asylum applicants and persons with international protection status**

During the assessment of the granting of a permit, integration plays a role after the end of the period of validity of the asylum residence permit. A holder of an expired temporary asylum residence permit who wants to stay in the Netherlands for a longer period may, under certain conditions, qualify for a permanent asylum residence permit after a stay of five years. If the application for a temporary asylum residence permit was filed on or after 1 January 2005, the person concerned must have passed his civic integration examination during the period of validity of his temporary asylum residence permit in order to qualify for the permanent asylum residence permit applied for. If the foreign national does not meet this requirement, but qualifies for asylum if he would apply for asylum for the first time, the IND will issue a temporary residence permit and will, at the same time, extend the period of validity of this permit by five years.

The Netherlands pursues an active integration policy for newcomers.<sup>70</sup> The municipalities and local administrative bodies are charged with the implementation of the integration policy. Newcomers holding a residence permit must, just as other newcomers, meet the requirements set in the Civic Integration Act. For further information see chapter 3.4 of this Annual Policy Report.

#### *European Integration Fund*

The European Integration Fund is used in the Netherlands to improve the integration of third-country nationals from outside the European Union by providing subsidies for projects that are carried out by local parties, such as municipalities or local foundations and neighbourhood associations.

In 2013, the European Integration Fund financed or co-financed the below two projects, among other things:

#### *1) Integration programme for holders of an asylum residence permit who entered spontaneously*

The Dutch Council for Refugees offers integration programmes to asylum seekers who

70 More information can be found in Chapter 3.4 of this Annual Policy Report.

have been admitted. These programmes have small classes and are divided according to various knowledge levels, offer help from language coaches at home and guarantee that it is possible to continue with the course after a move to another part of the country. For this purpose, the Dutch Council for Refugees started the 'Taal in Beweging' [Language on the Move] project in 2013. In the Language on the Move project, a refugee is linked to a volunteer coach. The pairs spend 90 minutes per week with each other for at least six months. Successful coaching is all about a good match. That is why their wishes and interests are taken into account.

The Language on the Move project runs until July 2014 and is carried out by eleven of the twelve Regional Foundations of the Dutch Council for Refugees. The project is meant for refugees and migrants from outside the European Union, as an addition to the civic integration course.

## *2) Integration of students among invited refugees*

With the Reception Model for invited refugee students project, the UAF (University Asylum Fund) improves reception for talented invited refugees. In cooperation with the Central Agency for the Reception of Asylum Seekers (COA), the International Organisation for Migration (IOM), the Dutch Council for Refugees, receiving municipalities and higher education institutions. The aim is to have over 60 students enrol in higher education through the resettlement programme of invited refugees, thereby improving their chances of finding a suitable job. The COA already recommends candidates to the UAF before their arrival in the Netherlands. If a refugee is placed within a municipality, study options will be taken into account where possible. As soon as the refugee arrives in the Netherlands, consultations will be held with the municipality on the educational programme to be followed in preparation for the study. Participants are given advice and counselling from the UAF during their study and preparations for their study and receive intensive language and/or preparatory education at universities or universities of applied sciences. All refugees who have been placed are assigned a mentor. These could be Dutch students, working Dutch nationals or other refugee students. The mentors introduce the refugees to the university or university of applied sciences where they will be studying and help them build their new life in the Netherlands. The UAF had this programme evaluated in the summer of 2013. The evaluation shows that refugees benefit a lot from a mentor.<sup>71</sup>

## **4.4 Measures to implement aspects of the Common European Asylum System (CEAS)**

In 2013, all preparations were made for a smooth implementation of the (revised) Dublin III Regulation that enters into force on 1 January 2014. Although the Dublin Regulation has direct effect, the system of the Aliens Act still requires that some articles be amended for the purpose of a smooth implementation. The bill was adopted at the end of 2013 and the implementation was announced in an Amendment Message of the Aliens Act Implementation Guidelines.

On 1 October 2013, the EU Qualification Directive was implemented in Dutch regulations. This revised directive has limited impact on Dutch legislation and mostly resulted in amendments to the Aliens Regulations and to the policy rules in the Aliens Act Implementation Guidelines.

In 2013, a start was made with the implementation of the amended EU Procedures Directive



# 5 UNACCOMPANIED MINORS (AND OTHER VULNERABLE GROUPS)

## 5.1 Unaccompanied minors

On 1 June 2013, the new policy on unaccompanied minors entered into force. The purpose of this review is to provide unaccompanied minors with clarity sooner, a key aspect being the minor's cooperation in his or her return. In the interest of the development of the children themselves, the aim is for the children to be reunited with their family in the country of origin as soon as possible, or to be accommodated in a reception facility in the country of origin. Unaccompanied minors who are entitled to protection are granted a temporary asylum residence permit. Unaccompanied minors whose asylum application is rejected must return to the country of origin, under the condition of adequate reception.

The permit for unaccompanied minors, which could give unaccompanied minors the idea that they were allowed to stay in the Netherlands while this was not the case, has been cancelled. If, within three years after the first application for a residence permit has been filed, it is established that, through no fault of the unaccompanied minor foreign national, it is not possible for him to return to his country of origin, because there is no adequate reception and the unaccompanied minor foreign national was below the age of 15 at the time of his first application and he is still a minor, the unaccompanied minor foreign national may qualify for a permit under the so-called specific no-fault policy for unaccompanied minors. This permit, subject to the restriction of 'temporary humanitarian grounds', is granted for a period of five years. By setting a maximum period of three years after the first application for a residence permit, the period during which unaccompanied minors will be uncertain about their residence prospects will be limited.

In the reviewed policy, it is no longer checked if unaccompanied minors can manage on their own in the country of origin. Before 1 June 2013, unaccompanied minors holding a residence permit subject to the restriction of 'unaccompanied minor asylum seeker' had access to the labour market if they held a work permit. Unaccompanied minors who are granted a no-fault residence permit after 1 June 2013 under the new policy do not require a work permit and have free access to the labour market.

For more information on the regulation on children who have stayed in the Netherlands on a long-term see chapter 4.1

## 5.2 Other vulnerable groups

This year, there were no policy changes in this area. However, instructions were issued with respect to the assessment of foreign nationals who, usually during a follow-up

procedure, claim that they have converted to a different faith (Christianity). It appeared that it was sometimes difficult to assess the credibility of the aspect of conversion. The instructions included points of reference when hearing (and deciding on) cases in which conversion plays a role.

## 6 ACTIONS ADDRESSING TRAFFICKING IN HUMAN BEINGS

The Dutch government considers trafficking in human beings to be an extremely serious crime and the approach to this is a priority for the government.<sup>72</sup> Included in the coalition agreement of the Rutte II government is that the government is set on a more intensive detection and punishment of offenders.

The residence regulation for victims of trafficking in human beings has two variants. Firstly, there has, since 1988, been a residence regulation for victims of trafficking in human beings who cooperate in the criminal investigation and prosecution. This regulation allows foreign nationals who are or could be victims or witnesses of trafficking in human beings to legally reside in the Netherlands temporarily during the investigation and prosecution and, this way, remain available to the police and judicial authorities.<sup>73</sup> At the same time, victims will be protected, not only by temporary legal status in the Netherlands, but also because the regulation offers victims have access to a number of provisions (such as accommodation, medical assistance and legal support). The name of this regulation was changed on 1 June 2013. Since 1 June 2013, the former B9 regulation has been called the Trafficking in human beings Residence Regulation or, in brief, the B8/3 residence permit, after the chapter in the Aliens Act Implementation Guidelines. It is a regulation as referred to in Directive 2004/81/EC.<sup>74</sup> The temporary B8/3 residence permit is a regular permit and is, in principle, granted each time for a period of one year and is valid for the duration of a criminal investigation. If the criminal case is dismissed, the ground for the B8/3 permit will lapse. Here, it is possible to be granted a permit for continued residence.

Secondly, a temporary residence permit can, since 22 December 2010, also be granted to victims of trafficking in human beings who are unable or afraid to cooperate in a criminal investigation, because they are, for example, under serious threat or are unable to do so for medical or psychological reasons. This permit is granted for a period of one year. After one year, however, the situation will be reassessed and if the threat and/or the medical or psychological impairment that resulted in the issue of the permit continue, the victim will be granted a residence permit for continued residence. Victims who, after one year, are expected to cooperate may still extend this cooperation and, on this ground, qualify for a residence permit.

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

On 15 April 2011, the European Directive on preventing and combating trafficking in human beings (Directive 2011/23/EU) entered into force. This directive was implemented in the Netherlands on 15 November 2013 and sets minimum rules on the description

<sup>72</sup> *Parliamentary Papers II* 2011-2012, 28 638, no. 57.

<sup>73</sup> Also see the Annual Policy Report of 2012 for further information, INDIAC – NL EMN NCP (2011).

<sup>74</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate irregular migration, who cooperate with the competent authorities.

of criminal offences and punishments in the area of trafficking in human beings.<sup>75</sup> The directive also contains mutual stipulations which improve the prevention of this crime and the protection of victims.

The directive is an instrument for combating trafficking in human beings in terms of prevention, as well as tackling criminals and protecting victims. Implementation of the directive will lead to the Netherlands tightening up certain points in the Dutch criminal legislation relating to trafficking in human beings. The directive also obliges the Member States to implement a number of preventive measures.

#### *National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children*

Member States are obliged to monitor relevant developments by setting up a national rapporteur or similar mechanism. The Netherlands has complied with this obligation for more than ten years now through its National Rapporteur on Trafficking in Human Beings. The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children investigates, on the instructions of the Dutch government, the nature and scope of trafficking in human beings and sexual violence against children in the Netherlands. The National Rapporteur is independent in its judgment. Its task is to advise the government about the approach to these subjects. This advice, mainly in the form of recommendations, is included in written reports. The ninth report by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children was published in September 2013.<sup>76</sup>

#### *Trafficking in human beings Task Force*

The chain-oriented approach and the multidisciplinary collaboration proposed by the directive in the approach to trafficking in human beings is translated in the Netherlands into the setting up of the Trafficking in human beings/Human Smuggling Task Force. This was set up in early 2008 by the former Minister of Justice for a period of three years with the assignment of combating trafficking in human beings. The term of the Trafficking in human beings Task Force was extended in July 2011 until the end of 2014.<sup>77</sup> The Trafficking in human beings/Human Smuggling Task Force comprises representatives from the Ministries involved in this area, the Public Prosecution Service, the investigation services involved, the National Rapporteur on Trafficking in Human Beings, the IND, municipalities and the Coordination Centre for Trafficking in human beings (CoMensha). The focus points of the Task Force fit in with the objectives of the directive.

#### *National referral mechanism*

In 2013, the Netherlands did not have a national referral mechanism that is used to guarantee the identification of victims and assistance provided by various cooperating organisations and that shows how cooperating organisations (such as the police, Public Prosecution Service, welfare services, reception services, IND and DT&V, Nidos) have to

<sup>75</sup> Bulletin of Acts and Decrees 2013 445

<sup>76</sup> More information can be found at <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/06/11/aanbieding-rapport-nationaal-rapporteur-mensenhandel.html>.

<sup>77</sup> In March 2014, the term was again extended until 2018. See the news report at <http://www.rijksoverheid.nl/nieuws/2014/03/12/opstellen-task-force-verstevigt-en-verbreedt-aanpak-tegen-mensenhandel.html>



act if they are dealing with a (possible) victim. Instead, the conclusion of the ninth report by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children is that there is a multitude of process descriptions which are fragmented, insufficiently accessible, non-binding and incomplete. This situation requires the development of a comprehensive document which includes a description of the relevant responsibilities and procedural agreements.

In October 2013, the Minister of Security and Justice said that he will follow the recommendation to develop the national referral mechanism soon. The development will take place in a multi-disciplinary context.<sup>78</sup> The initial proposal of the national referral mechanism will be sent to the House of Representatives in April 2014.<sup>79</sup>

### ***Detection of trafficking in human beings***

During all phases of their admission procedure, foreign nationals are in contact with staff members of various organisations. It is essential that all persons who come into contact with (possible) victims of trafficking in human beings detect the signs of (possible) victimhood and refer the victims for proper assistance and protection.

### ***Detection of trafficking in human beings during the asylum process***

Various agencies work with asylum seekers in the asylum process. The Central Agency for the Reception of Asylum Seekers (COA) is an important partner for the detection of possible signs of trafficking in human beings during the asylum process, at the COA reception centres. Two trafficking in human beings contact persons are appointed for each reception centre. In 2013, the Expertise Centre for Trafficking in human beings and Human Smuggling (EMM), in cooperation with CoMensha and the Jade Zorggroep Foundation, offered them a two-day training course in order to further improve the detection of signs of trafficking in human beings. Any signs of trafficking in human beings are reported by the COA and reported to the EMM on a monthly basis. In June 2013, the State Secretary for Security and Justice emphasised that extra attention should be paid to the detection of trafficking in human beings among unaccompanied minors. Special reception centres, so-called protected reception centres, are available for young persons who, upon arrival in the Netherlands or later during the reception by the COA, show signs of running a risk of becoming a victim of trafficking in human beings.<sup>80</sup>

### ***Detection of trafficking in human beings during the admission process (for regular residence permits)***

In September 2013, the Immigration and Naturalisation Service (IND) started a number of road shows that visit staff members. This way, staff members with client contacts are informed of the IND's role in the approach to trafficking in human beings and human smuggling and how staff members can contribute to this.

### ***Detection of trafficking in human beings during return procedures***

The Repatriation and Departure Service (DT&V) is involved in the detection of signs of

<sup>78</sup> According to the oral supplement by the National Rapporteur on Trafficking in Human Beings on 10 September 2013

<sup>79</sup> For further information see the General Consultation on trafficking in human beings on 30 October 2013

<sup>80</sup> *Parliamentary Papers II*, 2012/2013, 27062, no. 89. However, the reception centre described has existed for longer than since 2013.

trafficking in human beings during return procedures of foreign nationals residing in the Netherlands illegally. From the moment a foreign national has to leave the Netherlands, DT&V conducts personal interviews with the foreign national in order to prepare a departure plan. It happens that DT&V detects signs of trafficking in human beings during the departure procedure. In that case, DT&V will start a so-called D9-process, which suspends the departure process of the relevant possible victim of trafficking in human beings, until a decision has been made on any residence permit for the possible victim. As the detection of trafficking in human beings requires continuous attention, DT&V initiated a consciousness-raising process at the end of 2012 by offering training courses.<sup>81</sup> DT&V has a trafficking in human beings contact person at every location in the Netherlands.<sup>82</sup>

### ***Minor foreign nationals who could be victims of trafficking in human beings***

In May 2013, an update was published of the 2005 report titled *Inzicht in uitbuiting; Handel in minderjarigen in Nederland nader onderzocht* [Insight into exploitation; Further investigation into trafficking of minors in the Netherlands] by Defence for Children-ECPAT Netherlands and UNICEF Netherlands. The report provides an up-to-date picture of the state of affairs on the fight against and approach to child trafficking and the protection of minor victims in the Netherlands in the year 2013.<sup>83</sup>

In 2013, the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children started an investigation into unaccompanied minors who are possible victims of trafficking in human beings and have been placed in protected reception centres for this reason. This is a quantitative investigation covering the period 2008-2012. The investigation will also focus on ongoing developments in the area of protection of unaccompanied minors, such as cooperation between the various partners and possible bottlenecks. The investigation by the National Rapporteur is expected to be published in the first months of 2014.

### ***'Protected reception' pilot project***

The purpose of the 'Protected Reception' pilot project which is subsidised by the European Refugee Fund (ERF) is, under the supervision of the COA – in cooperation with various cooperating organisations, such as the Nidos Foundation, the Zorggroep Jade Foundation, the Expertise Centre for Trafficking in human beings and Human Smuggling and the police – to improve the protection of unaccompanied minors. An important result of this project is a new counselling method for unaccompanied minors who are possible victims of trafficking in human beings.

The results and recommendations arising from the 'Protected Reception' ERF project were processed in the second half of 2013. Within this context, Nidos received subsidy from the ERF in order to give structure to the cooperation between the partners for the purpose of the protection of unaccompanied minors.

81 More information can be found at: <http://www.dienstterugkeerenvertrek.nl/kennisbank/procesprotocollen/> (most recent version: 30 August 2013).

82 BNRN 2013, "Ninth report".

83 More information can be found at <http://manager.presspage.com/content/uploads/688/kinderhandelinnederlandmei2013.pdf>.

***EU conference: Putting Rantsev into Practice***

In April 2013, the Netherlands, Poland and Cyprus organised the EU conference *Putting Rantsev into Practice*. The conference focussed on the strengthening of multidisciplinary cooperation in the fight against trafficking in human beings. The conference is named after the Rantsev judgment of the European Court of Human Rights in 2010, in which the Court found that countries should have an integrated approach to trafficking in human beings.



## 7 MIGRATION AND DEVELOPMENT POLICY

The government believes that migration can provide a positive contribution to development in countries of origin. For example when migrants send money to family members (remittances), when they return temporarily or when former asylum seekers are given support on their return in setting up their own businesses. The Dutch migration and development policy stimulates this type of activities. The policy priorities on which the policy is based can be found in the 2008 International Migration and Development policy memorandum.

The six policy priorities are:

- (a) Greater attention for migration in the development dialogue and for development in the migration dialogue;
- (b) Institutional development in the area of migration management;
- (c) Stimulation of circulatory migration/brain gain;
- (d) Increasing the involvement of migration organisations;
- (e) Strengthening the relationship between money transfers and development;
- (f) Advancing sustainable return and reintegration.

In 2013, there were developments in the area of migration and development.<sup>84</sup>

### ***Coherence pilot project for Bangladesh and Ghana***

On 22 October 2013, the Minister of Foreign Trade and Development informed the House of Representatives by letter of the results of the so-called coherence pilot project for Bangladesh and Ghana.<sup>85</sup> Migration is one of the themes. From the perspective of policy coherence, it is important in the area of migration to aim at, among other things:

- Strengthening international migration management by supporting dialogues between countries of destination, origin and transit through research and exchange of expertise.
- Promoting money transfers, without affecting the private nature of the means, and reducing the costs of money transfers by stimulating increased transparency and competition between money transfer providers.
- Facilitating the return of managerial staff, for example by seconding migrant experts, in order to contribute to the development of countries of origin.

### ***Stimulation of circulatory migration/brain gain***

The Netherlands finances initiatives aimed at entrepreneurship. For instance, within the context of the 2011-2013 Migration and Development project, the Seva Network Foundation trains, during this period, migrant entrepreneurs who want to start a business in the country of origin and/or the Netherlands. Moreover, three trade missions took place and businesses creating employment were supported.

<sup>84</sup> The 2013 progress report will be offered to the House of Representatives during the course of the second quarter of 2014. So the current report anticipates this and is therefore incomplete.

<sup>85</sup> Parliamentary Papers on coherence pilot project

The Netherlands also supports a number of projects in which migrant experts temporarily return to their country of origin. This appears to be a good way to use diaspora in the development of their country of origin (brain gain). These projects are demand-driven, so based on the needs of the labour market in the country of origin. Migrants with a permanent residence status in the Netherlands (or other EU Member States) can apply voluntarily and are selected on the basis of a match with the demands in the country of origin. By transferring knowledge, they contribute to the development of this country. The migrants have an added value because of their knowledge of language and culture.

#### *Project: Temporary Return of Qualified Third Country Nationals*

Phase III of the IOM project Temporary Return of Qualified Nationals (TRQN) started in December 2012, as a follow-up to the successful phases I and II. The main goal of the project is to contribute to the development in a number of countries by deploying migrants coming from these countries for capacity building at government and non-governmental bodies. These countries are: Afghanistan, Armenia, Cape Verde, Georgia, Ghana, Iraq, Morocco, Somalia and Sudan. These countries suffer from *brain drain* and shortages of qualified staff. There are many highly-educated and experienced migrants from these countries who reside in the Netherlands.

#### *Morocco - Project 'Sharing Knowledge'*

The project 'Sharing Knowledge in Morocco' was initiated in 2013. The project is implemented by Stichting Marokkofonds and the Netherlands Migration Institute (NMI). The project is aimed at improving healthcare in Morocco, especially in the Rif area. For this purpose, highly-educated Moroccan migrants living in the Netherlands are temporarily deployed at healthcare organisations in the private and public sector.<sup>86</sup>

#### *Angola Special*

On the initiative of the Repatriation and Departure Service, NL Agency and the IntEnt Foundation, in cooperation with the Ministry of Foreign Affairs and *Maatwerk bij Terugkeer* (Mediation Agency for Return), organised the Angola Special. This event took place on 18 June 2013. The reason for this event was the visit of the then Minister of Immigration, Integration and Asylum to Angola in May 2012. This visit showed that the Dutch business sector in Angola was looking for qualified staff. However, Angolan law provides that 70% of the staff in a company must have Angolan nationality. The need for staff is such that companies are willing to train staff in Angola. Angolans who lived in Europe may benefit because of their training, work culture and command of the English language. The aim of this Angola special was therefore to bring Angolans living in the Netherlands into contact with the Dutch business sector. Attendance exceeded expectations. This applied to both Angolans and internationally oriented Dutch businesses. The Dutch ambassador in Angola opened the event.

### ***Increasing the involvement of migration organisations***

The Dutch government considers it to be desirable that migrant organisations organise themselves, for example, through a platform. Although migrant organisations are primarily responsible for this themselves, the government can provide support in this. The Netherlands wants to strengthen the positive role that migrants and migrant organisations could play in the development of countries of origin and again developed and supported a number of initiatives in this area in 2013.

Within the context of the Africa-EU Migration, Mobility and Employment (MME) Partnership, several activities are financed which focus on supporting governments of countries of origin in the development and strengthening of diaspora policy and setting up a *European-wide African Diaspora Platform for Development*.<sup>87</sup>

In addition to the European-Wide African Diaspora Platform for Development, where the Dutch organisation African Diaspora Policy Centre (ADPC) played a leading role, the Diaspora Forum for Development (DFD) also completed a platform project in 2013. The aim of the project titled *“Towards creating a European wide diaspora platform on migration and development”* was to set up, operationalize and institutionalize a platform of European diaspora organisations from Africa, Asia and Latin America. Eventually, various activities will be undertaken in this platform (lobby, policy influencing and joint activities) in order to highlight and strengthen the role of diaspora in Europe in the area of migration and development. DFD experienced difficulties with raising financing apart from the Ministry of Foreign Affairs and the platform has not actually been incorporated yet.

### ***Involving diaspora in the development of countries of origin***

The Dutch government also attaches great importance to involving diaspora in the development of countries of origin. Governments of countries of origin are increasingly interested in the potential development contribution of their diaspora. The positive role that migrants could play as development actors is recognised more and more. Especially on the African continent, more and more governments become convinced of the necessity to involve their diaspora in development policy more. This realisation has resulted in the formation of around 30 ministries or government agencies on the African continent which are charged with the implementation of diaspora policy. The Netherlands endorses this by supporting activities aimed at capacity building of these government agencies in countries of origin. Moreover, the Dutch government points out the importance of involving migrants in the development of their countries of origin in an international context as well (*Global Forum on Migration and Development, UN, EU*). The Ministry of Foreign Affairs also supports several initiatives aimed at reinforcing Diaspora ministries; for instance, the African Diaspora Policy Centre (ADPC) Foundation offers training courses to policy officers of these recently incorporated Diaspora ministries.<sup>88</sup> In 2013, the

87 2012 international migration and development progress report. Annex to Parliamentary Papers II 2012-2013, 30573 no. 119.

88 The African Diaspora Policy Centre (ADPC) Foundation is a centre of knowledge run for and by African diaspora concerning migration and development. The centre is mainly aimed at the themes of peace building, better governance and brain gain. ADPC carries out research, advises policy makers, organises training programmes and meetings and prepares publications about these themes.

ADPC continued the successful project aimed at capacity building of 12 diaspora-related African ministries. It is expected that, by building the capacities of policy makers, the contribution of diaspora to the development of their countries of origin will increase.<sup>89</sup>

### ***Improving institutional capacity of national authorities***

In cooperation with the UN Merit University, the Maastricht Graduate School of Governance developed a three-month migration management degree programme for officials from developing countries. In 2013, the first course was offered to students from Nigeria, Ghana, Benin, Burundi, Kenya, Nepal and Azerbaijan. This university degree programme is comprised of three modules: migration management and protection, migration policy; migration and development. In addition to knowledge transfer, a lot of attention is paid to increasing policy-oriented skills and students are brought into contact with policymakers from Dutch, EU and international institutions such as IOM and UNHCR.

Together with IOM, the international Centre for Migration Policy Development (ICMPD) implemented a project titled '*Strengthening African and Middle Eastern Diaspora Policy through South-South Exchange (AMEDIP)*'. The aim of the project is to improve the institutional capacity of the national authorities responsible for migration and development policy in 13 African and Middle Eastern countries (Algeria, Egypt, Ethiopia, Ghana, Cape Verde, Lebanon, Mali, Morocco, Niger, Nigeria, Senegal, Syria and Tunisia). The Dutch support focuses on two intergovernmental meetings for North African, Sub-Sahara African, Middle Eastern and EU countries, three regional thematic working groups and a pilot project aimed at local capacity building in Ethiopia. The final meeting of the AMEDIP project was held in December 2013.

### ***Strengthening the relationship between money transfers and development***

According to the World Bank, migrants send around 8 billion euros from the Netherlands to their home country every year. The actual amount of the money flows is probably even higher. Research by De Nederlandse Bank (DNB) in 2013 showed that migrants do not only transfer money to family and friends in their home country through official financial institutions, such as banks or registered money transaction offices, but that migrants often also use informal channels, such as giving money to family or acquaintances travelling to the home country, bringing money themselves during a holiday, or withdrawing money from an ATM when being abroad. Migrants may also use non-registered money transaction offices, also called Hawala offices in popular parlance. The exact amount that is sent from the Netherlands through these informal various channels has not been registered in full. Migrants often use informal channels for small international payments, while larger amounts are more often sent by bank transfer. It is mostly the charges that prevent people from using official channels. Moreover, the manner in which migrants send money strongly differs per person. For instance, highly educated migrants send money through informal channels relatively less than less educated migrants. Better information about, for example, the safety advantages of a bank trans-



fer or payments through official money transaction offices could therefore increase the use of official channels.<sup>90</sup>

The Dutch government believes that governments should, in principle, not act in a controlling manner in how money transfers are spent. However, the Netherlands is involved in the creation of favourable preconditions in order to strengthen the relationship between money transfers (remittances) and development. Here, a key issue is to improve transparency on the Dutch money transfer market. Within the context of strengthening the relationship between money transfers and development, *The Network University* used a subsidy from the Ministry of Foreign Affairs to conduct research into: "The remittances market in the Netherlands." The project receives financial support from the Ministry of Foreign Affairs, the Dutch Banking Association (NVB) and De Nederlandse Bank (DNB). The project runs from 1 October 2013 to 31 January 2014.

*Website [www.geldnaarhuis.nl](http://www.geldnaarhuis.nl)*

The IntEnt Foundation used a contribution from the Ministry of Foreign Affairs to develop a website [www.geldnaarhuis.nl](http://www.geldnaarhuis.nl). As a result of the bankruptcy of IntEnt in July 2013, it is still unsure if the website continues to exist. The website is no longer updated.

### ***Mobility partnerships***

Migration and development is also addressed in the EU mobility partnerships. Chapter 9 includes a section about this.

90 More information can be found at <http://www.dnb.nl/publicatie/publicaties-dnb/dnb-working-papers-reeks/dnb-working-papers/working-papers-2013/dnb287559.jsp>



## 8 IRREGULAR MIGRATION

In the coalition agreement, the current Rutte II government agreed that irregular residence will be criminalised and return policy intensified. The criminalisation of irregular residence is seen as an instrument with which illegal arrival and irregular residence in the Netherlands can be prevented and tackled. Moreover, there is continued focus on the fight against the smuggling of persons.

Too many foreign nationals remain long-term in the Netherlands who, during the time of their residence, go through one procedure after another without any clear prospects of a residence permit. Foreign nationals who are not or no longer permitted to stay in the Netherlands should actually leave the country. Irregular migration and irregular residence are strongly discouraged. Those people who are not permitted to stay in the Netherlands will have to leave or will be removed. Independent return is encouraged as much as possible and, where necessary, return is enforced.

### *Criminalisation of irregular residence*

On 21 December 2012, the Cabinet agreed to a proposal from the State Secretary for Security and Justice to submit a proposal to the House of Representatives to change the Aliens Act by including the criminalisation of illegal foreign national residents in the Netherlands.<sup>91</sup>

The Irregular residence (Criminalisation) bill has been debated in the Senate since 7 January 2013. The State Secretary for Security and Justice indicated that he first wants to wait for the results of the evaluation of the return directive - implemented by the European Commission - and the results of a national study of the return directive - implemented by the Research and Documentation Centre (WODC) - and include these results in the debate on the Irregular residence (Criminalisation) bill.<sup>92</sup>

The bill provides that foreign nationals illegally residing in the Netherlands are committing an offence, the sanction being a fine.<sup>93</sup> If the fine is not paid, then imprisonment for non-payment of a fine is possible. Foreign nationals who are fined twice (or more often) because they reside illegally in the Netherlands risk a severe entry ban. The maximum duration of the severe entry ban in connection with illegality would be five years. Non-compliance with this entry ban should become a crime and can be punished by a prison sentence of a maximum of six months or a fine. Criminalisation should make irregular residence in the Netherlands less attractive. It is meant to have a preventive effect. Moreover, it sends out a clear signal to foreign nationals who stay irregularly in the Netherlands: from now on they will be punishable.<sup>94</sup>

91 More information can be found at <http://www.rijksoverheid.nl/nieuws/2012/12/21/illegal-verblijf-van-vreemdelingen-strafbaar.html>.

92 *Parliamentary Papers II* 2013–2014, 33 512, no. 10.

93 The criminalisation of irregular residence will be laid down as an offence in a new Article 108a of the Aliens Act 2000, to be sanctioned with a fine of the second category (up to 3,900). For further information see *Parliamentary Papers II*, 2012–2013, 33 512, no. 3.

94 On 1 April 2014, the State Secretary for Security and Justice announced that irregular residence will not be criminalised.

Criminalisation should only apply to adult foreign nationals. If a foreign national still has a departure period in connection with independent departure (up to 28 days), the criminalisation does not apply. People who help irregular staying migrants for humanitarian reasons would not be punishable. Persons, both individuals and employers and fraudulent landlords, whose aim is purely for profit and who employ illegal residents or offer them accommodation, will remain punishable under the bill. They will be dealt with in strict terms. First and foremost, the bill provides that foreign nationals who are staying illegally must leave and preferably independently, but if not then they will be forced to leave (removal). The criminalisation of irregular residence cannot lead to a delay or hindrance of this departure.

Although the Court of Justice had previously judged the criminalisation of illegality was contrary to the European return directive, the Court of Justice of the European Union ruled on 6 December 2012 (Sagor judgment, C-430/11) that EU Member States have the authority to introduce the criminalisation of irregular residence under the sanction of a fine. The European return directive does not preclude a penalisation of irregular residence. A Member State must guarantee, however, that implementation of that punishment must end as soon as the removal of the irregular staying migrants in question is possible.<sup>95</sup>

95 For further information see: <http://www.minbuza.nl/ecer/nieuws/2012/12/strafbaarstelling-van-illegaal-verblijf-niet-in-strijdmet-de-terugkeerrichtlijn.html>.

## 9 RETURN

The return policy is aimed at tackling and preventing the irregular residence of foreign nationals who are staying in the Netherlands unlawfully. The basic principle is that foreign nationals who are not or no longer staying lawfully in the Netherlands, must return independently to their country of origin or depart to another country where their entry is guaranteed. Foreign nationals are responsible for this themselves. If they do not comply with this, then they may be forced to leave. Foreign nationals without a residence permit who want to return to their country of origin independently can receive support in their independent return. Foreign nationals can return independently with financial support or with support in kind (for example extra training or help with setting up a business) or with a combination of both of these.<sup>96</sup>

The Repatriation and Departure Service (DT&V) is charged with offering support in independent departures and implementing forced departures of foreign nationals. DT&V provides foreign nationals with information about the options of independent departure offered by the International Organisation for Migration (IOM) and other non-governmental organisations. In many cases in which foreign nationals actively work on their return in cooperation with DT&V, the foreign nationals decide, due to the efforts of DT&V, to make use of one of the options offered by IOM.

### *Independent demonstrable departure with the help of IOM*

The International Organisation for Migration (IOM) supports foreign nationals in their independent departure from the Netherlands. For the Dutch government, IOM is the party implementing the Return and Emigration of Aliens from the Netherlands (REAN) programme, which enables foreign nationals to voluntarily return to their country or origin or to take up residence in a third country where permanent residence is guaranteed. In order to reach special target groups and achieve better results in respect of voluntary return, IOM implements a number of special projects in addition to the REAN programme.

### *Assisted Voluntary Return of Families with Underage Children - AVR FC3*

This project is a continuation of the AVR FC2 project that ended in June 2013.<sup>97</sup> The project is aimed at supporting 250 migrants from various countries of origin in their reintegration for 12 months. Together with families, IOM draws up a Family Plan of Return and Reintegration (FPRR), aimed at a return. The families are given extensive support and advice. The support offered is customised and differs per family. As soon as they have returned, the family support is taken over by the IOM branch in the country of origin.

### *Assisted Voluntary Return from Detention III*

Foreign nationals who are not entitled to stay in the Netherlands may be placed by the government in aliens detention for the purpose of the organisation of their departure from the Netherlands. During their detention, IOM can offer assistance if migrants want to organise their return themselves.<sup>98</sup>

96 For further information also see the organisation for the asylum and migration policy in the Netherlands INDIAC – NL EMN NCP (2012a).

97 More information can be found in the Annual Policy Report 2012 INDIAC – NL EMN NCP (2013).

98 More information about this and other projects can be found on the website <http://www.infoterugkeer.nl/>.

### ***The subsidy decision for voluntary, sustainable return and reintegration of former asylum seekers***

Since 2012, funds have been made available by the government every year under the subsidy decision for voluntary, sustainable return and reintegration in order to finance projects aimed at voluntary return.<sup>99</sup> The funds come from the Ministry of Foreign Affairs within the context of the Migration and Development policy priorities. Project proposals submitted within this context are assessed by the Voluntary Return Steering Group (SVT), which is comprised of staff members of the Migration Policy department and DT&V of the Ministry of Security and Justice and the Migration and Asylum department of the Ministry of Foreign Affairs. DT&V is responsible for the implementation of the subsidy framework, which includes the subsidy relationship, the implementation process and the accountability process.

Every year, a grant order is published stating the conditions which a grant application has to meet. Priority is given to projects aimed at a sustainable return of families with minor children and unaccompanied minors..

In 2013, the SVT approved and granted a subsidy to five project proposals, including several proposals for the renewal of successful projects that received subsidy in 2012. The projects are carried out by IOM and by non-governmental organisations from civil society. The start of the 2012 subsidy order created the possibility to use both financial support (the Return and Reintegration Regulation) and support in kind. Its aim is to promote the use of support in kind, adjusted to an individual's or family's situation, thereby contributing to the sustainability of the return or reintegration. Since the introduction of this combined regulation, the number of persons using support in kind for return and reintegration has shown a clear increase.<sup>100</sup>

### ***Strategic country approach***

The strategic country approach to migration is a tool for improving cooperation by countries of origin in the forced return of their citizens who are not or no longer allowed to stay in the Netherlands.

Cooperation with countries of origin is promoted in various ways. There is a continuous and intensive dialogue during which, among other things, support is offered for the reintegration of returning foreign nationals, for more adequate border controls or for capacity building of migration services. Here, the Dutch representations abroad also play an important role, including the Immigration Liaison Officers (ILOs) who have been seconded by the Ministry of Security and Justice. It appears that, for a number of countries, cooperation in forced return cannot only be found within the context of migration. In these cases, migration is embedded in broader bilateral relations and the message of return is communicated to all contacts.

99 An amount of 2.5 million euros was available for this in 2012 compared to 1 million euros in 2013. An amount of 1.6 million euros is available for 2014.

100 More information about the contents of these subsidised projects can be found at [http://www.dtenv.nl/projectsubsidies/Vrijwillige\\_Terugkeer/Projectenoverzicht/](http://www.dtenv.nl/projectsubsidies/Vrijwillige_Terugkeer/Projectenoverzicht/). This website also contains an overview of all available support options for an independent return in the form of a fact sheet. Moreover, an overview of all return projects can be found at [www.infoterugkeer.nl](http://www.infoterugkeer.nl).

In 2013, there was an increase in forced returns to, for example, Armenia, Azerbaijan, Burundi, Mongolia and Pakistan. Furthermore, there was a slight improvement in the cooperation of Algeria, which now has to be continued by intensifying bilateral relations.<sup>101</sup>

There are also countries with whom the return relationship continues to be difficult. In a number of cases, these are countries that are in a post-conflict situation or are dealing with national problems such as a weak government or insufficient capacity to handle these problems constructively. The relationships with these countries require a lot of attention.

*Afghanistan:* In 2002, the Netherlands and UNHCR signed a Memorandum of Understanding (MoU) with Afghanistan on return. Afghanistan is very critical of Dutch migration policy and refuses to issue travel documents for forced return despite of the MoU. Moreover, Afghanistan refuses to cooperate in developing reception facilities for returning minors, a problem for which the Netherlands has made an effort in a European context since 2009. In order to stimulate the cooperation of Afghanistan in returns, the Netherlands has linked this to the request by Afghanistan to conclude a bilateral aviation convention.

#### *Unicef prevention project in Afghanistan*

In cooperation with Norway and Unicef, the Repatriation and Departure Service (DT&V) of the Ministry of Security and Justice implemented the prevention project in Afghanistan on 1 January 2013.

The purpose of this prevention project is to improve the lives of the most vulnerable children in Afghanistan by making them aware of the dangers of, among other things, irregular migration, exploitation and arranged marriages (among girls). Unicef will be developing materials to contact and inform the children, including their parents and local communities, and also to involve them in its discussion and activities. By implementing this project, DT&V pays attention to a subject that is also of importance to the Afghan government: prevention. The project has a term of one year.

*Ghana:* In September 2012, the Netherlands announced that it will cut back on development aid to Ghana by ten million euros. This decision was made because the cooperation of Ghana in forced return of its own citizens showed no improvement. The choice was made to cut back on programmes, affecting the government as an institute. These cut-backs were all but implemented in 2013. On various occasions, the authorities have indicated that they now want to enter into a dialogue on return. If Ghana adopts a favourable attitude in respect of forced return, the Netherlands will be willing to support the country in, for example, further strengthening its migration management.

*India:* At the end of 2010, there were negotiations with India on a Memorandum of Understanding (MoU) on a Human Resources Mobility Partnership. The aim of this MoU is to improve cooperation of India in the return of illegal foreign nationals from India who are staying in the Netherlands. In return for this, the mobility of highly skilled migrants and students from India to the Netherlands will be stimulated. India did not yet sign the MoU in 2013 either.

*Iraq:* In June 2012, the then Minister of Immigration, Integration and Asylum received the Iraqi Minister of Migration and in July 2013, the State Secretary for Security and Justice paid a visit to Iraq. During his visit to Iraq in September 2013, the Minister of Foreign Affairs also stated that a properly arranged return of Iraqi asylum seekers who have exhausted all legal means may further strengthen the cooperation with Iraq. The Netherlands offered extensive assistance in, among other things, the reintegration of returning foreign nationals and in finding a solution to the problem of around 1.5 million internally displaced persons in Iraq and the hundreds of thousands of Iraqis who are forced to return from neighbouring countries of Iraq. This also includes Syria, from where, in addition to many Iraqis, hundreds of thousands of Syrians are also crossing the border to Iraq. The discussions held by the Netherlands with Iraq in the area of migration are progressing with difficulty and have, as yet, not resulted in any improvements in the cooperation of Iraq in the forced return of its citizens.

*Somalia:* After 21 years of civil war and chaos, Somalia has had a central government again since the end of 2012. The long period as a failed state has resulted in large migration flows; the Somali diaspora is the largest African diaspora in the Netherlands. There is a Memorandum of Understanding on forced return with the government in Mogadishu.<sup>102</sup> Although its implementation is proceeding with difficulty, Somalis were forced to return in 2013 for the first time since 2010. Moreover, a number of Somalis returned independently in 2013. The Somali government indicated that it wants to carry out the MoU differently.<sup>103</sup>

#### *IOM project in Somalia*

The Netherlands and the United Kingdom will help Somalia with enhancing its immigration service and border controls. As a result, both countries contribute to increasing safety and stability in Somalia, where there has been an armed conflict for years. For this purpose, IOM will set up a project in Somalia which will further expand the technical and staffing capacity of all migration authorities involved.

For the Netherlands, the project is part of a broader cooperation with Somalia in the area of immigration. On Thursday 5 September 2013, this project was officially kicked off in Mogadishu. Here, the Dutch government was represented by the Dutch embassy in Nairobi and the Director of International Affairs of the Repatriation and Departure Service.<sup>104</sup>

<sup>102</sup> As Somaliland separated from Somalia in 1991 and wants to become independent, there are in fact two governments with which the Netherlands discusses matters of return. The authorities of Somaliland are yet unwilling to cooperate in a forced return.

<sup>103</sup> *Parliamentary Papers II* 2013–2014, 30 573, no. 124.

<sup>104</sup> More information can be found at <http://www.rijksoverheid.nl/nieuws/2013/05/07/nederland-steunt-somalie-bij-verbeteren-veiligheid-en-rechtsorde.html>.



### ***Collaboration with other European countries***

The return problems experienced by the Netherlands are not unique. Most other destination countries in Europe are experiencing the same problems. In 2013, the Netherlands lead and/or participated in a number of European projects with the aim of promoting cooperation in the area of return.<sup>105</sup>

#### *The ERI project*

The ERI project (*European Reintegration Instrument*) is the first European project in which five EU Member States (the Netherlands (project leader), Belgium, Germany, France and Sweden), a total of six government services, cooperate in order to offer reintegration support to foreign nationals from seven countries of origin (Afghanistan, Azerbaijan, Iraq, Morocco, Nigeria, Pakistan and Russia). The project started in May 2012. Both foreign nationals who were forced to return and foreign nationals opting for independent return may qualify for the ERI project. The local NGOs implementing the ERI project in the above countries of origin can offer reintegration support in the form of, for example, (temporary) accommodation, schooling/ courses or starting up a business. The costs for the ERI project are financed from the European Return Fund. The costs for the reintegration support to foreign nationals are paid by the participating EU Member States themselves from their national financial resources.

In early October 2013, the Netherlands (Repatriation and Departure Service) submitted a follow-up project for ERI, *European Reintegration Network*, ERIN, to the European Commission (ERF, Community), which includes the participation of new European Member States (Finland, Norway and the United Kingdom).<sup>106</sup>

#### *EURINT Network*

The Repatriation and Departure Service received subsidies from the European Commission in 2011 and 2012 together with its sister organisations in Germany, Belgium and Romania for the joint implementation of the *European Initiative on Integrated Return Management* (EURINT). The aim of this initiative was to act mutually towards third countries in order to improve the collaboration with the third country in the area of return. As well as carrying out negotiation missions, various task forces were also organised whereby the improvement of the identification process of foreign nationals held a central role. EURINT functioned as a platform for the exchange of knowledge and experience and also sharing best practices between the European sister services for the purpose of improving (forced) return. In October 2012, the Netherlands and Belgium presented a joint proposal at the GDISC Return Conference in Budapest and separately at Frontex to start a follow-up project on the basis of the EURINT experiences, whereby more countries participate in the network.

This follow-up project - the EURINT network - was initiated on 1 September 2013. A total of 22 European partners (including Frontex) are represented in this project, including non-EU countries such as Norway, Liechtenstein and Switzerland. This network is aimed

<sup>105</sup> An overview of Frontex activities can be found in Chapter 3.5.3 of this Annual Policy Report.

<sup>106</sup> In early 2014, the European Commission decided to finance the follow-up project as well.

at improving contacts with third countries within the context of the organisation of (forced) returns. Working groups will be set up for eight countries of origin. These countries of origin are: Algeria, Afghanistan, Bangladesh, Indonesia, Iraq, Iran, Morocco, Nigeria. The partners are allowed to participate in several working groups. The term is two years. The aim of EURINT is to increase the efforts of third countries and eventually the acceptance of forced returns and the issue of laissez passers. A new aspect is that a EURINT Secretariat was set up in which one of the partner states (Belgium) is represented through a secondment of a project manager. The start meeting of the EURINT network was held in The Hague on 18 and 19 September 2012.

#### *ERPUM*

In 2013, the Repatriation and Departure Service actively participated in the ERPUM project. This initiative from Sweden is carried out together with the Netherlands, the United Kingdom and Norway and is aimed at the realisation of adequate reception for unaccompanied minors to Afghanistan and Iraq.

#### *Joint Return Operations*

Within the EU, the Netherlands closely cooperates with other Member States on Joint Return Operations (JRO). The organisation of the JRO is in the hands of a Member State and is carried out in collaboration with the Return Operations Sector (ROS) department of Frontex.

#### *Mobility partnerships*

Within an EU context, migration cooperation with third countries is implemented within the frameworks of the broader Global Approach to Migration and Mobility (GAMM). Important instruments are mobility partnerships and migration dialogues.

On 7 June 2013, the Netherlands and eight other Member States and the European Commission signed a mobility partnership with Morocco. As one of the signatories, the Netherlands participated in the negotiations.<sup>107</sup>

The Netherlands also participates in the mobility partnership with Azerbaijan, which was signed on 5 December 2013.

Both partnerships are currently being implemented. In mobility partnerships, the Netherlands focuses on activities pertaining to migration management (such as building an asylum system), return and reintegration and, depending on the third country, also migration and development.

# 10 IMPLEMENTATION OF EU LEGISLATION

This chapter offers a review of the developments achieved in the Dutch legislation and regulations in 2013 within the framework of the implementation of European regulations.

## 10.1 Transposition of EU legislation 2013

### **Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. Withdrawal of Framework Decision 2002/629/JHA**

Directive 2011/36/EU establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings. The directive also introduces mutual stipulations which improve the prevention of this crime and the protection of victims. The directive is primarily an instrument under criminal law, but it also pertains to an integrated approach to trafficking in human beings. This means that attention is also given to prevention and the position of victims.

On 15 April 2011, the European Directive on preventing and combating trafficking in human beings (Directive 2011/36/EU) came into force. This directive was due to become national law before 6 April 2013.

Implementation of the directive will lead to the Netherlands tightening up certain points in Dutch criminal legislation relating to trafficking in human beings. The directive also obliges the Member States to implement a number of preventive measures. The Act of 6 November 2013 implementing Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA entered into force on 15 November 2013.<sup>108</sup>

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

Directive 2011/51/EU includes measures to extend Directive 2003/109/EC ('status of long-term residents') to beneficiaries of international protection. This extension means that beneficiaries of international protection can secure the status of long-term resident in the Member State which has given them protection (first Member State) after a period of five years of legal residence, can claim residence in another Member State (second Member State) under certain conditions and can secure the status of long-term resident in that second Member State after five years of legal residence.

Directive 2011/51/EC amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection was published on 19 May 2011. The directive was due to be implemented before 20 May 2013.

For this purpose, a bill amending the Aliens Act 2000 in implementation of Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection was offered to the House of Representatives on 19 March 2013.

The bill was approved by the States General and ratified by the King in December 2013.

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

The revised Qualification Directive amends and thereby broadens the directive which sets out minimum standards for the qualification as refugee and as person eligible for subsidiary protection. The directive indicates what the protection offered comprises. The aim of the directive is in particular to clarify a number of legal terms, to further equate the rights and provisions that are awarded to refugees and people with subsidiary protection.

The revised Qualification Directive (Directive 2011/95/EU) was approved by the Council on 24 November 2011. The Council and the European Parliament signed the proposal on 13 December 2011. Implementation took place by means of an Amendment to the Aliens Decree 2000 in connection with the implementation of Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the contents of the protection offered. It also appeared to be necessary to amend the Aliens Regulations 2000 in connection with the implementation of Directive 2011/95/EU.

The directive was implemented in Dutch legislation on 1 October 2013. The 2004 Qualification Directive (Directive 2004/83/EC) will be withdrawn at the latest on 21 December 2013 and replaced by the amended directive (Directive 2011/95/EC) of 13 December 2011.

**Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (OJ EU L343)**

Directive 2011/98/EU serves two purposes. On the one hand, the aim is to set up one single procedure for the application for residence and work permits (one counter function). On the other hand, the directive provides that workers from a third country who are residing legally in the EU are afforded the same package of rights as workers from another EU Member State.

Directive 2011/98/EU was signed by the Council and the European Parliament on 13 December 2011. An Amendment to the Labour Act for Aliens and the Aliens Act 2000 was submitted to the House of Representatives on 30 September 2013. The Senate approved this bill on 10 December 2013.

The directive was due to be implemented before 25 December 2013. The Senate approved this bill on 10 December 2013.

The directive will be implemented in the course of 2014.

## **10.2 Experiences and discussions in the area of the implementation of EU legislation**

The Dutch government adopts a position on every directive. On 22 December 2010, the former Rutte I government announced a roadmap for the European efforts of the government for the purpose of the "Immigration" chapter as described in the coalition agreement.<sup>109</sup> The aim of the roadmap is to find and create support within the European Union in order to allow for the amendment to European legislation desired by this government. With regard to the various different EU directives, the government chooses a suitable strategy depending on the subject and the phase of the decision making. This paragraph deals with the directives according to the phase at which they stand: current revisions, new proposals, and concludes with the other wishes of the government. Since the current government has not explicitly taken a different standpoint, these standpoints still count as the official Dutch standpoint.

### **10.2.1 Current revisions**

#### **Amendment to the Family Reunification Directive Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ EU, L 251).**

On 15 November 2011, the European Commission published the Green Paper on Family Reunification.<sup>110</sup> In March 2012, the Netherlands sent a reaction to Brussels regarding the questions posed in the Green Paper. In 2012, the European Commission stated that it will prepare guidelines.

#### **Amendment to the Procedures Directive Revised proposal for a directive on common procedures for granting and withdrawing international protection.<sup>111</sup>**

<sup>109</sup> *Parliamentary Papers II* 2011 - 2012, 30 573, no. 65.

<sup>110</sup> COM(2011)735, dated 15 November 2011.

<sup>111</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0554:FIN:NL:PDF>.

In October 2009, the European Commission presented a proposal to amend the Procedures Directive 2005/85/EC, the directive on minimum standards on procedures for granting or withdrawing refugee status. The amendment should make an end to the many different procedures in the EU. The situation must be prevented whereby refugees are repatriated to a country where they fear persecution within the meaning of the Refugee Convention (non-refoulement). This is with a view to formulating a European asylum procedure so that there is better access to asylum procedures everywhere in the European Union, and with the aim of an asylum application leading to the same outcome in every Member State.

As there were no prospects of an agreement, the European Commission published a revised proposal for the Procedures Directive on 1 June 2011.<sup>112</sup> On 29 June 2013, Directive 2013/32/EU was published in the Official Journal of the European Union (OJ EU L180).

Directive 2013/32/EU must be implemented by 20 July 2015.

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

#### **Proposal for a common procedure for entry and residence of seasonal workers**

This proposal for a directive concerns seasonal labour. The proposal aims to set up a common procedure for entry to and residence in the EU and sets out the rights of seasonal workers from third countries.

At the end of 2013, the negotiations on the directive for seasonal workers were in their final stages. Only after this directive has been approved will the Netherlands introduce new measures on the admission of seasonal workers. However, chances are that the Netherlands will make use of the zero quota, one of the options offered by this directive.

#### **Proposal for a directive on temporary transfer of third-country employees within companies**

The aim of this directive is to increase mobility of highly educated employees from outside the EU within companies. The objective is that the permit will comprise the same conditions and rights throughout Europe so that it will become easier for multinationals to move their personnel from one branch to another within the EU. This concerns specialists, managers and trainees.

The state of affairs concerning the directive proposal was discussed during the JHA Council of 6 and 7 June 2013. The Council report shows that the negotiations are in the trialogue (negotiations between the Parliament, the Council and the European Commission) and that an agreement in first reading is within reach.

<sup>112</sup> Old title: Proposal for a Directive of the European Parliament and the Council on minimum standards on procedures in Member States for granting or withdrawing international protection (redetermination).

# 11 OTHER RELEVANT POLICY DEVELOPMENTS IN THE FIELD OF ASYLUM AND MIGRATION

In 2013, there were no other important developments in the area of migration and asylum which have not yet been discussed in this Annual Policy Report.

Chapter 2 of this Annual Policy Report discusses all important developments and social debates that took place in the Netherlands in 2013.

Chapter 10 of this Annual Policy Report details the experiences and discussions in the area of the implementation of EU legislation.





# ANNEX 1: METHODOLOGY AND DEFINITIONS

## Methodology

This Annual Policy Report is mainly the result of desk research. The report has been compiled on behalf of the national contact point for the European Migration Network in the Netherlands by drs. Henrika Wörmann. The chapter Asylum was written by drs. Linda Goldschmeding. Both authors work as scientific assistants for the Information and Analysis Centre (INDIAC). Thanks go to the expertise of the Implementation and Advice Department (AUA) of the Implementation Strategy and Advice Department of the Immigration and Naturalisation Service and the Migration Policy Department of the Ministry of Security and Justice. Also the Integration and Society Department and the Labour Relations Department of the Ministry of Social Affairs and Employment, the Repatriation and Departure Service of the Ministry of Security and Justice, the Royal Netherlands Marechaussee of the Ministry of Defence, the National Rapporteur for Human Trafficking and the and the Departement Consular Affairs and Migration of the Ministry of Foreign affairs have contributed to the realisation of this report.

Information about the realisation of legislation and regulations and about parliamentary debates was taken from official sources. The following types of documents were thereby consulted:

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

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

Statistical data has been taken from Eurostat and the information system of the Immigration and Naturalisation Service INDiGO. Also the Royal Netherlands Marechaussee, the Seaport Police and the Ministry of Foreign Affairs have made data available.

Websites have mainly been consulted in order to gain information about organisations and their standpoints. In addition to this, also publications of various organisations concerning asylum and migration have mainly been found on their websites. The websites of political parties were also consulted in order to make an inventory of their standpoints about asylum and migration.

Insight into the public debate was mainly gained via the internet. Investigation was carried out with the help of the websites of the large national daily newspapers and news

and current events programmes on national television (public and commercial stations) to find out which asylum and migration related subjects have been given the greatest attention in the media. An important source of information about the social debate is formed by the weekly news reports from the digital publication *Migratierecht.nl*, from the publishers Sdu Uitgevers.<sup>113</sup> As well as a general inventory of asylum and migration related subjects, media attention for specific subjects that came up in parliamentary debate were also investigated.

The aim of the Annual Policy Report is to represent all the important developments in the area of migration and asylum. In order to achieve this aim, a number of criteria were used for the meaning of 'important developments'. A differentiation was thereby made between changes in legislation and regulations on the one hand, and political and social debate on the other hand.

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

The report attempts to give as full as possible a review of the (proposed) changes in legislation and regulations in the various different policy areas that arise. All (proposed) changes that actually contain substantial revision of this legislation and regulations have been included in this report. However, minimal changes have not been included (for example, the annual increase in certain income requirements).

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

No attempt has been made to give a full picture regarding the political and social debate and developments. The aim of the Annual Policy Report is to give an impression of the most important topics of discussion in the area of asylum and migration in the Netherlands. The following criteria were used in order to make a selection. In order to be included in the report, a political and social debate must at least comply with the following cumulative conditions:

- The subject must have come up in parliament.
- The subject has been 'in the news' for an extended period of time. There must have been reports of such in various different news media.

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

The aim of the Annual Policy Report is to give a complete picture of the implementation of European legislation and regulations in the area of asylum and migration. This is why all developments in this area have been included in this report.

#### **Terms and definitions**

This report makes use of the definition of the relevant terms in the European Migration <sup>114</sup>Network Glossary. The aim of the terms and definitions in this explanatory list of words developed by the European Migration Network is to improve the ability to compare information exchanged between the EU Member States.

<sup>113</sup> Available via the non-public website [www.migratierechtonline.rijksweb.nl](http://www.migratierechtonline.rijksweb.nl)

<sup>114</sup> EMN (2012). Available via <http://emn.intrasoft-intl.com/Glossary/index.do>

## ANNEX 2: NATIONAL STATISTICS

### Legal migration and mobility

<i>Werkloosheid van Derdelanders en werkloosheid in Nederland (totaal) 2013</i>						
	Third country nationals			Total national population		
	Total	Female	Male	Totaal	Female	Male
Unemployment rate (%)	18,7	18,2	18,7	6,7	6,3	7,1

Source: Eurostat

<i>Visas issued in 2013</i>				
	Schengen Visa		National Visa	
	Issued to third country nationals coming directly from a third country	Issued to third country nationals resident in another EU Member State	Issued to third country nationals coming directly from a third country	Issued to third country nationals resident in another EU Member State
Total	443,170			
Visa issued by Ministry of Foreign Affairs	435,845			
Visa issued by Royal Netherlands Marechaussee	7,224			
Visa issued by Seaport Police	101			

Source: Ministry of Foreign Affairs, Seaport Police, Royal Netherlands Marechaussee.

## Irregular migration and return

<i>Third-country nationals returned<sup>115</sup></i>		
	Forced return	Voluntary return
<b>Total in 2013</b>	<b>4,410</b>	<b>3,610</b>
	<b>Top 10</b>	<b>Top 10</b>
Suriname	230	260
Turkish	210	230
Moroccan	190	200
Citizen of Nigeria	190	180
Albanian	190	160
Afghan	160	150
Citizen of Russia	130	120
Chinese	130	110
Citizen of Georgia	120	100
Citizen of Ukraine	120	100

Source: KMI

<i>Third-country nationals returned</i>			
Among third-country nationals returned voluntarily, the number of third-country nationals returned as part of an assisted return programme (via IOM)			
	Total	Male	Female
Iraqi	250	220	30
Brazilian	200	110	90
Serbian	190	180	10
Armenian	130	100	30
Mongolian	120	80	40
Indonesian	120	70	50
Chinese	110	70	40
Citizen of Russia	100	70	30
Citizen of Bosnia and Herzegovina	80	70	10
Afghan	70	60	10
Other*	1,110	600	510
<b>Total</b>	<b>2,490</b>	<b>1,630</b>	<b>860</b>

Source: IOM

<sup>115</sup> The table shows the demonstrable departures (forced and voluntarily) in 2013. These are the departures executed by the organisations that deal with the return of foreigners (Return and Departure Service, Royal Netherlands Marechaussee (RNLM), IOM, National Police). The data of departures of EU-nationalities are excluded. Departures based on the Dublin regulation are included. Due to technical reasons this data could not be excluded. The forced and voluntarily departures also include departure after refusal at the border. 50% of the total departure is non-demonstrable. These numbers are not included. It is not possible to divide the data in departures of men/ women.

## International protection including asylum

<i>Third-country nationals relocated to the Netherlands in 2013</i>				
Number of third country nationals relocated to your (Member) State	Male	Female	Total	Top 3 countries of origin of third country
<b>Total</b>	0	0	0	N/A

Source: Eurostat

<i>Third-country nationals resettled in the Netherlands in 2013</i>		
Number of third country nationals resettled in		
Total	Male	Female
310	155	160

Source: Eurostat

## Unaccompanied minors

<i>Unaccompanied minors 2013</i>	
Number of unaccompanied minors not applying for asylum	Number of unaccompanied minors applying for asylum <sup>116</sup>
<b>Total</b>	<b>Total</b>
N/A	309

Source: INDiGO

## Actions addressing trafficking in human beings

<i>Victims of trafficking 2013</i>		
		Total
<b>Total number of third country nationals 'presumed' to be victims of trafficking in human beings <sup>117</sup> in 2013</b>		<b>309</b>
<b>Citizenship (top 3)</b>	<b>1. Nigeria, citizen of</b>	<b>47</b>
	<b>2. Ghanese</b>	<b>28</b>
	<b>3. Sierraleonian</b>	<b>27</b>
<b>Total number of third country nationals 'identified' as victims of trafficking in human beings <sup>118</sup> in 2013</b>		<b>252</b>
<b>Citizenship (top 3)</b>	<b>1. Nigeria, citizen of</b>	<b>45</b>
	<b>2. Sierraleonian</b>	<b>22</b>
	<b>3. Ghanese</b>	<b>21</b>

Source: INDiGO

117 'Presumed' victims are persons who fulfil the definition of victim of trafficking in human being, as outlined in Directive 2011/36/EU, but whom have not been formally identified by the relevant authorities (i.e. the national person/body authorised to formally identify victims).

118 'Identified' victims are those whom have been formally identified by the relevant authority (i.e. the national person/body authorised to formally identify victims).

## ANNEX 3: OVERVIEW OF IMPLEMENTATIONS OF EU DIRECTIVES

### State of affairs Implementation of EU legislation as of 31 December 2012

EU legislation	Corresponding national legislation and regulations (status)
<p><b>Directive 2001/51/EC (Schengen Implementation agreement)</b></p>	<p>Final implementation date 10 February 2003 Status: implemented from 15 September 2004 Aliens Act 2000</p> <ul style="list-style-type: none"> <li>● Act dated 13 May 2004 for the revision of the Aliens Act 2000 in accordance with Council Directive 2001/51/EC of the Council of the European Union of 28 June 2001 to include that which is stipulated in Article 26 of the Agreement to implement the Schengen Agreement of 14 June 1985.</li> </ul>
<p><b>Directive 2001/55/EC (Temporary protection of displaced persons)</b></p>	<p>Final implementation date: 31 December 2002 Status: implemented from 15 February 2005 Aliens Act 2000, the Aliens Decree 2000 and Aliens Regulations 2000</p> <ul style="list-style-type: none"> <li>● Act of 16 December 2004 to revise the Aliens Act 2000 for the implementation of Council Directive no. 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (PbEC L212), Bulletin of Acts and Decrees 2004, 691.</li> <li>● Decision of 12 January 2005 to revise the Aliens Decree 2000 for the implementation of Council Directive no. 2001/55/EC, Bulletin of Acts and Decrees 2005, 25.</li> <li>● Regulation from the Minister for Migration Affairs and Integration of 24 February 2005 containing a revision to the Aliens Regulations 2000 (thirty-second revision), Government Gazette 53, p. 17.</li> </ul>

<p><b>Directive 2003/9/EC (Reception of asylum seekers)</b></p>	<p>Final implementation date: 6 February 2005 Status: implemented from 3 February 2005 Regulation for the provisions for asylum seekers and other categories of foreign nationals 2005</p> <ul style="list-style-type: none"> <li>● Regulation for the provisions for asylum seekers and other categories of foreign nationals 2005, Government Gazette 2005 24, p. 17.</li> </ul>
<p><b>Directive 2003/86/EC (Family reunification)</b></p>	<p>Final implementation date: 3 October 2005 Status: implemented from 1 November 2004 Aliens Decree 2000</p> <ul style="list-style-type: none"> <li>● Decree dated 29 September 2004 to revise the Aliens Decree 2000 in connection with the implementation of Council Directive 2003/9/EC, Bulletin of Acts and Decrees 2004, 496.</li> </ul>
<p><b>Directive 2003/110/EC (Removal By air)</b></p>	<p>Final implementation date: 6 December 2005 Status: implemented from 22 December 2005 Aliens Act Implementation Guidelines 2000</p> <ul style="list-style-type: none"> <li>● Decree from the Minister for Migration Affairs and Integration dated 8 December 2005, number 2005/59, containing revision of the Aliens Act Implementation Guidelines 2000, Government Gazette 247, p. 35.</li> </ul>
<p><b>Directive 2004/38/EC (Free movement of European Union citizens and their family members)</b></p>	<p>Final implementation date: 30 April 2006 Status: implemented from 29 April 2006 Work and Social Assistance Act, Study Finance Act 2000, Educational Expenses (Allowances) Act, Aliens Act 2000, Aliens Decree 2000, Guidelines for the application of the Netherlands Nationality Act</p> <ul style="list-style-type: none"> <li>● of 7 July 2006 for the revision of the Work and Social Assistance Act, the Study Finances Act 2000, the Educational Expenses (Allowances) Act and the Aliens Act 2000 in connection with the realisation of Council Directive 2004/38/EC on the right of free circulation and residence in the territory of the Member States for citizens and their family members, as well as approval of the</li> </ul>



	<ul style="list-style-type: none"> <li>● thereby connected qualification set out in the European convention on social and medical support, Bulletin of Acts and Decrees 2006, 373.</li> <li>● Decree dated 24 April 2006 to revise the Aliens Decree 2000 in connection with the implementation of Council Directive 2004/38/EC, Bulletin of Acts and Decrees 2006, 215.</li> <li>● Nationalities Interim Communication 2006/3, Government Gazette 109, p. 25.</li> </ul>
<p><b>Directive 2003/109/EC (Third-country nationals who are long-term residents)</b></p>	<p>Final implementation date: 23 January 2006 Status: implemented from 1 December 2006. Aliens Act 2000, Aliens Decree 2000, Aliens Regulations 2000, Aliens Act Implementation Guidelines 2000, Implementation Regulations of the Labour Act for Aliens and the Guidelines for the application of the Netherlands Nationality Act.</p> <ul style="list-style-type: none"> <li>● Act of 23 November 2006 to revise the Aliens Act 2000 for the implementation of Council Directive no. 2003/109/EC of the Council of the European Union of 25 November 2003 on the status of citizens from third countries as long-term residents (PbEU 2004, L16). Bulletin of Acts and Decrees 2006, 584.</li> <li>● Decree dated 23 November 2006 to revise the Aliens Decree 2000 in connection with the implementation of Council Directive no. 2003/109/EC, Bulletin of Acts and Decrees 2006, 585.</li> <li>● Regulation from the Minister of Justice of 7 January 2007 containing a revision of the Aliens Regulations 2000 (fifty-sixth revision) Government Gazette 11, p. 6.</li> <li>● Decree from the State Secretary for Justice of 16 April 2007, no. 2007/04, containing revision to the Aliens Regulations 2000, Government Gazette 78, p. 11.</li> <li>● Regulation from the State Secretary for Social Affairs and Employment of 21 December 2006, Labour Market Directorate, to revise the Implementation Regulations for the Aliens Labour Act relating to the Delegation and Implementation Decree Aliens Labour Act, Government Gazette 1, p. 10.</li> <li>● Nationalities Interim Communication (TBN 2007/5) of the Ministry of Justice, Government Gazette 67, p.7</li> </ul>

<p><b>Directive 2004/81/EC (Human trafficking)</b></p>	<p>Final implementation date: 6 August 2006 Status: implemented from 1 February 2006 No revision of legislation and regulations</p>
<p><b>Directive 2004/82/EC (Passenger data)</b></p>	<p>Final implementation date: 5 September 2006 Status: implemented from 1 September 2007 Aliens Act 2000, Aliens Decree 2000, Aliens Regulations 2000 and Aliens Act Implementation Guidelines 2000</p> <ul style="list-style-type: none"> <li>● Act of 9 July 2007 on the revision of the Aliens Act 2000 to Council Directive no. 2004/82/EC of 29 April 2004 on the obligation of transporters to pass on passenger details (PbEU L 261). Bulletin of Acts and Decrees 2007, 252.</li> <li>● Decree of 27 July 2007 on the revision of the Aliens Decree 2000 to Council Directive no. 2004/82/EC, Bulletin of Acts and Decrees 2007/ 283.</li> <li>● Regulation from the Minister of Justice of 16 August 2007 containing a revision of the Aliens Regulations 2000 (sixty-fifth revision) Government Gazette 163, p. 9.</li> <li>● Decree from the State Secretary for Justice of 25 September 2007, number 2007/27, on revision of the Aliens Act Implementation Guidelines 2000, Government Gazette 194, p. 10.</li> </ul>
<p><b>Directive 2004/83/EC (Qualification Directive)</b></p>	<p>Final implementation date: 10 October 2006. Status: implemented from 25 April 2008.</p> <ul style="list-style-type: none"> <li>● Act of 3 April 2008 on the revision of the Aliens Act 2000 for the implementation of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (PbEU L 304), Bulletin of Acts and Decrees 2008. 115.</li> <li>● Decree of 9 April 2008 on revision of the Aliens Decree 2000 and the Implementation Decree of the Youth Care Act for the implementation of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals</li> </ul>

	<p>or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (PbEU L 304), Bulletin of Acts and Decrees 2008, 116. Regulation from the State Secretary for Justice of 8 May 2008 containing revision of the Aliens Regulations 2000 (eightieth revision), Bulletin of Acts and Decrees 97, p. 16.</p> <ul style="list-style-type: none"> <li>● Decree from the State Secretary for Justice of 10 November 2008, number 2008/27, on revision of the Aliens Act Implementation Guidelines 2000, Government Gazette 728.</li> </ul>
<p><b>Directive 2004/114/EC (Student Directive)</b></p>	<p>Final implementation date: 12 January 2007 Status: implemented from 11 November 2006 Aliens Decree 2000, Aliens Regulations 2000 and Aliens Act Implementation Guidelines 2000.</p> <ul style="list-style-type: none"> <li>● Decree of 2 October 2006 for the revision of the Aliens Decree 2000 on the implementation of Council Directive 2004/114/EC, Bulletin of Acts and Decrees 2006, 458.</li> <li>● Regulation from the Minister for Migration Affairs and Integration of 26 April 2006 containing a revision to the Aliens Regulations 2000 (forty-sixth revision), Government Gazette 84, p. 15.</li> <li>● Decree from the Minister for Justice of 3 January 2007, number 2007/01, on revision of the Aliens Act Implementation Guidelines 2000, Government Gazette 38, p. 7.</li> </ul>
<p><b>Directive 2005/71/EC (Research Directive)</b></p>	<p>Final implementation date: 12 October 2007. Status: implemented from 12 October 2007. Aliens Decree 2000, Decree for the implementation of the Labour Act for Aliens, Civil Integration Decree, Aliens Regulations 2000 and Aliens Act Implementation Guidelines 2000.</p> <ul style="list-style-type: none"> <li>● Decree of 26 September 2007 for the revision of the Aliens Decree 2000, Decree for the implementation of the Labour Act for Aliens and the Civil Integration Decree in connection with the implementation of Council Directive 2005/71/EC, Bulletin of Acts and</li> </ul>

	<p>Decrees 2007, 366.</p> <ul style="list-style-type: none"> <li>● Regulation from the State Secretary for Justice of 16 October 2007 containing revision of the Aliens Regulations 2000 (seventy-first revision), Bulletin of Acts and Decrees 202, p. 24.</li> <li>● Decree from the State Secretary for Justice of 21 January 2008, no. 2008/07, containing revision to the Aliens Regulations 2000, Government Gazette no. 21, p. 9.</li> </ul>
<p><b>Directive 2005/85/EC (Asylum Procedure directive)</b></p>	<p>Final implementation date: 1 December 2007. Status: implemented from 19 December 2007. Aliens Act 2000, Aliens Decree 2000, Aliens Regulations 2000 and Aliens Act Implementation Guidelines 2000.</p> <ul style="list-style-type: none"> <li>● Act of 15 November 2007 to revise the Aliens Act 2000 for the implementation of Council Directive no. 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (PbEU L 32), Bulletin of Acts and Decrees 2007, 450.</li> <li>● Decree of 29 November 2007 on the revision of the Aliens Decree 2000 to Council Directive no. 2005/85/EC, Bulletin of Acts and Decrees 2007, 484.</li> <li>● Regulation from the State Secretary for Justice of 7 December 2007 containing revision of the Aliens Regulations 2000 (seventy-third revision), Bulletin of Acts and Decrees 240, p. 9.</li> <li>● Decree from the State Secretary for Justice of 7 December 2007, no. 2007/38, containing revision to the Aliens Regulations 2000, Government Gazette 240, p. 10.</li> </ul>
<p><b>Directive 2008/115/EC (Return directive)</b></p>	<p>Final implementation date: 24 December 2010. For Article 13, paragraph 4, 24 December 2001 Status: implemented from 31 December 2011.</p> <ul style="list-style-type: none"> <li>● The Netherlands was obliged to transpose the return directive guideline by 24 December 2010 at the latest into its own regulation. In June 2010 the legislative proposal was submitted to the House of Representatives that should regulate the implementation of the return directive. Partly because the Council of State had given a negative advice concerning the legislative</li> </ul>

	<p>proposal, the date of 24 December 2010 was not achieved. A partial implementation did take place in December 2010, which did not necessitate any revisions of the law. The course of the legislation has now been completed. The Act was taken up by the Senate on 13 December 2011.</p> <ul style="list-style-type: none"> <li>● This decision is published in Government Gazette 663 of 15 December 2011.</li> </ul>
<b>Directive 2009/50/EC (Blue Card)</b>	<p>Final implementation date: 19 June 2011 Status: implemented from 19 June 2011</p> <ul style="list-style-type: none"> <li>● The Council Directive no. 2009/50/EC came into force on 19 June 2011 by means of the Decree of 15 June 2011 for the determination of the time of enforcement of parts of the Modern Migration Decree and for the revision of the Aliens Decree 2000 and the Civil Integration Decree in connection with that enforcement.</li> <li>● This decision is published in Government Gazette 291 of 17 June 2011.</li> </ul>
<b>Directive 2009/52/EC (combating illegal employment)</b>	<p>Final implementation date: 20 July 2011 Status: implemented from 1 May 2012</p> <ul style="list-style-type: none"> <li>● Council Directive 2009/52/EC should be implemented before 20 July 2011. Implementation will take place by means of an amendment of the Labour Act for Aliens.</li> <li>● A legislative proposal was submitted to the House of Representatives for this purpose on 8 July 2011. The proposal was passed by the House of Representatives on 20 December 2011.</li> <li>● The Senate passed the proposal on 20 March 2012.</li> <li>● This decision is published in Government Gazette 170 of 23 April 2012.</li> </ul>
<b>Directive 2011/36/EU (Directive on preventing and combating human trafficking)</b>	<p>Final implementation date: 6 April 2013 Status: implemented from 15 November 2013.</p> <ul style="list-style-type: none"> <li>● On 15 April 2011 the European Guideline for the pre-</li> </ul>

	<p>vention and combating of human trafficking (Council Directive 2011/23/EU) came into force.</p> <ul style="list-style-type: none"> <li>● This guideline is due to become national law before 6 April 2013.</li> <li>● The Council Directive no. 2011/36/EU came into force on 15 November 2013 by means of the Decree of 6 November 2013.</li> <li>● This decision is published in Government Gazette 445 of 6 November 2013.</li> </ul>
<p><b>Directive 2011/51/EC (Amendment of the long-term residents Directive)</b></p>	<p>Final implementation date: 20 May 2013 Status: It is not yet known when the guideline will be implemented.</p> <ul style="list-style-type: none"> <li>● On 19 May 2011 the Council Directive 2011/51/EC for change of Council Directive 2003/109/EC for the purpose of expanding its working area to people who are afforded international protection was signed by Council of the European Parliament.</li> <li>● A legislative proposal was submitted to the House of Representatives for this purpose on 19 March 2013.</li> <li>● Implementation will take place by means of an amendment of the Labour Act for Aliens.</li> </ul>
<p><b>Directive 2011/95/EU (Amendment of the Qualification Directive)</b></p>	<p>Final implementation date: 21 December 2013 Status: It is not yet known when the directive will be implemented.</p> <ul style="list-style-type: none"> <li>● The revised Qualification Directive (Directive 2011/95/EU) was approved by the Council on 24 November 2011.</li> <li>● The Council and the European Parliament signed the proposal on 13 December 2011.</li> <li>● The Qualification Directive (Directive 2004/83/EC) from 2004 will be withdrawn at the latest on 21 December 2013 and replaced by the adjusted Guideline (Directive 2011/95/EC) of 13 December 2011.</li> </ul>
<p><b>Directive 2011/98/EU (Single Permit Directive)</b></p>	<p>Final implementation date: 25 December 2013 Status: It is not yet known when the directive will be implemented.</p> <ul style="list-style-type: none"> <li>● The Single Permit Directive (Directive 2011/98/EU) was</li> </ul>

	<p>signed by the Council and the European Parliament on 13 December 2013.</p> <ul style="list-style-type: none"> <li>● A legislative proposal was submitted to the House of Representatives for this purpose on 30 September 2013.</li> <li>● Implementation will take place by means of an amendment of the Labour Act for Aliens.</li> <li>● The Senate passed the proposal on 10 December 2013.</li> </ul>
<p><b>Directive 2013/32/EU (Amendment of the Asylum Procedure Directive)</b></p>	<p>Final implementation date: 20 July 2018  Status: It is not yet known when the directive will be implemented.</p> <ul style="list-style-type: none"> <li>● On 29 June 2013, Directive 2013/32/EU was published in the Official Journal of the European Union (OJ EU L180).</li> </ul>





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Immigration and Naturalisation  
Service  
*Ministry of Security and Justice*



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

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