

# Annual Statistical Report on Migration, Asylum and Illegal entry and return

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Immigration- and Naturalisation Service (IND),

Staff Directorate for Implementation and Policy,

section Information- and Analysis Centre (INDIAC)

Dutch National Contact Point for the European Migration Network (EMN)

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## List of acronyms and abbreviations

CBS	Statistics Netherlands
GBA	Municipal personal records database
Cirefi	Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration
ECHR	European Court of Human Rights
EMN	European Migration Network
IND	Immigration and Naturalisation Service
INDIAC	Immigration and Naturalisation Service Information and Analysis Centre
INDIS	Immigration and Naturalisation Service Information System
Kmar	Royal Military Constabulary
MTV	Mobile Supervision of Aliens
MVV	Authorisation for Temporary Stay
TWV	Work permit
Vw 2000	Aliens Act 2000
Vb 2000	Aliens Decree 2000
Vc 2000	Aliens Act implementation guidelines 2000
VVR	Temporary Residence Permit

# 1. Management summary

This report is the fourth edition of the Annual statistical report on migration, asylum and illegal entry and return, written by the department INDIAC (Information and Naturalisation Service Information and Analysis Centre), the Dutch national contact point for the European Migration Network (EMN). The goal of the EMN is to collect, analyse and provide up-to-date, objective, reliable and comparable information on asylum and migration with a view to supporting policy- and decision-making in the European Union.

In order to attain the above mentioned objective, the EMN carries out a number of activities, including this annual statistical report.

An important aim of the EMN is to improve the availability of accurate, up-to-date and comparable statistical data on migration and asylum and the comparative analysis of such statistical information.

The annual statistical report describes and explains the statistical trends and policy developments for 2004 in the Netherlands. There are sections on asylum, migration and on illegal entry/return. Each of the three sections are divided into a part focussing on the analysis of the migration, asylum and return statistics and a part for contextual interpretation (political and legislative changes during 2004) of these statistics.

The statistical data for this report have been sent to the national contact points (ncp's) of the EMN by Eurostat. The ncp's have checked and adjusted these data where necessary.

## *Migration*

In 2004 population growth declined compared to previous years. Such a low growth rate has not been observed since 1920. In 2003, for the first time since 1982, there was a small emigration surplus (taking administrative corrections into account with respect to emigration figures). In 2004 immigration declined further and the number of emigrants increased to a record level of over 110 thousand emigrants, which led to an increase in the emigration surplus. There were over 16 thousand more emigrants than immigrants.

The number of immigrants from Turkey, Morocco, Suriname and the Netherlands Antilles greatly decreased in 2004, especially in the case of Turkey (-32%) and Morocco (-25%). The policy changes in family formation policy in the Netherlands in 2004 and the changes in integration policy might have played a role in this. There has also been a sharp fall in the number of immigrants from typical refugee countries such as Somalia, Sudan, Afghanistan, Iraq, Sierra Leone, Iran, Angola, former Yugoslavia and the former Soviet Union. The declining immigration from these countries is the result of the stricter Dutch asylum policies in recent years.

The general principle of current immigration policy in the Netherlands is a restricted immigration policy and an active policy to stimulate integration into Dutch society. Besides that the responsibility and efforts of the applicant are emphasised. The most important legal changes in 2004 illustrate this. In 2004, the Highly skilled migrants Scheme (Kennismigrantenregeling) was introduced. As of 1 October 2004 the Immigration and Naturalisation Service (IND) has gradually introduced a policy of one helpdesk, one procedure and one permit for highly skilled migrants. A income criteria is used in this Scheme which has the intention to promote highly qualified labour migration to the Netherlands.

On 1 November 2004, the conditions for family formation were tightened. The minimum age at which the resident permit can be applied for has been raised from 18 to 21, this applies to both the person forming the family (sponsor) and the migrating partner (dependant). The income requirement of the sponsor residing in the Netherlands was raised from 100% to 120% of the minimum wage. The main motive for these changes was to ensure a better starting position for the dependant and the ability of the sponsor to support the dependant to improve integration in Dutch society.

In 2004 another amendment with regard to integration abroad was prepared and was planned to be implemented in 2005. An additional condition will have to be met before a migrant can come to the Netherlands, migrants must have basic knowledge of the Dutch language and society.

With respect to the EU enlargement on 1 May 2004, the right of free movement of workers has applied for two of the new member states, Malta and Cyprus. For the remaining eight countries - Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary and Slovenia - the Netherlands has largely upheld the existing regime for admitting workers from these eight countries. Workers from the accession states have to apply for a work permit. The extent of employee migration from the accession states to the Netherlands has increased sharply since May 2004, largely in the form of temporary labour migration.

### *Asylum*

The decrease in the number of *asylum applications* in the Netherlands continued in 2004 (9.782 applications in 2004 compared to 13.402 in 2003). This is probably partly caused by the Aliens Act 2000 implemented in April 2001. One of the main goals of the Aliens Act 2000 was to fasten procedures. Also in the past asylum applications were granted when the asylum procedure took more than 3 years. This policy was repealed on 1 January 2003. This may have had an impact on the asylum influx in the Netherlands.

In 2004, many countries of origin show a large absolute decrease in asylum influx compared to the same period in 2003. Iraq (decrease: -2.429; -70%) was the country with the biggest absolute decrease but is still the most important country of citizenship. These applications partly concern repeated asylum applications.

The nationality registered as "unknown" had an increase of 365 applications (+70%, second most important 'nationality'), followed by Somalia (increase: 341; +76%), Afghanistan (increase 196; +40%) and Colombia (+136; +400%) .

The group with nationality "unknown" consists of asylum applicants that are insufficiently documented and are therefore registered with the nationality "unknown" in the municipal personal records database. Records in this database "override" information in the INDIS database.

The influx of *unaccompanied minors* continued to decrease in 2004 (594 in 2004 compared to 1.216 in 2003). At the end of 2004 a pilot project was ended with so-called campuses for unaccompanied minor asylum applicants. In these centres, unaccompanied minor asylum applicants whose claims had been rejected were prepared for their return to their country of origin.

Policy and legal changes in the field of asylum in 2004 were made to the system of appeal in cases of detention of aliens, lengthening the period between actual detention and the assessment of it's lawfulness by the courts, in cases in which aliens did not go to the court on their own initiative. Furthermore, as of 1 September 2004, the temporary asylum residence permit, which accepted asylum seekers received was no longer valid for a maximum of three but of five years.

### *Illegal entry and return*

The number of *refused aliens* at Schiphol Airport declined in 2004 with 47 percent (9.382 in 2003 to 4.929 in 2004). There are two possible explanations for this development. First of all, there was a temporary increase in the number of refused aliens from Ecuador in 2003. In June 2003, the visa requirement was reintroduced. Many migrants from Ecuador tried to travel to the Netherlands before this date. Second, management of the Royal Military Constabulary decided to increase capacity in the control of drugs trafficking.

After an increase in 2002 and 2003, the number of *apprehended aliens illegally present* decreased in 2004. Asylum applicants are a minority in this group of apprehended aliens, it mainly concerns 'regular' migrants that stay in the Netherlands for work or family forming or reunification.

Despite the growing focus on a effective return policy in the Netherlands there has been a decrease in the number of *removed aliens* in 2004. Possible causes for this are the start-up of the Return Project, which led to a (temporary) decline in the execution of the obligation to leave the country for a part of the removable aliens. On the one hand this execution was pending on certain policy choices that had to be made and on the other hand the continuation of removals could lead to resistance at local level. Other factors that have influenced the number of removals in 2004 is the attention paid to the education of employers in the field of aliens supervision by the Aliens Policy after the tasks of admission of aliens was transferred to the IND. The number of aliens that fall under the possible group of removed aliens also declined with the accession of 10 new Member States and the decline in the number of asylum requests in latest years.

## 2. Introduction: Annual statistical report on migration, asylum and illegal entry and return

### *Introduction*

This report is the fourth Annual statistical report on migration, asylum and illegal entry and return, written by the department INDIAC (Information and Naturalisation Service Information and Analysis Centre), the Dutch national contact point for the European Migration Network (EMN).

The report describes and explains the statistical trends and policy developments for 2004 in the Netherlands. There are sections on migration, asylum and on illegal entry/return. Each of the three sections are divided into a part focussing on the analysis of the migration, asylum and return statistics and a part for contextual interpretation (political and legislative changes during 2004) of these statistics.

### *Methodology*

The specifications for this study have been developed by the European Commission, in cooperation with the national contact points of the EMN. The EMN is made up of various member states who also contribute towards this study from their own national perspective.

Data for this report have been provided by Eurostat, the Directorate-General for statistics within the European Commission. The national contact points of the EMN verified these data and provided updated data to the European Commission as appropriate.

The European Commission composes a synthesis report, based on the national reports, to analyse divergences and coincidences in the European context.

In the Netherlands, various actors are involved in producing statistics on migration, asylum and illegal entry/return. The main source for the statistical data in this report is the Information System of the Immigration and Naturalisation Service (INDIS). Statistics from this system concern the number of procedures registered. There can be small differences compared to the number of persons. Data on migration (chapter 3) are provided by Statistics Netherlands (Centraal Bureau voor de Statistiek (CBS)). The data on refused aliens derive from the information system PAS used by the Royal Military Constabulary (Koninklijke Marechaussee (Kmar)). This only includes refused aliens at the main airport, Schiphol Airport in Amsterdam. Aliens refused at other airports or harbours are not included in the data as these airports and ports do not use centralised systems.

With respect to statistics on removed aliens, the Netherlands has revised its statistics retroactively. Statistics now exclude removed aliens from EU member states and by Mobile Supervision of Aliens (Mobiel Toezicht Vreemdelingen (MTV)).

Data on the number of applications for residence permits or decisions on these applications are not available for the year 2004 and earlier. This is caused by a change in administration of these applications.

In 2003 a number of tasks from the Aliens Police were taken over by the Immigration and Naturalisation Service (IND), including the processing of authorisation for temporary stay (MVV) applications, the initial granting of residence permits (VVR) and the processing of residence document extensions. In April 2004 the IND took over the remaining tasks of the aliens' administration from the Aliens Police. Due to this transfer of responsibilities and corresponding administrative tasks no official statistics are available on residence permits.

## 3. Migration issues

In the first paragraph of this chapter migration statistics will be presented and analysed. This mainly concerns migration flows and population by citizenship. In the second paragraph relevant policy and legislative changes in the field of migration will be described.

### 3.1. Analysis and interpretation of the migration statistics

Migration and population statistics are produced by Statistics Netherlands (Centraal Bureau voor de Statistiek (CBS)) and are based on entries and changes in the municipal population registers. These data therefore include asylum seekers, residence permit holders and invited refugees who are registered in a municipal population register. This does not necessarily mean the registered asylum seekers will be allowed to stay in the Netherlands. Six months after his first asylum application an asylum seeker is registered in a municipal population register. It is possible that a final decision (positive or negative) on his application is taken after this period.

#### 3.1.a. Migration flows

Population data are provided to Eurostat by CBS. With respect to emigration CBS prefers to use data including administrative corrections. Administrative corrections consist of inclusions in and withdrawals from the municipal population registers for other reasons than birth, death, migration or redefinition of municipal borders. Most of these administrative corrections refer to people for whom it has been demonstrated that they have left the municipality, often to live abroad. Entries often concern people who reappear in the same or in a different municipality and are then included in the population register. This explains why the net administrative corrections are included in emigration (and net migration) but not in immigration.

This means that in some cases (like specific ages) the value of emigration including net administrative corrections may be negative.

**Table 1. Population, immigration and emigration, The Netherlands, 1999-2006**

	1999	2000	2001	2002	2003	2004	2005	2006
<b>Legally resident population (1st January)</b>	15.760.225	15.863.950	15.987.075	16.105.285	16.192.572	16.258.032	16.305.526	16.334.210
<b>Recorded immigration</b>	119.151	132.850	133.404	121.250	104.514	94.019	92.297	101.150
<b>Recorded emigration</b>	59.023	61.201	63.318	66.728	68.885	75.049	83.399	91.028
<b>Emigration (incl saldo adm.corrections)</b>	78.779	78.977	82.566	96.918	104.831	110.235	119.725	132.470

Source: CBS

In 2004 population growth declined compared to previous years. Such a low growth rate has not been observed since 1920. This development is mainly due to a further decrease in immigration and an increase in emigration. Other factors that influence population growth are the number of births and deaths.

In 2003, for the first time since 1982, there was a small emigration surplus (taking administrative corrections into account with respect to emigration figures)<sup>1</sup>. In 2004 immigration declined further and the number of emigrants increased, which led to an increase in the emigration surplus. There were over 16 thousand more emigrants than immigrants.

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<sup>1</sup> Statistics Netherlands. *Emigrants outnumber immigrants for the first time in twenty years*. CBS Web magazine, 21 June 2004 10:00. [www.cbs.nl](http://www.cbs.nl).

In 2004 a record level of over 110 thousand people left the Netherlands. Compared to 2003 emigration increased by over 5 percent in 2004. Both the emigration of Dutch nationals as non-nationals increased. Germany, Belgium and the United Kingdom are by far the most important destination for emigrants from the Netherlands: 37% of the Dutch and non-Dutch emigrants went to these three countries<sup>2</sup>.

At the same time immigration fell by 10 percent. For the first time since 1995 there were less than 100 thousand immigrants in the Netherlands. The decrease has to do with the less favourable economic situation in the Netherlands. Possibly the changes in the immigration laws play a role as well<sup>3</sup>.

The number of immigrants from Turkey, Morocco, Suriname and the Netherlands Antilles greatly decreased in 2004, especially in the case of Turkey (-32%) and Morocco (-25%). In 2004 3.655 immigrants came from Morocco, compared to 4.894 in 2003. The number of immigrants from Turkey fell from 6.7 to 4.6 thousand<sup>4</sup>. The policy changes in family formation policy in the Netherlands in 2004 and the changes in integration policy might have played a role in this. These changes are described in the next paragraph of this chapter.

There has also been a sharp fall in the number of immigrants from typical refugee countries such as Somalia, Sudan, Afghanistan, Iraq, Sierra Leone, Iran, Angola, former Yugoslavia and the former Soviet Union. The declining immigration from these countries is the result of the stricter Dutch asylum policies in recent years<sup>5</sup> (more information on asylum migration and policy in chapter 4).

Immigration from Poland rose sharply since Poland joined the EU on 1 May 2004, doubling from 2.2 thousand in 2003 to 4.9 thousand in 2004.

For the first time in years, the number of first generation immigrants in the Netherlands did not increase. The second generation (born in the Netherlands) increased by 29 thousand in 2004. On 1 January 2005 the Netherlands had 1.69 million inhabitants with a non-western background, 283 thousand more than on 1 January 2000<sup>6</sup>.

### 3.1.b. Population by citizenship in 2004

The largest groups of third country nationals in the Netherlands in 2004 were still Moroccans and Turks. In the 1960's and '70 labour migrants from Turkey and Morocco came to the Netherlands, in later years their families followed. Since 2003 the number of Turks outnumbers the number of Moroccans. Despite of the decrease in immigration of Turks in 2004, mentioned in the previous paragraph, the total number of Turks in the Netherlands increased in 2004. The ten most important third country nationals have not changed a lot in 2004, Russia is now in this top 10, replacing Iraq.

Other European nationals (German, English, Belgian, Italian and Spanish) also form large groups in the Netherlands, but these nationalities are not specified in the table below. In annex 2 data on population by citizenship are presented from 2001 till 2006.

**Table 2. Population by main groups of citizenship, The Netherlands, 2003 and 2004**

	01-01-2003		01-01-2004
<b>Total population</b>	16.192.572	<b>Total population</b>	16.258.032
<b>Nationals</b>	15.492.618	<b>Nationals</b>	15.555.847

<sup>2</sup> Snel, E., de Boom, J., Engbersen, G., Weltevrede, A. (2006) *Migration and migration policies in The Netherlands 2004. Dutch SOPEMI-Report 2004*. Rotterdam: Risbo, Erasmus University.

<sup>3</sup> Statistics Netherlands. *Population growth halved in 2004*. Press release PB05-013, 09 February 2005 09:30. www.cbs.nl.

<sup>4</sup> Statistics Netherlands. CBS Statline, database on migration statistics. Consulted 16 August 2007 by <http://statline.cbs.nl/StatWeb/start.asp?LA=nl&DM=SLNL&Ip=Search%2FSearch>

<sup>5</sup> Snel, E., de Boom, J., Engbersen, G., Weltevrede, A. (2006) *Migration and migration policies in The Netherlands 2004. Dutch SOPEMI-Report 2004*. Rotterdam: Risbo, Erasmus University

<sup>6</sup> Statistics Netherlands. *Population growth halved in 2004*. Press release PB05-013, 09 February 2005 09:30. www.cbs.nl.

<b>Other EU-Nationals (14)</b>	210.549
<b>Total Non-EU nationals</b>	489.405
Most important third country nat.:	
Turkey	100.286
Morocco	97.843
United States of America	15.412
China	11.223
Indonesia	10.786
Suriname	8.573
Poland	6.912
Yugoslavia, Fed. Rep. Of	6.425
Japan	5.747
Iraq	4.771
Others	221.427

<b>Other EU-Nationals (14)</b>	211.009
<b>Total Non-EU nationals</b>	491.176
Most important third country nat.:	
Turkey	101.845
Morocco	94.380
United States of America	15.075
China	13.330
Indonesia	11.185
Suriname	9.406
Poland	7.431
Yugoslavia, Fed. Rep. Of	6.277
Japan	5.813
Russia	4.450
Others	221.984

Source: CBS

### 3.1.c. Residence permits: annual total positive decisions 2004

Data on the number of applications for residence permits or decisions on these applications are not available for the year 2004 or earlier. This is caused by a change in administration of these applications.

In 2003 a number of tasks from the Aliens Police were taken over by the Immigration and Naturalisation Service (IND), including the processing of authorisation for temporary stay (MVV) applications, the initial granting of residence permits (VVR) and the processing of residence document extensions. In April 2004 the IND took over the remaining tasks of the aliens' administration from the Aliens Police. Due to this transfer of responsibilities and corresponding administrative tasks no official statistics are available on residence permits.

## 3.2. Contextual interpretations

In this paragraph the main developments in new or amended laws in 2004 are described, as well as changes in administrative procedures and organisations involved in the execution of the aliens policy. The main categories of admission and non-admission are listed and finally European and international factors that might have influenced migration flows in the Netherlands in 2004.

### 3.2.a. New or amended laws effective in 2004

The principles of Dutch immigration policy have not changed in 2004, after the new Aliens Act 2000 had entered into force on 1 April 2001.

The general principle of current immigration policy in the Netherlands is a restricted immigration policy and an active policy to stimulate integration into Dutch society. Besides that the responsibility and efforts of the applicant are emphasised. This means for example that certain conditions have to be met in order to be granted a residence permit. The applicant has to prove that the conditions are met. These conditions differ depending on the reason for stay in the Netherlands.

Aliens wanting to stay in the Netherlands must first apply at a Dutch embassy or consulate in their own country for 'an authorisation for temporary stay' (MVV). In order to be admitted applicants must meet certain basic conditions.

They must:

1. Submit documents proving their identity;
2. Show that they have an independent, durable and sufficient income;

### 3. Not having any past convictions for criminal offences.

Different or additional rules may apply, depending on people's motives for coming to the Netherlands. Moreover nationals of certain countries (for example member states of the European Union) do not need to apply for an authorisation for temporary stay in order to enter the Netherlands.

After confirming that the application has met the necessary conditions, the Immigration and Naturalisation Service (IND) assess the application for a residence permit. A decision is taken within six months. If the application is granted, the applicant is given an authorisation for temporary stay. This is a visa entitling entrance in the Netherlands. On arrival, the authorisation for temporary stay is converted into a provisional residence permit. This permit is renewed every year as long as the holder continues to meet the necessary conditions. After five years, he can apply for a permanent residence permit.

#### *Highly skilled migrants Scheme*

In 2004, the Highly skilled migrants Scheme (Kennismigrantenregeling) was introduced. As of 1 October 2004 the Immigration and Naturalisation Service (IND) has gradually introduced a policy of one helpdesk, one procedure and one permit for highly skilled migrants.

An important condition for admission as a highly skilled migrant is that the employer has concluded an agreement with the IND. First of all, the IND will conclude agreements with employers with whom the IND already concluded covenants for the accelerated procedure for an authorisation for temporary stay (MVV procedure). Requests from other companies and institutions to conclude an agreement with the IND were dealt with as of 1 January 2005<sup>7</sup>. This scheme was introduced to stimulate highly qualified labour migration to the Netherlands. There is an income criteria for highly skilled migrants, they have to earn at least 45,000 euro (for labour migrants less than 30 years of age and scientific researchers different rules apply). This criterion is revised every calendar year effective from 1 January.

#### *Family formation policy*

On 1 November 2004, the conditions for family formation were tightened. The minimum age at which the resident permit can be applied for has been raised from 18 to 21, this applies to both the person forming the family (sponsor) and the migrating partner (dependant). The income requirement of the sponsor residing in the Netherlands was raised from 100% to 120% of the minimum wage. Furthermore a number of exemptions were removed. In addition, the policy with regard to aliens who constitute a danger to public order has been tightened.

#### *Legislative amendment to the Aliens Employment Act*

On 2 December 2004, the Aliens Employment Act was amended in connection with the implementation of an administrative enforcement. On 1 January 2005, the amendment came into force. The Aliens Employment Act regulates the admission of aliens from outside the European Union to the Dutch labour market. Together with the amendment to the Aliens Employment Act the administrative penalty was introduced as a new instrument to deal with employers who contract aliens illegally sooner and more efficiently. The law applies different penalties depending on natural or legal persons. In the event of a natural person the penalty for employing aliens illegally shall not exceed € 11,250 and in the event of a legal person it shall not exceed €45,000. These amounts are considerably higher than the criminal penalty which could be imposed prior to the legislative amendment; these penalties averaged €984. Reasons for this tightening of the rules include fighting unfair competition, the elimination of the legal labour force, fighting the exploitation of employees and the deportation policy of illegal aliens<sup>8</sup>.

#### *Legislative amendment with regard to integration abroad*

On 21 July 2004, a proposed legislative amendment of the Aliens Act 2000 was prepared. This legislative amendment implies that in order to obtain an ordinary temporary residence permit an additional condition must be met. The additional condition means that migrants must have basic knowledge of the Dutch language and society prior to coming to the Netherlands. This is tested by doing exams in the country of origin. The test is held via the telephone. The legislative amendment has taken effect on 15 March 2006.

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<sup>7</sup> Immigration- and Naturalisation Service (IND). (2006). *A focus on the IND, results achieved in 2005*. Rijswijk: IND.

<sup>8</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2006) *Policy analysis report 2005, developments in Dutch Migration and Asylum Policy, 1 July 2004 - 31 December 2005*. Rijswijk: IND.

#### *Amendment to the Aliens Act implementation guidelines 2000 with regard to medical treatment*

On 4 August 2004, the Aliens Act implementation guidelines 2000 were adjusted and amended with regard to the conditions to be met upon application of a residence permit with the purpose of 'medical treatment'. The background to this amendment is the report from the National Committee Medical Aspects of the Aliens Policy (the Committee). The report states that the Netherlands is generally stricter with regard to admission on the grounds of medical treatment than most of the other European countries studied. All countries studied set two requirements with regard to admission to undergo medical treatment: it must concern urgent medical treatment and the financial resources required for treatment must be guaranteed. In addition to the above, the Aliens Decree 2000 contains an additional condition, i.e. that the Netherlands must be 'the most appropriate country' for treatment. However, according to the Committee it is unclear when exactly the conditions of 'the most appropriate country' are met. The most important amendment to the Aliens Act implementation guidelines 2000 therefore related to a clarification of the conditions under which it can be assumed that the Netherlands is the most appropriate country for an alien to undergo medical treatment<sup>9</sup>.

### 3.2.b. Procedural changes effective in 2004

#### *Procedural changes and agencies involved*

##### *Change in administration of residence permits*

In 2004, the activities and responsibilities in the admission of migrants were taken over from the Aliens Police by the IND. In 2003 the IND had already taken over a number of tasks from the Aliens Police, including the processing of authorisation for temporary stay (MVV) applications (1 April 2003), the initial granting of temporary residence permits (VVR) (1 September 2003) and the processing of residence document extensions (1 December 2003). Since 1 April 2004 the municipalities took over the so-called 'front-office' tasks from the Aliens Police. This means that all applications for residence permits and extensions of permits are submitted at a special desk within the municipality.

#### *Categories of admission*

In general, there are four types of residence permits in the Netherlands. For a stay for maximum of 90 days immigrants must have a short stay visa. A visa is an authorisation or decision in the form of a sticker affixed to a passport or other travel document. It means that when the visa was issued no objection existed to the holder entering the Netherlands to stay temporarily or travel on to a third country. But having a visa does not give a person the automatic right of entry. When visa holders enter the country, they have to show that they still meet the conditions for entry.

If the migrant intends to stay for a period over three months he must apply for an authorisation for temporary stay (MVV) before he travels to the Netherlands. Some nationalities are exempt from this requirement.

After arrival in the Netherlands the migrant can apply for a temporary residence permit (VVR bep), this permit is valid for a maximum of one year. After the first year the residence permit can be extended, up to a maximum of five years. After this period a 'residence permit for an indefinite period' (VVR onbep) can be applied for.

In annex 3 the limited grounds of a residence permit are listed.

#### *Categories of non-admission*

The application for a residence permit can be declined on various grounds. For example:

- the alien does not have a authorisation for temporary stay consistent with the reason for stay on the application of the residence permit
- the alien does not have a valid travel document
- the alien or the sponsor does not have sufficient means of support
- the alien is a risk to public order or national security

### 3.2.c. European and international factors

#### *Enlargement of the EU*

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<sup>9</sup> Immigration- and Naturalisation Service (IND). (2006). *A focus on the IND, results achieved in 2005*. Rijswijk: IND.

On 1 May 2004, the EU was enlarged with ten new member states. Since that date, the right of free movement of workers has applied for two of the new member states, Malta and Cyprus. For the remaining eight countries - Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary and Slovenia - a community transitional measure has been in place. Under this measure, there will be no free movement of workers until 1 May 2006.

The Netherlands has largely upheld the existing regime for admitting workers from these eight countries. Workers from the accession states have to apply for a work permit. After 1 May 2006, there will be free movement of workers within the European Union. Individual member states will be free to deviate from this and maintain a transitional scheme until 1 May 2011 at the latest.

The extent of employee migration from the accession states to the Netherlands has increased sharply since May 2004, largely in the form of temporary labour migration. Between 2003 and 2004, the number of work permits issued to persons from the new member states of the European Union doubled from more than 12,000 in 2003 to almost 25,000 in 2004. Most of these permits are valid for less than 24 weeks and are issued for low-skilled jobs in agriculture and horticulture, meat-processing, transport and the temporary employment agency sector<sup>10</sup>.

*Council Directive 2003/86/EC: on the right to family reunification*

On 22 September 2003, directive 2003/86/EC was adopted by the Council of European Communities. The directive had to be implemented prior to 3 October 2005. The directive stipulates the joint conditions for exercising the right to family reunification by third-country nationals who legally reside within the territory of the member states. In order to implement the directive, the Aliens Decree 2000 and the Aliens Act implementation guidelines 2000 had to be amended with regard to the conditions of family reunification and formation. The rules for family reunification and formation with admitted underage refugees had to be partly amended also. The directive further stipulates that a request for admittance and (extension of the) stay of family members can be rejected for public order reasons. In addition, with a view to the compliance of a request of family reunification or formation, requirements can be set regarding accommodation, healthcare insurance, income and integration. In order to implement the directive, the conditions of the Aliens Decree 2000 and the Aliens Act implementation guidelines 2000 in respect of age, income and public order have been tightened, see above (paragraph 3.2.b). On 1 November 2004, the amendments came into force. In addition, integration conditions have been adopted in the proposed legislative amendment of 'Integration Abroad' and the legislative proposal 'Integration Act'<sup>11</sup>.

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<sup>10</sup> ECORYS Nederland BV. (2006) *Evaluation of movement of workers from the Central and Eastern European countries (CEECs)*. (Evaluatie werknemersverkeer MOE-landen). Rotterdam: Ecorys Nederland BV.

<sup>11</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2006) *Policy analysis report 2005, developments in Dutch Migration and Asylum Policy, 1 July 2004 - 31 December 2005*. Rijswijk: IND.

## 4. Asylum issues

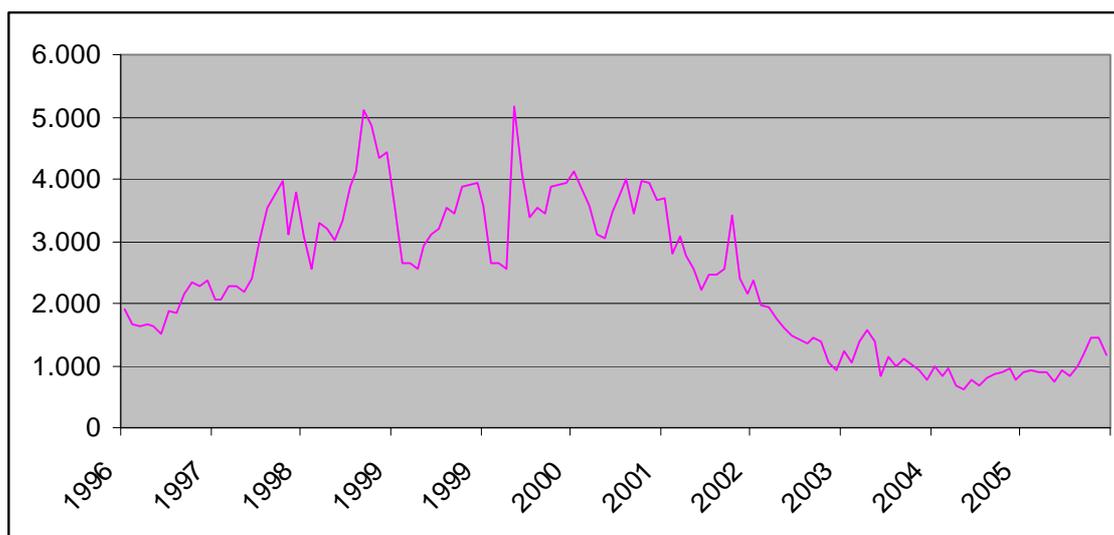
### 4.1. Analysis and interpretation of the asylum statistics

As mentioned in the previous chapter, immigration statistics include asylum seekers that are registered in the municipal personal records database. This can be done after a stay of six months in the Netherlands and include asylum seekers whose application will be rejected and will have to leave the Netherlands. For a clear picture of the number of asylum applications in the Netherlands data from the Immigration and Naturalisation Service are used. In the Netherlands asylum applications are registered in the Immigration and Naturalisation Service Information System (INDIS). In this system it was not possible to distinguish first applications only. During the year 2006 distinction has been realised in this system, however this will only relate to applications issued from August 2006. Therefore data on asylum applications concern first and repeated asylum applications. Approximately 40 percent of all asylum applications concern repeated applications<sup>12</sup>. Furthermore, application figures concern the number of procedures, this does not exactly equal the number of persons.

#### 4.1.a. Asylum applications

The decrease in the number of asylum applications in the Netherlands continued in 2004 as can be seen in figure 1 and table 4. This is probably partly caused by the Aliens Act 2000 implemented in April 2001. One of the main goals of the Aliens Act 2000 was to fasten procedures. Also in the past asylum applications were granted when the asylum procedure took more than 3 years. This policy was repealed on 1 January 2003. This may have had an impact on the asylum influx in the Netherlands.

Figure 1. Asylum applications, monthly figures, The Netherlands, 1997-2005 (both first and repeated asylum applications)



Source: INDIS

Figure 1 also shows the strong monthly fluctuations in the asylum influx.

Table 4. Annual total number of asylum applications, The Netherlands, 1997-2005  
Figures concern both first and repeated asylum applications

<sup>12</sup> Ministry for Immigration and Integration (2005) *Report on the immigration process on the period September-December 2004 as well as annual report 2004* (Rapportage vreemdelingenketen over de periode September t/m december 2004 tevens jaarrapportage 2004). Den Haag: Ministry for Immigration and Integration.

	1997	1998	1999	2000	2001	2002	2003	2004	2005
<b>Number of applications</b>	34.443	45.217	39.274	43.895	32.579	18.667	13.402	9.782	12.347

Source: INDIS

In the year 2004, 9.782 asylum applications were registered in the Information System of the Immigration and Naturalisation Service (INDIS). Compared to the year 2003 (13.402 applications) this is a decrease of 27%.

In 2004, many countries of origin show a large absolute decrease in asylum influx compared to the same period in 2003. Iraq (decrease: -2.429; -70%) was the country with the biggest absolute decrease, followed by Liberia (decrease: -301; -68%), Angola (decrease -193; -52%) and Nigeria (decrease: -191; -46%). The nationality registered as "unknown" had an increase of 365 applications (+70%), followed by Somalia (increase: 341; +76%), Afghanistan (increase 196; +40%) and Colombia (+136; +400%)<sup>13</sup>.

The group with nationality "unknown" consists of asylum applicants that are insufficiently documented and are therefore registered with the nationality "unknown" in the municipal personal records database. Records in this database "override" information in the INDIS database.

**Table 5. Asylum applications by main country of citizenship, The Netherlands, 2004**  
**Figures concern both first and repeated asylum applications**

Country of citizenship	Number of applications	Percentage
<b>Total</b>	<b>9.782</b>	
Iraq	1.043	11%
Unknown	889	9%
Somalia	792	8%
Afghanistan	688	7%
Iran (Islamic Republic of)	450	5%
Burundi	405	4%
Serbia and Montenegro	395	4%
Turkey	338	3%
China (incl Hong Kong)	265	3%
Sudan	255	3%
Others	4.262	4%

Source: INDIS

Despite of the decrease in the number of applications, Iraq was still the most important country of origin in 2004. These applications partly concern repeated applications. The high number of applications in 2003 and the first half of 2004 was due to a moratorium on decisions and returns for Iraqi asylum applicants. On 25 June 2004 it was decided to end the moratorium on decisions and returns for asylum applicants from Central Iraq. The policy of categorical protection was continued. There was no specific policy for asylum applicants from Northern Iraq.

There is also a country specific policy for some of the other countries of origin in the top-10 of main countries of citizenship. From 27 May 2004 there has been a moratorium on decisions and returns for asylum applicants from the Ivory Coast and in June 2004 it was decided to have a moratorium on returns for certain groups of Somali asylum applicants. The policy of categorical protection continued in 2004 for certain groups of Sudanese, groups of asylum applicants from DR Congo and for Burundi asylum applicants.

<sup>13</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC) (2005) *Asylum Trends, monthly report on asylum applications in The Netherlands and Europe, January 2005*. Rijswijk: IND.

**Table 6. Asylum applications by age group, The Netherlands, 2004**  
**Figures concern both first and repeated asylum applications**

Age groups	Total number of applications	Percentage
<b>Total</b>	<b>9.782</b>	
0-17	3.613	37%
18-35	4.524	46%
36-59	1.465	15%
60+	121	1%
Age unknown	59	0%

Source: INDIS

Most asylum applicants (46,2%) are between 18 and 35 years of age, in 2003 this was 55%. Over 36 percent of asylum applicants are younger than 17 years of age, this was 29 percent in 2003. The group younger than 17 partly consists of unaccompanied minor asylum seekers. The total influx of indicated unaccompanied minor asylum seekers was 594 in the year 2004. Compared to the year 2003 (1.216) this means a decrease of 51%. The percentage of the influx of unaccompanied minor asylum seekers compared to the total influx in the year 2004 was 6%. In the year 2003 this was 9%<sup>14</sup>.

**Table 7. Asylum applications by unaccompanied minors, The Netherlands, 2004**  
**Figures concern both first and repeated asylum applications**

Age groups	Total number of applications	Percentage
<b>Total</b>	<b>594</b>	
0-13	98	16%
14	43	7%
15	94	16%
16	128	22%
17	128	22%
Age unknown	103	17%

Source: INDIS

The most important country of origin of unaccompanied minors was China (99 applications). The number of applications of unaccompanied minors from Angola continued to decrease. The influx of unaccompanied minors from Angola decreased from 1.991 in 2001 and 854 in 2002 to 28 in 2004. This was partly caused by the establishment of a reception centre in Angola for unaccompanied minors. This meant that unaccompanied minors from Angola could now return to their country of origin and did not necessarily qualify for a residence permit.

#### 4.1.b. Asylum decisions

With respect to statistics on decisions taken to requests for asylum it is important to make a clear distinction between calendar-based and cohort-based statistics. The data in this report are calendar-based. In 2004 there were 9.782 asylum applications and there were 20.357 decisions taken in total (15.654 in first instance). This means that the decisions taken by the IND in 2004 do not all refer to applications in 2004, but mainly from previous years. It often takes many years before a final decision to a request for asylum is taken.

<sup>14</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC) (2005) *Asylum Trends, monthly report on asylum applications in The Netherlands and Europe*, January 2005. Rijswijk: IND.

Therefore, when the number of positive decisions is presented this does not give any information on the percentage of positive decisions in a certain year.

In order to give any information on the percentage of positive decisions within a certain group of asylum applicants, these applicants should be followed in time. This is the basis of a cohort-based analysis. However, because some asylum procedures take a long time, it is not possible to give a definitive percentage of positive decisions. The preliminary percentage of positive decisions for applications from 2004 is probably still low because of pending cases. At this moment, there is no cohort-based analysis available yet for asylum applications issued in 2004.

Overall it can be said that the percentage of positive decisions has been decreasing in The Netherlands since 1998. An important factor in the decrease in the percentage of positive decisions is the new Aliens Act, which was implemented in April 2001. However, in 2003 there has been a slight increase in the percentage of positive decisions. More recent data are not yet available.

Policy that is country specific causes large differences in the percentage of positive decisions per nationality. For example, the moratoria on decisions and returns for asylum applicants from Burundi and Somalia. Because of these moratoria, the percentage of positive decisions for Burundi and Somali would decline strongly because of the number of pending cases.

From a calendar-based analysis the following data can be presented:

**Table 8. Total number of asylum decisions, The Netherlands, 2004**

	Total	First instance	First appeal (review)	Subsequent appeal
<b>Total</b>	<b>20.357</b>	<b>15.654</b>	<b>4.703</b>	:
Positive decisions	5.463	4.537	926	:
Negative decisions	10.657	8.178	2.479	:
Other non-status decisions	4.237	2.939	1.298	:

Source: INDIS

The category 'positive decisions' include refugee statuses granted, residence permits on humanitarian grounds and provisional residence permits. The category 'negative decisions' include rejection, manifestly unfounded and inadmissible. After a negative decision in first instance, the asylum applicant can appeal to the judge.

#### 4.1.c. Statuses granted

The data presented in table 9 concern decisions taken in 2004, the respective applications were not necessarily issued in 2004. This complicates the possibilities to analyse these data and find a relationship with certain country specific policy.

**Table 9. Total number of positive decisions (first instance) by type and country of citizenship, The Netherlands, 2004**

	Total	Geneva Conv. Stat. granted	Humanitarian Status and all other types of subs. protect.	Other
<b>Total</b>	<b>4.537</b>	<b>480</b>	<b>4.057</b>	:
Iraq	1.257	13	1.244	:
Afghanistan	457	64	393	:
Somalia	413	36	377	:
Unknown	342	33	309	:

Burundi	285	14	271	:
Others	2.709	320	1.463	:

Source: INDIS

Compared to data on statuses granted in 2003 it is clear that there are no longer statuses granted in the category “other”. This is caused by a policy change in 2003 which led to a change in the categorisation of statuses granted. There used to be a specific policy for asylum applicants who had waited for over 3 years before a decision was taken on their request. These asylum applicants would receive a specific status, on condition they had provided all necessary information and they were no threat to public safety. This policy was ended on 1 January 2003.

## 4.2. Contextual interpretations

The data presented in the previous paragraph are affected by legal and policy developments. In this paragraph the most important new laws and procedural changes in 2004 are described. Furthermore, important case law and European and international factors that might have influenced the number of asylum applications and decisions on these request are presented.

### 4.2.a. New or amended laws effective in 2004

With the introduction of the Aliens Act 2000 (effective on 1 April 2001) several important changes were made in Dutch legislation regarding asylum. In the years following this introduction, the Act was amended several times, mostly regarding specific legal proceedings. In 2004 changes were made to the system of appeal in cases of detention of aliens, lengthening the period between actual detention and the assessment of it’s lawfulness by the courts, in cases in which aliens did not go to the court on their own initiative (for further details see paragraph 5.2). Furthermore, as of 1 September 2004, the temporary asylum residence permit, which accepted asylum seekers received was no longer valid for a maximum of three but of five years. After five years a permanent residence permit may be applied for<sup>15</sup>.

#### *Change to the temporary asylum residence permit: from three to five years*

As of 1 September 2004, the temporary asylum residence permit for the first five years is granted for one year at the time. The validity of the permit has thus changed from three years in once to five times one year in a row. In order to implement these changes, the Aliens Act 2000, the Aliens Decree 2000 and the Aliens Act implementation guidelines 2000 were amended. The change means that the temporary asylum residence permit is now valid for five years instead of three. As a result, a permanent permit can be obtained after five years instead of three.

The main reason for the legislative amendment is that the asylum residence permit can be revoked during that five-year period (instead of three) if the legal ground for granting the residence permit has lapsed. Government felt that the three-year term was too short and is of the opinion that it can be reasonably expected of an alien who has obtained a residence permit on asylum-related grounds that he shall return to his country of origin after five years if the basis for the stay has ceased<sup>16</sup>.

#### *Abolition of the Supervised Solitary Underage Asylum Seeker Policy (BAMA policy)*

On 20 July 2004, the Minister for Immigration and Integration notified the Lower House of the fact that the BAMA policy shall be abolished. To this end, the Regulations on Aliens 2000 and the Aliens Act implementation guidelines 2000 had to be amended. The Aliens Decree 2000 stipulates that an ordinary temporary permit is granted to unaccompanied minor asylum seekers. The following conditions must be met in order to qualify for a residence permit as a unaccompanied minor asylum seeker. The asylum seeker is underage, solitary, not able to look after himself in his country of origin or another country while his country of origin has no suitable reception facilities. These conditions are cumulative. In addition, prior to the change of 20 July 2004, the BAMA policy was in place. This policy was applicable to *supervised* underage asylum seekers. By virtue of the BAMA policy, an underage

<sup>15</sup> Snel, E., de Boom, J., Engbersen, G., Weltevrede, A. (2006) *Migration and migration policies in The Netherlands 2004. Dutch SOPEMI-Report 2004*. Rotterdam: Risbo, Erasmus University.

<sup>16</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2006) *Policy analysis report 2005, developments in Dutch Migration and Asylum Policy, 1 July 2004 - 31 December 2005*. Rijswijk: IND.

asylum seeker was not or no longer regarded solitary if at any time during the procedure it emerged that an adult was staying in the Netherlands who could be regarded responsible to look after the minor or who could be expected to undertake to look after the unaccompanied minor asylum seeker. In the event of a supervised underage asylum seeker, the application for the residence permit was rejected. No further separate investigation into whether adequate reception facilities were available in the country of origin would be held, because supervision and further care would be the responsibility of the adult person. Thus, at the moment of admission no checks would be made as to whether the foreign national could be deported.

In its judgement on 14 May 2003, the Administrative Law Division of the Council of State took the grounds that, upon admission of the underage alien, there must be an insight into whether there are adequate reception facilities upon a potential return, since a return is inextricably linked with the rejection of a residence permit. This also applies to supervised underage asylum seekers. The result of this judgement is that in the case of supervised minor asylum seekers, as with unaccompanied minor asylum seekers, it must be checked upon admission whether adequate reception facilities are available and if deportation is therefore possible. Because further balancing of interests is so closely related for both arrangements by virtue of this judgement, it was decided to abolish the BAMA policy.

#### *Case law of the European Court of Human Rights (ECHR)*

European Court of Human Rights, 5 July 2005, no.2345/02

The case is as follows. An alien from Eritrea claims that he, during an evaluation meeting after a war campaign yet prior to the demobilisation of the Eritrean army, criticised the abuse of the army unit in which he served. Four months later he is said to have deserted following an arrest. Subsequently, he fled to the Netherlands and applied for asylum. This application for asylum was rejected by the AC procedure (an accelerated procedure in which a decision is taken within a maximum period of 48 hours) because the asylum story was considered to be implausible, whilst both appeals were dismissed. Afterwards, the alien submitted an individual petition to the European Court of Human Rights (ECHR), in which he, among other things, invokes violation of article 3 of the European Convention on Human Rights (ECHR), viz. the ban on torture. ECHR holds that, despite the fact that his escape from the army is remarkable, his desertion is nevertheless plausible. Sources and documents demonstrate that deserters are treated inhumanely. It must therefore be assumed that deserters are on record and thus known with the authorities. ECHR holds that there are substantial grounds that the applicant runs the risk of being treated in violation of article 3 of ECHR. As such, ECHR did not verify the viewpoint of the Dutch authorities, but issued its own opinion on whether the statements of Said are plausible. ECHR weighs the various arguments and draws the conclusion that the asylum seeker does run a real risk of falling victim of torture and inhumane treatment upon his return to Eritrea. This is a fundamental difference with Dutch administrative law in which the court tests the decision of the Minister of Immigration and Integration on plausibility of the asylum desertion only marginally (in Dutch administrative law the judge judges a decision marginally, i.e. for reasonableness, or in full).

#### 4.2.b. Procedural changes effective in 2004

##### *IND took over tasks from Aliens Police*

Since May 2004 the IND has also been processing applications for extensions to asylum residence permits.

##### *Extended use of "Accelerated procedure"*

Every asylum request (with a few exceptions) enters the asylum procedure in the so-called Application Centre (AC). The IND decides whether to assess the asylum request in the accelerated procedure or the regular asylum procedure. In the accelerated procedure the assessment takes place within 48 'process-hours' (which takes a maximum of about five days). Until 6 December 2004 only negative decisions could be made within this procedure, but since then positive decisions are also possible.

##### *Asylum reception centres for unaccompanied minors closed*

From November 2002 until the end of 2004 a pilot project was carried out with so-called campuses for unaccompanied minor asylum applicants. In these centres, unaccompanied minor asylum applicants whose claims had been rejected were prepared for their return to their country of origin. They were separated as much as possible from Dutch society and the language of communication was English. Initially, a strict daily programme was followed but this led to many protest from the minors themselves and a great number of minors disappeared from the campuses. Furthermore, organisations involved often did not succeed in making the minors return to their country of

origin, one of the main goals of the campuses. Therefore, the Minister of Immigration and Integration closed down the campuses and designed a new reception model for unaccompanied minor asylum seekers<sup>17</sup>.

#### *Close down of application centre*

The decline in the number of asylum applications (presented in paragraph 4.1) led to the close down of the application centre in Rijsbergen. Furthermore, business hours were shortened and the IND office in Arnhem has been closed and staff from this office now work in Zevenaar, Zwolle and Den Bosch.

#### *One-off arrangement*

The new Aliens Act came into force in April 2001. Upon implementation of this act, the asylum procedure was significantly shortened. In 2003 the Lower House agreed to the proposal of the Minister for Immigration and Integration to set about the return policy for aliens who have exhausted all legal remedies in a more structured way. When the decision was made in 2003, a one-off arrangement was drawn up with the objective of letting a group of asylum seekers, who had been waiting since 27 May 1998 for a final decision on their first request for asylum, stay in the Netherlands on certain conditions. The date of 27 May 1998 was chosen, because the target group for this arrangement had been staying in the Netherlands for (more than) five years when the government took office on 27 May 2003. The asylum seekers do not have to make a new application in order to qualify for the one-off arrangement. The dossiers are assessed as a matter of course. Besides the one-off arrangement the Dutch Immigration and Integration Minister of that time (Mr. Nawijn) announced that failed asylum seekers, who believed they had compelling or compassionate reasons why they should be allowed to stay in the Netherlands, should put this in writing to the Minister. These representations would then be considered.

On 27 January 2004, government declared that within the framework of the one-off arrangement, 2,097 persons received an announcement that they qualified for a residence permit. They met the criteria of the one-off arrangement, which criteria can be objectively verified. After having studied the dossiers of those who are not subject of the one-off arrangement, 220 persons who were earmarked as 'extremely harrowing cases' were granted a residence permit after all on urgent humanitarian grounds. Furthermore, in January 2004 government announced that asylum seekers who entered under the old Aliens Act (prior to 1 April 2001) and unconditionally do not qualify for a residence permit, shall be deported. The Minister for Immigration and Integration states that it concerns a group of approximately 26,000 people. This group of people shall have to leave the country if they have exhausted all legal remedies. The decision not to grant all asylum seekers who entered the country prior to 27 May 1998 a residence permit, led to a lot of criticism both from social organisations and the public.

#### *Amendment to the Aliens Act implementation guidelines 2000 conditions medical discrimination and convention refugee*

On 17 December 2004, the Aliens Act implementation guidelines 2000 were amended with regard to the introduction of the policy relating to discriminatory exclusion of medical care. The background to this amendment is the government reply to a recommendation in the report from the National Committee Medical Aspects of the Aliens Policy (the Committee). The Committee is of the opinion that it must be laid down that discriminatory exclusion of medical care in the country of origin, which may have serious medical consequences, can be a reason to grant the status of refugee or could otherwise be reason to grant residence or not to deport an alien.

Upon amendment of the Aliens Act implementation guidelines 2000 on 17 December 2004, this recommendation was adopted. The Aliens Act implementation guidelines 2000 stipulate that aliens, who fear discriminatory exclusion of medical care when returning to their country of origin to such an extent that it could lead to serious medical consequences, are regarded as convention refugees. They therefore qualify for a temporary asylum residence permit. In practice, this reason for concession was already used when issuing a residence permit on the grounds of medical discrimination<sup>18</sup>.

### **Country specific policy**

#### *Iraq*

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<sup>17</sup> Snel, E., de Boom, J., Engbersen, G., Weltevrede, A. (2006) *Migration and migration policies in The Netherlands 2004. Dutch SOPEMI-Report 2004*. Rotterdam: Risbo, Erasmus University.

<sup>18</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2006) *Policy analysis report 2005, developments in Dutch Migration and Asylum Policy, 1 July 2004 - 31 December 2005*. Rijswijk: IND.

Based on a general official notice from the Ministry of Foreign Affairs it was decided on 25 June 2004 to end the moratorium on decisions and returns for Central Iraq (the part of Iraq not controlled by the two Kurdish parties, the PUK and the KDP). It was also decided to continue the categorical protection of asylum applicants from Central Iraq. There was no specific policy for Northern Iraq as the situation was considered relatively safe and stable.

#### *Somalia*

There is a moratorium on returns for asylum seekers from Somalia that belong to a certain minority group and have no associations with Northern Somalia. On 22 November 2004 the Ministry of Foreign Affairs published a general official notice on Somalia but this did not lead to a change in policy.

#### *Sudan*

In 2004 there was a policy of categorical protection for non-Arab Sudanese from Southern Sudan, the Nuba-mountains or Darfur. Asylum applicants who have lived in the relative safe area of Northern Sudan for a period over six months are excluded from this policy.

#### *DR Congo*

There is a policy of categorical protection for ethnic Tutsi from DR Congo.

#### *Burundi*

On 23 June 2004 the Ministry of Foreign Affairs published a general official notice on the situation in Burundi. Based on this report it was decided to continue the policy of categorical protection for Burundi asylum applicants.

#### *Ivory Coast*

Since 27 May 2004 there is a moratorium on decisions and returns for asylum applicants from the Ivory Coast due to increased tensions and violence in this country.

### 4.2.c. European and international factors

#### *Accession of 10 new member states and transitional law Dublin procedure*

As a result of the accession of ten new countries to the European Union, the Aliens Act implementation guidelines 2000 were amended as from 13 July 2004. The Aliens Act implementation guidelines 2000 explain that Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia, Slovakia and the Czech Republic acceded to the European Union on 1 May 2004. Furthermore, the Aliens Act implementation guidelines 2000 contain the fact that these countries, who acceded on 1 May 2004, are bound by Regulation 343/2003/EC regarding the determination of the criteria and tools to stipulate which member state is responsible for the processing of a request for asylum made by a third-country national to one of the member states (Dublin procedure).

The Commission of the European Union has also stipulated what transitional law means for the member states who were a party before 1 May 2004 and the ten member states who acceded on 1 May 2004. In short, for the Netherlands this transitional law means that a request for the return or takeover of asylum seekers can be made by or passed to the new member states when the date of the request for asylum in the Netherlands falls on or after 1 May 2004. The fact that the reason for making a so-called Dublin claim is based on facts and/or circumstances prior to 1 May does not detract from that.

Also, the newly acceded countries had to ratify the Dublin Agreement, since Denmark was not (yet) bound by Regulation 343/2003/EC on 13 July 2004. By signing the Dublin Agreement, it was also possible to make a request to Denmark for the return or takeover of asylum seekers. For all other member states who are party to the Dublin Agreement, Regulation 343/2003/EC replaces the Dublin Agreement<sup>19</sup>.

#### *European directives*

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<sup>19</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2006) *Policy analysis report 2005, developments in Dutch Migration and Asylum Policy, 1 July 2004 - 31 December 2005*. Rijswijk: IND.

The Aliens Act 2000 and subordinate legislation were amended a few times in the last few years in response to Directives from the Council of the European Union. Among the most recent directives that were implemented in the Netherlands were:

- European Council Directive 2003/9, minimum standards for the reception of asylum seekers
- European Council Directive 2003/86 right to family reunification
- European Council Directive 2001/55 minimum standards for giving temporary protection in the event of a mass influx of displaced persons and measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. This directive was implemented in the Aliens Act by introducing extra grounds for imposing a moratorium on decisions and returns in cases of asylum seekers who have been granted temporary protection by the Council of the European Union<sup>20</sup>.

Under the Dutch Presidency of the European Union the European Council adopted the so-called 'The Hague Programme' in November 2004. In this programme further steps towards a common European asylum system were announced.

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<sup>20</sup> Snel, E., de Boom, J., Engbersen, G., Weltevrede, A. (2006) *Migration and migration policies in The Netherlands 2004. Dutch SOPEMI-Report 2004*. Rotterdam: Risbo, Erasmus University.

## 5. Illegal entry and return

### 5.1. Analysis and interpretation of statistics

In politics and the social debate within the member states of the European Union, the issue of migration and illegal residence is becoming a more prominent one. The fight against illegal migration is one of the ten priorities in the Action Plan of the The Hague Programme. Illegal immigration is a politically sensitive issue and is often associated with crime. By nature, there is no registration of the number of illegal residents. The combined figure is composed of various variables and estimations. The most important measures to prevent and put an end to illegal residency are measures to improve border checks (including the introduction of biometric measures), measures focused upon aliens who have entered the Netherlands legally or illegally and are not or are no longer in possession of a right to remain; the more effective organisation of the repatriation process; an increase in the social acceptability of these measures and integration of a return policy into Dutch foreign policy<sup>21</sup>.

The third main section of this report studies developments in the number of *refused aliens* at the border, the number of *apprehended aliens* illegally present in the Netherlands and the number of *removed aliens* in 2004. The statistical developments are again placed in a legal and policy context.

Data on refused aliens (third-country nationals refused entry to the Member State's territory at the external border) are provided to Eurostat by the Royal Military Constabulary (Koninklijke Marechaussee (Kmar)). The definition of apprehended aliens used by Eurostat is 'third-country nationals found to be illegally present in the Member State's territory under national laws relating to immigration'. These data can give some indication on the number of aliens illegally present, but of course no official statistics on this are available as illegal aliens are not registered by nature.

#### 5.1.a. Refused aliens

Data on refused aliens derive from the information system PAS used by the Royal Military Constabulary (Koninklijke Marechaussee (Kmar)). This only includes refused aliens at the main airport, Schiphol Airport in Amsterdam. Aliens refused at other airports or harbours are not included in the data as these airports and ports do not use centralised systems. It is generally assumed that 95% of all refused aliens are refused at Schiphol Airport.

**Table 10. Annual total number of refused aliens, The Netherlands, 1997-2005**

	1997	1998	1999	2000	2001	2002	2003	2004	2005
<b>Number of refused aliens</b>	8.854	9.412	9.975	10.023	9.484	8.419	9.382	4.929	5.901

Source: PAS

The number of refused aliens declined in 2004 with 47 percent. There are two possible explanations for this development. First of all, there was a temporary increase in the number of refused aliens from Ecuador in 2003. In June 2003, the visa requirement was reintroduced. Many migrants from Ecuador tried to travel to the Netherlands before this date. Second, management of the Royal Military Constabulary decided to increase capacity in the control of drugs trafficking<sup>22</sup>.

**Table 11. Refused aliens by main country of citizenship, The Netherlands, 2004**

Country of citizenship	Number of refused aliens	Perc
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<sup>21</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2005) *Research study II: Illegal Residents, state approaches and social situation*. Rijswijk: IND.

<sup>22</sup> Ministry for Immigration and Integration (2005) *Report on the immigration process on the period September-December 2004 as well as annual report 2004* (Rapportage vreemdelingenketen over de periode September t/m december 2004 tevens jaarrapportage 2004). Den Haag: Ministry for Immigration and Integration.

<b>Total</b>	<b>4.929</b>	
Surinam	783	16%
China	554	11%
Nigeria	549	11%
Unknown	384	8%
Venezuela	336	7%
Brazil	280	6%
Colombia	205	4%
India	205	4%
Nepal	161	3%
Bolivia	158	3%
Others	1.314	27%

Source: PAS

Most refused aliens come from Surinam, China and Nigeria. In 2003, most refused migrants (2.583) came from Ecuador, as explained above.

At the end of 2004 the Ministry for Immigration and Integration announced that the Royal Military Constabulary (Koninklijke Marechaussee (Kmar)) would pay extra attention to the influx of aliens from Bolivia. Spanish authorities had asked for assistance. In the last months of 2004 there was a successful increase in checks of Chinese aliens at the border.<sup>23</sup>

#### 5.1.b. Apprehended aliens

Refusal of aliens at the border is one of the measures to prevent illegal stay in the Netherlands. The official definition of illegal residency that is used for legislative purposes in the Netherlands is as follows:

‘The presence in the Netherlands of foreign nationals who are not in possession of a valid residence permit and are therefore obliged to leave the country’<sup>24</sup>.

It is possible to distinguish between at least three different categories of illegal aliens. The first category is that of aliens who entered the Netherlands illegally, for example by passing unnoticed through border controls or by using false or falsified travel or identity documents. The second category is that of aliens who entered the Netherlands in a legal manner and for this reason are in possession of the required valid travel documents and visas. After entering the country, they exceed the permitted duration of stay or they lose their legal right to residency by undertaking illegal work or by committing a punishable offence. The third category is that of asylum seekers who have exhausted all legal remedies, whose application for a residence permit has been refused and who subsequently do not (immediately) leave the Netherlands but continue to reside in the country illegally for a shorter or longer period.

The statistics provided to Eurostat on apprehended aliens illegally present in the country relate to all three categories. After an increase in 2002 and 2003, the number of apprehended aliens illegally resident decreased in 2004. Asylum applicants are a minority in this group of apprehended aliens, it mainly concerns ‘regular’ migrants that stay in the Netherlands for work or family forming or reunification.

The increase of the number of apprehended aliens in 2002 and 2003 can be explained by a national project of both the Aliens Police as the INS and other partner organisations to intensify the inspection of aliens in the Netherlands

<sup>23</sup> Ministry for Immigration and Integration (2005) *Report on the immigration process on the period September-December 2004 as well as annual report 2004* (Rapportage vreemdelingenketen over de periode September t/m december 2004 tevens jaarrapportage 2004). Den Haag: Ministry for Immigration and Integration.

<sup>24</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2005) *Research study II: Illegal Residents, state approaches and social situation*. Rijswijk: IND.

(‘project Intensivering Toezicht’). The IND has taken over administrative tasks of the Aliens Police in order to enable the Aliens Police to intensify the inspection of aliens present in the Netherlands. The IND now receives all applications for stay in the Netherlands and decides on these decisions, whereas before this was partly done by the Aliens Police.

**Table 12. Annual total number of apprehended aliens illegally present, The Netherlands, 1999-2005**

	1999	2000	2001	2002	2003	2004	2005
<b>Number of apprehended aliens</b>	8.945	9.840	6.431	10.603	12.194	11.576	10.803

Source: INDIS

There is not a prominent country of citizenship or group of countries of citizenship in the figures of apprehended aliens. The largest groups of apprehended aliens are from Bulgaria, China and Turkey.

**Table 13. Apprehended aliens illegally present by main country of citizenship, The Netherlands, 2004**

<b>Country of citizenship</b>	<b>Number of apprehended aliens</b>	<b>Perc</b>
<b>Total</b>	<b>11.576</b>	
Bulgaria	1.077	9%
China	968	8%
Turkey	952	8%
Morocco	716	6%
Iran (Islamic Republic of)	539	5%
Unknown	499	4%
Romania	498	4%
Algeria	421	4%
Nigeria	409	4%
Surinam	275	2%
Others	5.222	45%

Source: INDIS

In the 2005 research study of the European Migration Network on illegal residents<sup>25</sup> there is some information presented on illegal aliens from certain countries of origin. The care, employment and accommodation of Bulgarian males, who mainly come to the Netherlands to carry out seasonal work, are, in a large number of cases, run along commercial lines. In large cities in which many Turks run temporary employment agencies, these Bulgarians appear to be forced into labour. They come from the area near the border of Bulgaria and Turkey and therefore speak both Turkish and Bulgarian. Illegal aliens of Moroccan or Somalian origin in particular appear to be unemployed. Many female illegal aliens from Bulgaria are employed in prostitution. Some illegal aliens are engaged in illegal trading in CDs, prohibited cosmetics, imitation gold and illegal fireworks. Most prominent groups are Pakistanis, Indians and Chinese.

### 5.1.c. Removed aliens

Although unlawful residence in the Netherlands as such is not a criminal offence, the illegal immigrant has the legal obligation to depart from the Netherlands. If illegal immigrants do not depart from the Netherlands at their own

<sup>25</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2005) *Research study II: Illegal Residents, state approaches and social situation*. Rijswijk: IND.

volition, they may be removed by the Dutch government. Data on the number of removed aliens are presented in table 14.

For 2004 and 2005 the definitions of the return data in the Netherlands have been adjusted. They are now consistent with the definition of removed alien in the statistics directive<sup>26</sup> and the Return fund.

These data concern effective returns; assisted voluntary return is included while unassisted voluntary return is not. Returns to Belgium and Germany according to the so called Mobile Supervision of Aliens, are not included. Furthermore double counts are excluded from the figures as well as EU nationals and Dublin claims.

In 2003 the Lower House agreed to the proposal of the Minister for Immigration and Integration to set about the return policy for aliens who have exhausted all legal remedies in a more structured way.

In 2004 the so-called Return Project (Project Terugkeer) started. This project focussed on asylum seekers who have exhausted all legal remedies and who made their first application for asylum under the old Aliens Act (before 1 April 2001). This group largely consists of asylum seekers who have already resided in the Netherlands for a considerable period as a result of long asylum procedures (which were permitted in accordance with the Aliens Act of 1994). All of them live in a reception centre (an independent dwelling, reception centre belonging to the Central Agency for the Reception of Asylum Seekers (COA) or an emergency facilities provided by a local authority) and so have far have not fulfilled their obligation to leave the country independently<sup>27</sup>.

Within the Return Project, a number of specific measures have been taken in order to provide substantial assistance to asylum seekers who have exhausted all legal remedies to return to their country of origin. These measures consist of assistance and support to enable them to return independently. At the same time, all necessary preparations are made to deport asylum seekers who have exhausted all legal remedies but do not wish to leave the country of their own accord. In this instance, this primarily involves carrying out identity and nationality checks.

**Table 14. Annual total number of removed aliens, The Netherlands, 1997-2005**

	1997	1998	1999	2000	2001	2002	2003	2004	2005
<b>Number of removed aliens</b>	39.441	36.206	36.895	25.209	16.548	21.070	20.872	15.373	12.658

Source: INDIS

Despite the growing focus on a effective return policy there has been a decrease in the number of removed aliens in 2004. Possible causes for this are the start-up of the Return Project, which let to a (temporary) decline in the execution of the obligation to leave the country for a part of the removable aliens. One the one hand this execution was pending on certain policy choices that had to be made and on the other hand the continuation of removals could lead to resistance at local level.

Other factors that have influenced the number of removals in 2004 is the attention paid to the education of employers in the field of aliens supervision by the Aliens Policy after the tasks of admission of aliens was transferred to the IND. The number of aliens that fall under the possible group of removed aliens also declined with the accession of 10 new Member States and the decline in the number of asylum requests in latest years<sup>28</sup>.

**Table 15. Removed aliens by main country of citizenship, The Netherlands, 2004**

Country of citizenship	Number of removed aliens	Perc
<b>Total</b>	<b>15.373</b>	

<sup>26</sup> COM(2005) 375 final: Proposal for a regulation of the European Parliament and of the council on Community statistics on migration and international protection.

<sup>27</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2006) *Research Study III: Return*. Rijswijk: IND.

<sup>28</sup> Ministry for Immigration and Integration (2005) *Report on the immigration process on the period September-December 2004 as well as annual report 2004* (Rapportage vreemdelingenketen over de periode September t/m december 2004 tevens jaarrapportage 2004). Den Haag: Ministry for Immigration and Integration.

Turkey	2.856	19%
Bulgaria	1.201	8%
Morocco	803	5%
Serbia and Montenegro	715	5%
Romania	641	4%
Nigeria	581	4%
Ukraine	492	3%
Angola	471	3%
China	436	3%
Iran	375	2%
Others	6.802	44%

Source: INDIS

Compared to 2003 there have been some changes in the main countries of citizenship of removed aliens. Polish aliens are no longer included in the removal data and therefore Poland is no longer in this top-10 (in 2003, the Polish nationality was the second largest nationality with 1.709 removals). There has also been a decline in removals of citizens from the Federal Republic of Yugoslavia in 2004. Removals of citizens from Serbia and Montenegro and Angola increased in 2004. Factors that can influence this are the (political) situation in the country of origin and a change in country-specific asylum policy.

#### 5.1.d. Countries of origin

In theory there should be a relationship between the most important countries of origin in statistics on refused, apprehended and removed aliens. When many migrants from certain countries of origin that try to enter the Netherlands illegally, they will be more likely to be refused entry at the border. If they do succeed to enter and stay in the Netherlands illegally it will also be more likely that they are apprehended and removed.

With respect to removed and apprehended aliens the three most important countries of citizenship are the same: Turkey, Bulgaria and Morocco. This was also the case in the 2003 annual statistical report. These countries appear to be less important in the figures for refused aliens but this might be distorted by the number of aliens where the country of citizenship is unknown. Besides the category "unknown", the most important countries for refused aliens are Surinam, China and Nigeria. China is also an important country of citizenship in the data on apprehended aliens, and Nigeria in the data on removed aliens.

## 5.2. Contextual interpretations

In this paragraph the presented statistics are placed in context of legal and administrative changes in 2004. First the legal basis for illegal stay and return and amendments to relevant laws in the Netherlands are described. Second the actors involved and procedural changes in 2005 are listed. Finally there is a subparagraph on European and international factors that might have influenced statistical developments.

### 5.2.a. New or amended laws effective in 2004

#### *Legal basis*

Increased attention has been paid to the fight against illegal migration and the improvement of the return migration process in latest years in the Netherlands.

Internal measures in order to discourage illegal residency include: the introduction as of 1 July 1998 of the Koppelingswet (Benefit Entitlement (Residency Status) Act), measures laid down in the Aliens Act of 2000, in which the competence of the police with regard to the supervision of aliens within the Netherlands was expanded; and the proposed law extending compulsory identification was implemented from 1 January 2005. As a result of these measures, the ability to require proof of identity has now been expanded; police forces are receiving additional

capacity in order to carry out the supervision of aliens and to counter criminality linked to migration and this is being used in order to detect and deal with aliens residing illegally in the Netherlands<sup>29</sup>. This is also understood to include the implementation of a number of initiatives directed at specific groups.

The Aliens Act 2000 forms the legal basis for forced and independent departure. This Act states that foreign nationals without the right or residence and/or who have exhausted all legal remedies may no longer make use of any state provisions and have the obligation to depart from the country within four weeks of expiry of the period of lawful residence (unless the departure period is postponed). On the other hand, the foreign national must depart from the Netherlands immediately if he has never had lawful residence or the free residence period in the Netherlands has expired by law. If the foreign national has not departed from the Netherlands within the departure period, he may be removed by the Dutch government. No separate decision is required for this in the Netherlands. The order to depart from the Netherlands is part of the negative decision with multiple consequences on the application for a residence permit. The Netherlands therefore has no separate removal decision or deportation order. Incidentally, removal is a power and not an obligation of the Minister. The underlying principle of the Dutch return policy, as laid down in the Memorandum on Return Migration, is the personal responsibility of the foreign national residing illegally in the Netherlands to depart from the country. A foreign national who departs independently can be assisted by the IOM. If the foreign national does not comply with his obligation to depart from the Netherlands at his own volition, his departure from the Netherlands can be forced by means of removal. Based on the Repatriation Act, certain groups of remigrants can appeal to financial schemes.

#### *Amendments*

Late 2003 the Minister for Immigration and Integration published a Memorandum on Return Migration<sup>30</sup>. This Memorandum is mainly a continuation of measures taken in the past but greater emphasis is placed on effective implementation of the measures and on the final stage of the migration policy cycle, namely the expulsion policy. The memorandum contains various measures to assure a more effective implementation of return migration. The Return Project (see 5.1.c) was also set out in this memorandum.

In 2004 the implementation of a proposed law (as of 1 January 2005) to expand the need to carry proof of identity was prepared. This legislative amendment will influence the status of illegal aliens.

Aliens residing legally in the Netherlands and who are in possession of a residence permit, but who have been declared to be undesirable can now be denied the right of continuous residence due to violation of public order.

#### *Amendment judicial verification system of custodial orders*

On 24 June 2004, the Aliens Act 2000 was amended with regard to the verification system of custodial orders. This amendment came into force on 1 September 2004. The amendment of the Act extends the period within which the court must be notified of custodial orders to be imposed. The period has been largely restored to the period as it was prior to the implementation of the new Aliens Act 2000. The new notification period implies that after the announcement of the decision to impose a custodial order, the Minister for Immigration and Integration must inform the court accordingly no later than 28 days. This does not apply if the alien himself appealed. Prior to the legislative amendment the period was set to three days. In addition, the legislative amendment stipulates that the period within which the hearing must take place following receipt of the notice of appeal and/or the notification from the Minister for

Immigration and Integration has been extended from 7 to 14 days. As a result of the legislative amendment, the provision stipulating that the court must be informed of the continued deprivation of liberty no later than four weeks after the ruling of the first follow-up appeal, ceased to have effect.

The reason for the legislative amendment was that the judicial verification system had put too great a strain on the capacity of the Alien section, which created backlogs in dealing with other (residence) appeal proceedings. In addition, the explanatory memorandum of the legislative amendment states that as a result of the intensified

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<sup>29</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2005) *Research study II: Illegal Residents, state approaches and social situation*. Rijswijk: IND.

<sup>30</sup> Ministry of Immigration and Integration (2003). *Memorandum on Return Migration, measures for a more effective implementation of the return migration policy* (Terugkeernota, Maatregelen voor een effectievere uitvoering van het terugkeerbeleid). 5282929/04/DVB Den Haag: Ministry of Immigration and Integration.

supervision of aliens, the number of custody cases is likely to increase therefore causing an even greater strain on court capacity and increasing current backlogs and turnover times<sup>31</sup>.

## 5.2.b. Procedural changes in 2004

### *Agencies involved*

In order to prevent illegal migration, facilitate voluntary return and to bring about compulsory return, a number of national government organisations are working together in an executive or supporting role. These are the Aliens Police (Vreemdelingenpolitie (VP)), the Royal Military Constabulary (Koninklijke Nederlandse Marechaussee (Kmar)), the Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst (IND)), the Ministry of Foreign Affairs, the National Agency of Correctional Institutions (Dienst Justitiële Inrichtingen (DJI)), the Central Organisation for the Reception of Asylum Seekers (Centraal Orgaan opvang asielzoekers (COA)) and the NIDOS foundation (protection of minor refugees). As an intergovernmental organisation, the International Organisation for Migration (IOM) plays a separate role. Voluntary return from the Netherlands is supported by the IOM, in the form of the REAN programme (Return and Emigration of Aliens from the Netherlands). A number of development organisations and local authorities also play a part in facilitating the return of aliens.

### *Procedural changes*

With respect to return migration policy, the most recent measures for a more effective implementation are described in the Memorandum on Return Migration<sup>32</sup>. First, border control with the aim of preventing illegal residence is improved, e.g. by enlarging the responsibility of carriers in removing aliens who have been refused at the border. Second, measures were taken to promote the return of failed and rejected asylum seekers e.g. by expanding the capacity for alien detention and by new reception modes for asylum seekers. Reception centres are divided in two categories for two kinds of asylum seekers. Orientation and integration centres will house asylum seekers who are waiting for a decision on their applications. Asylum seekers who receive an initial rejection are then transferred to a repatriation centre. On 30 July 2004 the first repatriation centre was opened in the municipality of Vlagtwedde<sup>33</sup>. Third, there are measures to promote the return of illegal migrants by intensifying supervision and conducting further research into the use of biometrics.

In addition to the Memorandum on Return Migration in April 2004 the Minister of Immigration and Integration presented the Memorandum on Illegal Aliens<sup>34</sup>. This memorandum contains a wide range of measures to deal with issues such as the employment of illegal aliens, trafficking in people and premises rented to illegal aliens. Police forces are being provided with extra resources in order to carry out the supervision of aliens and to counter criminality associated with migration. This capacity will be used to detect and deal with illegal aliens. Cell capacity will be increased further as well, in order to accommodate alien detainees. Two removal centres are being set up with the express purpose of supporting coordinated actions monitoring activities – for example in the horticultural or the hotel, restaurant and catering sectors, can be housed in these centres until such time as they are removed from the country. In addition to expanding the cell capacity, efforts are underway to ensure that more efficient use is made of the places available. The police will therefore make more detailed investigations into nationality and identity in order to reduce the duration of detention.

In order to monitor the implementation of these measures, the Minister for Immigration and Integration has set up an interdepartmental steering group. The purpose of the project is to ensure greater collaboration between the relevant organisations, in order that illegal residence is dealt with more efficiently and effectively.

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<sup>31</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2006) *Policy analysis report 2005, developments in Dutch Migration and Asylum Policy, 1 July 2004 - 31 December 2005*. Rijswijk: IND.

<sup>32</sup> Ministry of Immigration and Integration (2003). *Memorandum on Return Migration, measures for a more effective implementation of the return migration policy* (Terugkeernota, Maatregelen voor een effectievere uitvoering van het terugkeerbeleid). 5282929/04/DVB Den Haag: Ministry of Immigration and Integration.

<sup>33</sup> Immigration- and Naturalisation Service (IND). (2005) *The IND in profile, 2004 annual results*. Rijswijk: IND.

<sup>34</sup> Ministry for Immigration and Integration (2004) Policy document on Illegal Aliens (Illegalennota). Den Haag: Ministry for Immigration and Integration.

## 5.2.c. European and international factors

### *Implementation of EU Directive 2001/51/EC: on carriers' responsibilities*

In accordance with Article 65 of the Aliens Act, the carrier of a foreign national who has been refused entry is obliged to return him to his country of origin, or any other country to which his entry is assured. With the implementation of the EC Directive on Carriers' Responsibilities (EU Directive 2001/51/EC) in 2004, the costs involved in the accommodation of a foreign national at Schiphol can be recovered from the carrier too. The return obligation applies to the foreign national, who will be expected to leave the Netherlands immediately, or who has been apprehended within six months of arrival, with a view to removal<sup>35</sup>.

### *Council Directive 2004/82/EC: on the obligation of carriers to communicate passenger data*

Directive 2004/82/EC was adopted by the Council of the European Communities on 29 April 2004. The directive had to be implemented prior to 5 September 2005. The objective of the directive is to improve border controls and fight illegal immigration by forcing carriers (a natural or legal person who transports persons by air in a professional capacity) to report passenger data to the border control authorities (prior to the flight). In 2004 draft proposals for changing the Aliens Act 2000 and the Aliens Decree 2000 were prepared.

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<sup>35</sup> Immigration- and Naturalisation Service Information- and Analysis Centre (INDIAC), national contactpoint of the European Migration Network (EMN). (2005) *Research study II: Illegal Residents, state approaches and social situation*. Rijswijk: IND.

## 6. Other data and information

In the final (optional) chapter of this report some additional information on the naturalisation procedure in the Netherlands is presented.

On 1 April 2003 the new Netherlands Nationality Act came into effect. A transition arrangement was introduced for the implementation of this new Act. This arrangement meant that the applications of people who had indicated to their municipality before 1 April 2003 that they wished to submit a naturalisation application would be processed in accordance with the old Act. This arrangement was broadly used. The vast majority of the naturalisation decisions in 2004 still related to the processing of these so-called 'Old Act' cases. The number of applications per month under the new Act proved to be considerably lower in 2004 than the level prior to the legislation change. The percentage of rejections after a positive advice from the municipality increased to 16 %. The number of pending decisions decreased from 26,000 to 16,000 in 2004<sup>36</sup>. This includes applications issued at diplomatic posts abroad and applications from the Dutch Antilles and from Aruba.

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<sup>36</sup> Immigration- and Naturalisation Service (IND). (2005) *The IND in profile, 2004 annual results*. Rijswijk: IND

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## Annex 2: Additional tables and statistics

### Population by main groups of citizenship, 2001-2006, The Netherlands

Population by main groups of citizenship, 2001		Population by main groups of citizenship, 2003		Population by main groups of citizenship, 2005	
	1-01-2001		1-01-2003		1-01-2005
<b>Total Population</b>	<b>15.987.075</b>	<b>Total Population</b>	<b>16.192.572</b>	<b>Total Population</b>	<b>16.305.526</b>
Nationals	15.319.273	Nationals	15.492.618	Nationals	15.606.175
Other EU-Nationals	201.574	Other EU-Nationals	210.549	Other EU-Nationals (24)	228.072
Total Non-EU nationals	466.228	Total Non-EU nationals	489.405	Total Non-EU nationals	471.279
<i>Most important third country nat.:</i>		<i>Most important third country nat.:</i>		<i>Most important third country nat.:</i>	
Morocco	111.396	Turkey	100.286	Turkey	100.574
Turkey	100.782	Morocco	97.843	Morocco	91.558
United States of America	14.751	United States of America	15.412	United States of America	14.837
Indonesia	9.338	China	11.223	China	14.662
Iraq	8.639	Indonesia	10.786	Indonesia	11.427
Suriname	8.469	Suriname	8.573	Suriname	9.644
China	7.997	Poland	6.912	Yugoslavia, Fed. Rep. Of *	5.845
Yugoslavia, Fed. Rep. Of *	6.822	Yugoslavia, Fed. Rep. Of *	6.425	Japan	5.811
Poland	5.944	Japan	5.747	Thailand	4.884
Japan	5.626	Iraq	4.771	Russia	4.689
Others	186.464	Others	221.427	Others	207.348

Population by main groups of citizenship, 2002		Population by main groups of citizenship, 2004		Population by main groups of citizenship, 2006	
	1-01-2002		1-01-2004		1-01-2006
<b>Total Population</b>	<b>16.105.285</b>	<b>Total Population</b>	<b>16.258.032</b>	<b>Total Population</b>	<b>16.334.210</b>
Nationals	15.414.892	Nationals	15.555.847	Nationals	15.642.853
Other EU-Nationals	207.858	Other EU-Nationals	211.009	Other EU-Nationals	233.867
Total Non-EU nationals	482.535	Total Non-EU nationals	491.176	Total Non-EU nationals	457.490
<i>Most important third country nat.:</i>		<i>Most important third country nat.:</i>		<i>Most important third country nat.:</i>	
Morocco	104.262	Turkey	101.845	Turkey	98.920
Turkey	100.309	Morocco	94.380	Morocco	86.229
United States of America	15.217	United States of America	15.075	China	15.007
Indonesia	10.127	China	13.330	United States of America	14.643
China	9.395	Indonesia	11.185	Indonesia	11.479
Suriname	8.491	Suriname	9.406	Suriname	8.548
Iraq	6.919	Poland	7.431	Japanese	5.801
Yugoslavia, Fed. Rep. of *	6.645	Yugoslavia, Fed. Rep. Of *	6.277	Yugoslavia, Fed. Rep of	5.306
Poland	6.312	Japan	5.813	Thailand	5.274
Japan	5.771	Russia	4.450	Russia	4.606
Others	209.087	Others	221.984	Others	435.544

\* Since February 2003 name changed in "Serbia and Montenegro"

Source: Statistics Netherlands

## EU-citizens in the Netherlands, 2001-2007

	2001	2002	2003	2004	2005	2006	2007
<b>EU-15</b>							
1 Austria	3.366	3.454	3.543	3.593	3.558	3.540	3.604
2 Belgium	25.860	26.148	26.306	26.223	26.105	25.994	25.999
3 Denmark	2.588	2.663	2.629	2.689	2.698	2.644	2.697
4 Germany	54.811	55.572	56.060	56.466	57.141	58.503	60.201
5 Finland	1.980	2.051	2.118	2.089	2.088	2.087	1.982
6 France	13.326	14.113	14.469	14.529	14.544	14.730	14.697
7 Greece	5.692	6.015	6.244	6.341	6.367	6.518	6.627
8 Ireland	3.990	4.149	4.192	4.214	4.096	4.052	3.903
9 Italy	18.248	18.599	18.730	18.503	18.377	18.502	18.627
10 Luxemburg	312	307	297	302	297	293	295
11 Portugal	9.765	10.585	11.257	11.844	12.026	12.083	12.234
12 Spain	17.155	17.449	17.505	17.418	17.124	16.851	16.468
13 Sweden	3.077	3.149	3.147	3.120	3.132	3.158	3.208
14 The Netherlands	15.319.273	15.414.892	15.492.618	15.555.847	15.606.175	15.642.853	15.676.060
15 United Kingdom	41.404	43.604	44.052	43.678	42.519	41.508	40.335
<i>total EU-14 (excl Netherlands)</i>	<i>201.574</i>	<i>207.858</i>	<i>210.549</i>	<i>211.009</i>	<i>210.072</i>	<i>210.463</i>	<i>210.877</i>
<b>EU-10</b>							
1 Cyprus	48	51	55	49	65	81	100
2 Czech	1.057	1.285	1.342	1.448	1.707	1.880	2.007
3 Estonia	121	147	165	187	284	318	321
4 Hungary	1.538	1.719	1.832	1.886	2.029	2.271	2.386
5 Letland	173	188	244	283	361	450	491
6 Lithuania	346	393	487	595	970	1.175	1.262
7 Malta	98	98	99	102	121	111	120
8 Poland	5.944	6.312	6.912	7.431	10.968	15.202	19.645
9 Slovenia	165	193	225	235	256	299	356
10 Slovakia	719	915	940	983	1.239	1.560	1.876
Czechoslovakian	117	97	92	77	69	57	50
<i>total EU-10</i>	<i>10.326</i>	<i>11.398</i>	<i>12.393</i>	<i>13.276</i>	<i>18.069</i>	<i>23.404</i>	<i>28.614</i>
<b>EU-2</b>							
Bulgaria	870	1.074	1.360	1.678	1.924	2.076	2.202
Romania	1.694	2.094	2.360	2.735	3.020	3.006	3.225
<i>total EU-2</i>	<i>2.564</i>	<i>3.168</i>	<i>3.720</i>	<i>4.413</i>	<i>4.944</i>	<i>5.082</i>	<i>5.427</i>

Source: Statistics Netherlands

## Annex 3: Limited grounds for a residence permit

1 The limitations in Article 14:2 of the Aliens Act are related to:

- a. family reunification or family formation;
- b. stay as an adopted or foster child;
- c. to wait for examination of the suitability of candidate-adoptive parents, as meant in article 11 of the Act on rules concerning the acceptance of foreign foster children with a view to adoption;
- d. family visit;
- e. work as a self-employed person;
- f. to enter employment;
- g. to work as a minister of religion or teacher of religion;
- h. to search and carry out work whether or not in employment;
- i. to search employment on a Dutch ship or mining construction on the continental shelf;
- j. to stay on leave in the Netherlands;
- k. to wait for recovery and resumption of the employment on a Dutch ship or mining construction on the continental shelf;
- l. to stay as a student on work placement or practician;
- m. stay as a non-privileged soldier or non-privileged civilian personnel;
- n. to study;
- o. to prepair a study;
- p. to work as an au pair;
- q. to stay as part of a exchange programme;
- r. to undergo medical treatment;
- s. persecution of human trafficking;
- t. to wait for a decision on a request on the grounds of Article 17 of the Netherlands Nationality Act;
- u. continued residence;
- v. re-admission;
- w. stay as an alien who can't leave the Netherlands through circumstances outside his control;
- x. stay as an unaccompanied minor;
- y. stay as a highly skilled migrant referred to in Article 1d of the Decree implementation Aliens Employment Act;
- z. work as part of cross-border provision of services, referred to in Article 1e of the Decree implementation Aliens Employment Act;
- aa. stay as economic non-active long-term residents.