

Annual Report 2019

# Migration and asylum in the Netherlands

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# Summary

The 2019 Annual Report of the European Migration Network Netherlands (EMN Netherlands) provides insight into the main developments to the Dutch migration and asylum policy in 2019.<sup>1</sup> Themes addressed in it are, in the following order: legal migration, international protection (asylum), unaccompanied minors and other vulnerable groups, integration, Dutch nationality and statelessness, border control, visa policy and Schengen, irregular migration, measures against human trafficking, return, and migration and development. The Annual Overview Report 2019 was drafted by EMN Netherlands and is largely based on desk research. Experts delivered input for the various themes.

In 2019, more work was done on implementation of the Comprehensive agenda on migration. The Dutch government aims to make the migration policy future-proof by adopting a broad, comprehensive approach. By means of a 'six-pillar agenda', which links the intended policies from the 2017 coalition agreement, the government wants to respond to the dynamic, multifaceted and complex issue of migration. In addition, several important general adjustments were made to the migration and asylum policy in the Netherlands. Early in 2019 the coalition parties sought a new balance in the coalition agreement 2017 in relation to some topics in the area of asylum and migration. This resulted in abolishment of the discretionary power of the Minister for Migration. Another measure taken was the termination of the Regulation for Long-term Resident Children (DRLVK). Simultaneously with abolishment of the discretionary power, the Managing Director of the Immigration and Naturalisation Service (IND) will be mandated to assess officially during the first application procedure in the Netherlands whether a distressing situation exists. If that is the case, a residence permit can be issued to the third-country national. This is no longer possible in the procedures following afterwards. In addition to these general adjustments, several developments also took place. For instance, a new Minister for Migration was appointed because the previous Minister for Migration stepped down.

The **public debate** in 2019, the same as in 2018, was partly dominated by nuisance in and round asylum seekers' centres. This nuisance was caused by a relatively small group of asylum seekers. The Dutch government made efforts in 2019 to prevent this nuisance. Other migration topics that were discussed in the media in 2019 included the removal of a Bahraini asylum seeker, the findings of the former Van Zwol Committee about third-country nationals staying in the Netherlands after one or more rejections, and the imminent Brexit.

Regarding **legal migration** the focus in 2019 was on migration for economic and study purposes. For instance, a new residence permit has been developed for essential start-up personnel, and the existing scheme for cooks working in the Asian hospitality sector has been converted into a structural scheme. Supervision of students and researchers was tightened in specific sensitive areas of education and research.

There were also important developments in 2019 in relation to **international protection (asylum)**. Further measures were taken in the context of the 'Flexible Asylum Chain program' (in Dutch: Programma Flexibiliseren Asylumketen), which started in 2018. The aim of this program is to achieve a more flexible and effective asylum system, in which it will be possible to respond better to fluctuations in the asylum influx. Revision of the asylum procedure aims to enable the procedure to be gone through more quickly. In addition, in 2019 the Netherlands was faced by some sudden peaks in applications by third-country nationals from Moldova, the majority of whom had unsuccessfully applied for asylum before in other EU Member States. Measures were taken for this, just as for the tackling of asylum seekers who through disruptive and transgressive behaviour regularly cause nuisance within and outside reception centres in the Netherlands. Moreover, the waiting lists for asylum seekers rose sharply

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<sup>1</sup> The Annual Reports of previous years can be found on [www.emnnetherlands.nl](http://www.emnnetherlands.nl).

in the Netherlands in 2019, causing the IND to take measures to shorten the processing times and eliminate backlogs.

In 2019 attention was paid to the further development of protective reception of **unaccompanied minors (UAMs)**. For instance the Central Agency for the Reception of Asylum Seekers (COA) and the Nidos Foundation (national guardianship institution for unaccompanied and separated children in the Netherlands) have prepared improvement plans as a result of a report of research carried out about the quality of the reception and counselling of unaccompanied and separated minors. In addition, it will be possible to place UAMs in detention who are noticed by the government authorities for the first time and whose departure can in principle be effected within four weeks at most. A pilot project has also been started for UAMs who display transgressive behaviour and in which some young persons are accommodated in an adapted setting. With respect to **other vulnerable groups** the 'Policy framework for children under a child protection order' has entered into effect, which regulates the situations in which a residence permit can be issued to a minor third-country national for whom a child protection order has been pronounced.

In the area of **integration** the theme in 2019 was giving shape to the main features of the new civic integration system (intended start date 1 July 2021) and further elaboration on this has started. Efforts are being made as well to improve the quality of civic integration education. For instance, the monitoring of civic integration education by the Ministry of Social Affairs and Employment (SZW) has been intensified further. Various measures and initiatives have also been taken to improve the position of newcomers on the labour market.

There were no important policy developments in 2019 in relation to **Dutch citizenship** and **statelessness**. Various municipalities however, in anticipation of a legislative proposal for a procedure to determine statelessness, intend to determine statelessness within their own powers.

There were also no major policy developments in 2019 in relation to **border control** and **Schengen**. In relation to **visa policy** an action plan has however been drawn up to implement the Visa Code. The proposal for a regulation on amendment of the Community Visa Code was for the purpose of updating the procedures for the issue of visas in order to respond better to the changing migration and security situation.

To combat **irregular migration** efforts were made in 2019 to prevent irregular migration by means of awareness campaigns about the risks of irregular migration and to extend and strengthen the network of Dutch diplomatic missions. Efforts were made as well to prevent the illegal stay in the Netherlands of third-country nationals without a right of residence or government reception. In this context five pilot National Immigration Facilities (LVVs) have been started.

Regarding **trafficking in human beings** there were developments within the context of the program 'Together against Human Trafficking' that already started in 2018. The developments relate to the provision of information to and protection of victims of human trafficking, as well as training and information material for the identification of victims and international cooperation.

In relation to **return** efforts were made in 2019 for a swift, sustainable and effective return of both rejected asylum seekers and irregular third-country nationals. For instance all Moldovan third-country nationals are again able to make use of the REAN program (Return and Emigration Assistance program from the Netherlands) implemented by the International Organization for Migration (IOM).

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Lastly, in the context of **migration and development**, in 2019 the Netherlands contributed once again to cooperation with countries of origin and transit of irregular migration and reception in the region by financing international projects. For example in this context development cooperation was further established in a few Middle East and North- and West-Africa, where the diplomatic network was strengthened and cooperation was further developed on the main migration routes.

### Annual figures 2019

For **regular residence** in the Netherlands an increase in the number of applications can be seen in all areas: family migration, knowledge migration, students and start-ups. Applications from labour migrants have increased by about 25% to 3,710. A total of 85,940 regular applications were submitted in 2019 for the above residence purposes.<sup>2</sup> In chapter 3 the numbers for legal migration are mentioned for the first six months of the year.

The total number of **asylum applications** fell slightly in 2019, from 30,370 to 29,430. However, the number of first asylum applications increased to 22,530. On the other hand, there was a decrease in the number of second and subsequent asylum applications. The number of family members travelling for family reunification decreased the most, from 6,460 to 4,180. The IND received 44,400 applications for **naturalisation** in 2019, compared with 26,080 in 2018.

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<sup>2</sup> Immigration and Naturalisation Service (IND), 'Annual numbers 2019: numbers of applications increases strongly', <https://ind.nl/nieuws/Paginas/Jaarcijfers-2019-aantal-aanvragen-groeit-sterk.aspx>, consulted on 30 April 2020.

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# 1 Introduction

Developments in migration and asylum policies follow one another in rapid succession. Member States of the European Union (EU) are working on a joint policy for migration and asylum. This is important because movement of persons is free within the European Union. Moreover, Europe engages in economic competition with other parts of the world, for example when attracting highly-educated staff. For this joint policy, objective, reliable and comparable information is needed about migration and asylum in EU Member States. As the European research network for migration and asylum, the European Migration Network (EMN), provides this information.<sup>3</sup>

The twelfth EMN Annual Migration and Asylum Report gives an overview of the developments in Dutch migration and asylum policy for the year 2019, including the integration policy for newcomers. The report describes the actual situation in the Netherlands. In doing so, attention is also given to the most important national debates and the implementation of European policy in the Netherlands. This makes the 2019 Annual Report a concise source for Dutch policy makers, staff members at organisations cooperating in the immigration process and other interested parties.

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

On the basis of the Dutch 2019 Annual Report and the reports issued by other Member States, the EMN has compiled the 2019 Annual Report on Migration and Asylum. This international comparative annual report and the annual reports from the other Member States are available on the European EMN website.<sup>4</sup>

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

Before the above-mentioned themes are addressed in the Annual Report, first, in chapter 2, the general political developments and public debates that took place in 2019 in the field of asylum and migration in the Netherlands are discussed.

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<sup>3</sup> For more information, please see: <http://www.emnnetherlands.nl/over-het-emn>.

<sup>4</sup> European Commission (EC), 'European Migration Network (EMN)': [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/national-reports\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/national-reports_en).



# 2 Political developments in relation to asylum and migration

In this chapter a brief explanation is given first of the organisation of the political system and the division of responsibilities in the migration domain. Next the general political and other developments in the Netherlands in 2019 are mentioned and their consequences for asylum and migration policy. Afterwards, public debates will be dealt with that were held in this period. If the debates led to actual policy changes, the relevant text passages will be referred to in the different sections of this report.

## 2.1 Organisation of the political system

The Rutte III government is the current Dutch government. It is chaired by Prime Minister Mark Rutte and was sworn in on 26 October 2017 as successor of the Rutte II government, after the House of Representatives elections on 15 March 2017 and the following formation of the government.<sup>5</sup> The government is a coalition of the liberal People's Party for Freedom and Democracy (Volkspartij voor Vrijheid en Democratie, VVD), the social-liberal D66 (Democraten 66, D66), the Christian Democratic Appeal (Christen Democratisch Appèl, CDA) and the Christian Union (ChristenUnie, CU). Under the Rutte III government, the Minister for Migration (J&V) is responsible for tasks in the field of asylum and migration:

- Third-country nationals cases / Migration
- The Immigration and Naturalisation Service (IND), the Central Agency for the Reception of Asylum Seekers (COA) and the Repatriation and Departure Service (DT&V)
- Border control in third-country nationals cases
- The Netherlands Nationality Act (Dutch: Rijkswet op het Nederlanderschap, RWN)
- Trafficking in human beings and human smuggling
- International migration policy

Integration policy comes under the responsibility of the Minister of Social Affairs and Employment (SZW), just as labour migration policy. The Minister of Foreign Affairs (BZ) is responsible for visa policy. The Minister of BZ is also responsible for the preparation of general official reports, that describe the situation in important countries of origin of asylum seekers, and individual official reports in which the facts or documents presented by an asylum seeker are assessed for correctness and authenticity.

## 2.2 General political developments

### *Minister for Migration Harbers resigned owing to crime figures of asylum seekers*

On 21 May 2019 the Dutch Minister for Migration, Mark Harbers (VVD), resigned on 21 May 2019 because the structure of figures in the annual 'Report of the organisations cooperating in the immigration process 2018' (Rapportage vreemdelingenketen, RVK) lead to certain question by members of the House of Representatives.<sup>6</sup> Also fueled by reports of the media, the image arose that the data on serious crimes committed by asylum seekers were consciously listed under a category 'Other' in the figure. Because of this structure, the suspicions of more serious crimes (sex crimes, murder and manslaughter) are listed under 'Other', since they occur less frequently than for example shoplifting, pickpocketing, simple assault and destruction. At the moment that it became clear for the Minister for Migration that during the preparation of the overview of incidents the breakdown of the category

5 For more information, please see: Bureau Woordvoering Kabinetsformatie, 'Kabinetsformatie 2017', [www.kabinetsformatie2017.nl/kabinetsformaties/k/kabinetsformatie-2017](http://www.kabinetsformatie2017.nl/kabinetsformaties/k/kabinetsformatie-2017) (in Dutch).

6 National Government, 'Een overzicht werd een incident', <https://www.rijksoverheid.nl/documenten/rapporten/2019/10/18/tk-bijlage-een-overzicht-werd-een-incident>, consulted on 18-10-2019 (in Dutch).

'Other' was already made available and that the shortcomings in the report were indeed signaled, the Minister for Migration concluded that incorrect considerations had been made under his responsibility. The fact that the wrong considering weighed heavily in politics was cause for the Minister to resign. Departing chairwoman of the Senate, Ankie Broekers-Knol (VVD) was appointed on 11 June 2019 as the new Minister for Migration.<sup>7</sup>

### *State Opening of Parliament 2019*

On the day of the State Opening of Parliament, every third Tuesday of September, King Willem-Alexander gives the Speech from the Throne. In doing so, he opens the new working year of the States General (the Senate and House of Representatives). The Speech from the Throne contains the main plans of the Dutch government for the coming year. In 2020 efforts are being made in relation to asylum and migration for less illegality and a quicker return.<sup>8</sup> The reduction of processing times in handling asylum applications is an important area of attention. Piling up of asylum applications is prevented by handling repeated applications faster and disposing of them sooner. To enable this, the Dutch government has set aside 134 million euros in 2020 and over and above this another 65 million euros in addition will be invested structurally. A sharper distinction will be made in the asylum procedure between asylum seekers who do or probably do not have a chance of lawful residence, after which integration or return can be worked on immediately. The Netherlands is working on agreements with countries of origin on taking back their own nationals.<sup>9</sup> The reception capacity will also be made flexible, so that adaptation will become more efficient in case of a larger or reduced influx. The disproportional nuisance caused by a limited group of third-country nationals will be fully tackled firmly, whereby it will always be examined whether additional measures are necessary and possible.

### *Results of the Senate elections 2019*

In 2019 the Senate elections were held. During the Senate elections on 27 May 2019, the government coalition of the political parties VVD, CDA, D66 and Christian Union obtained 32 seats in total (the Senate has 75 seats).<sup>10</sup> In this election the coalition lost its majority in the Senate. One additional party is however enough for the government to get difficult laws through the Senate.

## **Election of the Senate**

The Dutch parliament (the States General) consists of two parts, the House of Representatives and the Senate. The 75 members of the Senate are elected once every four years by way of 'indirect elections'.<sup>11</sup> Citizens elect the members of the Provincial Council<sup>12</sup> and they in turn elect the members of the Senate.

The main task of the Senate is that of co-legislator. In addition the Senate has the task of monitoring the government. The legislative branch of the Senate entails that they deal with legislative proposals that the House of Representatives has adopted. A legislative proposal can become an Act only if it has also been adopted by the Senate. The Senate cannot make amendments to a legislative proposal but can only approve or reject a proposal.

<sup>7</sup> *Parliamentary Papers II*, 2018-2019, 35209, no. 3.

<sup>8</sup> *National Government*, 'Voor een vrije, veilige en rechtvaardige samenleving', <https://www.rijksoverheid.nl/ministeries/ministerie-van-justitie-en-veiligheid/nieuws/2019/09/17/voor-een-vrije-veilige-en-rechtvaardige-samenleving>, consulted on 18-09-2019 (in Dutch).

<sup>9</sup> *Ibid.*

<sup>10</sup> *Dutch Electoral Council (Kiesraad)*, 'Uitslag Eerste Kamerverkiezing 2019', <https://www.kiesraad.nl/actueel/nieuws/2019/05/31/uitslag-eerste-kamerverkiezing-2019>, consulted on 31-05-2019 (in Dutch).

<sup>11</sup> For more information, please see: *Senate (Eerste Kamer)*, 'Eerste Kamerverkiezingen', [https://www.eerstekamer.nl/begrip/eerste\\_kamerverkiezingen](https://www.eerstekamer.nl/begrip/eerste_kamerverkiezingen) (in Dutch).

<sup>12</sup> The elected representatives of the people are called the Provincial Council (in Dutch: Provinciale Staten).

## 2.3 General overview

### 2.3.1 Main policy and legal changes

#### *Discretionary power abolished/ assessment of distress and termination of the Regulation for Long-term Resident Children*

In the beginning of 2019 the coalition partners sought a new balance in the coalition agreement 2017 in relation to some topics in the area of asylum and migration. The coalition parties reached agreement that in the first residence procedure as many aspects that are important for the question whether residence is possible in the Netherlands need to be answered.<sup>13</sup> In addition, according to the government, it is important that incentives that prolong a stay in the Netherlands should be reduced. The discretionary power gave the Minister for Migration the power to issue a residence permit in special cases to a third-country national in a situation for which there is no policy framework or to a third-country national who was not eligible for an existing policy framework. In the government's opinion, that discretionary power caused third-country nationals to maintain hope of obtaining a residence permit until the very last minute. This also resulted in extension of the stay of third-country nationals without a right of residence and obstruction of return. It also increased the chance that, solely because of its long duration, they would end up in a distressing situation. This ultimately resulted in the issue of residence permits to third-country nationals, whereas it had been initially established that they were not entitled to residence in the Netherlands on the customary grounds. On 29 January 2019 three new measures were announced, as described in the following paragraph.

First of all, the **discretionary power** of the Minister for Migration was abolished on 1 May 2019.<sup>14</sup> Simultaneously with abolishment of the discretionary power, the Managing Director of the IND was mandated on 1 May 2019 to assess officially during the first application procedure in the Netherlands whether a *distressing situation* would exist in the event that the third-country national is not eligible for the requested purpose of stay. This **Assessment of distress** may result in a residence permit still being issued.<sup>15</sup> This holds for both the regular and the asylum procedure.<sup>16</sup> In addition, several categories were designated who had obtained discretionary permits before 1 May 2019. These categories of third-country nationals can now obtain residence permits pursuant to other provisions of the Aliens Decree 2000. This concerns for example victims of honour-related domestic violence, witnesses and other persons who have reported human trafficking and EU students studying in Aachen and residing in the Netherlands.<sup>17</sup> Thirdly, the **DRLVK** was also terminated on 29 January 2019 and transitional measures were announced. The DRLVK was a regulation under which minors residing illegally in the Netherlands for a long time could still obtain a residence permit under certain conditions (more information on termination of the DRLVK can be found in subsection 5.2.2).

#### *Transitional period for Brexit*

The theme of the year 2019 was an imminent Brexit. Uncertainty prevailed as to whether the United Kingdom (UK) would come up with a final deal or would leave the European Union (EU) with a no-deal Brexit in October 2019, or that the Brexit would be postponed.<sup>18</sup> In order to provide all UK nationals and their family members in the Netherlands with temporary residence permits in case of a no-deal Brexit, in March and October<sup>19</sup> 2019 the IND started sending these residence permits.<sup>20</sup> This guaranteed the rights of residence of UK nationals in the Netherlands after Brexit in a timely manner. The UK ultimately

13 *Parliamentary Papers II*, 2018-2019, 19637, no. 2459.

14 *Bulletin of Acts and Decrees*, 2019, no. 143.

15 *Immigration and Naturalisation Service (IND)*, 'discretionaire bevoegdheid per 1 mei afgeschaft', <https://ind.nl/nieuws/paginas/discretionaire-bevoegdheid-per-1-mei-afgeschaft.aspx>, consulted on 15-04-2019 (in Dutch).

16 *Government Gazette*, 2019, no. 24564.

17 Information supplied by the *ministry of Justice and Security (J&V)* on 09-01-2020.

18 *Immigration and Naturalisation Service (IND)*, 'Brexit: IND stuurt tijdelijke verblijfsvergunning aan VK-onderdanen in Nederland', <https://ind.nl/nieuws/Paginas/Brexit-IND-stuurt-tijdelijke-verblijfsvergunning-aan-VK-onderdanen-in-Nederland.aspx>, consulted on 13-03-2019 (in Dutch).

19 Expecting the Brexit date to be postponed, in October 2019 the IND started sending temporary residence permits to UK nationals and their family members who had not received temporary residence permits in March 2019 or who had registered in the Personal Records Database (BRP) of the municipality where they reside after 29 March 2019.

20 *Immigration and Naturalisation Service (IND)*, 'Voorbereid op Brexit', <https://ind.nl/over-ind/Paginas/Voorbereid-op-Brexit.aspx>, consulted on 20-02-2019 (in Dutch).

### Anti-Brexit protesters in London, July 2019

Photo: John Gomez,  
Shutterstock

left the EU on 31 January 2020, after which a transitional period started for British citizens in the Netherlands. In this period they could continue living, working and studying in the Netherlands under the withdrawal agreement.<sup>21</sup> Because of this, nothing in their situation will change until 31 December 2020. During the transitional period, all EU rules and laws will remain in force for the UK.<sup>22</sup> British citizens in the Netherlands only need a valid passport. They will receive an invitation from the IND to apply for a residence permit, which will be necessary after 31 December 2020. The temporary residence permits that Brits in the Netherlands received from the IND in March or October 2019 are no longer necessary. The temporary residence permit was necessary only in case of a no-deal Brexit.

#### 2.3.2 Public debates

In 2019, besides the resignation of the Minister for Migration, the public debate was dominated by the themes asylum seekers who through disruptive and transgressive behaviour regularly cause nuisance within and outside reception centres in the Netherlands, the removal of a Bahraini asylum seeker who was sentenced to life imprisonment after returning to Bahrain, the findings of the Van Zwol Committee and the disappearance of Vietnamese children from the protected reception centres for unaccompanied minors in the Netherlands.

#### *Asylum seekers causing public nuisance*

Just as in preceding years, media attention was once again paid to nuisance in and around reception centres, caused by a relatively small group of asylum seekers. In May 2019 the mayors of the Municipalities of Weert and Westerwolde announced that their municipalities have already been faced for a considerable time with nuisance within and outside reception centres.<sup>23</sup> Ter Apel, the village in Westerwolde where a national reception centre is accommodated, stated that it would conduct its own investigation of whether the current contract with the Central Agency for the Reception of Asylum Seekers<sup>24</sup> (COA) could be terminated.<sup>25</sup> The Mayor of Middelburg stated that he no longer wanted to

21 For more information, see: *National Government*, 'Brexit: stand van zaken', <https://www.rijksoverheid.nl/onderwerpen/brexit/brexit-stand-van-zaken> (in Dutch).

22 *Immigration and Naturalisation Service (IND)*, 'Brexit: IND stuurt Britten informatiebrief', <https://ind.nl/nieuws/Paginas/Brexit-IND-stuurt-Britten-informatiebrief.aspx>, consulted on 30-01-2020 (in Dutch).

23 *Dagblad van het Noorden*, 'Westerwolde en Weert naar Den Haag over probleem asielzoekers', <http://www.dvhn.nl/groningen/Westerwolde-en-Weert-naar-Den-Haag-over-probleem-asielzoekers-23168743.html>, consulted on 15-12-2019 (in Dutch).

24 On commission from the Ministry of Justice and Security (J&V), the Central Agency for the Reception of Asylum Seekers (COA) accommodates asylum seekers who come to the Netherlands. The COA is responsible for the placement and accommodation of asylum seekers in reception centres spread across the Netherlands, until a decision has been taken on their asylum applications. COA provides for basic needs such as accommodation and payment of pocket money.

25 Current affairs program *Eenvandaag (AVRO-TROS)*, 'Ter Apel wil contract met COA mogelijk opzeggen om overlast asielzoekers', <https://eenvandaag.avrotros.nl/item/ter-apel-wil-contract-met-coa-mogelijk-opzeggen-om-overlast-asielzoekers/>, consulted on 14-05-2019 (in Dutch).

accommodate asylum seekers from safe countries of origin in his municipality.<sup>26</sup> In other municipalities as well, such as in Harderwijk<sup>27</sup> and Rijswijk<sup>28</sup>, asylum seekers causing nuisance caused unrest among the residents. The nuisance caused by a relatively small group of asylum seekers comprised mainly theft and shoplifting, vandalism, brawls, verbal violence and intimidation.<sup>29</sup>

The National Government, provinces, municipalities, police, Public Prosecution Service (OM), the COA, the DT&V and the IND made joint efforts in 2019 to prevent nuisance caused by asylum seekers. In letters, the Minister for Migration informed the House of Representatives several times<sup>30</sup> of the state of affairs of the approach to asylum seekers whose disruptive and transgressive behaviour regularly causes nuisance within and outside reception centres. For example in 2019 three special marines of organisations cooperating in the immigration process were appointed and the 'Top-X'-approach to the most stubborn nuisance-causing asylum seekers was developed.

A measure that regularly appeared in the media in 2019 was a pilot with a special 'shuttle bus' service between the Emmen railway station and the reception centre (azc) in Ter Apel.<sup>31</sup> To reduce the nuisance caused by asylum seekers on the regular bus line on this route, the shuttle bus rode from 15 May 2019 as a trial. Residents of this reception centre caused nuisance and disturbances on this route. It was decided in January 2020 that the use of the shuttle bus would be continued. The shuttle bus will continue riding in 2020, but less often per day (more information on the other measures taken can be found in subsection 4.3.4).

#### *Removal of Bahraini asylum seeker*

The removal of a Bahraini asylum seeker made news in 2019 because the man was arrested immediately after return in Bahrain and has meanwhile been sentenced on appeal to life imprisonment, among other things for "terrorist activities".<sup>32</sup> The IND had decided that he was not eligible for a residence permit.<sup>33</sup> The Minister for Migration decided to request an investigation into the process and information position of the IND. At the end of 2019 the report appeared, which was not made public and was sent as confidential to the House of Representatives for perusal. Additional information was received afterwards, as a result of which the Inspectorate of Justice and Security (IJ&V) has conducted additional investigation. At the time this EMN Annual Report was written, that investigation had not yet been completed. The House of Representatives adopted a motion aimed at making the investigation report public. Once the investigation of the IJ&V has been completed, the Minister will respond to the report.

#### *Appointment of the Minister for Migration with Morocco on 'return'*

In 2019, the media reported criticism by the opposition as well as the coalition partners in the House of Representatives of the approach by the Minister for Migration Broekers-Knol.<sup>34</sup> The Minister wanted conversations with Morocco to improve cooperation in respect of return. The Minister said during the budget debate in the House of Representatives on 21 November 2019 that she was in discussion with various 'safe' countries of origin (including Morocco, Tunisia and Algeria) on the repatriation of asylum seekers who had exhausted all legal means. Asylum seekers from safe countries such as

26 *Reformatorisch Dagblad*, 'Burgemeester van Middelburg wil geen asielzoekers uit veilige landen meer in zijn gemeente opvangen', <https://www.rd.nl/vandaag/binnenland/middelburg-is-overlast-door-stelende-asielzoekers-beu-1.1573680>, consulted on 30-07-2019 (in Dutch).

27 *Dagblad de Stentor*, 'Burgemeester Harderwijk slaat alarm om criminele asielzoekers: "Ze wanen zich onaantastbaar"', <https://www.destentor.nl/harderwijk/burgemeester-harderwijk-slaat-alarm-om-criminele-asielzoekers-ze-wanen-zich-onaantastbaar~ae00d576/>, consulted on 10-07-2019 (in Dutch).

28 *Algemeen Dagblad*, 'Azc Rijswijk blijft tot 2021, gelukzoekers niet geweerd', <https://www.ad.nl/den-haag/azc-rijswijk-blijft-tot-2021-gelukzoekers-niet-geweerd~ada1df34/>, consulted on 22-05-2019 (in Dutch).

29 *National Government*, 'Rijk en gemeenten samen tegen overlastgevende asielzoekers', <https://www.rijksoverheid.nl/actueel/nieuws/2019/12/03/rijk-en-gemeenten-samen-tegen-overlastgevende-asielzoekers>, consulted on 03-12-2019 (in Dutch).

30 *Parliamentary Papers II*, 2018-2019, 19637, no. 2478; *Parliamentary Papers II*, 2018-2019, 19637, no. 2510; and *Parliamentary Papers II*, 2019-2020, 19637, no. 2572.

31 *Parliamentary Papers II*, 2019-2020, 19637, no. 2572.

32 *De Volkskrant*, 'Kabinet krijgt forse kritiek nu uitgezette asielzoeker levenslang heeft gekregen in Bahrein', <https://www.volkskrant.nl/nieuws-achtergrond/kabinet-krijgt-forse-kritiek-nu-uitgezette-asielzoeker-levenslang-heeft-gekregen-in-bahrein~bc5f76d8/>, consulted on 05-03-2019 (in Dutch).

33 *National Government*, 'Antwoorden Kamervragen over het bericht dat een uitgezette asielzoeker uit Bahrein zonder eerlijk proces is veroordeeld', <https://www.rijksoverheid.nl/documenten/kamervragen/2019/03/19/antwoorden-kamervragen-over-het-bericht-dat-een-door-nederland-uitgezette-asielzoeker-uit-bahrein-zonder-eerlijk-proces-is-veroordeeld>, consulted on 19-03-2019 (in Dutch).

34 *Parliamentary Papers II*, 2018-2019, 19637, no. 2567.

Morocco with no chance of success put heavy pressure on the accommodation capacity in reception centres.<sup>35</sup> Moreover, a small group, often minor asylum seekers, cause public nuisance.

#### *Findings of the Van Zwol Committee*

On 4 June 2019, the 'Van Zwol' Committee (in Dutch: 'Onderzoekscommissie Langdurig verblijvende vreemdelingen zonder bestendig verblijfsrecht') published its research report.<sup>36</sup> The Committee was appointed at the end of October 2018 to study all aspects that contribute to the long-term stay of third-country nationals after one or more rejections. The reason for the appointment was the specific case 'Lili and Howick', who in 2018 were ultimately allowed to stay in the Netherlands nevertheless.<sup>37</sup> The two Armenian children were actually supposed to be returned after having gone through years of different procedures, even though they grew up in the Netherlands. Because of this case a inspection report was prepared.<sup>38</sup> In order to prevent cases such as that of the two Armenian children, the Van Zwol Committee was formed. In addition, the Committee examined possible solutions to prevent long-term residence without a right of residence. The Committee devoted special attention to children and families with children.

The Committee found that the key to expediting the asylum procedures lies in the implementation; speed and promptness should be pursued concretely by shortening the processing times. Investments need to be made in careful handling of the first asylum application (legal assistance on the first application should be maintained). The manner in which the interests of children are weighted in this should also be made known. Lastly the Committee recommended making efforts to increase demonstrable departure. The Committee asserts that discretionary powers and pardon arrangements have the opposite effect on the willingness of third-country nationals to depart.

#### *Vietnamese asylum children disappeared from reception centres*

During the broadcast of the radio programme Argos on 30 March 2019 it came to light that in the period between 2015 and 2019, about sixty Vietnamese children disappeared from the Protected Reception Centres for unaccompanied minors. As a result of this broadcast the former Minister for Migration started two related investigations into the departure of unaccompanied minors (UAMs) from Protected Reception Centres to an unknown destination (more information can be found in sub-section 5.2.1).<sup>39</sup>

35 In 2020 new European migration plans were announced in which the European Union aims to take charge of the return of irregular migrants. Previously, this was mainly up to the Member States.

36 *Parliamentary Papers II*, 2018-2019, 19637, no. 2501.

37 On 08-09-2018 it was announced that the Minister for Migration had exercised his discretionary power to allow the Armenian children Lili and Howick to stay in the Netherlands. This case put the asylum debate on the 'children's pardon' on edge. The children's pardon is the short name for a regulation from 2013. This enables children of asylum seekers who had lived in the Netherlands for more than five years and actually had to leave the country to stay nevertheless.

38 *The Inspectorate of Justice and Security*, 'Report on departure process of Armenian children', <https://www.inspectie-jenv.nl/Publicaties/rapporten/2019/11/05/het-vertrek-proces-van-de-armeense-kinderen>, 05-11-2019 (in Dutch).

39 *Parliamentary Papers II*, 2018-2019, 27062; 28638, no. 108.

# 3 Legal migration

## 3.1 Introduction

In this first thematic chapter, important policy developments in 2019 in relation to legal migration in the Netherlands are discussed. Legal migration is a broad term and it can be broken down into different migration groups.<sup>40</sup> Migrants within the legal migration process have gotten permission to travel to the Netherlands, before they leave their country of origin. The migration categories used in this section are economic migration (this includes Knowledge & talent and Labour migration), study migration, family migration and exchange.

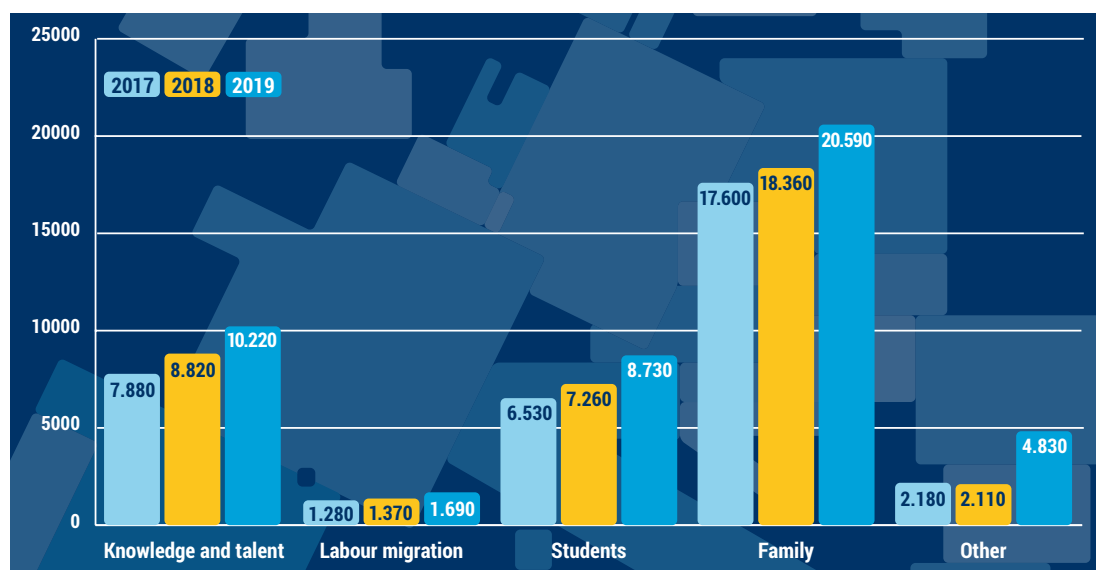
First, the number of applications for residence permits is discussed below for legal migration in the first six months of 2019. The figures for all of 2019 had not yet been available at the time this EMN Annual Report 2019 was written.<sup>41</sup>

In this Annual Report, the annual and semi-annual figures are reported on the basis of national definitions. This is because the figures according to the Eurostat definition are not yet available.<sup>42</sup> The difference in the definitions used may cause the figures to differ from the Eurostat figures. Next the policy developments per migration category will be explained.

The total number of applications for legal residence permits in the first six months of 2019 was 46.050. This is a rise by 21 per cent with respect to the 37,960 applications in 2018.

**Figure 1:**  
Number of applications for legal residence permits in the period of 1 January to 30 June inclusive 2017, 2018 and 2019

Source: IND (2019), report on organisations cooperating in the immigration process, January-June 2019<sup>43</sup>



The high rise in the category 'Other' can be explained by the increase in the influx and outflow in the 'Humanitarian non-temporary' cluster, which is the result of current work in the context of the Final Regulation for Long-term Resident Children (for more information see subsection 5.2.2). The 'Humanitarian non-temporary' cluster rose because of this from 220 applications in 2018 to 2,700 applications in 2019.

<sup>40</sup> The Immigration and Naturalisation Service (IND) used the cluster classification as introduced by the Modern Migration Policy Act (MoMi) in 2013.

<sup>41</sup> The annual figures of Legal migration 2019 are expected to be published round April/May 2020 on: National Government, 'Rapportages Vreemdelingenketen', <https://www.rijksoverheid.nl/documenten/publicaties/2018/01/01/rapportages-vreemdelingenketen> (in Dutch).

<sup>42</sup> The figures according to the Eurostat definition are available, but because only the national figures are available for the other sections, we chose to do so for asylum as well.

<sup>43</sup> The numbers have been rounded to tens.



## 3.2 Policy developments

In 2019 various policy changes were made in relation to legal immigration. The policy developments per migration category are given below in this order: economic migration, study migration, relatives and family and exchange.

### 3.2.1 Economic migration

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

The core of the Dutch economic migration policy is selectivity: the Netherlands is inviting to migrants for whom there is an economic need and cautious if this is not the case. The labour migration policy is inviting to the top of the labour market. For example the policy for highly-qualified migrants who can make a positive contribution to the Dutch economy is flexible. Other migrants who want to come to the Netherlands for economic reasons must be in possession of a work permit or a combined work and residence permit. They are only welcome if there is no availability in the Netherlands and the EU/EEA.<sup>44</sup>

Within economic migration, a distinction is made between third-country nationals with the residence purpose of 'knowledge and talent' (such as highly-skilled migrants, independent contractors, Highly Educated Migrants Scheme, graduates and researchers), labour migration (such as regular paid employment and cooks working in the Asian hospitality sector) and on-the-job learning (such as the Young Workers Exchange Program, YWEP).<sup>45</sup> The legal framework for economic migration in the Netherlands is the Aliens Act 2000 (Vw) and the Foreign Nationals (Employment) Act (Wav)<sup>46</sup>.

### Highly skilled and talent

#### *Residence scheme for essential staff of start-ups*

On 1 July 2019, the Minister for Migration announced that a residence scheme would be created for essential staff of start-ups.<sup>47</sup> This new scheme will most likely be introduced in the summer of 2020 as a pilot with a term of three years. The new residence provisions are intended for young, innovative businesses in the Netherlands that are still faced at present with obstacles to the employment of talent from outside the European Union (EU).

In order to hire highly-skilled migrants, employers need to meet a salary threshold in order for highly skilled migrants to get a residence permit. This salary threshold entails that the income that the employer pays to the employer needs to be as high or higher than a certain amount determined by the government. This set amount is annually revised. Young businesses might not be able to pay the set amount. The new residence permit is supposed to make it possible for start-ups to attract essential staff from abroad. Both Dutch and foreign start-ups that set up businesses in the Netherlands can use the scheme. The start-up staff attracted via the scheme must meet a lowered salary criterion compared to the salary criterion for highly skilled migrants, in combination with a share in the company. The financial capacity of the company must show that the start-up is not yet able to pay highly skilled migrants' salaries. The Netherlands Enterprise Agency<sup>48</sup> (RVO) will use an assessment framework to assess the starting and innovative nature of all start-ups that want to use the new scheme. A start-up may attract a maximum of five employees via the new scheme.

44 The European Economic Area (EEA) includes all EU Member States plus Liechtenstein, Norway and Iceland.

45 EMN Nederland, 'Economische migratie', <https://www.emnnetherlands.nl/migratiethemas/economische-migratie>, consulted on 20-03-2020 (in Dutch).

46 The Foreign Nationals (Employment) Act (Wav) prohibits employers and private individuals from allowing foreign workers who do not have free access to the Dutch labour market to work for them without a valid work permit (TWV) or combined residence and work permit.

47 Parliamentary Papers II, 2018-2019, 30573, no. 174.

48 The Netherlands Enterprise Agency (RVO) is an implementing department of the Dutch Ministry of Economic Affairs and Climate (EZK). The task of the RVO is to stimulate entrepreneurs in sustainable, agricultural, innovative and international entrepreneurship.



## Labour migrants

### *Structural scheme to bring cooks working in the Asian hospitality sector to the Netherlands*

For employers in the Asian hospitality sector there is a special residence permit, in order stay and work in the Netherlands. Before, a quota regulation existed to grant a single permit for stay and work. In the past few years, the Asian hospitality sector has been faced with temporary schemes and quotas that had to be extended halfway through the year. That lead to insecurity and agitation in the sector.

In order to end this, per 1 October 2019 the structural scheme for specialised cooks who want to work in the Asian Hospitality Sector entered into effect. The structural scheme entails e.g. that there will be no more annual quota. If necessary for their restaurants, employers of Asian restaurants<sup>49</sup> have been able to bring specialised cooks to the Netherlands since 1 October 2019 without a quota and without first having to make recruitment efforts. The period of validity of the combined residence and work

Markthal Rotterdam,  
September 2019

Photo: AL Robinson,  
Shutterstock

permit for this purpose of stay is longer than usual: third-country nationals that make use of this may not work in the Netherlands for one, but for two years. This is on condition that no Dutch or European cook is available who can do this work (this the so-called labour market priority assessment by the Employee Insurance Agency, UWV). On each application from a restaurant, the UWV<sup>50</sup> critically examines whether it is not possible to engage a Dutch employee or an employee from another EU Member State. Normally speaking, the vacancy must be reported five weeks in advance. By derogation from this, restaurants have had to report their vacancies to the UWV three weeks in advance before an application can be made for a permit to bring a cook employed in the Asian hospitality sector to the Netherlands since 1 October 2019.

Just as in the case of temporary arrangements, rules are attached to the permits that the employer must make efforts to train and/or additionally train staff in order to fill vacancies. The sector must also help to improve its image. Next to ending the insecurity in the sector, the aim of the scheme is to solve the structural shortage of specialised cooks. The sector must first see if there are no Dutch (or European) cooks who can do the work and rules apply as mentioned above to the training/additional training of staff.

<sup>49</sup> The scheme applies to restaurants with one or more of the following cuisines: Chinese, Indian, Indonesian, Japanese, Korean, Malaysian, Thai, Tibetan and Vietnamese.

<sup>50</sup> The Employee Insurance Agency (UWV) is an independent administrative body that works on the instructions of the Ministry of Social Affairs and Employment (SZW). It is charged by the Ministry inter alia with giving binding opinions on applications for a combined work and residence permit (single permit) for third-country nationals who want to work in the Netherlands and on the issue of work permits.

## Gaining work experience in the Young Workers Exchange Program (YWEP)

### *Change in the Young Workers Exchange Program (YWEP)*

Canadian young people between the ages of 18 and 31 years can be eligible for a temporary residence permit to gain work experience in the Netherlands in the context of the de the Young Workers Exchange Program (YWEP). This program was adopted in 2002 in a Memorandum of Understanding<sup>51</sup> (MoU) between the Netherlands and Canada. On 28 June 2019 the Aliens Act Implementation Guidelines (Vc)<sup>52</sup> were amended with respect to the YWEP.<sup>53</sup> In order to demonstrate that the young person resides in Canada, the young person previously had to submit evidence of registration from the public registers in Canada with the residence permit application. Canadian young people no longer have to submit this evidence. The reason for this is that Canada has no Personal Records Database (BRP) or anything similar and the young persons were not able to submit the required evidence. This amendment enables Canadian young people who do not reside in Canada to be eligible for a residence permit in the context of the YWEP.

### 3.2.2 Students

Students and researchers often come to the European Union (EU) and the Netherlands for their study or research project. The EU and the Netherlands want to be attractive to these third country nationals because they are highly educated and contribute to the knowledge economy. After their stay they often go back to their own countries. The starting point of the Netherlands is to stimulate internationalisation of education. Incoming students can contribute to the knowledge economy and innovative strength of the Netherlands.

The Netherlands has its own national policy for study migration. The Netherlands aims to use it to enable the arrival of students and researchers and keep them available to the Dutch labour market. For the admission of a student or researcher, an educational or research institution is always a guarantor. This institution is then a recognised sponsor for the migrant, as laid down in the Modern Migration Policy Act (MoMi). In the Netherlands students may still stay for one year to find work.<sup>54</sup>

Increased supervision of students and researchers in sensitive fields of education and research  
In 2019 the supervision of students and researchers in specifically sensitive fields of education and research was increased if they may be connected to the Iranian ballistic missile program.<sup>55</sup> Reason for this is a recent case and the fact that the government is increasingly worried about the continuous development of the ballistic missile program in Iran. Concretely, this means that an assessment framework was drawn up, which provides for screening, irrespective of nationality and/or country of origin, of all students and researchers currently studying or conducting research in specific fields of education and research in which knowledge can be acquired that is relevant for the Iranian ballistic missile program.

On 9 April 2019 a Task Force was formed for the screening.<sup>56</sup> This Task Force assessed the current group of students and researchers in sensitive study programs in a thorough and unbiased way on the basis of the assessment framework. Around ten cases emerged that could pose a risk on the basis of their knowledge and/or network in so far as undesirable knowledge transfer (intentionally or unintentionally) is concerned.<sup>57</sup> Per individual, the Ministry of Education, Culture and Science (OCW), supported by the Task Force, engaged in a conversation about this with the universities concerned, which are responsible for taking appropriate measures to prevent breach of the EU regulation con-

51 A memorandum of understanding (MoU) is a type of agreement between two (bilateral) or more (multilateral) parties. It expresses a convergence of will between the parties, indicating an intended common line of action. It is a more formal alternative to a gentlemen's agreement.

52 The Aliens Act Implementation Guidelines (Vc) contains most policy rules and implementation instructions that apply in third-country nationals policy.

53 Government Gazette, 2019, no. 34157.

54 European Migration Network Netherlands (EMN), 'studiemigratie' ['student migration'], <https://www.emnnetherlands.nl/migratiethemas/studiemigratie>, consulted on 20-03-2020 (in Dutch).

55 Parliamentary Papers II, 2018-2019, 30821, no. 70.

56 Parliamentary Papers II, 2018-2019, 30821, no. 87.

57 Parliamentary Papers II, 2018-2019, 30821, no. 70.

cerning restrictive measures against Iran (2012/267) within their institution. From the 2020-2021 academic year, all students and researchers in sensitive fields of education or research will be screened prior to the start of their education or research. Further to this, the Dutch cabinet will keep engaging in a dialogue with inter alia universities and knowledge institutions to map fields of education and research relevant to the production and development of ballistic missiles (supplementary to the current list). In addition, a process has been started to investigate to which extent other additional measures are desirable.

### 3.2.3 Relatives and family

The category 'relatives and family' covers applications for family formation and reunification. This concerns for example a Dutch national who has met a partner abroad and wants to bring him/her to the Netherlands, or a third-country national who resides in the Netherlands and wants to have the family he already had abroad come to the Netherlands. This also covers family members of asylum permit holders who have submitted an application for a journey in connection with family reunification within three months. 'Nareis' in Dutch is a form of family reunification, for the purpose of reunifying the asylum residence permit holder with his/her family.

#### *Rules on work on submission of a residence permit application for third-country carer parents of Dutch children (Court of Justice of the European Union, Chavez-Vilchez<sup>58</sup>)*

If a third-country parent of a Dutch child has submitted an application for a residence permit under EU law, while awaiting the handling of the application, this parent may work if a positive outcome of the application is likely. On 1 July 2019 more detailed rules were laid down in the Aliens Act Implementation Guidelines (Vc) to assess this.<sup>59</sup> A positive outcome is likely if the applicant has submitted enough documents to substantiate the application.

#### **Third-country carer parents of Dutch children: Court of Justice of the European Union, Chavez-Vilchez<sup>60</sup>**

On 10 May 2017 the Court of Justice of the European Union (CJEU) ruled in the Chavez-Vilchez judgment that, under certain conditions, a third-country national<sup>61</sup> who is the parent of a minor Dutch child is entitled to a derived right of residence in the European Union (EU). This applies in the regular as well as the asylum procedure.<sup>62</sup> The CJEU already made it clear earlier in the Zambrano judgment (C-34/09) on 8 March 2011 that Member States may not deny a third-country parent of a child with the nationality of that Member State a right of residence if this would mean that the child would have to leave the EU with his/her third-country parent. It emerged subsequently from the Chavez-Vilchez judgment that even if another – Dutch – parent were known besides the third-country national who could in principle assume the day-to-day and actual care of the child, this may not then be an immediate reason not to confer a right of residence on the third-country parent. According to the CJEU, it must be possible to establish that a dependency relationship does not exist between the child and the third-country parent to such an extent that the child would still be compelled to leave the territory of the EU if the third-country parent is denied a right of residence.

#### *No rejection on the basis of the passport requirement for children born in the Netherlands*

On 28 June 2019 the Aliens Act Implementation Guidelines (Vc) were amended with respect to the passport requirement for third-country children born in the Netherlands.<sup>63</sup> In these cases, the Immigration and Naturalisation Service (IND) does not reject a residence permit application for 'residence as a relative or family member' in case of the absence of a valid border-crossing document, provided the third-country national meets all other conditions for the residence permit. The reason for this is that when the births of children born in the Netherlands are reported, a birth certificate is drawn up.

58 CJEU, 10 May 2017, no. C-133/15, ECLI:EU:C:2017:354.

59 Government Gazette, 2019, no. 34157.

60 HvJ-EU, 10-05-2017, no. C-133/15, ECLI:EU:C:2017:354.

61 A third-country national is a foreign national coming from a country outside the European Union (EU)/EEA.

62 Immigration and Naturalisation Service (IND), 'Analyse Chavez-Vilchez', <https://ind.nl/Documents/Analyse%20Chavez-Vilchez.pdf>, consulted on 28-02-2020 (in Dutch).

63 Government Gazette, 2019, no. 34157.

The birth certificate contains the child's personal data and the parents' names. If the child's mother resides legally in the Netherlands on the day of the birth, the child is registered in the Personal Records Database (BRP) as a resident. This ensures that the identity of the child and his / her descent have been established in the BRP. In these cases, asking for a valid document for border crossing therefore has no added value.

### 3.2.4 Exchange

Young people from non-EU/EEA countries aged 18 to 30 can come to the Netherlands temporarily to live with a host family as an au pair or to participate in an exchange program by way of a recognised exchange organisation. In addition, young people can participate in the Working Holiday Program (WHP) or Working Holiday Scheme (WHS).<sup>64</sup> In 2019 the Netherlands concluded a WHP/WHS agreement with the countries Argentina, Australia, Canada, Hong Kong, New Zealand and South Korea. Young people aged 18 to 30 from one of the participating countries can reside in the Netherlands temporarily under certain conditions in the context of the cultural exchange program. The main purpose and the basis of a WHP/WHS is to become acquainted with Dutch culture and society. This basis is set out in a Memorandum of Understanding (MoU) between the two partner countries. The partner country also admits Dutch young people to their country on the same basis. The participating young person may not do any work that is contrary to the main purpose of the WHP/WHS. He/she may therefore only work occasionally to support the holiday financially.

#### *Au-pair agencies from EU or EEA countries as recognised sponsors*

On 1 April 2019, the Aliens Decree (Vb) and the Aliens Regulations (Vv) were amended in relation to the au-pair scheme. In the Netherlands, if an au-pair agency wants to have someone come to the Netherlands for stay as an au-pair, the au-pair agency must be recognised as a sponsor by the Immigration and Naturalisation Service (IND). Owing to the amendments to the Aliens Decree and the Aliens Regulations, the requirement no longer applies that the au-pair agency must be established in the Netherlands.<sup>65</sup> Au-pair agencies that are established in other Member States of the EU or EEA can also act as recognised sponsors if they meet the requirements. In order to be recognised as a sponsor, the agency must be a reliable partner of the IND. After it has been recognised, the organisation will be listed in the public register of recognised sponsors.

#### *Working Holiday Program (WHP) for young people from Hong Kong*

With effect from 1 January 2019 the WHP or Working Holiday Scheme (WHS) has been extended to young people from Hong Kong.<sup>66</sup> Each year, a maximum of 100 young people from Hong Kong between the ages of 18 and 30 years can get acquainted with Dutch culture and society by way of a working holiday of not more than one year. The procedure is started by applying for an entry visa at the Netherlands Consulate General in Hong Kong. The term of validity of the residence permit may not be extended.

#### *Change for permit holders in the Working Holiday Program (WHP)*

On 1 October 2019 the Decree implementing the Labour Act for Aliens (Employment) Act (BuWav) and the Aliens Act Implementation Guidelines (Vc) were amended in relation to residence permits on the basis of the Working Holiday Program (WHP).<sup>67</sup> Youths with a residence permit in relation to this program may only perform occasional work. On 1 October 2018 the term 'occasional work' was clarified as far as employment rights were concerned. This entailed that third-country nationals under this scheme were not allowed to work more than 12 weeks for the same employer. This clarification

64 Immigration and Naturalisation Service (IND), 'Working Holiday Program (WHP) / Working Holiday Scheme (WHS)', <https://ind.nl/Uitwisseling/Paginas/Working-holiday.aspx>, consulted on 28-02-2020 (in Dutch).

65 Information issued by the Immigration and Naturalisation Service (IND) on 09-12-2019.

66 Immigration and Naturalisation Service (IND), 'Nederland en Hong Kong starten per 1 January 2019 met internationaal uitwisselingsprogramma' ['The Netherlands and Hong Kong start an international exchange program on 1 January 2019'], <https://ind.nl/nieuws/Paginas/Nederland-en-Hong-Kong-starten-per-1-January-2019-met-internationaal-uitwisselingsprogramma.aspx>, consulted on 20-11-2019 (in Dutch).

67 Immigration and Naturalisation Service (IND), 'Wijziging voor vergunninghouders Working Holiday Program' ['Changes for permit holders in the Working Holiday Program'], <https://ind.nl/nieuws/Paginas/Wijziging-voor-vergunninghouders-Working-Holiday-Program.aspx>, consulted on 31-10-2019.

lapsed in 2019, through which the rule that no more than 12 weeks could be worked for the same employer no longer applies.<sup>68</sup> It must be examined on an individual basis whether the work performed is occasional. There is in any case no question of occasional work in the event of a fulltime year contract. This new policy also applies to third-country nationals who were in possession of a WHP residence permit before 1 October 2019 which is still valid on or after 1 October 2019.

The reason for the change is that countries with which the Netherlands has an agreement relation to the WHP deal differently with the term 'occasional work'. The way in which the Netherlands defines this term cannot be applied reciprocally by countries with which a Memorandum of Understanding has been concluded. This means that it will hold henceforth only that the work performed must be occasional. A WHP will not be issued if the purpose of stay differs from the purpose of stay for which the residence permit will be issued (cultural exchange).

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68 Government Gazette, 2019, no. 51742; *Bulletin of Acts and Decrees*, 2019, no. 297.

# 4 International protection (asylum)

## 4.1 Introduction

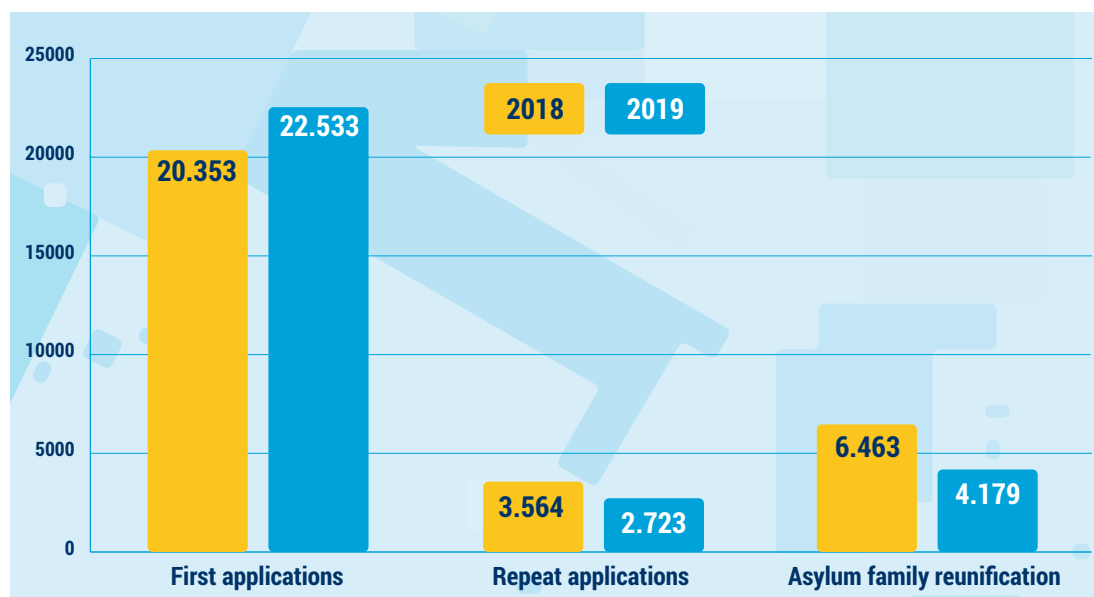
In this chapter, Dutch policy developments are explained that relate to handling cases of asylum applications. Below, first of all, the level of the asylum influx in 2019 is dealt with. More particularly developments are discussed concerning the substantive assessment of asylum applications, procedures for international protection and developments pertaining to reception, efficiency and the quality of the Dutch asylum system. Lastly statistics are given on the number of persons who have come to the Netherlands on the basis of resettlement or relocation.

## 4.2 Influx

In 2019, a total number of 29,435 applications<sup>69</sup> were filed for international protection, whereas there were 30,380 in 2018. This concerns first applications for international protection as well as repeat applications and persons journeying in connection with family reunion. There were 22,533 first applications in total in 2019. This is an increase of about 10.7 per cent with respect to 2018 in which 20,353 first applications were filed.

**Figure 2:**  
2018-2019 Development  
of asylum applications

Source: IND (2019), Asylum trends. Monthly report on asylum applications in the Netherlands and Europe, December 2019

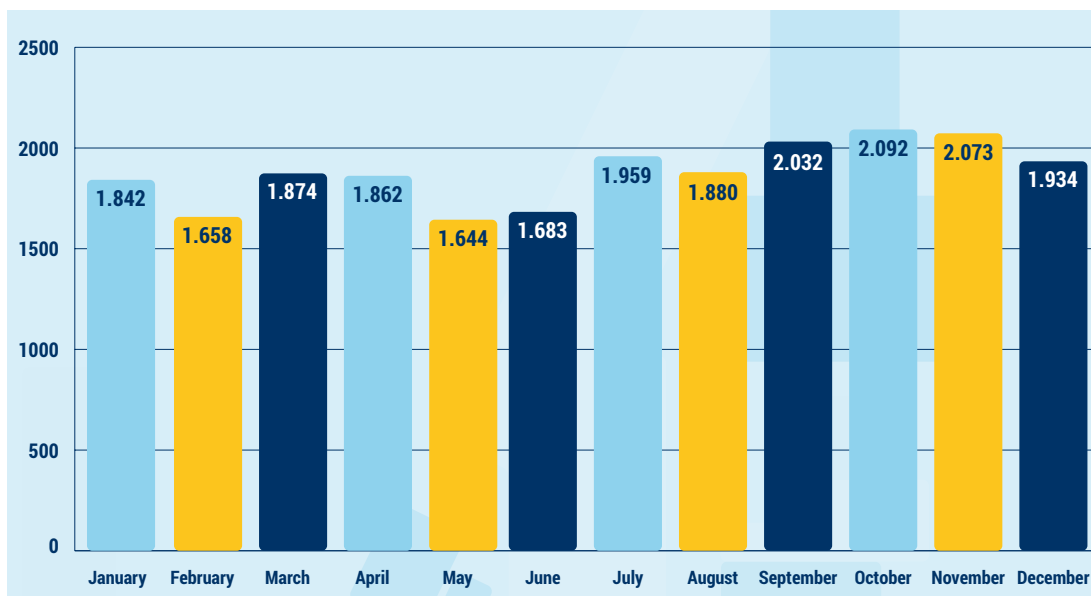


More specifically, in January 2019 about 1,842 first asylum applications were filed. In February however the number fell to 1,658, after which the number of applications in the following months gradually increased to 2,092 in October 2019. After October the number of first asylum applications fell again to 1,934 in December 2019.

<sup>69</sup> In this Annual Report the semi-annual and annual figures are reported on the basis of national definitions. They differ from the Eurostat figures. The figures for asylum according to Eurostat definition are available, but because only the national figures are available for the other sections, we have chosen to use them also for asylum.

**Figure 3:**  
Number of first asylum  
applications per month  
in 2019

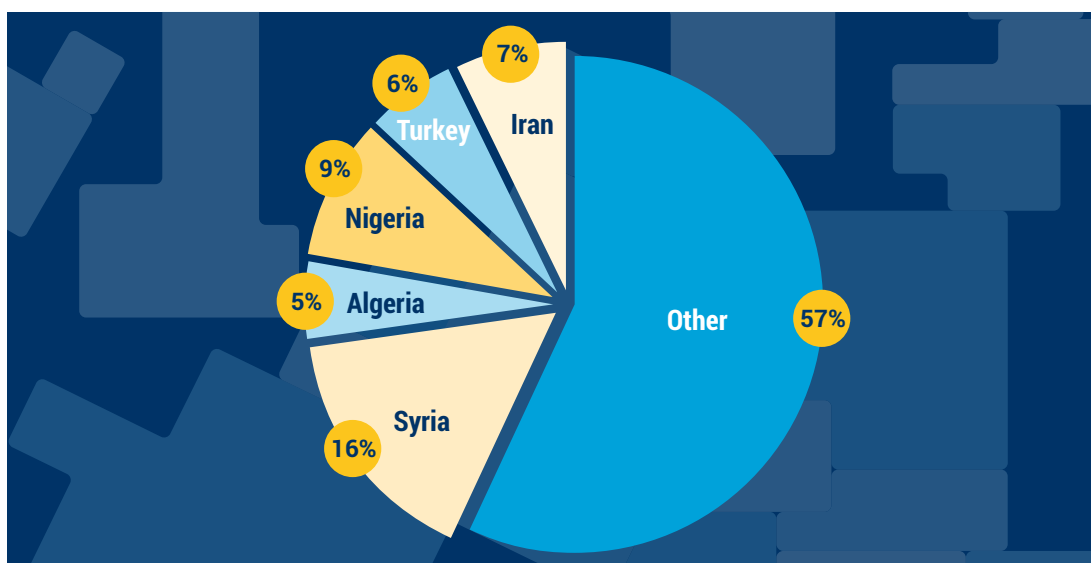
Source: IND (2019),  
Asylum trends. Monthly  
report on asylum  
applications in the  
Netherlands and Europe,  
December 2019



The top three nationalities of first asylum applicants in 2019 comprised Syrians (16%), followed by Nigerians (9%) and Iranians (7%). In 2018 the top three consisted of Syrians (15%), followed by Iranians (9%) and Turks (6%).

**Figure 4:**  
Nationality of asylum  
seekers - first  
application influx 2019

Source: IND (2019), Asylum  
trends. Monthly report on  
asylum applications in the  
Netherlands and Europe,  
December 2019



The number of repeat applications in 2019 was 2,723. This is a decrease by as much as 23.6 per cent compared to the number of following applications in 2018 (3,564). The top three nationalities of repeat applicants were Afghan (13%), Iraqi (11%) and Iranian (10%). The top three nationalities of repeat applicants in 2019 comprised Afghans (13%), Iraqis (11%) and Iranians (10%). The top three nationalities of following applicants in 2018 comprised Iraqis (18%), Afghans (18%) and Iranians (12%). The top three nationalities come from the same countries as in 2018.

In 2019 there were 4,179 people who journeyed to the Netherlands in connection with family reunification. People journeying in connection with family reunification in 2019 comprised only 13.8 per cent of the total number of asylum applications. In 2018 people journeying in connection with family reunification still comprised 21.3 per cent of the total number of asylum applications. The top three of people journeying in connection with family reunion in 2019 comprises Eritreans (43%), Syrians (33%) and Yemenites (5%).

### 4.3 Policy developments

This section deals consecutively with the following themes: reassessment of safe countries of origin, developments in procedures for international protection, policy developments regarding the substantive assessment of applications for international protection, developments in the reception, efficiency and quality of the Dutch asylum policy and developments in resettlement and relocation.

#### 4.3.1 Reassessment of safe countries of origin

In 2015 a list of safe countries of origin was introduced in the Netherlands. To date the countries considered safe countries of origin are Albania, Algeria, Andorra, Australia, Bosnia-Herzegovina, Brazil, Canada, Georgia, Ghana, Iceland, India, Jamaica, Japan, Kosovo, Liechtenstein, Morocco, Monaco, Mongolia, Montenegro, New Zealand, North Macedonia, Norway, Ukraine, San Marino, Senegal, Serbia, Togo<sup>70</sup>, Trinidad and Tobago, Tunisia, Vatican City, the United States of America and Switzerland.<sup>71</sup> Under European legislation, the Member States also consider one another to be safe countries of origin. This also applies to the United Kingdom up to and including 31 December 2020.

#### Safe countries of origin

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

In 2019 a quick reassessment was carried out of countries on the list of safe countries of origin. In a quick assessment, the country in question is reviewed on the basis of the following:

- democratic government;
- protection of the right to liberty and security of person;
- freedom of expression;
- freedom of religion and association;
- protection against discrimination and persecution by third parties;
- access to independent investigation;
- access to an independent judicial authority;
- and access to legal remedies.

If there has been a considerable deterioration in one of the first three points or if deterioration is ascertained in a majority of the criteria, a comprehensive assessment of the country of origin will follow. In the interim the safe country policy will be suspended with respect to that country.

In September 2019 the Minister for Migration informed the House of Representatives of the results of the reassessment of some of the countries considered safe countries of origin. In total (exclusive of the Member States of the EU) 32 countries are on the list, of which 19 countries have been reassessed. It emerged from the reassessment that, with respect to Serbia, there has been a considerable deterioration in the points “democratic government, protection of the right to liberty and security of person and freedom of expression”. A more comprehensive assessment was therefore necessary. After the comprehensive assessment, Serbia still counts as a safe country of origin, with

<sup>70</sup> Although Togo is on the list, the situation in Togo is being re-examined. Consequently, the safe country policy will not be applied at present to asylum seekers from Togo.

<sup>71</sup> For more information, please see: *National Government*, ‘Lijst van veilige landen van herkomst’, <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/vraag-en-antwoord/lijs-van-veilige-landen-van-herkomst>, consulted on 31-12-2019 (in Dutch).

<sup>72</sup> *Ibid.*



the exception of journalists and persons regarding whom it is plausible that they will be placed in criminal detention. In individual cases, special attention should also be devoted to LGBTIs<sup>73,74</sup>.

In 2019 it was also reassessed whether Moldova can be considered a safe country of origin. This was examined previously in 2017.<sup>75</sup> The outcome of the assessment in 2017 was that Moldova cannot be considered a safe country of origin. It was concluded in 2019 that in Moldova, besides several positive developments, there are still several major shortcomings in relation to the rule of law and fundamental freedoms, therefore it cannot yet be considered a safe country of origin.

#### 4.3.2 Procedures for international protection

##### *As of 1 July a new procedure for subsequent asylum applications*

With effect from 1 July 2019 the procedure for submitting subsequent asylum applications has been amended on two points.<sup>76</sup> First of all, since then it has been possible not to hold an interview in the event of a repeated asylum application in certain cases. This is the case if it is not necessary to interview an asylum seeker for the sake of a careful assessment of the application, and it already evident on the basis of the documents that the application has no chance of success. This amendment enables the Immigration and Naturalisation Service (IND) to dispose of (complete) applications that have no chance of success in an expedited manner. This measure was included in the Coalition Agreement of October 2017.

The second amendment entails that since July 2019, the asylum seeker or their legal representative has had to submit the application in person at the application centre in Ter Apel. If the application is also submitted on behalf of the asylum seeker's family members, those family members must also go along to Ter Apel to apply. An asylum application that is not submitted in person at the application centre is considered an incomplete application. The third-country national is then in default because he/she did not comply with the statutory provision for submission of the application. In that case the third-country national will be given a period of one week still to submit the application in person. If this is not done, the application is no longer handled, which leads in addition to termination of the right to reception. Previously, asylum seekers had to make their wish for a subsequent asylum application known in writing (the notification procedure), after which the IND invited the asylum seeker to submit the subsequent application. Until the time of submission, in principle, the asylum seeker had no right to reception. This procedure was changed further to a ruling of the Administrative Jurisdiction Division of the Council of State (AbRvS) of 28 June 2018.

##### *The Immigration and Naturalisation Service (IND) is making efforts to shorten processing times*

The Minister for Migration wrote in a letter to the House of Representatives on 17 April 2019 that a too low forecast (last year about 5,500 more first asylum applications were submitted than expected), combined with a decrease of the capacity at the IND because of the expected lower influx, caused the waiting times for asylum seekers in the Netherlands to increase last year.<sup>77</sup> From April 2019 the IND has sent the authorised representatives of all asylum seekers who at that time had been in the procedure for more than three months a letter about the expected duration of the procedure.<sup>78</sup> In addition there is a new internet page on the website of the IND devoted to information on the duration.

73 LGBT stands for lesbian, gay, bisexual and transgender.

74 *Parliamentary Papers II*, 2018-2019, 19637, no. 2531.

75 *Parliamentary Papers II*, 2018-2019, 19637, no. 2563.

76 *Government Gazette*, 2019, no. 34157.

77 *Parliamentary Papers II*, 2018-2019, 19637, no. 2492.

78 The processing time of asylum applications is the period between the report of an asylum seeker to the Aliens Police, Identification and Human Trafficking Department (AVIM) and the first decision of the IND on the asylum applications.

The IND is making efforts to reduce the processing times.<sup>79</sup> The aim is to dispose of most of the asylum applications within the statutory time limit in 2021.<sup>80</sup> The IND has used a combination of measures. In 2018 for instance, 200 additional FTE<sup>81</sup> were recruited, to which another 150 FTE were added in 2019. The IND is recruiting even more FTE, but the training of new staff takes time. In order to tackle the recruitment and training of new staff as efficiently as possible, the IND has a central recruitment and training program. In addition, the Spring Memorandum includes a higher structural and stable financing of the IND.<sup>82</sup> Measures are also included to work faster and smarter in the asylum process. On the 18th of November the Minister for Migration announced<sup>83</sup> to the House of Representatives that

### Reception centre for asylum seekers in Ter Apel, The Netherlands

Photo: IND, 2018

an independent external party will be demanded to analyse the execution of the asylum procedure at the IND in order to come up with proposals in the short term that should lead to further improvements in the execution of the asylum procedure.<sup>84</sup>

### *Program for Flexibilisation of the Asylum System*

In the Coalition Agreement from 2017, the ambition was set out to organise a flexible asylum system so that the Netherlands could continue to respond flexibly to fluctuations in the reception and/or composition of the asylum influx.<sup>85</sup> In July 2018, the Minister for Migration notified the House of Representatives that the partners in the organisations cooperating in the asylum system had started a Program for Flexibilisation of the Asylum System. In the Program, work is done to arrive at measures for a more flexible and effective asylum system, which will enable a better response to fluctuations in the asylum influx. Revision of the asylum procedure should also result in the ability to go through the procedure more quickly and in better compliance of Dutch asylum policy with European legislation.<sup>86</sup>

79 Immigration and Naturalisation Service (IND), 'IND werkt hard aan kortere doorlooptijden' ['IND is working hard on shorter processing times'], <https://ind.nl/nieuws/paginas/ind-werkt-hard-aan-kortere-doorlooptijden.aspx>, consulted on 01-05-2019 (in Dutch).

80 *Parliamentary Papers II*, 2018-2019, 19637, no. 2543.

81 FTE stands for 'full-time equivalent'. It refers to the number of hours worked by a single employee in a week. The annual FTE count is considered to be 2,080 hours, which breaks out into eight hours per day, five days a week. FTE is used to convert the hours worked by part-time employees into those worked by full-time employees. This is for ease of calculating the cost - in time, money and personnel - of the project, since it standardizes the measurements.

82 *Parliamentary Papers II*, 2018-2019, 19637, no. 2543.

83 *Ibid.*

84 *Parliamentary Papers II*, 2018-2019, 19637, no. 2585.

85 'Confidence in the Future': Coalition Agreement 2017-2021, VVD, CDA, D66 and ChristenUnie (2017).

86 *Parliamentary Papers II*, 2018-2019, 19637, no. 2539.

A measure taken with effect from 1 July 2019, was the change of the procedure for submitting subsequent asylum applications. Since then, the asylum seeker has had to submit the application in person at the application centre in Ter Apel, and this can no longer be done in writing. In addition, it has been possible since then to leave out the interview if it is not necessary to interview an asylum seeker to ensure a careful assessment of repeated asylum applications. Revision of the procedure for submitting a subsequent asylum application contributes to the recommendation of the Van Zwol Committee to effect a tight management of the duration of second and following asylum procedures (see also section 2.3.2 under 'public debates').

Furthermore, in the interests of a smooth transition to integration or departure, a target-group-oriented approach is used. This means inter alia that the principle of 'first in first out' can be abandoned if a certain case or group of cases so requires. This reduces the waiting time for applicants for international protection under the Dublin III Regulation<sup>87</sup> and asylum applications by applicants coming from safe countries sometimes by several months. This working method has been tested in practice since the beginning of 2019. In addition, a distinction is made in the asylum process between applications with a good chance of success and applications with little chance of success. This helps to facilitate quick civic integration of asylum seekers with a good chance of a permit and an effective return of asylum seekers whose applications have little or no chance of success.

Part of the above-mentioned flexible asylum system is also the organisation of common locations for third-country nationals (GVLs). A GVL is a medium-sized processing location where asylum seekers stay temporarily. The implementing organisations within the migration domain are accommodated here under one roof and, in close cooperation, they provide for the flexible target-group-oriented asylum process. This includes the Immigration and Naturalisation Service (IND, the organisation for admission), the Central Agency for the Reception of Asylum Seekers (COA, the organisation for reception) the Repatriation and Departure Service (DT&V, the organisation for return), the Royal Netherlands Marechaussee (KMar) and the National Police, Unit Foreign National's Identification and Human Trafficking (AVIM).

In principle, this means that asylum seekers stay at a GVL from the beginning of their procedure until the time of admission or rejection. This enables the asylum process to run effectively and efficiently and asylum seekers need to travel as little as possible in the Netherlands. The location in Ter Apel already functions as a GVL in many respects, and the location in Budel is being developed further as a GVL in the period 2019-2024. In addition, the cooperating organisations within the asylum system have started the acquisition of a new GVL location together.

Within the Program for Flexibilisation of the Cooperating Organisations in the Asylum System, there are other measures in addition that will be developed or deployed further from 2020.

#### 4.3.3 Substantive assessment of applications for international protection

##### *Reports by asylum seekers in a Dublin procedure of trafficking in human beings*

The Aliens Act Implementation Guidelines (Vc) have been amended with respect to applicants to which the Dublin Regulation applies (see box 4)<sup>88</sup> who make reports of trafficking in human beings. The amendment of the Guidelines entered into effect on 1 August 2019.<sup>89</sup> Until that date, third-country nationals who reported trafficking in human beings were put in possession of a temporary residence permit within a target period of 24 hours.

Nevertheless, pressure arose on the investigating authorities owing to the increase in the number of reports of trafficking in human beings made by third-country nationals, especially with regard to appli-

87 The Dublin Regulation prescribes that an asylum application must be handled in the country where the asylum seeker entered the EU.

88 Government Gazette, 2019, no. 40593.

89 Ibid.

cants for international protection under the Dublin Regulation. At the time a victim makes a report or cooperates in the criminal investigation, she or he is eligible to a temporary residence permit. Because of issuing this temporary residence permit, the Dublinclaim expires based on European regulations and this results in the Netherlands being responsible for the substantive handling of the asylum application that follows. The third country national could not be transferred to the Member State that was in first instance responsible for the asylum application. The majority of the reports by this group do not contain any prospects of conviction of trafficking in human beings that is committed in the Netherlands, or any prospects of conviction that lead to the identification of an offender.

In that case the residence permit is revoked with retroactive effect to the end date of the criminal investigation, but the possibility to transfer the third-country national under the Dublin Regulation no longer exists at that time.

Through the amendment, applicants for international protection under the Dublin III Regulation can still be eligible for this residence permit but only if the Public Prosecution Service (OM) has established that the presence of the third-country national in the Netherlands is necessary for the criminal investigation. If this is not the case, no temporary residence permit will be issued and the Dublin procedure can be resumed.

### Dublin-claim

The Dublin Regulation is a European Regulation. It specifies how to determine which Schengen country is responsible for handling an application for international protection (asylum). In most cases the country where the third-country first entered the Schengen Area is responsible. But it is also possible that a different country is responsible because family members or relatives live there who have residence permits there. If it is evident from investigation that a country other than the Netherlands is responsible for an asylum application, the asylum application will not be handled. Third-country nationals who do not apply for asylum in the Netherlands, but who had done so before in a different Schengen country can also be transferred to that different country.<sup>90</sup>

### *Measures against the influx of Moldovan nationals requesting asylum*

In December 2019, the Dutch government reported on measures against the high influx of Moldovan asylum applicants in the Netherlands.<sup>91</sup> These measures were taken because of the relatively high influx of Moldovan citizens to the Netherlands in November 2019, who arrived in busses at the central application centre of Ter Apel. The vast majority of these applicants had previously applied unsuccessfully for asylum in other EU Member States. Since 2014, Moldovan citizens have been able to travel visa-free in the Schengen area.

Measures include prioritisation of the handling of these applications by a special team within the Immigration and Naturalisation Service (IND) with the aim to reduce the application procedure to a maximum period of three to four weeks. Moreover, Moldovan applicants will be housed in more austere reception facilities, there is a focus on return to Moldova, and there is a targeted approach of detaining applicants when necessary and possible. More attention is also being paid to tackling smugglers who bring Moldovan migrants to the Netherlands, and there have been constructive talks with the Moldovan authorities on the facilitation of return. In 2019 it was also reassessed whether Moldova can be considered a safe country of origin. This had previously been studied in 2017. The outcome of the assessment in 2017 was that Moldova could not be considered a safe country of origin. In 2019 the conclusion was that in Moldova - besides a number of positive developments - there are still major shortcomings in relation to the rule of law and fundamental freedoms and therefore Moldova still cannot be considered a safe country of origin.<sup>92</sup>

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

91 *Parliamentary Papers II*, 2018-2019, 19637, no. 2563.

92 *Ibid.*

#### 4.3.4 Reception, efficiency and quality of the Dutch asylum policy

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

In several letters to the House of Representatives that were drafted in April<sup>93</sup> and July<sup>94</sup> 2019, the Minister for Migration explained which measures were taken in 2019 with respect to asylum applicants who, through disruptive and transgressive behaviour, are regularly causing nuisance within and outside reception centres in the Netherlands. Those measures were already intensified in 2018. This was as a result of signals from different municipalities of nuisance caused by a limited group of asylum seekers. This concerns nuisance at the locations of the Central Agency for the Reception of Asylum Seekers (COA), but also outside them, such as nuisance in public transport or shoplifting.

This nuisance results in undesirable social consequences. A measures taken in order to overcome this, is the use of shuttle busses between the application centre in Ter Apel and the train station. In May 2019 there has also been the appointment of three special marines of organisations cooperating in the immigration process who can be deployed in all reception centres if residents cause nuisance. They aim at a joint tackling of asylum seekers whose disruptive and transgressive behaviour regularly causes nuisance within and outside the reception centre, and act as a link between the parties concerned. There has also been a tightening of the house rules as of May 2019 in the Extra Counselling and Supervision location (EBTL) in Hoogeveen by the Central Agency for the Reception of Asylum Seekers (COA). The nature of the location is now more focused on supervision and enforcement and less on restriction and counselling. Special Investigating Officers (Boa's) have been appointed and the area to which those causing such nuisance may go in Hoogeveen has been restricted.<sup>95</sup> The location of the EBTL in Amsterdam was closed on 1 November 2019.

The possibility is being examined to create a separate reception location for 'refugees from safe countries'. This reception centre, which should be austere in nature, should see to it that the Netherlands becomes less attractive to refugees from safe countries. At the end of 2019 a suitable reception location had not yet been found. The Minister for Migration stated in a letter to the House of Representatives in December 2019 that, as an interim solution, the COA was asked to make reception of this target group more austere and more manageable at existing locations. For applicants for international protection under the Dublin III Regulation<sup>96</sup> (regarding whom it is usually clear beforehand that they are not eligible for an asylum residence permit in the Netherlands) the possibility of more austere and tightened reception is being examined.<sup>97</sup>

In addition, the intensified individual approach is a major factor in the reduction of nuisance. To obtain clarity on who causes the most nuisance, the Ministry of Justice and Security prepares a monthly list: the Top-X list. The parties cooperating in migration and asylum matters discuss together with parties such as municipalities, the police and the Public Prosecution Service (OM) which measures are to be taken to tackle persons on this list. Examples of measures are an expedited disposal of the asylum application, imposition of a measure restricting freedom and/or an exclusion order, imposition of a high-frequency reporting obligation, making police reports against perpetrators of offences etcetera. At the end of 2019 this approach was started in the northern provinces of the Netherlands, under the leadership of marines of organisations cooperating in the immigration process. Implementation of the Top-X approach throughout the Netherlands is foreseen in mid-2020.

93 *Parliamentary Papers II*, 2018-2019, 19637, no. 2478.

94 *Parliamentary Papers II*, 2018-2019, 19637, no. 2510.

95 *Parliamentary Papers II*, 2018-2019, 19637, no. 2572.

96 The Dublin Regulation prescribes that an asylum application must be handled in the country where the asylum seeker entered the EU.

97 *Parliamentary Papers II*, 2018-2019, 19637, no. 2510.

### *Recommendations on living conditions of children in reception centres*

In 2018 the report 'Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties' ['Living conditions of children in reception centres and family centres'] was published on commission by the Working Group 'Kind in asielzoekerscentrum (azc)' ['Child in an reception centre']<sup>98</sup> and the Central Agency for the Reception of Asylum Seekers (COA). The report contains 92 recommendations divided across nine topics, including topics such as Recreation and leisure time, Safety and Participation. The Minister for Migration sent a Letter to the House of Representatives on 13 September 2019, enclosing a table of measures with an overview of how the recommendations have been followed up.<sup>99</sup>

Examples of recommendations followed are the development of child-friendly information material in the form of a comic strip entitled 'Ik woon gewoon' ['I live an ordinary life'] about life at a COA location and the facilitation of swimming lessons for children in reception centres. Activity areas for children and young persons have also been included in the Schedule of Requirements for COA locations, namely special areas for children both inside and outdoors (sport fields and outdoor playgrounds), play facilities (children's playgroups) and recreation places (recreation hall for children and an activity area). Care-related recommendations that have been tackled are e.g. informing residents of the possibilities of Mental Healthcare (GGZ) and providing clarification of the prescription of paracetamol. A separate multidisciplinary consultative body on children has also been formed.

### *Access to medical care for asylum seekers*

From 1 December 2019, asylum seekers aged 18 years and older have only received medically necessary care that cannot not be postponed if they have been registered in the Registration under the Asylum Seekers (Medical Care) Regulations (RMA) for less than two months in the Netherlands.<sup>100</sup> With the implementation of the improved asylum procedure in 2010, asylum seekers who (during the rest and preparation period) waited for the start of their asylum procedure were only eligible for medical essential and non-postponable medical care and after the asylum procedure they would receive full medical care on ground of the RMA.<sup>101</sup>

This differentiation was linked to the three different types of reception facilities. In the reception facilities where asylum seekers stayed prior to the asylum procedure (Central reception centre and the Process reception location) there was only medical essential and non-postponable care. In the reception centres where asylum seekers stayed after, the full RMA would be applicable. Because of the high influx in 2015 and the long processing times, this differentiation could not longer be made because asylum seekers stayed longer at the reception facilities. Halfway 2019 it was reassessed how the starting point as meant for in the improved asylum procedure could be repaired. Because the differentiation on access to healthcare could not be made based on the reception location, this differentiation is made based on the length of stay of the asylum seeker.

98 The Working Group *Kind in azc* [Child in an reception centre] is a coalition of UNICEF Nederland, Defence for Children, Dutch Council for Refugees, Kerk in Actie [Church in Action], Warchild, De Vrolijkheid (a foundation for art in reception centres) and Save The Children Nederland. The Working Group was formed in 2010 because it was evident from the study 'Kind in het centrum: Kinderrechten in asielzoekerscentra' ['Child in the centre: Children's rights in reception centres'] that asylum reception for children does not meet the requirements of the UN Convention on the Rights of the Child (UNCRC). The members of the Working Group join forces to make efforts for the rights of children in reception centres to improve their situations in those centres.

99 *Parliamentary Papers II*, 2018-2019, 19637, no. 2530.

100 RMA Healthcare, 'Regeling Medische zorg Asielzoekers', <https://www.rmasielzoekers.nl/home/over-rma/regeling-medische-zorg-asielzoekers-rma>, geraadpleegd op 21-03-2020 (in Dutch).

101 Asylum seekers in the Netherlands are automatically insured for most care for which Dutch nationals are also insured. In the Asylum Seekers (Medical Care) Regulations the care for which asylum seekers are eligible is described. The care for asylum seekers is care in kind. This means that the care is only insured if the care provider has a contract with RMA Healthcare. For asylum seekers there is no contribution or own risk.

#### 4.3.5 Other policy measures

##### *Pilot project of detention by the Repatriation and Departure Service*

In May 2019 a pilot project was started by the Repatriation and Departure Service (DT&V) in which applicants for international protection under the Dublin III Regulation who previously have absconded and report for re-admission at the reception centre in Ter Apel, are placed in detention. This detention takes place in case there are sufficient grounds for detention.<sup>102</sup>

Legislative proposal for a legal basis for border detention after rejection of a request for asylum On 2 September 2019, a proposal was submitted to amend the Dutch Aliens Act (Vw)<sup>103</sup> as a result of the Gnandi judgment<sup>104</sup> and the decision in the Case C. et al.<sup>105</sup> and the related judgments of the Administrative Law Division of the Council of State (AbRvS) of 5 June 2019.<sup>106</sup> The judgments of the Court of Justice of the European Union have considerable consequences for current legislation.<sup>107</sup> These judgments necessitate amendment of the legal basis in the appeal stage for the residence of third-country nationals whose asylum application has been rejected in the border procedure. The AbRvS held that at present, national legislation does not have a suitable basis for imposing a custodial order at the border on third-country nationals whose asylum applications have been rejected. This means that third-country nationals who submit an asylum application at the border can no longer be held in border detention after the decision to reject their application. Consequently, these third-country nationals gain entry to the Netherlands. This puts the importance of border control at risk. In order to ensure that border detention remains possible, an urgent legislative proposal for amendment of the Aliens Act has been submitted.

#### 4.3.6 Resettlement and relocation

In 2019 less than 10 relocations took place. In 2019 a total of 707 resettled refugees also arrived in the Netherlands on the basis of the national multi-year policy framework for resettlement (the national quota).<sup>108</sup> The countries of origin were Syria, Sudan, Eritrea, Democratic Republic of the Congo, South Sudan, Burundi, Yemen, Pakistan, Ethiopia and Somalia. In addition, resettlement in the Netherlands took place in 2019 on the basis of European migration agreements, namely the EU-Turkey statement. Pursuant to the EU-Turkey statement the Netherlands resettled 1,152 Syrian refugees in 2019.

### Resettlement and relocation

**Resettlement:** Most refugees are accommodated in the region. The UN refugee organisation UNHCR can recommend refugees who for various reasons are more vulnerable than other refugees for resettlement. After recommendation by UNHCR, it will be determined prior to their arrival in the Netherlands whether the persons concerned are eligible for asylum status in the Netherlands. Worldwide, there are about thirty countries that have a resettlement programme, including the Netherlands.

**Relocation:** Relocation refers to the transfer of asylum seekers from one EU Member State to another. This is an internal EU process in which another Member State helps to reduce the pressure of a relatively large asylum population by assuming responsibility for some of these asylum seekers by including them in the national asylum procedure.<sup>109</sup>

<sup>102</sup> This information was issued by the Repatriation and Departure Service (DT&V) on 09-04-2020.

<sup>103</sup> *Parliamentary Papers II*, 2018-2019, 35271, no. 2.

<sup>104</sup> *HvJ EG*, 18-06-2018, no. C-181/16 (Gnandi).

<sup>105</sup> *HvJ EG*, 05-07-2018, no. C-269/18 PPU.

<sup>106</sup> *AbRvS*, 05-06-2019, no. 201808923/1/V3, ECLI:NL:RVS:2019:1710 and *AbRvS*, 05-06-2019, no. 201808670/1/V3, ECLI:NL:RVS:2019:1843.

<sup>107</sup> *Parliamentary Papers II*, 2018-2019, 35271, no. 3.

<sup>108</sup> This number differs from the number reported in the Asylum Trends 2019 in connection with the numerical definitions used. This information was provided by the Ministry of Justice and Security (J&V) on 26-03-2020.

<sup>109</sup> For more information, please see: United Nations High Commissioner for Refugees (UNHCR), 'begrippenlijst' ['terminology'], <https://www.unhcr.org/nl/media/begrippenlijst/>.



# 5 Unaccompanied minors and other vulnerable groups

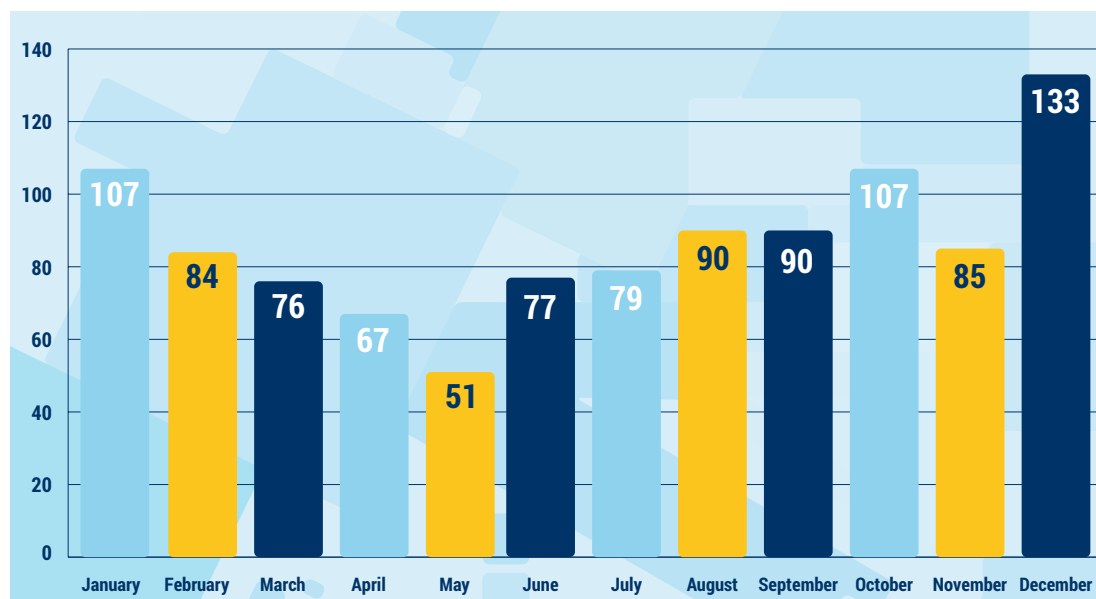
## 5.1 Introduction

This section deals with policy changes and measures relating to unaccompanied minors (UAMs) and other vulnerable groups. First of all the number of applications and the most frequently occurring nationalities of unaccompanied minors in the Netherlands are given. No statistics are available on other vulnerable groups.

The number of applications<sup>110</sup> by UAMs decreased in 2019 (1.046 in 2019 compared with 1.225 in 2018).<sup>111</sup> The number of applications for international protection by UAMs was lower in the month of January 2019 (107 applications) than in the month of December 2019. During the peak month of December, 133 applications were submitted.

**Figure 5:**  
Development of the  
number of asylum  
applications by UAMs in  
2019

Source: IND (2019). Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2019



In 2019 most UAMs came from Syria (29%), Morocco (16%) and Eritrea (11%). The top three in 2018 were Eritrea (35%), Syria (14%) and Morocco (12%).

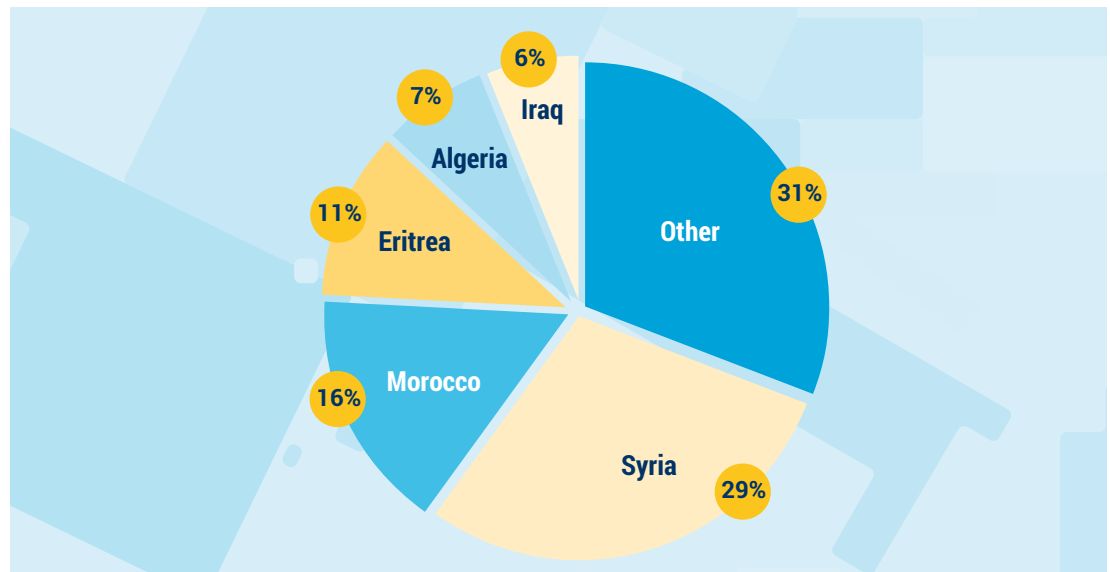
<sup>110</sup> In this Annual Report the annual and semi-annual figures are reported on the basis of national definitions. These are different from the Eurostat figures. This is because the figures according to Eurostat definitions are not yet available.

<sup>111</sup> Immigration and Naturalisation Service (IND), Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2018: [https://ind.nl/en/Documents/Asylum%20Trends%20\(Hoofdrapport\)%20december%202018.pdf](https://ind.nl/en/Documents/Asylum%20Trends%20(Hoofdrapport)%20december%202018.pdf).



**Figure 6:**  
**Nationality of UAMs**  
**in 2019**

Source: IND (2019), Asylum Trends: Monthly Report on Asylum Applications in the Netherlands, December 2019



## 5.2 Policy developments

Several policy developments occurred in 2019 in relation to UAMs and other vulnerable groups. Changes mainly concern measures to improve the protected reception of UAMs and measures taken against UAMs whose disruptive and transgressive behaviour regularly causes nuisance within and outside reception centres in the Netherlands. The main changes are explained briefly below.

### 5.2.1 Unaccompanied Minors (who apply for asylum)

#### *Vietnamese unaccompanied minors disappeared from protected reception centres*

The broadcast of the radio program *Argos* on 30 March 2019 revealed that in the period between 2015 and 2019 about 60 Vietnamese children disappeared from the protected reception centres.<sup>112</sup> The House of Representatives and the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children requested an investigation into these disappearances. The protected shelter of unaccompanied minors (UAMs) was established, among other things, for minors who were at high risk of becoming human trafficking victims, or who had become victims already, and need extra protection.

In a letter<sup>113</sup> to the House of Representatives of 24 April 2019, the former Minister for Migration announced two related investigations into the UAMs who left from the protected reception centres to an unknown destination without supervision. First of all, an analysis was carried out of the data available from the partners cooperating within the migration process about the departure of UAMs from the reception facility with an unknown destination. The Expertise Centre on Human Trafficking and People Smuggling (EMM) conducted an investigation with two research directions. On the one hand, the EMM investigated the scope of and circumstances in which persons who hold Vietnamese nationality left the protected shelter with an unknown destination in the period 2015 to 2019. On the other hand, the EMM investigated the involvement of persons who hold Vietnamese nationality in signals from and investigations into human trafficking and smuggling in the Netherlands in the period 2015 to 2019. The results of the two investigations were sent to the House of Representatives on 23 March 2020.

<sup>112</sup> This was shown by research of the VPRO radio program *Argos* that was broadcast on 30-03-2019. *Argos* obtained figures from the Central Agency for the Reception of Asylum Seekers (COA).

<sup>113</sup> *Parliamentary Papers II*, 2018-2019, 28638, no. 108.

The results show that the group of Vietnamese children is part of a larger group of approximately 1,750 children who disappeared from different types of reception centres between 2015 and 2019.<sup>114</sup> Among them were 80 Vietnamese children. Based on the two investigations, the Ministry of Justice and Security (J&V) concludes that half of the hundreds of UAMs disappear from Dutch asylum reception every year are already gone before the decision on the first asylum application has been taken.<sup>115</sup> Vietnamese UAMs, more than the other groups investigated, appear to be set up for transit to the United Kingdom and regard the Netherlands only as a transit country. Because Vietnamese UAMs travel quickly, the possibilities that the Netherlands can do something about this are limited.

For this reason, the Netherlands became the initiator of EMPACT-Trafficking Human Beings (THB) in 2019.<sup>116</sup> This is an EU project for cooperation against human trafficking involving 29 countries and four EU agencies. EMPACT-THB is also committed to exploring structural partnerships with non-EU countries as well. Vietnam is one of the countries with which such closer cooperation on human trafficking and smuggling is being investigated (more information about EMPACT THB is provided in subsection 10.2.4).

#### ***Improvement measures for COA and Nidos regarding the accommodation and counselling of UAMs***

In a letter of 20 December 2018, the former Minister for Migration presented the House of Representatives with a study conducted by Inspectorate for Health and Youth Care (IGJ) and the Inspectorate of Justice and Security (IJ&V) on the quality of the reception and counselling of UAMs.<sup>117</sup> In their research report, the inspectorates noted down areas for improvement for the Central Agency for the Reception of Asylum Seekers (COA) and the Nidos Foundation<sup>118</sup> on the themes appropriate accommodation and counselling, administrative organisation, safety and living climate. The COA and Nidos prepared improvement plans to this effect at the beginning of 2019.

In its improvement plan, the COA stated that the UAM methodology had been evaluated and adapted. For instance, specific attention is now paid to future-oriented counselling and to the need of UAMs for social and emotional development. The working process in which mentors measure the experience of safety of a minor has also been tightened. Moreover, an addition has been made to the UAM methodology on how, when there is reason to do so, a safety plan must be prepared for a UAM. In addition, a process was started in the spring of 2019 to enable better counselling of UAMs without permits in the return process.

As a result of the inspection report, Nidos has been using a safety plan, on the basis of which youth protection officers can assess safety risks, and a counselling plan. Nidos has also included some areas for attention from the report in its accommodation methodology, which are being renewed at present. There is also an improvement process for better information transfer between mentors in case of the relocation of a UAM.

The inspectorates monitor the implementation of the improvement measures in order to assess whether the quality of the accommodation and counselling has visibly improved.

#### ***Nidos: pilot for unaccompanied minors who exhibit transgressive behavior***

In 2019 the Nidos Foundation, in coordination with COA, started a pilot in which several minors are accommodated in an adapted setting with a maximum of 12 places.<sup>119</sup> These are minors who exhibit transgressive behaviour and for whom there is no possible counselling anymore within the current UAM reception system in order to work on their behaviour and their prospects for the future within or

114 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Vermoedens mensenhandel Vietnamese kinderen bevestigd', <https://www.naio-naalrapporteur.nl/actueel/2020/vermoedens-mensenhandel-vietnamese-kinderen-bevestigd.aspx>, consulted on 26-03-2020 (in Dutch).

115 Parliamentary Papers II, 2019-2020, 27062, no. 110.

116 Ibid.

117 Parliamentary Papers II, 2018-2019, 19637, no. 2530.

118 The Nidos Foundation is conform the Dutch law the organisation responsible with the temporary custody for unaccompanied minors.

119 Parliamentary Papers II, 2018-2019, 19637, no. 2446.

outside the Netherlands. In 2018, the influx of UAMs from North Africa increased. These UAMs are accommodated in reception locations of the Central Agency for the Reception of Asylum Seekers (COA) and are in a dead-end situation, which often leads to incidents. Where existing measures are inappropriate, special accommodation and counselling are necessary. After one year, the pilot was extended for a second year, and its functioning will be evaluated in 2020.

#### *Detention of unaccompanied minors*

On 13 September 2019 the Minister for Migration informed the House of Representatives about an adjustment (addition) to the policy relating to detention of UAMs, which immediately entered into effect.<sup>120</sup> This concerns an adjustment for the purpose of preventing UAMs from going underground and because of this possibly becoming victims of exploitation. Within the prevailing policy framework there were no possibilities to detain UAMs found for the first time under supervision and who are not suspected of an offence, prior to their removal. The amendment will make it possible to place an UAM who is found for the first time under supervision and whose departure can in principle be effected within four weeks in a secured family facility. The period of four weeks was chosen to ensure that in most cases the departure of the mostly Albanian UAMs and their reunification with family or placement in an adequate reception facility can be effected.

### 5.2.2 Other vulnerable groups

#### *Following recommendations resulting from the report 'Living conditions of children in reception centres and family centres'*

Since the publication in June 2018 of the report<sup>121</sup> 'Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties' ['Living conditions of children in reception centres and family centres'] the Central Agency for the Reception of Asylum Seekers (COA) has made efforts to follow the recommendations addressed to the COA as an implementing organization.<sup>122</sup> Examples of recommendations followed are the development of child-friendly information material in the form of a comic strip entitled 'Ik woon gewoon' ['I live an ordinary life'] about life at a COA location and the facilitation of swimming lessons for children in reception.<sup>123</sup> Activity areas for children and young persons are also included in the Schedules of Requirements for COA locations and at many COA-locations, both reception centres and family centres, a contact person for children is now present.

#### *Termination Regulation for Long-term Resident Children*

On 29 January 2019 the temporary regulation (Regulation for Long-term Resident Children (DRLVK)) was terminated. Under this regulation, minor children resident in the Netherlands for a long term without a permanent right of residence could still obtain a residence permit under certain conditions.<sup>124</sup> The DRLVK was intended for cases in which children without a right of residence had already resided in the Netherlands for a long time and were therefore rooted in the Netherlands. The DRLVK had already been at issue for some time. In practice, many of the applicants proved not to satisfy the strict criteria of the regulation.<sup>125</sup>

120 Ibid.

121 Report UNICEF, 'Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties, Rapportage 1: conclusions and recommendations', [https://www.unicef.nl/files/1\\_online.pdf](https://www.unicef.nl/files/1_online.pdf), consulted on 12-12-2019 (in Dutch).

122 The study was carried out by the Avance research agency on behalf of the 'Kind in AZC' working group and the Central Agency for the Reception of Asylum Seekers (COA). The report contains 92 recommendations, partly addressed to COA and the Ministry of Justice and Security (J&V) and partly addressed to bodies responsible for care and education.

123 The comic strip can be read on: [https://www.coa.nl/sites/www.coa.nl/files/nieuws/media/bestanden/coa\\_-\\_ik\\_woon\\_gewoon.pdf](https://www.coa.nl/sites/www.coa.nl/files/nieuws/media/bestanden/coa_-_ik_woon_gewoon.pdf) (in Dutch).

124 DRLVK: Regulations for asylum seekers who have exhausted all legal remedies and who can still obtain a residence permit. Different conditions must be met in order to qualify for the DRLVK. The condition, which sparked the most public and political debate, was the so-called cooperation criterion. This means that people are only eligible for a permit under the DRLVK if the children (or the parents) have actively participated in the return to the country where they come from.

125 Immigration en Naturalisation Service (IND), 'Kinderpardon: Alles over de Afsluitingsregeling langdurig verblijvende kinderen', <https://ind.nl/over-ind/Paginas/Alles-over-de-Regeling-langdurig-verblijvende-kinderen.aspx>, consulted on 26-11-2019 (in Dutch).

### Unaccompanied minors from Somalia sharing a meal

Photo: IOM, 2018

Termination of the DRLVK was accompanied by transitional measures. The transitional measures were elaborated upon in the Termination Regulation.<sup>126</sup> In the context of the Termination Regulation, the Immigration and Naturalisation Service both reassessed some of the applications under the DRLVK and assessed new applications. The reassessed applications were applications submitted under the DRLVK and rejected on the basis of the so-called 'cooperation criterion'. In order to be eligible for a permit under the DRLVK, a third-country national must have cooperated in his or her departure. Applications rejected only on the basis of this criterion were reassessed pursuant to the Termination Regulation. Instead of the cooperation criterion, the more generous 'availability criterion' was applied. In order to satisfy this criterion, a third-country national must have been available in relation to departure. This entails that a third-country national must have been available for departure interviews and the obligation to report.<sup>127</sup> Third-country nationals who have not been eligible for the reassessment but who were of the opinion that they nevertheless would qualify for the Termination Regulation, could apply on their own initiative until 25 of February.<sup>128</sup>

#### *Residence permits for children subject to a child protection order*

Starting on 1 October 2019, the 'policy framework for children under a child protection order' entered into effect.<sup>129</sup> This policy framework was drafted by the Immigration and Naturalisation Service (IND) in collaboration with the Repatriation and Departure Service (DT&V) and the Child Care and Protection Board (RvdK).

The policy framework governs the situations in which a residence permit can be issued to a minor third-country national for whom a child protection order has been imposed. Whether or not the minor is eligible for a residence permit depends for example on the seriousness, duration and transferability of the child protection order imposed. A child can be eligible for residence on temporary humanitarian

<sup>126</sup> Government Gazette, 2019, no. 8116.

<sup>127</sup> Parliamentary Papers II, 2018-2019, 19637, no. 2459.

<sup>128</sup> By the so called Termination Regulation 569 children who stayed in the Netherlands got a residence permit after all. The Minister for Migration wrote this on 12-02-2020 in a letter to the House of Representatives. For more information, please see: Rijksoverheid, 'Brief Tweede Kamer Afhandeling Afsluitingsregeling Langdurig Verblifvende Kinderen', <https://www.rijksoverheid.nl/ministeries/ministerie-van-justitie-en-veiligheid/documenten/kamerstukken/2020/02/12/brief-tweede-kamer-afhandeling-afsluitingsregeling-langdurig-verblifvende-kinderen>, consulted on 12-12-2020.

<sup>129</sup> Parliamentary Papers II, 2018-2019, 19637, no. 2459; Parliamentary Papers II, 2018-2019, 19637, no. 2522.

grounds and if the juvenile judge has imposed a family supervision order (OTS, placement of the child under the supervision of a youth protection officer) for one year and the OTS cannot be transferred to another country, usually the country of origin.

The DT&V decides whether an OTS can be transferred to another country and gives advice to the IND. Family members can be eligible for a residence permit to reside with a child who has been put in possession of a temporary humanitarian residence permit because of an OTS. If the OTS can be transferred to another country, the child will not be eligible for a residence permit because it is assumed that the OTS can also be implemented in that country.

If the OTS is extended, the validity period of the residence permit can be extended or issued if the OTS still cannot be transferred. If the juvenile judge has terminated the parent's authority over the child, a residence permit can follow for the child on non-temporary humanitarian grounds. If the child placed under a supervision has been put in possession of a temporary humanitarian residence permit for one year due to an OTS and the OTS is still not transferable to another country, the child can also be eligible for a residence permit on non-temporary humanitarian grounds. Until 1 May 2019, the Minister for Migration could issue residence permits to children under child protection orders in individual cases, without a policy framework existing for this in immigration legislation. This was called the discretionary power of the Minister for Migration. Since 1 May 2019 the discretionary power has been abolished.

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# 6

## Integration

### 6.1 Introduction

This section centres on the developments in Dutch integration policy. In the Netherlands the Ministry of Justice and Security (J&V) is responsible for migration policy and the Ministry of Social Affairs and Employment (SZW) is responsible for integration policy. Integration in the context of this report is understood as including those aspects that are meant that help the migrant to faster become part of and take part in the Dutch society. This includes for example learning the language, starting to work and actively participate within the Dutch society.

Integration is important for migrants who wish to settle in the Netherlands for a longer term or permanently. Integration measures focus on language, education and guidance of newcomers on the labour market and in society. A part of the migrants from outside the European Union first need to undergo civic integration. This obligation applies to most residence permits. Civic integration means learning the Dutch language and getting to know Dutch society.

In 2019 further shape was given to the main features of the new civic integration system, and its more detailed elaboration was started. On 2 July 2018, in a letter<sup>130</sup> to parliament on the 'Main features of the task of changing civic integration' [in Dutch: 'Hoofdlijnen veranderopgave inburgering'] the Minister of SZW informed the House of Representatives of the plans for the new civic integration system. In his letter, the Minister writes that "in the past decades different views of civic integration and advancing insights into how newcomers can best and most quickly take full part in Dutch society led to a great many changes to policy".<sup>131</sup> The Minister of SZW stated as well that despite all those changes, a civic integration system has not yet been found in which persons undergoing civic integration reach their final goal adequately and in large numbers. According to the Minister, the current system, that assumes that newcomers achieve civic integration independently, does not satisfy this either. In his letter, the Minister states that the promise from 2013, when the current system was introduced, "has not been kept" because the system is "too complicated and ineffective". According to the Minister of SZW, the current civic integration system must change for these reasons.

The aim is that newcomers go to work more quickly by taking a civic integration course that is aimed at work, participation and learning the language. What someone is capable of and which course is appropriate is examined in an intake interview. Municipalities will again be responsible for arranging civic integration.<sup>132</sup> The loan system for asylum permit holders with which they now purchase their civic integration course will be abolished. The effective date of the new Civic Integration Act is scheduled for 1 July 2021.<sup>133</sup>

### 6.2 Policy developments

This chapter discusses measures taken in 2019 in the fields of the new civic integration system, civic integration education, the labour market and social support. A number of these measures are specifically directed at the integration of beneficiaries of international protection. The most important measures will briefly be discussed below.

<sup>130</sup> *Parliamentary Papers II*, 2017-2018, 32824, no. 223.

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> *Parliamentary Papers II*, 2019-2020, 32824, no. 294.

## 6.2.1 General civic integration measures

### *Pilot programs started as part of the Civic Integration Changing Task*

Because the new civic integration system will become effective in 2021, the Ministry of Social Affairs and Employment (SZW) supports Dutch municipalities in their preparation for the new Act. This is done inter alia in a pilot program that started in two phases from August 2019.<sup>134</sup> The purpose of this is to use lessons and experiences from practice in the development of the new civic integration system. A total of 97 municipalities will be working on 39 pilot programs. The pilots programs of the first phase are aimed at the following themes: dual pathways (combining language learning and work), female family members of beneficiaries of international protection and family migrants, and the broad intake and personal civic integration and participation plan (the PIP). The second phase includes among others the themes: unburdening and the self-reliant pathway. Municipalities could apply for the first phase until 31st of May 2019. The selected pilots started in august 2019. With regard to the second phase, the application period was until the 13th of September 2019. Next to the application for a pilot, municipalities could later apply for co-financing to have their current methods evaluated.

### *40 million extra for municipalities for civic integration*

Early in 2019, the Minister of Social Affairs and Employment (SZW) made agreements with municipalities to support and guide persons integrating (asylum status holders) who are covered by the current law, with a view to future policy, in their integration and learning of the Dutch language. As part of the agreements, the Minister of SZW will make a total of 40 million euros available to municipalities for 2019 and 2020.<sup>135</sup>

The additional resources also aim to help municipalities orient themselves towards their directing role in the new civic integration system in order to promote a smooth transition to the new system. At the moment, the directing role still lies with the persons integrating and they are also responsible for their own integration. With the new integration system, this coordinating role will be transferred to the municipalities from 1 July 2021.

### *Integration activities at reception centres will be continued*

The activities at reception centres aimed at integration and participation will be continued.<sup>136</sup> One of these activities is the program 'Preparation for civic integration' which is open to all beneficiaries of international protection who are living in reception centres and are subject to compulsory civic integration. In addition to Dutch language acquisition, this program consists of individual counselling and attention is being paid to knowledge of Dutch society (KNM) and orientation to the Dutch labour market (ONA)<sup>137</sup>. Because of these and other activities, time in the COA reception centres is spent as optimally as possible. An important principle is that all projects are part of one continuous line of counselling asylum seekers and residence permit holders. This means that, together with the parties involved, continuous availability of counselling is strived for in various fields: language, (preparation for) civic integration and guidance towards work, volunteering or education.

### *Exemption from civic integration requirement because of special individual circumstances*

On 21 March 2019 the Aliens Act Implementation Guidelines (Vc) were amended as a result of rulings of the Court of Justice of the European Union.<sup>138</sup> These rulings<sup>139</sup> have consequences for the policy with respect to the civic integration requirement for obtaining a stronger right of residence. The interpretation of the hardship clause is accordingly explained in such a way that personal individual circumstances will also be included in the request for exemption from the civic integration requirement.

<sup>134</sup> National Government, 'Pilots verandering opvang inburgering starten in 57 gemeenten', <https://www.rijksoverheid.nl/actueel/nieuws/2019/07/19/pilots-verandering-opvang-inburgering-starten-in-57-gemeenten>, consulted on 22-07-2019 (in Dutch).

<sup>135</sup> Parliamentary Papers II, 2019-2020, 32824, no. 245.

<sup>136</sup> Ibid.

<sup>137</sup> The exam component *Orientation on the Dutch labour market (ONA)* is developed to make it easier for people who are new in the Netherlands to find work. ONA is a way to find out what kind of work the person would like to carry out and what is necessary to reach that.

<sup>138</sup> Government Gazette, 2019, no. 16905.

<sup>139</sup> HvJ-EU, 07-112019, C-257/17; ECLI:EU:C:2018:876, (C and A); HvJ-EU, 07-11-2019, C-484/17, ECLI:EU:C:2018:878, K.



### 6.2.2 Improving the quality of civic integration education

#### *Stricter admission procedure for new civic integration language schools*

Since the summer of 2018, there is an increase in reports of signals of fraud by language schools.<sup>140</sup> From an analysis by the Inspectorate of the Ministry of Social Affairs and Employment (SZW), it became evident that for 87 of all 227 language schools in the Netherlands, there was an 'indication' or 'exceptionally strong indication' of abuse and fraud. Based on this analysis, the Minister of SZW decided in December 2018 that there would be a stricter procedure for the admission of language schools that provide civic integration courses to newcomers. This way, rogue language schools are prevented from being admitted to the civic integration system, and fraud is prevented.

In addition, the Minister of SZW decided that, as of 1 April 2019, language schools are no longer allowed to claim invoices from the Education Executive Agency (DUO)<sup>141</sup> in advance. As a result, acting fraudulently is less likely to pay off, making it riskier for the perpetrator. Moreover, language schools will only be paid a paper invoice if they also provide digital proof of it. Furthermore, other partners are explicitly being involved who can be of assistance by raising awareness of the risk of fraud, such as the Tax and Customs Administration. This makes it more likely that potential risks come to light. Finally, the organisation for quality control: 'Mind at Work'<sup>142</sup> will accelerate financial auditing of all language schools and also carry out more unannounced and unexpected inspections.

### 6.2.3 Labour market

#### *Exemption from the civic integration component Orientation to the Dutch labour market (ONA) for working people*

On 20 April 2019 a final regulation became effective for exemption from the exam component 'Orientation to the Dutch labour market' (ONA) for people participating in civic integration programs who already have a job.<sup>143</sup> Previously, this exemption was not possible. However, if someone participating in civic integration demonstrates in practice that they are able to function independently on the Dutch labour market, it is no longer necessary to demonstrate this via an exam, or compulsory courses such as ONA. To be eligible for exemption, the person participating in civic integration must be or have been employed. In addition, the person participating in civic integration is subject to the criterion that in the 12 months preceding their application, he or she must have worked at least six months for at least 48 hours per month.

#### *Project VOORwerk in the COA reception centres*

From November 2018 until December 2019 more than 2.000 residents took the 'VOORwerk' course in the reception centres of the Central Agency for the Reception of Asylum Seekers (COA).<sup>144</sup> Holders of a residence permit have been learning the unwritten rules of the Dutch labour market in this course. While the norms and values held by the permit holder may be the same as those in the Netherlands, the ways in which those values are expressed may differ, for example whether or not to make eye contact with the other person. With the project VOORwerk, the aim is to increase the chances of integration into the Dutch labour market for holders of a residence permit by raising awareness of these cultural difference, and attention is paid to the so-called soft skills. The course can be taken in all asylum reception centres in the Netherlands and the courses are offered in Arabic, Farsi, English, Tigrinya, and recently also in Turkish. VOORwerk is co-financed by the European Asylum Migration and Integration Fund (AMIF).

<sup>140</sup> *Parliamentary Papers II*, 2018-2019, 32824, no. 244.

<sup>141</sup> Education Executive Agency (DUO) implements various educational laws and regulations. In addition, on behalf of the Ministry of Social Affairs and Employment (SZW), DUO supports the municipalities in implementing the Civic Integration Act.

<sup>142</sup> *Mind at Work* is an independent organisation which promotes the quality of service offer with regard to sustainable labor participation and integration.

<sup>143</sup> *Bulletin of Acts and Decrees*, 2019, no. 148.

<sup>144</sup> Information issued by the Central Agency for the Reception of Asylum Seekers (COA) on 01-04-2020.



### *Matching with employers at COA (AMIF)*

The project 'matching with employers' is a project (started in January 2019 until 1 January 2021) in which several European Member States cooperate.<sup>145</sup> The project is led by Fedasil<sup>146</sup> from Belgium.<sup>147</sup> The objective is to learn lessons to support the labour market participation of asylum seekers/residence permit holders as well as possible. Each of the participating Member States has different experiences with this. A manual is being developed with lessons from practice. In it, the following is addressed: screening, efficient dissemination of information to municipalities, and matching the target group sustainably with employers. This project is co-financed by the European Asylum Migration and Integration Fund (AMIF).

### *Project Participation and Language*

The 'Participation and Language project' [in Dutch: 'Project Participatie en Taal'] formally started in August 2019.<sup>148</sup> With this participation part of the project, the current 'getting to work method' is being developed further and this enriched method is being implemented at all reception centres. The purpose is to gain a better overview of participation possibilities for residents (for example volunteer work, sports or courses). By setting up a central place (the 'participation desk') at all reception centres, COA, the Dutch Association of Voluntary Organizations (NOV)<sup>149</sup>, Pharos<sup>150</sup>, and local partners ensure that it is clear what is on offer regarding participation possibilities and that this is communicated to the residents of reception centres, COA staff and local players. This way, there is also more clarity and control in reception centres where matching residents to a participation placement is concerned. This involves all kinds of activation: learning the Dutch language in an accessible way, independence, building a social network and getting used to the Netherlands and its customs, sports activities, volunteering, and possibly moving on to a job.

The COA also supports initiatives for dual pathways (which combine learning, working and civic integration), trial internships and introduction days at employers. Because of these kinds of initiatives, residents can already start their integration and participation in their future municipality during the reception phase. The project is for all asylum seekers who not had a final decision on their asylum application, or asylum seekers that have a residence permit because they have been recognized as refugees. The program NT2-Language course on the process reception location (POL) falls under the language component of the project. Within this course asylum seekers who are likely to get a residence permit will receive 24 NT2 courses on four locations of certified NT2-teachers. These lessons connect to the NT2-lessons at the reception centre.

### *Central Agency for the Reception of Asylum Seekers (COA) starts pilot on-the-job training program for residence permit holders*

As of January 2020, the COA will start the two-year pilot project 'On-the-job training program for residence permit holders'.<sup>151</sup> In the pilot, 15 holders of a residence permit will be offered an on-the-job training program at senior secondary vocational education (MBO)<sup>152</sup> level for the position of housing supervisor or caretaker. The pilot will be implemented at 15 different locations.

As of January 2020, the residence permit holders will go to school one day a week. The other days they train on the job, counselled by a COA employee on site. COA staff who counsel permit holders will become on-the-job trainers and will be given a short course for this purpose. The idea is that after

<sup>145</sup> Ibid.

<sup>146</sup> Fedasil is responsible before the reception of applicants for international protection and other target groups and guarantees high-quality reception and conformity within the various reception structures.

<sup>147</sup> Information issued the Central Agency for the Reception of Asylum Seekers (COA) on 29-01-2020.

<sup>148</sup> Ibid.

<sup>149</sup> The Dutch Association of Voluntary Organizations (NOV) is the interest group within voluntary work in the Netherlands. At NOV there are 360-plus organisations connected. These are organisations who work with or for voluntary workers.

<sup>150</sup> The expertise centre Pharos helps with the decrease of big differences in health. This is done through the gathering and sharing of information and knowledge.

<sup>151</sup> Central Agency for the Reception of Asylum Seekers (COA), 'COA start pilot leerwerktraject vergunninghouders', <https://www.coa.nl/nl/actueel/nieuws/coa-start-pilot-leerwerktraject-vergunninghouders>, consulted on 02-08-2019 (in Dutch).

<sup>152</sup> Secondary vocational education (MBO) prepares students for a wide range of occupations, from franchise manager to mechanic or nursing assistant. Demand for skilled workers is expected to increase sharply on the Dutch job market in the future.

their on-the-job training program, permit holders will be employed by the COA. By now, the recruitment and selection of residence permit holders has started. An introductory internship is part of the selection process. This pilot is in close cooperation with municipalities, who nominate residence permit holders.

#### ***Dutch companies will make efforts for the integration of refugees***

Fifteen Dutch multinationals promised in April 2019 that they will do more to improve the integration of refugees. This was done during the first Dutch Business Summit on Refugees, an initiative by the Tent Partnership for Refugees<sup>153</sup> together with Accenture, Rabobank and Unilever.<sup>154</sup> The participating companies have concretely promised to employ refugees, help them setting up companies, or improve their living conditions and future opportunities. The purpose of these commitments is to create more than 3,500 new jobs for refugees and better access to basic services for more than 10,000 refugees.

Beneficiaries of international protection will be educated for a permanent job in the rail sector. Thirty beneficiaries of international protection will be educated for a permanent job in the rail sector. This intention has been recorded in the letter of intent 'Duurzame arbeidsmarkt op de rails' ['Sustainable labour market on the rail'], which was signed by the Ministry of Social Affairs and Employment (SZW) and the Minister of Infrastructure and Water Management (I&W), together with railway manager ProRail<sup>155</sup>, the Railcenter training institute and railway contractors BAN Infra Rail and Strukton Rail on 16 September 2019.<sup>156</sup> The aim is that at least 30 beneficiaries of international protection will be given a permanent job in the rail sector in 2021. After 2021, at least 10 beneficiaries of international protection are expected to enter annually. The idea of this is to lay a foundation for good cooperation and to work on a healthy labour market in the rail sector. This small-scale pilot is intended to learn from, so that other sectors can benefit as well.

The letter of intent is part of the pilot 'Learning and working' of the Further Integration into the Labour Market (VIA) program of the Ministry of SZW. The VIA program comprises eight experimental pilots with employees, municipalities and schools, which are closely being followed and evaluated. The letter of intent 'Sustainable labour market on the rail' is part of one of these pilots.

#### ***Successful Pilot: Early screening before granting permit***

Since 2016, COA staff have been carrying out Screening and Matching interviews with residents who have been granted a residence permit. The purpose of these interviews is to draw up profiles (work experience, education, network) of these permit holders and to use these profiles for a focused match with a Dutch municipality. This process is called Successful Matching. However, the time pressure to carry out these Screening and Matching interviews was considerable: the interviews were conducted in the application centre directly after the permit was granted. Hence, a pilot was started in 2018 and 2019 in the location of Ter Apel, in which asylum seekers who were likely to be granted a residence permit were already screened before the potential residence permit.<sup>157</sup> Therefore there was more time in this pilot for the interviews. After a positive evaluation of the Early Screening pilot, it was decided to implement this method nationally as of 2020.

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<sup>153</sup> For more information, please see: <https://www.tent.org/members/>.

<sup>154</sup> UNHCR Nederland, 'Nederlandse bedrijven gaan zich inzetten voor integratie vluchtelingen', <https://www.unhcr.org/nl/2019/04/nederlandse-bedrijven-gaan-zich-inzetten-vluchtelingen/>, consulted on 29-06-2019 (in Dutch).

<sup>155</sup> ProRail is the train operating company of the Netherlands. ProRail is responsible for the entire rail network: construction, maintenance, management and safety.

<sup>156</sup> National Government, 'Koolmees en Van Veldhoven tekenen voor meer banen op het spoor', <https://www.rijksoverheid.nl/actueel/nieuws/2019/09/16/koolmees-en-van-velhoven-tekenen-voor-meer-banen-op-het-spoor>, consulted on 16-09-2019 (in Dutch).

<sup>157</sup> Information issued by the Central Agency for the Reception of Asylum Seekers (COA) on 11-12-2019.

#### 6.2.4 Social support

##### *Successful pilot: training in DigiD and internet security for residents*

Early 2019, pilot training sessions on 'DigiD and internet security' took place. Holders of a residence permit still living in a reception centre often already need an online identification code (Digital Identity: DigiD<sup>158</sup>) for instance to apply to the Immigration and Naturalisation Service (IND) for asylum family reunification. Once they live in a municipality, the contact with the 'digital government' will intensify even more, with all kinds of practical and financial matters such as housing and healthcare benefit, healthcare insurance, and the loan from DUO<sup>159</sup> for civic integration. Knowledge of using online passwords and internet security is necessary to use DigiD. Hence, the pilot training 'DigiD and internet security' was developed, which was taken by 147 residence permit holders at five COA centres in early 2019. For this reason, the parties want to set up a follow-up pilot program with more participants. In a follow-up pilot program, cooperation with municipalities will explicitly be sought because of the leading role they will be given in the new civic integration system (the implementation date of the new integration law is scheduled for 1 July 2021).

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<sup>158</sup> DigiD stands for: Digital Identity. With a DigiD you can log in to government and healthcare websites.

<sup>159</sup> The Education Executive Agency (DUO) is responsible for the execution of several acts and regulations, such as student grants and information management.

# 7 Dutch citizenship and statelessness

## 7.1 Introduction

This section deals with the Dutch policy developments in 2019 concerning obtaining the Dutch citizenship and statelessness.

### *Naturalisation*

The Immigration and Naturalisation Service (IND) received 44,400 applications for naturalisation in 2019, compared to 26,080 in 2018.<sup>160</sup> This increase is related to the high influx of asylum seekers in 2015. Many migrants from Syria and Eritrea were granted an asylum residence permits at the time. In 2019 they became eligible for naturalisation if they meet the requirements. They can become a Dutch citizen by naturalisation if they have lived continuously with a valid residence permit in the Kingdom of the Netherlands for 5 years or more.<sup>161</sup> The IND granted 97% of the naturalisation requests in 2019.

### *Registered stateless persons in the Netherlands*

In the Netherlands at present there are about 12,000 people registered as stateless in the Personal Records Database (BRP).<sup>162</sup> This is a relatively small portion of the 42,000 persons whose nationality is unknown. A migrant can become stateless because of state succession (in which a new state is established coming from another state that previously was recognized), unclear or discriminating laws with regard to determination of nationalities, displacement/forced migration or having stateless parents. Among the registered stateless persons are, for example Moluccans to whom the so-called Facilities Act<sup>163</sup> is applicable, and stateless persons from Syria, Iraq, Saudi Arabia and the United Arab Emirates. The group of stateless Moluccans is legally assimilated to persons with the Dutch nationality. According to the Facilities Act they have a special position.

## Statelessness

The National government defines the term 'statelessness' as follows: being stateless means that not a single country considers the person concerned a national according to its legislation.<sup>164</sup> Because stateless persons are not recognised by any country as citizens, and are therefore without a nationality, they cannot rely on the protection of a government. This has profound effects, for example with regard to obtaining travel documents, taking up work, or buying a house.

At present, the Dutch Government is preparing a new legislative proposal (see subsection 7.2.2). Stateless persons who cannot prove with documents that they are stateless can obtain a court ruling on their status. If the court rules that they are stateless, the person concerned can then acquire the rights attached to statelessness. These rights are, for example an eased naturalisation procedure and a right to opt for Netherlands nationality for stateless children born in the Netherlands.

<sup>160</sup> Immigration and Naturalisation Service (IND), 'Annual figures 2019', <https://ind.nl/Documents/Tabel%202019.pdf>.

<sup>161</sup> For more information and exceptions to the 5-year term rule, please see: <https://ind.nl/Nederlanderschap/Paginas/Naturalisatie.aspx>.

<sup>162</sup> For more information, please see: National government, 'Nederlandse nationaliteit, Staatloosheid' ['Dutch citizenship, statelessness'], <https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/staatloosheid>.

<sup>163</sup> This law [Faciliteitenwet] established the position of Moluccans staying in the Netherlands who do not possess the Dutch nationality.

<sup>164</sup> Ibid.

## 7.2 Policy developments

No important policy developments occurred in 2019 in relation to acquiring Dutch citizenship or the determination of statelessness. In anticipation of the legislative proposal for a procedure for establishing statelessness, however, various municipalities intend to help third-country nationals in the Netherlands whose nationalities are not known by officially registering them as 'stateless' within their own powers.

### 7.2.1 Dutch citizenship

#### *Legislative Proposal on the modernisation of nationality law*

Contrary to what was reported in the 2018 annual report, the expected legislative proposal<sup>165</sup> regarding the modernisation of nationality law was not discussed in 2019. The Minister for Migration informed in a letter<sup>166</sup> to the Senate on 16 December 2019 that she will report at a later stage on the implementation of the plan to modernize nationality law. This, also in the light of the judgment of the European Court of Justice (CJEU) of 12 March 2019 in the Tjebbes<sup>167</sup> case.

The legislative change consists of two components that are being prepared in conjunction. This concerns broadening the possibility of possessing more than one nationality for future first generations of emigrants and immigrants. At the same time, there will be a compulsory time of choice for following generations that will actually lead to the retention of no more than one nationality.

The choice to limit continued and expanding possession of multiple nationality in this way in subsequent generations is based on the consideration that multiple nationality means that more than one legal system applies to the person concerned, as a result of which conflicting legal situations may arise as a result of principles of other legal systems that do not conform to Dutch law.<sup>168</sup> Rights and obligations can be contradictory as a result of multiple possession of nationality.

### 7.2.2 Statelessness

#### *Dutch municipalities want to determine statelessness within their own powers*

In June 2019, a report came out that a number of Dutch municipalities no longer want to wait for legislation on stateless persons and people without nationality, and that they want to register this group as stateless. The Netherlands has no procedures for people who want to prove that no country recognizes them as nationals but who do not have any documents with regard to this. A legislative proposal<sup>169</sup> on the determination of statelessness has not yet been submitted to the House of Representatives.

In response to parliamentary questions about the absence of a legislative proposal on the determination of statelessness, the Minister for Migration informed the House of Representatives on 24 July 2019 that the process to develop the legislation is still ongoing.<sup>170</sup> Due to the absence of this proposal, the Dutch municipalities of Amsterdam and Utrecht decided to determine statelessness within their

<sup>165</sup> *Parliamentary Papers II*, 2017-2018, 34775-VI, no. 121.

<sup>166</sup> The response of the Minister for Migration, Ankie Broekers-Knol, in the letter of 16-12-2019 to the Senate concerning 'the proposal of members Sjoerdsma, Asscher, Van Otterloo, Van Wijngaarden and Van Ojik regarding the creation of temporary exceptions to the Netherlands Nationality Act.

<sup>167</sup> The judgment in nationality law Case C-221/17 Tjebbes: The European Court has ruled that EU law does not, in principle, prohibit Dutch nationality law from providing for automatic loss of Dutch nationality, even if this also leads to loss of Union citizenship. However, the loss must comply with the European principle of proportionality. This means that the Dutch government and the judge must be able to investigate on a case-by-case basis what consequences the loss of nationality has for the individual.

<sup>168</sup> The response of mr. C. Riezebos on behalf of the Minister for Migration, Mark Harbers, to the open letter of 18-10-2018 to the Minister for Migration concerning Dual Nationality on behalf of the organization 'Nederlanders in het Buitenland' ['Dutch Abroad', NIHB]: <https://www.nihb.nl/overheid-formaliteiten/dubbele-nationaliteit/het-antwoord-op-de-open-brief-aan-staatssecretaris-harbers/> [in Dutch].

<sup>169</sup> The legislative proposal on the determination of statelessness consists of two parts. First of all, a procedure is instituted to have statelessness determined by a civil judge. More people can demonstrate their statelessness with this new determination procedure. The bill also aims to amend the Netherlands Nationality Act. Two new option rights will be added, specifically aimed at stateless children born in the Netherlands.

<sup>170</sup> *Appendix to Proceedings II*, 2018-2019, no. 3521.

own powers.<sup>171</sup> The municipality of Utrecht will engage an expert team to help employees of the municipality with the registration of stateless persons. In addition, Utrecht will actively help stateless residents with proper registration. Previously, the responsibility for this lay entirely with the applicant. Other municipalities are also investigating how they can better support stateless persons. The municipality of The Hague also has an initiative proposal ready for stateless persons and a political party in Rotterdam (PvdA) is working on such a proposal.<sup>172</sup>

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<sup>171</sup> *Dagblad Trouw*, 'Gemeenten willen niet langer wachten op wetgeving en gaan mensen zonder paspoort zelf helpen', <https://www.trouw.nl/nieuws/gemeenten-willen-niet-langer-wachten-op-wetgeving-en-gaan-mensen-zonder-paspoort-zelf-helpen~b45cb795b/>, consulted on 21-11-2019 (in Dutch).

<sup>172</sup> *Ibid.*

## 8

# Borders, visa and Schengen

## 8.1 Introduction

This chapter briefly discusses policy developments in the field of border control, visa policy and Schengen. The Netherlands has drawn up an action plan to implement the Visa Code. No major developments took place in 2019 in relation to border control or Schengen. The number of short-stay visas issued to third-country nationals in 2019 was 723,825 visas in total.<sup>173</sup> Of them about 702,180 were issued to third-country nationals coming directly from countries outside the EU/EEA, and about 21,650 visas were issued to third-country nationals who were staying in a different EU country. The total number of short-stay visas issued was somewhat higher than in 2018, when about 632,600 short-stay visas were issued.

## 8.2 Policy developments

### *Implementation of the Visa Code*

Following the Regulation amending the Visa Code on 20 June 2019<sup>174</sup>, an action plan has been drawn up to implement the Visa Code. The changes mentioned in the Visa Code will take effect on 2 February 2020 and must be implemented before then. The action plan has been drawn up with all involved and responsible parties in the Netherlands. The Visa Code describes the procedures and conditions for the issue of transit and short-stay visas within the Schengen Area.<sup>175</sup> Thanks to the Visa Code, foreign travellers requiring a visa can travel through all Schengen countries with one visa for ninety days at most.

On 14 March 2018 the European Commission (EC) presented a communication and a proposal for a regulation on amendment of the Community Visa Code.<sup>176</sup> The proposed regulation was for the purpose of updating the procedures for the issue of visas in order to respond better to the changing migration and security situation. To this effect inter alia a link was made between visa policy and cooperation in return and readmission. A distinction will be made in the conditions for the issue of visas to a third-country that does not sufficiently cooperate in readmitting its own nationals who stay irregularly on EU territory and a third country that does cooperate. The new visa policy therefore provides a mechanism to improve cooperation with third countries in return. Two stages can be identified in it. First of all, information will be gathered and the annual assessment by the Commission on the basis of indicators of cooperation in return will take place. The next stage is implementation of the appropriate measures after assessment of such cooperation. Amendment of the Community Visa Code will also remedy some shortcomings of the current rules, which will make it easier for bona fide travelers to obtain a visa more quickly for the European Union (EU).

<sup>173</sup> Information issued by the Ministry of Foreign Affairs (BZ) on 26-02-2020.

<sup>174</sup> Official Journal of the European Union, 'Verordening (EU) 2019/1155 van het Europees Parlement en de Raad van 20-06-2019 tot wijziging van Verordening (EG) no. 810/2009 tot vaststelling van een gemeenschappelijke visumcode', <https://eur-lex.europa.eu/legal-content/NL/TXT/PDF/?uri=CELEX:32019R1155&from=EN>, consulted on 18-12-2019 (in Dutch).

<sup>175</sup> Parliamentary Papers II, 2019-2020, 19637, no. 2574.

<sup>176</sup> The Senate, 'E180013 - Voorstellen van de Europese Commissie inzake de wijziging van de gemeenschappelijke visumcode', [https://www.eerstekamer.nl/eu/edossier/e180013-voorstellen\\_van\\_de](https://www.eerstekamer.nl/eu/edossier/e180013-voorstellen_van_de), consulted on 21-01-2020 (in Dutch).

# 9 Irregular migration and migrant smuggling

## 9.1 Introduction

This chapter discusses the main policy changes made in 2019 in relation to irregular migration and smuggling of migrants. The changes primarily relate to the prevention of irregular migration and human smuggling. In 2019 efforts were made once again to prevent irregular migration by means of awareness campaigns, international cooperation and strengthening of the network of diplomatic missions. In 2019 attention was also paid to the prevention of illegal stay.

## 9.2 Policy developments

In 2019 various policy changes were made and operational measures taken in relation to irregular migration and human smuggling. The main changes and measures are explained briefly below.

### 9.2.1 Prevention of irregular migration

#### *Dutch deployment in Frontex operations in 2019*

In line with the coalition agreement 2017<sup>177</sup> the Dutch deployment for Frontex<sup>178</sup> in 2019 was primarily focused on the communal external borders where the pressure of irregular migration is highest, which is in Greece, Italy and Spain.<sup>179</sup> For example, a Dutch coast guard plane was deployed as part of Operation Poseidon<sup>180</sup> in April 2019.<sup>181</sup> In the period from 1 April 2019 to 15 April 2019 inclusive, the plane carried out surveillance flights above the Mediterranean Sea on the basis of directions by the Greek authorities. The purpose of the operation was inter alia to map the 'illegal migration flows, tackling cross-border criminality and improving European cooperation in the field of coast guard functions'. In addition, the Royal Netherlands Marechaussee (KMar), together with the Police (Sea Harbour district and the Rotterdam Unit) and the German Bundespolizei, participated in a Joint Crew Project as part of Frontex operation Poseidon on the island of Samos in Greece.<sup>182</sup> Finally, the Netherlands supplied a number of return experts in 2019, who were deployed under the Frontex banner in Athens and Rome.

#### *International cooperation of the Royal Netherlands Marechaussee (KMar) extended in 2019*

In 2019, the focus of the choices regarding installing and reconsidering Liaison Officers abroad has shifted to the prevention of irregular migration. In addition, two advisers have been deployed since 2019, who support the Greek authorities in recognizing and intercepting forged documents at Athens Airport.<sup>183</sup>

177 For more information, please see: *Bureau Woordvoering Kabinetsformatie*, 'Kabinetsformatie 2017', [www.kabinetsformatie2017.nl/kabinetsformaties/k/kabinetsformatie-2017](http://www.kabinetsformatie2017.nl/kabinetsformaties/k/kabinetsformatie-2017).

178 The European Border and Coast Guard Agency (Frontex), is an agency of the European Union (EU). Frontex helps EU Member States and Schengen associated countries manage their external borders and harmonize EU border control.

179 *Parliamentary Papers II*, 2018-2019, 32317, no. 550.

180 Operation Poseidon involves employees from 22 European countries. They help the Greek authorities to monitor the south-eastern border of the European Union by air and sea, to identify illegal migrants and to provide people who are repatriated with necessary travel documents.

181 Ministry of Defence, 'Kustwachtvliegtuig versterkt grensbewaking Frontex', <https://www.defensie.nl/actueel/nieuws/2019/04/04/kustwachtvliegtuig-versterkt-grensbewaking-frontex>, consulted on 30-07-2019 (in Dutch).

182 *Parliamentary Papers II*, 2018-2019, 32317, no. 550.

183 Information issued by the Royal Netherlands Marechaussee (KMar) on 10-11-2019.



### *Capacity building in Nigeria*

In November 2019, the Dutch Minister for Migration made agreements with Nigeria about how to combat irregular migration.<sup>184</sup> The Netherlands makes efforts to build capacity in the African country and to improve border patrol. This is needed because many Nigerians want to leave the country in search of a better future. Concretely, among other things, Nigerian immigration officers are provided with an app to check passports offline. There will also be a follow up of a training program for staff of the Nigerian immigration service. Moreover, immigration officers will be trained and expertise will be exchanged between European and Nigerian public prosecutors to combat trafficking in human beings and cross-border crime.

### **Displaced persons in Nigeria who have fled from Boko Haram**

Photo: Alfred Caballero, International Organization for Migration (IOM), 2018

### *Expansion of missions in the Dutch network of embassies*

On 12 December 2019, the Minister of Foreign Affairs (BZ) announced that the Netherlands will have a new embassy in Yerevan (Armenia).<sup>185</sup> The embassy offices in Niamey (Niger) and Ouagadougou (Burkina Faso) - branches of the Dutch embassy in Mali - will also be upgraded to full embassies. This is done to be able to cope with terrorism and human rights breaches and to be better prepared for migration flows. This strengthening of the Dutch embassy network is a continuation of the earlier expansion shortly after the current Dutch government started in 2017. The focus of this expansion is on the so-called instable circle around Europe, the prosperity, stability and safety of which is immediately connected with the Dutch.

### *Staff contribution to CSDP mission operations in Libya*

In 2019, the Netherlands contributed to Common Security and Defence Policy missions (CSDP missions) and operations in Libya and the Sahel region (EUNAVFORMED Sophia, EUBAM Libya, EUCAP Sahel Niger, EUCAP Sahel Mali), strengthening the capacity of these countries with respect to border management, combatting trafficking in human beings and countering irregular migration in European context.<sup>186</sup>

<sup>184</sup> National Government, 'Nederland steunt Nigeria bij aanpak illegale migratie', <https://www.rijksoverheid.nl/actueel/nieuws/2019/11/26/nederland-steunt-nigeria-bij-aanpak-illegale-migratie>, consulted on 19-12-2019 (in Dutch).

<sup>185</sup> National Government, 'Nederland richt zich op veiligheid, migratie en mensenrechten in versterking ambassadenetwerk', <https://www.rijksoverheid.nl/actueel/nieuws/2019/12/16/uitbreiding-postennet>, consulted on 16-12-2019 (in Dutch).

<sup>186</sup> Parliamentary Papers II, 2019-2020, 19637, no. 2535.

### *Funding of initiatives in West Africa*

In 2019 the Netherlands funded various initiatives to improve the regional cooperation on police and justice in West Africa in relation to combatting smuggling of migrants, trafficking in human beings, such as the PROMIS-program<sup>187</sup> of the UN Office on Drugs and Crime and the Office of the High Commissioner for Human Rights (OHCHR)<sup>188</sup>, and the Netherlands contributed to various so-called Joint Investigation Teams, particularly via Europol.<sup>189</sup>

### *The Netherlands - Contribution to the 'Gaps and Needs Assessment of the Ghana Immigration Service' project*

The Netherlands contributed to the 'Gaps and Needs Assessment of the Ghana Immigration Service' Document Fraud Expertise Centre (DFEC). This contribution was embedded in a larger project: 'Strengthening Border and Migration Management in Ghana,' which is supported by the Embassy of Denmark and is being implemented by the ICMPD (International Centre for Migration Policy Development). The Dutch in-kind contribution consisted of involvement of the ILO (Immigration Liaison Officer) Back Office (Immigration and Naturalisation Service, IND). ILO Accra provided training in document investigation for 60 staff members of the Ghana Immigration Service (GIS). In addition, the ILO Back Office facilitated a source investigation in the Netherlands (with external DOC 2-training) for the 10 high potentials, and a 'Training of Trainers' program will take place in 2020.

## 9.2.2 Information and awareness raising campaigns

### *The Netherlands started information and awareness raising campaigns in various countries*

The Netherlands started new information and awareness raising campaigns in 2019. These campaigns are either individual projects or parts of larger projects by other organisations. These new projects focused on risk groups in Afghanistan, The Gambia, Guinea, Côte d'Ivoire, Liberia, Libya, Nigeria, Senegal, Sierra Leone, and the Kurdish region in Iraq to raise awareness of irregular migration.<sup>190</sup> The information campaigns have the aim to make (potential) migrants aware of the risks they run if they wish to come to the European Union in an irregular way and of the legal alternatives.

With respect to Afghanistan, a project has started that on the one hand, the Afghan diaspora receives support to give more objective information in their country of origin in a program of the Danish Refugee Council.<sup>191</sup> On the other hand, a project by Internews Europe<sup>192</sup> puts efforts in the dissemination of information with respect to potential irregular migration via social media and radio.<sup>193</sup>

In Nigeria, Guinea, Côte d'Ivoire, Liberia, Senegal, Sierra Leone and The Gambia, returning migrants who themselves started the irregular journey are employed to inform potential migrants for irregular travel (to the European Union).<sup>194</sup> In 2019, an evaluation report was published about an earlier phase of this project, from which it became evident that this method had been effective in Senegal (20% less intention to depart, a number of months after the campaign). More information about the campaign Trusted Sources in Nigeria, which started in 2019, please see subsection 10.2.5 'International cooperation'. Sierra Leone and Guinea launched awareness campaigns in 2019, involving cooperation between the immigration authorities in these countries and the Repatriation and Departure Service (DT&V).<sup>195</sup>

187 In the PROMIS project, co-funded by the Netherlands, UNODC and OHCHR are working together in West Africa to combat human trafficking and smuggling, paying extra attention to the protection and rights of migrants. The project will strengthen capacity in West Africa. This will make countries more aware of the rights of migrants in the fight against trafficking and smuggling in human beings. An important part is working on legislation and law enforcement. For example, laws have been drawn up against migrant smuggling.

188 The United Nations High Commissioner for Human Rights is the United Nations (UN) department that is committed to the promotion and protection of human rights guaranteed by international law and enshrined in the 1948 Universal Declaration of Human Rights.

189 Parliamentary Papers II, 19637, no. 2535.

190 Ibid.

191 The Danish Refugee Council (DRC) is a humanitarian, non-governmental, non-profit organisation founded in 1956. DRC assists refugees and internally displaced persons in 40 countries across the globe.

192 Internews, an international nonprofit organization, works with citizens and local media in more than 100 countries. Together with local partners, Internews helps provide people worldwide with the trustworthy, high-quality news and information they need to make informed decisions, participate in their communities, and hold power to account.

193 Information issued by the Ministry of Foreign Affairs (BZ) on 25-11-2019.

194 Ibid.

195 Information issued by the Repatriation and Departure Service (DT&V) on 11-12-2019.

In Libya, a programme was set up by IOM to which the Netherlands contributed in 2019. It concerns the Migrant Resource and Response Mechanism (MRRM).<sup>196</sup> The objectives of this programme are:

- Strengthening the coordination and management of mixed migration flows in Libya;
- Providing protection and assistance;
- Improving access to humanitarian services;
- Awareness campaigns about the risks of irregular migration, health risks, available services and alternative solutions.

### *The Netherlands co-chair of EU Working Group on Information Campaigns*

Initiated by the Netherlands, the Working Group on Information Campaigns was formed late 2018 by the European Migration Network to better align EU information campaigns.<sup>197</sup> In 2019 the Netherlands was co-chair of this EU working group. The working group is established to strengthen the cooperation between the Member States and the European organisations, to share knowledge and to prevent an overlap between information campaigns of EU Member States. The working group was initiated by the Dutch Ministry of Foreign Affairs (BZ) and EMN Netherlands.

## 9.2.3 Prevention of illegal stay

### *Start of pilot National Immigration Facilities (LVVs)*

The pilot program of five National Immigration Facilities (LVVs)<sup>198</sup> started officially on Thursday 28 March 2019.<sup>199</sup> These are shelter and counselling facilities in municipalities. The LVVs are intended for asylum seekers who have exhausted all legal means in the asylum procedure, do not have the right of residence, and who have not left the Netherlands either of their own volition or forced. Because these third-country nationals are unable to return to their country of origin (for the time being) and are not eligible for reception by the government, this specific group currently does end up in facilities not provided for by law.

The objective of this national program is not only to provide shelter, but also to try and find a sustainable solution, mostly by means of counselling and a stable environment. A sustainable solution may be return to the country of origin or obtaining a residence permit after all. In doing so, the planned LVVs can contribute to the prevention of irregular stay and the potential consequences of irregular stay for the local environment.<sup>200</sup>

In the pilot facilities, municipalities work together with the Ministry of Justice and Security (J&V), NGOs, the Immigration and Naturalisation Service (IND), and the Repatriation and Departure Service (DT&V). The local Aliens Police Departments for Identification and Human Trafficking (AVIMs) are also involved in this. The pilot is one of the focus points from the Coalition Agreement 'Confidence in the Future' (2017-2021) and will continue until 2021. Then it will be decided whether the scheme will be implemented structurally in a network of eight LVVs with national coverage.

<sup>196</sup> This information was provided by the Ministry of Foreign Affairs (BZ) on 25-11-2019.

<sup>197</sup> EMN Netherlands, 'Europese landen versterken samenwerking in voorlichting aan (potentiële) migranten', <https://www.emnnetherlands.nl/actueel/europese-landen-versterken-samenwerking-voorlichting-aan-potentielle-migranten>, consulted on 25-05-2019 (in Dutch).

<sup>198</sup> The five pilot municipalities are Amsterdam, Rotterdam, Utrecht, Eindhoven and Groningen.

<sup>199</sup> The Association of Netherlands Municipalities, (VNG), 'start landelijke vreemdelingenvoorzieningen in 5 gemeenten', <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/start-landelijke-vreemdelingenvoorzieningen-in-5-gemeenten>, consulted on 28-05-2019 (in Dutch).

<sup>200</sup> Parliamentary Papers II, 2018-2019, 19637, no. 2445.

# 10 Measures against the trafficking in human beings

## 10.1 Introduction

This section deals with policy developments in 2019 in relation to measures against human trafficking. Trafficking in human beings is an exceptionally serious form of organised crime. Combating human trafficking is a priority of the Netherlands and the European Union (EU). Victims of human trafficking are often among the most vulnerable groups in society. Human trafficking involves all forms of forced labour and exploitation, whereby people are robbed of their personal freedom. This can concern having to work under duress and poor working conditions, child labour, forced prostitution or cooperating under duress in criminal activities. Victims and witnesses who do not have a valid residence permit in the Netherlands can become eligible for a residence permit if they report human trafficking.<sup>201</sup>

Statistics on the number of possible victims of human trafficking in the Netherlands are gathered by the by the CoMensha foundation (Coordination Centre for Human Trafficking) for the National Rapporteur on Trafficking in Human Beings.<sup>202</sup> The annual figures 2019 will be published round 1 October 2020.<sup>203</sup>

## 10.2 Policy developments

In 2019 various measures were taken to combat trafficking in human beings. The main developments and measures are explained below. It should be noted in this regard that these are general measures against trafficking in human beings. So these are not the measures that exclusively relate to victims who are migrants from countries outside the EU/EEA, but also apply to victims of human trafficking with Dutch nationality or the nationality of another EU country. In that sense, the Dutch policy to combat human trafficking is generic policy.

### 10.2.1 General developments

#### *First national networking event on trafficking in human beings*

Originating from the program 'Samen tegen Mensenhandel' ['together against trafficking in human beings'], the first national networking event on trafficking in human beings took place on Thursday 28 March 2019.<sup>204</sup> The municipality of Rotterdam hosted municipalities and partner organisations in the Netherlands that make efforts to counter trafficking in human beings. Together, they discussed the state of affairs of the program and exchanged knowledge and information.

On 4 December 2018, the Minister for Migration gave the go-ahead for the program 'Together against trafficking in human beings'. The program was established in cooperation with a large number of partners in the immigration system from across the Netherlands. Together with all these partners, the aim is to give an impetus to the fight against trafficking in human beings. The program focuses on the improvement of detection and prevention, strengthening international detection, good care and support for victims, support of municipalities, and more insight into the nature and scale by means of knowledge sharing.

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

202 CoMensha (Coordination Centre for Human Trafficking) is an independent expertise and coordination centre against human trafficking. Together with partners they conduct the fight against human trafficking in the Netherlands. In doing so, CoMensha focuses mainly on the registration, accommodation and assistance of victims. The organisation also invests in creating more awareness of human trafficking by way of trainings and providing information to professionals.

203 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children: <https://www.nationaalrapporteur.nl/> (in Dutch).

204 CoMensha, 'Eerste landelijke netwerkbijeenkomst mensenhandel', <https://www.comensha.nl/actualiteiten/item/28-maart-eerste-landelijke-netwerkbijeenkomst-mensenhandel/>, consulted on 08-04-2019 (in Dutch).

### *National Police Coordination Centre*

To process the waiting lists that had resulted from the large number of reports to the police by victims in a Dublin procedure<sup>205</sup>, the police established a National Coordination Centre (LCC).<sup>206</sup> The LCC acts as central point where all requests for intake interviews and reports come in and are prioritized. In this prioritization, the date on which the transfer of the potential victim to the Dublin country has been planned is taken into consideration to the extent possible, especially when there are indications of human trafficking committed in the Netherlands. The intakes and reports are then processed by the Aliens Police Department for Identification and Human Trafficking (AVIM, police). When these waiting lists have been eliminated, it will be evaluated whether this national method will be continued.

### 10.2.2 Provision of information and protection of victims of human trafficking

#### *Toolkit 'Discussing trafficking in/exploitation of human beings with current and former asylum seekers' launched*

On 4 April 2019, the final conference of the STEP (Sustainable Integration of Trafficked Human Beings) project took place in The Hague. On this conference, the toolkit 'Discussing trafficking in/exploitation of human beings with current and former asylum seekers' was launched. This toolkit was a joint product of the Central Agency for the Reception of Asylum Seekers (COA), the Nidos Foundation<sup>207</sup>, the Dutch Council for Refugees (VWN), the Red Cross and the Coordination centre against human trafficking (CoMensha). This toolkit is intended as guidelines for staff and volunteers when providing asylum seekers with information about trafficking in human beings, so that asylum seekers can protect themselves and victims know where to ask for help. More than fifty asylum seekers and former victims were involved in compiling it, as well as dozens of members of staff and volunteers within the asylum system as well as outside it. The summary of the study into the information need of asylum seekers will be published later this year. The toolkit is available digitally, including even more information material and explanation of the STEP project.<sup>208</sup>

#### *Extra reception facilities for victims of human trafficking*

In five municipalities in the Netherlands, extra reception facilities were opened for victims of trafficking in human beings who are dealing with complex care needs, such as psychological problems, an addiction, or an intellectual disability.<sup>209</sup> The Minister of Health, Welfare and Sport (VWS) created 36 new places in total. With this measure, the government tackled the shortage that had been detected in special reception facilities for these people. In the Coalition Agreement 2017<sup>210</sup> 2 million euros had already been made available annually for this. In 2018 it became evident from a study by the Coordination Centre against Human Trafficking (CoMensha) and Tilburg University that there is a great need for reception facilities for victims of trafficking in human beings with complex care needs. Setting up extra reception facilities is a measure from the program 'Together against the trafficking in human beings'.<sup>211</sup>

#### *Cooperation between municipalities*

From 2019 and onwards a national network of care coordinators is being developed for victims of human trafficking.<sup>212</sup> A care coordinator is a specialist on the relevant procedures with specific knowledge about the available help and care for victims of human trafficking in a specific region of

205 The Dublin Regulation prescribes that an asylum application must be handled in the country where the asylum seeker entered the EU.

206 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Slachtoffermonitor mensenhandel 2014-2018', <https://www.nationaalrapporteur.nl/Publicaties/slachtoffermonitor-mensenhandel-2014-2018.aspx>, consulted on 17-01-2020 (in Dutch).

207 The Nidos Foundation is the national guardianship institution for unaccompanied and separated children in the Netherlands. All children in the Netherlands should be under either parental authority or guardianship. Nidos is appointed as guardian by the court if the child's parents are unable to exercise parental authority over the child.

208 CoMensha, 'STEP: Toolkit & voorlichtingsmateriaal', <https://www.comensha.nl/mensenhandel-academy/asielketen/step-toolkit-voorlichtingsmateriaal/>, consulted on 29-10-2019 (in Dutch).

209 National Government, 'extra opvang slachtoffers mensenhandel', <https://www.rijksoverheid.nl/actueel/nieuws/2019/04/12/extra-opvang-slachtoffers-mensenhandel>, consulted on 11-04-2019 (in Dutch).

210 2017-2021 Coalition agreement 'Confidence in the future', 10/10/2017, VVD, CDA, D66 and ChristenUnie, <https://www.kabinetformatie2017.nl/documenten/publicaties/2017/10/10/regeerakkoord-vertrouwen-in-de-toekomst> (in Dutch).

211 Parliamentary Papers II, 2019-2020, 28638, no. 176.

212 Information issued by the Ministry of Justice and Security (J&V) on 16-01-2020.

the Netherlands.<sup>213</sup> The care coordinator promotes the interests of victims of human trafficking and organizes coherent support. Furthermore, by the end of 2022 municipalities should have proper policy with regard to the fight against human trafficking. Furthermore, the municipalities, the Association of Municipalities (VNG) and CoMensha are working together on guidelines regarding human trafficking (definitions, manifestation and administrative/enforcement measures). The guidelines also offer information about how municipalities can develop a (new or more intense) approach to human trafficking (including prevention and protection).

### 10.2.3 Training and information material for the identification of victims

#### *Human Trafficking Academy*

Keeping in mind the identification of victims of trafficking in human beings, the Coordination Centre against Human Trafficking (CoMensha) launched the Human Trafficking Academy on 7 November 2019 at a national networking event in The Hague. Its purpose is to combine all programs on offer in the field of identification of trafficking in human beings in a way that is easy to navigate, so that professionals can more easily access all available information, training and educational material that was developed recently.<sup>214</sup>

#### *Training of primary police officers and medical professionals*

In a letter of Parliament<sup>215</sup> in November 2019 regarding the progress of the program 'Together against trafficking in human beings', it is stated that efforts are made to train primary professionals. Currently, all primary police officers, who may encounter trafficking in human beings as part of their daily job, are being trained in recognizing the various forms of trafficking in human beings. By now, the training program is in use nationally among all units. It will, however, take a number of years to train all primary police officers (35,000-40,000). In the progress letter, the importance for medical professionals of being able to recognize trafficking in human beings is also stated. For this reason, practitioners' federation the Royal Dutch Medical Association (KNMG)<sup>216</sup> included the subject of trafficking in human beings in the KNMG reporting code for child abuse and domestic violence. The KNMG also assisted in the development of a fact sheet on trafficking in human beings that substantively aligns with the existing reporting codes for domestic violence and child abuse.

#### *Training of municipality staff by FairWork*

In connection with the program 'Together against trafficking in human beings', FairWork (an organisation that makes efforts for, among others, victims of 'modern slavery') is training various RNI municipalities (municipalities with a desk for non-residents) in recognising signs of trafficking in human beings.<sup>217</sup> This concerns training at 18 locations in total. The training sessions were given to supervisors, RNI desk staff, social community teams and the Department for Work and Income, among others. Supporting this, a Q&A was also drawn up, which municipalities can consult free of charge via the FairWork website.<sup>218</sup>

### 10.2.4 Cooperation within the EU

#### *Cooperation Benelux against human trafficking*

On 10 December 2019, the Netherlands, Belgium and Luxembourg signed a letter of intent to take further steps within the Benelux in the cooperation against trafficking in human beings.<sup>219</sup> By signing this letter of intent, the Benelux countries state that they want to continue thinking about ways to

213 National Government, 'Zorgcoördinator', [https://english.wegwijzermensenhandel.nl/Care\\_coordinators/care-coordinators.aspx](https://english.wegwijzermensenhandel.nl/Care_coordinators/care-coordinators.aspx), consulted on 22-10-2020 (in Dutch).

214 CoMensha, 'Mensenhandel Academy', [www.comensha.nl/mensenhandel-academy/](http://www.comensha.nl/mensenhandel-academy/), consulted on 12-12-2019 (in Dutch).

215 Parliamentary Papers II, 2019-2020, 28638, no. 176.

216 The Royal Dutch Medical Association (RKNMG) is the professional organization for Dutch doctors. It was established in 1849. Since 1999 the RDMA has become a federation of medical practitioners' professional associations.

217 Parliamentary Papers II, 2019-2020, 28638, no. 176.

218 Please see: <https://www.fairwork.nu/fairwork-academie>.

219 National Government, 'Nederland, België en Luxemburg trekken samen op in aanpak mensenhandel', <https://www.rijksoverheid.nl/actueel/nieuws/2019/12/11/nederland-belgie-en-luxemburg-trekken-samen-op-in-aanpak-mensenhandel>, consulted on 16-12-2019 (in Dutch).



protect victims of trafficking in human beings better and more consistently within the EU. As part of this letter, attention is also paid to identified victims who do not come from EU countries and who were exploited in a country other than the country where they ask for aid and assistance.

#### *The Netherlands leading the EMPACT THB project*

The European operational cooperation against trafficking in human beings and smuggling of migrants takes place in EMPACT THB (Trafficking in Human Beings) and EMPACT<sup>220</sup> (organised illegal migration (smuggling of migrants)), which are both part of Europol. The Netherlands became leader of EMPACT THB in 2019.<sup>221</sup> EMPACT THB is a project in which 29 countries and four EU agencies participate. The police, the Public Prosecution Service (OM), the Royal Netherlands Marechaussee (KMar), and the Inspectorate for Social Affairs and Employment (SZW) are also involved in the implementation of this project.

Within the EMPACT project, attention is paid to various forms of human trafficking, such as sexual exploitation, labor exploitation and exploitation by means of forced crime, in which minors in particular can be victims. EMPACT-THB is also committed to exploring structural partnerships with non-EU countries as well.<sup>222</sup>

### 10.2.5 International cooperation

#### *International cooperation on credit of perpetrators of human trafficking*

In response to the Dutch initiative in the UN Security Council to actively impose sanctions against perpetrators of human trafficking in Libya, the Dutch government took the lead in founding an international network to be able to trace and freeze credits of perpetrators of human trafficking faster. Together with the Public Prosecution Service (OM), the Ministry of Foreign Affairs (BZ) and the Dutch EUROJUST<sup>223</sup> mission organised an international coordination meeting.<sup>224</sup> Participants in this meeting included UN experts of the Libya sanctions committee, as well as experts in the fields of sanctions, enforcement and prosecution from countries with could potentially have information on individuals and credits on the sanctions list.

#### *PROMIS program and Liaison Magistrates*

The PROMIS program has the aim to address migrant smuggling and connected crime in a few West-African countries, and to increase the cooperation between these countries. Specific attention is paid to the compliance with norms within human rights. The program is executed by the UN Office on Drugs and Crime (UNODC) in close cooperation with the Office of the High Commissioner for Human Rights (OHCHR). With among others support of the Netherlands, the secondment of prosecutors from African countries of origin in European countries of destination has been facilitated in the context of the PROMIS program.<sup>225</sup> In 2018 and 2019, two Nigerian prosecutors were seconded as liaison magistrates in Italy and Spain. These liaison magistrates form a direct communication channel between the countries of origin, the countries of secondment, but also other countries that seek cooperation. They facilitate the mutual cooperation in the field of criminal law through information exchange, specific cases, and advice.

#### *Police liaisons in trafficking in human beings*

It was decided in 2019 that police liaison officers will permanently be stationed in countries of origin and transit of trafficking in human beings.<sup>226</sup> In addition to placement in two EU countries, it was decided that a police liaison will also be stationed in Bosnia and Herzegovina. This is an official source

<sup>220</sup> For more information, please see: Europol, 'EU Policy Cycle - Impact', <https://www.europol.europa.eu/empact>.

<sup>221</sup> *Parliamentary Papers II*, 2018–2019, 27062, no. 108-1; *Parliamentary Papers II*, 2019–2020, 28638, no. 176.

<sup>222</sup> *Parliamentary Papers II*, 2019–2020, 28638, no. 176.

<sup>223</sup> Eurojust is an agency of the European Union (EU) dealing with judicial co-operation in criminal matters among agencies of the member states. Established in 2002, it was created to improve handling of serious cross-border and organised crime by stimulating investigative and prosecutorial coordination.

<sup>224</sup> *Parliamentary Papers II*, 2019–2020, 28638, no. 176.

<sup>225</sup> *Ibid.*

<sup>226</sup> *Ibid.*

country for trafficking in human beings to the Netherlands, specifically where the exploitation of minors is concerned. Moreover, it is an important transition country for migration crime because of its location on the Western Balkans route, where trafficking in human beings and smuggling of migrants are interwoven. Currently, it is being investigated where stationing on the Western Balkans route is the most efficient for the benefit of Bosnia and Herzegovina. The placement of the new liaisons should contribute to a better information position and should lead to more criminal investigations into trafficking in human beings, parallel investigations, Joint Investigation Teams (JITs) and other interventions. Moreover, liaisons can also play a role in building capacity, for example to strengthen local investigation, improve reception and treatment of victims, and/or raise awareness of the problems.

### ***Combating Money Laundering from TIP and SOM***

The project 'Combating Money Laundering from TIP and SOM'<sup>227</sup> was launched.<sup>228</sup> The Netherlands has been contributing financially to this project since the beginning of 2019. This project focuses on strengthening the national capacities of Egypt and Morocco to detect, investigate, prosecute and adjudicate crimes of human trafficking, migrants smuggling and money laundering via a series of training sessions for law enforcement officers, prosecutors and judges, executed by (United Nations Office on Drugs and Crime). It also provides hands-on experience and best practices to improve the countries' responses to these crimes.<sup>229</sup>

### ***Start project 'Trusted Sources'***

In 2019 the project 'Trusted Sources' started, carried out by IOM (the International Organization for Migration)<sup>230</sup> in collaboration with the Federal Republic of Nigeria. The Netherlands financed this project since October 2019.<sup>231</sup> The project first of all aims to prevent trafficking in human beings and human smuggling by supporting state and non-state actors with their public communication about human smuggling and the associated risks. Secondly, the project aims to enable returnees, members of communities, government and NGO's themselves to take preventative action against human smuggling and exploitation. Lastly, the project aims to promote informed decision-making on safe and legal migration pathways via interventions within communities such as 'peer-education' and community dialogues.<sup>232</sup>

### ***Other information and awareness raising campaigns***

The campaigns mentioned earlier (please see subsection 9.2.2) are aimed at informing about the dangers of irregular migration in general. Part of this is also to inform about the risks pertaining to trafficking in human beings.

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<sup>227</sup> *Trafficking in Persons (TIP) and Smuggling of Migrants (SoM)*.

<sup>228</sup> Information supplied by the Ministry of Foreign Affairs (BZ) on 25-11-2019.

<sup>229</sup> *Ibid*.

<sup>230</sup> The International Organization for Migration (IOM) is the leading inter-governmental organization on migration and works closely with governmental, intergovernmental and non-governmental partners. As the United Nations Migration Agency, IOM is dedicated to promoting humane and orderly migration for the benefit of all.

<sup>231</sup> Information supplied by the Ministry of Foreign Affairs (BZ) on 25-11-2019.

<sup>232</sup> *Ibid*.



# 11

## Return

### 11.1 Introduction

This chapter discusses the policy developments in relation to the return of migrants without a right of residence in 2019.

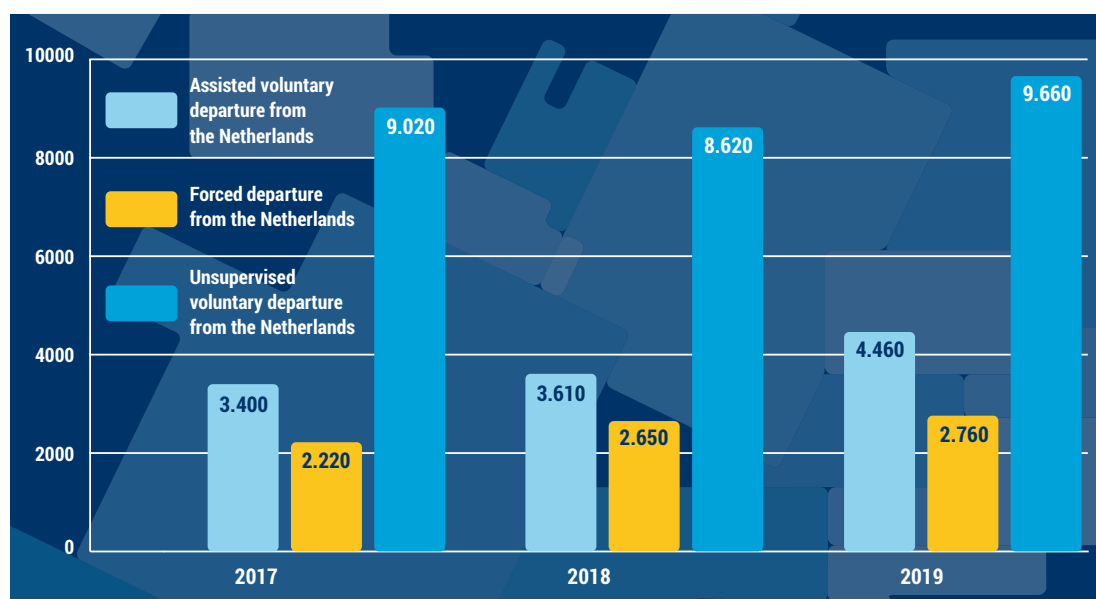
The chapter starts with an explanation of the figures relating to the return of migrants. In the next three subsections the main policy developments are discussed.

In 2019 the Repatriation and Departure Service (DT&V) registered 16,880 migrants who had left the Netherlands, demonstrably or not.<sup>233</sup> This concerns three types of departures: independent departure from the Netherlands, involuntary departure from the Netherlands and independent departure without supervision. The last type of departure means that a third-country national has departed independently, without the ultimate destination being known. These numbers differ with numbers of Eurostat regarding return, because of underlying differences in definitions between the numbers used for international and national purposes.

Compared to 2018 this is a rise by approx. 13 per cent. In that year DT&V registered 14,880 migrants who departed from the Netherlands. In 2019 the group 'assisted voluntary departure from the Netherlands' (9.660) increased by 12 per cent in comparison to 2018 (8.620).

**Figure 7:**  
Number of returned  
registered by DT&V in  
2017, 2018 and 2019

Source: Repatriation and  
Departure Service (DT&V),  
Departure statistics<sup>234</sup>



### 11.2 Policy developments

Various policy changes were made in 2019 with respect to swift, sustainable and effective return, return of rejected asylum seekers and return of irregular third-country nationals. The majority of the migrants enter the Netherlands in a regular and safe manner. But sometimes this is done in a way that is in conflict with the rules, for example because migrants have no visa or passport. In that case it concerns irregular migration.<sup>235</sup>

<sup>233</sup> These figures relating to return include EU-nationals who were staying in the Netherlands, but whose right of stay has ended. In an earlier version of the Annual Report, the explanation of these numbers was incorrect. For more information, please see: *Repatriation and Departure Service (DT&V), 'Vertrekcijfers 2019'* ['2019 Departure Statistics']. <https://www.dienstterugkeerenvertrek.nl/mediatheek/vertrekcijfers/index.aspx> (in Dutch).

<sup>234</sup> The numbers have been rounded to tens. Absolute correctness cannot be guaranteed for the data recorded in the registration system of the DT&V. This is for two reasons. Firstly, it takes some time to process files administratively. Secondly, registration is done manually, because of which the data provided may contain imperfections.

<sup>235</sup> For more information, please see: *National Government*, <https://www.rijksoverheid.nl/onderwerpen/migratie/voorkomen-irreguliere-migratie> (in Dutch).

### 11.2.1 Swift, sustainable and effective return

#### Return decisions, departure deadlines and entry bans

##### *Categories where denial of the departure period is considered*

On 29 November 2019, the Aliens Act Implementation Guidelines (Vc) were amended with respect to the departure period in case of rejection of the first asylum application. The general rule is that in principle, a departure period is granted in which the migrant should leave the Netherlands. The exception to this general rule is the denial of this departure period (the 0-days period) which leads to the situation in which the third-country national immediately needs to return. By amending the Aliens Act Implementation Guidelines, additional exception categories were added. These are:

- Asylum applications which are rejected for being manifestly unfounded, in which an evident rejection of the application is concerned;
- Asylum applications that are not handled within the Dublin procedure, but on a substantive basis for economic reasons pertaining to the process;
- Asylum applications that are predominantly inspired by socioeconomic reasons;
- Asylum applications in which the third-country national has stated that he shall not comply with his obligation to return upon rejection. These applications are generally also manifestly unfounded.

The reason for this change is that the Netherlands is confronted with a strong increase in the number of asylum applications by a group of third-country nationals who are suspected of having filed their applications for socioeconomic reasons. These applications burden the reception facilities and asylum process considerably.

Earlier in 2019 new grounds were already established for the departure period of 0 days. This is the case if the third-country national, when filing their application and explaining the facts, only addressed aspects that do not relate to the question whether they are eligible for a residence permit. After all, this is a case of evident rejection. In these cases, a departure period is denied, unless the third-country national's personal circumstances are such that denying a departure period is disproportionate. Unaccompanied minors are excepted. This ensues from the stipulations of the return directive.

#### Return decisions and departure deadlines

A return decision (TKB)<sup>236</sup> is a written statement or court judgment. It contains a ruling that the third-country national is no longer staying lawfully in the Netherlands. This also means that the third-country national must leave the Netherlands. This is called an obligation to return. A return decision cannot be imposed on a national of the EU/EEA or a Swiss.

It is stated in the return decision within what time the third-country national must leave the Netherlands (departure deadline). The departure deadline is determined per individual case. The standard time is four weeks (28 days). A 0-day deadline can also be chosen.

##### *Legal consequences of an entry ban*

On 21 March, the Aliens Act Implementation Guidelines (Vc) were amended as a result of case law of the Administrative Jurisdiction Division of the Council of State (AbRvS).<sup>237</sup> On 5 December 2018, the AbRvS issued a ruling<sup>238</sup> on the consequences of the Ouhrami ruling of the Court of Justice of the European Union on entry bans.<sup>239</sup> The Dutch Aliens Act (Vw) previously included that a third-country national could stay in the Netherlands when awaiting a decision on an application that does not con-

<sup>236</sup> For more information, please see: <https://ind.nl/en/Pages/entry-ban-return-decision-and-pronouncement-of-undesirability.aspx>.

<sup>237</sup> Government Gazette, 2019, no. 16905.

<sup>238</sup> AbRvS, 05-122018, no. 201802759/1/V3, ECLI:NL:RVS:2018:3998.

<sup>239</sup> HvJ EG 26-07-2017, no. C-225/16, ECLI:EU:C:2017 (Ouhrami).

cern a request for international protection. The national rule does not apply when an entry ban is in force against the third-country national. The Administrative Jurisdiction Division determined in their ruling that an entry ban becomes effective as soon as the third-country national leaves the territory of the Member States. If a third-country national has not yet left the territory of the Member States, the entry ban has not yet become effective, and an application for a residence permit provides lawful residence (unlike previously assumed). With the amendment of the Aliens Act Implementation Guidelines, it is specified that lawful residence is possible when an entry ban has been imposed if the foreign national is still on the territory.

### Support on departure

#### *Training preparing residents of the COA for the future*

In 2019, the training preparing residents for the future that the Central Agency for the Reception of Asylum Seekers (COA) provides to them was renewed.<sup>240</sup> The COA counsels residents who have received a negative decision on their asylum application, in individual discussions as well as in a group-oriented training preparing for the future. The aim of this counselling is to support these residents in preparing for their future in their country of origin and to motivate them to depart independently. An internal evaluation showed that the existing training of residents for the future needed to be updated. The contents of the training have been adapted, additional training material has been developed and new working agreements have been set out in relation to the target, the target group and the duration of the training. Agreements have been made with the organisations cooperating in migration and asylum matters (Repatriation and Departure Service (DT&V) and IOM) on their contributions to the training. The Dutch Council for Refugees (VWN), if invited to do so, can make a contribution to the training. In addition, a training program has been developed for COA staff members who will be giving the training for the future, in which they learn to deal effectively with possible resistance of participants to the training preparing them for the future.

#### *Exclusion of Moldovan applicants for international protection under the Dublin III Regulation from support in return to country of origin*

The policy for Moldovan asylum seekers in a Dublin procedure<sup>241</sup> was changed twice in 2019. The first change was introduced in April 2019. The Minister for Migration then decided only to organise the Dublin transfer, and exclude Moldovan third-country nationals filing an application in the Dublin III Regulation procedure from further support in departure via the Repatriation and Departure Service (DT&V) or via IOM's<sup>242</sup> REAN-program<sup>243</sup>. The reason for this was that the number of asylum applications by Moldovans was increasing in the Netherlands, despite these applications having little chance of success.

In November 2019, the Minister for Migration took measures for a second time because of a new peak in the number of asylum applications by Moldovans. The purpose of this was to achieve swift departure of this target group. One of these measures is that all Moldovan third-country nationals can once again make use of the REAN program carried out by IOM. The distinction that was made since 15 April 2019 between Moldovan applicants for international protection under the Dublin III Regulation and Moldovan migrants who are not in the Dublin procedure has accordingly lapsed. However, the support contribution for Moldovan migrants has been lowered to €40 per person.

240 Information supplied by the Central Agency for the Reception of Asylum Seekers (COA) on 06-12-2019.

241 The Dublin Regulation stipulates that an asylum application must be processed in the country where the asylum seeker entered the EU.

242 International Organization for Migration (IOM), 'Wijziging terugkeerregeling Moldavische migranten', <https://iom-nederland.nl/nieuws/nieuws-over-vrijwillige-terugkeer/wijziging-terugkeerregeling-moldavische-migranten>, consulted on 25-10-2019 (in Dutch).

243 The International Organization for Migration (IOM) is an intergovernmental organization that provides services and advice concerning migration to governments and migrants, including internally displaced persons, refugees, and migrant workers. REAN (Return and Emigration Assistance from the Netherlands) offers voluntary return assistance free of charge and offered to all migrants, regardless of their legal status in the Netherlands.

### *The Netherlands finances IOM's PROTECT II*

Protect II is an Assisted Voluntary Return and Reintegration<sup>244</sup> (AVRR) project of IOM, taking place from September 2019 to September 2021 inclusive. The project facilitates voluntary return from Algeria, Egypt, Tunisia and Morocco, and supports reintegration in the countries of origin.<sup>245</sup>

### **Detention in the context of departure**

#### *Detention of minor third-country nationals*

The Minister for Migration announced on 13 September 2019 that the Aliens Act Implementation Guidelines (Vc) will be amended in connection with the detention of minor third-country nationals.<sup>246</sup> After this amendment becomes effective, UAMs who are first detected on the radar of the government and whose departure can in principle be effected within no more than four weeks can be detained in the secure family facility. The reason for this announced policy change is the disappearance of UAMs who, after being discovered by the government, are transported to the application centre in Ter Apel (irrespective of whether they wish to apply for asylum), immediately leave for an unknown destination and disappear underground. This target group possibly renew their attempts to travel to the United Kingdom irregularly. The Minister considers the situation undesirable that these (often removable) young people disappear underground instead of being reunited with their parents in the country of origin or placed in a reception facility. The current policy does not provide options for the detention of UAMs who are first detected on the radar and are not suspected of any crime.

#### *Legal basis for stopping and questioning, transfer and detention*

On 6 February 2019, the Aliens Act (Vw)<sup>247</sup> was amended so that, from now on applicants for international protection under the Dublin III Regulation<sup>248</sup> and other asylum seekers can be stopped and questioned, transferred to a place to be heard, and detained for the purpose of remand in custody.<sup>249</sup> This change follows up on the ruling of the Administrative Jurisdiction Division of the Council of State (AbRvS) of 2 May 2018.<sup>250</sup> If a third-country national is awaiting a decision on a residence permit application or transfer to another Member State pursuant to the Dublin Regulation, it may be necessary in some cases to place the third-country national in aliens detention. This is, for example, the case if this is necessary in the interest of public order or national security, or if there is a significant risk of absconding. To assess whether to proceed with placement in aliens detention under this provision, it may first be necessary to stop and question the third-country national, transfer him/her to a location for hearing and retain him or her there for some time. Previously, this was only authorised if there was a reasonable suspicion of irregular stay. An applicant for international protection under the Dublin III Regulation procedure or a third-country national who has applied for international protection will usually be staying legally, owing to which there is no legal basis for stopping and questioning the third-country national. The compulsory measure of aliens detention exists to keep third-country nationals available for removal if they do not cooperate actively to their departure.

244 In addition, IOM offers reintegration support through the Assisted Voluntary Return and Reintegration program (AVRR). Specific support is provided to vulnerable migrants such as migrants with a medical indication, victims of human trafficking and unaccompanied minors.

245 Information supplied by the *Ministry of Foreign Affairs (BZ)* on 09-01-2020.

246 *Parliamentary Papers II*, 2018-2019, 19637, no. 2530.

247 This law regulates the entry, admission, supervision and deportation of foreign nationals.

248 The *Dublin Regulation* stipulates that an asylum application must be processed in the country where the asylum seeker entered the EU.

249 *Bulletin of Acts and Decrees*, 2019, no. 35056.

250 *AbRvS*, 0205-2018, no. 201801240/1/V3, ECLI:NL:RVS:2018:1491.

### 11.2.2 Return of rejected asylum seekers

#### *Legislative proposal for statutory basis for border detention after rejection of asylum application*

On 2 September 2019, a legislative proposal was submitted to amend the Aliens Act (Vw)<sup>251</sup> in response to the Gnandi<sup>252</sup> ruling, the ruling in the 'case of C' on 5 July 2018<sup>253</sup> and the rulings by the Administrative Jurisdiction Division of the Council of State (AbRvS) of 5 June 2019 related to these rulings.<sup>254</sup> The rulings by the Court of Justice of the European Union have considerable consequences for the current legislation.<sup>255</sup> These rulings make amendment of the legal basis necessary in the appeal phase for the residence of third-country nationals whose asylum application was rejected in the border procedure. The AbRvS reached the opinion that national legislation currently does not provide a suitable foundation for imposing a measure depriving asylum seekers of their liberty after the rejection of their asylum application at the border. This means that third-country nationals who apply for asylum at the border can no longer be held in border detention after being rejected. The consequence is that these third-country nationals are given access to the Netherlands. This poses a risk to the interest of border detention. To enable border detention to remain possible in the appeal phase after the rejecting decision, a legislative proposal was submitted with urgency to amend the Aliens Act.

#### *Start pilot National Immigration Facilities (LNV's)*

The pilot program of five National Immigration Facilities (LNVs)<sup>256</sup> started officially on Thursday 28 March 2019.<sup>257</sup> These are shelter and counselling facilities in municipalities. The LNVs are intended for asylum seekers who have exhausted all legal means in the asylum procedure, do not have the right of residence, and who have not left the Netherlands either of their own volition or forced (for more information, please see subsection 9.2.3).

### 11.2.3 Return of irregular migrants

#### *Return track*

An initiative was launched in the final quarter of 2019 to achieve a comprehensive approach to maximize return in cases where documents for return are in fact available and the person is on a reception location, but where return cannot be initiated due to various procedural reasons initiated by the third country national. By using a return focused approach, these cases will now be prioritized to reach a conclusion and, where legally possible, return the third country national.<sup>258</sup>

#### *Political intervention*

Strategic visits have been made at the political level with a view to enhancing return cooperation in designated countries of origin. A visit to Nigeria was made by the Minister for Migration in November 2019 to address return and prevention of human trafficking. The Minister has held meetings with several High officials from Algeria and others to strengthen the awareness in those countries that return is a priority for the Dutch Authorities. This campaign will continue throughout 2020.<sup>259</sup>

#### *Handling an application and returning the third-country national rather than applying the Dublin III Regulation*

In November 2019 a different approach was launched to deal with a high influx of asylum seekers from one country of origin (Moldova). In a concerted effort, these cases were not handled under the

251 For more information, please see: House of Representatives, 'Wetsvoorstel wijziging Vreemdelingenwet 2000 vrijheidsontneming asielzoekers', <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=2019Z16268&dossier=35271>, consulted on 11-11-2019 (in Dutch).

252 HvJ EG, 18-06-2018, no. C-181/16 (Gnandi).

253 HvJ EG, 05-06-2018, no. C-269/18 PPU.

254 AbRvS, 05-06-2019, no. 201808923/1/V3, ECLI:NL:RVS:2019:1710 and AbRvS, 05-06-2019, no. 201808670/1/V3, ECLI:NL:RVS:2019:1843.

255 Parliamentary Papers II, 2018/19, 35271, no. 3.

256 The five pilot municipalities are Amsterdam, Rotterdam, Utrecht, Eindhoven and Groningen.

257 Association of Netherlands Municipalities (VNG), 'start landelijke vreemdelingenvoorzieningen in 5 gemeenten', <https://vng.nl/onderwerpenindex/asiel/asielbeleid-en-integratie/nieuws/start-landelijke-vreemdelingenvoorzieningen-in-5-gemeenten>, consulted on 28-05-2019 (in Dutch).

258 Information supplied by the Ministry of Justice and Security (J&V) on 29-01-2020.

259 Ibid.

Dublin regime, but were dealt with in the Dutch Asylum procedure, after which return to Moldova was initiated, thus ending the period of illegal or irregular stay in the EU that possibly had been ongoing for several years in several Member States. This method could be extended to asylum seekers from other countries of origin in 2020.<sup>260</sup>

#### 11.2.4 Reintegration measures

##### *Reintegration projects (ERRIN)*

In 2019 the European Return and Reintegration Network (ERRIN)<sup>261</sup> took steps to set up reintegration projects together with the authorities in countries of origin. In the first place, the concept aims to provide returnees with a reintegration package when they have returned.<sup>262</sup> Secondly, the authorities concerned will be supported in building their capacity (inter alia an efficient government machinery).

In Armenia, a pilot project of half a year took place, which was completed successfully. Afterwards, this project was included in ERRIN's standard offer. The ERRIN partners in Armenia are the State Migration Service and the ICMPD. Other countries of origin where ERRIN would like to explore this concept of collaboration also include the countries of origin Gambia and Ghana. The preparations for this have started and will be given further shape in 2020.

The REAN and PROTECT II programs, implemented by the International Organization for Migration (IOM), mentioned in subsection 11.2.1 (Swift, sustainable and effective return), also focus on sustainable reintegration of voluntary returnees from the Netherlands or countries in North Africa in their countries of origin.

##### *Contribution project Connecting Return to Development (IOM)*

Since October 2019, the Netherlands has made a financial contribution to the project 'Connecting Return to Development'.<sup>263</sup> This project was started by IOM. The Netherlands has been contributing financially to this project since October 2019. The objective of this project is to reduce the vulnerability of Afghans returning mostly from Iran and Pakistan and contribute to their sustainable reintegration. This is achieved by: providing post-arrival assistance; supporting and protecting migrants vulnerable to violence, exploitation and abuse; connecting vulnerable migrants to livelihoods opportunities; and facilitating integrated community development to foster sustainable reintegration of Afghan migrants in their communities of return.

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<sup>260</sup> Ibid.

<sup>261</sup> The aim of this program is to undertake joint return from the European Union to increase effectiveness. Guidance in the return process is the starting point, in which third country nationals receive assistance with return by providing information and support with reintegration.

<sup>262</sup> Information supplied by the Repatriation and Departure Service (DT&V) on 10-12-2019.

<sup>263</sup> Information supplied by the Ministry of Foreign Affairs (BZ) on 25-11-2019.

## 12

# Migration and developments

## 12.1 Introduction

This last thematic section deals with the policy developments concerning migration and development in 2019. Sustainable development of countries of origin and stability are first and foremost in order to tackle the root causes of migration. Attention is paid to developments in the cooperation with countries of origin in the form of development projects. These are projects in which the Netherlands is involved and, for example, makes a financial contribution.

## 12.2 Policy developments

### *'Reception in the region' policy will become regular component of Foreign Trade and Development Cooperation (BHOS)*

In line with the coalition agreement, the reception in the region policy<sup>264</sup> became a regular part of the BHOS policy intensification resources of €128 million per year.<sup>265</sup> Its deployment focuses on giving perspective to refugees and displaced persons, as well as (vulnerable) host communities, in particular in eight focus countries (Egypt, Ethiopia, Iraq, Jordan, Lebanon, Kenya, Uganda and Sudan), by offering protection (including mental healthcare), stimulating employment and improving education.

In 2019, two instruments were developed for this purpose:

- 1) The Prospects Partnerschap<sup>266</sup> with International Finance Corporation<sup>267</sup> (IFC), International Labour Organization<sup>268</sup> (ILO), UNHCR, UNICEF<sup>269</sup> and the World Bank. This partnership with both humanitarian and development actors is an innovative model to shape a development-oriented approach to the long-term refugee crisis concretely.
- 2) In addition, 11 projects by organisations were selected and started in the spring of 2019 with assistance of the Migration and Development subsidy policy framework.

During the first Global Refugee Forum on Ministerial level in Geneva in December 2019, exactly one year after the ratification of the Global Compact on Refugees, the Netherlands was co-sponsor of the theme of employment. In addition, the Netherlands – together with the World Health Organisation (WHO), the International Federation of the Red Cross (IFRC) and the UN High Commissioner for Refugees (UNHCR) – organised a focus session on Mental Health and Psychosocial Support (MHPSS) about the necessity of integrating psychosocial care in every crisis response.

### *Development cooperation was increased in the Middle East and North and West Africa*

In 2019, the Netherlands again made efforts through development cooperation focused on combatting poverty and instability to tackle the root causes of irregular migration in these countries.<sup>270</sup> Next to this, the capacity of the diplomatic network was strengthened in these countries and cooperation was tightened on the primary migration routes. Members of government visited Algeria, Tunisia,

<sup>264</sup> In the 2017 Dutch coalition agreement "Confidence in the future" it was stated that it is preferable to offer protection in the region of the country from which one is forced to flee. The Netherlands contributes to the creation and maintenance of safe and adequate care in the region. To regulate the uncontrolled migration flow to Europe, to break the smugglers' revenue model and, above all, to put an end to drownings in the Mediterranean, agreements (preferably in a European context with regard to migration) can be concluded with safe countries of origin located outside the EU/EEA that comply with the conditions of the 1951 Refugee Convention.

<sup>265</sup> Information issued by the Ministry of Foreign Affairs (BZ) on 15-01-2020.

<sup>266</sup> For more information, please see: National Government, 'Versterken opvang en bescherming voor vluchtelingen en ontheemden in de regio', <https://www.rijksoverheid.nl/onderwerpen/migratie/versterken-opvang-en-bescherming-in-de-regio> (in Dutch).

<sup>267</sup> The International Finance Corporation (IFC) is an international financial institution that offers investment, advisory and asset management services to encourage private sector development in less developed countries.

<sup>268</sup> De Internationale Arbeidsorganisatie, usually known under the English abbreviation ILO, is a specialized agency of the United Nations. ILO deals with employment issues.

<sup>269</sup> The United Nations Children's Fund (UNICEF) is an organization within the United Nations (UN) that works for the well-being of children, including through the Convention on the Rights of the Child.

<sup>270</sup> Parliamentary Papers II, 2017-2018, 19637, no. 2375.



Libya and Nigeria in 2019. These efforts focus on a multiannual planning regarding stability, combating poverty, and sustainable, inclusive growth, for example by improving employment and youth employment, socio-economic development, agriculture and education.<sup>271</sup>

### *Connecting Diaspora for Development 2*

IOM Netherlands<sup>272</sup> is involved in the organisation of this project and the project is funded by the Dutch Ministry of Foreign Affairs (BZ).<sup>273</sup> The objective of the CD4D 2 project (following up on the earlier phase, which started in 2016) is to have diaspora experts from focus countries contribute to the development of their country of origin through knowledge transfer and capacity building.<sup>274</sup> The Netherlands made a new contribution and the focus countries in 2019 were Afghanistan, Iraq, Somalia and possibly Nigeria. These countries have large groups living in diaspora communities abroad, who often have expertise that is lacking locally in the country of origin. This concerns knowledge that is considered essential for the development of institutions. The project makes efforts to bring people from the diaspora together with specific institutions where certain expertise is lacking, and hence contributes to capacity building.

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<sup>271</sup> *Parliamentary Papers II*, 19637, no. 2535.

<sup>272</sup> The *International Organization for Migration (IOM)* is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants. IOM works to help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people.

<sup>273</sup> Information supplied by the *Ministry of Foreign Affairs (BZ)* on 25-11-2019.

<sup>274</sup> *IOM Netherlands*, 'Connecting Diaspora for Development (CD4D)', <https://iom-nederland.nl/migratie-en-ontwikkeling/connecting-diaspora-for-development-cd4d>, consulted on 19-12-2019 (in Dutch).



## Appendix

## Methodology and definitions

*Methodology*

This twelfth Annual Report is predominantly the result of desk research. The report was drawn up on behalf of the national EMN contact point in the Netherlands by Bas Donders and Maren Stegink. In doing so, they greatly benefitted from expertise at the Strategy and Implementation Advise Department (DSUA) of the Immigration and Naturalisation Service (IND) and the Migration Policy Department (DMB) of the Ministry of Justice and Security. The following parties have also provided a contribution to the compilation of this report: the Community and Integration Department and the Labour Relations Department of the Ministry of Social Affairs and Employment (SZW), the Repatriation and Departure Service (DT&V) and the Central Agency for the Reception of Asylum Seekers (COA) of the Ministry of Justice and Security (J&V), the Royal Netherlands Marechaussee (KMar) of the Ministry of Defence, the National Rapporteur on Trafficking in Human Beings, the Law Enforcement and Crime Prevention Branch (DRC) of the Ministry of Justice and Security, and the Consular Affairs and Visa Policy Department (DCV) and the Department for Stabilisation and Humanitarian Aid Migration and Development (DSH-MO) and the Bureau Migration policy of the Ministry of Foreign Affairs, the Public Prosecution Service, and the National Police.

Information on the preparation of legislation and regulations and on parliamentary

- debates originates from official sources. The following types of documents were consulted: Parliamentary Papers of the Senate and House of Representatives;
- Proceedings of the Senate and House of Representatives;
- Official publications of legislation and regulations in the Treaty Series, Bulletin of Acts and Decrees and Government Gazette.

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

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

To gain insight into the public debate, use has mostly been made of the Internet. By means of the internet sites of large national newspapers and news and current affairs programs on national television (by both public and commercial broadcasters), it was determined which topics related to asylum and migration were given much attention the media. An important source of information about social debates was the weekly Nieuwsberichten (news items) about migration on [Migratierecht.nl](http://Migratierecht.nl), a digital publication by Sdu Uitgevers.<sup>275</sup> In addition to a general survey of topics related to asylum and migration, research also included specific topics debated in parliament.

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

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

The report strives to provide as complete an overview as possible of the changes and intended changes in law and regulations in the various policy domains addressed. All changes and intended changes that entail an actual substantive change to these laws and regulations have been included in

<sup>275</sup> Available on the non-public website: <https://migratierecht.sdu.nl/> (in Dutch).

the report. Only minimal changes have not been included (for example, the annual increase of certain income requirements).

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

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

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

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

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

#### *Terms and definitions*

This report has adopted the definitions of relevant terms in the EMN Asylum and Migration Glossary 6.0.<sup>276</sup> The terms and definitions in this glossary, developed by the EMN, aim, inter alia, at improving comparability of information exchanged between EU Member States.

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<sup>276</sup> Asylum and Migration Glossary 6.0 - a tool for better comparability produced by the European Migration Network, May 2018. Available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en).

## Appendix

## B

## Structure of the Dutch asylum and migration policy

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

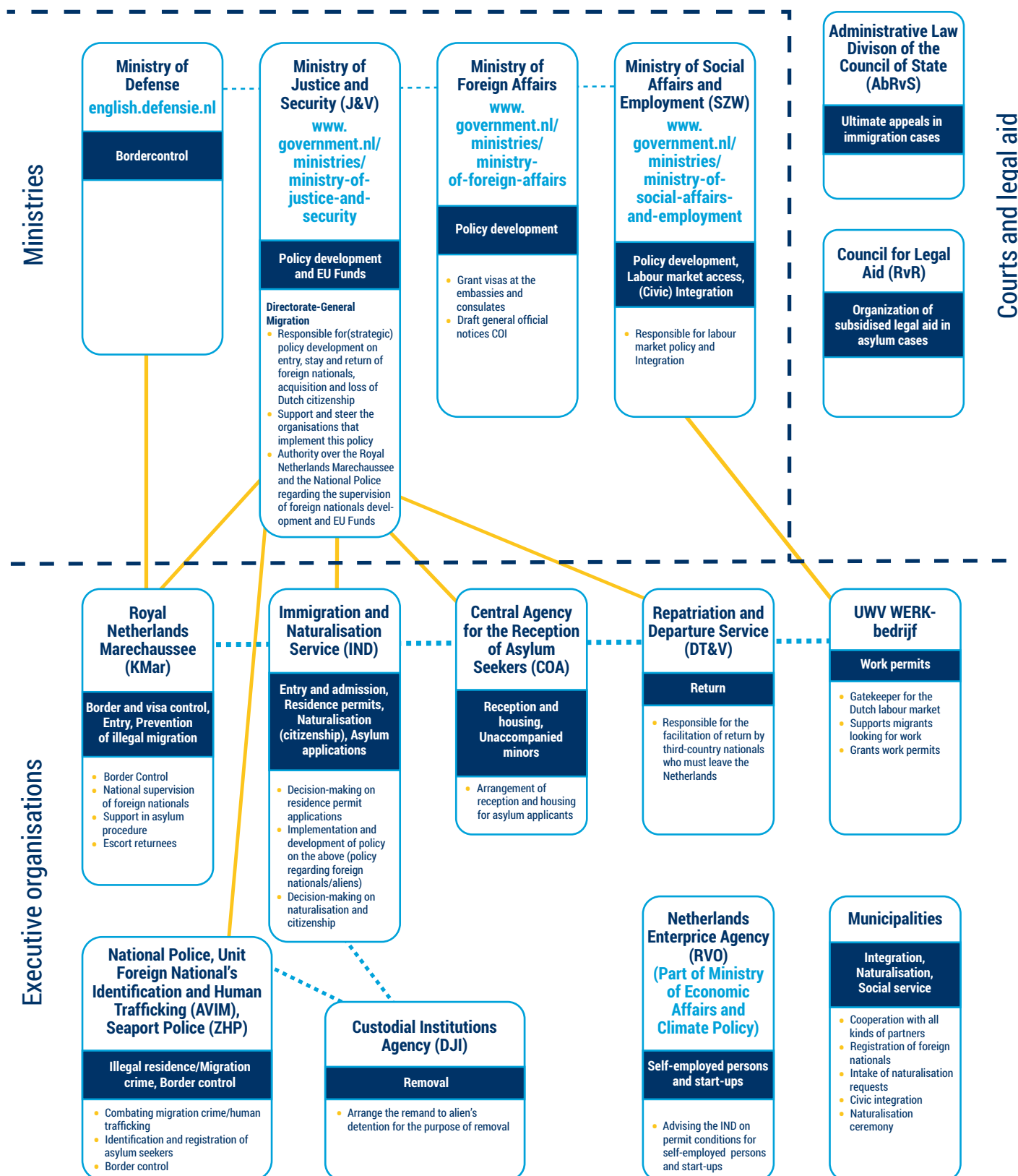
- The **Minister for Migration (J&V)** is responsible for policies in the field of admissions, residence and return of third-country nationals. In addition, the Minister for Migration leads the organisations cooperating in the immigration process.
- The **Minister of Social Affairs and Employment (SZW)** is responsible for the admission of third-country nationals to the Dutch labour market. In addition, the Minister of Social Affairs and Employment is responsible for civic integration.
- The **Minister of Foreign Affairs (BZ)** is responsible for visa policy. The Minister of Foreign Affairs is also responsible for the compilation of official reports, which describe the situation in important countries of origin of asylum seekers, and individual official reports, used for the assessment of facts or documents presented by an asylum seeker for correctness and authenticity.
- The **Minister of Defence** is responsible for the policy on admission and control at the border.
- The **municipalities** are responsible for the accommodation of holders of residence permits for international protection and also have a role in handling naturalisation applications. Municipalities also have a duty to care for the civic integration and participation of immigrant population groups and local implementation of the asylum policy.
- The **Immigration and Naturalisation Service (IND)**, an agency of the Ministry of Justice and Security (J&V), is responsible for the implementation of the Aliens Act and the Netherlands Nationality Act. This agency assesses all applications from third-country nationals who stay or want to stay in the Netherlands or who want to become Dutch nationals. The IND also plays a role on behalf of the Minister of Foreign Affairs in the assessment of applications for a short-stay visa. In addition, the IND assesses all applications for a regular provisional residence permit (MVV) on behalf of the Minister of Foreign Affairs.
- The **Repatriation and Departure Service (DT&V)**, an agency of the Ministry of Justice and Security (J&V), is responsible for organising a humane and professional departure of third-country nationals who have to leave the Netherlands.
- The **Central Agency for the Reception of Asylum Seekers (COA)**, an independent administrative body, is responsible for the reception of asylum seekers. Commissioned by the Minister for Migration, COA offers people safe housing and supports them in preparing for their future in the Netherlands or elsewhere. This mainly concerns asylum seekers and refugees, and specific groups such as unaccompanied minors. COA is an implementing body with reception centres throughout the Netherlands. This mainly concerns asylum seekers and refugees, and specific groups such as unaccompanied.
- The **Council for Legal Aid (RvR)** is an independent administrative body that is responsible for subsidised legal aid in the Netherlands on behalf of the Ministry of Justice and Security (J&V). The responsibilities of this organisation include arranging the provision of legal aid in asylum cases.
- The **Custodial Institutions Agency (DJI)**, an agency of the Ministry of Justice and Security (J&V), is responsible for executing freedom-restricting measures for the removal of third-country nationals from the Netherlands, including detention (the so-called aliens detention).
- The **Royal Netherlands Marechaussee (KMar)**, part of the Ministry of Defence, has the important task of enforcing the Aliens Act. The KMar is responsible for border monitoring, border control and border surveillance. By way of this task, the KMar also contributes, inter alia, to the combating of

irregular immigration. In the maritime domain, the Seaport Police fulfil the border-control task in the harbor of Rotterdam and the KMar fulfils the maritime border control task in all harbors.

- The **National Police, Unit Foreign National's Identification and Human Trafficking (AVIM)** is part of the National Police. It supervises the lawful residence of third-country nationals.
- The **General Intelligence and Security Service (AIVD)** provides the IND with information when subjects of investigation are concerned against whom the IND can take action in the interest of national security.
- The **Seaport Police (ZHP)**, also part of the National Police, are responsible for border surveillance in the Port of Rotterdam.
- The **Employee Insurance Agency (UWV)** is an independent administrative body that is commissioned by the Ministry of Social Affairs and Employment (SZW). Among other things, it is entrusted by the ministry with the task of providing binding advice on applications for a combined residence and work permit (single permit) for third-country nationals who want to work in the Netherlands and for the issuing of work permits.
- The **Education Executive Agency (DUO)** is responsible for the execution of several acts and regulations, such as student grants and information management. These acts are commissioned by the Minister of Education, Culture, and Science (OCW).
- The **Netherlands Enterprise Agency (RVO)** is part of the Ministry of Economic Affairs and Climate Policy (EZK), but also performs assigned tasks on behalf of other ministries, including the Ministry of Foreign Affairs (BZ) and the Ministry of the Interior and Kingdom Relations (BZK). Additionally, the RVO is commissioned by the European Union. For a number of residence permits, the IND calls for advice from the Netherlands Enterprise Agency.
- **Diplomatic missions** are Dutch embassies, consulates, consulates general and permanent representations at international organisations. The diplomatic missions process applications for short-stay visas. Moreover, third-country nationals who want to become Dutch nationals abroad can file their applications for naturalisation with diplomatic missions. This is also where they can sit their mandatory civic integration examination and attend the mandatory naturalisation ceremony.
- **The Council of State (RvS)** is an independent adviser to the government on legislation and orders in council (AMvBs), and it is the highest general administrative court of the Netherlands. The Administrative Jurisdiction Division also assesses issues in which third-country nationals do not agree with decisions by the government.
- The **Advisory Committee for Migration Affairs (ACVZ)** is an independent advisory committee that provides solicited and unsolicited policy and legislative advice to the government and parliament in matters of immigration law and policy on foreign nationals.
- The **Research and Documentation Centre (WODC)** is part of the Ministry of Justice and Security (J&V). The WODC is entrusted with the task of conducting research, including the evaluation of policy and policy programs, providing advice on proposed policy and policy programs, and the development, maintenance and accessibility of data.
- The **International Organization for Migration (IOM)**, an intergovernmental organisation, plays an important role in the Netherlands in the voluntary return and reintegration of third-country nationals.
- The **Dutch Council for Refugees (VWN)** is a foundation that provides practical assistance to asylum seekers and promotes their interests in the political debate.
- **CoMensha** is the national, independent expertise and coordination centre that defends the rights and interests of victims of human trafficking in the Netherlands.
- The **Nationaal Rapporteur on Trafficking in Human Beings and Sexual Violence against Children** reports on the nature and extent of human trafficking and sexual violence against children in the Netherlands, and on the effects of the government policies pursued.
- **Nidos Foundation** focusses on unaccompanied minors. For children who apply for asylum in the Netherlands without their parents, Nidos will assure authority by means of temporary guardianship. Nidos will also carry out the child protection measure when it concerns migrant families who are in the asylum procedure and stay at a COA location.

# Organizational chart

## Netherlands: Institutional framework for Asylum and migration



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