



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

Annual Policy Report 2008

Developments in Dutch Migration and Asylum Policy

1 January 2008 - 31 December 2008

August 2009



Immigratie- en Naturalisatiedienst

The objective of the European Migration Network (EMN) is to meet the information needs of Community institutions and of Member States' authorities and institutions on migration and asylum, by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. The EMN also serves to provide the general public with information on these subjects.

The migration network is an initiative of the European Commission and finds its Legal base in Council Decision 2008/381/EC of 14 May 2008. The EMN is composed of the European Commission and National Contact Points (NCP) designated by the Member States. Each NCP maintains a national network.

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Immigration and Naturalisation Service (IND),

Staff Directorate for Implementation and Policy (SUB),

Information and Analysis Centre (INDIAC),

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

Executive Summary

The 2008 Annual Policy Report provides an overview of the developments in Dutch migration and asylum policy from 1 January 2008 to 31 December 2008. This report is a product of the IND Information and Analysis Centre (INDIAC), the Dutch national contact point for the European Migration Network (EMN). The EMN is an initiative of the European Commission. The object of the EMN is to provide the Community, its Member States, and the general public with objective, reliable, and comparable information regarding migration and asylum matters at the European and national level.

Every year, the national contact points for the EMN draw up an Annual Policy Report. This report is intended to provide an overview of the most important developments in the area of migration and asylum in the various Member States. The developments in legislation and regulations and in the administrative practice are discussed first, including the associated political and public debates. The report also takes a detailed look at the implementation of EU legislation in the area of migration and asylum. The European Commission compiles the results of the various country reports into a synthesis report.

The Dutch report first focuses on important political and institutional developments. After this, the most important developments in the area of legislation and regulations and the associated political and public debates in the area of migration and asylum are discussed in depth. This report also pays attention to integration policy, insofar as this is directly associated with migration. In order to determine which subjects must be included in the report, several criteria were used to define the term 'important developments'.

In its Annual Policy Report, INDIAC aims at giving the most complete overview possible of the amendments or proposed amendments to legislation and regulations in the different policy areas discussed in this report. The report does not aim for completeness with respect to the political and public debates and developments: rather the level of attention devoted to these areas in Parliament and the media is the determining factor. This report does, however, provide a full overview of developments in respect of the implementation of European legislation in the area of migration and asylum. More information about the selection criteria can be found in appendix on methodology.

The Annual Policy Report 2008 discusses, in sequence, the political system in the Netherlands, the organisation of migration and asylum (including the developments in this organisation), and general political developments. Attention is subsequently paid to the developments in the following sub-areas:

- Control and monitoring of immigration
- Refugee protection and asylum
- Unaccompanied minors and other vulnerable groups
- Economic migration
- Family reunification
- Other legal migration
- Integration
- Citizenship and naturalisation
- Illegal immigration
- Actions against human trafficking
- Return migration

Finally, the report devotes attention to the implementation of European legislation in 2008, and a complete overview is provided of the state of affairs in this area.

It would be taking things too far to give a complete summary of the developments in 2008 in all sub-areas. Instead, we opted for a brief discussion in this executive summary of the most notable developments in 2008.

In 2008, the proposed revision of both the asylum policy and the admission policy was elaborated further.

Acceleration and Improvement of the Asylum Procedure

In June 2008, the Minister and State Secretary for Justice submitted the details of the Cabinet proposal to achieve a faster and improved asylum procedure. The Cabinet proposal for the revision of this procedure is based on the following three cornerstones:

- The introduction of a period of rest and preparation of at least six days prior to submitting the asylum application;
- Extension of the first part of the asylum procedure from 48 processing hours to eight working days;
- Acceleration of the second part of the asylum procedure.

Period of rest and preparation

After having reported in a so-called Application Centre, asylum applicants currently stay in a Temporary Emergency Facility for Foreign Nationals (*Tijdelijke Noodvoorziening Vreemdelingen, TNV*). Current legislation and regulations do not provide for the possibility to start examining the asylum applicant's case while he or she stays in the TNV.

The Cabinet proposes to use the time before the start of the procedure to increase the accuracy of the procedure. For this purpose, all asylum applicants will be allowed a period of rest and preparation of at least six days prior to submitting the formal asylum application. In this period, the IND can start examining the following aspects:

- any medical problems of the asylum applicant;
- the asylum applicant's identity;
- documents to substantiate the story told by the asylum applicant (such as arrest warrants, and judgments).

In this period, the relevant agencies can inform the asylum applicant about the procedure and the legal-aid counsellor can prepare the asylum applicant for the legal aspects of this procedure.

The asylum procedure is twofold

The Cabinet proposes to extend the present 48-hour procedure to eight days. This procedure of eight working days will be referred to as the general asylum procedure. In this procedure, a relatively larger part of the time will be made available to the asylum applicant and the legal-aid counsellor. At least one day has been allotted to each step in the process. Different from the present procedure, the detailed interview and the corrections and additions to it will, in principle, always take place within the general asylum procedure. The Cabinet stated it also wished to accelerate the procedure for applications that have not been decided within eight days. In addition to conducting the detailed interview in the first part of the procedure, the Cabinet wants to achieve this by adapting IND's logistic processes, and by including special personal aspects of the asylum applicant (such as minority and medical circumstances) as much as possible in the asylum procedure itself or in separate but parallel procedures.

Modern Migration Policy

The Cabinet plans for revising the regular (non-asylum) admission policy were also elaborated further in 2008. The Cabinet intends to admit migrants that are needed in the Netherlands quickly and effectively. This means that it must be easier to admit highly skilled migrants to the Netherlands. The present admission system is too complex to realise quick and effective admission. The main points of the proposals include the following:

1. The existing separate applications for a provisional residence permit (a D visa) and a residence permit will be merged;
2. The admission procedure will be accelerated as much as possible;
3. The application procedures for residence permits and work permits will be combined as much as possible.

In addition, a sponsor system will be used in the future. Sponsors will be given a larger role in the admission of foreign nationals. Applications from recognised sponsors will be assessed less thoroughly and consequently quicker. Sponsors will be obliged to inform the authorities in due time, correctly, and

completely regarding the foreign national's admission, residence, and departure. Non-compliance with this obligation carries sanctions.

The proposals also give due attention to more effective supervision and visible enforcement. An important instrument to achieve this is risk assessment. Risk assessment will be used to analyse the risks of abuse and fraud for the different target groups in the new migration system. The target groups in respect of which the risks of abuse or fraud are assessed higher on the basis of these analyses will be checked more intensively.

The new admission policy is expected to be implemented on a phased basis in 2011. In anticipation of the implementation of the modern migration policy, several amendments already entered into force in 2008. In the area of economic migration, for instance, a scheme for highly skilled migrants was published and a scoring system for the admission of foreign nationals working on a self-employed basis entered into force. In addition, the assessment of applications to extend a residence permit for the purpose of family reunification (including family formation) was simplified.

Chinese Asylum Applicants

In the period between 12 March and 11 April 2008, there was a sudden increase in the number of Chinese asylum applicants. The apparent reason was a rumour in the Chinese community in the Netherlands that a succession to the throne was forthcoming, which was said to be accompanied by amnesty for illegal foreign nationals. Part of the asylum applicants had probably already been staying illegally in the Netherlands for some time. Amongst others, problems with respect to the reception of these asylum applicants received much media attention. The House of Representatives, too, debated the developments extensively more than once. All parliamentary parties criticised the manner in which the Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan Opvang Asielzoekers, COA*) had realised additional reception facilities. The House of Representatives furthermore expressed its concerns about the fact that these foreign nationals would disappear into illegality again. In spite of the measures taken by the State Secretary to prevent this, 600 out of the approximately 750 Chinese asylum applicants disappeared from view again. The People's Party for Freedom and Democracy (*Volkspartij voor Vrijheid en Democratie, VVD*) submitted a no-confidence motion following the disappearance of part of this group against the State Secretary, but this motion was only supported by the VVD, the Freedom Party (*Partij voor de Vrijheid, PVV*), and the independent Member of Parliament Verdonk.

Civic Integration Delta Plan

In 2008, there was again much ado about the Civic Integration Act (*Wet inburgering*). The Civic Integration Delta Plan (*Deltaplan Inburgering*), which dates back from September 2007, constitutes the Cabinet's reaction to the problems encountered while implementing the Civic Integration Act. In May 2008, the Minister of Housing, Communities and Integration notified the House of Representatives that these efforts had not yet received the desired result, particularly in the four large cities of Amsterdam, Rotterdam, The Hague, and Utrecht (the G4) where approximately 50% of the foreign nationals who are obliged to participate in civic integration programmes live. For this reason, the Minister announced additional measures:

- Specific agreements about improving the implementation in the G4;
- Measures to provide for adequate reception facilities for children of participants in civic integration programmes;
- Increase in the municipal discretionary power;
- Further simplification of the Civic Integration Act.

In 2008, the Act was also amended to such an extent that the foreign nationals who were obliged to participate in civic integration programmes could be forced to accept the civic integration facility offered by the municipality. A municipality is now permitted to impose a maximum fine of € 500 if the foreign national – imputably – fails to do this within the stipulated period of four weeks.

In a related development, the Cabinet postponed the deadline after which passing the civic integration examination will be a condition for granting a permanent residence permit. Instead of 21 September 2008, this link will not enter into force until 1 January 2010. The problems encountered during the implementation of the Act are one of the arguments for the suspension.

European Legislation

With the implementation of Directive No 2004/83/EC of the Council of 29 April 2004 on the minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ 2004, L 304/12) all directives that had to be implemented as of 31 December 2008 have been implemented.

Developments in relation to the Association Agreement between the EC and Turkey, Dublin transfers to Greece, and the Europe route received much attention in 2008.

- Pursuant to a judgment of the European Court of Justice in September 2007, the policy regarding Turkish nationals who wanted to work on a self-employed basis in the Netherlands had to be changed.
- Questions about the Greek asylum procedures led to the request from the Dutch Council for Refugees and Amnesty International in a letter to the State Secretary for Justice to immediately stop the transfer of asylum applicants to the Netherlands. Several parliamentary parties also requested suspension of the transfer of asylum applicants by the Netherlands. The State Secretary for Justice did not consider this necessary however. A Court decision prohibiting the transfer to Greece resulted in renewed attention for the subject. The appeal in this matter is still pending however.
- Finally, there was again much attention for the possible abuse or unintended use of European Community Law in respect of family reunification. At the European level, the State Secretary pressed for recording the interpretation given to Article 35 in the Member States and to inform the other Member States about this. The IND also examines the scope and composition of the group that applies European Community Law in the manner described above.

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1. Introduction

Every year, the national contact points for the European Migration Network (EMN) draw up Annual Policy Reports (APR). The EMN is an initiative of the European Commission and finds its legal basis in Council Decision 2008/381/EC of 14 May 2008. The objective of the EMN is to meet the information need of the Community institutions as well as that of authorities and institutions of the Member States in the area of migration and asylum by providing up-to-date, objective, reliable, and comparable information to support policy-making in these areas in the European Union. The EMN also has the task to provide information on these subjects to the general public.

The various Annual Policy Reports drawn up by the national contact points (NCPs) provide an overview of the main developments in the area of migration and asylum in the relevant Member State. The developments in legislation and regulations and in administrative practice are discussed in these reports, including the associated political and public debates. The report also takes a detailed look at the implementation of EU legislation in the area of migration and asylum. The European Commission compiles the results of the various country studies into a synthesis report.

The Dutch APR 2008 provides an overview of the developments in Dutch migration and asylum policy from 1 January 2008 to 31 December 2008. This edition of the Dutch APR was drawn up by Hans Lemmens, employed as a policy officer by the IND Information and Analysis Centre (INDIAC). INDIAC is the Dutch national contact point for the EMN.

First of all, the Dutch report focuses on important political and institutional developments. After this, the main developments in the area of legislation and regulations and the associated political and public debates in the area of migration and asylum are discussed in depth. Following this, more detailed attention is paid to the developments in the following sub-areas:

- Control and monitoring of immigration
- Refugee protection and asylum;
- Unaccompanied minors and other vulnerable groups;
- Economic migration;
- Family reunification;
- Other legal migration;
- Integration;
- Citizenship and naturalisation;
- Illegal immigration;
- Actions against human trafficking;
- Return migration.

Finally, the report devotes attention to the implementation of European legislation in 2008, and a complete overview is provided of the state of affairs in this area.

In order to determine which subjects are included in the report, several criteria were used to define the term 'important developments'. In the Annual Policy Report, the aim is to give the most complete overview possible of the amendments or proposed amendments to legislation and regulations in the different policy areas discussed in this report. The report does not aim for completeness with respect to the political and public debates and developments: rather the level of attention devoted to these areas in Parliament and the media is the determining factor. This report does, however, provide a full overview of developments in respect of the implementation of European legislation and regulations in the area of migration and asylum. More information about the selection criteria can be found in appendix on methodology.

2. Political and Institutional Developments in the Netherlands

This chapter will discuss the general political developments in the Netherlands in 2008 and the changes in the institutional context. First the political and institutional context will be described of the policy in the area of asylum, migration, and integration in the Netherlands,

2.1. The Political System in the Netherlands

The Netherlands is a constitutional monarchy of which Her Majesty Queen Beatrix is the head of state. The Ministers have political responsibility for the actions of the Queen; she is inviolable. The Netherlands has a parliamentary system. The ultimate right to decide about the policy to be pursued is vested in Parliament. This implies that the Ministers drafting and implementing this policy require the confidence of Parliament. The Parliament consists of two Houses, the Senate (*Eerste Kamer*) and the House of Representatives (*Tweede Kamer*); jointly referred to as the States General (*Staten-Generaal*). The House of Representatives is co-legislator with the government and supervises the government. The Senate also supervises the government, but its co-legislative tasks are more limited. The Senate, for instance, does not have the power to amend legislative proposals, nor does it have the right to submit its own legislative proposals.

The government consists of the Queen and the Ministers. The Cabinet consists of the Ministers and State Secretaries, led by the Prime Minister. The government forms the executive and it also has legislative powers. Each Minister is politically responsible for a specific policy area and may be assisted by State Secretaries, who in turn are allocated specific policy areas. The Prime Minister is chairperson of the Cabinet and coordinates government policy in this capacity. The Ministers and State Secretaries are accountable to the Parliament for the policy pursued and to be pursued. If it becomes apparent that Parliament has lost its confidence in a Minister and/or State Secretary (and possibly the entire Cabinet), this person must resign.

Together with Aruba and the Netherlands Antilles (islands in the Caribbean), the Netherlands constitutes part of the Kingdom of the Netherlands. All three countries in the Kingdom have their own governments and Parliaments. The Charter for the Kingdom of the Netherlands lists a limited number of subjects in which the bodies of the individual countries do not have a say, but in respect of which the powers are vested in the bodies of the Kingdom. These include, for instance, defence, foreign relations, and the regulations pertaining to Netherlands nationality. Citizens of the three countries have the Dutch nationality.

2.2. The Institutional Context

Migration and Asylum

Within the limits of the policy laid down by the Minister, the State Secretary for Justice is charged with the aliens and asylum policy.¹ The tasks associated with the Netherlands Nationality Act (naturalisation) and with border control belong to the portfolio of the Minister of Justice.² The Minister of Foreign Affairs is responsible for the policy on visa. The formulation of general official notices, which describe the situation in the major countries of origin of asylum seekers, and individual official notices, which are used to check facts or documents presented by asylum seekers for correctness and authenticity, also

¹Ministry of General Affairs. (2007) *Samen werken, samen leven: Beleidsprogramma Kabinet Balkenende IV 2007-2011* (Working Together, Living Together: 2007-2011 Policy Programme of the Balkenende IV Cabinet), The Hague: Ministry of General Affairs.

²Ministry of Justice (2007) *Wat doet Justitie: Taken* (Tasks. <http://english.justitie.nl/organisation/tasks/index.aspx>.) Derived from www.justitie.nl op 12 April 2007.

come under his responsibility.³ Not all foreign nationals who come to the Netherlands are permitted to work in the Netherlands. The Minister of Social Affairs and Employment is responsible for the admission of foreign nationals to the Dutch labour market.

A large number of organisations play a role in the implementation of the policy in the area of migration and asylum. The following is an overview of the most important organisations involved in this policy:

- The Immigration and Naturalisation Service (*Immigratie- en Naturalisatiedienst, IND*), which is an agency of the Ministry of Justice, is responsible for implementing the Aliens Act and the Netherlands Nationality Act. This agency is charged with assessing all applications of foreign nationals who want to stay or come and stay in the Netherlands or who want to become Dutch citizens. On behalf of the Minister of Foreign Affairs, the IND also plays a role in assessing applications for visa.⁴
- The Repatriation & Departure Service (*Dienst Terugkeer & Vertrek, DT&V*), also an agency of the Ministry of Justice, is responsible for promoting in a humane and professional manner the repatriation of foreign nationals who must leave the Netherlands.⁵
- The National Agency of Correctional Institutions (*Dienst Justitiële Inrichtingen, DJI*) is also an agency of the Ministry of Justice. Its responsibilities include enforcing custodial orders for the purpose of removing foreign nationals from the Netherlands, such as detention (the so-called aliens' detention).
- The Central Agency for the Reception of Asylum Seekers (*Centraal Orgaan Opvang Asielzoekers, COA*) is an independent administrative body that is financed by the Ministry of Justice.⁶ The COA is responsible for the reception of asylum applicants.⁷
- The Centre for Work and Income (*Centrum voor Werk en Inkomen, CWI*) is an independent administrative body that operates by order of the Ministry of Social Affairs and Employment. The Ministry has charged the CWI with implementing tasks including the issue of work permits to foreign nationals who want to work in the Netherlands.⁸
- The Legal Aid Council (*Raad voor de Rechtsbijstand*) is an independent administrative body that is fully financed by the Ministry of Justice. The Council supervises and manages the organisation of the provision of state-funded legal aid through the Legal Aid and Advice Centre (*Juridisch Loket*), mediators, and lawyers.⁹ Since 1 January 2008, this organisation has also been responsible for organising the provision of legal aid in asylum cases (see section 2.3).¹⁰
- The Royal Constabulary (Koninklijke Marechaussee, KMar), which is part of the Armed Forces, and the regional police forces play a role in border control and supervision of foreign nationals.
- The municipalities are responsible for providing accommodation to holders of asylum residence permits and they also play a role in processing applications for naturalisation.

In addition, several non-governmental organisations are active in the area of asylum and migration. The most important of these organisations are the following:

- The International Organisation for Migration (IOM), which plays a role in voluntary repatriation and/or onward migration of foreign nationals.
- The Dutch Council for Refugees, which provides practical support to asylum applicants;

³The National ombudsman. (2007) *Factsheet individuele ambtsberichten in asielzaken* (Fact Sheet on Individual Official Country Reports in Asylum Cases). Extracted from www.ombudsman.nl on 2 March 2007.

⁴Kuijter, A. (ed.). (2002) *Nederlands vreemdelingenrecht* (Dutch Aliens Law). The Hague: Boom Juridische uitgevers.

⁵DT&V. (2007) *Dienst Terugkeer & Vertrek* (Repatriation & Departure Service). Extracted from www.dienstterugkeerenvertrek.nl on 8 November 2007.

⁶An independent administrative body is an organisation that performs a specific government task independently. This task is assigned by law or by governmental decree. The responsible Minister for the policy area of an independent administrative body retains a limited number of powers that are limited to managing the administrative body. The Minister is not responsible for the implementing decrees issued by the administrative body itself. (RVD (Rijksvoorlichtingsdienst, Netherlands Government Information Service, NGIS) (2009) *Begrippenlijst: Zelfstandig Bestuursorgaan (ZBO)* (Glossary: Independent Administrative Body). Extracted from www.regering.nl on 23 January 2009)

⁷COA. (2005) *Over COA (About COA)*. Extracted from www.coa.nl on 1 November 2005.

⁸CWI (2008) *Over CWI: Taken. (About CWI: Tasks)* Extracted from www.werk.nl on 2 January 2008.

⁹The Legal Aid Council (*Raad voor Rechtsbijstand, RVR*) (2009) *Over de Raad voor Rechtsbijstand (About the Legal Aid Council)*. Extracted from www.rvr.org on 23 January 2009.

¹⁰RVR (2008) *Jaarplan/begroting 2008 Raad voor de Rechtsbijstand* (Annual Plan/Budget 2008. Legal Aid Council). Extracted from www.rvr.org on 23 January 2009.

- The NIDOS Foundation, which is a guardianship agency that operates at the national level and specifically supports unaccompanied minor refugees and asylum applicants.

Judiciary

Within the judiciary, the following authorities are engaged in the administration of justice with respect to aliens policy:

- The Aliens Division comes under the administrative law section of the District Court in The Hague and exclusively deals with disputes under aliens law. Officially, only the District Court in The Hague deals with disputes under aliens law. The hearings are, however, not only held in The Hague, but also in subsidiary places of session. All nineteen Districts Court in the Netherlands have Aliens Divisions. The Aliens Division deals with appeals in aliens cases.¹¹
- The Administrative Jurisdiction Division of the Council of State (*Afdeling bestuursrechtspraak van de Raad van State, AbRvS*) is the highest General Administrative Court in the Netherlands. This is also where in aliens cases appeals against decisions by the District Court are decided.¹²

Integration and Civic Integration

The Programme Minister of Housing, Communities and Integration is responsible for integration policy. Programme Ministers are responsible for policy areas that are covered by several Ministries.¹³ The budgets and departments of the different Ministries involved in integration policy are incorporated in the Housing, Communities and Integration Programme and come under the direct responsibility of the Minister for Housing, Communities and Integration. The Programme comes under the Ministry of Housing, Spatial Planning and the Environment.¹⁴

2.3. General Political Developments in the Netherlands

In 2008, the composition of the Balkenende IV Cabinet changed with respect to two ministerial posts. On 31 October 2008, it was announced that State Secretary for Social Affairs and Employment, Ahmed Aboutaleb (Dutch Labour Party (*Partij van de Arbeid, PvdA*)) would be appointed mayor of Rotterdam. He was therefore granted discharge on 12 December 2008. On 18 December 2008, he was succeeded by his fellow party member Jetta Klijnsma.¹⁵ On 13 November 2008, the Minister for Housing, Communities and Integration, Ella Vogelaar, resigned. She resigned after the party leaders of her political party, PvdA, had withdrawn their confidence in her.¹⁶ She was succeeded by her fellow party member Eberhard van der Laan on 14 November 2008.¹⁷

2.4. Institutional Developments in the Area of Migration, Asylum, and Integration

In 2006, the Minister of Justice decided to change the organisation of the state-funded legal aid system.¹⁸ The Netherlands Foundation for Legal Aid in Asylum Cases (*Stichting Rechtsbijstand Asiel Nederland (SRAN)*) was therefore abolished as of 1 June 2008. This foundation had been responsible for the

¹¹ Article 8, Section 7(2) of the General Administrative Law Act (*Algemene wet bestuursrecht, Awb*); Article 71 of the Aliens Act 2000; Kuijer, A. (ed.). (2002) *Nederlands vreemdelingenrecht* (Dutch Aliens Law). The Hague: Boom Juridische uitgevers.

¹² Council of State (*Raad van State, RvS*) (2005). *Raad van State in het kort* (Brief description of the Council of State). Extracted from www.raadvanstate.nl on 01 November 2005.

¹³ (Netherlands) Government Information Service (RVD). (2007) *Begrippenlijst: Ministeries (departementen)* (Glossary: Ministries). Extracted from www.regering.nl/Begrippenlijst/M/Ministeries_departementen on 8 November 2007; Parliamentary Papers II 2006/2007, 30 891, no 7 (Letter).

¹⁴ RVD. (2007) Kabinet Balkenende IV: Portefeuilleverdeling (Balkenende IV Cabinet: Assignment of Portfolios) Extracted from www.regering.nl on 8 November 2007.

¹⁵ RVD. (2008) *Persbericht: Minister-president ontvangt Jetta Klijnsma* (Press release: Prime Minister receives Jetta Klijnsma). Extracted from www.minaz.nl on 22 January 2009.

¹⁶ RVD. (2008) *Minister Vogelaar treedt af*. (Minister Vogelaar resigns). Extracted from www.regering.nl on 22 January 2009.

¹⁷ RVD. (2008) *Van der Laan minister voor Wonen, Wijken en Integratie* (Van der Laan new Minister for Housing, Communities and Integration) Extracted from www.regering.nl on 22 January 2009.

¹⁸ *Parliamentary Papers II* 2006/2007, 19 637, no 1108 (Letter).

organisation and coordination of state-funded legal aid to asylum applicants as well as for the provision of a portion of this legal aid. In addition, a portion of the state-funded legal aid was provided by Bar members. Partly because of the structurally lower number of asylum applications since 2003, the Minister concluded that it was no longer necessary to maintain a limited public basic facility. He held the view that the required continuity, flexibility, and quality of state-funded legal aid could also be safeguarded by Bar members, in which situation the costs are expected to be lower. On 1 January 2008, the Legal Aid Council took over the organisation and coordination of legal aid to asylum applicants from the SRAN. From that moment onwards, state-funded legal aid to asylum applicants has been provided exclusively by Bar members.¹⁹

In August 2008, the Cabinet submitted a Bill to change the power for visa policy.²⁰ In the present situation, the Minister of Foreign Affairs is responsible for the entire visa policy. The Cabinet proposes to transfer the power to grant national visas (visas for a residence permits for a period of more than three months) to the Minister of Justice. The Minister of Justice is also responsible for drafting and updating the regulations pertaining to the national visas. These national visas (also known as D-visas) are referred to as provisional residence permit (*machtiging tot voorlopig verblijf, mvv*). For the purpose of implementing the policy on mvvs, the Minister of Justice uses the embassies and consulates. For the purpose of extending mvvs, the employees at these missions act on behalf of the Minister of Justice. The Minister of Foreign Affairs is responsible for the quality of the missions, both in terms of quantity and in terms of substantive expertise.

¹⁹Legal Aid Council. RVR (2008) *Jaarplan/begroting 2008 Raad voor de Rechtsbijstand* (Annual Plan/Budget 2008. Legal Aid Council). Extracted from www.rvr.org on 23 January 2009.

²⁰Bill to amend the Aliens Act 2000 in connection with national visa and several other subjects, *Parliamentary Papers II* 2008/2009, 31 549, nos 1-4.

3. Political and Policy-related Developments in the Area of Migration and Asylum

This chapter looks at the main debates and political developments in the area of migration, integration, and asylum. Where possible, the position and role of the main political parties and civil society organisations will be examined. However, a description will first be given of the legal context in which these developments took place.

3.1. Legal Context of the Policy on Migration and Asylum

The Dutch legal system has a hierarchical structure with the Dutch Constitution at the top. Second from the top are the Acts of Parliament, which are enacted by parliament (the Senate and the House of Representatives) upon a proposal submitted by the government or a Member of Parliament. These Acts may not conflict with the principles of the Constitution. In addition, the general rules of administrative law that serve as guidelines for administrative bodies have been laid down in the General Administrative Law Act (*Algemene wet bestuursrecht, Awb*). The General Administrative Law Act may be derogated from by special Acts²¹.

The major Acts in the area of migration and asylum are the following:

- The Netherlands Nationality Act (*Rijkswet op het Nederlanderschap, RWN*) which regulates the conditions for acquiring or losing Dutch nationality;
- The Aliens Employment Act (*Wet arbeid vreemdelingen, Wav*), which provides for the admission of foreign nationals to the Dutch labour market;
- The Administrative Penalties for Aliens Employment Act (*Wet bestuurlijke boete arbeid vreemdelingen*), which regulates that employers are liable to a penalty if they illegally employ foreign nationals;
- The Aliens Act 2000 (*Vreemdelingenwet 2000, Vw 2000*), which regulates the conditions for entry and admission of foreign nationals to the Netherlands and removal from the Netherlands (including the asylum procedure).
- The Civic Integration Act (*Wet inburgering*) and the Civic Integration Abroad Act (*Wet inburgering buitenland*), which prescribe the compulsory integration for foreign nationals residing in the Netherlands and in a number of cases also for foreign nationals prior to coming to the Netherlands.

The Aliens Act 2000 is a special Act. Where in this Act the provisions derogate from the General Administrative Law Act, the conditions of the Aliens Act 2000 prevail.

In general, Acts usually contain the main outlines of what needs to be regulated in a specific area. Further elaboration of the Acts is done in various types of lower regulations.

- At the top are the Government Decrees (*Algemene Maatregelen van Bestuur, AMvBs*). These decrees are adopted by the Government following the advice of the Council of State. The most important decree in the area of aliens law is the Aliens Decree 2000 (*Vreemdelingenbesluit 2000, Vb 2000*). The Aliens Decree 2000 specifies the substantive rules and procedural rules of the Aliens Act 2000 in more detail. The Aliens Employment Act Implementation Decree (*Besluit uitvoering Wet arbeid vreemdelingen*) does the same with respect to the Aliens Employment Act.
- Next in line are the ministerial regulations, laid down by a Minister. A ministerial regulation does not require the involvement of the Government, and the Council of State does not give an advice on it. The Regulations on Aliens 2000 (*Voorschrift vreemdelingen 2000, Vv 2000*) is a ministerial regulation which contains the administrative provisions and models to be used by officials. The Aliens Employment Act Delegation and Implementation Decree (*Delegatie- en uitvoeringsbesluit Wet arbeid vreemdelingen*) contains rules about powers and implementation with respect to the Aliens Employment Act.

²¹ Kuijer, A. (ed.). (2002) *Nederlands vreemdelingenrecht* (Dutch Aliens Law) The Hague: Boom Juridische uitgevers.

- Next in line are the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000, Vc 2000*) which contain policy rules in the area of migration and asylum. The policy rules of the Aliens Act Implementation Guidelines 2000 are general and special instructions for all officials charged with the implementation of aliens legislation. They are signed by the Director General for International Affairs and Aliens Affairs of the Ministry of Justice on behalf of the State Secretary for Justice.

3.2. The Main Debates and Developments in the Area of Migration and Asylum

In 2008, the Balkenende IV Cabinet gave more details about two proposed revisions of legislation and regulations in the area of migration and asylum. In June, the Cabinet announced details about its plans for revising the asylum procedure. Also, the plans for revising the regular (non-asylum) admission policy were given further substantiation. This did not result in much political or public debate in 2008, although several civil society organisations reacted negatively to the proposals in the area of asylum.

The sudden influx of large numbers of Chinese asylum applicants in March and April of 2008 because of unfounded rumours of an amnesty scheme was widely covered by the media and received much political attention. The categorical protection policy for asylum applicants from Iraq was ended in 2008. Iraq was one of the most important countries of origin of asylum applicants in the Netherlands (38% of first asylum applications in 2008). The General Amnesty Scheme that was implemented in 2007 also received some attention in 2008. Issues in this context that still led to debate were the costs involved and the end date of the scheme. Further action in 2008 included the considerable increase in the maximum sentence for human trafficking, the entering into force of several initiatives in respect of recruiting highly skilled migrants, the start of the pilot project regarding the protected reception of unaccompanied minor foreign nationals, and measures to avoid the aliens detention of families with children as much as possible.

Finally, there was also much attention in 2008 for the problems with the compulsory civic integration of foreign nationals. The Civic Integration Delta Plan (*Deltaplan Inburgering*) presented by the Cabinet in 2007 (see the previous edition of this report) did not yet achieve the desired result in 2008. By means of the Delta Plan, the Cabinet wants to enhance the quality of civic integration and increase the number of people who participate in a civic integration programme. The absence of the desired result led to supplementary measures. This was also one of the reasons for suspending the link between civic integration and obtaining a permanent residence permit.

These developments will be comprehensively discussed in section 3.3 below.

3.3. Developments in the Area of Migration and Asylum

The following subsections describe the developments in the different policy areas of migration and asylum in 2008. The revision of the regular admission policy (the modern migration policy) already referred to above, however, relates to several areas and will consequently be discussed separately first.

Modern Migration Policy

In May 2006, the previous Cabinet presented the policy memorandum ‘Towards a Modern Migration Policy’ (*Naar een modern migratiebeleid*)²², which proposed a far-reaching revision of the current admission system (with the exception of the asylum-related part). This modern migration policy already received due attention in the previous editions of this report. On 27 June 2008, the State Secretary for Justice submitted the Cabinet proposal in which this policy framework is specified in more detail to the House of Representatives.²³ In the ‘Blueprint for Modern Migration Policy’ (*Blauwdruk modern migratiebeleid*) the Cabinet describes a new model for the admission and residence of foreign nationals

²² *Parliamentary Papers II* 2005/2006, 30 573, no 1 (Letter)

²³ *Parliamentary Papers II* 2007/2008, 30 573, no 10 (Letter)

who want to stay in the Netherlands for reasons unrelated to asylum. The new admission policy is expected to be implemented on a phased basis in 2011.

The Cabinet intends to admit migrants that are needed in the Netherlands quickly and effectively. This means that it must become easier to admit highly skilled migrants to the Netherlands. The present admission system is furthermore too complex to realise quick and effective admission. The blueprint contains detailed proposals for a new system. It would be going too far to discuss these proposals in detail, the more so because the final proposals could differ from the proposals submitted by the Cabinet. The main points of the new system are, however, discussed briefly below.

The admission procedures will be simplified

1. The existing separate applications for a provisional residence permit (mvv) and a residence permit will be integrated;
2. The admission procedure will be shortened as much as possible;
3. The application procedures for residence permits and work permits will be combined as much as possible.

As already discussed in the previous edition of the Annual Policy Report, applications are currently assessed twice. The foreign national who is obliged to hold an mvv²⁴ must first apply for an mvv in the country of origin. The application for an mvv is based on the purpose of stay desired by the foreign national. The conditions relevant for admission for that purpose of stay are assessed. The foreign national must subsequently submit an application for a temporary residence permit after arrival in the Netherlands. The IND subsequently assesses again whether the foreign national (still) meets the conditions for a residence permit.

Introduction of a methodology for sponsors

Sponsors will be given a larger role in the admission of foreign nationals. The sponsor is the person or organisation that has an interest in the foreign national's presence in the Netherlands. A sponsor may consequently be, for instance, the employer, the educational institution, or the family member residing in the Netherlands. The sponsor currently does not have any independent role that has been laid down by law, even though this sponsor is often the reason for the foreign national's coming to the Netherlands and this sponsor acts as a guarantor for the costs incurred in connection with the residence.

In the new model, the sponsor is given a larger responsibility, which will be laid down in law. The sponsor must inform the authorities in due time, correctly, and completely of any details in respect of the foreign national's admission, residence, and departure. Non-compliance with this obligation carries sanctions. In order to accelerate the admission procedure, a methodology to recognise the sponsors will also be introduced. A sponsor will be recognised if it has been demonstrated that this person or organisation is a reliable cooperation partner. Different criteria will apply to each type of sponsor. It will be possible to assess applications from recognised sponsors less thoroughly and consequently quicker. In respect of a number of purposes of stay, it will only be possible to obtain a residence permit for stay with a recognised sponsor, for instance, residence permits for study purposes or for stay as a highly skilled migrant.

The system of residence permits will be simplified

The present system is complex. There are dozens of purposes of stay, each subject to different conditions, restrictions, and rights. The many implementing rules and exclusion clauses also contribute to the complexity of the system. The existing restrictions under which a residence permit is granted will be reduced in number and structured in a system of residence columns. The Cabinet intends to reduce the complexity of the system with that. In this system, family members will be granted a residence permit in the same column as the person with whom they will stay. Their rights will be consistent with the rights held by the persons with whom they stay.

²⁴ A limited number of nationalities and categories of foreign nationals have been exempt from the obligation to hold an mvv.

The original policy memorandum still proceeded from five columns. Further elaboration of the model has resulted in eight columns so as to make the rights and obligations in each residence column as homogeneous as possible. It concerns the following columns:

Column I: Exchange (young people following an exchange programme, including au pairs);
Column II: Study (secondary education, higher senior vocational education, or university);
Column III: Temporary employment (seasonal employment and work & education programmes);
Column IV: Regular employment (including work of a religious or ideological nature);
Column V: Knowledge and talent;
Column VI: Relatives and family (family reunification and family formation);
Column VII: Temporary on humanitarian grounds
Column VIII: Special grounds for residence

In the future, a residence permit will be granted as much as possible for the expected duration of the stay, for instance, the duration of the study programme or the employment contract. A residence permit is currently granted for one year and must consequently often be renewed several times.

More effective supervision and visible enforcement

The existing instruments for supervision and enforcement will be brought in line with the new method in which admission to the Netherlands will be incorporated to be able to trace fraud and abuse quickly and effectively. In this light, the Cabinet considers the implementation of the new sponsor methodology also an important improvement. As a result of the sponsor's obligation to inform the authorities, it will be possible to supervise the foreign national better during his/her stay in the Netherlands. The recognition of sponsors that fail to comply with this obligation may be withdrawn or suspended. It will also be possible to punish them with an administrative penalty and to hold them legally liable for the costs of the foreign national's return.

In the new system, the following implementing tasks regarding enforcement and supervision are central:

- receiving, recording, and assessing signs of fraud;
- detecting and collecting information actively;
- taking enforcement actions by
 - imposing administrative penalties;
 - refusing, suspending, or withdrawing the recognition as a sponsor;
 - refusing, not renewing, or withdrawing residence permits;
- recovering costs;
- collecting penalties and costs of recovery.

An important aspect in the supervisory and enforcement process will be taken up by risk assessment. The instrument of risk assessment will be used to analyse the risks of abuse and fraud for the different target groups in the new migration system. The target groups in respect of which the risks of abuse or fraud are assessed higher on the basis of these analyses will be checked more intensively. Random periodical checks will be performed with sponsors who are qualified as being low risk. Many different parties are involved in the supervisory and enforcement process, such as the IND, the police, the Social Intelligence and Investigation Service (*Sociale Inlichtingen- en Opsporingsdienst, SIOD*)²⁵, and the Labour Inspectorate (*Arbeidsinspectie*). These organisations will conclude cooperation agreements, which will be geared to the specific tasks and expertise of each organisation.

In anticipation of the implementation of the modern migration policy, several amendments in the area of economic migration already entered into force in 2008 (see section 3.3.4). The blueprint was also debated in the House of Representatives several times.²⁶

²⁵The SIOD is a special investigative service that was formed with the aim of criminal enforcement of legislation and regulations in the area of work and income (Extracted from www.siod.nl on 29 April).

²⁶*Parliamentary Papers II* 2008/2009, 30 573, no 13 (Report of Written Consultations); *Parliamentary Papers II* 2008/2009, 30 573, no 14 and 15 (Report of General Consultations); *Proceedings II* 2008/2009, no 35, pp. 3019-3024.

3.3.1. Control and Monitoring of Immigration

This section describes the developments relating to the control and monitoring of immigration. Think in this context of developments in connection with the Schengen Agreement, measures to establish a person's identity, introduction and use of information technology, (health) screening of immigrants, changes in the public order policy, and changes in the issue of residence permits.

Border Controls

In February 2006, the then Cabinet presented an action plan to improve the control of the external borders, partly in response to the report 'Use of Border Controls in the Fight against Terrorism' (*Gebruik van grenscontrole bij terrorismebestrijding*) published on 28 September 2005 by the Netherlands Court of Audit (*Algemene Rekenkamer*).²⁷ On 17 November 2008, the Cabinet presented the second and last progress report on the implementation of the measures contained in the Border Controls Action Plan (*Plan van aanpak Grenscontroles*).²⁸ Most of the proposed measures have meanwhile been implemented and a start was made with the remaining measures. These measures include, for instance, connecting information systems and receiving crew and passenger lists prior to arrival at the border. Cooperation with the Royal Constabulary (*Koninklijke Marechaussee, KMar*), the Seaport Police (*Zeehavenpolitie*), and Customs has been enhanced by means of the Integrated Border Management (*Geïntegreerd Toezicht Buitengrens*). In this context, the three agencies systematically coordinate the deployment of capacity for controls at the external borders and exchange information. In addition, the strengths and weaknesses of the border control system have been analysed further and on the basis of this analysis the border control system will be improved further.

Swift Action Teams Pilot Project

On 26 May 2008, the State Secretary for Justice informed the House of Representatives about a pilot project with so-called Swift Action Teams (SATs) in Nigeria.²⁹ This project started in January 2008. The purpose of the Swift Action Teams in Nigeria is to prevent potential victims of human trafficking and/or human smuggling, and other persons who do not have the right documents or who do not have any documents at all, from travelling to the Netherlands from Nigeria by air. Such a team is composed of staff members of the Royal Constabulary and one staff member of the IND. The teams have knowledge on vulnerable groups and document fraud. On the basis of risk profiles and documents, during the pilot project the teams checked passengers with the Netherlands as destination.

Identification Documents for Undocumented Foreign Nationals

Since 1 January 2008, the IND has issued identity documents (the so-called W2 documents) to former asylum applicants who applied for regular residence permits and who therefore have lawful residence in the Netherlands, but who do not have valid passports.³⁰ The problems encountered by this group of foreign nationals were discussed in depth in the previous edition of this report.

The Prüm Treaty

As referred to in the Annual Policy Report 2007, the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria signed a treaty on the stepping up of cross border cooperation, particularly in combating terrorism, cross border crime and illegal migration in Prüm, Germany, on 27 May 2005 (*Treaty Series* 2005, 197). The Senate agreed to the ratification of the treaty on 15 January 2008.³¹ The treaty entered into force for the Netherlands on 20 May 2008 (*Treaty Series* 2008, no 74).

²⁷ *Parliamentary Papers II* 2005/2006, 30 315, no 3 (Letter).

²⁸ *Parliamentary Papers II* 2008/2009, 30 315, no 7 (Letter).

²⁹ *Parliamentary Papers II* 2007/2008, 27 062, no 62 (Letter).

³⁰ *Parliamentary Papers II* 2007/2008, 19 637, no 1218 (Report of General Consultations).

³¹ Bill to approve the Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration concluded in Prüm on 27 May 2005 (*Treaty Series* 2005, 197), *Parliamentary Papers II* 2006/2007, 30 881, no 1-7; *Parliamentary Papers I* 2006/2007 and 2007/2008, 30 881, no A-D.

This treaty has, however, been replaced partially in the meantime by Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (*Treaty Series* 2008, 188).

3.3.2. Refugee Protection and Asylum

In 2008, the influx of asylum applicants in the Netherlands has risen sharply. Whereas the number of initial asylum applications was 7,102 in 2007, this number nearly doubled to 13,399 in 2008.

Table 1: Top 10 of countries of origin for initial asylum applications 2008

	Number	%
Iraq	5,027	38%
Somalia	3,842	29%
China	557	4%
Afghanistan	395	3%
Iran	322	2%
Eritrea	236	2%
Sri Lanka	216	2%
Armenia	208	2%
Guinea	154	1%
Other	2,442	18%
Total	13,399	100%

Source: www.ind.nl

The coalition agreement that forms the basis of the present Cabinet³² and the policy programme of the Cabinet for the period 2007-2011³³ includes the following policy intentions in the area of refugee protection and asylum:

- Acceleration and improvement of the asylum procedure;
- Reduction of the number of subsequent applications;
- Maintenance of the existing quota for so-called invited refugees.

The Cabinet submitted proposals in each of the above-mentioned areas in 2008.

Acceleration and Improvement of the Asylum Procedure

The intention of the Cabinet to realise a faster and improved asylum procedure (see also the previous edition of this report) was specified in more detail by the Minister and State Secretary for Justice in their letter to the House of Representatives of 24 June 2008.³⁴ The measures of the Cabinet are aimed at removing objections about the duration and accuracy of the asylum procedure as it is currently structured. With that, these measures followed the conclusions and recommendations of the Commission for the Evaluation of the Aliens Act (*Commissie Evaluatie Vreemdelingenwet, CEV*).³⁵ Two

³² CDA, PvdA, and ChristenUnie. (7 February 2007) *Coalitieakkoord tussen de Tweede Kamerfracties van CDA, PvdA en ChristenUnie* (Coalition agreement between the Parliamentary parties CDA, PvdA and Christian Union), The Hague.

³³ Ministry of General Affairs. (2007) *Samen werken, samen leven: Beleidsprogramma Kabinet Balkenende IV 2007-2011* (Working together, living together: 2007-2011 policy programme of the Balkenende IV Cabinet), The Hague: Ministry of General Affairs.

³⁴ *Parliamentary Papers II* 2007/2008, 29 344, no 67 (Letter).

³⁵ On 1 April 2001 the Aliens Act 2000 entered into force. This Act was evaluated after five years at the request of the House of Representatives. This evaluation was carried out by the Commission for the Evaluation of the Aliens Act 2000 (*Commissie Evaluatie Vreemdelingenwet 2000, CEV*) commissioned by the then Minister for Foreign Affairs and Integration. The results of this evaluation were published on 29 August 2006: *Commissie Evaluatie Vreemdelingenwet 2000, Wetenschappelijk Onderzoek- en Documentatiecentrum, Significant* (Commission for the Evaluation of the Aliens Act 2000, Research and Documentation Centre, and Significant) (2006) *Evaluatie Vreemdelingenwet 2000: De*

critical recommendations from the Advisory Committee on Migration Affairs (Adviescommissie voor Vreemdelingenzaken, ACVZ)³⁶ from 2004 (“*Towards a fast and accurate asylum procedure*”) (“Naar één snelle en zorgvuldige asielprocedure”) and 2007 (“*Secure and Fast*” (“Secuur en Snel”)) were also incorporated in the revision. In December 2008, the State Secretary indicated in a letter to the House of Representatives that she hoped that the legislative procedure would be completed before 1 July 2010.³⁷

The present asylum procedure is twofold. The application is submitted in an application centre. The IND has 48 processing hours (5 to 6 working days) to come to a decision in the application centre (the AC procedure). If this deadline cannot be met, the application is referred to a processing office. The Cabinet proposal for the revision of this procedure is based on the following three cornerstones:

- The introduction of a period of rest and preparation of at least six days prior to submitting the asylum application;
- Extension of the first part of the asylum procedure from 48 processing hours to eight working days;
- Acceleration of the second part of the asylum procedure.

Period of rest and preparation

After having reported in a so-called Application Centre, asylum applicants currently stay in Temporary Emergency Facilities for Foreign Nationals (*Tijdelijke Noodvoorziening Vreemdelingen*, TNV)³⁸. It is not yet possible for the asylum applicant to submit an asylum application there. An appointment to this end must be made at the Application Centre. Current legislation and regulations do not provide for the possibility to start examinations while the asylum applicant stays in the TNV, for this would mean the start of the AC procedure.

The Cabinet proposes to use the time before the formal start of the procedure (the lodging of the asylum application) to increase the accuracy of the procedure. For this purpose, all asylum applicants will be allowed a period of rest and preparation of at least six days prior to submitting the formal asylum application. It will be possible to make exceptions to this.

In this period of rest and preparation, the asylum applicant will have the opportunity to settle down, the Dutch Council for Refugees will have the opportunity to inform the asylum applicant about the procedure, and the legal aid counsellor will have the opportunity to prepare the asylum applicant for the legal aspects of the procedure. The period of rest and preparation will also be used to identify at an early stage whether the asylum applicant has any medical problems and to start inquiries after the asylum applicant's identity. In addition, an examination of the documents to substantiate the story told by the asylum applicant (such as arrest warrants, and judgments) can be started.

By letter of 16 December 2008 to the House of Representatives, the State Secretary for Justice submitted an initial draft proposal of the medical examination of asylum applicants during the period of rest and preparation.³⁹ Although this draft proposal was based on the recommendations made by the ACVZ and Pharos⁴⁰ the State Secretary did not follow these recommendations in every respect.

The first medical examination will be carried out by a social nurse. This examination will be followed by an examination by a social physician if the nurse considers this necessary. Both the social nurse and

asielprocedure – Deel 1 en 2 (Evaluation of Aliens Act 2000: The Asylum Procedure – Part 1 and 2), Meppel: Boom Juridische Uitgevers.

³⁶The ACVZ is an independent Committee that advises the Dutch Government and Parliament on immigration law and policy. It was installed on November 28th, 2001 as a result of the Aliens Act 2000 (Extracted from www.acvz.com on 29 April 2009).

³⁷*Parliamentary Papers II* 2008/2009, 19 637, no 1245 (Letter).

³⁸In 1998, the Temporary Emergency Facilities for Foreign Nationals were created to use the capacity of the Application Centres optimally again. This was to restore the effectiveness and filter function of the centres (*Parliamentary Papers II* 1998/99, 19 637, no 410 (Letter)).

³⁹*Parliamentary Papers II* 2008/2009, 29 689, no 243 (Letter).

⁴⁰Stichting Pharos is the national knowledge centre in the area of health promotion of foreign nationals and newcomers, accessibility and integration and quality of care for these groups and interculturalisation of care (Pharos (2009) *Wat is Pharos?* (What is Pharos?) Extracted from www.pharos.nl on 9 February 2009.

social physician are independent experts. The State Secretary for Justice considers forming an independent and authoritative committee to supervise the quality of the procedure and counselling.

For the time being, the purpose of the medical examination is twofold, namely:

- Early detection of medical problems for which the asylum applicant needs treatment;
- Early detection of medical problems that may influence the interview in the asylum procedure and its interpretation.

The possibility of identifying medical aspects as supporting evidence in assessing the asylum application will be examined further.

Extension of the first part of the asylum procedure.

The Cabinet proposed to extend the present 48-hour procedure to eight days. This procedure of eight working days will be referred to as the general asylum procedure. In this procedure, a relatively larger part of the time will be made available to the asylum applicant and the legal-aid counsellor.

- Day 1: The IND conducts the initial interview. The purpose of this interview is to establish the asylum applicant's identity and nationality and the travel route used to reach the Netherlands. The asylum applicant's reasons for applying for asylum are not yet discussed.
- Day 2: The asylum applicant can prepare for the so-called detailed interview together with the legal-aid counsellor.
- Day 3: The IND conducts the detailed interview. During the detailed interview, the asylum applicant will mainly be questioned about the reasons for applying for asylum.
- Day 4: The asylum applicant and the legal-aid counsellor can make corrections and additions to the report of the detailed interview drawn up by the IND.
- Day 5: If the IND arrives at the conclusion that there are no reasons to grant the asylum application, the IND will draw up the intended decision refusing the application. If the IND decides to grant the asylum application, the decision granting the asylum application will be drawn up and possibly also issued.
- Day 6: If the IND issued an intended decision refusing the application, the asylum applicant and the legal-aid counsellor can give their view on this refusal.
- Days 7 and 8: In the cases where the IND has issued an intended decision refusing the application, the IND will make and issue the final decision on the application.

If it is not possible to take a decision within this period of time, the asylum applicant will be referred to the extended asylum procedure. In case of an excusable failure to meet the deadline, the general asylum procedure may be extended by several days.⁴¹

The detailed interview and the corrections and additions to it will always take place within the general asylum procedure. There may be exceptions to this, for instance, if it is impossible or undesirable to conduct the interview for medical reasons or if the asylum applicant is an unaccompanied minor foreign national younger than twelve years of age.

Acceleration of the extended procedure

In the present situation, the Cabinet considers the asylum procedure for applications which have not been decided within 48 hours to last longer than desirable. The Cabinet therefore proposes the following measures to accelerate the extended asylum procedure:

- The first measure has been referred to above: Not counting exceptions, the detailed interview and the corrections and additions made to it by the asylum applicant will always take place within the general asylum procedure. In the context of the extended procedure, this will result in a gain in time of 8 weeks.
- In addition, the IND will examine whether acceleration may be realised by adjusting the logistic processes.
- Finally, special personal aspects of the asylum applicant will be included in the asylum procedure itself or in separate but parallel procedures as far as possible. These are aspects such as minority, medical circumstances, and being a victim of human trafficking. With the exception of minority, these aspects, which each in itself could give cause for granting a regular (non-asylum) residence

⁴¹ *Parliamentary Papers II* 2008/2009, 29 689, no 243 (Letter).

permit, are currently still dealt with in separate procedures *after* the asylum procedure has been completed.

These proposals were already discussed in several debates in the House of Representatives in 2008. The Cabinet proposals could count on the support in parliament, although most parliamentary parties had critical comments on the proposals. The opposition parties – the People's Party for Freedom and Democracy (*Volkspartij voor Vrijheid en Democratie*, VVD), the Freedom Party (*Partij voor de Vrijheid*, PVV), and the Democrats 1966 (*Democraten 1966*, D66) – were less positive for a variety of reasons.

The VVD and PVV mainly criticised the period of rest and preparation. The VVD argued that the asylum applicant would then have sufficient time to compose an account of the reasons for his or her flight together with the Dutch Council for Refugees and the legal-aid counsellor. The PVV argued that additional time in advance is also additional time to make a possibly invented story plausible. The Political Reformed Party (*Staatkundig-Gereformeerde Partij*, SGP)⁴² and the government party of the Christian Democratic Alliance (*Christen Democratisch Appèl*, CDA) also expressed their concerns on this point.⁴³ The State Secretary reacted to this by stating that this risk will not be any different from the present situation.

D66 mainly criticised the proposals for the general asylum procedure. Its major objection was that the AC procedure, which had been intended as an exception according to this party, currently appears to develop into the standard procedure in a slightly brushed-up form. Other parliamentary parties also expressed their concerns about the general procedure. Many parliamentary parties had doubts about the proposed length of eight days. The government parties of CDA and the Dutch Labour Party (*Partij van de Arbeid*, PvdA) as well as the opposition parties of Green Left (*GroenLinks*) and the Socialist Party (*Socialistische Partij*, SP) consider this period too short and fear that this will be at the expense of accuracy and/or that too many applications will have to be processed in the extended procedure. The State Secretary disputed that the general procedure would become the standard procedure, but that it is the procedure for each applicant to start with. She furthermore argued that it would only be good if a careful decision could be made during the general procedure, also for the asylum applicant. The State Secretary did not share the concerns about the 8-day period.

Legal aid heavily criticised the Cabinet proposals, mainly through the Dutch Association of Asylum Lawyers (*Vereniging asieladvocaten en –juristen Nederland*, VAJN). This association argues that this new model will result in the fact that in the general procedure the asylum applicant will see five different lawyers.⁴⁴ Following this argument, many parliamentary parties (CDA, PvdA, D66, GreenLeft, and SP) stated to consider the continuity of the provision of legal aid essential. They argued that, as far as possible, the asylum applicant should be represented by one legal-aid counsellor. In her reaction to the concerns about the continuity of the legal aid, the State Secretary stated that she was discussing this issue with the asylum lawyers. She stated that she also strived for having as few different legal-aid counsellors as possible for the asylum applicant.

Several parliamentary parties objected to the fact that there are not any substantive criteria for processing an application in the general or the extended procedure. The only criterion is whether the IND believes that the application can be processed accurately without further examination in eight days. The government party of PvdA, and the opposition parties of D66, GreenLeft and SP objected to this. The State Secretary, however, adhered to her position. She argued that substantive criteria would inevitably result in discussions about the decision whether the application should be processed in the general procedure or in the extended procedure. The State Secretary stated she wants to avoid that some kind of procedure around the criteria will be developed at the beginning.

⁴² *Parliamentary Papers II* 2008/2009, 30 846, no 14 (Report of General Consultations).

⁴³ *Parliamentary Papers II* 2008/2009, 29 344, no 68, p. 4 (Report of Written Consultations).

⁴⁴ Vereniging asieladvocaten en –juristen Nederland (*Dutch Association of Asylum Lawyers*, VAJN). (2008) *Plannen staatssecretaris van Justitie voor nieuwe asielprocedure* (Plans of the State Secretary for Justice for a New Asylum Procedure). Extracted from <http://vajn.org/nl-nl/actueel/Plannen-voor-een-nieuwe-asielprocedure/> on 12 March 2009.

For the time being, the public debate about the Cabinet proposals remained limited in 2008. Several civil society organisations, however, gave their views on the plans. The Dutch Council for Refugees, for instance, considers the 8-day period too short⁴⁵ and Amnesty International was also critical⁴⁶. The State Secretary also received much criticism from the legal profession, as appeared, among other things, from the letter from the VAJN referred to above.

Reduction of the Number of Repeated Applications

In their letter of 24 June 2008 in which the proposals for a faster and improved asylum procedure were specified, the Minister and State Secretary for Justice also announced measures to reduce the number of follow-up procedures. The intention of the Cabinet to reduce the number of subsequent asylum applications as far as possible has been realised by this. In 2008, there were 1,876 second or subsequent asylum applications.⁴⁷

One of the reasons for submitting subsequent asylum applications is that under the legislation as it stands, it is not possible to include interim policy changes while an appeal is being processed. In addition, arguments submitted by the asylum applicant during the court proceedings and not prior to that cannot be taken into consideration if these arguments could also have been submitted at an earlier stage. The Cabinet has proposed to create scope for the Court to take all relevant circumstances and amendments to the law into consideration. The IND will also take more advantage of the options to take into account facts and circumstances that did not become known until after making the decision and to possibly withdraw or change a decision on this basis.

With respect to a subsequent application, there will be no period of rest and preparation, neither will an initial interview be conducted. The Cabinet furthermore expected the above-mentioned improvement in the asylum procedure to result in fewer subsequent applications. This may be achieved, among other things, by early detection of medical aspects when examining the first asylum application. These aspects will be given special attention in the period of rest and preparation by means of the medical examination referred to above (see page 23-24). This could partially remove the necessity of submitting a second or subsequent asylum application or of submitting an application for a residence permit on medical grounds upon refusal of the initial asylum application.

Resettlement Refugees

The Netherlands has been a resettlement partner of the UNHCR since 1979. Every year, a pre-determined number of persons who have fled from their own country are invited by the Netherlands to settle here. The UNHCR determines which refugees will be recommended for resettlement in the participating countries. The participating countries finally decide which refugees will be considered for resettlement. To be considered for resettlement in the Netherlands, the refugees must comply with the requirements laid down in the Dutch Aliens Act. If the groups of recommended refugees are large, the Netherlands sends a selection mission to the country of initial reception. In cases of emergency or if it only concerns a small number of recommended refugees, the decision is made on the basis of the relevant files. Following selection in the country of initial reception, the Dutch government transfers the refugees to be resettled to the Netherlands. With the resettlement of refugees, the Dutch government pursues the following two objectives, namely protection of the refugee and demonstration of solidarity with the countries of reception in the relevant region. Since 1984, the Netherlands have established a separate quota for invited refugees.⁴⁸

⁴⁵ VluchtelingenWerk Nederland (*Dutch Council for Refugees*). (2008) *Nieuwe asielprocedure te kort en onzorgvuldig* (New Asylum Procedure too short and too inaccurate). Extracted from www.vluchtelingenwerk.nl on 12 March 2009

⁴⁶ Amnesty International. (2008) *Amnesty International voorziet verslechtering asielprocedure* (Amnesty International Anticipates Deterioration of the Asylum Procedure). Extracted from www.amnesty.nl on 12 March 2009.

⁴⁷ IND (*Immigration and Naturalisation Service, IND*). (2009) *Cijfers 2008 asiel* (Asylum Figures 2008). Extracted from www.ind.nl on 13 May 2009.

⁴⁸ Guiaux, M.; Uiters, A.H.; Wubs, H., and Beenackers, E.M.Th.. (2008) *Uitgenodigde vluchtelingen: Beleid en de maatschappelijke positie in nationaal en internationaal perspectief* (Resettled Refugees: Policy and Social Position in National and International Perspective). The Hague: Boom Juridische uitgevers/Wetenschappelijk Onderzoek- en Documentatiecentrum (*Research and Documentation Centre, WODC*), Ministry of Justice.

In January 2008, the Cabinet announced it intended to receive on average 500 refugees to be resettled a year in the period of 2008-2011, with a maximum of 2,000 refugees to be resettled for the entire period.⁴⁹ The policy regarding refugees to be resettled remained the same on the whole the past few years. The protection need of the refugees that are considered for resettlement is the first matter of importance. In addition, the refugees are also tested on the extent to which a refugee will be able to integrate: refugees that are expected to have obvious problems with integrating in the Netherlands will not be accepted for resettlement by the Netherlands. Every year, 30 places of the quota are reserved for so-called 'medical cases'. A motion to increase the quota to 750 refugees to be resettled a year, which was submitted by GreenLeft and SP, did not make it.⁵⁰

The Cabinet proposed limiting the right to invite family members to be resettled within the quota later on, to those family members that are known to the IND at the moment of selection. According to the Cabinet, it happens increasingly often that refugees to be resettled, after resettlement in the Netherlands, turn out to have husbands, partners, and children that had not been mentioned previously, for instance, because single women are more likely to be considered for resettlement. It also sometimes happens that refugees to be resettled have formed new relationships after he/she had been informed that he/she would be permitted to come to the Netherlands, but was still awaiting the transfer. Part of the quota was consequently used by unforeseen family reunification and family formation and the Cabinet considered this undesirable. Unforeseen family reunification will continue to be possible, but then through the usual applicable admission procedures. This family reunification will consequently not come under the quota.

Sudden Mass Influx of Chinese Asylum applicants

In the period between 12 March and 11 April 2008, there was a sudden strong increase in the number of Chinese asylum applicants. In that period, nearly 770 Chinese asylum applicants reported to the application centres (for comparison: in 2007, a total of 242 new Chinese asylum applicants reported for a first asylum application.⁵¹). The apparent reason was a rumour in the Chinese community in the Netherlands that a succession to the throne was forthcoming, which was said to be accompanied by amnesty for illegal foreign nationals. Part of the asylum applicants had probably already been staying illegally in the Netherlands for some time.⁵²

Because the existing reception facilities had not been equipped for this influx, the Central Agency for the Reception of Asylum applicants (COA) had to set up an additional emergency reception facility in the very short term, which led to much unrest and indignation among the people living in the neighbourhood. The sudden influx was widely covered by the media.⁵³ On 8 April 2008, an emergency debate was held in the House of Representatives.⁵⁴ All parliamentary parties criticised the manner in which the Central Agency for the Reception of Asylum applicants had realised additional reception facilities. This criticism was mainly aimed at the absence of consultation with the local administration prior to opening the reception facilities and at the absence of communication with and information to the people living in the neighbourhood. The State Secretary admitted that it would have been better if the COA had contacted the local administration in advance, but also pointed to the pressure of time under which the COA had had to realise new reception facilities.

The House of Representatives furthermore expressed its concerns about these foreign nationals disappearing into illegality again. The House of Representatives therefore urged the State Secretary in a

⁴⁹ *Parliamentary Papers II* 2007/2008, 19 637, no 1182 (Letter).

⁵⁰ *Proceedings II* 2007/2008, no 105, pp.7665-7666.

⁵¹ IND (*Immigration and Naturalisation Service, IND*). (2008) *Cijfers 2007 asiel* (Asylum Figures 2007). Extracted from www.ind.nl on 13 May 2009.

⁵² *Proceedings II* 2007/2008, no 73, p. 5123.

⁵³ See, among other things, 'EénVandaag', TROS, and AVRO Nederland 1, 1 April 2008; 'NOS Journaal 20:00', NOS Nederland 1, 1 April 2008; NRC Handelsblad (2008, 28 March) *Honderden Chinezen vragen asiel aan* (Hundreds of Chinese Applying for Asylum); Graaf, P. de (2008, 1 April) *Dorpje 'overvallen' door komst bussen asielzoekers* (Village 'Descended on' by Busses Full of Asylum applicants), *De Volkskrant*, p. 2; Witt, R. de (2008, 27 March) *Opvangcentra vol door toestroom asielzoekers* (Reception Centres Full Due to Influx of Asylum applicants), *Elsevier*.

⁵⁴ *Proceedings II* 2007/2008, no 73, pp. 5114-5133.

motion to do everything possible to ensure that this group of people would return to the country of origin again and to prevent them from disappearing in illegality again. The VVD wanted to go a step further and argued for detaining the entire group immediately awaiting the processing of their asylum applications. This would prevent the group from evading supervision. This proposal was supported by the PVV, but the other parliamentary parties did not want to go this far. The State Secretary, too, indicated that she did not want and did not have the possibilities to detain asylum applicants while their asylum applications were being processed. Besides, the parliamentary parties of VVD and PVV saw in the sudden influx of Chinese asylum applicants proof for the magnet effect of the pardon scheme ('Settlement of the legacy of the 'old' Aliens Act scheme ') from 2007 they had feared (see the previous edition of this report). This view was contested by the other parties and by the State Secretary for Justice.

Following the aforementioned motion, the State Secretary took several measures.⁵⁵ First of all, supervision was intensified. The Chinese asylum applicants had to report to the Aliens Police in the reception centre twice a day and their liberty was restricted. In addition, the Chinese asylum applicants were brought together in three reception centres. By deploying additional capacity, all Chinese applicants were registered and their finger prints taken. To promote the return of this group, those asylum applicants whose applications would be refused in the application centre were to be detained for the purpose of removing where possible. In this context, too, the Chinese foreign nationals were to be accommodated at much as possible in one centre. The different parties involved in the repatriation process established a task force there. The International Organisation for Migration (IOM) also put in additional efforts to promote voluntary repatriation.

The Chinese authorities exercised restraint in issuing travel documents or replacement documents to undocumented foreign nationals from China in the context of forced repatriation. Following the influx, the Chinese authorities were contacted about this again in March and April. The State Secretary is furthermore examining how to use the available instruments better and in a more coordinated manner to improve cooperation with China in the area of repatriation, also when it concerns forced repatriation. This study is conducted in cooperation with the Ministers of Foreign Affairs, Development Cooperation, Economic Affairs, and Social Affairs and Employment.

In the letter of 22 April 2009 to the House of Representatives describing the measures taken as a result of the motion, the State Secretary also informed the House that approximately 300 persons had disappeared from view again at that time. Following the State Secretary's letter, the VVD finally submitted a no-confidence motion against her on 23 April 2008, because this political party was of the opinion that the State Secretary had not done everything possible to prevent the Chinese asylum applicants from disappearing.⁵⁶ The VVD was of the opinion that the State Secretary could have detained this group for the purpose of removal from the Netherlands even prior to the asylum procedure. The State Secretary contested this view and stated that it had not only been undesirable, but also legally impossible to detain groups of asylum applicants for the purpose of removal prior to the procedure. The no-confidence motion was finally only supported by VVD, PVV, and the independent Member of Parliament Verdonk.⁵⁷ In the end, 600 Chinese foreign nationals disappeared from the Dutch government's view again. About 140 applicants were detained, and about 15 applicants moved on to the follow-up procedure. A dozen cases concern a so-called B9-procedure. These foreign nationals are possibly victims of human trafficking.⁵⁸

Article 1F of the Refugee Convention

Article 1F of the Refugee Convention (hereinafter referred to as Article 1F) states that the provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that.

⁵⁵ *Parliamentary Papers II* 2007/2008, 19 637, no 1193 (Letter).

⁵⁶ *Proceedings II* 2007/2008, no 80, pp. 5607-5621 and 5637-5645.

⁵⁷ *Proceedings II* 2007/2008, no 80, p. 5647.

⁵⁸ *Parliamentary Papers II* 2007/2008, 19 637, no 1203 (Letter).

- a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- c) He has been guilty of acts contrary to the purposes and principles of the United Nations.

On 30 November, the Cabinet implemented two changes in the policy on family members of foreign nationals whose application has been denied because Article 1F applies to them.⁵⁹ The Cabinet announced these changes to the House of Representatives by letter of 9 June 2008.⁶⁰ In this letter, the House of Representatives was informed in more detail about the application of Article 1F in the Netherlands and at the international level following promises during the debate on this issue in 2007. A comprehensive analysis of the application of this article was made among other things.

This analysis caused the Cabinet to change the policy on family members of foreign nationals whose application has been denied because Article 1F applies to them. These family members in principle will not be granted a residence permit because they pose a danger to public order, unless they qualify for an asylum permit on independent grounds. The reason for this is that granting a residence permit to family members would mean that the foreign national whose application has been denied because Article 1F applies to him could almost certainly actually stay in the Netherlands for a long time, partly thanks to the rights and facilities the family members would enjoy on the basis of the residence permit granted.

The Cabinet decided that the contraindication of public order would no longer be enforced against them if they had stayed in the Netherlands without interruption for at least ten years, counted from the date of the initial asylum application. This does not apply if the family members concerned have demonstrably frustrated their departure process. Furthermore, the provisions that the contraindication of public order will not be enforced any longer if the family ties with the foreign national against whom Article 1F is enforced have been broken is now included in the regulations. The latter case was, however, already actual practice.

Risk Groups

Country-based asylum policy may designate population groups as risk groups. In the context of verifying whether the foreign national is a refugee within the meaning of the Refugee Convention, persons belonging to a risk group will be subjected to less strict requirements for demonstrating the graveness of the events experienced. In 2008, the following groups were designated as risk groups:

- Afghanistan: ethnic and religious minorities.
- Somalia: Reer Hamar (an ethnic minority group).

Other groups that were also designated as risk groups in 2008 were homosexuals from Afghanistan (effective date 7 November)⁶¹ and Iraq (effective date 22 November).⁶²

Vulnerable Minority Groups

In the Netherlands, an asylum applicant may be granted a temporary residence permit if he/she has demonstrated to run a real risk upon removal of being treated contrary to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). This is a form of subsidiary protection. In this context, the foreign national is to put forward specific distinguishing features evidencing this risk of treatment contrary to Article 3 ECHR. Since 30 July 2007, following a

⁵⁹Decision of the State Secretary for Justice of 18 November 2008, no 2008/29 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* 1080.

⁶⁰*Parliamentary Papers II* 2007/2008, 31 200 VI, no 160 (Letter).

⁶¹Decision of the State Secretary for Justice of 27 October 2008, no 2008/25 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* 460.

⁶²Decision of the State Secretary for Justice of 10 November 2008, no 2008/28 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* 771.

decision of the European Court of Human Rights (ECHR)⁶³, vulnerable minority groups have been designated in country-based asylum policy in respect of which a real and individual risk of being treated contrary to Article 3 ECHR will be assumed earlier. This risk will now be assumed if

- the foreign national belongs to a vulnerable minority group in his/her country of origin; *and*
- the foreign national has demonstrated with in itself limited individual indications that in conjunction with these there is a threatened violation of Article 3 ECHR.⁶⁴

The following groups were designated as vulnerable minority groups during the whole of 2008:

- Afghanistan: ethnic minorities, religious minorities, and single women;
- Democratic Republic of the Congo: Tutsi.
- Iraq: Christians, Palestinians, Yezidis, and Mandeans.
- Somalia: Reer Hamar.
- Sudan: non-Arab population groups from Darfur.

The religious minority groups of Jews, Shabak, and Kaka'I from Iraq were newly designated as vulnerable minority groups in 2008 (effective date 22 November 2008).⁶⁵

Categorical Protection

In 2008, several countries fell under the scope of a policy of categorical protection. This means that asylum applicants who originate from such countries or a part thereof are granted a temporary asylum residence permit in principle (subject to contraindications) on the basis of the situation in the country of origin. It is still examined first whether the applicant would qualify for an asylum residence permit on individual grounds, for instance, because the foreign national is a refugee within the meaning of the Convention on Refugees.

In the whole of 2008, a categorical protection policy applied to the following groups and/or countries:

- Non-Arab population groups from Sudan, Darfur region.
- Somalia, with the exception of regions of Puntland⁶⁶, Somaliland, Sool, and Sanaag.
- Ivory Coast.

The policy of categorical protection for persons originating from central and the south of Iraq continued to be effective until 12 September 2008⁶⁷, following the information from the general official country report on Iraq from the Minister of Foreign Affairs of June 2008. The reasons for ending this policy were the improved security situation in Iraq and the fact that our neighbouring countries, in particular the United Kingdom, Denmark, and Sweden, did not pursue a special policy on Iraqi asylum applicants.

The categorical protection policy for the population group of ethnic Tutsi in the Democratic Republic of the Congo was ended on 29 September 2008.⁶⁸ This was effected following the information from the general official country report on the Democratic Republic of the Congo issued by the Minister of Foreign Affairs in July 2008. There were two important reasons to end the policy for this group. Firstly, the security situation of the Tutsi in Kinshasa had improved gradually the last few years, making Kinshasa a safe alternative to stay. Second argument to end the policy was that our neighbouring countries, in particular the United Kingdom, Denmark, and Belgium, did not pursue a special policy on the Democratic Republic of the Congo or on any of its population groups.

⁶³ European Court of Human Rights, 11 January 2007, no. 1948/04 (Salah Sheekh/the Netherlands), more on this subject can be found in the Dutch Annual Policy Report 2007.

⁶⁴ Decision of the State Secretary for Justice of 30 July 2007, no 2007/19 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* 148, p. 5.

⁶⁵ Decision of the State Secretary for Justice of 10 November 2008, no 2008/28 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* 771.

⁶⁶ With the exception of the region of North Galkayo.

⁶⁷ *Parliamentary Papers II* 2008/2009, 19 637, no 1220 (Letter).

⁶⁸ *Parliamentary Papers II* 2008/2009, 19,637, no 1221 (Letter).

Decision and Departure Moratoriums

Pursuant to Article 43 of the Aliens Act 2000, a decision moratorium may be imposed for a maximum period of one year for specific categories of asylum applicants because of the situation in the country of origin or because of a massive influx from a specific country or region. In addition, pursuant to Article 45(4) of the Aliens Act 2000, a departure moratorium may be imposed for a maximum period of one year for specific categories asylum applicants whose applications have been refused irrevocably and who are to leave the Netherlands. These moratoriums are imposed if the situation in the country of origin has changed to such an extent that it is not certain whether the persons can be removed safely from the Netherlands to that country. In that case, the facilities for the relevant category of foreign nationals are maintained. This category of foreign nationals will also not be subject to forced removal from the Netherlands.

Until 1 April 2008, there was a decision and departure moratorium for asylum applicants from Guinea. On that date, the statutory maximum period of one year for such a moratorium expired. The official country report issued by the Minister of Foreign Affairs on 23 March 2008 did not give cause to continue the special policy for asylum applicants from Guinea, as the situation in that country had stabilised.⁶⁹

Broader Employment Opportunities for Asylum applicants

As referred to in the previous edition of this report, the Cabinet decided in 2007 to expand the employment opportunities for asylum applicants. This expansion was finally realised on 13 February 2008.⁷⁰

3.3.3. Unaccompanied Minors and Other Vulnerable Groups

Protected Reception Facilities for Unaccompanied Minor Foreign Nationals

On 1 January 2008, a pilot project regarding protected reception facilities for Unaccompanied Minor Foreign Nationals (UMFNs) who had been victim of or who run the risk of becoming victim of human trafficking was launched.⁷¹ As referred to in the previous edition of the Annual Policy Report, the erection of protected reception facilities for UMFNs had already started in 2007 in anticipation of this project.

The purpose of the pilot is to prevent UMFNs aged between 13 and 18 years from disappearing and possibly being exploited. UMFNs were screened on the basis of risk profiles upon arrival at Amsterdam Airport Schiphol. When there is reason to do so, the UMFNs were subsequently placed in protected reception facilities under the responsibility of the guardianship agency Nidos. It is also possible to make such a decision later on in the procedure. The protected reception facilities consist of reception in small-scale living units with 24-hour a day of supervision (at least during the first three months) to prevent the UMFNs from disappearing. Guidance of the UMFNs is directed at increasing their knowledge, skills, and resilience and providing an alternative perspective on the future. In this context, they are explicitly informed about human trafficking, exploitation, and prostitution.

To prevent UMFNs from disappearing, the applications from UMFNs staying in protected reception facilities are processed by a specialist unit in an accelerated manner. This unit aims at making a decision within three months. It is also common practice that these UMFNs are guided by the Return & Repatriation Service immediately after their initial refusal to prepare them for repatriation. If UMFNs disappear in spite of the supervision, this is reported to the police who will immediately conduct a comprehensive investigation.

The Protected Reception Facilities Pilot will be evaluated at the end of 2009.

⁶⁹ *Parliamentary Papers II* 2007/2008, 19 637, no 1197 (Letter).

⁷⁰ Decision of 31 January 2008 amending the Aliens Employment Act Implementation Decree (*Besluit uitvoering Wet arbeid vreemdelingen*) to increase the employment opportunities for asylum applicants), *Dutch Bulletin of Acts and Decrees* 2008, 38.

⁷¹ *Parliamentary Papers II* 2008/2009, 27 062, no 63 (Letter).

3.3.4. Economic Migration

The Blueprint for a Modern Migration Policy (see page 18-20) contains a detailed description of the future of the policy on economic migration. In anticipation of the revision of the policy on the regular (non-asylum) admission to the Netherlands, several changes to the policy were already realised in 2008.

Table 2: Applications for provisional residence permits by purpose of stay, 2008

	Number	%
Employment	3,453	7%
Highly skilled migrants	6,838	14%
Other	39,100	79%
Total	49,391	100%

Source: www.ind.nl

Table 3: Applications for regular (non-asylum) residence permits by purpose of stay, 2008

	Number	%
Employment	4,759	8%
Highly skilled migrants	7,192	12%
Other	48,468	80%
Total	60,419	100%

Source: www.ind.nl

Scheme for Highly-Educated Persons

In the blueprint for a Modern Migration Policy that was presented in June 2008, the Cabinet announced the implementation of a scheme for the admission of highly-educated persons in anticipation of the blueprint.⁷² This scheme was published in December 2008 and will enter into force on 1 January 2009.⁷³

On the basis of this scheme, foreign nationals can obtain a residence permit for a maximum stay in the Netherlands of one year to find a job as a highly skilled migrant or to start an innovative business. Within that year, the foreign national must consequently have achieved the following:

- Finding a job that meets the income requirement that applies to foreign nationals who graduated in the Netherlands and who find a job as a highly skilled migrant after their study or during the orientation year (the income requirement is currently a gross salary of at least € 25,000 a year);
- Setting up a business that meets the requirements for being admitted as a self-employed person. The business must serve an essential Dutch economic interest, the permits must be in order, and the business must yield sufficient means of existence.

The target is to have 500 persons taking advantage of this scheme a year. The scheme provides for the possibility to establish a formal quota, but this possibility will not be used for the time being. To be considered on the basis of the scheme, the foreign national must have finished an education (graduated or obtained a doctorate) at a leading university. The top 150 of the two following lists is used to determine which universities are considered leading:

- The list published in the 'Times Higher Education Supplement', which is directed more to the quality of the study programme;
- The list published by the 'Jiao Tong Shanghai University', which is directed more to the quality of the research.

It concerns 189 foreign universities. In addition, foreign nationals who have finished an accredited education at a Dutch institution for higher education are eligible for the scheme.

⁷² *Parliamentary Papers II* 2007/2008, 30 573, no 10 (Letter).

⁷³ Decision of the State Secretary for Justice of 12 December 2008, no 2008/30 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* 2595.

The foreign national who wants to take advantage of this scheme will be tested on the basis of a scoring system. The British scoring system of the Highly Skilled Migrant Programme was used as a model for the Dutch scoring system. The foreign national will be tested on education, age, and indicators for succeeding in the Netherlands. A foreign national will be considered for admission if he/she scores at least 35 to 40 points. During the search year, the foreign nationals qualify for family reunification.

Scoring System for Self-employed Persons

As referred to in the previous addition of the Annual Policy Report, the Cabinet in 2007 announced the implementation of a scoring system for the admissions of self-employed persons. This scoring system was actually implemented in January 2008.⁷⁴

Foreign nationals may be admitted to the Netherlands to establish as self-employed persons if this serves an essential Dutch economic interest. For this purpose, the IND will ask advice from the Ministry of Economic Affairs. From 1 January 2008, this advice has been based on the new scoring system. On the criteria of personal experience, substantiation of economic activities, and the added value of the economic activities to Dutch economy, points will be allocated on the basis of the business plan and other documents. Elements that play a role in assessing personal experience are education, entrepreneurial experience, work experience, income, and experience with the Netherlands. The business plan will be assessed on the criteria of market potential, organisation, and financing. The added value to the Netherlands will be assessed on the criteria of innovation, creating employment, and investments.

3.3.5. Family Reunification

Table 4: Applications for provisional residence permit by purpose of stay, 2008

	Number	%
Family reunification	26,861	54%
Other	22,530	46%
Total	49,391	100%

Source: www.ind.nl

Table 2: Applications for regular (non-asylum) temporary residence permits by purpose of stay, 2008

	Number	%
Family reunification	21,959	36%
Other	38,460	64%
Total	60,419	100%

Source: www.ind.nl

DNA Test

Family members of an asylum applicant who has been admitted to the Netherlands on the basis of an asylum application may be considered for derivative residence permits. In that case, they must come to the Netherlands within three months after the permit was granted to the asylum applicant. In order to be able to travel to the Netherlands, these family members must apply for a provisional residence permit (mvv) at a diplomatic post abroad. The holder of the asylum permit may request advice from the Visa Service of the IND about the possibilities for his/her family members to obtain an mvv. The family relationship must, however, be demonstrated, preferably by means of documents. If there are no

⁷⁴Policy Rule of the Minister of Economic Affairs of 21 November 2007 containing a scoring system for advice about the admission of foreign nationals as working on a self-employed basis in the Netherlands (Policy Rules for advice on admitting foreign nationals working on a self-employed basis in the Netherlands (*Beleidsregels advisering toelating vreemdelingen als zelfstandig ondernemer in Nederland*)), *Government Gazette* no 3, p. 12.; Decision of the State Secretary for Justice of 12 December 2007, no 2007/39 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* no 1, p. 19.

documents, the foreign national is responsible for demonstrating that there is a family relationship in a different way. One of the possibilities is to have a DNA test conducted.

On 9 March 2008, the fee payable by the individual for undergoing such a test conducted was abolished for family members who had already travelled to the Netherlands, because this constituted an obstacle for applying this form of test.⁷⁵ From 19 October 2008, the fee payable by the individual for DNA test in connection with the mvv and advisory procedures was also abolished for family members who travel to the Netherlands later on to join the foreign nationals.⁷⁶ If the DNA test shows that there is no descendant relationship, the fee for the test payable by the individual must still be paid.

Simplified Extensions

Since 19 October 2008, the application to extend a residence permit for (extended) family reunification⁷⁷, which includes family formation, will only be refused if the foreign national or the person with whom this foreign national stays partly or entirely relies on public funds. It must then still be assessed whether the consequences for the foreign national are disproportionate in relation to the purposes to be served by the means requirement. If this is the case, the permit will be extended anyway.⁷⁸

This policy change had already been announced by the State Secretary for Justice in October 2007 in her letter to the House of Representatives in which she described the state of affairs regarding the modern migration policy.⁷⁹ The simplification of assessing the applications for extension described here is one of the quick wins announced by the State Secretary in this letter. In the past, the foreign national and/or the person with whom the foreign national would stay had to prove that they had sufficient means of existence. This implied that the foreign national had to submit proof of income.

3.3.6. Other Legal Migration

In addition to the policy on economic migration and the policy on family reunification, the Dutch regular (non-asylum) migration policy includes several other components, such as admission for stay on religious or medical grounds or for study purposes. Several conditions for admission in principle apply to all forms of regular residence permits. First of all, this section describes issues that relate to more than one form of regular admission. Next, the developments in 2008 regarding the purposes of stay that do not come under economic migration or family reunification will be described.

The MVV Requirement

Foreign nationals who want to stay in the Netherlands for a period of more than three months must hold a provisional residence permit (mvv, a D-visa). A limited number of nationalities and categories of foreign nationals have been exempt from this obligation. The mvv can be applied for at the Dutch representation in the country of origin or country of permanent residence.

After arrival in the Netherlands, the foreign national must subsequently apply for a residence permit to be able to stay in the Netherlands for a period of more than three months. This requirement that a foreign national holds a valid mvv, enables the Dutch authorities to verify whether the foreign national meets the requirements for admission prior to his/her arrival in the Netherlands. The mvv must have

⁷⁵ Decision of the State Secretary for Justice of 29 February 2008, no 2008/11 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* no 48, p. 8.

⁷⁶ Decision of the State Secretary for Justice of 10 October 2008, no 2008/24 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* no 219.

⁷⁷ Normal family reunification pertains to spouses or partners and to underage children with their parents, the Dutch family reunification policy also offers the opportunity for so-called extended family reunification. Other relatives of a Dutch citizen or a foreign national who legally resides in the Netherlands can also qualify for admission. In that case the relative in question must be an actual member of the household of the person with whom the foreign national in question wants to stay and was an actual member of that person's household in the country of origin as well. Moreover, leaving this foreign national behind must constitute undue harshness in the Minister of Justice's view

⁷⁸ Decision of the State Secretary for Justice of 10 October 2008, no 2008/24 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* no 219.

⁷⁹ *Parliamentary Papers II* 2007/2008, 29 861, no 21 (Letter).

been issued for the same purpose of stay as for which a subsequent residence permit is applied. On 29 October 2008, the State Secretary for Justice announced to change the policy on the mvv on a number of points.⁸⁰ The changes she announced related to the possibility to exempt foreign nationals from the obligation to hold an mvv.

Minor children of school age

Questions from the House of Representatives about the threatened removal of a minor triggered the first change in the possibility to exempt foreign nationals from the obligation to hold an mvv. Following these questions, the State Secretary reviewed her policy on the mvv requirement for minors. Specific categories of minors were already exempt from the mvv requirement. Following the change announced by the State Secretary, minor foreign nationals of school age will also be exempt from the mvv requirement if they meet the following conditions:

- They have actually lived in the Netherlands uninterruptedly immediately prior to the application; and
- they submit an application for a residence permit for the purpose of family reunification with a parent who is staying in the Netherlands, either as a Dutch national or with a residence permit.

It was deemed unreasonable to expect from this group to temporarily return to apply for an mvv.

Family members of previously admitted asylum applicants

Family members with a different nationality from the asylum applicant are not entitled to a derivative asylum status. They can, however, apply for a regular residence permit for family reunification, but were until now obliged to hold an mvv. This implies that they would have to return to the country of origin or permanent residence to submit the application. They are, however, exempt from several other general conditions to do justice to the special position of the admitted family member. To do justice to this special position even more, family members with a different nationality from the asylum applicant will also be exempt from the mvv requirement, provided that there is no alternative to stay in a third country and the regular (non-asylum) application has been submitted within three months from the date on which the asylum applicant obtained an asylum permit.

Article 8 of the ECHR

If there is family life, removing a foreign national may result in a violation of Article 8 of the ECHR. This Article provides for the right for respect for family life. In refusing an application because of the absence of the provisional residence permit (mvv), it was reviewed only to a limited extent whether this constituted a violation of Article 8 of the ECHR. Reason for this was that a complete review could be addressed while going through the mvv procedure in the country of origin and that the obligation to leave the Netherlands for this procedure was only temporarily in nature. Partly in view of developments in the proceedings before the European Court of Human Rights, it was decided to henceforth conduct a complete review.

More time for submitting application for extension

If a foreign national does not submit the application for an extension of the residence permit in time, the application may be refused because an mvv is missing. An application for extension is currently refused for this reason if it has been submitted more than six months late. On the basis of developments in the proceedings before the European Court of Human Rights, this period will be extended to two years.

Continued Residence for compelling humanitarian grounds

Foreign nationals who want to stay in the Netherlands for a period of more than three months can obtain a temporary residence permit for the purpose of stay for which they are coming to the Netherlands, for instance, for employment or family reunification. Under specific conditions, such a permit related to a specific purpose may be converted into a temporary residence permit for continued residence. This type of residence permit results in a stronger right of residence, because the specific conditions for the residence permit for a specific purpose of stay do not apply anymore. A residence permit for stay with a spouse may, for instance, be withdrawn if the relationship is terminated. The permit that is subject to the limitation of continued residence cannot be withdrawn in such a case.

⁸⁰ *Parliamentary Papers II* 2008/2009, 19 637, no 1235.

One of the reasons for granting a permit for continued residence is that it cannot be expected of the foreign national to leave the Netherlands for specific individual reasons. The policy provides specifically for the possibilities of obtaining a permit for continued residence if the relationship, by marriage or otherwise, on the basis of which a residence permit had been granted is terminated within a period of three years. If this relationship is terminated after a period of three years, it is always possible to obtain a residence permit for continued residence.

The Minister of Justice promised the House of Representatives in May 2007 to give further substantiation to the compelling reasons of humanitarian nature on the basis of which a residence permit for continued residence is granted upon termination of a relationship, by marriage or otherwise, within a period of three years.⁸¹ Reason for this promise were the problems encountered by women who were left behind in the country of origin against their will after a legal residence with their partner in the Netherlands. If there are compelling humanitarian grounds, these women may be granted a residence permit for continued residence. In his letter of 29 July 2008, the Minister indicated how further substantiation would be given to the compelling humanitarian grounds.⁸² In addition, the Minister also examined the criteria used for granting a residence permit for continued residence in the event that the relationship, by marriage or otherwise, is terminated because of domestic violence.

The Minister proposed, with respect to women that were left behind, to refine and increase the number of indicative examples and, in particular, also to include the situation of children who were left behind with the parent. In respect of victims of domestic violence, the Minister proposed to give further substantiation to three criteria used for assessing whether it concerns a matter of domestic violence. This currently requires a formal report to the police and a medical certificate from a doctor or confidential doctor. The Minister argued, however, that this is not adequate.

- It is sometimes not possible for the victims to report to the police. From now on, it also suffices if the police have been informed of the domestic violence, provided that it has been demonstrated sufficiently that the violence actually took place.
- Doctors or confidential doctors can only certify about medical circumstances. For that reason, more sorts of information will be accepted as prove of domestic violence in future, such as a declaration from the women's shelter where the victim stays, or declarations from professionals/social workers involved, mental healthcare institutions, local organisations for domestic violence, or an Advice and Support Centre for Domestic Violence (*Advies- en steunpunt huiselijk geweld, ASHG*)⁸³.

It must moreover be avoided that a residence permit is only granted if the victim terminates the relationship. The victim will also be entitled to a residence permit for continued residence if the offender terminates the relationship. In addition, current policy does not provide for the possibility for children who have been victim of domestic violence to obtain a residence permit for continued residence for this reason. It cannot be expected of them to terminate the relationship. In these two cases, too, it will be possible to apply for a residence permit for continued residence.

Residence Permit for Higher Educational Study Programmes

On 1 August 2008, a procedural change became effective to the extent that foreign nationals who want to come to the Netherlands to follow a higher educational study programme can only submit their application through the intermediary of the educational institution. This also applies to foreign nationals who require preparation time to qualify for the envisaged study and who want to come to the Netherlands for this purpose. The educational institution needs to have concluded an agreement with

⁸¹ *Parliamentary Papers II* 2006/2008, 29,742, no 1217 (Letter).

⁸² *Parliamentary Papers II* 2007/2008, 19,637, no 1217 (Letter).

⁸³ In the Netherlands, 35 municipalities have been designated for the sheltering of women (possibly together with their children) who are undergoing a crisis in their home situation. The Advice and Support Centres for Domestic Violence can also be found in these municipalities. These centres can be reached by phone for expert advice, intakes and referrals to further assistance or sheltering in case of domestic violence. Extracted from www.huiselijkgeweld.nl on 29 April 2009.

the IND to this end.⁸⁴ The previous edition of this report already contained a more detailed discussion of this development which was started in 2007.

Table 6: Applications for provisional residence permit by purpose of stay, 2008

	Number	%
Study	8,307	17%
Other	41,084	83%
Total	49,391	100%

Source: www.ind.nl

Table 7: Applications for regular (non-asylum) temporary residence permits by purpose of stay, 2008

	Number	%
Study	9,318	15%
Other	51,101	85%
Total	60,419	100%

Source: www.ind.nl

3.3.7. Integration

As indicated in the Integration Memorandum 2007-2011 of the Minister for Housing, Communities and Integration, the key points of the Balkenende IV Cabinet integration policy are civic integration, social emancipation, and social integration. Civic integration policy is not only targeted at migrants, but also at descendants of migrants who were born in the Netherlands. In this context, the focus is on the position of minorities of non-western foreign heritage. These are persons of whom at least one parent was born in one of the countries on the continents of Africa, Latin America, and Asia (excluding Indonesia and Japan), or Turkey. The major countries of origin are Morocco, Turkey, the Netherlands Antilles and Aruba, and Surinam. In this section, however, the focus will mainly be on the aspects of integration policy on new migrants. In 2008, these aspects concerned developments and debates around civic integration.

Table 8 Population by group of origin on 1 January (2004-2008)

Group of origin	2005	2006	2007	2008	2009	%
Total population	16,305,526	16,334,210	16,357,992	16,405,399	16,486,587	100.0%
Persons of foreign heritage	3,122,717	3,147,615	3,170,406	3,215,416	3,289,671	20.0%
Persons of native Dutch heritage	13,182,809	13,186,595	13,187,586	13,189,983	13,196,916	80.0%
Total of non-western persons of foreign heritage	1,699,042	1,720,050	1,738,452	1,765,730	1,809,732	11.0%
Total of western persons of foreign heritage	1,423,675	1,427,565	1,431,954	1,449,686	1,479,939	9.0%
Turkey	358,846	364,333	368,600	372,714	378,400	2.3%
Morocco	315,821	323,239	329,493	335,127	341,640	2.1%
Surinam	329,430	331,890	333,504	335,799	338,519	2.1%
Netherlands Antilles and Aruba	130,538	129,683	129,965	131,841	134,486	0.8%

Source: Statistics Netherlands (CBS), Voorburg/Heerlen 13 May 2009

⁸⁴Regulation of State Secretary for Justice of 2 July 2008 amending the Regulations on Aliens 2000 (*Voorschrift Vreemdelingen 2000*) (eighty-fourth amendment), *Government Gazette* no 132, p. 16; Decision of the State Secretary for Justice of 29 July 2008, no 2008/21 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingen-circulaire 2000*), *Government Gazette* no 146, p. 7.

Civic Integration Delta Plan

Civic integration is one of the key points of the Balkenende IV Cabinet integration policy. As referred to in the previous edition of this report, the Cabinet launched a Civic Integration Delta Plan in September 2007. This Delta Plan was to serve two purposes, namely improving the quality of civic integration and increasing the number of people who participate in a civic integration programme. As mentioned in the previous edition, the Delta Plan was, among other things, a response to the problems with civic integration. In the second half of 2007, the number of participants in civic integration courses was most disappointing. Course providers and the municipalities did not succeed in offering civic integration courses to a sufficient number of people.

The Cabinet had announced in its Delta Plan that it wanted to achieve quality improvement. The Cabinet stated it wanted to do this by providing more custom-designed course programmes by taking account of the difference among the target groups, for instance, on the basis of educational level. The Delta Plan also contained the intention to give municipalities the opportunity to make an offer to all groups of participants in civic integration to participate in civic integration programmes funded by the State. In addition, the Ministry of Housing, Spatial Planning and the Environment/Housing, Communities and Integration formed a task force to assist municipalities in implementing civic integration. Joint actions were to ensure that a civic integration agenda with concrete actions would be drawn up for each municipality.

In May 2008, the Minister of Housing, Communities and Integration notified the House of Representatives that these efforts had not yet yielded the desired results and that the number of foreign nationals participating in the civic integration programmes fell short of the prognosis.⁸⁵ This particularly applied to the four largest cities of Amsterdam, Rotterdam, The Hague, and Utrecht, where approximately 50% of the foreign nationals who are obliged to participate in civic integration programmes live. For this reason, the Minister announced the following additional measures:

- Specific agreements about improving the implementation in the four largest cities;
- Measures to provide for adequate reception facilities for children of participants in civic integration programmes;
- Increase in municipal discretionary powers;
- Further simplification of the Civic Integration Act.

Several of the intentions from the Civic Integration Delta Plan and the additional measures as announced in May 2008 were realised in the course of 2008. On 30 December 2008, the Civic Integration Act (*Wet inburgering*) entered into force⁸⁶.

- From this date, the municipalities have been able to offer civic integration facilities to all foreign national citizens who are obliged to participate in civic integration.⁸⁷ In the past, the municipality could only offer this facility to foreign national citizens who were obliged to participate in civic integration and who are on welfare or to settled immigrants⁸⁸ without current income from employment, social assistance, or benefits.
- The municipalities are now allowed to also offer a civic integration facility that aims at a higher level, namely at the State Examination for Dutch as a second language I or II. In the past, the municipalities could only offer a facility that was aimed at passing the civic integration examination and in that case the foreign national using this facility was only allowed to take that examination.

⁸⁵ *Parliamentary Papers II* 2007/2008, 31,143, no 14 (Letter).

⁸⁶ Act of 29 December 2008 amending the Civic Integration Act (*Wet inburgering*) (civic integration facilities for all foreign nationals obliged to follow a civic integration programme aimed at the civic integration examination or the State Examination in Dutch as a foreign language), *Dutch Bulletin of Acts and Decrees* 2008, 604.

⁸⁷ The civic integration facility prepares the foreign national who is obliged to follow the civic integration programme for the civic integration examination and the State Examination in Dutch as a second language (NT2) and includes at least following a civic integration course and taking the relevant examination (once free of charge). The Ministry for Housing, Spatial Planning and the Environment, Civic Integration and Integration Department. (2009) *Inburgeringsvoorziening* (Civic Integration Facility). Derived from www.handreikinginburgeringgemeenten.nl on 22 April 2009.

⁸⁸ Foreign nationals who resided lawfully in the Netherlands on 1 January 2007.

The Bill also regulated that the foreign nationals who are obliged to participate in civic integration programmes have the obligation to accept the civic integration facility offered by the municipality. A municipality is now permitted to impose a maximum fine of € 500 if the foreign national – imputably – fails to do this within the stipulated period of four weeks. With the implementation of this possibility, the Minister kept her promise to execute the motion submitted by Toorenburg (CDA), Depla (PvdA), and Kamp (VVD) requesting the implementation of this obligation.⁸⁹

In November 2008, a Bill was submitted to the House of Representatives to give substance to the simplification of the Civic Integration Act. This Bill was also intended to promote improved implementation.⁹⁰

- At the moment, some categories of foreign nationals who are obliged to participate in civic integration programmes are obliged to pass their examinations within three and a half years, others within five years. This distinction will be cancelled and all the foreign nationals who are obliged to participate in civic integration programmes are to pass their civic integration examinations within three and a half years.
- Foreign nationals who participate in a civic integration programme voluntarily can apply for a personal civic integration budget at the municipality and use this to arrange for their civic integration themselves. This facility has, however, not been included explicitly in the Civic Integration Act. According to the Cabinet, the personal civic integration budget is an appropriate means to provide custom-designed course programmes and scope for assuming one's own responsibility, but this means is used hardly ever. By including it in the Act the Cabinet intends to promote the use of this facility.
- Voluntary participating in civic integration programmes is currently regulated in various ministerial regulations. According to the Cabinet, it is, however, desirable to synchronise the system of obligatory and voluntary civic integration in respect of as many points as possible. For this reason, voluntary civic integration will be included in the Civic Integration Act. The clarity of the system of civic integration will increase, because several regulations can be cancelled.

After the May 2008 notification on the lagging participation in civic integration programmes, the Minister in October 2008 informed the House of Representatives that the efforts with respect to the civic integration issue had not yet yielded the desired results. In 2008, more than 30,000 civic integration facilities will probably have been offered. The target for the period of 2007-2011 is, however, on average approximately 47,000 civic integration facilities a year. Together with the four largest cities, an analysis was made of the causes for the disappointing figures. Following this analysis, several further measures were identified that will be developed in more detail in 2009.⁹¹

Suspension of Link between Civic Integration and Obtaining a Residence Permit

As referred to in the previous edition of this report, passing the civic integration examination will be a condition for receiving an independent residence permit for continued residence or a permanent asylum or non-asylum residence permit. This link was to take effect on 21 September 2008, three years after submission of the Bill on the Civic Integration Act by the previous Cabinet. This would give the foreign nationals who are obliged to participate in civic integration programmes sufficient time to prepare for the civic integration examination. The present Cabinet however, argued that it was more logical to have this three year period start from the implementation date of the Act (1 January 2007). From that moment onwards, foreign nationals who are obliged to participate in civic integration programmes have known with certainty which obligations to meet. This is why the Cabinet decided to suspend the link to 1 January 2010.⁹² In addition, there have been delays in the implementation of the Act, as a result of which – according to the Cabinet – if the date of 21 September 2008 would be maintained, some foreign nationals who are obliged to participate in civic integration programmes will not be able to meet the civic integration requirement through no fault of their own.

⁸⁹ *Parliamentary Papers II* 2007/2008, 31 200 XVIII, no 40 (Letter).

⁹⁰ Act of 29 December 2008 amending the Civic Integration Act (*Wet inburgering*) (civic integration facilities for all foreign nationals who are obliged to participate in civic integration programmes aimed at the civic integration examination of the State Examination in Dutch as a second language) *Dutch Bulletin of Acts and Decrees* 2008, 604.

⁹¹ *Parliamentary Papers II* 2008/2009, 31 143, no 25 (Letter).

⁹² *Parliamentary Papers II* 2007/2008, 31, 143, no 21 (Letter).

Civic Integration Abroad Act

As referred to in detail in previous editions of this report, on 15 March 2006 the Civic Integration Abroad Act has come into force. This is part of the new Dutch civic integration system. It has been decided to already start civic integration before arrival in the Netherlands in order to break the repetitive process of migrants coming to the Netherlands and ending up in a disadvantaged position. With the implementation of the Act, a new precondition has been introduced in the Aliens Act 2000 for the admission of foreign nationals who are obliged to hold a provisional residence permit (mvv) (see paragraph 2.4) and who are required to participate in civic integration on the basis of the Civic Integration Act.⁹³

During the debates on the Act, the then Minister of Alien Affairs and Integration promised to monitor its implementation. The Minister has therefore submitted a half-yearly report to the House of Representatives containing the number of exams, characteristics of the examinees and numbers of applications for provisional residence permits by those foreign nationals covered by the Act and numbers of applications granted. Also, as mentioned in the previous edition of this report, a number of scientific assessments of the performance of the test technology have been performed. These have resulted in an increase in the fail/pass border for the Verbal Dutch Test in March 2007.⁹⁴

The then Minister also promised an evaluation of the Act two years after it has come into force. This evaluation examines the effect of the Act on civic integration in the Netherlands, the financial aspects of the Act and the legal tenability of the Act.⁹⁵ In December 2008 the Minister of Housing, Communities and Integration reported to the House that the evaluation of the Act was expected to be finalized in April 2009, after which the House will be informed.⁹⁶

A critical report from Human Rights Watch about the requirement of civic integration abroad before coming to the Netherlands received quite some attention in 2008. In May 2008, Human Rights Watch published the report "Discrimination in the Name of Integration" in which the conclusion was drawn that civic integration abroad should be abolished because this was said to be discriminating. Human Rights Watch mainly criticised the fact that this obligation only applied to nationalities who are obliged to hold a provisional residence permit (mvv) (see paragraph 3.3.6 for more information on the mvv). These are mainly non-western nationalities. Indirectly, this would affect in particular Moroccan and Turkish migrants. In addition, it was said to constitute a violation of the right to family life as acknowledged in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and it was said not to be an effective instrument to promote civic integration and integration in the Netherlands. This issue was not only covered by the media⁹⁷, but also received some attention in Parliament.⁹⁸

In her letter of 17 June 2008, the Minister of Housing, Communities and Integration responded to this report⁹⁹ by contesting the conclusions drawn by Human Rights Watch. She held the view that there was no question of any discriminating provisions. She stated that only a limited group of countries is excluded from the obligation to hold a provisional residence permit and consequently from the obligation to participate in a civic integration programme abroad. In socio-economic and social sense,

⁹³ As mentioned earlier, certain categories of foreign nationals are exempt from the Civic Integration Abroad Act, such as for example citizens of the EU, EER and Switzerland and their non-Dutch partners (third-country nationals), foreign nationals coming to the Netherlands for temporary reasons and foreign nationals with an asylum residence permit. Also, it is possible to apply for an exemption if a foreign national will permanently be unable to take the exam due to medical reasons.

⁹⁴ *Parliamentary Papers II* 2007/2008, 29 700, no. 49 (Letter).

⁹⁵ *Parliamentary Papers II* 2006/07, 29 700, no 40 (Letter); *Parliamentary Papers II* 2006/07, 29 700, no 41 (Letter).

⁹⁶ *Parliamentary Papers II* 2008/09, 31 143, no 37 (Letter).

⁹⁷ See, among other things, 'NOS Journaal', NOS Nederland 1/2/3, 15 May 2008; NRC Handelsblad (2008, 15 May); Speksnijder, C. (2008, 15 May) 'Nederland discrimineert met integratie-examen' (*The Netherlands is Discriminating with Civic Integration Examination*), *De Volkskrant*, p. 2.

⁹⁸ *Proceedings II* 2007/2008, no 84, pp. 5921-5924; *Parliamentary Questions II* 2007/2008, no 2687 (Answer).

⁹⁹ *Parliamentary Papers II* 2007/2008, 29,700, no 56 (Letter).

these countries are comparable to the Netherlands to such an extent that their citizens already have the lead on citizens from third countries upon arrival in the Netherlands. According to the Minister, there is consequently no question of any unjustified distinction on the basis of nationality. Besides, it is also too early to establish that the obligation to participate in civic integration programmes would not be effective; this aspect will be examined during the evaluation of the Act.

3.3.8. Citizenship and Naturalisation

Table 9: Naturalisation in the Netherlands, 2008

	2008
Number of applications	24,467
Number of decisions	26,211
Number of applications granted	23,406

Source: www.ind.nl

Introduction of a Declaration of Commitment

As referred to in the previous editions of this report, the Cabinet took the initiative in 2005 to introduce the naturalisation ceremony. The tailpiece in this context is the implementation of the obligation to make a declaration of commitment as a precondition for acquiring Dutch citizenship. Since 1 October 2006, attending the naturalisation ceremony has been a precondition for acquiring Dutch citizenship. Within one year after the decision has been made, the applicant must attend the naturalisation ceremony, otherwise the decision will be cancelled. Since 1 March 2009, the applicant is also obliged to make a declaration of commitment during the ceremony. This obligation will apply to adults and to minors aged 16 years of age and older. The debates on this Bill were concluded in early 2008¹⁰⁰ and it was adopted by the House of Representatives on 26 February 2008, only the PVV voting against it.¹⁰¹ The Senate subsequently adopted the Bill without voting on 24 June 2008.¹⁰²

There is a religious and a non-religious version of the declaration of commitment. The applicant can choose between the two following statements.

I swear that I will respect the constitutional order of the Kingdom of the Netherlands, its liberties and rights and I swear that I will faithfully fulfil the duties which this citizenship imposes on me. So help me God.

I declare that I will respect the constitutional order of the Kingdom of the Netherlands, its liberties and rights and I declare and promise that I will faithfully fulfil the duties which this citizenship imposes on me. This I declare and promise.

In cases where the applicant is not capable of attending the ceremony due to compelling circumstances, the sending of the decision by post will suffice. In those cases, the declaration of commitment must be made in writing. If it appears that the applicant is not capable of making the declaration of commitment due to his/her physical or mental condition, he/she will be exempted from this obligation. Think in this context of persons who are not capable of exercising or expressing their will.

National Naturalisation Day

In 2006, the then Minister of Alien Affairs and Integration introduced the naturalisation day. This day was organised every year on 24 August. It is the day on which the Constitution for the Kingdom of the Netherlands entered into force in 1815. Many municipalities, however, objected to this date because it falls in the summer holidays and many persons involved are absent. A new date was consequently

¹⁰⁰ Bill to amend the Netherlands Nationality Act (*Rijkswet op het Nederlanderschap*), to introduce a statement of allegiance and to amend the regulation pertaining to the acquisition of Dutch citizenship upon acknowledgement, *Parliamentary Papers II* 2005/2006, 2006/2007, and 2007/2008, 30 584, nos 1-17, *Parliamentary Papers I* 2007/2008, 30 584, nos A-D.

¹⁰¹ *Proceedings II* 2007/2008, no 55, pp. 3969-3970.

¹⁰² *Proceedings I* 2007/2008, no 35, p. 1449.

sought. This date must also have a meaning to the Netherlands Antilles and Aruba, where the naturalisation ceremony had also been introduced. On 10 April 2008, the Minister of Housing, Communities and Integration informed the House of Representatives that she had decided to move the naturalisation day to 15 December, Kingdom Day.¹⁰³ This was already the date on which the signing of the Charter for the Kingdom of the Netherlands on 15 December 1954 was commemorated. This Charter regulates the political relationship between the Netherlands, the Netherlands Antilles, and Aruba.

Minors Acquiring Dutch Citizenship through Acknowledgement after Birth

The Bill to introduce the declaration of commitment also included provisions regulating that a child automatically acquires Dutch citizenship if the child is acknowledged upon birth or shortly after its birth. If acknowledgement is effected at a later stage, the minor child can acquire Dutch citizenship if the Dutch father demonstrates to be the biological father of the child. The automatic acquisition had been abolished in 2003 to avoid false acknowledgements, but this led to many problems for parents. The amendment will enter into force simultaneously with the declaration of commitment, so on 1 March 2009.

Amendment to the Netherlands Nationality Act with Respect to Multiple Nationalities and Other Matters under National Law

In December 2007 (see also the 2007 Annual Policy Report), the Cabinet withdrew a Bill to limit multiple nationalities, which had been submitted by the previous Cabinet.¹⁰⁴ In this Bill, the number of exceptions to the obligation to renounce the original nationality upon acquisition of Dutch citizenship was limited. The present Cabinet, however, wanted to maintain the basic principle that renouncing the nationality of the country of origin is not required if this cannot be reasonably expected from the person concerned. This is, for instance, the case if the applicant would experience serious financial disadvantage as a result of renouncing the original nationality.

The Cabinet submitted a new Bill to the House of Representatives in December 2008.¹⁰⁵ The Bill proposes to apply the obligation to renounce the original nationality also to persons who request a confirmation of their option rights¹⁰⁶ and who have had a residence permit and main residence here since the age of four. With respect to naturalisation, the obligation to renounce the original nationality will also apply to persons who have lived in the Netherlands, the Netherlands Antilles, or Aruba prior to coming of age for an uninterrupted period of five years.

Just as in the Bill that was withdrawn by the Cabinet, this new Bill also introduces the possibility to withdraw Dutch citizenship upon a conviction without appeal of a crime that is seriously prejudicial to the vital interests of the Kingdom. This is in line with Article 7 of the European Convention on Nationality. This article was in its turn based on Article 8(3) under (a)(ii) of the Convention on the Reduction of Statelessness (*Treaty Series* 1967, 124). Withdrawal is not possible if this results in statelessness.

The following crimes are seriously prejudicial to the vital interests of the Kingdom:

- Crimes against the security of the State;
- Crimes against Royal Dignity;
- Crimes against Heads of friendly nations and other internationally protected persons;
- Crimes related to the performance of constitutional duties and the exercise of constitutional rights.

In this context, it must concern crimes of violence in which case criminal law also provides for the possibility to deprive a person of his right to stand as a candidate in elections. Finally, crimes of terrorism are also considered crimes that are seriously prejudicial to the vital interests.

¹⁰³ *Parliamentary Papers II* 2007/2008, 28 689, no 43 (Letter).

¹⁰⁴ *Parliamentary Papers II* 2007/2008, 30 166, no 26 (Letter).

¹⁰⁵ Bill to amend Netherlands Nationality Act (*Rijkswet op het Nederlanderschap*) with respect to multiple nationalities and other matters under national law, *Parliamentary Papers II* 2008/2009, 31 813, nos 1-4.

¹⁰⁶ Specific groups of foreign nationals may exercise the right of option. They can acquire Dutch citizenship by making a statement to this end and they do not have to submit a request for naturalisation. The option procedure is quicker and easier than the naturalisation procedure and the person concerned does not have to prove that he/she has passed the civic integration examination (source: www.ind.nl).

It was proposed not to link the loss of Dutch citizenship to the conviction by the court itself. As the present measure is a disciplinary measure that must be preceded by an independent assessment of all relevant facts and circumstances. In this context, the Minister assesses whether the vital interests of the Kingdom are so seriously prejudiced that the withdrawal of Dutch citizenship must be the ultimate consequence of this. Apart from this, it was already possible to withdraw Dutch citizenship for crimes against humanity, war crimes, and genocide.

International Agreements to Limit Multiple Nationalities

During a debate in the House of Representatives on 6 February 2008 on multiple nationalities, the VVD submitted a motion inviting the government to take the initiative to come to a binding international agreement making it possible for everyone to renounce his/her original nationality upon acquiring another nationality.¹⁰⁷ This motion was adopted by a large majority. The Minister of Justice, however, arrived at the conclusion that efforts by the Netherlands to come to harmonisation of international agreements in this area would not be worthwhile. He informed the House of Representatives that he held the view that the differences in approach among the different countries are too large.¹⁰⁸

The House of Representatives had furthermore in particular urged the government to hold consultations with Morocco. Moroccan legislation permits the renunciation of the Moroccan nationality under special circumstances, but in practice, this possibility is not implemented in respect of Moroccan Dutch citizens. In the past few years, this issue was regularly brought up for discussion in consultations between Morocco and the Netherlands, but alas in vain. The Minister promised that during the next official consultations Morocco will be requested to consider making it possible to renounce the Moroccan nationality for Moroccans of the second generation who become Dutch citizens through the option procedure. Pursuant to the Bill mentioned above, this group of people will also in time be obliged to renounce the original nationality.

3.3.9. Illegal Immigration

In this paragraph, illegal immigration is addressed, including changes in the policy towards illegal entry and stay. Regularisations of illegal stay are also discussed, notably for the Netherlands the Settlement of the legacy of the 'old' Aliens Act Scheme.

Decision of the Administrative Jurisdiction Division of the Council of State in Relation to the Settlement of the Legacy of the 'Old' Aliens Act Scheme

In the previous edition of this report, the "Settlement of the legacy of the 'old' Aliens Act scheme" (i.e. the pardon scheme) that entered into force on 15 June 2007 was discussed in detail. Pursuant to this Scheme, former and current asylum applicants who had submitted an application prior to the implementation of the present Aliens Act (1 April 2001) and who did not yet have lawful residence could obtain a residence permit on specific conditions. This Scheme did not provide for objection or appeal procedures against the refusal of these permits, for the residence permit in the context of this Scheme is granted as a matter of course and cannot be applied for.

As a result of two decisions of the Administrative Jurisdiction Division of the Council of State on 3 December 2008¹⁰⁹, it has become possible to lodge an objection to not being granted a residence permit. A foreign national can ask the IND whether or not he will receive an offer for a residence permit in the context of the pardon scheme. The Administrative Division concluded that a written confirmation of the IND to the foreign national that such an offer will not be made, can be qualified as an act by an administrative body, to which an objection may be lodged. Such an objection must be decided on its merits. The State Secretary informed the House of Representatives that following this decision there were

¹⁰⁷ *Proceedings II* 2007/2008, no 50, p. 3674.

¹⁰⁸ *Parliamentary Papers II* 2007/2008, 30 166, no 31 (Letter).

¹⁰⁹ Administrative Jurisdiction Division of the Council of State, 3 December 2008, no 200802873/1 and no 200803104/1.

1,500 cases in which objections had been lodged against this written confirmation that still had to be decided on their merits.¹¹⁰

Final Date of the Scheme

In December 2008, there was some lack of clarity about the duration of the Scheme. A foreign national that wants to be eligible for a residence permit on the basis of the pardon scheme must have resided in the Netherlands uninterruptedly since 1 April 2001. One of the options for demonstrating uninterrupted residence in the Netherlands is a statement from the Mayor of the municipality where the foreign national resides, stating that the foreign national lived there throughout all of 2006. A letter from the State Secretary for Justice and the Association of Dutch Municipalities (VNG) to the municipalities about the implementation of the Scheme stated that the statements from the Mayors may be submitted until 1 January 2008. This letter was also sent to the House of Representatives as an enclosure in June 2007.¹¹¹ The Scheme itself does not mention a final date.

In May 2008, the State Secretary informed the House of Representatives that in a limited number of cases of foreign nationals who stated to be entitled to a residence permit on the basis of the Scheme and had not yet heard anything from the IND or who had not reported to the municipal desk, or not in time, could still report through the municipal desks of the four large cities.¹¹² In December 2008, she announced that the Scheme would be closed permanently on 1 January 2009.¹¹³ This last announcement caused much criticism from the opposition parties and the government party of CDA.

Several parties held it against the State Secretary that she should have announced prior to 1 January 2008 that statements from the mayors could still be submitted and that the announcement in May 2008 had not been explicit and clear enough. The State Secretary did not agree to the latter reproach and stated that she had not deemed it necessary to announce the collection of statements after 1 January 2008 at such an early stage. After all, the Scheme did not have a formal final date. As the VNG and the mayors had indicated at the end of 2007 that they would need more time for the sake of accurateness, the State Secretary did not terminate the possibility for the mayors to issue statements. The purpose of the Scheme was to eliminate the legacy of the former Aliens Act. According to the State Secretary, this purpose would not be served by excluding foreign nationals from the Scheme who do meet the criteria of the Scheme.¹¹⁴

Consequences of the Scheme

The aforementioned verdict by the Administrative Jurisdiction Division of the Council of State on the pardon scheme and the debate on the duration of the Scheme both took place in December 2008. Earlier in 2008, developments mainly focused on the consequences of the implementation of the Scheme. Just as in 2007, the centre-right opposition parties kept hammering at the costs of the Scheme, which they considered too high, and they demanded information on this from the State Secretary. In addition, the efforts to house and employ the persons concerned received due attention.

Costs of the Scheme

In the debates in 2007 on the implementation of the Scheme, the right-wing opposition parties of VVD and PVV had criticised the costs of the Scheme, which they considered high. In October 2007, the State Secretary subsequently informed the House of Representatives of the costs of the Scheme known at the time. The direct costs would amount to approximately 329 million euros in the period of 2007-2009. On the other hand, however, it would produce a cost reduction in the course of time. The State Secretary could not yet provide an overview of the indirect costs (e.g. as a result of granting benefits).¹¹⁵ The State Secretary did announce that she together with the Ministry of Social Affairs and Employment would examine the possibilities to analyse to what extent the target group relied upon social assistance. In May 2008, the State Secretary for Social Affairs and Employment was able to inform the House of

¹¹⁰ *Parliamentary Papers II* 2008/2009, 31 018, no 43 (Letter).

¹¹¹ *Parliamentary Papers II* 2006/2007, 31 018, no 23 (Letter with enclosures).

¹¹² *Parliamentary Papers II* 2007/2008, 31 018, no 37 (Report of General Consultations).

¹¹³ *Parliamentary Papers II* 2008/2009, 31 018, no 43 (Letter).

¹¹⁴ *Parliamentary Papers II* 2008/2009, 31 018, no 48 (Report of General Consultations).

¹¹⁵ *Parliamentary Papers II* 2007/2008, 31 018, no 31 (Letter).

Representatives about the results of this analysis.¹¹⁶ On 1 April 2008, approximately 6,000 holders of a permit received social benefits in the context of the Scheme. It turned out that, in the meantime, 4,000 persons from this group had been employed. According to the right-wing opposition parties, however, an overview of the total social costs of the Scheme – such as costs of social benefits, housing, health care, and old-age provisions – was lacking.¹¹⁷

Housing

In 2008, the opposition parties VVD and PVV expressed their concerns about the possibility of persons seeking a house on the housing market being displaced by those who had obtained a residence permit on the basis of the Scheme.¹¹⁸ In June, the Minister of Housing, Communities and Integration informed the House of Representatives that the Task Force for Housing Holders of Residence Permits¹¹⁹ had not received any signals that pointed to extensive problems, but that displacement could not be excluded.¹²⁰

Labour Market

In 2007, the House of Representatives adopted a motion requesting the government to come up with a package of measures to remove the practical obstacles experienced by holders of residence permits in finding a job and to include existing initiatives and to provide financial support as far as possible.¹²¹ In April 2008, the State Secretary for Social Affairs and Employment reacted to this that he wanted to use the approach, working procedure, experience, and knowledge of the 'Refugee Employment Programme'.¹²²

The Refugee Employment Programme is a joint project of the Dutch Council for Refugees (*Vluchtelingenwerk Nederland, VWN*), *Emplooi*¹²³, the Foundation for Refugee Students UAF, and the Centre for Work and Income (CWI) to assist refugees in finding employment. On 4 December 2007, the Dutch Council for Refugees, the COA, and CWI signed a cooperation agreement to assist 3,000 foreign nationals who had been granted residence permits in the context of the General Amnesty Scheme, and who stayed in asylum seekers' residence centres, in finding employment. In this context, the State Secretary for Social Affairs and Employment indicated to request the municipalities to seek cooperation with the CWI, Dutch Council for Refugees, and the COA to assist holders of residence permits in finding employment as soon as possible.

Medical Care for Illegal Foreign Nationals

As referred to in the previous edition of this report, the Minister of Health, Welfare, and Sport submitted a Bill to streamline the financing of essential medical care to illegal foreign nationals.¹²⁴ As also referred to in the previous edition of this report, the Klazinga Commission issued advice as to what constituted essential medical care.¹²⁵ According to the Commission essential medical care must be defined as 'ethically sound and appropriate medical care', with the expected duration of stay in the Netherlands

¹¹⁶ *Parliamentary Papers II* 2007/2008, 31 018, no 38 (Letter).

¹¹⁷ *Proceedings II* 2007/2008, no 92, pp. 6536-6539.

¹¹⁸ *Proceedings II* 2007/2008, no 92, pp. 6536-6539.

¹¹⁹ The Task Force for Housing Holders of Residence Permits (*Taskforce Huisvesting Statushouders*) was established by the Minister of Housing, Communities and Integration and the State Secretary for Justice together with the Vereniging Nederlandse Gemeenten (*Association of Dutch Municipalities*) to assist the municipalities in completing the housing process promptly (*Parliamentary Papers II* 2007/2008, 31 018, no 37 (Report of Written Consultations)).

¹²⁰ *Parliamentary Papers II* 2007/2008, 31 018, no 42 (Letter).

¹²¹ *Parliamentary Papers II* 2007/2008, 31 200 VI, no 64 (Motion).

¹²² *Parliamentary Papers II* 2007/2008, 31 018, no 34 (Letter).

¹²³ The *Emplooi* foundation, emanating from VWN, is a volunteer organisation that supports refugees that are allowed to work in the Netherlands in finding suitable paid employment. This is achieved through individual and intensive counselling, aimed at finding a job (extracted from www.emplooi.net on 1 April 2009).

¹²⁴ *Rijksvoorlichtingsdienst (RVD)* (Netherlands Government Information Service, NGIS). (2007). *Persbericht ministerraad: Eén regeling voor financiering zorg aan illegalen* (Press Release from the Dutch Government: One regulation concerning the financing of care to illegal foreign nationals). Extracted from www.regering.nl on 1 April 2008.

¹²⁵ *Commissie Medische zorg voor (dreigend) uitgeprocedeerde asielzoekers en illegale vreemdelingen* (2007) (Committee on Medical Care to Asylum applicants and Foreign Nationals Who Have Exhausted or Who Threaten to Have Exhausted All Legal Remedies . Arts en Vreemdeling (Physician and Foreign National), Utrecht: KNMG, LHV, NVvP, Orde van Medisch Specialisten, Pharos.

being taken account of in the assessment. If care can be postponed and the illegal foreign national will only stay here for a short period of time, treatment may be dispensed with. In this context, the doctor is responsible for answering the question whether it is a matter of essential medical care. The Minister of Health, Welfare, and Sport stated to share the conclusions of the Commission. As the Bill was already consistent with these starting points, it did not have to be amended. On 22 April 2008, the debates on the Bill House of Representatives were concluded. The debates in the Senate had not yet been concluded at the end of 2008.¹²⁶

Research and Documentation Centre (WODC) report on unlawful Residence in the Netherlands

In 2008, the Research and Documentation Centre (Wetenschappelijk Onderzoek- en Documentatiecentrum, *WODC*) of the Ministry of Justice published the study report 'Unlawful Residence in the Netherlands: A review of the literature'. This study was conducted pursuant to the promise of State Secretary for Justice to the House of Representatives. The study examined what was known from literature about the numbers and backgrounds of illegal residents in the Netherlands; the problems and risks these illegal foreign nationals encounter, and the impact these foreign nationals have on society. The researchers concluded that in the period between 1 April 2005 and 1 April 2006 between more than 74,000 and nearly 184,000 persons resided unlawfully in the Netherlands, but that this number had probably decreased because of the expansion of the EU. The report provides an overview of the position of illegal foreign nationals in the area of housing, employment, health, education and youth care, naturally with the corresponding uncertainties. The researchers furthermore studied the role of illegal foreign nationals in criminality and the possibility of illegal foreign nationals displacing Dutch nationals and legal residents on the housing and labour markets.

On 20 June 2008, the State Secretary submitted her response to the report to the House of Representatives. In this response she provided an overview of measures that had been taken – partly – to combat unlawful residence.¹²⁷ In this context, the main focus was on measures against criminal illegal foreign nationals and the protection of victims of forms of human trafficking and exploitation. It concerned the following measures:

- Increase in the number of pronouncements of undesirability of illegal foreign nationals.
The result of pronouncing a foreign national undesirable is that residence in and illegal return to the Netherlands become punishable. The purpose of the pilot project is to examine whether a more consistent use of this instrument could reduce the occurrence of illegal residence.
- Pilot project pronouncement of undesirability of criminal EU citizens.
- Optimisation of cooperation between the criminal justice chain and the aliens law chain.
A conviction for offences may have consequences for the residence status of the foreign national. In addition, it is essential that the criminal justice chain is aware of the residence status of the foreign national. If the foreign national has does not have lawful residence in the Netherlands, the foreign national must be removed from the Netherlands after the criminal proceedings and possibly be pronounced undesirable. Sound cooperation among the organisations in the area of the criminal justice chain and the foreign nationals chain is essential for this purpose.
- Swift Action Teams Pilot Project in Nigeria (see section 3.3.1).
- Human Trafficking Task Force (see section 3.3.10).
- Expansion of B9 scheme (see section 3.3.10).
- Secure Reception Facilities for Unaccompanied Minor Foreign Nationals Pilot Project (see section 3.3.3).
- Bill concerning the financing of medical care to illegal foreign nationals (see above).

¹²⁶ Bill to amend the Health Care Insurance Act (*Zorgverzekeringswet*) in connection with the provision of contributions to care providers that lose income as a result of providing medical emergency care to specific groups of foreign nationals and to amend the Exceptional Medical Expenses Act (*Algemene Wet Bijzondere Ziektekosten*) for the purpose of insuring specific groups of minor foreign nationals, *Parliamentary Papers II* 2007/2008, 31 249, nos 1-32; *Parliamentary Papers I* 2007/2008 and 2008/2009, 31 249, A-G.

¹²⁷ *Parliamentary Papers II* 2007/2008, 19 637, no 1207 (Letter).

The State Secretary also announced several new measures. A national covenant with the police is currently being prepared on police tasks concerning foreign nationals for the period of 2009-2011.¹²⁸ In this agreement, the focus will be on the contribution the police are to make to public order and safety in Dutch society by combating illegality. In addition to combating unlawful residence by tracing illegal foreign nationals with the purpose of removing them, another focus is on migration-related crimes, and in particular human trafficking, human smuggling, and identity fraud.

The starting point for the policy on criminal foreign nationals will be the principle of 'removal or detention'. This means that all efforts will initially be aimed at removing criminal foreign nationals from the Netherlands. If this is not yet possible, the efforts will be aimed at detaining criminal foreign nationals as long as possible for the purpose of removal or within the framework of the criminal justice system. To be able to detain illegal foreign nationals for a longer period of time within the framework of the criminal justice system, the State Secretary intends to apply the so-called ISD measure to illegal foreign nationals who cannot yet be removed or have turned out to be difficult to remove and who meet the criteria of habitual offenders. The measure to placement in an Institution for Habitual Offenders (the ISD measure) provides for the possibility to place active adult habitual offenders for a maximum period of two years in an Institution for Habitual Offenders. This measure was previously not used for illegal foreign nationals, because the ISD measure is aimed at re-integration into Dutch society. This does not apply to illegal foreign nationals and thus the measure will be implemented entirely within the institution in respect of these illegal foreign nationals.¹²⁹ The State Secretary also wants to retain the possibility to place foreign nationals who have been pronounced undesirable under a hospital order (terbeschikkingstelling, *tbs*). *Tbs* is a treatment order imposed by the court on people who have committed serious crimes and who suffer from a psychiatric illness or disorder.¹³⁰ Where the treatment is normally aimed at re-integration into society, with respect to foreign nationals who have been pronounced undesirable this treatment is aimed at repatriation to the foreign national's own country.¹³¹

3.3.10. Actions to Combat Human Trafficking

Victims of Human Trafficking – B9 Scheme

As referred to in the previous edition of this report, in 2007 the State Secretary for Justice announced an expansion of the scheme on the basis of which foreign nationals who cooperated in the investigation and prosecution of human traffickers could acquire residence permits (the B9 scheme). This expansion was incorporated on 21 February 2008 in the Aliens Act Implementation Guidelines 2000.¹³² In addition, the first trend report on the position of victims of human trafficking¹³³ was presented to the House of Representatives by the State Secretary for Justice in September 2008.¹³⁴

¹²⁸ The Dutch police force is organised in regions. The police perform their work to maintain public order and provide assistance under the responsibility of the mayor. With respect to the investigation of offences, the police come under the authority of the public prosecutor. The Minister of the Interior and Kingdom Relations and the Minister of Justice establish national priorities for the police force at least once every four years. This is done in consultation with the police force manager (the mayor) and the Public Prosecution Service (Ministry of the Interior and Kingdom Relations (2009) *Politie*. (The police). Extracted from www.minbzk.nl on 6 May 2009).

¹²⁹ *Parliamentary Papers II* 2007/2008, 31 110 VI, no 4 (Letter).

¹³⁰ Ministry of Justice (2009) *TBS (terbeschikkingstelling)* (Placement under a hospital order). Extracted from www.justitie.nl on 6 May 2009.

¹³¹ *Parliamentary Papers II* 2007/2008, no 29 452, no 80 (Letter).

¹³² Decision of the State Secretary for Justice of 12 February 2008, no 2008/2009 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirculaire 2000*), *Government Gazette* 37, p.12.

¹³³ Vianen, R.T. van; Wijers, M.; Maaskant, G.B. and Woerds, S ter (2007) *Positie van slachtoffers van mensenhandel: 1^e Trendrapportage 2006* (Position of Victims of Human Trafficking: 1st Trend Report 2006). Utrecht: Verwey-Jonker Instituut & Adviesbureau Van Montfoort

¹³⁴ *Parliamentary Papers II* 2008/2009, 28 638, no 36 (Letter).

Combating Human Trafficking

In 2008, too, several measures were taken to combat human trafficking. On 27 February the Ministry of Justice established the national Task Force Human Trafficking.¹³⁵ This Task Force is composed of the National Rapporteur on Human Trafficking, representatives from the different Ministries, the police, the local administration, and the judiciary chaired by the Public Prosecution Service. The Task Force is to identify and discuss problems in combating human trafficking quickly and at the right level and to suggest solutions. The Task Force is broadly based, so that the problem of human trafficking can be tackled comprehensively.

In November 2008, the Minister announced an increase of the maximum sentences for human trafficking.¹³⁶ According to the Minister, human trafficking is a very serious crime that is increasingly accompanied by serious organised crime on the one hand. On the other hand, the Minister is of the opinion that social indignation about human trafficking has also increased considerably.

The Cabinet intends to increase the maximum sentence from six years to eight years. If the crime is committed together with others or if the victims of human trafficking are younger than 16 years of age, it will in future be possible to send the guilty person to prison for a term from eight to twelve years. In the case of serious bodily harm or danger to life, the prison sentence will be increased from twelve to fifteen years. As a result of the increased sentences, the Public Prosecution Service will also have more options to take action against punishable preparatory acts for human trafficking.

Council of Europe Convention on Action against Trafficking in Human Beings

On 18 November 2008, the Bill to ratify the Council of Europe Convention on Action against Trafficking in Human Beings concluded in Warsaw on 16 May 2005 (*Treaty Series* 2006, 99) was adopted unanimously by the House of Representatives.¹³⁷ The debates on the Bill in the Senate are still pending.

3.3.11. Return Migration

Restriction of Freedom of Movement and Detention

Following the debates on the sudden massive influx of Chinese asylum applicants between 12 March and 11 April 2008 (see section 3.3.2), the State Secretary promised to re-examine the possibilities provided by the Aliens Act to restrict the freedom of movement and detention in case earlier illegal residence is suspected. In the debates the core question was which possibilities were provided by the Aliens Act to restrict the freedom of movement or to detain asylum applicants prior to processing their asylum application and which possibilities are provided after refusal of the asylum application.

In her letter on the above-mentioned report of the Research and Documentation Centre (WODC) on unlawful residence (see section 3.3.9) the State Secretary discussed this issue in more detail.¹³⁸ She stated to intend to limit the freedom of movement by imposing measures restricting the freedom of movement in combination with an obligation to report once or twice a day in case there are large groups of foreign nationals accommodated in the Temporary Emergency Facilities for Foreign Nationals (see section 3.3.2) prior to the processing of their applications in respect of whom there are indications that they have resided unlawfully in the Netherlands during a longer period of time. An amendment to the Aliens Act will be proposed for this purpose.

In case of asylum applicants who reapply for asylum after a decision refusing their earlier application and who resided unlawfully in the Netherlands prior to that, the option to detain the foreign national will be applied more quickly. If the foreign national has a criminal record, this foreign national will be

¹³⁵ Rijksvoorlichtingsdienst (RVD) (Netherlands Government Information Service, NGIS). (2008) *Impuls voor strijd tegen mensenhandel* (Impetus for the Fight against Human Trafficking). Extracted from www.regering.nl on 27 March 2008.

¹³⁶ Ministry of Justice. (2008) *Hirsch Ballin: Mensenhandel zwaarder straffen* (Punish Human Trafficking More Severely). Extracted from www.regering.nl on 27 March 2008.

¹³⁷ *Proceedings II* 2008/2009, no 24, p. 1933.

¹³⁸ *Parliamentary Papers II* 2007/2008, 19 637, no 1207 (Letter).

detained prior to the processing of the asylum application. If the foreign national does not have a criminal record, the detention will be imposed as far as possible in the context of the refusal of the asylum application. It is not necessary to amend the Aliens Act to this end.

Revision of the Asylum Procedure

One of the purposes of the intended revision of the asylum procedure that was discussed in detail in section 3.3.2 is to promote the return of refused asylum applicants.¹³⁹ On the one hand, this purpose must be achieved by the above-mentioned measures to proceed to the establishment of the foreign national's identity and nationality at an early stage. On the other hand, several specific proposals have been submitted to promote repatriation.

Upon refusal of the asylum application in the application centre, the foreign nationals must leave the Netherlands immediately in the current situation. They are consequently not entitled to any reception facilities. Foreign nationals, however, have a period of four weeks to lodge an appeal to the court against the decision. In this period, they are entitled to lawful residence without being entitled to reception facilities. To avoid this situation in the future, the departure period will be set at four weeks during which period the foreign nationals will also be entitled to reception facilities. In this way, this group is prevented from being turned out into the street. This is also in line with the administrative agreement concluded between the State and the municipalities in the context of the Pardon Scheme. One of the conditions for implementing this Scheme was that the municipalities would discontinue the emergency reception facilities provided to foreign nationals who resided unlawfully in the Netherlands. In this context, the State promised to avoid as much as possible that asylum applicants or former asylum applicants with legal residence are not entitled to reception facilities.

The fact that these asylum applicants stay in the reception centre also enhances their availability for the procedure and they can be prepared better for repatriation. To promote the repatriation of asylum applicants whose application has been refused, the following measures will furthermore be taken:

- Additional assistance in preparing for repatriation during a period of at most twelve weeks from a freedom restricting location of former asylum applicants that have not left the Netherlands upon expiry of the departure period;
- Intensification of the strategic approach to countries of origin, including customized elements to support these countries in effective migration management;
- Expansion of the possibilities of individual re-integration support for foreign nationals.

Re-integration support

The Cabinet wants to assist foreign nationals who return to their country of origin in building up an existence in their country of origin by providing financial support or assistance in kind. For this purpose, the Cabinet will allocate a maximum amount of 2 million euros a year within the budget for migration and development. With that, the present Return and Reintegration Regulation (*Herintegratieregeling Terugkeer, HRT*) is continued. In addition, a re-integration contribution in kind will be introduced for asylum applicants or former asylum applicants, initially for a limited number of countries. Think in this context of, for instance, providing guidance in setting up a business or finding employment. In addition, it will be examined whether national repatriation programmes in countries of origin may be launched with financial assistance from the EU.

The new Return and Reintegration Regulation entered into force on 1 October 2008 and will remain effective until 30 September 2010. The following groups of people qualify for support in the context of this scheme:¹⁴⁰

- Asylum applicants who have a temporary residence permit and who are willing to have this permit withdrawn (e.g. residence permits granted pursuant to categorical protection policy or residence permit as an unaccompanied minor foreign national);
- Asylum applicants who still have lawful residence in the Netherlands (because the departure period has not yet expired);

¹³⁹ *Parliamentary Papers II* 2007/2008, 29 344, no 67 (Letter).

¹⁴⁰ Extracted from www.iom-nederland.nl on 6 May 2009.

- Asylum applicants or former asylum applicants who applied for asylum prior to 1 April 2001 and who were labelled by the IND as drop-outs from the Pardon Scheme (until 1 January 2010);
- Asylum applicants or former asylum applicants who applied for asylum after 1 April 2001 and still stay in the COA reception centre after the expiration of the departure period (until 1 January 2010);
- Asylum applicants or former asylum applicants who upon expiry of the departure period have no left the Netherlands and are therefore going to be placed in a freedom restricting location. They can qualify for the Scheme not later than one week after placement.

Critical Reports on Detention of Foreign Nationals

In 2008, the following critical reports were published on – among other things – the Dutch system of detention of foreign nationals for the purpose of removal:

- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, February 2008, 'Report to the authorities of the Kingdom of the Netherlands on the visits carried out to the Kingdom in Europe, Aruba, and the Netherlands Antilles by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in June 2007'
- Amnesty International, June 2008, 'The Netherlands: The Detention of Irregular Migrants and Asylum-Seekers'
- Council for the Administration of Criminal Justice and Youth Protection (*Raad voor de Strafrechtstoepassing en Jeugdbescherming, RSJ*), June 2008, 'Detention of Aliens' (*Vreemdelingenbewaring*).

Several points of criticism are mentioned below together with the Cabinet's reaction on these points:

Nature of the Detention of Foreign Nationals

Following its visit to the Netherlands in 2007, the CPT recommended to bring the specific nature of the detention of foreign nationals, and the distinction with detention on grounds under criminal law, more emphatically forward in the current regime. This issue was also discussed in the reports from Amnesty International and the RSJ. The Ministry of Justice indicated that he, too, considers it important that the specific nature of the detention of foreign nationals is expressed as much as possible in the regime. He therefore requested the National Agency of Correctional Institutions (*Dienst Justitiële Inrichtingen, DJI*) to examine again how it carries out its task to detain foreign nationals.¹⁴¹

Time limit to detention

The CPT invited the Dutch government to set an absolute time limit on each form of administrative detention of foreign nationals. The RSJ also advocated this time limit. In his reaction, the Minister indicated that with the implementation of the Return Directive (2008/115/EC) a maximum period of six months of detention of foreign nationals will be introduced, to be extended to a maximum of 18 months under specific circumstances.¹⁴²

Ultimum remedium

Amnesty International and the RSJ were of the opinion that pursuant to international conventions the detention of foreign nationals should only be used as an *ultimum remedium* and that this currently occurs insufficiently. The Cabinet subscribed the view that the detention of foreign nationals is an ultimate remedy, but it also held the view that this is also the case in the present policy.¹⁴³

Detention of Families of Foreign Nationals

The detention for the purpose of removal of families with minor children has been subject of debate for some time. This issue was given due attention in the previous edition of this report. The Cabinet wants to prevent children as far as possible from being detained. In January 2008, several measures were announced to ensure this.¹⁴⁴ These measures were implemented on 20 June 2008.¹⁴⁵

¹⁴¹ *Parliamentary Papers II* 2008/2009, 19 637, no 1222 (Enclosure).

¹⁴² *Parliamentary Papers II* 2008/2009, 19 637, no 1222 (Enclosure).

¹⁴³ *Parliamentary Papers II* 2008/2009, 19 637, no 1222 (Enclosure).

¹⁴⁴ *Parliamentary Papers II* 2007/2008, 29 344, no 66 (Letter).

In nearly all cases in which deprivation of liberty used to be applied to families with children, only freedom restricting measures, including intensive obligation to report, will be used in the future. For this purpose, families may be placed in the accommodation facility which has been especially set up for families . If the risk of the family evading the freedom restricting measures is unacceptably large, in families with two parents there is also the option to detain one parent, with the other family members staying in the special freedom restricting accommodation.

Families with children will only be detained if this is necessary to guarantee full availability of the entire family and the period of detention will furthermore remain limited. This mainly relates to situations in which forced return can be realised in the very short term. The maximum detention period will, in principle, be fourteen days, unless the removal that has been organised cannot be realised within that period because of actions of the foreign national himself/herself.

¹⁴⁵ Decision of the State Secretary for Justice of 9 June 2008, no 2007/20 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingen circulaire 2000*), *Government Gazette* no 115, p. 11.

4. Implementation of European Legislation

This chapter outlines the developments that have taken place in the reference period in Dutch legislation and regulations as a result of the implementation of European legislation.

4.1. Progress in Implementation

At the beginning of 2008, only Directive No 2004/83/EC had not yet been implemented (see Appendix II). The other European directives in the area of migration and asylum had already been incorporated, in Dutch legislation and regulations, with the exception of several amendments to the implementation guidelines.

4.1.1. Asylum

Directive No 2004/83/EC of the Council of 29 April 2004 on the minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJEU 2004, L 304/12).

- Ultimate implementation date: 10 October 2006
- Actual implementation date: 25 April 2008
- Implementation by amending the Aliens Act 2000¹⁴⁶, the Aliens Decree 2000, the Youth Care Act (Implementation) Decree (*Uitvoeringsbesluit Wet op de jeugdzorg*)¹⁴⁷, the Regulations on Aliens 2000¹⁴⁸ and the Aliens Act Implementation Guidelines 2000¹⁴⁹.

As referred to in the previous edition of the Annual Policy Report, the House of Representatives adopted the Bill to implement this Directive on 13 November 2007. That same day this legislative proposal was submitted to the Senate. The Senate adopted the legislative proposal on 1 April 2008.¹⁵⁰ In addition, the Aliens Decree, the Youth Care Act (Implementation) Decree, the Regulations on Aliens 2000, and the Aliens Act Implementation Guidelines were amended in 2008.

The previous Annual Policy Report already included a detailed discussion of the substantive amendments to the existing legislation and regulations resulting from the implementation of this Directive.

¹⁴⁶Act of 3 April 2008 amending the Aliens Act 2000 to implement Directive No 2004/83/EC of the Council of 29 April 2004 on the minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJEU 2004, L 304/12) (OJEU L 304), *Dutch Bulletin of Acts and Decrees* 2008, 115.

¹⁴⁷Decision of 9 April 2008 amending the Aliens Decree 2000 and the Youth Care Act (Implementation) Decree to implement Directive No 2004/83/EC of the Council of 29 April 2004 on the minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJEU 2004, L 304), *Dutch Bulletin of Acts and Decrees* 2008, 116.

¹⁴⁸Regulation of the State Secretary for Justice of 8 May 2008 amending the Regulations on Aliens 2000 (eightieth amendment), *Government Gazette* no 97, p. 16.

¹⁴⁹Decision of the State Secretary for Justice of 10 November 2008, no 2008/27 amending the Aliens Act Implementation Guidelines 2000 (*Vreemdelingen-circulaire 2000*), *Government Gazette* 728.

¹⁵⁰Bill to amend the Aliens Act 2000 (Implementing Directive No 2004/83/EC), *Parliamentary Papers II* 2006/2007-2007/2008, 30 925, no 1- 11; *Parliamentary Papers I* 2007/2008, 30 925, no A-H; *Proceedings I* 2007/2008, no 25, p. 1042-1052.

4.1.2. External Borders

Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJEU L 105/1)

As referred to in the previous edition of this report, several technical amendments to the Aliens Act 2000 are required to implement the Schengen Borders Code. The debates about this Bill were completed in March 2008¹⁵¹ and the Act entered into force on 1 May 2008¹⁵². The Aliens Decree 2000 was also amended.¹⁵³

Firstly, provisions were added to make it possible to implement and enforce the Regulation. Secondly, several provisions that will from now on be regulated in the Schengen Border Code will be removed from the Aliens Act and the Aliens Decree. After all, the aim for harmonisation would be adversely affected if the Member States took over or copied the Regulation, or portions thereof, in national law. Finally, several amendments were made to maintain the cohesion, accessibility, and readability of the aliens legislation, because these aspects were liable to suffer from removing provisions.¹⁵⁴

4.1.3. Immigration

Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purpose of scientific research (OJEU 2005, L 289/15)

- Ultimate implementation date: 12 October 2007.
- Actual implementation date: 12 October 2007.
- Implementation by amending the Aliens Decree 2000, the Aliens Employment Act Implementation Decree, the Civic Integration Decree (*Besluit inburgering*)¹⁵⁵, the Regulations on Aliens 2000¹⁵⁶, and the Aliens Act Implementation Guidelines 2000.¹⁵⁷

As referred to above, this Directive was implemented on 12 October 2007. Article 5 of this Directive, however, only permits admission to research organisations approved in advance. A system for approving private research organisations still had to be developed in more detail. This was effected at the beginning

¹⁵¹Bill to amend the Aliens Act 2000 for the purpose of implementing Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJEU L 105), *Parliamentary Papers II* 2007/2008, 31 208, no 1-5; *Parliamentary Papers I*, 31 208, no A.

¹⁵²Decision of 23 April 2008 determining the date of entry into force of the Act of 13 March 2008 amending the Aliens Act 2000 for the purpose of implementing Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJEU L 105) (Dutch Bulletin of Acts and Decrees 2008, 84) as well as the Decision of 3 April 2008 amending the Aliens Decree 2000 for the purpose of implementing Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJEU L 105) (Dutch Bulletin of Acts and Decrees 2008, 118), *Dutch Bulletin of Acts and Decrees* 2008, 144.

¹⁵³Decision of 3 April 2008 amending the Aliens Decree 2000 for the purpose of implementing Regulation (EC) no 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJEU L 105), *Dutch Bulletin of Acts and Decrees* 2008, 118.

¹⁵⁴*Parliamentary Papers II* 2007/2008, 31 208, no 3 (Explanatory Memorandum).

¹⁵⁵Decision of 26 September 2007 amending the Aliens Decree 2000, the Aliens Employment Act Implementation Decree and the Civic Integration Decree in connection with the implementation of Directive 2005/71/EC of the Council of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJEU L 289), *Dutch Bulletin of Acts and Decrees* 2007, 366.

¹⁵⁶Regulation of the State Secretary for Justice of 16 October 2008 amending the Aliens Act Implementation Guidelines 2000 (seventy-first amendment), *Government Gazette* no 202, p. 24.

¹⁵⁷Decision of the State Secretary for Justice of 21 January 2008, no 2008/2007 amending the Aliens Act Implementation Guidelines 2000, *Government Gazette* no 21, p. 9.

of 2008 by amending the Aliens Act Implementation Guidelines 2000.¹⁵⁸ For the time being, the power to approve private organisations has been vested in the IND. In due course, this power will be vested in the Ministry of Education, Culture and Science. The IND will in any case grant applications for approval if the research organisation has been registered in the Dutch Research Database (*Nederlandse Onderzoek Databank, NOD*). This is a public online database of the Royal Netherlands Academy of Arts and Sciences (*Koninklijke Nederlandse Akademie van Wetenschappen, KNAW*) with information about scientific research, researchers, and research organisations.¹⁵⁹ Research organisations that are not registered in this database will be approved if they can demonstrate to have successfully relied on the Act promoting Research and Development Work (*Wet bevordering speur- en ontwikkelingswerk*) (based on the Salaries Tax and National Insurance Contributions (Reduced Remittances) Act (*Wet vermindering afdracht loonbelasting en premie voor de volksverzekeringen*) as a scientific research organisation. Pursuant to this Act, small and medium-sized enterprises that invest in technological renovation can obtain tax advantage. An entrepreneur is then permitted to pay less wage tax for, among others, employees conducting scientific research.¹⁶⁰

4.2. Experiences with Implementation

By now, much experience has been gained with implementing European legislation. In 2008, several issues regarding European conventions and legislation on migration and asylum received particular attention.

Association Agreement EEC-Turkey

On 20 September 2007, the European Court of Justice rendered a decision in case C-16/05, *Tum and Dari* against the Secretary of State for the Home Department (JV 2007/494) about the standstill clause in the Additional Protocol (*Treaty series* 1971, 70) to the Agreement establishing an Association between the European Economic Community and Turkey (*Treaty Series* 1964, 217). On the basis of this decision, the Administrative Jurisdiction Division of the Council of State concluded in March 2008 that the mvv requirement (see section 3.3.6) for Turkish nationals who want to settle in the Netherlands to work on a self-employed basis was contrary to this standstill clause.¹⁶¹ As a result of this, an exemption from this mvv requirement will be implemented for this group by amending the Aliens Decree to this effect.¹⁶² The exemption applies to Turkish citizens who are submitting an application for a residence permit for the purpose of work on a self-employed basis and who meet the other conditions apart from the mvv requirement. This amendment has not yet been implemented in 2009. For the purpose of applying this exemption, policy rules will subsequently be incorporated in the Aliens Act Implementation Guidelines.

Dublin: Transfer of Asylum Applicants to Greece

In March 2008, the Dutch Council for Refugees and Amnesty International requested in a letter to the State Secretary for Justice¹⁶³ to immediately stop the transfer of asylum applicants from the Netherlands. Amongst other things, the reasons for their request included a critical report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on the detention of, in particular, foreign nationals; and the infringement proceedings with the European Court of Justice initiated by the European Commission against Greece; for not complying with the Dublin Regulation¹⁶⁴. Under Greek legislation, access to the asylum procedure of asylum applicants that have

¹⁵⁸ Decision of the State Secretary for Justice of 21 January 2008, no 2008/2007 amending the Aliens Act Implementation Guidelines 2000, *Government Gazette* no 21, p. 9.

¹⁵⁹ Royal Netherlands Academy of Arts and Sciences (*Koninklijke Nederlandse Akademie van Wetenschappen, KNAW*). (2009) *Onderzoeksinformatie* (Research Information). Extracted from www.knaw.nl on 7 May 2009.

¹⁶⁰ RVD. (2009) *Begrippenlijst: Wet bevordering speur- en ontwikkelingswerk (WBSO)* (Act promoting Research and Development Work). Extracted from www.regering.nl on 7 May 2007.

¹⁶¹ Administrative Jurisdiction Division of the Council of State, 6 March 2008, no 200409217/1-A.

¹⁶² *Parliamentary Papers II* 2008/2009, 19 637, no 1235 (Letter with enclosures).

¹⁶³ Amnesty International (2008) *Slechte situatie voor asielzoekers in Griekenland* (Poor circumstances for asylum applicants in Greece). Extracted from www.amnesty.nl on 8 May 2009.

¹⁶⁴ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (*OJ EU* 2003, L 50/1)

been taken back is not provided for, although in practice they do have this access. Moreover, the European Commission announced in April 2008, following questions from the European Parliament, to examine the possibility to suspend the transfer of asylum applicants from other Member States to Greece because of the inadequacies in Greek legislation.¹⁶⁵

This issue was widely covered by the media¹⁶⁶ and received due attention in Parliament. Several parties requested suspension of the transfer of asylum applicants by the Netherlands.¹⁶⁷ In June 2008, the State Secretary for Justice indicated in reply to Parliamentary Questions that she did not deem this necessary.¹⁶⁸ It became evident from answers from the Commission that the Greek government had changed the implementation practice, so that a full substantive assessment of the asylum application is carried out after having taken over an asylum applicant.

Early in July 2008, a decision of the Court on this subject drew renewed attention.¹⁶⁹ The Court prohibited the transfer to Greece, because it was of the opinion that the foreign national involved had argued convincingly that Greece does not properly perform its convention obligations.¹⁷⁰ The Minister of Justice appealed against this decision and he stated again to see no cause for suspending the transfer of asylum applicants to Greece.¹⁷¹

Family Reunification: The Europe Route

In 2008, too, the possible abuse of Community Law for family reunification, received due attention both in the House of Representatives and in the media. It is possible to avoid the strict Dutch requirements for family reunification if the Dutch national settles in another Member State, the so-called Europe Route (formerly mainly known as Belgium route). The Dutch requirements also do not apply to family reunification of an EU citizen residing in the Netherlands with a partner from a third country. The Cabinet has indicated to consider it important to obtain a good understanding of the degree in which Community Law is used improperly or not.¹⁷² The State Secretary informed the House of Representatives that she had insisted at the European level on recording how Article 35 of Directive 2004/38/EC¹⁷³ is interpreted and to inform other Member States of this. This article offers possibilities to act against abuse of the rights following from the Directive. The IND is also conducting a study into the size and composition of the group that applies Community Law in the manner described above.

¹⁶⁵P1676/2008, European Parliament, Written Question by Kathalijne Maria Buitenweg (Verts/ALE) to the Commission with answer.

¹⁶⁶Among others: Mayjer, D. (2008, 21 March) '*Draag vluchteling niet over aan Griekenland*' (Do not transfer refugee to Greece), *NRC Handelsblad*; Lanting, B. (2008, 19 April) '*Asielzoekers toch terug naar Grieken*' (Asylum applicants back to the Greek after all). *De Volkskrant*;

¹⁶⁷*Proceedings II* 2007/2008, no 105, p. 7665.

¹⁶⁸*Parliamentary Questions II* 2007/2008, no 2568 (Answer).

¹⁶⁹*De Volkskrant* (2008, 7 July) *Asielzoekers niet naar Griekenland* (Don't send asylum applicants to Greece); *De Pers* (2008, 31 July) *Hoger beroep tegen verbod terugsturen asielzoekers* (Appeal against prohibition to send back asylum applicants);

¹⁷⁰Administrative Jurisdiction Division of the Council of State, 3 July, *LJN BD6344*.

¹⁷¹*Parliamentary Questions II* 2007/2008, nos 3153 and 3199 (Answer).

¹⁷²*Parliamentary Questions II* 2008/2009, no 552 (Answer).

¹⁷³Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (*OJ EU* 2004, L 158/77).

Appendix I: Methodology

Information about the development of legislation and regulations and about parliamentary debates originates from official sources. For this purpose, the following types of documents were consulted:

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

All these documents can be found in the database of official publications on the government website at www.overheid.nl. This website is maintained by the Ministry of the Interior and Kingdom Relations.

In order to obtain information on organisations and their views, the websites of the relevant organisations were consulted. Publications of the various organisations on migration and asylum were also mostly obtained from their websites. The websites of political parties were also visited to gather information about their views on migration and asylum.

The Internet was also used as the main source to obtain an understanding of the public debate. The websites of large national newspapers and of news and current affairs programmes on national television (both public and commercial broadcasting stations) were used to investigate which migration and asylum-related topics received much attention in the media. In addition to a general stock-taking of migration and asylum-related topics, the media attention given to specific topics that were addressed in parliamentary debate was also looked into.

The objective of the Annual Policy Report is to provide an overview of all important developments in the area of migration and asylum. To achieve this objective, several criteria were used to define the term 'important developments'. In this context, a distinction is made between amendments to legislation and regulations on the one hand and political and public debates on the other hand.

Criteria for the Importance of Amendments to Legislation and Regulations

The Annual Policy Report aims at providing the most complete possible overview of all amendments, whether intended or implemented, to legislation and regulations in the different policy areas discussed in this report. All amendments, whether intended or implemented, that actually imply a substantive modification of this legislation and regulations are included in the report. Only minimal amendments are left out (e.g. the annual increase in certain income requirements).

Criteria for the Importance of Political and Public debates

The report does not aim at completeness with respect to political and public debates and developments. The purpose of the Annual Policy Report is to give an impression of the major subjects of discussion in the area of migration and asylum in the Netherlands. The following criteria were used to make a selection. To be included in the Annual Policy Report, a political and public debate must meet at least the following cumulative requirements:

- The subject matter has been raised in Parliament.
- The subject matter has been 'in the news' for an extended period of time. Several news media organisations must have covered the matter..

Implementation of European Legislation

The Annual Policy Report provides a complete overview of the developments regarding the implementation of European legislation in the area of migration and asylum. For this reason, all developments in this area are included in this report.

Appendix II: Overview of Implementation of EU Directives

Status of the Implementation of EU Legislation on 31 December 2007

EU Legislation	Corresponding National Legislation and Regulations (status)
Directive 2001/51/EC (Schengen Implementation Agreement)	<p><i>Ultimate implementation date: 10 February 2003</i> <i>Status: implemented on 15 September 2004</i> Aliens Act 2000</p> <ul style="list-style-type: none"> – Act of 13 May 2004 to adjust the Aliens Act 2000 in line with Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.
Directive 2001/55/EC (Temporary protection of displaced persons)	<p><i>Ultimate implementation date: 31 December 2002</i> <i>Status: implemented on 15 February 2005</i> Aliens Act 2000, the Aliens Decree 2000, and Aliens Act Implementation Guidelines 2000</p> <ul style="list-style-type: none"> – Act of 16 December 2004 amending the Aliens Act 2000 to implement Council Directive No 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJEU L 212), Dutch Bulletin of Acts and Decrees 2004, 691. – Decision of 12 January 2005 to amend the Aliens Decree 2000 for the purpose of implementing Directive No 2001/55/EC, Dutch Bulletin of Acts and Decrees 2005, 25. – Regulation of the Minister for Alien Affairs and Integration of 24 February 2005 amending the Regulations on Aliens 2000 (thirty second amendment), Dutch Government Gazette 53, p. 17.
Directive 2003/9/EC (Reception of asylum applicants)	<p><i>Ultimate implementation date: 6 February 2005</i> <i>Status: implemented on 3 February 2005</i> Asylum applicants and Other Categories of Aliens (Provisions) Regulations 2000 (Regeling verstrekkingen asielzoekers en andere categorieën vreemdelingen 2005)</p> <ul style="list-style-type: none"> – Asylum applicants and Other Categories of Aliens (Provisions) Regulations 2005, Dutch Government Gazette 2005 24, p. 17.
Directive 2003/86/EC (Family reunification)	<p><i>Ultimate implementation date: 3 October 2005</i> <i>Status: implemented on 1 November 2004</i> Aliens Decree 2000</p> <ul style="list-style-type: none"> – Decision of 29 September 2004 to amend Aliens Decree 2000 in connection with the implementation of Directive 2003/86/EC, Dutch Bulletin of Acts and Decrees 2004, 496.
Directive 2003/109/EC (Third-country nationals who are long-term residents)	<p><i>Ultimate implementation date: 23 January 2006.</i> <i>Status: implemented on 1 December 2006.</i> Aliens Act 2000, Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, Aliens Employment Act Implementation Regulations (Uitvoeringsregels Wet arbeid vreemdelingen), and the Netherlands Nationality Act Application Manual.</p> <ul style="list-style-type: none"> – Act of 23 November 2006 amending the Aliens Act 2000 for the purpose of implementing Council Directive No 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJEU 2004, L16). Dutch Bulletin of Acts and Decrees 2006, 584. – Decision of 23 November 2006 to amend Aliens Decree 2000 in connection with the implementation of Directive No 2003/109/EC, Dutch Bulletin of Acts and Decrees 2006, 585. – Regulation of the Ministry of Justice of 7 January 2007 amending the Regulations on Aliens 2000 (fifty-sixth amendment) Dutch Government Gazette 11, p. 6. – Decision of the State Secretary for Justice of 16 April 2007, nr. 2007/04 to amend the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 78, p. 11. – Regulation of the State Secretary for Social Affairs and Employment of 21 December 2006, Labour Market Department amending the Aliens Employment Act Implementation Regulations relevant to the Aliens

	<p><i>Employment Act Delegation and Implementation Decree, Dutch Government Gazette 1, p. 10.</i></p> <ul style="list-style-type: none"> – <i>Nationalities Interim Communication (Tussentijds Bericht Nationaliteiten, TBN 2007/5) of the Ministry of Justice, Dutch Government Gazette 67, p. 7.</i>
Directive 2003/110/EC (Removal by air)	<p><i>Ultimate implementation date: 6 December 2005</i> <i>Status: implemented on 22 December 2005</i> <i>Aliens Act Implementation Guidelines 2000</i></p> <ul style="list-style-type: none"> – <i>Decision of the State Secretary for Justice of 8 December 2005, no2005/59 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 247, p.35.</i>
Directive 2004/38/EC (Free movement of EU citizens and their family members)	<p><i>Ultimate implementation date: 30 April 2006</i> <i>Status: implemented on 29 April 2006</i> <i>Work and Social Assistance Act (Wet werk en bijstand), Student Finance Act 2000 (Wet studiefinanciering 2000), Fees and Educational Expenses (Allowances) Act (Wet tegemoetkoming onderwijsbijdrage en schoolkosten), Aliens Act 2000, Aliens Decree 2000, and the Netherlands Nationality Act Application Manual</i></p> <ul style="list-style-type: none"> – <i>Act of 7 July 2006 amending the Work and Social Assistance Act, the Student Finance Act 2000, the Fees and Educational Expenses (Allowances) Act, and the Aliens Act 2000 in connection with the coming into effect of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, as well as the approval of a reservation associated with the European Treaty on social and medical assistance, Dutch Bulletin of Acts and Decrees 2006, 373.</i> – <i>Decision of 24 April 2006 to amend the Aliens Decree 2000 in connection with the implementation of Directive 2004/38/EC, Dutch Bulletin of Acts and Decrees 2006, 215.</i> – <i>Nationalities Interim Communication (TBN 2006/3), Dutch Government Gazette 109, p. 25.</i>
Directive 2004/81/EC (Human trafficking)	<p><i>Ultimate implementation date: 6 August 2006</i> <i>Status: implemented on 1 February 2006</i> <i>No amendments to legislation and regulations</i></p>
Directive 2004/82/EC (Passenger data)	<p><i>Ultimate implementation date: 5 September 2006</i> <i>Status: implemented on 1 September 2007</i> <i>Aliens Act 2000, Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, and Aliens Act Implementation Guidelines 2000</i></p> <ul style="list-style-type: none"> – <i>Act of 9 July 2007 to adjust the Aliens Act 2000 in line with Council Directive No 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (OJEU L 261), Dutch Bulletin of Acts and Decrees 2007, 252.</i> – <i>Decision of 27 July 2007 to adjust the Aliens Decree 2000 in line with Directive No 2004/82/EC, Dutch Bulletin of Acts and Decrees 2007, 283.</i> – <i>Regulation of the Ministry of Justice of 16 August 2007 amending the Aliens Act Implementation Guidelines 2000 (sixty-fifth amendment) Dutch Government Gazette 163, p. 9.</i> – <i>Decision of the State Secretary for Justice of 25 September 2007, no2007/27 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 194, p. 10.</i>
Directive 2004/83/EC (Qualification Directive)	<p><i>Ultimate implementation date: 10 October 2006.</i> <i>Status: implemented on 25 April 2008.</i></p> <ul style="list-style-type: none"> – <i>Act of 3 April 2008 amending the Aliens Act 2000 to implement Council Directive No 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted(OJEU L 304) Dutch Bulletin of Acts and Decrees 2008, 115.</i> – <i>Decision of 9 April 2008 to amend the Aliens Decree 2000 and the Youth Care Act Implementation Decree for the implementation of Council Directive No 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted(OJEU L 304), Dutch Bulletin of Acts and Decrees 2008, 116.</i> – <i>Regulation of the State Secretary for Justice of 8 May 2008 amending the Regulations on Aliens 2000 (eightieth amendment), Dutch Government Gazette 97, p. 16.</i> – <i>Decision of the State Secretary for Justice of 10 November 2008, no 2008/27 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 728.</i>

Directive 2004/114/EC (Student Directive)	<p><i>Ultimate implementation date: 12 January 2007</i> <i>Status: implemented on 11 November 2006</i> <i>Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, and the Aliens Act Implementation Guidelines 2000.</i></p> <ul style="list-style-type: none"> – <i>Decision of 2 October 2006 to amend the Aliens Decree 2000 for the implementation of Directive No 2004/114/EC, Dutch Bulletin of Acts and Decrees 2006, 458.</i> – <i>Decision of the Minister for Alien Affairs and Integration of 26 April 2006 amending the Regulations on Aliens 2000 (forty-sixth amendment), Dutch Government Gazette 84, p. 15.</i> – <i>Decision of the Ministry of Justice of 3 January 2007, no 2007/01 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 38, p. 7.</i>
Directive 2005/71/EC (Research Directive)	<p><i>Ultimate implementation date: 12 October 2007.</i> <i>Status: implemented on 12 October 2007.</i> <i>Aliens Decree 2000, Aliens Employment Act Implementation Decree, Civic Integration Decree, Aliens Act Implementation Guidelines 2000, and the Aliens Act Implementation Guidelines 2000.</i></p> <ul style="list-style-type: none"> – <i>Decision of 26 September 2007 to amend the Aliens Decree 2000, het Aliens Employment Act Implementation Decree and the Civic Integration Decree in connection with the implementation of Directive No 2005/71/EC, Dutch Bulletin of Acts and Decrees 2007, 366.</i> – <i>Regulation of the State Secretary for Justice of 16 October 2007 amending the Regulations on Aliens 2000 (seventy-first amendment), Dutch Government Gazette 202, p. 24.</i> – <i>Decision of State Secretary for Justice of 21 January 2008, no 2008/07 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette nr. 21, p. 9.</i>
Directive 2005/85/EC (Refugee status)	<p><i>Ultimate implementation date: 1 December 2007.</i> <i>Status: implemented on 19 December 2007.</i> <i>Aliens Act 2000, Aliens Decree 2000, Aliens Act Implementation Guidelines 2000, and the Aliens Act Implementation Guidelines 2000.</i></p> <ul style="list-style-type: none"> – <i>Act of 15 November 2007 amending the Aliens Act 2000 for the implementation of Council Directive No 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (OJEU L 32), Dutch Bulletin of Acts and Decrees 2007, 450.</i> – <i>Decision of 29 November 2007 to adjust the Aliens Decree 2000 in line with Directive No 2005/85/EC, Dutch Bulletin of Acts and Decrees 2007, 484.</i> – <i>Regulation of the State Secretary for Justice of 7 December 2007 amending the Regulations on Aliens 2000 (drieënzeventigste wijziging), Dutch Government Gazette 240, p. 9.</i> – <i>Decision of the State Secretary for Justice of 7 December 2007, nr. 2007/38 amending the Aliens Act Implementation Guidelines 2000, Dutch Government Gazette 240, p. 10.</i>

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