



FAMILY REUNIFICATION OF THIRD-COUNTRY NATIONALS



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Auteurs Laura Cleton
Laura Seiffert
Henrika Wörmann

emn@ind.minvenj.nl
Ministry of Security and Justice (V&J)
Immigration and Naturalisation Service (IND)
Strategy and Implementation Advisory Department (SUA)
Research and Analysis Department (O&A)
National contact point in the Netherlands for the European Migration
Network (EMN)
Dr. H. Colijnlaan 341 | 2283 XL Rijswijk
P.O. Box 5800 | 2280 HV Rijswijk

TABLE OF CONTENTS

	Abbreviations	5
	Executive summary	7
1	Introduction	11
1.1	Background and Cause	11
1.2	Purpose	12
1.3	Research question	12
1.4	Approach	12
1.5	Scope	14
2	Policy Framework	15
2.1	Legal Framework	15
2.1.1	International Treaties	15
2.1.2	European Law	17
2.1.3	National Laws and Legislation and Policy	18
2.2	General Characteristics of the Dutch Family Reunification Policy	19
2.2.1	Distinction between Regular Family Reunification and Asylum Family Reunification	19
2.2.2	The one-status system	21
2.2.3	Family Reunification and Family Formation	21
3	Conditions for family reunification	23
3.1	Who may apply for family reunification?	24
3.1.1	Regular family reunification	24
3.1.2	Asylum family reunification	25
3.2	Which family members may come to the Netherlands by means of family reunification?	25
3.2.1	Partners	26
3.2.2	Minor children	26
3.2.3	Adult children	27
3.2.4	Parents of minor children	29
3.2.5	Parents of adult children	29
3.2.6	Other family members	30
3.3	Which conditions must be met?	30
3.3.1	One year waiting time for the sponsor	30
3.3.2	Income requirement	30
3.3.3	Submission deadline	32
3.3.4	Civic integration examination abroad	33
3.3.5	Cohabitation requirement	35

3.3.6	Not being a danger to the public order or national security	35
3.3.7	Other conditions	35
4	The Application Procedure	37
4.1	When is an entry visa required for a regular provisional residence permit (MVV)?	37
4.2	Who can submit the application and where?	38
4.3	What are the steps of the procedure?	38
4.3.1	Regular family reunification	39
4.3.2	Asylum family reunification	41
4.4	What supporting documents are needed?	44
4.4.1	Supporting document for establishing the identity	44
4.4.2	Supporting documents to prove the family relationship	44
4.4.3	Inability to meet the standard of evidence	45
4.5	How long does the procedure last?	45
5	Interlude: Statistics on regular family reunification and asylum family reunification	47
5.1	Family migration and other purposes of stay	47
5.2	Family migration	48
5.3	Nationalities	50
6	Rights and obligations ensuing from family reunification	53
6.1	Obligations of the sponsor and the family member	53
6.1.1	Obligation to provide information	53
6.1.2	Obligations in the municipality	53
6.1.3	Civic integration in the Netherlands	54
6.2	Rights of the sponsor and the family member	55
6.3	Enforcement	57
7	Conclusion	59
	Annex I: Members of the expert group	61
	Annex II: List of Organisations	63
	Annex III: definitions	65
	Annex IV: Supporting documents to substantiate the family relationship	69
	Annex V: How does the IND assess the right to family life (8 ECHR)?	75

ABBREVIATIONS

GAP	General Asylum Procedure
UAM	Unaccompanied minor
BRP	Persons Database
CSN	Citizen Service Number
BVI-IB	Database Information Access - Integral Inquiry
COA	Central Agency for the Reception of Asylum Seekers
DUO	Executive Agency for Education
EMN	European Migration Network
ECHR	European Convention for the Protection of Human Rights
GGD	Municipal Health Service
IND	Immigration and Naturalisation Service
ID	Identification
UNCRC	International Convention of the Rights of the Child
KNS	'Kennis van de Nederlandse Samenleving' ('Knowledge of Dutch Society')
MVV	Regular Provisional Residence Permit
NGO	Non-Governmental Organisation
ONA	Orientation in the Dutch Labour Market
RZA	Healthcare for Asylum Seekers Regulation
TB	Tuberculosis
TEV	Entry and Residence Procedure
TWV	Work permit
VA	Extended Asylum Procedure
Vb	Aliens Decree 2000
Vc	Aliens Act Implementation Guidelines 2000
VOVO	Provisional ruling
VV	Aliens Regulations 2000
Vw	Aliens Act 2000

EXECUTIVE SUMMARY

Background and Cause

A large portion of migration from third countries to the Netherlands is related to family migration. In the past few years, more than one-third of all applications for residence permits received by the Immigration and Naturalisation Service (IND) concern applications for family reunification. Family reunification is furthermore also a recurrent topic in the media and the public debate in the Netherlands. In particular, since the increased influx of asylum seekers in 2015 and 2016, family reunification for beneficiaries of international protection (also referred to as ‘asylum family reunification’) have also often received considerable attention.

To identify how policy in respect of family reunification in the various EU Member States is organised, the European Migration Network (EMN) carried out an **international comparative study** on family reunification in 2016 and 2017.¹ This report is the Dutch contribution to this comparative study which is made available to a broad Dutch public.

Purpose, approach, and scope of the report

The purpose of this report is to provide an overview of the policy and practices in the Netherlands concerning family reunification (including asylum family reunification). The report includes a discussion of the policy framework, the admission requirements for family reunification, the application procedure, and the rights and obligations ensuing from family reunification. The report focuses only on family reunification of third-country nationals (non-EU nationals) with a third-country national. For the purpose of gathering the information, various research techniques were used, including desk research, interviews, and expert meetings. In addition, the research team was led by a expert group of 10 national experts in the field of family reunification.

Policy framework

Dutch **laws and regulations** for family reunification in the Netherlands ensue from international treaties, and from European and national legislation. The most important sources of international law which impact Dutch policy, are the European Family Reunification Directive and Article 8 of the European Convention on Human Rights (ECHR). At a national level, the provisions on family reunification are available in the Aliens Act 2000, the Aliens Decree 2000, the Aliens Regulations 2000, and the Aliens Act Implementation Guidelines 2000. The IND furthermore has drawn up a number of working instructions on various subjects which provide decision-makers with terms of reference in the implementation of policy.

The Dutch family reunification policy distinguishes between **regular family reunification and asylum family reunification**. If family members of a holder of an asylum residence permit submit an application for family reunification with the beneficiary of international protection within three months after the asylum residence permit has

¹ The results of the study are available at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/Study

been granted, more favourable admission conditions apply than for regular family reunification (e.g. no income requirement, no fees). This procedure is called ‘asylum family reunification’.

In the Netherlands, the same conditions apply for purposes of **family reunification and family formation**. It constitutes family reunification if the family relationship between the family member and the third-country national staying in the Netherlands (the ‘sponsor’) already existed before the sponsor obtained a residence permit in the Netherlands. In the case of family formation, the family relationship only arose after the sponsor obtained a residence permit in the Netherlands. The favourable conditions for asylum family reunification only apply for family reunification and not for family formation. Beneficiaries of international protection who wish to apply for family formation, must therefore submit a regular application for family reunification and comply with more stringent conditions.

Who qualifies for family reunification?

Under **national policy** in the Netherlands, normally only members of the nuclear family (partner and minor children) qualify for family reunification. In the case of asylum family reunification, adult children and parents of adult children also qualify. No policy has been laid down in Dutch laws and regulations in respect of all other family members, such as grandparents, uncles and aunts. However, all family members of residence permit holders in the Netherlands may submit an application for family reunification by relying on the right to family life, as described in **Article 8 ECHR**. In addition, in almost all cases where the IND rejects a request for (continuation of) stay based on a residence permit, or terminates the stay based on a residence permit, the IND tests whether this decision is in contravention of Article 8 ECHR. On rejection of the application for asylum family reunification of family members of beneficiaries of international protection, no standard test regarding Article 8 ECHR is carried out. The reason for this is that applications for asylum family reunifications are often insufficiently substantiated for a proper weighing up of interests, as provided for in the Article 8 ECHR assessment.

Conditions for family reunification

The sponsor and the family member who qualify for family reunification on the basis of national policy must meet a number of general conditions.

A condition for regular family reunification is that the sponsor must have **sufficient financial means** to support him/herself and the family members. This requirement limits the risk of the family having to rely on public funds. Another condition is that the family member must have passed the **civic integration examination abroad** before coming to the Netherlands. The fees must also be paid. In some cases, there is a waiting time of one year before the sponsor may submit an application for family reunification. These conditions do not apply for asylum family reunification. Other conditions are that the sponsor and the family member will **live together** in the Netherlands and that the family member does not **pose a threat to public order or national security**.

Application Procedure

Both the sponsor and the family member can submit an application for family reunification. The legal **time limit** for the IND to decide on an application for regular family reunification and asylum family reunification is 90 days and may be extended by another 90 days. Usually, the family member will be subjected to the procedure abroad, since the IND will only issue an entry visa – a **Regular Provisional Residence Permit (MVV)²** - when it is clear that the sponsor and the family member will meet all conditions. Family members of beneficiaries of international protection and persons from certain countries may also travel into the Netherlands without an MVV and go through the application procedure in the Netherlands.

The sponsor and the family member must substantiate their **application with documentation** (e.g. documents that demonstrate the family relationship). Sometimes this proves to be impossible. In case of asylum family reunification, for example, it often happens that the sponsor and the family member fail to provide enough documents to prove their identity or that they constitute a family. If the IND considers the explanation by the applicant as to why he or she cannot provide any documents as being plausible, the IND will accept inability to meet the standards of evidence and the IND will offer DNA testing and/or an identification interview.

Rights and Obligations Ensuing from Family Reunification

Persons who come to the Netherlands for reasons of family reunification, enjoy the same rights with regard to access to **education** as other third-country nationals with a residence permit. Whether a family member will be allowed to **work** depends on the type of residence permit held by the sponsor. In principle, family members may only work in the Netherlands if the sponsor has the right to work in the Netherlands. This does not apply to family members seeking asylum family reunification; they are always allowed to work. Family members with a regular residence permit who come to the Netherlands, in principle, may not **rely on public funds** in the first few years after they have arrived in the Netherlands. Family members of beneficiaries of international protection will be allowed to do so. Family members will have the option to apply for an **autonomous residence status** after they have stayed in the Netherlands for a number of years (mostly 5 years). This means that the family member is no longer dependent on the sponsor's residence status in order to stay in the Netherlands.

Obtaining a residence permit is also subject to compliance with certain obligations. The sponsor and the family member have an **obligation to provide information** to the IND. This means that the sponsor and the family member must inform the IND in the situation of the sponsor or the family member changes, and if these changes may have consequences for the right of residence. Certain groups of migrants, including those who seek asylum family reunification, are obliged to **participate in civic integration in the Netherlands**. Besides examinations that test the four linguistic skills (reading, writing, comprehending and speaking) the civic integration exam also comprises an examination 'Know-

2 A Regular Provisional Residence Permit (MVV) is an entry visa for persons who intend to stay in the Netherlands for more than three months.

ledge of Dutch Society' and an examination 'Orientation in the Dutch Labour Market'. In principle, the civic integration examination must be passed within three years.

Enforcement

The Dutch government has various options to monitor whether the sponsor and the family member continue to meet the conditions subject to which the residence permit was issued. For example, the IND will automatically be informed when a third-country national moves house, applies for social assistance benefit or is convicted of a punishable offence. When the IND finds out that a third-country national does not meet or no longer meets the conditions of his or her permit, the third-country national will be confronted with this information. This is usually done by an intended decision to withdraw the residence permit. The IND may also impose fines.

1 INTRODUCTION

The introduction describes the background and purpose of the report. In addition, the research questions and the chosen approach are presented. It further outlines the scope of the research.

1.1 Background and Cause

“Thousands of migrants expected due to family reunification” (07-10-2016, Elsevier magazine)

“Family reunification is growing rapidly: ‘My daughters had no future in Aleppo’” (21-09-2016, RTL Nieuws, broadcaster)

“Dijkhoff: family reunification may last over two years” (18-02-2016, Volkskrant, newspaper)

“IND too busy for family reunification” (01-10-2015, BNR, news radio)

“Family reunification policy sometimes has unwelcome repercussions” (11-12-2014, NOS, broadcaster)

“Lower House urges immediate action against child brides” (24-02-2014, RTL Nieuws, broadcaster)

As these headlines show, family reunification is a recurring topic in the media and the public debate in the Netherlands. In particular since the increased influx of asylum seekers in 2015 and 2016, family reunification for beneficiaries of international protection (also referred to as ‘asylum family reunification’) has often received considerable attention.

A large portion of migration from third countries to the Netherlands is related to family migration. In the past few years, about a third of all applications for residence permits in the Netherlands received by the IND pertains to applications for regular family reunification and asylum family reunification.

To identify how policy in respect of family reunification is organised in the various EU Member States and what changes these have implemented in the past few years, the European Migration Network (EMN) has carried out an international comparative study on family reunification in 2016 and 2017. The results of this international comparative study were published in the format of a ‘Synthesis Report’³ and will be used by EU Member States to understand each others’ policy and practical implementation. Furthermore, the information will be used as input for policy creation and review at a European level.

The EMN also aims to inform the general public in the field of migration and asylum. The information that was collected for the Synthesis Report about the Dutch situation, will therefore also be used to draw up a clearly laid out reference work for the general public

3 The synthesis report is available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_family_reunification_synthesis_report_final_en_print_ready.pdf

with regard to Dutch policy on family reunification. Furthermore, the report serves as a supplement to and deepening of the information material that is already available on family reunification, which is mainly geared towards those who want to submit an application. The Dutch national contact point of the EMN hopes to provide this as a reference work for professionals within the Dutch government, researchers and students, civil society organisations, journalists, and other interested parties.

1.2 Purpose

The purpose of this report is to provide an overview of the policy and practices in the Netherlands concerning family reunification. The report aims to reflect the sometimes complicated regulations in the field of family reunification in an accessible manner to the wider audience. In this, the focus lies on an actual and objective view of the policy and practical implementation. Moreover, the research team has used text boxes in the report to highlight interesting background information.

1.3 Research question

To be able to set out the specific rules for family reunification in the Netherlands, the focus in this report is placed on the following research question:

What are the policy arrangements with regard to family reunification in the Netherlands?

This principal question will be answered using the following sub questions:

- What is the policy framework for family reunification in the Netherlands? (Chapter 2)
- What conditions apply to family reunification? (Chapter 3)
- What does the application procedure entail? (Chapter 4)
- What rights and obligations ensue from family reunification? (Chapter 6)

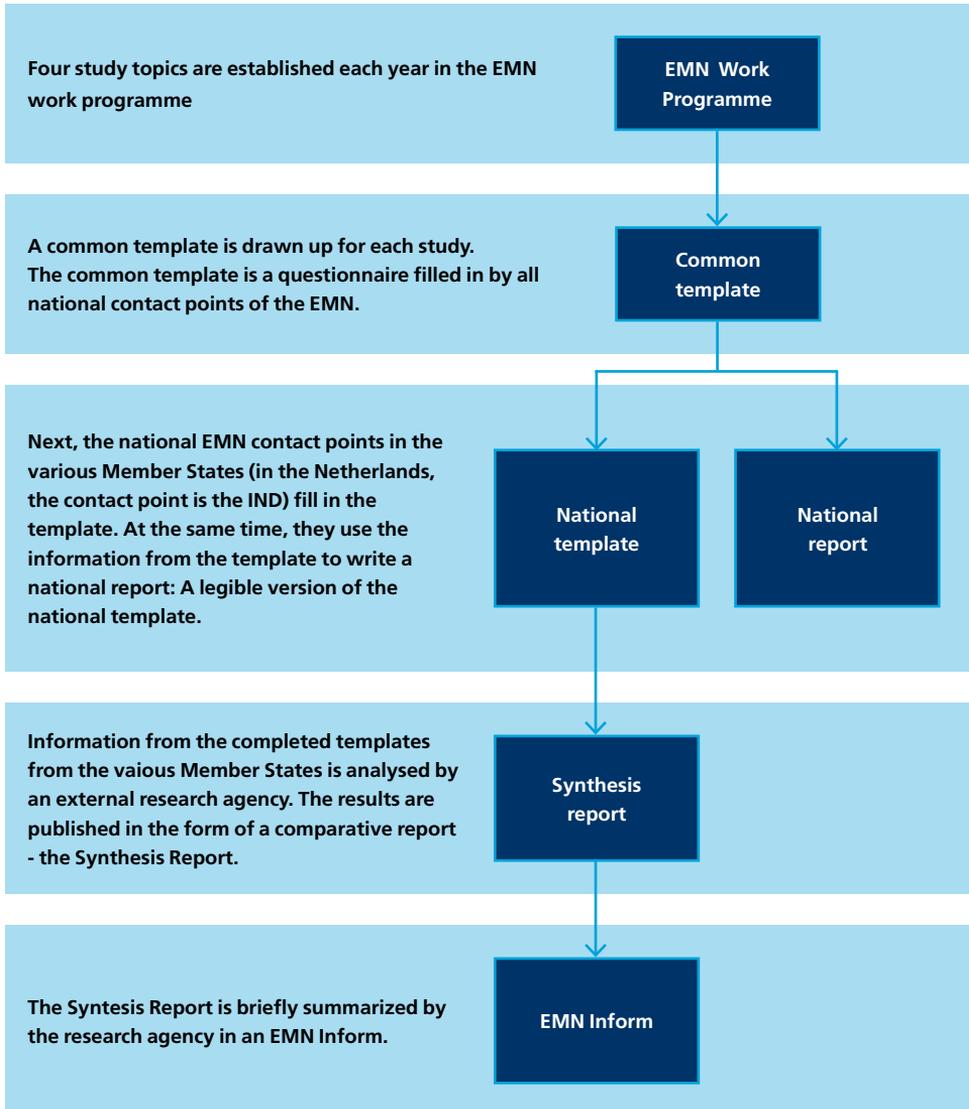
To provide the reader with information on the degree of family reunification in the Netherlands, the report also contains an overview of key figures on the topic (Chapter 5).

1.4 Approach

Each EMN study has a similar approach (see figure 1). The research questions for this report ensue from the so-called *common template*, which is developed for each EMN study. This template is designed as a list of questions and has been developed in consultation with EMN's national contact points⁴ to enhance comparability of results between the various Member States. This template is completed separately by each national con-

tact point, summarized at European level, and combined in a Synthesis Report. The national contact point in the Netherlands is assigned to the Immigration and Naturalisation Service (IND). Besides the template, EU Member States can also write a national read report presenting its findings as shown in the *common template* to describe the national situation. This is the national read report of the Netherlands.

Figure 1. How do EMN studies come about?



The research team of the EMN national contact point in the Netherlands has used various **research techniques** to gather and identify information for the template and this report. These include desk research, interviews and expert meetings. In addition, an expert group has supervised the research team.

First of all use was made of **desk research**. For this purpose policy documents, laws, websites and reports were consulted. These documents provide an insight into the laws and regulations on family reunification and discern the practical implementation in the Netherlands. The documents researched for this study are all in public domain. Quantitative details in this report were provided by the IND.

In the context of this study, an **expert group** was established, comprising 10 national experts in the field of family reunification (see [Annex I](#) for an overview of the members of the expert group). The expert group has a supporting and supervisory function for the research team in its gathering and consolidating of information. The members of the expert group have also reviewed the draft report on actual correctness and completeness.

The members of the expert group **were also interviewed**. Moreover, the research team held three **expert meetings** with members of the expert group and employees of the IND who make decisions on applications for family reunification

1.5 Scope

The report is not limited to regular family reunification (family reunification with holders of a regular residence permit), but also describes policy and practices regarding asylum family reunification (family reunification with a beneficiary of international protection). When the situation between regular family reunification and asylum family reunification is differentiated, it will be stated explicitly. Section 2.2.1 contains an overview with all the differences between regular family reunification and asylum family reunification.

This report confines itself to family reunification of third-country nationals with another third-country national. Therefore, this report does not deal with family reunification of third-country nationals with Dutch citizen, of European Union citizens with Dutch citizens, or third-country nationals with European Union citizens.

2 POLICY FRAMEWORK

This chapter focuses on the policy framework for family reunification in the Netherlands. First of all, it addresses the relevant legal framework for family reunification, both at an international and European level, as well as at a national level. Next, important general features of Dutch policy are outlined, such as the distinction between regular family reunification and asylum family reunification, the standardisation bringing the refugee status into line with the subsidiary protection status (one-status system), and the distinction between family formation and family reunification.

2.1 Legal Framework

Laws and regulations for family reunification in the Netherlands ensue from international treaties, European legislation and national laws. The rules are further elaborated in agreed working practices, such as working instructions and information notifications for IND employees. The following paragraph briefly discusses the most important sources of law and the implications for family reunification policy in the Netherlands.

2.1.1 *International Treaties*

The Netherlands is bound by international treaties. Important international treaties that influence the Dutch family reunification policy are the European Convention on Human Rights (ECHR) and the International Convention on the Rights of the Child (UNCRC). International courts, such as the European Court of Human Rights (ECtHR) or the Court of Justice of the European Union (CJEU), which interpret relevant provisions in international treaties in their rulings, also affect laws and regulations in the field of family reunification.

Article 8 of the European Convention for the Protection of Human Rights

An important international source of law that affects Dutch family reunification policy is Article 8 of the European Convention on Human Rights (ECHR). Article 8 ECHR provides for respecting the right to have a family and family life (see [box 2](#)). Dutch legislation contains relatively few references to Article 8 ECHR. However, Article 8 ECHR does play an important role in policy implementation.

Box 2. Article 8 ECHR: Respecting the right to have a private and family life

1. Everyone has the right to have his/her private life, family life, home and correspondence respected.

2. No interference from any public authority is permitted in exercising this right, except insofar as is provided for in law and is necessary in a democratic society in the interests of national security, public security or economic well-being of the country, the prevention of disorderliness and criminal offences, the protection of health, public morals, or the protection of the rights and freedoms of others.

In nearly all cases in which the IND rejects a request for (continuation of) stay based on a residence permit, or terminates the stay based on a residence permit, the IND assesses whether this decision is in contravention of Article 8 ECHR.⁵ In its implementation, testing pursuant to Article 8 ECHR is also referred to as the 'rest test'. An exception applies to family reunification of beneficiaries of international protection (asylum family reunifications).⁶ In the case of a rejection of an application for the asylum family reunification, the IND does not test whether the rejection is in contravention of Article 8 ECHR.⁷ A third-country national can always file an independent application for exercising his or her right to family life on grounds of Article 8 of the ECHR.⁸

In order to provide decision-makers with terms of reference in their assessment on whether a decision is in contravention of Article 8 ECHR, the IND has drawn up public working instructions regarding Article 8 ECHR.⁹ For more information about how the IND applies the Article 8 ECHR assessment, please refer to Annex V.

Article 3 International Convention on the Rights of the Child

In addition to Article 8 ECHR, article 3 UNCRC also affects the Dutch family reunification policy. Article 3 UNCRC stipulates that in the case of decisions by public authorities which affect children, the interests of the child must be the first consideration. Dutch immigration law does not contain an explicit reference to Article 3 UNCRC. The interests of the child are taken into account in the family reunification policy. It is included among other things in the 8 ECHR assessment (see Annex V).¹⁰

5 IND (2015). Werkinstructie 2015/4 – Richtlijnen voor de toepassing van artikel 8 EVRM (Working Instruction 2015/4 - Guidelines for applying Article 8 ECHR). https://ind.nl/Documents/WI_2015-4.pdf Consulted on 14 April 2017.

6 Other exceptions in which a decision by the IND is not routinely subjected to an 8 ECHR assessment are: refusal of a residence permit application submitted later than 6 months after entry into the Netherlands, the revocation of the permanent asylum residence permit.

7 IND (2015). Werkinstructie 2015/4 – Richtlijnen voor de toepassing van artikel 8 EVRM (Working Instruction 2015/4 - Guidelines for applying Article 8 ECHR) https://ind.nl/Documents/WI_2015-4.pdf. Consulted on 14 April 2017.

8 Ibidem.

9 Ibidem.

10 Ibidem.

Box 2. Private member's bill on entrenching the interests of the child in immigration law.

In September 2016, two political parties, GroenLinks [Green Left] and Partij van de Arbeid [Labour Party], have tabled a private member's bill aiming to entrench the interests of the child in Dutch immigration law.

The proposers of the bill consider that the interests of children in immigration law proceedings are outweighed by other interests, or even ignored. In particular, the standard in Article 3 of the International Convention on the Rights of the Child (UNCRC), in their opinion, is inadequately implemented in concrete terms in Dutch migration policy.

The private member's bill envisages establishing separate grounds for acceptance, on the basis of which a residence permit is granted to a minor third-country national or one of his/her parents in the event that the interests of the minor third-country national would be harmed due to the absence of granting a residence permit. In the current situation, the IND weighs up the interests of the child when taking decisions, but those are not separate grounds for granting. This means that even if the interests of the child are undermined by a decision of the IND, the IND may still take this decision if other interests weigh more heavily (for example, the interests of the Dutch State that, as far as possible, admitted third-country nationals are able to provide for their own subsistence). By including a specific provision in the law regarding the interests of the child, according to the applicants the judiciary is in a better position to assess whether the IND takes sufficient account of the interests of the child in its decisions. The bill pertains to both regular and asylum procedures.

The bill has been submitted to the Council of State for advice and has yet to be dealt with in the Upper and Lower House.

Source: *Parliamentary Papers II, year of session 2015-2016, 34541 no. 3.*

2.1.2 European Law

An important source of family reunification policy of EU member states is the 2003 European Family Reunification Directive (2003/86/EC). This Directive aims to "determine the conditions for exercising the right to family reunification by third-country nationals who stay legally in the territory of the Member States".¹¹ The Directive includes legal frameworks on which the Member States bound to the Directive must base their national laws and regulations. In addition to these legal frameworks, numerous discretionary provisions have also been included in the Directive, which allow Member States to choose whether or not to implement these provisions in national legislation. The Netherlands implemented the Family Reunification Directive in its national law on 29 September 2004.¹²

11 Directive No. 2003/86/EC of 22 September 2003, Article 1

12 Decree of 29 September 2004, Bulletin of Acts and Decree 496

The Directive applies to third-country nationals stay legally in an EU Member State on the basis of a residence permit. This also includes beneficiaries of international protection. For beneficiaries of international protection, the Family Reunification Directive provides favourable conditions for family reunification. The Member States bound by the Directive may choose to apply these favourable conditions for beneficiaries of subsidiary protection.¹³

The Directive prescribes in any case which family members are eligible for family reunification (Article 4). The further elaboration of the Directive discusses how the application must be submitted (Article 5) and addresses the various conditions for exercising the right to family reunification (Article 6). Chapter 5 of the Directive describes the special - favourable - conditions for asylum family reunification.¹⁴

On 3 April 2014, the European Commission published guidelines for the interpretation and application of the Family Reunification Directive.¹⁵ The guidelines are the outcome of a discussion launched by the Commission in 2011 with the publication of the Green Paper¹⁶ on the Family Reunification Directive. This Green Paper raised questions and discussion points on the directive and invited Member States, NGOs and international organisations to respond to this. In the Netherlands, publication of the guidelines did not lead to actual policy changes. However, the guidelines are used in the judicial system in the Netherlands. They provide a reference point for the interpretation of the directive.

2.1.3 National Laws and Legislation and Policy

The legal provisions on family reunification in the Netherlands are available in the Aliens Act 2000, the Aliens Decree 2000, the Aliens Regulations 2000. In addition, a number of policy rules with regard to family reunification policy in the Netherlands are further elaborated in the Aliens Act Implementation Guidelines 2000. Furthermore, the IND has drawn up a number of working instructions on various subjects which provide decision-makers terms of reference in the implementation of policy rules.

13 International asylum law acknowledges two different types of protection: refugee status and subsidiary protection.

A refugee is a third-country national who, "on account of a well-founded fear of persecution for reasons of race, religion, nationality, political conviction or belonging to a particular social group, is outside the country of which he/she possesses the nationality and on account of this well-founded fear of persecution, does not want to invoke protection from that country." Subsidiary protection is granted if compelling grounds exist for believing that if the asylum seeker were to return to his/her country of origin, he or she would run a real risk of serious harm, such as the death penalty or a serious and individual threat to life as a result of indiscriminate violence in the context of an armed conflict.

14 Directive No. 2003/86/EC of 22 September 2003

15 European Commission (2014). Notification from the Commission to the Council and the European Parliament on guidelines for applying Directive 2003/86/EC on the right to family reunification': Brussels: European Commission..

16 European Commission (2011). Green Paper on the right to family reunification of third-country nationals staying in the European Union (Directive 2003/86/EC). Brussels: European Commission..

2.2 General Characteristics of the Dutch Family Reunification Policy

2.2.1 *Distinction between Regular Family Reunification and Asylum Family Reunification*

Dutch family reunification policy distinguishes between family reunification for a holder of a regular residence permit (for example a highly skilled migrant working in the Netherlands) and family reunification for holders of an asylum residence permit. The second type of family reunification is called 'asylum family reunification' in the Netherlands. Asylum family reunification is a special type of family reunification which aims to reunite the beneficiary of international protection in the Netherlands with his or her family, as it existed at the time of the beneficiary entering the Netherlands. Requirements are less stringent than for regular family reunification: There is no income requirement, no fees are charged, no civic integration examination abroad is required and no regular provisional residence permit (MVV) requirement applies (for more information about the requirements see [paragraph 3.3](#)). Also, the definition of family members eligible for asylum family reunification is slightly wider than for regular family reunification (see [paragraph 3.1](#)). Furthermore, persons who come to the Netherlands for asylum family reunification are granted an asylum residence permit and persons coming to the Netherlands for regular family reunification get a regular residence permit. See [Table 1](#) for an overview of the differences between regular family reunification and asylum family reunification

In order to be eligible for asylum family reunification, the beneficiary of international protection must submit the application within three months¹⁷ after receiving his or her asylum residence permit.¹⁸ If this is not done or if the conditions are not met, the beneficiary of international protection can submit an application for regular family reunification or for purpose of residence on grounds of Article 8 ECHR. See the [Table](#) below for an overview of the differences between regular family reunification and asylum family reunification

¹⁷ By 2016, the government proposed to extend the submission deadline from three-months to six months. However, the bill has not yet been adopted by the Upper and Lower House.

¹⁸ Section 29(4) of the Aliens Act

Table 1. Differences between regular family reunification and asylum family reunification

>>> Please note: Further conditions and exemptions often apply to the rules listed in the table. These are explained in the respective paragraphs. <<<

		Regular family reunification	Asylum family reunification	See paragraph
Conditions	Waiting time of 1 year for the sponsor	Yes	No	3.3.1
	Income requirement	Yes	No	3.3.2
	Submission deadline	No	Yes, three months	3.3.3
	Residence permit for family formation	Yes	No	2.2.3
	Age requirement	Yes, 21 years for both partners	Yes, 18 years for both partners	3.1
	Adult children are eligible under national policy	No	Yes	3.2.3
	Parents of minor children are eligible under national policy	No	Yes	3.2.4
	Mandatory civic integration abroad	Yes	No	3.3.4
Procedure	Fees	Yes	No	4.3
	Subject to MVV requirement	Yes	No	4.1
	Procedure for obtaining a permit in the Netherlands	Collect permit at IND desk	Multi-day procedure at reception centre	4.3
Other differences	Type of residence permit	Regular residence permit	Asylum residence permit	2.2.1
	Loan for successful civic integration in the Netherlands must be repaid	Yes	No	6.1.3
	Access to labour market	Depending on the type of permit of the sponsor	Yes	6.2
	Public funds may be claimed	No	Yes	6.2

2.2.2 *The one-status system*

A special feature of the Dutch asylum seeker system is the one-status system. The one-status system was introduced in 2001, which means that no distinction is made between refugees and beneficiaries of subsidiary protection as regards the residence status. Both groups receive the same type of residence permit: which is the temporary asylum residence permit, with the same conditions and rights. Unlike in other countries, in the Netherlands, the Family Reunification Directive is applied for both refugees and beneficiaries of subsidiary protection. A major advantage of the one-status system is that asylum seekers have no reason to 'continue legal proceedings'. To them a refugee status is not more attractive than subsidiary protection, because both offer the same rights. Since its introduction in 2001, the one-status system has helped to simplify the asylum procedure, reduce administrative burdens and prevent delays caused by the continued legal proceedings.

2.2.3 *Family Reunification and Family Formation*

In the Netherlands, stay can be allowed both for family reunification as well as for family formation. The two terms are defined as follows:¹⁹

- Family reunification: The family relationship between the family member and the sponsor staying in the Netherlands already existed before the sponsor received a residence permit in the Netherlands.
- Family formation: The family relationship between the family member and the sponsor staying in the Netherlands arose after the sponsor received a residence permit in the Netherlands.

Conditions for admission for family reunification and family formation are the same. However, the favourable conditions for asylum family reunification (e.g. no income requirement, no fees) only apply to family reunification and not for family formation.²⁰ Beneficiaries of international protection who wish to apply for family formation, must submit a regular application and meet more stringent conditions (e.g. income requirement).

¹⁹ Article 1.1 of the Aliens Decree

²⁰ So the Netherlands makes use of the leeway provided by the Directive to restrict family reunification for refugees to family ties that already existed before entry (see Article 9, paragraph 2 of the Family Reunification Directive).

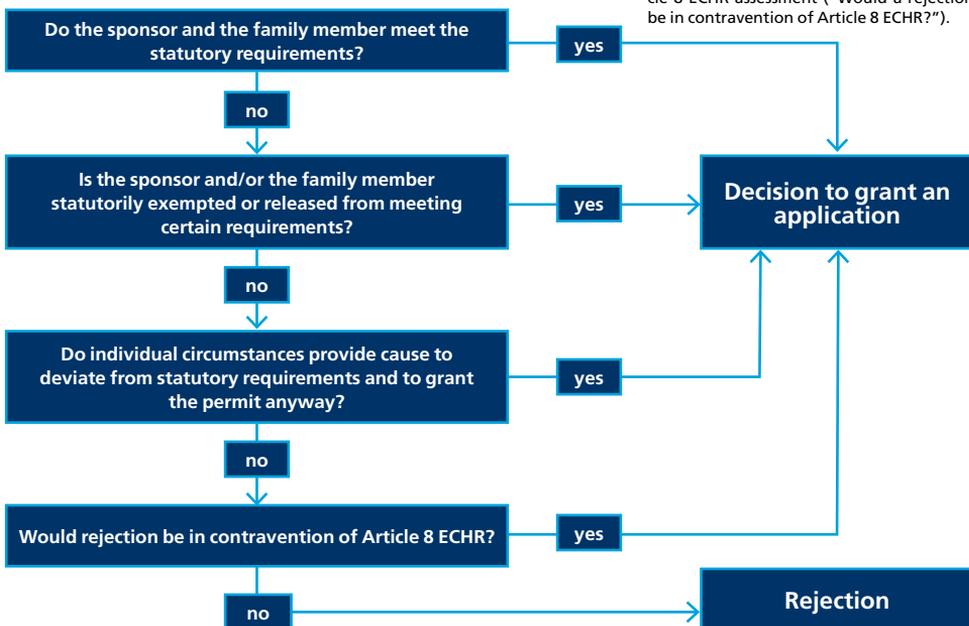
3 CONDITIONS FOR FAMILY REUNIFICATION

This chapter focusses on the various conditions that apply to family reunification. First of all, we address who can act as a sponsor and which family members are eligible for family reunification. Next, for both regular family reunification and for asylum family reunification, it is explained what conditions must be met before a family member can come to the Netherlands. The various exemptions that are possible to these conditions are also taken into account.

In order to qualify for family reunification, the applicant and the family member have to meet certain conditions. If the applicant and the family member cannot meet one or more of the conditions, the IND will assess for each condition whether legal options are available to derogate from the condition, or whether individual circumstances provide cause to derogate from the condition.²¹ If national regulations do not provide scope for granting a residence permit, the IND assesses - in the case of a regular application - whether a rejection would be in contravention of Article 8 ECHR (see Annex V).²² On assessing applications for family reunification, the IND generally takes the matters shown in figure 2 into consideration.

Figure 2. Assessment of applications by the IND

NB. For applications for asylum family reunification, the IND does not conduct the Article 8 ECHR assessment ("Would a rejection be in contravention of Article 8 ECHR?").



21 Appendix to Proceedings 2013-2014, No. 8898

22 IND (2015). Werkinstructie 2015/4 – Richtlijnen voor de toepassing van artikel 8 EVRM (Working Instruction 2015/4 - Guidelines for applying Article 8 ECHR). https://ind.nl/Documents/WI_2015-4.pdf Consulted on 14 April 2017.

3.1 Who may apply for family reunification?

Only foreign nationals who stay lawfully in the Netherlands may apply for family reunification.^{23 24} The third-country national staying in the Netherlands who wants a family member to come to the Netherlands, is referred to as the 'sponsor'. Not every third-country national who stays legally in the Netherlands can apply for family reunification. We will clarify below who may act as a sponsor for family reunification or asylum family reunification.

3.1.1 Regular family reunification

The Aliens Act 2000 stipulates which third-country national may act as a sponsor for family reunification. The sponsor must:²⁵

- be 21 years of age or older;²⁶
- Have right of residence in the Netherlands as meant in Section 8, under a to e, or l, of the Aliens Act 2000;
- Have a non-temporary purpose of residence within the meaning of Article 3.5 of the Aliens Decree 2000, or have a temporary purpose of residence within the meaning of B7 2.2 of the Aliens Act Implementation Guidelines 2000.

In practice, this means that a third-country national can act as a sponsor in family migration cases if he or she is in possession of a residence permit for:²⁷

- Working in employment;
- Working on a self-employed basis;
- Working as a highly skilled migrant;
- Working as non-privileged military personnel or non-privileged civilian personnel;
- Scientific researcher within the meaning of European Directive 2005/71/EC;
- Holder of the European Blue Card;
- Study;
- Seeking and undertaking of work whether or in employment or not;
- Cross-border services;
- Transfer within a company;
- Stay as a family or family member;
- Medical treatment;
- Awaiting a decision on grounds of Section 17 of the Netherlands Nationality Act;
- Stay as an economically inactive long-term resident or wealthy foreign national (only if the sponsor stays as a wealthy foreign national);
- Temporary humanitarian grounds (with the exception of staying as an unaccompanied minor);

23 Section 2a(1) b of the Aliens Act

24 Persons who have the Dutch nationality may also apply for family reunification. However, this group falls beyond the scope of this report and is therefore not addressed.

25 Article 3.15(1)(b) of the Aliens Decree

26 Family reunification of marriage partners is also possible if, at the time of application, the sponsor and the family member are 18 years and when a marriage has already existed before entry (see Article B7 3.1.2 of the Aliens Act Implementation Guidelines).

27 Article 3.15(1)(b) of the Aliens Decree; Article 3.5 of the Aliens Decree; Article B7/2.2 of the Aliens Act Implementation Guidelines

- Non-temporary humanitarian grounds;
- Legal stay pursuant to Section 8 (e) of the Aliens Act 2000 (EU right of stay relating to the right to free movement of persons);
- EU residence permit for long-term residents
- Temporary asylum residence permit
- Permanent asylum residence permit
- Permanent regular residence permit

Persons with the following purposes of stay cannot act as a sponsor:

- Seasonal labour;
- On-the-job learning (e.g. internship);
- Exchange.

3.1.2 *Asylum family reunification*

Anyone with an asylum residence permit can act as a sponsor for asylum family reunification, including minors.²⁸ However, the sponsor must submit the application for asylum family reunification of his/her family members within three months after he or she has obtained a residence permit.²⁹ An age requirement of 18 years applies for asylum family reunification with a partner, and not 21 years as applies for regular family reunification.³⁰

3.2 Which family members may come to the Netherlands by means of family reunification?

In the Netherlands, in principle, only the nuclear family is eligible for family reunification. The nuclear family consists of the partner or marriage partner of the sponsor and his or her minor children and the minor children of his or her partner.³¹ In the case of a asylum family reunification, adult children and parents of adult children also qualify.³² No policy has been laid down in Dutch laws and regulations in respect of all other family members, such as grandparents, uncles and aunts. However, all family members of holders of residence permits in the Netherlands may submit an application for family reunification by relying on the right to family life, as described in Article 8 ECHR. Asylum family reunification is restricted to persons who already belonged to the sponsor's family before the sponsor entered the Netherlands.³³

Table 2 summarizes which family members, in principle, are eligible for family reunification or asylum family reunification under national policy. This does not include persons who do not qualify under national policy, but do qualify under Article 8 ECHR.

28 Section 29(2) of the Aliens Act

29 Section 29(4) of the Aliens Act

30 Article C2/4.1 of the Aliens Act Implementation Guidelines

31 Source: *Parliamentary Papers II*, 2011-2012, 32175, no. 21

32 Section 29(2) of the Aliens Act

33 Section 29(2) of the Aliens Act

Table 2. Which family members are eligible under national policy?

	Is this family member eligible for family reunification or asylum family reunification under national policy (not 8 ECHR)?		
	Regular family reunification	Asylum family reunification	See paragraph
Partners	yes	yes	3.2.1
Minor children	yes	yes	3.2.2
Adult children	no	yes	3.2.3
Parents of minor children	no	yes	3.2.4
Parents of adult children	no	no	3.2.5
Other family members	no	no	3.2.6

The following paragraphs explain for each family member whether they can use family reunification or asylum family reunification as a reason to come to Netherlands.

3.2.1 Partners

Regular family reunification

If all conditions are met, the sponsor may have his or her partner come over to the Netherlands. This may be a marriage partner, registered partner or non-married/non-registered partner who has a lasting and exclusive relationship with the sponsor.³⁴ The same rules apply to relationships between partners of the same gender.

If the marriage between the sponsor and his or her partner has been ended legally or is in fact broken³⁵ or there is a bogus relationship,³⁶ family reunification is not possible.

Polygamy is not allowed in the Netherlands. If the sponsor has simultaneously joined with more than one other person in matrimony or partnership, the IND only grants a residence permit for family reunification to one partner and the children born from the relationship with this partner.³⁷

Asylum family reunification

The above mentioned rules also apply to asylum family reunification.

3.2.2 Minor children

Regular family reunification

The sponsor may also have his or her minor children come over to the Netherlands.³⁸ These may be both biological children and adoptive children.³⁹ The same applies to children from a previous relationship of the partner or marriage partner of the sponsor.

34 Article 3.14 of the Aliens Decree

35 Article B7/3.1.5 of the Aliens Act Implementation Guidelines

36 Article B7/3.1.1 of the Aliens Act Implementation Guidelines

37 Article 3.16 of the Aliens Decree

38 Article 3.14(c) of the Aliens Decree

39 Article B7/3.6.4 of the Aliens Act Implementation Guidelines; An adoption child is a legally accepted child.

In addition, foreign adopted children⁴⁰ may qualify for stay with the prospective adoptive parent (sponsor), when certain conditions are met.⁴¹ Foreign foster children⁴² may also qualify for stay with the prospective adoptive parent (sponsor), when certain conditions are met.⁴³

A conditions for family reunification with minor children (biological and adoptive children) is that the child factually belongs to the sponsor's family and was in the sponsor's custody.⁴⁴ Family relationships must be demonstrated with documentation. If that is not possible, the IND can offer DNA testing or an identification interview. If there are certain contra-indications, the IND may assume that a child actually does not belong to the sponsor's family.^{45,46} Contra-indications are, for example, if the child lives independently or provides for its own subsistence. Other conditions apply for adoptive and foster children.⁴⁷

Asylum family reunification

The above mentioned rules also apply to minor children for asylum family reunification. In addition, non-biological children who do not fall under the definition of adoptive children, such as foster children, may be eligible for asylum family reunification. The condition for this, in any case, is that the foster children have been part of the sponsor's family before the sponsor's entry into the Netherlands and are still part of the family at the time of the application.⁴⁸

3.2.3 Adult children

Regular family reunification

In principle, adult children do not qualify for regular family reunification based on national policy. They may rely on the right to conduct family life based on an Article 8 ECHR assessment (see [Annex V](#)). Part of this assessment involves an analysis of whether there is family life (see [Annex V](#), [Step 2](#) of the 8 ECHR assessment). The IND assumes that there is family life if there is a 'more than usual relationship of dependence' between the adult child and his/her parents, for example, if the child is seriously ill and has to be taken care of by the parents.⁴⁹ In addition, the IND also assumes that family life exists within the

40 Foreign adoptive children are non-Dutch minor children born outside the Netherlands, who are cared for in the Netherlands with a view to adoption in a family or will be cared for and brought up in such circumstances that the carers substitute the parents.

41 Article 3.26 of the Aliens Decree; Article B7/3.6.1 of the Aliens Act Implementation Guidelines; Article B7/3.6.2 of the Aliens Act Implementation Guidelines; Article 3.27 of the Aliens Decree; Article B7/3.6.3 of the Aliens Act Implementation Guidelines

42 Foreign foster children are non-Dutch minor children who, for reasons other than adoption and in their interests, are brought to the Netherlands and placed in a foster family where foster parents actually substitute the biological or legal parents

43 Article 3.28 of the Aliens Decree; Articles B7/3.7.1 and B7/3.7.2 of the Aliens Act Implementation Guidelines

44 Article 3.14(c) of the Aliens Decree

45 Article B7/3.2.1 of the Aliens Act Implementation Guidelines

46 Article C2/4.1 of the Aliens Act Implementation Guidelines

47 See Article 3.26 of the Aliens Decree; Article B7/3.6.1 of the Aliens Act Implementation Guidelines; Article B7/3.6.2 of the Aliens Act Implementation Guidelines; Article 3.27 of the Aliens Decree; Article B7/3.6.3 of the Aliens Act Implementation Guidelines; Article 3.28 of the Aliens Decree; Article B7/3.7.1 of the Aliens Act Implementation Guidelines; Article B7/3.7.2 of the Aliens Act Implementation Guidelines

48 Article C2/4.1 of the Aliens Act Implementation Guidelines

49 Article B7/3.8.1 of the Aliens Act Implementation Guidelines

meaning of Article 8 ECHR, without the requirement that there is a more than usual relationship of dependence, if the adult child:⁵⁰

- Is a young adult (18 to about 25 years old);
- has actually always belonged to the parents' family (for example, they have lived together); and
- still belongs to the parents' family.⁵¹

The IND assesses in each individual case whether there is any reason for the conclusion that the child has always belonged to the parents' family in fact and still belongs to it.⁵² Again, contra-indications are considered, such as the fact that the child lives independently or provides for its own subsistence.⁵³

If family life within the meaning of Article 8 ECHR is assumed, then the IND assesses on the basis of a weighing up of interests of the individual and of the Dutch state whether such family life is allowed in the Netherlands (see Annex V, **step 3** of the Article 8 ECHR assessment).

Asylum family reunification

For asylum family reunification, adult children are eligible for family reunification under national policy when they meet the conditions, and there is no need to invoke Article 8 ECHR. Similar to regular family reunification, the adult child must actually belong to the sponsor's family, but in this case, a normal relationship of dependence between the sponsor and his or her adult child is sufficient to demonstrate the actual family relationship. It is also taken into account whether the child has always belonged to the sponsor's family and that the actual family relationship has not been broken. It will also be assessed whether any contra-indications exist (similar to the assessment whether there is family life within the meaning of Article 8 ECHR).⁵⁴

Box 3. Public debate on family reunification of adult children with their parents

In 2014, 2015 and 2016, the debate on asylum family reunification of adult children flared up several times. At the end of 2014, NOS (Dutch national broadcasting company), referring to the UN refugee organisation UNHCR, reported that about thirty Syrian refugee families had to leave an adult child behind in Syria or Lebanon, because they were not eligible for family reunification under the conditions in force at that time.⁵⁵ In January

50 IND (2015). Werkinstructie 2015/4 – Richtlijnen voor de toepassing van artikel 8 EVRM (Working Instruction 2015/4 - Guidelines for applying Article 8 ECHR). https://ind.nl/Documents/WI_2015-4.pdf. Consulted on 14 April 2017.

51 Decision by the Minister for Migration of 4 September 2016, number WBV 2016/11, comprising changes to the Aliens Act Implementation Guidelines 2000, Government Gazette 46741.

52 Article B7/3.8.1 of the Aliens Act Implementation Guidelines

53 Article B7/3.8.1 of the Aliens Act Implementation Guidelines

54 Decision by the Minister for Migration of 21 July 2015, Government Gazette 22872

55 NOS. (2014). Beleid gezinshereniging pakt soms naar uit. (Family reunification policy sometimes has unwelcome repercussions) <http://nos.nl/artikel/2008525-beleid-Family-reunification;pakt-soms-naar-uit.html>. Consulted 7 December 2016

2015, parliamentary questions were posed about the news report to the Minister for Migration.⁵⁶ In May 2015, the Minister for Migration announced an easing of the asylum family reunification policy for adult children.⁵⁷ Following this, the policy was amended in 2016 also to allow family reunification of adult siblings if the minor has received an asylum status in the Netherlands, so that an adult brother or sister would not be left behind in the country of origin.

3.2.4 Parents of minor children

Regular family reunification

Parents of minor children who have a residence permit in the Netherlands are not eligible for family reunification on the basis of national policy. They may rely on the right to conduct family life based on an Article 8 ECHR assessment (see [Annex V](#)).

Asylum family reunification

Unaccompanied minors with an asylum permit can apply for asylum family reunification within three months after being granted an asylum residence permit, to allow their parents to come to the Netherlands. However, the sponsor may not have reached the age of 18 at the time of submitting the application.⁵⁸ Here too, upon entry into the Netherlands, the parents must actually belong to the family of the sponsor (the UAM), and the actual family relationship must not have been broken.⁵⁹

3.2.5 Parents of adult children

Regular family reunification

Parents of adult children are not eligible for regular family reunification based on national policy. They may apply for the right to conduct family life based on an Article 8 ECHR assessment (see [Annex V](#)). In order to be able to assume family life within the meaning of Article 8 ECHR, there must be a more than usual relationship of dependence between the parent and the adult child.⁶⁰ A more than usual relationship of dependence would exist, for example, in the case of medical or psychological problems, and without the care of the adult family member, the parent would not be able to function.⁶¹

If family life within the meaning of Article 8 ECHR is assumed, then the IND assesses on the basis of a weighing up of interests between the interests of the individual and of the Dutch state, whether that family life is allowed in the Netherlands (see [Annex V](#), [step 3](#) of the Article 8 ECHR assessment).

Asylum family reunification

Parents of adult children are not eligible for regular family reunification based on national policy. They may rely on the right to conduct family life based on an Article 8 ECHR assessment (see [Annex V](#)).

⁵⁶ *Parliamentary Papers II*, 2014-2015, Annex number 993

⁵⁷ *Parliamentary Papers II*, 2014-2015, 32 175 no. 57

⁵⁸ Section 29c of the Aliens Act

⁵⁹ Article C2/4.1 of the Aliens Act Implementation Guidelines

⁶⁰ Article B7/3.8.1 of the Aliens Act Implementation Guidelines

⁶¹ IND (2015). Werkinstructie 2015/4 – Richtlijnen voor de toepassing van artikel 8 EVRM (Working Instruction 2015/4 - Guidelines for applying Article 8 ECHR). https://ind.nl/Documents/WI_2015-4.pdf. Consulted on 14 April 2017.

3.2.6 *Other family members*

Other members of the sponsor's family, such as grandparents, siblings, uncles, aunts, and cousins, are not eligible for family reunification based on national policy. They may rely on the right to conduct family life based on an Article 8 ECHR assessment (see [Annex V](#)). In order to be able to assume family life within the meaning of Article 8 ECHR, there must be a more than usual relationship of dependence between the family members. Siblings of a minor sponsor may submit an application for for the right to conduct family life based on an Article 8 ECHR assessment, but this does not necessarily require a more than usual relationship of dependence.

If family life within the meaning of Article 8 ECHR is assumed, then the IND assesses on the basis of a weighing up of interests between the interests of the individual and the Dutch state, whether that family life is allowed in the Netherlands (see [Annex V](#), [step 3](#) of the Article 8 ECHR assessment).

3.3 Which conditions must be met?

The sponsor and the family member who qualify for family reunification on the basis of national policy must meet a number of general conditions such as the income requirement or the civic integration requirement abroad. The following paragraphs clarify the various general conditions for family reunification.

3.3.1 *One year waiting time for the sponsor*

Regular family reunification

When a sponsor wants a family member to come to the Netherlands and the sponsor has a non-temporary purpose of residence within the meaning of the Civic Integration Decree,⁶² the condition applies that the sponsor must have stayed in the Netherlands for a period of at least one year on the basis of a residence permit prior to applying for family reunification.⁶³ Beneficiaries of international protection have a non-temporary purpose of residence, but are excluded from this condition. In practice, therefore, the waiting time applies to a limited group of sponsors.

The underlying thought of a waiting time, is that it will be easier for the sponsor's family member to integrate properly if the sponsor him/herself has already integrated to some extent.⁶⁴

Asylum family reunification

No waiting time applies for beneficiaries of international protection.

3.3.2 *Income requirement*

Regular family reunification

A condition for regular family reunification is that the sponsor must have sufficient financial means to support himself and his family members and does not rely on public funds.

62 For more information see: <https://ind.nl/Paginas/Tijdelijke-verblijfsdoelen.aspx>. Consulted on 14 April 2017.

63 Article 3.15 of the Aliens Decree

64 *Parliamentary Papers II*, 2011-2012, 32175, no. 29

The income requirement means that the sponsor must prove that he or she has sufficient independent, stable and regular income.⁶⁵ An income is considered as being sufficient if it is equal to or higher than the applicable statutory minimum wage.⁶⁶ On 1-1-2017, it was EUR 1,551.60 gross per month excluding holiday allowance for married couples and unmarried cohabitants and EUR 1,086.12 gross for single parents.⁶⁷ These amounts are adjusted every six months. In this, it is not relevant how many family members are coming to the Netherlands for reunification: this amount remains the same. Income can be generated from four different sources, namely: legally permissible work in employment, legally permissible work as a self-employed person, income replacement benefits or own capital. In respect of the above-mentioned incomes, it is important that they are at least considered independent provided the required social security contributions and taxes have been paid.⁶⁸ As such, the sponsor must also be able to show that his or her income is stable and regular. An income is identified as being stable and regular, if the income is available for at least one year after the application for family reunification.⁶⁹ If the sponsor has no income for at least one year, the income is also regarded as stable and regular if the applicant has met the income requirement in the year preceding the application and at the time of submission. In addition, the income must be available for at least six months in the future.⁷⁰

There are possible exceptions in which the 100% minimum wage requirement need not be met: when the sponsor has reached the pensionable age, the sponsor is permanently unable to fulfil the obligation to comply with integration into the workforce, or when the sponsor is fully and permanently incapacitated for work.⁷¹ Also, if the sponsor has a residence permit on temporary humanitarian grounds which relates to trafficking in human beings or honour-related violence or domestic violence, then he/she is exempted from the income requirement.⁷² In addition, failing to meet the income requirement does not automatically mean that the application will be rejected.⁷³ If the sponsor fails to meet the income requirement, the IND always checks whether individual circumstances provide cause to deviate from this condition and to grant the application anyway (see also figure 2).⁷⁴

The IND verifies by means of various documents to be submitted by the sponsor, whether the sponsor meets the income requirement. The documents to be submitted by the sponsor depend on the type of income. For example, people who have an employment contract for at least one year must submit an employment contract, an Employer's Declaration and payslips of the past three months.⁷⁵ If the sponsor's employment contract is

65 Article 3.2 of the Aliens Decree

66 Article 3.7 of the Aliens Decree

67 For more information see: <https://ind.nl/paginas/inkomen.aspx>. Consulted on 14 April 2017.

68 Article 3.73 of the Aliens Decree

69 Article 3.75(1) of the Aliens Decree

70 Article 3.75(3) of the Aliens Decree

71 Article B7/2.1.1 of the Aliens Act Implementation Guidelines

72 Article C2/2.1.1 of the Aliens Act Implementation Guidelines

73 *Parliamentary Papers II*, 2014-2015, 30573, no. 127

74 *Parliamentary Papers II*, 2014-2015, 30573, no. 127

75 IND. Application form for the purpose of residence of 'Relatives and Family' (sponsor)]. <https://ind.nl/Formulieren/7018.pdf>. Consulted on 14 April 2017.

valid for less than one year, these documents must be submitted for the past year. In addition, documents must be submitted showing that the income will still be available for six months.^{76 77}

Asylum family reunification

Beneficiaries of international protection who submit an application for asylum family reunification within three months after being granted the protection status, do not have to meet the income requirement.⁷⁸ When this term has expired and they still want to submit an application for regular family reunification, then the income requirement does apply.⁷⁹

3.3.3 Submission deadline

Regular family reunification

There is no submission deadline for regular family reunification. The sponsor can always submit an application.

Asylum family reunification

Beneficiaries of international protection must submit their application for family reunification within three months in order to take advantage of the favourable conditions of asylum family reunification (such as the absence of a waiting period, no income requirement and exemption from the civic integration requirement abroad).⁸⁰ The Family Reunification Directive offers the possibility to set this three-month requirement, reflecting the importance of a rapid family reunification for beneficiaries of international protection. When this term expires and the sponsor still wants to bring family members to the Netherlands, the sponsor can submit a regular application for family reunification and must comply with all relevant conditions.

Only in exceptional cases can the IND consider processing a late application, namely if exceeding the deadline by the sponsor can be considered as excusable. In this 'excusability test', the IND assesses three factors, namely the sponsor's efforts, the efforts of third-party organisations (such as the Dutch Council for Refugees and NIDOS foundation⁸¹) and whether there had been circumstances beyond one's control.

In cases where the application for asylum family reunification has been submitted too late and exceeding the deadline is considered as non-excusable, family reunification is still possible by submitting a regular application for family reunification. If the regular conditions are not met, an Article 8 ECHR assessment takes place.⁸²

76 Ibidem.

77 A detailed overview of the required documents can be found in the Annex 'Supporting documents of income' of the application form 'Application for the purpose of residence of 'relatives and family' (sponsor)'.

78 Article B7/2.1.1 of the Aliens Act Implementation Guidelines

79 Mark Klaassen. (2015). The right to family unification: Between Migration Control and Human Rights Klaassen. p.258

80 Section 29(4) of the Aliens Act

81 The NIDOS Foundation provides legal guardianship of single unaccompanied minors in the Netherlands.

82 *Parliamentary Papers II*, 2013-2014, 33293, no. 21

Box 4. Extension of the submission deadline for asylum family reunifications from three to six months

On 23 September 2016, the Minister for Migration submitted a proposal to amend the Aliens Act 2000 relating to extending the submission deadline for applications for asylum family reunification from three to six months. The excusability test that the IND now uses to assess whether late applications will still be considered will probably be discontinued due to the proposed amendment.

The reason for the proposed amendment is that during the increased influx period (2015/2016) the submission deadline was exceeded in several cases. The reason for exceeding the deadline was often insufficient or incorrect information or miscommunications between the third-country national and the civil society organisation who counsels the third-country national during the asylum family reunification procedure (for example, the Dutch Council for Refugees and NIDOS Foundation). During the high influx period, the work-related stress for the employees and volunteers of these organisations was very high and which caused mistakes being made. By giving the third-country national and the supporting organisations more time to submit an application, it is expected that this will hardly ever occur in future.

Source: *Parliamentary Papers II*, 2016-2017, 34544, no. 3, Explanatory Memorandum

3.3.4 Civic integration examination abroad

Regular family reunification

In addition, the Netherlands has the condition for family reunification that the family member must have passed the civic integration examination abroad. The civic integration examination abroad examines basic knowledge of the Dutch language and of Dutch society. The examination is sat abroad and is a prerequisite to be able to enter the Netherlands.

The obligation to site the civic integration examination abroad was introduced on 15 March 2006 and its aim is to improve the integration of third-country nationals in the Netherlands.⁸³ By starting the civic integration process as early as possible, newcomers are encouraged to become more self-sufficient in Dutch society, to be aware of their rights and obligations, and to gain access to education and employment faster and thus being able to earn their own income.⁸⁴ In addition, this process must also make it easier for newcomers to enter into social relationships in their own environment and to prevent isolation.⁸⁵

The examination must be sat by third-country nationals from 18 years up to the pensionable age who want to form a family with someone in the Netherlands or who want to reunite with family members who already live in the Netherlands. Proof stating that the third-country national has passed the civic integration examination abroad must be

⁸³ *Parliamentary Papers II*, 2003-2004, 29 700, no. 3

⁸⁴ *Parliamentary Papers II*, 2015-2016, 32 005, no. 8

⁸⁵ *Parliamentary Papers II*, 2015-2016, 32 005, no. 8

submitted to the IND together with the application for the entry visa (MVV)⁸⁶(see [chapter 4](#) for more information on the procedure).

The civic integration examination abroad comprises three parts: Knowledge of Dutch Society, Speaking skills and Reading skills at level A1. The family member him/herself is responsible for preparing for the civic integration examination and is not required to follow any particular procedure. However, the Dutch authorities have prepared a tutorial package, which can be purchased or downloaded free of charge. In addition, a lot of free teaching material is available free of charge online.⁸⁷

There are a number of exceptions to the obligation to participate in a civic integration programme abroad. The following third-country nationals who wish to form a family with someone in the Netherlands or want to reunite with family members who already live in the Netherlands, are not required to sit the civic integration examination abroad:⁸⁸

- Family members under the age of 18;
- Family members of a sponsor who has an asylum residence permit;
- Family members of sponsors with a temporary purpose of residence as meant in the Civic Integration Decree;⁸⁹
- Third-country nationals that have the nationality of one of the following countries: Australia, Canada, Japan, Iceland, Liechtenstein, Monaco, New Zealand, Norway, United States, Vatican City, South Korea, Switzerland;⁹⁰
- Persons with the Surinamese nationality who have at least had primary education in the Dutch language in Surinam or the Netherlands;
- Persons with the Turkish nationality and persons want to stay with a sponsor who has the Turkish nationality as a marriage or registered partner;
- EU long-term resident;
- Third-country nationals holding certain diplomas or certificates (for example, a diploma for a course in the Dutch language, a state examination diploma for Dutch as a second language (NT2, etc.).

In addition, family members who cannot participate in the civic integration examination abroad (in whole or in part) can be absolved from the obligation to participate in the civic integration examination abroad, on the basis of special individual circumstances, for example, if there are any mental or physical impairments (e.g. deafness, blindness and deaf-mutism).

In the event that the family member does not meet the obligation to participate in the civic integration abroad and no exception applies, no MVV will be issued and the family member will not be able to enter the Netherlands.

86 An MVV is an entry visa for persons who intend to stay in the Netherlands for more than three months.

87 For more information see: https://kdw.ind.nl/KnowledgeRoot.aspx?knowledge_id=VDA_BasisexamenInburgering

88 For more information see: <https://ind.nl/Paginas/Basisexamen-inburgering-in-het-buitenland.aspx>

89 For more information see: <https://ind.nl/Paginas/Tijdelijke-verblijfsdoelen.aspx>.

90 Persons from these countries do not need an MVV and can therefore submit their application directly in the Netherlands. See paragraph 4.1.

Asylum family reunification

Passing the civic integration examination abroad is not a prerequisite for asylum family reunification.

3.3.5 Cohabitation requirement

Regular family reunification

An additional condition for family reunification is the cohabitation requirement. In order to qualify for family reunification, the sponsor and his/her family member must live together in the Netherlands.^{91 92} In the declaration of relationship that forms part of the application for regular family reunification, the sponsor and the family member must both declare that they will live together.

Asylum family reunification

The same rules apply for asylum family reunifications. Moreover, the partners must have lived together outside the Netherlands, or, alternatively, give a reasonable explanation why they did not live together outside the Netherlands.^{93 94}

3.3.6 Not being a danger to the public order or national security

Another condition for regular family reunification and asylum family reunification, which also applies to other purposes of residence, is that the family member does not constitute a danger to public order or national security.⁹⁵ An application can be rejected on grounds of public order if the family member is suspected of war crimes (as described in Article 1F of the Geneva Convention on Refugees), the sponsor is suspected of war crimes, or the family member has been convicted for a crime and sentenced to an unconditional prison sentence, juvenile detention, an unconditional fine or he/she has accepted an offer of an out-of-court settlement as a consequence of which a penalty order has been issued against him or her by a public prosecutor.⁹⁶ The IND investigates whether the family member poses a risk for public order or national security in the application for an MVV, or in the application for a regular residence permit, if the family member is exempted from the MVV requirement. In order to assess whether the family member poses a risk for public order or national security, the portal 'Basisvoorziening Informatie - Integrale Bevraging' [Database Information Access - Integral Inquiry, (BVI-IB)] is consulted during the application procedure. BVI-IB is an inquiry system for the operational work of the police, which is also used by the IND. The system enables the IND to generate information through a single inquiry from various national and international and regional databases.

3.3.7 Other conditions

In addition, the family member must have a valid border crossing document (for example, a passport).^{97 98 99} If the family member cannot hand over such a document, the

93 Article C2/4.1 of the Aliens Act Implementation Guidelines

94 Due to a recent ruling of the Council of State, the policy in respect of cohabitation may change soon.

95 Article 3.20 of the Aliens Decree

96 Article 3.77 of the Aliens Decree

97 Article 3.77 of the Aliens Decree

98 Article 3.19 of the Aliens Decree

99 For an asylum family reunification, in principle a copy of the passport or any other form of identification document must be handed over.

IND will assess whether the family member has made it plausible that he or she has been unable to meet the standards of evidence in respect of submitting the document (see also 4.4.3).¹⁰⁰ The family member must also be willing to undergo a tuberculosis examination (TB).¹⁰¹ Furthermore, the sponsor must provide a statement that he/she will act as a sponsor for the family member and will meet with the related obligations.¹⁰²

100 Article C1/4.4.6 of the Aliens Act Implementation Guidelines

101 Article 3.21 of the Aliens Decree

102 Article 3.22a of the Aliens Decree

4 THE APPLICATION PROCEDURE

This chapter maps out the application procedure for family reunification. Consecutively, the various steps that should be taken in the procedure will be dealt with; first of all, the Regular Provisional Residence Permit (MVV) will be addressed. Subsequently, the various steps in the procedure for regular family reunification and asylum family reunification we will discussed separately, and we will also address the documents that are required for the application. Finally, the duration of the procedure is discussed.

4.1 When is an entry visa required for a regular provisional residence permit (MVV)?

Since the entry into force of the Modern Migration Policy Act in 2013 the application for family reunification in the Netherlands, coincides in most cases with the application for a regular provisional residence permit, an MVV. This is the so-called Entry and Residence Procedure - the TEV procedure (see box 5). An MVV is an entry visa for persons who intend to stay in the Netherlands for more than three months. The substantive assessment of the application for family reunification takes places during the assessment of the MVV application. When the application is granted, the relevant person is entitled to enter the Netherlands. In principle, issuing an official residence permit in the Netherlands is then merely be a formality.

Box 5. Simplification of the procedure for family reunification in 2013

On 1 June 2013, the Modern Migration Policy Act came into effect. With this act the government wanted to accelerate and more effectively process the admission of migrants in the Netherlands. This modern migration policy pertains to regular residences purposes, such as employment, study, and also family reunification.

The Modern Migration Policy Act implemented a number of key amendments of the procedure for family reunification. First of all, the TEV procedure was introduced. This procedure combined applications for an MVV and a residence permit. After the MVV has been issued, the IND automatically grants the regular residence permit as soon as the third-country national has arrived in the Netherlands.^{103 104} The application for a residence permit may either be submitted by the sponsor in the Netherlands, or by the family member at one of the Dutch diplomatic representation offices. Due to the combination of procedures, fees will only be levied once.¹⁰⁵

A number of exceptions apply to the requirement of first having to apply for an MVV. Nationals from the following countries are exempted from the obligation to apply for an MVV prior to coming to the Netherlands: Australia, Canada, Japan, New Zealand,

¹⁰³ For an asylum family reunification, an additional application registration procedure takes place in the Veenhuizen reception centre (See paragraph 4.3.2.)

¹⁰⁴ In a number of cases, the residence permit is not granted ex officio. See Article B1/3.3.5.2 of the Aliens Act Implementation Guidelines

¹⁰⁵ IND (2013). Information notification on amendment of the migration policy as at 1 June 2013. https://ind.nl/documents/factsheet_ind_momi_2013.pdf. Consulted on 14 April 2017.

United States of America, South Korea, Monaco, Vatican City, Iceland, Norway, Switzerland and the EU Member States.¹⁰⁶ Besides, the MVV requirement need not apply in a number of special cases, e.g. if the family member is unable to apply for an MVV in his or her country of origin for health reasons.¹⁰⁷ Persons that are not subject to the MVV requirement can travel directly to the Netherlands and undergo the application procedure in the Netherlands.

Family members of **beneficiaries of international protection** are not obliged to first apply for an MVV either. In practice, this usually happens in order to allow for legal entry. Airlines will not admit third-country nationals without a valid border-crossing document – in this case a passport with an MVV – on their flights, since they risk getting fined by the Dutch state.

4.2 Who can submit the application and where?

Both the sponsor and the family member and an authorised representative can submit an application for family reunification or for asylum family reunification.¹⁰⁸ This can be done both in the Netherlands and in the country of origin or continuous residence.¹⁰⁹ When the application is submitted in the country of origin or continuous residence, it must be filed at a Dutch embassy or consulate in that country. In the absence of a Dutch embassy or consulate, it must be filed at the nearest embassy or consulate in a neighbouring country.¹¹⁰ If the sponsor has a residence permit as a highly skilled migrant, for research, study or working in employment, then the recognised sponsor¹¹¹ (e.g. the employer or research institute) can simultaneously submit the application for the sponsor and the application of the family member to the IND.

4.3 What are the steps of the procedure?

The application procedure for regular family reunification differentiates from the application procedure for a asylum family reunification. Figure 3 on page 44 schematically shows the procedures for an application for regular family reunification and a an application for a asylum family reunification. Both figures assume that an application for an MVV will be submitted prior to entry. Firstly, the paragraph below explains the procedure for regular family reunification for persons that are subject to the MVV requirement. Next, the differences between the procedures for regular family reunification and asylum family reunification are addressed. Persons who are not subject to the MVV requirement and who submit their application for family reunification in the Nether-

106 IND. Application form for the purpose of residence of 'Relatives and Family' (sponsor). <https://ind.nl/Formulieren/7018.pdf>. Consulted on 14 April 2017.

107 Ibidem.

108 Section 2s(1) of the Aliens Act

109 If the applicant is not resident in the country of origin but staying in another country (the country of continuous residence), the application may also be submitted there.

110 Section 2s(1) of the Aliens Act

111 The acknowledged sponsor of the sponsor means a legal person or undertaking, which acts as a sponsor for the family member who first came to the Netherlands. In practice, these are often employers of labour migrant or educational institutions of students. This legal person or undertaking, in the event that its employee or student wants family to come to the Netherlands, is responsible for submitting the application for family reunification.

lands, will also undergo the procedure as outlined in paragraph 4.3.1 , but it will take place in the Netherlands.

4.3.1 Regular family reunification

Submitting the application and payment of fees

In order to submit an application for family reunification, the IND requires various documents to be able to establish the identity and family relationship (see [paragraph 4.4](#)). The application form states which documents have to be submitted by the applicant together with the completed application form to the IND or to the Dutch diplomatic representation abroad. After submitting the application, the applicant will receive a letter from the IND or from the Dutch representation which states how fees have to be paid.¹¹² Fees are costs associated with an application for family reunification and these must be paid to IND. The fee for a residence permit (or renewal of a residence permit) for staying with a partner is EUR 237 in 2017.¹¹³ The same rate applies for applications of family members that invoke the right to conduct family life based on an Article 8 ECHR assessment. Fees for entry of a minor child are EUR 51.¹¹⁴ Persons that have insufficient means may apply for an exemption to pay fees, if they can demonstrate that they will not be able to pay the fees in any manner whatsoever.^{115 116} This applies to both persons that apply for a permit for regular family reunification as to persons that apply for a permit based on Article 8 ECHR.

Checking the application for incompleteness

Once the fees have been paid by the applicant and received by the IND, the IND processes the application. First of all, the IND will check whether the application is complete. If information or documents are missing, the IND will contact the applicant to request submission of the missing information and/or documents. This is done by telephone or by means of a letter, which is referred to as the 'Rectification of Omission Letter'.¹¹⁷ As of that time, the applicant has two weeks to forward the missing documents to the IND. If the sponsor and the family member are unable to substantiate the application with documentation, the IND can offer DNA testing or an identification interview (see [paragraph 4.4.3](#) for more information).

Decision

Next, the IND assesses whether the sponsor and the family member meet all the conditions (see [chapter 3](#) for an overview of the conditions). If the applicant and the family member cannot meet one or more of the conditions, the IND will assess for each condition whether legal options are available to derogate from the condition, or whether individual circumstances provide cause to derogate from the condition. If national regulations do not provide any scope for granting a residence permit, the IND assesses - in

¹¹² IND. Application form for the purpose of residence of 'Relatives and Family' (sponsor). <https://ind.nl/Formulieren/7018.pdf>. Consulted on 14 April 2017.

¹¹³ For more information see: <https://ind.nl/Paginas/Kosten.aspx..> Consulted on 14 April 2017.

¹¹⁴ Ibidem.

¹¹⁵ Ibidem.

¹¹⁶ Article 3.34a under j of the Aliens Regulations

¹¹⁷ For more information see: https://ind.nl/overig/Paginas/Verblifsdokument-beschadigd-kwijt-of-gestolen.aspx?pk_campaign=funnel-thema&pk_kwd=pos-3. Consulted on 14 April 2017.

case of a regular application - whether a rejection would be in contravention of Article 8 ECHR. (see [Annex V](#)). The applicant will be informed in writing of the IND's decision.

Possible objection and appeal.

In case of a negative decision, the applicant has the opportunity to file an application for review at the IND. This may apply to both the regular provisional residence permit (MVV) for a regular procedure and for asylum family reunification, as well as the application for a temporary regular residence permit without an MVV. An objection can be lodged by means of an application for review. This is a letter stating that the applicant does not agree with the IND's decision. It must be sent to the IND within four weeks of the date of the letter of rejection of the application. As of that time the objection phase starts. In some cases, a pending decision on the application for review may be awaited in the Netherlands, in other cases this must be awaited in the country of origin. It depends on whether the legal consequences of the negative decision - including the obligation to leave the Netherlands - are suspended during the objection phase. If the legal consequences are suspended, the objection phase may be awaited in the Netherlands. If the legal consequences are not suspended and the third-country national still wants to await processing of the application for review in the Netherlands, a request for that purpose can be lodged at the court for a provisional ruling (VOVO). If the VOVO is not granted, the application for review must still be awaited in the country of origin or continuous residence. If the VOVO is granted, processing of the application for review may be awaited in the Netherlands. Third-country nationals who are allowed to stay in the Netherlands pending the processing of the application for review, stay legally in the Netherlands.¹¹⁸

The IND will consider the application for review as soon as it has been received. A confirmation of receipt will be sent to the applicant indicating the date on which the application for review was received. It also states the time limit within which the IND has to make a decision. In principle, this is 19 weeks.¹¹⁹ Next, the IND will check whether the application for review is complete or whether some documents are missing. If this is the case, the IND will send a 'Rectification of omission' letter indicating the documents to be sent.¹²⁰ This must be returned to the IND within two weeks.¹²¹ Moreover, the IND may request the applicant to detail his or her objections in a hearing.

The IND decides whether the objection is well founded or unfounded within 19 weeks. If the objection is well founded, the applicant will receive a positive decision on the application. If the objection is unfounded, the application for review will be rejected. If the third-country national does not agree with the IND's decision in this case, an appeal can be lodged. In this case, an administrative court will consider the application for a residence permit or the MVV. The court assesses whether the application has been dealt with carefully, the decision complies with the laws and regulations, and whether the decision complies with the requirements of international treaties.¹²²

¹¹⁸ Section 8(h) of the Aliens Act

¹¹⁹ Section 76(1) of the Aliens Act

¹²⁰ The objection will only be considered substantively if it is admissible.

¹²¹ For more information see: <https://ind.nl/Paginas/Bezwaar-en-beroep.aspx>. Consulted on 14 April 2017.

¹²² For more information on the procedure of appeal at the District Court see: <https://www.rechtspraak.nl/Uw-Situatie/Onderwerpen/Gezinshereniging>. Consulted on 14 April 2017.

Issuance of regular provisional residence permit (MVV) and travel to the Netherlands

If the IND grants the application, the IND will inform the applicant and the Dutch representative abroad accordingly. Next, the sponsor or his family member will have three months to collect the MVV from the Dutch representation. During the visit to the representation, biometric data such as a passport photo and fingerprints will be taken too. The MVV is in the format of a sticker to be pasted in the family member's passport. The MVV is valid for 90 days. The family member can enter the Netherlands with the MVV sticker in his or her passport.¹²³

After arriving in the Netherlands

After arriving in the Netherlands, the family member can collect his or her residence permit at an IND Desk. The IND will inform the applicant as soon as the residence permit is ready. After the family member has received his or her residence permit, in some cases, support is also provided for registration at the municipality and, in some cases, he or she is subjected to a TB examination.¹²⁴

4.3.2 Asylum family reunification

Many steps in the regular family reunification procedure also apply to the asylum family reunification procedure. However, there are a number of differences. Firstly, no fees need to be paid for asylum family reunification. Secondly, and officially, the family members do not have to apply for an MVV. However, in practice this happens often, as this allows for legal entry into the Netherlands. Furthermore, in case of asylum family reunification, the applicant has four weeks (instead of two weeks) to provide the missing documents.

Besides, the procedure differs after arrival in the Netherlands. Unlike the regular procedure, the family member does not collect the residence permit at an IND Desk, but he or she will follow a multi-day registration procedure specifically for asylum family reunification at the Veenhuizen reception centre. The family member must report to the IND within three days after arrival in the Netherlands to schedule an appointment to collect the residence permit at the reception centre in Veenhuizen. At the reception centre various steps will be taken, including monitoring of biometric data, the family member will undergo a TB examination, and interviews will be held by the IND, COA and the municipality. In addition, for those who seek asylum family reunification will be registered in the Municipal Personal Records Database (BRP), and the family member will receive the residence permit (if the conditions have been met).¹²⁵ In addition, the family members are registered by the COA in the Healthcare for Asylum Seekers Regulation (RZA), so that they have medical aid cover in their first period in the Netherlands. The RZA continues until two weeks after the residence document has been issued. The registration procedure for those who seek asylum family reunification usually takes a few days. During this period, the family member stays at the reception centre during the night.¹²⁶

¹²³ For more information see: [https://ind.nl/Familie/Paginas/Echtgenoot-of-\(geregistreerd\)-partners.aspx](https://ind.nl/Familie/Paginas/Echtgenoot-of-(geregistreerd)-partners.aspx). Consulted on 14 April 2017.

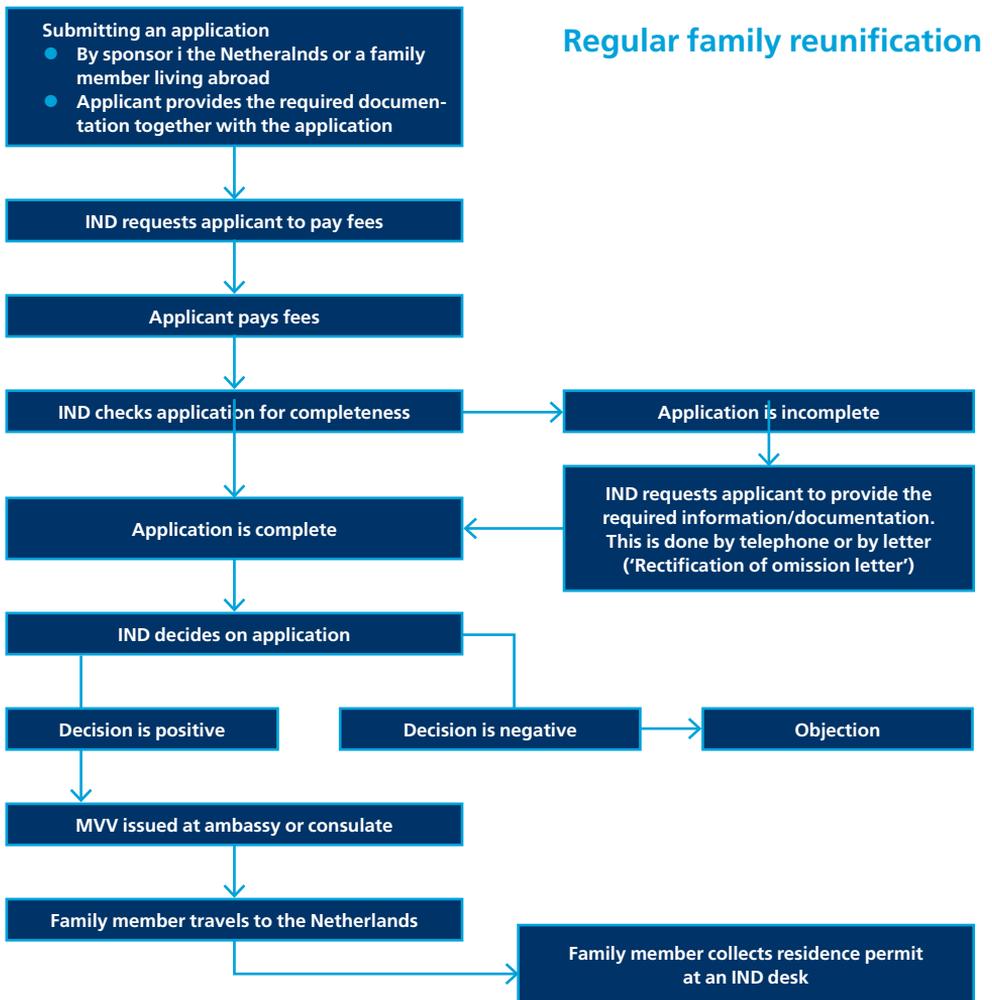
¹²⁴ Ibidem.

¹²⁵ In the event that new facts or circumstances give rise to believe that those who seek asylum family reunification do not meet the conditions, the IND can decide not to issue an asylum family reunification residence permit. In this case, the family member goes through the normal asylum procedure.

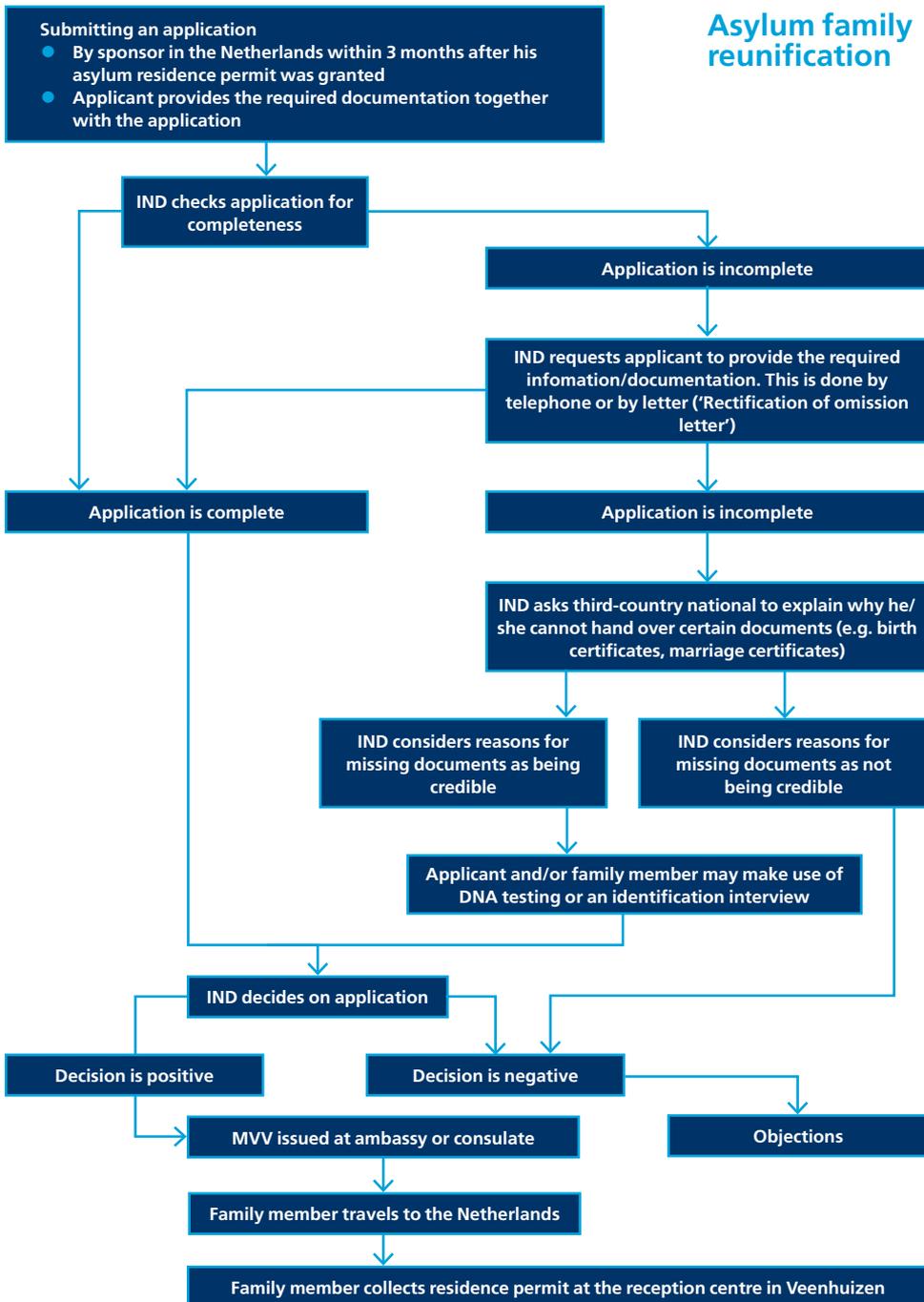
¹²⁶ <https://ind.nl/asiel/Paginas/Familielid-van-vluchteling.aspx>

During the interview with the IND, the family member can also indicate whether he or she wishes to submit an independent asylum application. In this case, the family member goes through the full asylum procedure. The advantage of an independent asylum permit is that it cannot be withdrawn if the family relationship with the sponsor is severed (for example, when the sponsor and the family member get divorced). If the application for an independent asylum permit is rejected, the family member will still receive a derivative asylum residence permit.¹²⁷

Figure 3. Steps in the regular family reunification process and in the asylum family reunification procedure (with an MVV)



Asylum family reunification



4.4 What supporting documents are needed?

In order to demonstrate that the sponsor and the family member meet the specified conditions, they must submit a number of documents. The documents needed depends on the situation of the sponsor and the family member and their mutual relationship. The IND needs documents for the following three purposes:

- To determine the identity of the family member, for example, by means of a passport or other identification documents from the country of origin. These required documents will be detailed in paragraph 4.4.1.
- To enable assessment of the existence of the actual family relationship, for example, by means of a marriage certificate, birth certificate, partner questionnaire or unmarried status declaration. An overview of the supporting documents that the IND requires for substantiation of the family relationship, can be found in Annex IV.
- This is used to assess whether the general conditions have been met, such as the income requirement and the civic integration requirement. For this purpose, reference is made to, for example, salary specifications and the confirmation that the family member has passed the civic integration examination abroad. The supporting documents required by IND are detailed in paragraph 3.3 on the basis of the various conditions that apply.

4.4.1 *Supporting document for establishing the identity*

First of all, various documents must be submitted to the IND, which serve to identify the family member. For all applications for regular family reunification, copies of the passport or identity card must be sent for identification of both the sponsor and the family member. The same applies to asylum family reunification, and a copy of the asylum residence permit of the sponsor must also be submitted.

If the family member does not have an own passport, as much other supporting documents as possible must be submitted with the application, showing the identity of the family member. If the family member does not have such documents, the IND may decide on other measures to establish the identity (more information on this in [paragraph 4.4.3](#)). This applies to regular family reunification and asylum family reunification.

4.4.2 *Supporting documents to prove the family relationship*

In addition to the supporting documents to establish the identity that must be submitted with the application for family reunification, the IND also requires various means of proof to establish the family relationship between the sponsor and the family member, such as birth certificates or marriage certificates. Annex IV provides an overview of the documentary evidence that must be submitted to prove the family relationship. Likewise, the IND can assume inability to meet the standard of evidence in the event that the sponsor and the family member cannot prove the family relationship with supporting documents (more information on this is available in [paragraph 4.4.3](#)). This applies to regular family reunification and asylum family reunification.

4.4.3 *Inability to meet the standard of evidence*

It sometimes occurs in case of regular family reunification and asylum family reunification that the application cannot be substantiated sufficiently by means of documents. In case of asylum family reunification, for example, it happens quite frequently that the sponsor and the family member fail to provide enough documents to prove their identity or that they constitute a family. Often, the reason for this is the situation in the country of origin. For example, in some countries such as Somalia and Eritrea, religious and/or traditional marriages are normal, consisting only of an ecclesiastical marriage certificate, which is not recognised in the Netherlands. In addition, in some countries, family members of beneficiaries of international protection cannot always obtain documentation from the authorities, as this could lead to dangerous situations in individual cases.

If the IND considers the explanation by the applicant as to why he or she is unable to provide any documentation as being plausible, the IND will accept inability to meet the standards of evidence and the IND will offer DNA testing and/or an identification interview.

DNA testing can verify the relationship between biological family members. DNA material (buccal cell samples) from the sponsor are taken at the IND in Utrecht and from the family member abroad at a Dutch embassy or consulate. This testing is currently being financed directly by the IND.¹²⁸

If it is not possible to establish the actual family relationship with documents or DNA testing, for example, in case of partners or foster children, an interview posing identifying questions is carried out to possibly ascertain the family relationship. This interview will allow the the family member to explain who he or she is and what the relationship is with the sponsor in the Netherlands. The IND can interview both the sponsor in the Netherlands and the family member abroad.^{129 130} In order to interview children (in the context of an identification interview), the IND has introduced special procedural safeguards. For example, children under the age of 12 are not interviewed. In addition, the IND has a work instruction "Child-friendly Interviews at the Embassy".¹³¹ This work instruction is used by staff members at embassies who interview children.

4.5 How long does the procedure last?

The statutory decision period for family reunification applications in the Netherlands is 90 days, which can be extended by another 90 days in special circumstances.¹³² The total maximum decision period is therefore six months. This period commences as soon as the applicant has paid the fees; for asylum family reunification the period commences as

128 IND. Werkinstructie 2016/7 – DNA onderzoek en identificerend gehoor (Work Instruction 2016/7 - DNA testing and identification interview). https://ind.nl/Documents/WI_2016-7.pdf. Consulted on 14 April 2017.

129 Ibidem.

130 For more information see: <https://ind.nl/asiel/Paginas/Familielid-van-vluchteling.aspx>. Consulted on 14 April 2017.

131 IND. Werkinstructie 2015/1 – Kindvriendelijk horen op de ambassade (Child-friendly interviews at the embassy). https://ind.nl/Documents/WI_2015_1.pdf. Consulted on 14 April 2017.

132 Section 25 of the Aliens Act

soon as the application has been submitted. If information is missing and the IND requests the applicant to provide more information, the period will be suspended.¹³³ In practice, a decision will usually be taken between 6 and 12 weeks after receipt of the fees or submission of the application. Under normal circumstances, the 90-day decision period will rarely be extended by another 90 days.¹³⁴ However, in context of the increased influx, the duration of the procedure for asylum family reunification was delayed in 2015 and 2016 (see box 6). Currently, a six-month period for decision-making in case of asylum family reunification is considered standard.

Box 6. Longer processing times for asylum family reunification

The longer processing times for asylum family reunification was debated in the media and politics last year. As a result of the increased influx of 2015, there has been a major backlog in the processing of applications for asylum family reunification by the IND.¹³⁵ It has not always been possible, mainly in case of inability to meet the standard of evidence, to complete an application within the statutory decision period of six month. In some cases, this has led to unrest in reception centres for third-country nationals who want to bring their family members to to the Netherlands. A number of newspapers¹³⁶ also reported on this topic and questions were posed¹³⁷ in Parliament.

In order to reduce the processing time, the IND has deployed additional capacity for processing applications for asylum family reunification since last summer. In 2016, the government also proposed extending the statutory decision period for asylum family reunification application from three to six months. For the maximum decision period this means an extension from six to nine months.¹³⁸ Nine months is also the maximum decision period allowed in the EU Family Reunification Directive for asylum family reunification applications.¹³⁹

133 For further details on the procedure, see: <http://www.mvv-gezinshereniging.nl/de-mvv-procedure/de-procedure-voor-toelating-en-verblijf-tev>. Consulted on 14 April 2017.

134 For further details on the procedure, see: <http://www.mvv-gezinshereniging.nl/de-mvv-procedure/de-procedure-voor-toelating-en-verblijf-tev>. Consulted on 14 April 2017.

135 *Parliamentary Papers II*, 2014-2015, 32175, no. 57

136 For similar news items, see:

BNR Webredactie. (2015). IND te druk voor gezinshereniging (IND too busy for family reunification). <https://www.bnr.nl/nieuws/vluchtelingen/10046043/ind-te-druk-voor-gezinshereniging>. Consulted on 14 April 2017.

NRC Handelsblad. (2016). Familiehereniging vertraagd om asielstroom te remmen (Family reunification delayed to slow down asylum influx). <https://www.nrc.nl/nieuws/2016/07/08/overheid-vertraagt-familiehereniging-om-asielstroom-teremmen-a1510425/>. Consulted on 14 April 2017.

137 *Parliamentary Papers II*, 2015-2016, Appendix number 47; *Parliamentary Papers II*, 2015-2016, Appendix number 385

138 *Parliamentary Papers II*, 2016-2017, 34544, no. 3

139 Ibidem.

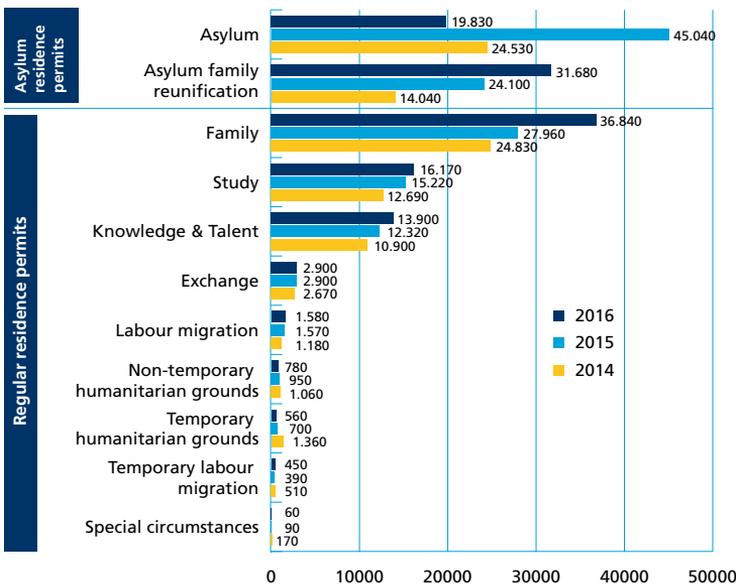
5 INTERLUDE: STATISTICS ON REGULAR FAMILY REUNIFICATION AND ASYLUM FAMILY REUNIFICATION

The following section presents the figures on family reunification. This sections aims to provide an overall picture of the number of applications, acceptance rate, and the most common nationalities. In contrast to the rest of this publication, the figures presented are not limited to third-country nationals, but also include applications by Dutch nationals and citizens from other EU Member States.

5.1 Family migration and other purposes of stay

Figures 4 and 5 show that applications for family migration are a major part of all applications for a residence permit that the IND receives. In the last three years, more than one-third of all applications were related to family migration. In the regular procedure, nearly as many applications were received in the cluster Family as in the four other large clusters together (Students, Knowledge & Talent, Exchange, and Labour migration) in 2016.

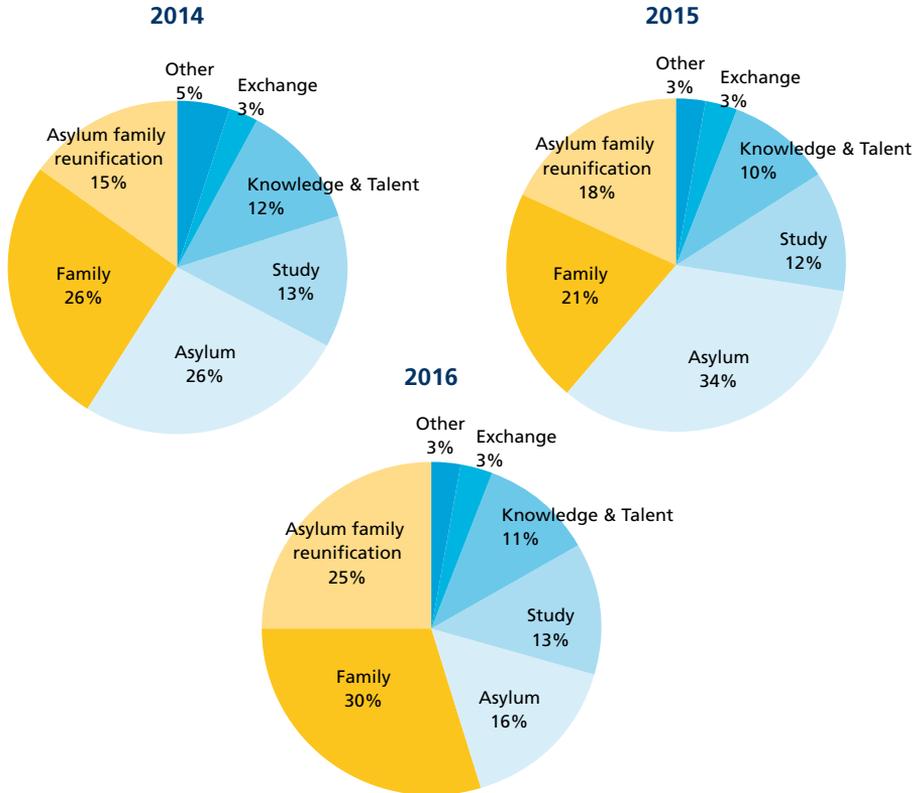
Figure 4. Number of applications for a residence permit for each purpose of residence cluster (2014, 2015 and 2016)



Source: IND

Please note * The numbers are rounded off to tens. * For asylum family reunification, the number of applications for a regular provisional residence permit (MVV) for asylum family reunification are shown. * Asylum relates to all first and repeated asylum applications. * The Family cluster comprises the following purposes of residence: Family reunification; 8 ECHR family life; Family formation; Adoption; Foster child; Children born in the Netherlands.

Figure 5. Share of the various purpose of residence clusters in all applications (2014, 2015, 2016)



Source: IND

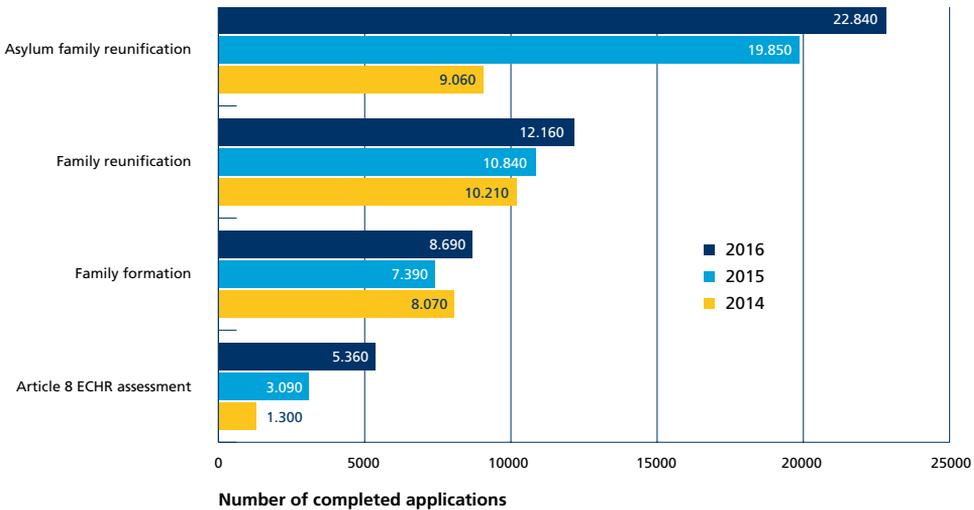
Please note * The numbers are rounded off to tens. * For asylum family reunification, the number of applications for a regular provisional residence permit (MVV) for asylum family reunification are shown. * Asylum relates to all first and repeated asylum applications. * The Family cluster comprises the following purposes of residence: Family reunification; 8 ECHR family life; Family formation; Adoption; Foster child; Children born in the Netherlands. * The cluster 'Other' consists of: Special purpose residence, temporary employment, temporary humanitarian grounds, non-temporary humanitarian grounds, regular employment.

5.2 Family migration

When focusing on the cluster 'Family' and 'Asylum family reunification', it is clear within this cluster that most applications relate to asylum family reunification, regular family reunification and family formation (see figure 6). In 2016, for example, the IND processed 22,840 applications for a regular provisional residence permit (MVV) for asylum family reunification, and 12,160 applications for family reunification. The smallest category is for the purpose of residence on grounds of family life based on an Article 8 ECHR

assessment; the IND processed 5,360 applications for this purpose of residence in 2016. The acceptance rates (figure 7) show clear differences between the purpose of residence clusters. Over the last three years, the average acceptance rate for applications for family reunification was approximately 91%, for asylum family reunification it was 70%, and for the purpose of residence for family life based on an Article 8 ECHR assessment it was 34%.

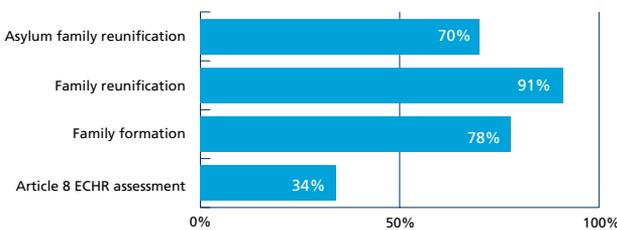
Figure 6. Number of processed applications for each purpose of residence cluster (2014, 2015, 2016)



Source: IND

Please note * The numbers are rounded off to tens. * Figures on asylum family reunification pertain to the number of processed applications for a regular provisional residence permit (MVV) for asylum family reunification. * The purpose of residence clusters 'Adoption', 'Foster child' and 'Children born in the Netherlands' are also covered by the 'Family' cluster, but are not shown in the figure. The reason for this is that 'Children born in the Netherlands' fall beyond the scope of the report and there are only a few cases of adoption and foster children.

Figure 7. Average acceptance rate for the past three years (2014, 2015, 2016)



Source: IND

Please note * Figures on asylum family reunification pertain to the number of processed applications for a regular provisional residence permit (MVV) for asylum family reunification. * The acceptance rate covers all processed applications over the three years.

5.3 Nationalities

The nationalities that are most common, vary greatly among the various purpose of residence clusters (see figure 8). In 2016, the most common nationalities for family reunification were Indian, American and Chinese. For family formation it was the Turkish, Moroccan and Surinamese nationalities. With regard to the number of processed applications for asylum family reunification and based on an Article 8 ECHR assessment, the most common nationalities were Syrian and Eritrean. Third in line are stateless nationals; these are often Syrian Palestinians. They or their ancestors had previously fled from Palestine to Syria before they came to the Netherlands from Syria.¹⁴⁰

Figure 8. Top 5 nationalities for each purpose of residence cluster (number of processed regular applications for each purpose of residence cluster in 2016)

Nationality of the family member	Number of processed applications in 2016
Family Reunification	
Indonesian	3,050
American	1,260
Chinese	990
Turkish	810
Japanese	560
Family formation	
Turkish	1,510
Moroccan	1,070
Surinamese	490
American	420
Filipino	330
8 ECHR family life	
Syrian	1,820
Eritrean	1,770
Stateless	340
Turkish	120
Somali	110
Asylum family reunification	
Syrian	13,260
Eritrean	5,990
Stateless	1,620
Somali	470
Unknown	360

Source: IND

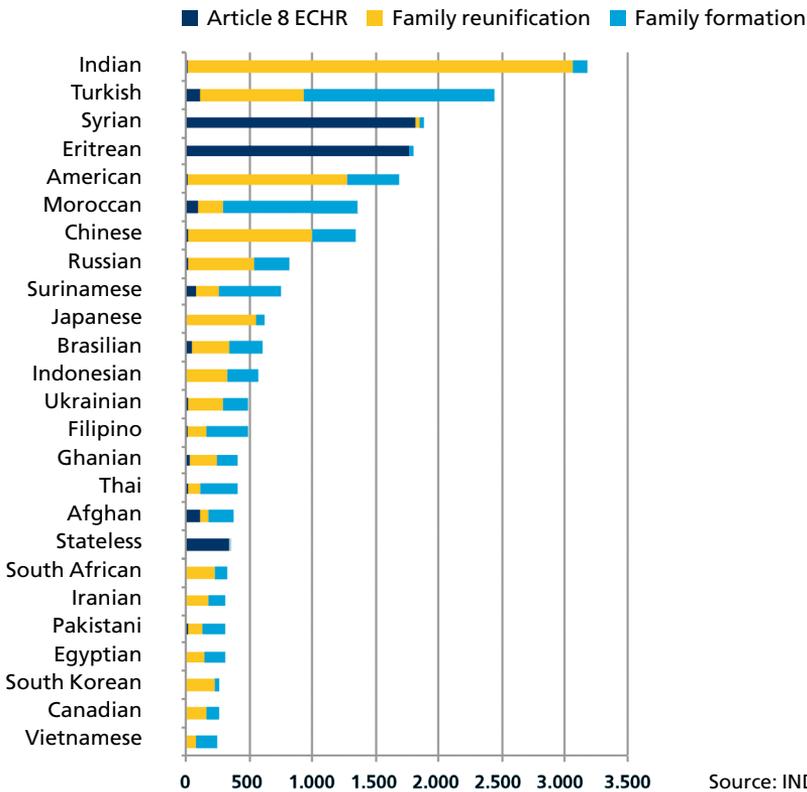
Please note * The numbers are rounded off to tens. * Figures on asylum family reunification pertain to the number of processed applications for a regular provisional residence permit (MVV) for asylum family reunification.

140 Trouw (2016). Aantal staatlozen in Nederland groeit (Number of stateless persons in the Netherlands on the rise). <https://www.trouw.nl/home/aantal-staatlozen-in-nederland-groeit-aca55b20/>. Consulted on 10 March 2017.

There are also major differences in the composition of the processed applications between countries of origin. Although the figures for some countries of origin (for example, India, the United States, China and Japan) almost exclusively pertain to applications for family reunification, the figures for other countries of origin (for example, Morocco, Suriname, Philippines and Thailand) mainly pertain to family formation (see figure 9).

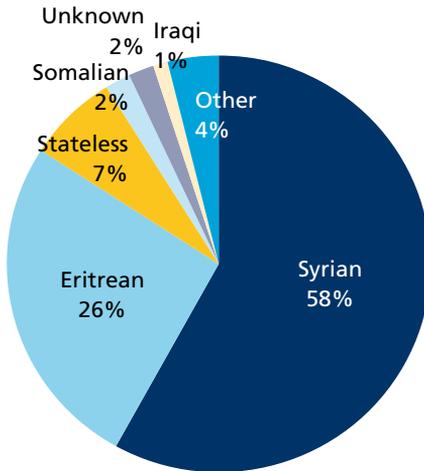
A clear difference can also be seen in the distribution of spread across different countries between applications for regular family reunification and asylum family reunification. While most of the processed applications for asylum family reunification relate to only two countries - namely Syria (58% of all applications) and Eritrea (26%) - the spread across different countries is far greater than for applications for regular family reunification (see figures 9 and 10).

Figure 9. 25 most common nationalities for applications for regular family reunification (number of processed applications for each purpose of residence cluster in 2016)



Source: IND

Figure 10. Most common nationalities for applications for asylum family reunification (number of processed applications for asylum family reunification in 2016)



Source: IND

Please note * Figures on asylum family reunification pertain to the number of processed applications for a regular provisional residence permit (MVV) for asylum family reunification.

6 RIGHTS AND OBLIGATIONS ENSUING FROM FAMILY REUNIFICATION

This chapter will explain the various rights and obligations arising from the family reunification policy for third-country nationals. This will address a number of important aspects for both the sponsor the family member, such as access to the labour market, healthcare, civic integration and regulations concerning continued residence in the Netherlands. Finally, we will address how compliance with these agreements has been arranged by the Dutch government.

6.1 Obligations of the sponsor and the family member

Obtaining a residence permit is subject to compliance with certain obligations. These apply to both the family member and the sponsor. The following paragraphs explain the various obligations for sponsors and family members after obtaining the residence permit for family reunification.

6.1.1 *Obligation to provide information*

An obligation that applies to both the family member and the sponsor is the so-called obligation to provide information. This means that the sponsor and the family member must inform the IND if the situation of the sponsor or the family member changes, and if these changes may have consequences for the right of residence.

During the procedure it is important that the IND is fully informed of changes in the family situation, the employment situation or other relevant changes. This may include the break-up of a relationship, a reduction of income to below the standard amount, job loss or changes with regard to an employer or educational institution. A change of address must also be notified to the IND.¹⁴¹

This obligation to provide information still applies if the application for the MVV or temporary residence permit has been granted and the residence permit has been collected. Changes that could have implications for the right of residence of the family member must always be notified to the IND. In principle, a change must be notified to the IND within 4 weeks after entry into force of the change.¹⁴²

6.1.2 *Obligations in the municipality*

Regular family reunification

As soon as the procedure at IND has been processed and the family member has collected the residence permit from the IND Desk, a number of additional obligations apply

¹⁴¹ Section 18 of the Aliens Act

¹⁴² For more information see: <https://ind.nl/Paginas/Wettelijke-verplichtingen-en-handhaving-particulier.aspx>. Consulted on 14 April 2017.

that are not really related to the right of residence, but which are required to be able to participate in Dutch society.

First of all, the family member **must register at the municipality**. This is where the family member will be registered in the Municipal Personal Records Database (BRP). It contains personal data of all citizens of the Netherlands, such as nationality, Citizen Service Number (BSN), and marital status. In order to be registered in a municipality, the third-country national needs a translated and legalised birth certificate.¹⁴³

If so required, the family member must then make an appointment with the Municipal Health Service (GGD) to carry out a **TB test**. This test must take place within three months after the residence permit was issued. If the appointment for a TB test is delayed by more than three months, the residence permit may be revoked.¹⁴⁴

As soon as the family member is registered at the municipality, it is important that he or she takes out a **health insurance policy**. In the Netherlands, everyone is entitled to health care. However, this requires compulsory health insurance cover. This obligation applies to anyone over the age of 18 who lives or works in the Netherlands, and only the basic insurance cover is compulsory.¹⁴⁵ This insurance cover must be taken out within four months after arriving in the Netherlands.¹⁴⁶

Asylum family reunification

Unlike in the case of regular family reunification, family members have already undergone many of the abovementioned steps during the application procedure at Veenhuizen's reception centre. They must only take out a health insurance policy and register at the municipality if this has not happened during the application procedure.¹⁴⁷

6.1.3 Civic integration in the Netherlands

Certain groups of migrants also have to **participate in a civic integration programme in the Netherlands**. In principle, anyone who stays in the Netherlands for a non-temporary purpose of residence within the meaning of the Civic Integration Decree¹⁴⁸ is obliged to participate in a civic integration programme, unless he or she is exempted or absolved from such obligation. The largest groups to participate in a civic integration programme in the Netherlands are family migrants of sponsors with a non-temporary residence, religious ministers, and beneficiaries of international protection. Family members of sponsors with a temporary purpose of residence within the meaning of the Civic Integration Decree (for instance highly skilled migrants) do not have to participate in a civic integra-

143 For more information on the BRP, see https://www.rijksoverheid.nl/onderwerpen/persoonsgegevens/inhoud/Zie_opmerking!. Consulted on 14 April 2017.

144 Article B1/4.5 of the Aliens Act Implementation Guidelines

145 Exceptions are only possible based on grounds of moral or religious objections (faith) or for foreign students, see <https://www.rijksoverheid.nl/onderwerpen/zorgverzekering/vraag-en-antwoord/ben-ik-verplicht-een-zorgverzekering-af-te-sluiten>. Consulted on 14 April 2017.

146 For more information on healthcare insurance, see <https://www.rijksoverheid.nl/onderwerpen/zorgverzekering>. Consulted on 14 April 2017.

147 See <https://ind.nl/asiel/Paginas/Familielid-van-vluchteling.aspx>. Consulted on 14 April 2017.

148 See <https://ind.nl/Paginas/Tijdelijke-verblijfsdoelen.aspx>. Consulted on 14 April 2017.

tion programme. If the family member is obliged to participate in a civic integration programme, they will receive a letter from the Education Executive Agency (DUO) that states that he or she has to participate in a civic integration programme in the Netherlands. In principle, the civic integration examination must be passed within three years.

The civic integration examination in the Netherlands not only comprises testing in the four language skills at A2 level (reading, writing, comprehending and speaking), but also includes an examination on 'Knowledge of Dutch Society' and an examination on 'Orientation in the Dutch Labour Market'. Third-country nationals are responsible for preparing for the integration exam themselves. The costs for the civic integration course and the civic integration examination must also be paid by the third-country nationals themselves. It is possible to borrow money for this purpose. Third-country nationals can borrow up to EUR 10,000 to finance the civic integration programme. Persons entitled to asylum and their family members who pass the examination do not have to repay the loan. Regular family migrants have to repay this loan with interest. As of 2016 the interest rate is 0.01%.¹⁴⁹ Examination fees are EUR 350 in total. Costs of civic integration programmes can differ per training institution.

6.2 Rights of the sponsor and the family member

In addition to the abovementioned obligations, third-country nationals with temporary residence permits also have certain rights.

For example, family members with a residence permit, just like all Dutch nationals, have access to **education, vocational education and adult education** In the Netherlands, everyone has access to primary education (around the age of 4 years to 12 years)¹⁵⁰, secondary education (approximately between 12 to 16-18 years)¹⁵¹, and higher education (approximately from 17/18 years).¹⁵² Persons with certain residence permits, including those who have come to the Netherlands in the context of family reunification, also have the right to financial compensation for school fees and other education contributions.¹⁵³ Furthermore, they are also entitled to student grants.¹⁵⁴ In addition, persons staying with a family member have the same access to vocational training and adult education as Dutch nationals do.¹⁵⁵

Whether a family member will be allowed to **work** depends on the type of residence permit held by the sponsor. In principle, family members will only be allowed to work in the Netherlands if the sponsor is entitled to work in the Netherlands.¹⁵⁶ If the sponsor needs a Work Permit (TWV) to be allowed to work in the Netherlands, the family members will also require a TWV before they will be allowed to work. A precondition for

¹⁴⁹ For more information see: <https://www.inburgeren.nl/inburgeren-betalen.jsp#>. Consulted on 14 April 2017.

¹⁵⁰ Section 40(1) of the Primary Education Act

¹⁵¹ Section 27(1)(a) of the Secondary Education Act

¹⁵² Section 7.32(5) of the Higher Education and Research Act

¹⁵³ Article 2 of the Course Fees and School Costs Allowance Decree

¹⁵⁴ Section 3(a) of the Student Finance Act

¹⁵⁵ Law on Education and Vocational Training, article 8.1.1(b)(c)(d)

¹⁵⁶ Article B7/4.1 of the Aliens Act Implementation Guidelines

issuing a TWV is that the employer cannot find suitable candidates for the job in the Netherlands or other European countries.¹⁵⁷ An exception applies to family members of students; these are not allowed to work, even if the sponsor - the student - does have access to the labour market.¹⁵⁸ Exceptions also apply to family members of highly skilled migrants, holders of a European Blue Card and scientific researchers.¹⁵⁹ They must first apply for a work permit, while their sponsors have access to the Dutch labour market without restrictions.¹⁶⁰ Family members of beneficiaries of international protection are always allowed to work in the Netherlands. The residence permit states whether a family member has access to the Dutch labour market.

Family members who come to the Netherlands with a regular residence permit, in principle, may not rely on public funds in the first few years after they have arrived the Netherlands. Family members of beneficiaries of international protection are allowed to do so. It is a prerequisite for family reunification that the sponsor can support himself and his family and is tested by means of the income requirement. If a family member relies on public funds, this will constitute a ground to revoke the residence permit. Only once the family member has obtained an independent residence permit that is not linked to an income requirement, can they rely on public funds without prejudice to the right of residence.¹⁶¹

Spouses, registered partners and unmarried partners who have come to the Netherlands in the context of regular family reunification with a sponsor who has a non-temporary right of residence, may apply for an **autonomous residence permit** in the Netherlands after 5 years.^{162 163} This temporary residence permit is referred to as the residence permit for continued residence. Also third-country nationals who have been granted a regular residence permit to conduct family life based on an Article 8 ECHR assessment, may apply for a residence permit for continued residence after 5 years of residence in the Netherlands. Those who seek asylum family reunification cannot apply for a residence permit for continued residence. A residence permit for continued residence means that the family member will no longer depend on the sponsor's residence status in order to reside in the Netherlands. In certain situations (e.g. due to domestic or honour-related violence or the death of the sponsor), the family member may sooner be eligible for a residence permit for continued residence. Children who came to the Netherlands as minors in the context of family reunification with a sponsor who has a non-temporary right of residence in the Netherlands, may apply for residence permits for continued residence after 1 year subject to certain conditions.¹⁶⁴

157 For more information see: <https://www.rijksoverheid.nl/onderwerpen/nieuw-in-nederland/inhoud/vergunningen-buitenlandse-werknemers>. Geraadpleegd 14 April 2017.

158 Article B7/4.1 of the Aliens Act Implementation Guidelines

159 Article B7/4.1 of the Aliens Act Implementation Guidelines

160 Article B6/3.2 of the Aliens Act Implementation Guidelines

161 Sections 18 and 19 of the Aliens Act

162 Article B9/8.7 of the Aliens Act Implementation Guidelines

163 An exception applies to persons staying in the Netherlands as a family member of a holder of a European Blue Card. They can already apply for an autonomous residence permit in the Netherlands after 2 years.¹⁶³ However, the third-country national must have stayed in an EU Member State or Switzerland for the 3 years prior to having a valid residence permit as a family member of the holder of a European Blue Card.

164 Article 3.50(1)(a)(b) of the Aliens Decree

It is also possible for family members to apply for a **permanent residence permit** after staying with a spouse or partner for five years. This is possible for both regular family migrants as well as for those who seek asylum family reunification. This allows family members to settle permanently in the Netherlands. However, a number of preconditions apply.¹⁶⁵ These requirements include compliance with the civic integration obligation in the Netherlands and having sufficient means of support available. During these five years, there may be no grounds for revocation of the residence permit. After five years of residence with a spouse or partner, it is also possible to **acquire Dutch citizenship**.¹⁶⁶

6.3 Enforcement

The Dutch government has various options to monitor whether the sponsor and the family member continue to meet the conditions subject to which the residence permit was issued. The IND performs four types of checks to this end:

- Automated, continuous monitoring of information from the Persons Database (BRP). The BRP contains personal information (e.g. address details) about all inhabitants of the Netherlands. For example, the IND will automatically be notified when a third-country national moves.
- Structured notifications of third parties (e.g. municipalities, police, and law courts). The municipality, for example, always notifies the IND when a third-country national claims social assistance benefit. The IND receives notification from the judicial information service (part of the Ministry of Security and Justice) if a third-country national has been convicted of a crime.
- Other signals, such as incidental notifications from other government agencies or letters from citizens.
- Random checks whether conditions are still being met.

Prompted by information from the abovementioned checks, or on the basis of suspicions that arise during assessment of a case, the IND can initiate a further investigation. Sometimes there are suspicions that the conditions are not met during the application procedure, but the application cannot be rejected because the suspicion cannot be proven. In that case, the IND will mark the file for further investigation after granting the permit. Sometimes there is a suspicion that the conditions will not (no longer) be met after the permit has been granted. Examples of investigation are: checks for cohabitation by means of address verification by the police, (simultaneous) interviews of partners or marriage partners about the relationship, in conjunction with workplace checks by the Social Affairs and Employment Inspectorate, consulting systems of other government organisations such as the Employee Insurance Agency (UWV), and the Dutch Tax Administration.

If the IND finds that the third-country national does not, or no longer, meets the conditions of his or her permit, the third-country national will invariably be confronted with

¹⁶⁵ For more information see: <https://ind.nl/overig/onbepaalde-tijd/Paginas/Onbepaalde-tijd-na-5-jaar-verblijf-in-Nederland.aspx>. Consulted on 14 April 2017.

¹⁶⁶ Section 8(c) of the Netherlands Nationality Act

this situation. This is usually done by means of a letter stating the intention to withdraw the residence permit. The IND may also impose fines.¹⁶⁷

7 CONCLUSION

This report aims to provide an overview of the policy and practices in the Netherlands with regard to family reunification. The Dutch family reunification policy is largely determined by European legislation and case law. But policy developments and implementation practices in other Member States may also be of interest to the Netherlands. They can serve as a source of information - and possibly - a source of inspiration for the development of Dutch policy.

More information on the European Policy Framework and Family Reunification Policy in other EU Member States can be found in the synthesis report¹⁶⁸ of the EMN Study; 'Family reunification of third-country nationals in the EU plus Norway: National Practices' and the underlying national reports¹⁶⁹.

168 https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en

169 https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports_en

ANNEX I: MEMBERS OF THE EXPERT GROUP

Ms C. Clerx	Immigration and Naturalisation Service
Mr B. Crijns	Ministry of Security and Justice
Ms L. Hansen	Immigration and Naturalisation Service
Ms L. Houben-Buhlova	Immigration and Naturalisation Service
Ms N. Hansen	Immigration and Naturalisation Service
Mr M. Klaassen	Leiden University
Ms K. Logger	Ministry of Social Affairs and Employment
Ms H. Spanjaard	Ministry of Security and Justice
Ms C. Ullersma	Van Woude de Graaff Advocaten
Ms A. den Uyl	Dutch Council for Refugees

ANNEX II: LIST OF ORGANISATIONS

Ministry of Security and Justice

The Ministry of Security and Justice is responsible for, among other things, the migration policy. This includes policy on regular family reunification and asylum family reunification. The Ministry of Security and Justice develops policy on regular family reunification and asylum family reunification in consultation with all the organisations involved.

Ministry of Social Affairs and Employment

The Ministry of Social Affairs and Employment is responsible for, among other things, the civic integration of newcomers in the Netherlands. Within the Ministry of Social Affairs and Employment, the interdepartmental Society and Integration Division is responsible for policy geared towards the civic integration of newcomers into society. The interdepartmental Society and Integration Division also works on official reports regarding civic integration and maintains close contact with the Executive Agency for Education (DUO) on the implementation of pursued policy.

Immigration and Naturalisation Service

The Immigration and Naturalisation Service (IND) is an agency of the Ministry of Security and Justice. The IND is the admissions organisation of the Netherlands. The IND assesses all applications from third-country nationals who wish to stay in the Netherlands or who wish to become Dutch nationals. These include applications for residence permits for regular family reunification and asylum family reunification. Each application is assessed individually in accordance with the rules of policy on foreign nationals, taking into account the personal situation of the family migrants.

Executive Agency for Education

The Education Executive Agency (DUO) is the implementing organisation of central government for education. DUO is responsible for implementation of the civic integration programme. Once the third-country national has received a valid residence permit in the Netherlands, DUO will start the civic integration programme by sending a letter which states when the civic integration period starts. From that moment onwards, the person obliged to participate in the civic integration programme can take out a loan to attend a course and to sit the civic integration examination. DUO monitors whether the set time limit is reached and ensures enforcement, if necessary.

Dutch Council for Refugees

The Dutch Council for Refugees manages the interests of refugees and asylum seekers in the Netherlands, from the moment of entry until integration in Dutch society. Together with many thousands of volunteers, the Dutch Council for Refugees provides assistance in the asylum procedure and in the civic integration of refugees and their family members. For the purpose of family reunification of refugees, the Dutch Council for Refugees

provides information, assists in submitting the application, the rest of the procedure, and bringing family members to the Netherlands.

Municipalities

After family migrants have been granted the residence status, the municipalities in the Netherlands are the first link in the integration process in Dutch society. Together with the third-country national, the municipality takes care of the registration in the Municipal Personal Records Database (BRP). For family members of beneficiaries of international protection, housing is provided in context of the housing target programme of municipalities; the municipality is furthermore responsible for arranging social counselling.

Nidos

As an independent family guardianship agency, the NIDOS Foundation carries out its guardianship duty on legislative grounds for unaccompanied minors.

ANNEX III: DEFINITIONS

The following main terms are used in this study. The definitions have been taken over from EMN Glossary 3.0, unless stated otherwise.¹⁷⁰

Unaccompanied minor: is defined as a minor who stays on the territory of the EU Member States without supervision by a responsible adult. It includes a minor who enters the territory of the EU alone, as well as a minor who stays alone in the territory of the EU.

Asylum: a form of protection by a State in its territory, based on the principle of non-refoulement and internationally or nationally recognised refugee rights, which is granted to a person who is unable to seek protection in their country of citizenship and/or residence in particular for fear of being persecuted on grounds of race, religion, nationality, membership of a particular social group or political conviction.

Asylum seeker: in a general context, a person who seeks safety from persecution or serious harm in a country other than his/her own and pending a decision on the application for refugee status under relevant international and national instruments. In the EU context, a third-country national who has submitted an application for protection under the Geneva Convention, for whom a final decision has not yet been taken.

Third-country national: means each person who is not a citizen of the European Union (including stateless persons) within the meaning of Article 17(1) of the Treaty on the Functioning of the European Union, and who cannot derive any rights to the freedom of movement of people, as defined in Article 2(5) of the Schengen Borders Code.

'Family Reunification': is defined as the entry into and residence in an EU Member State, in accordance with Council Directive 2003/86/EC, by family members of a third-country national residing lawfully in that EU Member State ("sponsor") in order to preserve the family unit, as it existed in the family relationship both prior to or after entry by the sponsor.

'Family member': is wholly defined as a person to whom the sponsor is married or with whom the sponsor has a relationship equivalent to marriage, as well as their dependent children or other dependent family members who are recognised as family members by applicable laws and regulations. In context of the Family Reunification Directive (Article 4 of Directive 2003/86/EC), normally the family members of the nuclear family (the partner and the minor children), who have entered the territory of the European Union for the purpose of reunification with the family member in Europe. In this study, too, reference to a family member is reference to the person for whom the sponsor submits an application for family reunification.

170 Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/docs/emn-glossary-en-version.pdf

'Family migration': is defined as a concept encompassing either family reunification, family formation, and migration of a family as a whole. In the EU context and in this study, it refers specifically to family reunification or family formation.

'Family formation': is defined as "the entry into and residence in the EU Member State of a third-country national on the basis of the establishment of a family relationship either (a) after a third-country national has obtained legal residence in an EU Member State, or (b) with an EU citizen.

'Integration': is defined as a dynamic, two-way process of mutual adaptation by all immigrants and inhabitants of EU Member States.

International protection: in a general context, actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific group of persons outside their country of origin, who lack the national protection of their own country. In the EU context, protection that encompasses refugee status and subsidiary protection.

'Right to family and family life: is defined as the principle of having a right to family or family life as meant in Article 8 of the European Convention for the Protection of Human Rights.

'Sponsor': a third-country national residing lawfully in an EU Member State and submits the application for family reunification with family members who want to migrate to the EU Member State for the purpose of family reunification or family formation.

'Subsidiary protection': is defined as the protection given to a third-country national or a stateless person who is not eligible for a refugee status, but where substantive grounds have shown that the person concerned, if returned to their country of origin or continuous residence, would face a real risk of suffering serious harm and is unable to avail themselves of the protection of that country.

Application for international protection: a application made by a third-country national or a stateless person for protection from a Member State, which can be regarded as an application to obtain a refugee status or subsidiary protection status, and where the person concerned does not explicitly request another kind of protection, outside the scope of Qualification Directive 2011/95/EU, for which a separate application can be submitted.

Refugee: in the general context, either a person who has a well-founded fear of persecution on grounds of race, religion, nationality, membership of a particular social group or their political conviction, is outside the country of origin and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless

person, who, for the same reasons as mentioned above, is outside the former country of residence, and is unable or, owing to such fear, is unwilling to return to that country. In the EU context, either a third-country national who, owing to a well-founded fear of persecution on grounds of race, religion, nationality, membership of a particular social group, or political conviction, is outside the country of origin and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless person, who, for the same reasons as mentioned above, is outside of the former country of residence and is unable or, owing to such fear, is unwilling to return to that country, and to whom Article 12 (Exclusion) of the Qualification Directive 2011/95/EU does not apply.

ANNEX IV: SUPPORTING DOCUMENTS TO SUBSTANTIATE THE FAMILY RELATIONSHIP

Source: IND (2016), Application form for a 'regular provisional residence permit - asylum family reunification', <https://ind.nl/Formulieren/7039.pdf>; IND (2016), Application form for the purpose of residence of 'relatives and family' (sponsor), <https://ind.nl/Formulieren/7018.pdf>

Application for family reunification with...		Supporting document for regular family reunification	Supporting document for asylum family reunification
Partners	Marriage partners	- Copy of the marriage certificate	- Copy of the marriage certificate, issued by the authorities of the country of origin - Copy of an extract from the register of births, deaths, marriages and registered partnerships in the country of origin, from which composition of the family is apparent
	Registered partners	- Copy of the deed of registered partnership	- Copy of the deed of the registered partnership, issued by the authorities of the country of origin - Copy of an extract from the register of births, deaths, marriages and registered partnerships, from which the composition of the family is apparent
	Traditionally/religiously married partners	These partners are considered as unmarried partners (and the same	- Copy of the religious/traditional marriage certificate

Application for family reunification with...		Supporting document for regular family reunification	Supporting document for asylum family reunification
		supporting documents apply)	- Copy of an extract from the register of births, deaths, marriages and registered partnerships, from which the composition of the family is apparent
	Unmarried partners	<ul style="list-style-type: none"> - Completed and signed declaration of relationship - Completed and signed partner questionnaire - copy of an unmarried status declaration from sponsor - copy of an unmarried status declaration from partner 	- Supporting documents which show that the partners have lived together in the country of origin and which shows that a partnership exists (e.g. a purchase or rental agreement of a house or financial documents)
Minor children	Biological children	<p>- Copy of the child's birth certificate</p> <p>Supporting documents which show that the sponsor has legal custody of the child</p> <p>If the other parent, who also has custody of the child, remains behind in the country of origin:</p> <ul style="list-style-type: none"> - Signed Declaration of consent of the parent remaining behind - Copy of the proof of identity (e.g. passport) of the parent remaining behind 	<p>- Copy of the child's birth certificate or a copy of other supporting documents which show the biological relationship between the sponsor and the child (e.g. a family record book or an extract from the register of births, deaths, marriages and registered partnerships)</p> <p>If the other parent of the child remains abroad:</p> <ul style="list-style-type: none"> - The 'Declaration of consent of the parent remaining behind'

Application for family reunification with...		Supporting document for regular family reunification	Supporting document for asylum family reunification
		<p>If the third-country national is 15 years or older:</p> <ul style="list-style-type: none"> - A 'Certificate of Non-Impediment' as an attachment, fully completed and signed by the foreign national 	<p>signed by the parent remaining behind</p> <ul style="list-style-type: none"> - Copy of the proof of identity (e.g. passport) signed by the parent remaining behind - Copy of supporting documents, issued by the authorities of the country of origin, which show the biological relationship between child and the parent remaining behind (e.g. a birth certificate or an extract from the register of births, deaths, marriages and registered partnerships) <p>If it is not possible to have the Declaration of Consent signed by the parent remaining behind: The completed 'Declaration of consent of the parent remaining behind'</p>
	Adoptive children	<ul style="list-style-type: none"> - An adoption order which shows that the child was adopted in the Netherlands or a legalised foreign adoption order issued by the competent authorities of the country of origin <p>If it concerns a foreign adoption order and in</p>	<p>Documents are the same for foster children</p>

Application for family reunification with...	Supporting document for regular family reunification	Supporting document for asylum family reunification
		<p>the case of intercountry adoption, the following supporting document must also be submitted:</p> <ul style="list-style-type: none"> - If it concerns a Convention adoption, a compliance statement pursuant to Article 23 of the Hague Adoption Convention - If it does not concern a Convention adoption, a ruling by the Dutch court, which shows that the foreign adoption order is acknowledged
	<p>Foster children</p>	<ul style="list-style-type: none"> - Documents which show that the parents or legal representatives consent to the child staying with the sponsor in the Netherlands - If required by the law of the country of origin, a declaration of the competent authorities of the country of origin that they consent to the child staying with the sponsor's family - Documents relating to the relationship under family law between the sponsor and the foster child (a copy of, for
		<ul style="list-style-type: none"> - Copies of supporting documents which show the relationship under family law between the sponsor and the child (e.g. a birth certificate or an extract from the register of births, deaths, marriages and registered partnerships) - fully completed 'Family relationship questionnaire' - If it concerns a biological child of the sponsor's partner: - Copy of the child's birth certificate, issued by the authorities of the

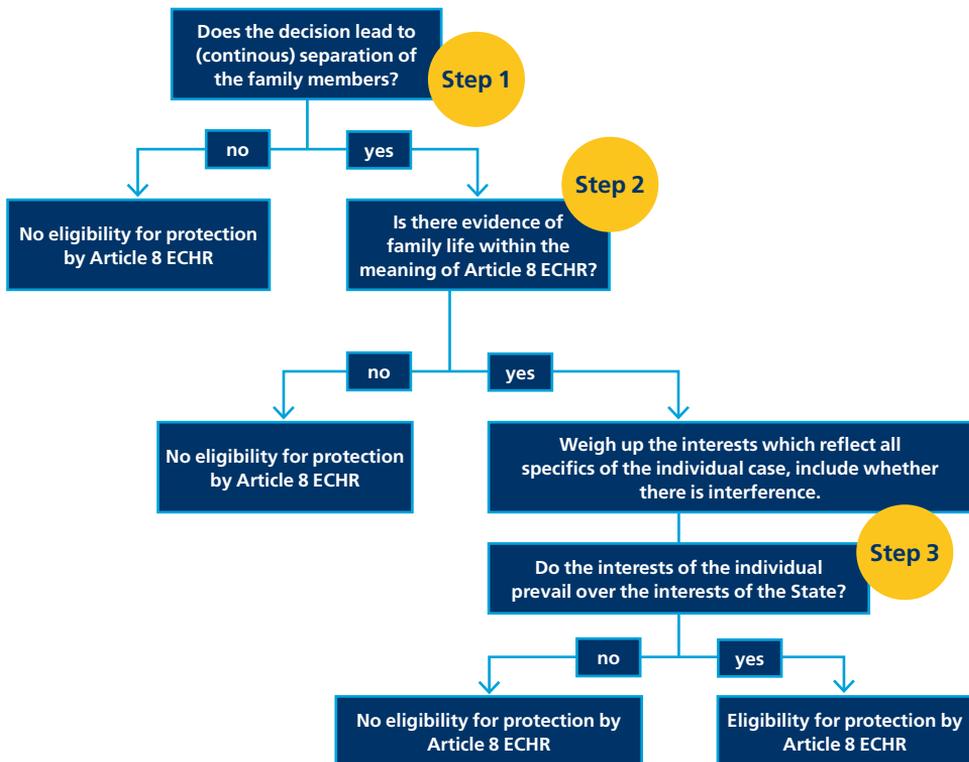
Application for family reunification with...		Supporting document for regular family reunification	Supporting document for asylum family reunification
		<p>instance, an extract of the family information at the register of births, deaths, marriages and registered partnerships)</p> <ul style="list-style-type: none"> - A written argumentation by the child's family members in the country of origin, which shows that they are unable to take care of the child or are unable to do so properly - A declaration of the competent authorities of the country of origin that custody of the child is vested in the sponsor (e.g. a guardianship certificate) - Medical certificate not older than six months, on the state of health of the foster child 	<p>country of origin</p> <p>If it does not concern a biological child of the sponsor's partner:</p> <ul style="list-style-type: none"> - A copy of the death certificates of the biological parents of the foster child - A copy of supporting documents which show the sponsor <p>If the other parent of the child remains abroad:</p> <p>The same documents as required for biological children</p>
Parents of minor sponsors		<ul style="list-style-type: none"> - Supporting documents which show that the third-country national is the parent of the sponsor 	<ul style="list-style-type: none"> - Copy of sponsor's birth certificate or an extract from the register of births, deaths, marriages and registered partnerships - Copy of supporting documents which show who has custody of the minor sponsor in the Netherlands

Application for family reunification with...	Supporting document for regular family reunification	Supporting document for asylum family reunification
<p>Other (adult children, parents of adult children, uncles, aunts, et cetera)</p>	<ul style="list-style-type: none"> - Copy of supporting documents which show the relationship under family law between the sponsor and the family member (e.g. a birth certificate) - Supporting documents which show how the sponsor is an integral part of family life with the family member 	<p>The same documents as required for regular family reunification</p>

ANNEX V: HOW DOES THE IND ASSESS THE RIGHT TO FAMILY LIFE (8 ECHR)?

Below is a general overview on how the IND assesses whether to grant a residence permit for the purpose of conducting family life on grounds of an Article 8 ECHR assessment. In order to be able to determine whether a refusal of continued stay of the family member is in contravention of Article 8 ECHR, the IND analyses all relevant facts and circumstances and expresses this in a weighing up of interests. Which interests are included in such weighing up of interests by the IND depends on the specific individual case. This starting point of the assessment of the right to family life has been included in the Aliens Act Implementation Guidelines 2000 (B7/3.8). In addition, the IND has drawn up working instructions regarding Article 8 ECHR with guidelines for the decision-making employees to be used in the weighing up of interests.¹⁷¹

The assessment on the basis of Article 8 ECHR consists of the following steps:



171 IND (2015). Werkinstructie 2015/4 – Richtlijnen voor de toepassing van artikel 8 EVRM (Working Instruction 2015/4 - Guidelines for applying Article 8 ECHR) https://ind.nl/Documents/WI_2015-4.pdf. Consulted on 14 April 2017.

> Step 1: **Does the decision result in the (permanent) separation of the family members?**

Firstly, the IND determines whether the decision would result in the (permanent) separation of the family members. This is the case, for instance, if the residence permit of a partner of a family member who already stays in the Netherlands, is not extended. There is no separation of family members if the right of residence of all family members is terminated and they must return to their country, as is the case of a whole family whose application for asylum has been rejected.

> Step 2: **Does it constitute family life?**

If the decision results in the (permanent) separation of the family members, the IND examines whether it constitutes family life in the sense of Article 8 ECHR. For this purpose, the IND looks at the way in which the family members actually conduct the family life.

> Step 3: **Weighing up of interests**

Then the IND assesses whether the interests of the individual outweighs the interests of the Dutch State. Several relevant and common interests are the following:

- Duration of stay in the Netherlands and interference;¹⁷²
- Interference to conduct family life outside the Netherlands (are there any reasons why family life cannot be conducted in the country of origin?);
- Ties with other countries (is it possible to conduct the family life in a third country?);
- Asylum-related aspects (e.g. when a minor daughter has the Dutch nationality and, as a result of the decision, she will have to return to a country where female circumcision occurs);
- Ties with the Netherlands and the country of origin (how strong are the third-country national's ties with the Netherlands compared to those with the country of origin?);
- Medical circumstances (is a family member dependent on medical care in the Netherlands?).

In this context, special attention is given to the child's interest. The starting point is that minor children must be able to stay in the presence of (both) their parents as much as possible.

The interests of the Dutch State which play a role in the weighing up of interests are:

- Economic interests (is the family able to provide for their own subsistence, or are they likely to rely on public funds?)
- Public order (does the third-country national pose a threat to public order?);
- Means of subsistence (can the family provide for their own subsistence?);
- Valid border-crossing document (did the third-country national do his utmost to obtain possession of this document?).

¹⁷² Interference means government intervention in the existing situation of the third-country national (for example, termination of a residence permit). In the event of interference, the starting position of the third-country national is stronger than in the event that he or she relies on a positive commitment from the government (for example, issuing a residence permit to a third-country national who does not stay in the Netherlands).



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