



# The Organisation of Asylum and Migration Policies

## Factsheet: Netherlands

### 1. Introduction

This factsheet provides an overview of how asylum and migration policies are organised in the *Netherlands*, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on information provided in the NL National Report of the EMN Study *The Organisation of Asylum and Migration Policies in EU Member States*<sup>1</sup>, as at August 2012 and information provided by the NL EMN NCP in November 2012 following an internal re-organisation as the new government Rutte II came to office<sup>2</sup>. The Report was based on desk research: key sources were Immigration Policy Department (DMB), the Implementation Policy Department (AUA) of the Immigration and Naturalisation Service (IND), and of the staff of the Repatriation and Departure Service (DT&V).

### 2. Overview of organisation of political, legislative and institutional framework

#### 2.1 The political system and institutional context

As of 5<sup>th</sup> November 2012, the Secretary of State Security and Justice has overall responsibility for aliens' policies. Immigration Policy Department (DMB) and the organisations responsible for the implementation of the legislation fall within the responsibility of the Ministry of Security and Justice. The 'Aliens Chain' constitutes institutions and responsible ministries cooperating in implementation of policy. These are DMB, developing policy on immigration; Royal Constabulary (KMar) for border control and support in the asylum procedure; Central Agency for the Reception of Asylum Seekers (COA) for organisation and reception of asylum applicants; Immigration and Naturalisation Service (IND) responsible for implementing policies regarding foreign nationals and treatment of migration and asylum applications; Aliens Police (VP) supervises the foreign nationals residing; Repatriation and Departure Service (DT&V) performs services connected to return policy.

#### 2.2 The legal framework

The Aliens Chamber (VK) forms part of the administrative law section at the district court of The Hague and focuses solely on hearing disputes in relation to alien law. The most relevant legislation and regulations in relation to asylum and migration are to be found in the Aliens Act 2000, which lays down the conditions applicable in regard to the entry and admission of foreign nationals, including the asylum procedure, and for the removal of foreign nationals who do not have any right of residence. The Integration Act and the Civic Integration Abroad Act set out the mandatory requirement for integration of foreign nationals in the Netherlands. The Netherlands Nationality Act (RWN) lays down the conditions for obtaining and losing Dutch citizenship. The Aliens Employment Act (WAV) regulates the admission of foreign nationals to the Dutch labour market. The Administrative Penalty for Aliens Employment Act stipulates that an administrative penalty may be imposed on employers if they employ foreign nationals illegally.

<sup>1</sup> Available on the EMN website

<sup>2</sup> On Monday, November 5th 2012 the new government Rutte II came to office. This change of government entails a reorganisation of Ministries; from now on the Immigration Policy Department and the organizations responsible for the implementation of the legislation fall within the responsibility of the Ministry of Security and Justice. The affected organisations are the IND, the DT&V, the COA and the ACVZ. Moreover, the Minister of Immigration, Integration and Asylum will be replaced by a Secretary of State of Security and Justice. This approach is reflected in the institutional chart.

### 3. Development of migration and international protection systems

In the development towards an effective government, the establishment of the IND introduced a separation between policy development and policy implementation. On adopting the Aliens Act 2000, in particular the asylum procedure was substantially amended. An important change was the introduction of the 'Intention procedure'. After the IND has assessed the application it notifies the applicant and his/her lawyer if it has the intention to reject the application. Another major amendment was that IND was made responsible for the assessment of applications for 'Provisional residence permits' (MVV).

### 4. Organisation of policy

#### 4.1 Overview of migration and international protection policy

To be able to enter the Netherlands, immigrants are required to hold a valid border-crossing document, with a visa where required. Visas are to be acquired at diplomatic representations and in certain cases at the border. Asylum applicants have to submit their application in person at the Dutch external border (sea port or airport) or at one of the three IND application centres.

Admission on the grounds of both migration and asylum is assessed by the IND. All residing foreign nationals need to have a residence document. For immigrants both temporary and permanent residence permits are generally issued according to the following main categories: family reunification and family; adoption and foster children; re-entry; work; study; Council Directive 2004/114/EC; exchange programmes; working holidays; au pairs; medical treatment; medical emergency situations; family members; victims or witnesses of human trafficking. Asylum applicants may be eligible for a temporary residence permit. If the IND decides positively on an application for asylum, the applicant will be given a temporary residence permit (for five years max.) in the first instance. If the individual still needs protection after five years, he or she may be eligible for a permanent residence permit. Holders of residence permits are entitled to accommodation in a municipality of their choice as well as training, social security benefits and study grants. They will also be entitled to family reunification subject to certain conditions.

An immigrant may obtain citizenship through application, birth or naturalisation. This entitles permanent stay. Holders of residence permits are allowed to have paid employment. To be able to work in the Netherlands, employment migrants will be expected to have a residence permit and a work permit. A work permit is valid for up to three years. Highly skilled migrants, under the High Skilled Migrants Scheme, with a residence permit do not need a work permit. Asylum applicants will be able to gain access to the labour market six months after the date on which the asylum procedure starts.

Return policy in the Netherlands primarily focuses on foreign nationals who are obliged to leave because they do not reside lawfully. The foreign national then is to leave the country independently. As soon as the asylum applicants no longer require protection, they are expected to return to the country of origin.

#### 4.2 Links with other policies

The migration and asylum policies are related to the labour market policies; integration policies, where integration policy equals policy that promotes the amalgamation of different population groups into Dutch society; and the foreign and development policies, where this policy comprise Dutch security policy and human rights policy. The foreign and development policy contributes to the development of the most important countries of origin from which migrants to the Netherlands come.

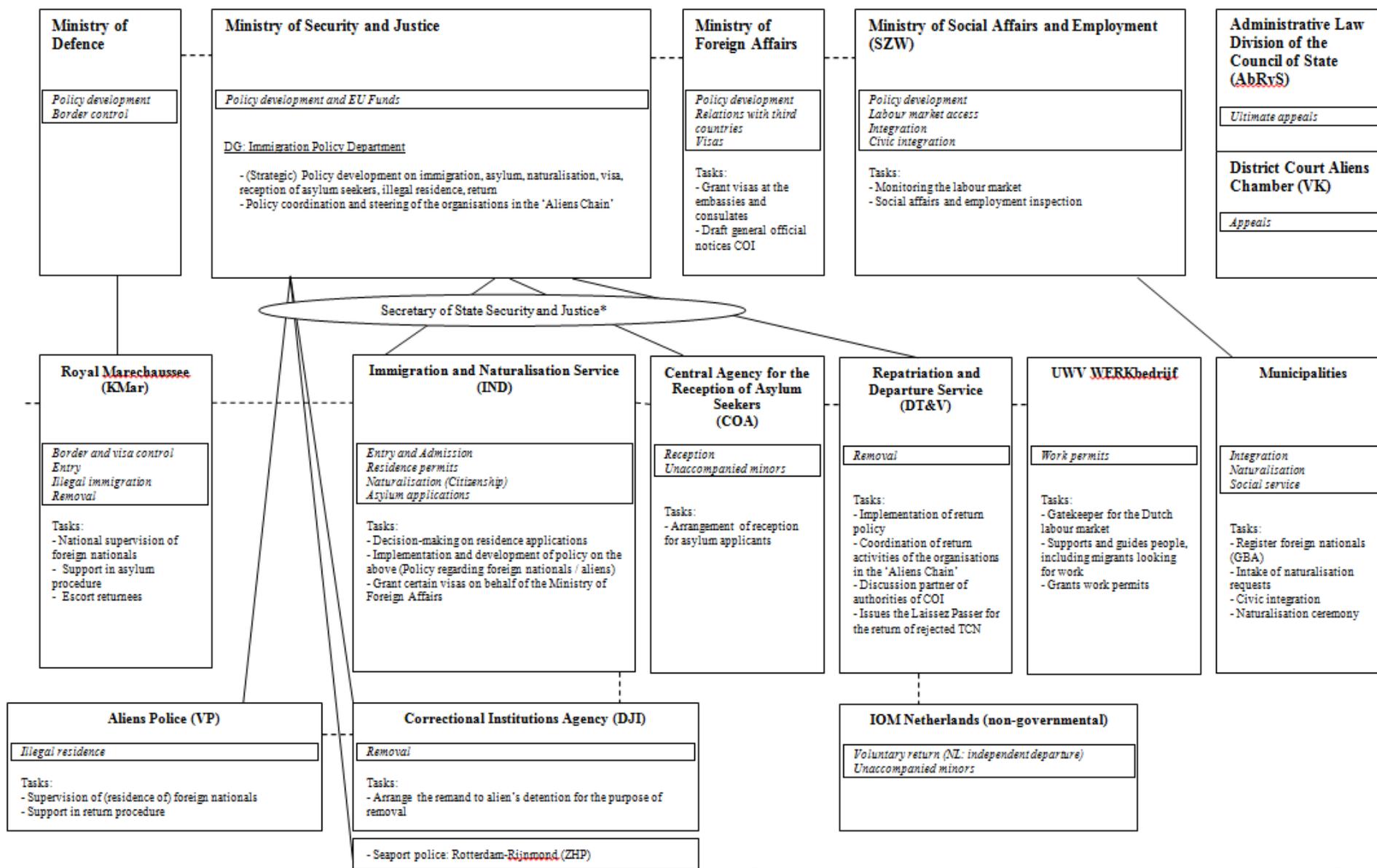
#### 4.2 Analysis of Asylum and Migration Systems

The Netherlands wishes to increase its appeal for well-educated knowledge workers. The extension of the job search period applicable for foreign students in the Netherlands once they have completed their studies, a reduction in the income limit, acceleration of the procedure with the IND to two weeks by entering in to covenants with businesses and educational institutions, and an improvement in collaboration and data exchange between the IND, the UWV (work permits), municipalities and the tax authorities are all designed to contribute to this. In line with these efforts, it is likely that the approach to a simplified residence permit for non-asylum applicants will be continued. As regards the short-term, the expectation is that additional expat centres will be opened in The Hague and Eindhoven.

A second development to be expected in the context of farther-reaching European collaboration is the implementation by the Netherlands of the measures indicated in the European Pact on Migration and Asylum adopted October 2008. It contains a number of political priorities in relation to legal migration and integration, illegal migration, repatriation, border control and development policies.

### ANNEX: Institutional Chart for the Netherlands

# THE NETHERLANDS - Institutional Chart for immigration and asylum policies (November 2012)



\* The Secretary of State has overall responsibility for aliens' policy. He maintains a relationship of authority with the KMar, the VP and the ZHP.