



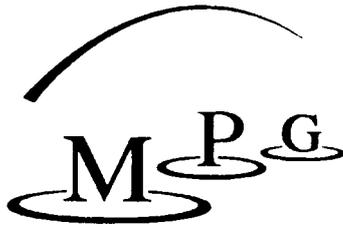
■ Current Immigration
Debates in Europe:
A Publication of the
European Migration
Dialogue

Jan Niessen, Yongmi Schibel and
Cressida Thompson (eds.)

The Netherlands

Vera Marinelli





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for

FORUM

(Instituut voor Multiculturele Ontwikkeling)

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The Migration Policy Group (MPG) is an independent organisation committed to policy development on migration and mobility, and diversity and anti-discrimination by facilitating the exchange between stakeholders from all sectors of society, with the aim of contributing to innovative and effective responses to the challenges posed by migration and diversity.

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The individual reports on Austria, Belgium, the Czech Republic, Denmark, Finland, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Spain, Switzerland, and the UK are available from MPG's website, together with a preface and introduction. See Jan Niessen, Yongmi Schibel and Cressida Thompson (eds.), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue*, MPG/Brussels, September 2005, ISBN 2-930399-18-X.

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The Netherlands

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1. Making the case

1.1 The immigration debate

General statistics

In 2004 population growth plunged to its lowest level since 1920. On 1 January 2005, there were 16.3 million people living in the Netherlands, including 1.6 million non-western immigrants (ten per cent of the population) and 1.4 million western immigrants (nine per cent of the population).

After half a century of immigration, the Netherlands has become an emigration country once more. In 2004, the number of emigrants (112,000) topped the number of immigrants by almost 23,000. Statistics Netherlands expects emigration to be high (above 100,000 per year) until 2010, due to the current state of the economy and housing shortages. At the same time, tight immigration and asylum policies should keep immigrant inflow low.

It is important to note that, while economic factors were the main driving force of Dutch emigration in the past, social tensions appear to play a decisive role today. After the murder of filmmaker Theo van Gogh in November 2004, the number of visitors to a website for would-be emigrants jumped sharply.² Put simply, the climate in the Netherlands has changed significantly.

The current Dutch immigration debate focuses on two migration flows: labour migration and family migration, both are addressed later in this section. First, however, it is important to draw out the current debate on asylum.

Asylum

Asylum policy is no longer a subject of heated debate. The introduction of a tougher asylum law in April 2001 led to a dramatic drop in applications. In 2004, less than 10,000 people applied for asylum in the Netherlands, a 30 per cent drop from 2003. This signified the lowest number of asylum applications since 1988. At the same time, some rather emotive discussions are still taking place on how to handle the planned expulsion of 26,000 rejected asylum seekers.

Return Project for Asylum Seekers

In 2002, the former government (Balkenende I) announced a 'regularisation'³ campaign for asylum seekers who had been waiting for longer than five years for the result of their first asylum application. These asylum seekers arrived before 1 April

¹ This report is based on information up to 26 May 2005.

² A survey conducted in April 2005 indicated that 32 per cent of Dutch people want to emigrate. This is largely due to a feeling of unease surrounding recent political developments, the perceived failure of multiculturalism, overpopulation, crime and social isolation. However, the survey also assessed positive attitudes towards the Netherlands, the results of which focused on freedom, Dutch national symbols and the landscape (National daily newspaper 'de Telegraaf', 13 April 2005).

³ In the Netherlands it was referred to as an Amnesty scheme, however, describing it as an 'amnesty scheme' might be a little mis-leading in light of the limited nature of the scheme, hence the use of the more generic term 'regularisation'

2001 and they therefore fell under the old Aliens Act. However, this government resigned after being only 87 days in office.

Instead, the present government (Balkenende II, a coalition of Christian-Democrats (CDA) and Liberals (VVD and D66)) decided on the fate of these long-term asylum seekers in January 2004: just over 2,300 people were granted a residence permit. Asylum seekers had to meet specific criteria in order to fall under this campaign. If they had lied or had withheld information that could have led to a rejection of their asylum application, or if there were serious doubts about their identity, the 'pardon scheme' would not apply to them.

The Immigration and Naturalisation Service (IND) estimated at the time that about 26,000 asylum seekers who applied for asylum under the old Aliens Act, would not meet the criteria of the one-time 'regularisation campaign' and would have to leave the country. The majority were still waiting for a decision on their asylum application or waiting for the court's verdict on their appeal. If the courts ultimately rejected their appeal, they would receive counselling (for a maximum period of 16 weeks) to prepare them for their return. The expulsions of this group are to be spread across three years (until mid-2007).⁴

According to the Dutch Refugee Council, a large percentage of the '26,000' asylum seekers earmarked for expulsion under the government's tough return policy will probably be allowed to stay. However, in its report *No amnesty, but deportation?*,⁵ the Refugee Council states that a lot of misery could have been prevented if Parliament had opted for a more expansive regularisation scheme. According to their information, the IND had processed 8,636 cases by mid-February 2005. The IND recommended that 41 per cent of these asylum seekers be allowed to stay in the country.

This year, filmmakers in conjunction with relief groups such as the Refugee Council, ICCO, Novib and Plan Nederland, have started a televised campaign to protest against the limited regularisation. The campaign named *26,000 gezichten* (26,000 faces) is a series of film clips, which are broadcast by the public network VARA. They are designed to give a face to the 26,000 asylum seekers. The campaign triggered a decision by Immigration and Integration Minister, Rita Verdonk, (backed by Parliament) to release personal details of asylum seekers who exaggerate their cases in the media. The Minister claims the government has the right to defend itself against incorrect and one sided information being put forward by asylum seekers who are dissatisfied by their treatment and the negative decision on their asylum application.

Labour migration⁶

In 2001 labour migration was a hot topic in the Netherlands. A lively and optimistic debate developed between politicians and scientists on whether or not labour migration was to be regarded as the solution for the current demographic challenges facing the Netherlands (the ageing population), the growing pressure on the social welfare and pension systems and even for the problems related to asylum seekers (with a more liberal labour migration policy, less labour migrants would try and enter

⁴ Around 2,000 of this group have left the country, most of them did so voluntarily (with extra departure funds).

⁵ 'Geen pardon maar terugkeer?', Vluchtelingenwerk Nederland, March 2005.

⁶ This paragraph is based on the lecture by Dr. Harry van der Berg from the Vrije Universiteit of Amsterdam at the national EMD meeting on labour migration in the Netherlands (10 March 2005).

through asylum channels). In general the advantages of labour migration dominated the debate and public opinion.

However, there was a turning point after the terrorist attacks of 11 September 2001, when it became clear that the profile of the ideal, highly skilled migrant (highly educated, multilingual and able to socially adapt to local circumstances) matched the profile of a terrorist. The debate on 'how to attract new migrants' quickly changed to 'how do we keep them out'. Employers' organisations were the only ones to continue to, (and succeeded in) lobby the government to relax the admission rules for highly skilled, highly paid migrants. Apart from this, labour migration has not been on the domestic political agenda. The European Commission's Green Paper on *an EU approach to managing economic migration* (of January 2005) received little to no media or political attention.

In the Netherlands, different categories of labour migrants receive different treatment, depending on demand in the domestic labour market. For example, the Netherlands has recently eased the rules for highly skilled migrants and has admitted a large number of Polish (temporary) workers. At the same time, however, a decision by the Spanish government to regularise the status of a large number of workers residing on an illegal basis in Spain, was condemned strongly by Minister for Immigration and Integration, Rita Verdonk.

Highly skilled migrants

The Minister of Economic Affairs, Laurens Jan Brinkhorst, has made it his mission 'to make the Netherlands one of the most attractive knowledge economies for innovative development'. In the process, the Netherlands will increase its efforts to attract highly skilled migrants.

The government relaxed the admission rules for highly skilled migrants,⁷ or so called 'knowledge migrants' [kennismigranten] on 1 October 2004. Highly skilled migrants are no longer required to apply for a special work permit at the Centre for Work and Income (CWI). Instead, they are placed outside the Foreign Workers Employment Act [Wet arbeid vreemdelingen] so that the Immigration and Naturalisation Service (IND) will take sole responsibility for their admission to the Netherlands and to the Dutch labour market. The IND has admitted over 400 highly skilled migrants since the special regulation for highly skilled migrants came into force.

Corporations and institutions can enter into an agreement with the Immigration and Naturalisation Service to give their skilled migrant workers access to an accelerated procedure to acquire their temporary residence permit [machtiging tot voorlopig verblijf (mvv)].⁸ The agreement includes an obligation for the employee to perform to the best of his/her ability [inspanningsverplichting] (more specifically, they are required to complete their contract). The employer is obliged to provide notification of any relevant changes and to provide for the employee [zorgplicht]. On its part, the government agrees to make every effort to process these applications in the shortest possible period of time (and within a maximum period of two weeks).

⁷ A highly skilled migrant is a migrant who comes to the Netherlands in order to perform work in salaried employment and earns a gross income (yearly) of at least € 45,000. Highly skilled workers are issued a residence permit for a period of five years if they are in possession, or about to be granted possession, of a contract of unlimited duration. In the case of a contract for a limited period, the permit will be granted for the duration of the contract, with a maximum of five years.

⁸ Some 450 companies and (educational) organisations have entered such an agreement.

The income criterion has been lowered to €32,600 for doctoral students at an educational or research institute and for postgraduates and university teachers under 30 years of age. Students are not regarded as highly skilled migrants. They are granted a residence permit for a period of one year that is subject to annual renewal. Educational institutions can also make use of the accelerated temporary residence permit [mvv] procedure for the admission of foreign students.

The partners of foreign workers with specialised skills have been exempted from the obligation to apply for a work permit since 1 March 2005. The government hopes that this exemption will increase the appeal of the Netherlands to foreign experts. However, the partner of the foreign expert loses his or her exemption if they end their relationship within three years.

Inflows from Central and Eastern Europe

In January 2005, Parliament expressed its concern over the influx of Central and Eastern European workers in agriculture and horticulture. Since the enlargement of the European Union in May 2004, more than 25,000 (temporary) work permits have been issued to nationals of the 'new' EU Member States in Central and Eastern Europe. Prior to the enlargement, the Dutch Central Planning Office (CPB) severely underestimated the inflow from 'new' EU Member States (their figures suggested a need for 10,000 permits).⁹ Polish immigration has been particularly noticeable, with their numbers doubling the year they entered the European Union (from 2,200 in 2003 to 4,900 in 2004).

The government would prefer to put unemployed Dutch people to work in agriculture and horticulture, but it has not yet succeeded in its efforts to do so. Employers' organisations fear that introducing legal limits to the employment of Polish workers will only lead to new categories of clandestine labour.

Professor in Migration History, Piet Emmer, has argued¹⁰ that labour migrants from Central and Eastern Europe deserve better access to the Dutch labour market. The fear of a massive influx of nationals of 'new' EU Member States is unnecessary, he stated, given the following facts: 1) most of these migrants are temporary and seasonal workers, 2) the East-European countries have fast growing economies and shrinking populations (so the incentive to leave for the 'old' EU Member States will not be strong), and 3) the immigration of cheap labour could save Dutch companies and jobs.

Family migration

The Minister of Immigration has initiated the transposition process of the EU family reunification directive into national legislation. The main legislative changes were incorporated relatively quickly due to the relatively simple procedure involved (it was only necessary to change 'lower' legislation to implement these plans). The Order in Council [Algemene Maatregel van Bestuur] was therefore implemented on 1 November 2004 by means of a Royal Decree [Koninklijk Besluit] after hearing the

⁹ Nationals of Cyprus and Malta do not require a work permit. Nationals of the other new Member States may obtain a work permit if they apply for a position in sectors with a manpower shortage, such as those of long-distance lorry drivers, slaughterhouse workers and laboratory assistants.

¹⁰ 'Werkende migranten van harte welkom'. National daily newspaper 'de Volkskrant', 16 April 2005.

advice of Parliament.¹¹

Since this decision, age and income restrictions now apply:

- A sponsor residing in the Netherlands (who wants to bring a (marriage) partner to the Netherlands) and the migrating partner should be 21 years or older.
- The sponsor should also earn at least 120 per cent of the minimum wage (a net monthly income of €1,319).
- A single parent and those aged between 57.5 and 65 years are no longer exempted from the income requirement. If they want to bring a partner or children to the Netherlands, they are subject to the 120 per cent income norm.

According to Minister Verdonk these restrictions on starting a family with a person from outside the EU, and on family reunification, are designed to create more favourable conditions, in which migrants already residing in the Netherlands can integrate more successfully into Dutch society. Indeed, limiting immigration has regularly been offered as a rationale for better integration in the Netherlands since the late 1990s.

Since the tightened regulations for asylum and labour migration, family migration is almost the only legal way for non-EU nationals to be admitted to the Netherlands. The fact that a majority of - even second generation - Dutch Turks and Moroccans (two out of the four largest immigrant groups in the country) still find a partner from their country of origin, is viewed as a significant hindrance for a successful integration policy.¹² It is important to note that while in earlier years family migration had been relatively immune to economic decline and changes in policy, immigration of Turks and Moroccans strongly declined in 2004.

In 2004, 2,900 Moroccans entered the country compared to 4,900 in 2003, and the number of Turkish immigrants fell from 6,700 to 3,900. In the first three months of 2005, the IND received 7,600 applications (mostly from Turks and Moroccans), compared to 10,800 in the same quarter in 2004. The Immigration Service attributes this decrease to the changes in family formation regulations.

Managing migration

The government is also trying to manage, or control the types of migrants entering the Netherlands. A range of initiatives are being implemented or proposed to this end:

Pre-arrival integration

¹¹ Acts of Parliament often only address the main aspects of a topic. They provide for more detailed legislation in the form of implementation regulations (lower legislation), which - like Acts - contain generally binding regulations. They are not subject to approval by parliament. There are many kinds of implementation regulations. Some are required by law to be enacted by the government. These are called orders in council and take the form of Royal Decrees that must be signed by the Queen and one or more members of government. In other cases, a minister may be designated in an Act to enact more detailed rules. These take the form of a ministerial order. Finally, implementation regulations may be drawn up by officials, if the Act in question allows for it. (www.overheid.nl)

¹² This because many marriage migrants from the Turkish and Moroccan communities have little education, which makes it harder for them to get a job. The fact that children are brought up with a different mother tongue is seen as an obstacle for them to succeed at school.

In order to actively integrate migrants into Dutch society, the Integration Newcomers Act [Wet Inburgering Nieuwkomers] was introduced in 1998. This law has recently been renewed (for more details, see section 1.2). Related to this Act, Minister Verdonk has designed a separate Bill on pre-arrival integration or on the 'integration of migrants abroad' [Wet inburgering in het buitenland]. This Bill was approved by Parliament on 22 March 2005, and it introduces new requirements for applicants, which should be met in their home countries. Applicants for permanent residence are required to possess basic language skills and knowledge of Dutch history, culture and institutions before arriving in the Netherlands. Applicants have to pass a test on Dutch culture and a telephone test (using a speech controlled computer) on Dutch language skills at Dutch embassies and consulates around the world. This obligation for non EU-nationals to sit and pass an integration exam in their country of origin before being granted entry into the country was scheduled to become law on 1 June 2005 but the implementation date has been postponed.

Citizens of the USA, Canada, Australia, New Zealand, Surinam (if the person has finished six years elementary school), Japan, and nationals of countries with close ties with the EU (Iceland, Liechtenstein, Norway and Switzerland) wishing to join their Dutch partner in the Netherlands are exempt from the pre-arrival exam. Expatriates living and working temporarily in the Netherlands are also exempted.

This entrance examination is expected to affect some 14,000 candidates of immigrants, mostly from Turkey and Morocco. They are generally people with family members (or partners) already residing in the Netherlands who want to exercise the right of family reunion.

Plans to restrict access to welfare system

The consequences of increased immigration on the social security system have been the subject of frequent parliamentary debates. The present government is striving for a new "reasonable balance between discouraging migrants from coming to the Netherlands because of the attractive welfare provisions, and financial security for migrants who have settled in the country" (Press Release Ministry of Social Affairs, March 2005).

Before the end of September 2005, the Ministry of Social Affairs will fine-tune the detail of proposals to restrict migrant access to the welfare system. For instance, the government wants to ensure that financial guarantors for migrants such as employers and partners fulfil their obligations better. The possibility of a bank guarantee will be explored, as will the option of refusing to financially back people who have proven to be unreliable in the past. The government is also considering extending the period in which a migrant's residence status is dependent on their Dutch partner from three to five years, with a possible exception for migrants who are particularly active in their efforts to integrate.

In addition, the government wants to investigate whether it is possible to make it mandatory for migrants coming to the Netherlands to take out supplementary insurance for old-age pension. In that case, migrants will be obliged to pay an amount before being admitted to the Netherlands.

Migrants who fail to take out supplementary insurance, which makes them ineligible for a full pension, will not have their pension topped up from welfare. The consequences of these proposals for people coming to the Netherlands to work, including specialised foreign workers, will be included in the investigation. Finally, the

government wants to look into the option of insisting that migrants reside in the country for a period before becoming eligible for welfare.

All in all, the last few years have seen increasing attention for the economic aspects of immigration. Recent studies by Regioplan and the Cultural Planning Office (CPB) have shown that previous migrant workers (guest workers) and their successors have been a greater (economic) burden than benefit to the Dutch welfare state. Since November 2004 the basic principles in the admission policy for migrant workers are aimed at optimising economic benefit for the Netherlands.

Increased fees for residence permits

Aside from tightening immigration laws, the government has significantly increased the costs for the application and renewal (extension) of residence permits. Temporary residence permits have increased from €56 to €430 per person since May 2002. The application fee for a permanent residence licence has gone up from €226 to €890. A group of 25 organisations, including the Institute for Multicultural Development FORUM, the National Bureau against Racial Discrimination (LBR) and the Dutch Refugee Council, have been protesting against the increased fees since mid 2003. They feel that the increases are unjust and unlawful. The high fees effectively work as a concealed entry requirement, as they make family reunion more difficult for low-income immigrant households.

The above mentioned alliance of organisations took the State to court on this matter. However, to their disappointment the court ruled on 16 February 2005¹³ that the State had demonstrated convincingly that the rise in fees was necessary to cover the costs of the Immigration and Naturalisation Service (IND) for making or extending the residence permits. However, Turks are exempted from the increases thanks to the Netherlands' Association Treaty with Turkey, which specifies that no new restrictions on residence can be placed on Turkish nationals. In addition, the court maintained that the State should make an exception in individual cases for people from other countries, if the right to family life, as laid down in international treaties, is threatened by the size of the fees.

The administration fees for the authorisation for temporary stay (MVV) and regular residence permits (VVR) were changed again on 1 July 2005. Some fees are lowered but the fee for the authorisation for temporary stay (MVV) for instance is raised from €50 to tariffs varying from €188 (for accompanying family members) to € 830 (to stay with a family member or relative). Information on the new tariffs, on who is eligible for reduced fees and who is exempted for payment can be found on the IND website: www.ind.nl

Fighting illegal labour

Fighting illegal labour is a high priority under the current Dutch coalition government. The unemployment level has increased in recent years and illegal workers are seen as depriving work to people who are allowed to work in the Netherlands. Illegal workers also deprive the government of tax revenues.

Since the beginning of 2005, the Ministry of Social Affairs has stepped up its fight against illegal labour. The Labour Inspectorate has been authorised to impose immediate fines on employers who employ foreigners without a working permit (an economic offence) and the fines themselves have increased significantly, from €900

¹³ Court ruling 16 February 2005, The Hague.

to €8000 per illegal worker. The number of inspectors has also increased so that more checks can be carried out. In the first quarter of 2005 an estimated €4 million in fines have been imposed.

1.2 The integration debate

The debate on integration and multiculturalism have intensified in recent years. A thorough and critical analysis is taking place to examine the way foreign born and native citizens can be united in order to combat intrusions into the democratic system. There are discussions on the boundaries of fundamental and constitutional freedoms such as the freedom of speech and the freedom of religion, on the radical tendencies among Muslim youth, and on how to deal with a large Muslim minority in a secular State.

The first doubts about the Dutch policy of tolerance and the effectiveness of Dutch strategies of pacification appeared in the early 1990s, however, it is clear that major incidents such as the terrorist attacks in the US (11 September 2001) and the murders of the Dutch politician Pim Fortuyn (6 May 2002) and the Dutch film maker Theo van Gogh (2 November 2004) have had a profound impact on the present public and political debate.

The dominant view is that Dutch multiculturalism is far from flourishing, in fact some have even declared it bankrupt. First and second generation immigrants have not integrated. This is undermining social cohesion, and together, this signals the failure of current policies. In simple terms, multiculturalism is often associated with generating problems rather than paving the way for a promising future. Since May 2002, the media has portrayed multiculturalism as a hopelessly outmoded and politically disastrous ideology.¹⁴ The 'burden of proof' has shifted to those who claim that the integration policy has not (totally) failed.

However a second opinion is emerging: besides the 'new realists' or 'conservative liberals' who choose a path of confrontation, there are those who call for dialogue, understanding, reconciliation and enhancing social ties.

Both ways or viewpoints are reflected in the following developments, policies and debates:

The Temporary Parliamentary Inquiry Committee on Integration Policy¹⁵

At the end of 2002 a parliamentary inquiry committee was set up to investigate and assess Dutch integration policies over the past 30 years. The committee acted on a motion moved by Socialist Party leader Mr Jan Marijnissen, and was formulated on the assumption that 'integration had failed'. However the main conclusion of the committee was that many migrants in the Netherlands have successfully integrated, but that their integration had taken place 'despite' rather than 'thanks to' government policy.

In January 2004 in the days around the presentation of 'Building Bridges', the final 2,500 page report on the government policy towards ethnic minorities between 1970

¹⁴ B. Prins, 'The nerve to break taboos: New realism in the Dutch discourse on multiculturalism'. In: *Migrantenstudies* no. 4, 2002, FORUM / Bohn Stafleu van Loghum.

¹⁵ Widely known as the Blok Committee, after its chairman Liberal MP Mr Stef Blok.

and 2000¹⁶, a storm of criticism broke out. Two of the government coalition parties (Liberal VVD and Christian-Democratic CDA) as well as opposition parties (LPF and the Socialist Party) said that the committee had simply got it wrong and that its report was weak. Spokespersons made harsh qualifications. The leader of the CDA parliamentary group, Mr Maxime Verhagen, said that anyone who dares to claim that the Dutch integration policy has succeeded is either naïve or ignorant, or both. The outspoken and influential VVD MP, Ms Ayaan Hirsi Ali, said the committee lacked a 'sense of reality'. However when the findings of the Committee were discussed in the Lower House of Parliament in April 2004, almost all recommendations (25 out of 27) of the Committee were adopted.

The recommendations focused on a more substantial integration policy with a less voluntary character. Dutch history should be given more attention at school, and the rights and responsibilities of immigrants should be laid down more clearly by law.

The committee observed that the Turkish and Moroccan governments exercise influence on their nationals via the Mosque organisations Dyanet (Turkey) and UNMON (Morocco). This influence hinders the introduction of a Dutch Imam training course and the evolution of a Dutch Islam.

The committee recommended putting a stop to the ongoing segregation in Dutch schools ('white' schools and 'black' schools i.e. schools with over 50 per cent of students from ethnic minority groups) by varying the housing supply.

More housing for higher social groups should be created in cities, while the peripheral municipalities should attract immigrants via cheap housing.

The committee concluded that family immigration hampers integration, but made no recommendations to (further) limit the possibilities for immigrants to bring their partner in from their country of origin.¹⁷

If nothing else, the committee's report has inspired all political parties to come up with their own ideas on the integration of immigrants. In 2004, almost every political party represented in Parliament published a report on integration. In these reports, parties called for restrictions on family reunification migration or the entry of migrants from low socio-economic groups. Liberal D66, PvdA (Labour) and CDA (Christian-Democrats) backed the entry of more skilled foreign workers.

Compulsory integration

Since the introduction of the Newcomers Integration Act [Wet Inburgering Nieuwkomers or WIN] in 1998, new immigrants have to follow an integration course. In March 2005 the Dutch government approved a Bill submitted by Minister Verdonk, that strengthened the WIN – Act. All persons aged 16 to 65 who are allowed to come and stay in the Netherlands on a permanent basis are obliged to participate in a civic integration programme. The statutory obligation applies to both newcomers and settled immigrants. The group of settled immigrants that have been residing legally in the country for years (some even holding the Dutch nationality) but still have little knowledge of the Dutch language, is estimated at 450,000. The government want them to take an integration exam as well.

¹⁶ Bruggen bouwen, Eindrapport Onderzoek Integratiebeleid. Kamerstuk 28 689, no. 9, Tweede Kamer, vergaderjaar 2003-2004.

¹⁷ As mentioned in the immigration debate, the government has since tightened the conditions for family migration by raising the age and income criteria.

The Bill on a revised Integration Act has been sent to Council of State for advice, and apparently there are still some legal obstacles to make settled immigrants subject to the integration requirement. The new law is scheduled for implementation in mid 2006.

This Bill aims to provide a more compulsory and result-oriented integration system, which requires that immigrants assume responsibility for themselves. This new obligation aims to bridge existing language deficiencies, and to prevent new migrants from falling behind in their development. It is the result of the coalition agreement (made in Cabinet), the recommendations made by the Blok Committee and the Franssen Committee (that advised on the form and content of the integration exam).¹⁸

Migrants will have to attain the Common European Framework for Modern Languages A2 level requirements for oral and written fluency in Dutch. Settled migrants will only have to meet the A1 level requirements because they are usually older and often have had little or no training. Participants can purchase a course themselves on the market of providers. The government will facilitate the compliance of the integration obligation by providing a credit or lending facility and standardised compensation for costs incurred if the examinee has passed the test within three years. A number of specific groups of migrants, including certain individuals entitled to social benefits and disadvantaged women, may also be offered municipal integration / reintegration¹⁹ programmes.

As a matter of principle, municipalities are obliged to uphold the law. The main sanction included in the Bill is that municipalities impose administrative fines for failing to pass the integration exam within the specified time, which will be three and a half years for immigrants who have successfully completed the pre-arrival integration tests in their country of origin and five years for all others.

The van Gogh murder and anti-terrorism measures

On 2 November 2004, the Dutch public was shocked by the second murder of a public figure.²⁰ Film-maker and controversial columnist Theo VAN GOGH (47) was stabbed and shot dead in Amsterdam. Shortly after the murder, the police arrested the presumed killer, Dutch-Moroccan Mohamed B.²¹

In the immediate aftermath of the murder, there were violent attacks on Islamic targets, including mosques, schools and other organisations. White Power symbols were painted on walls, anti-Islamic pamphlets were plastered around the city and there were even some cases of arson. But at the same time, 'soft forces' gathered. These soft forces initiated advertising campaigns and debates designed to promote understanding and dialogue. In addition, a number of Moroccans denounced the violent murder, letting their voices be heard in the public debate.

¹⁸ Inburgering getoetst. Advies over het niveau van het inburgeringsexamen in het buitenland. Den Haag (The Hague), February 2004.

¹⁹ Reintegration programme: assistance with returning to the labour market.

²⁰ On 6 May 2002 politician Pim Fortuyn was murdered.

²¹ Contrary to the practice in most other countries, the Dutch media does not report the full names of crime suspects. They are usually identified with initials or with the first name and the first letter of the surname. In foreign media the full name of Mohamed B. is mentioned: Mohamed Bouyeri.

It soon became clear that the suspect had acted out of radical Islamic convictions and that he had been in contact with a group of potential Muslim extremists that were under surveillance by the Dutch secret service. 12 members of a core group, nicknamed The Hofstad Group, were arrested in the week following the murder. They are currently on trial, accused of being members of a criminal organisation with terrorist intent, and are suspected of plotting to kill a number of prominent Dutch politicians.

On 26 July 2005 Mohammed B. was sent to life imprisonment for the murder. The Amsterdam court ruled that the murder was a terrorist act, with the intention to disrupt and create fear in Dutch society. Mohammed B. also was found guilty of attempting to kill eight police officers and two bystanders, and for preventing MP Ayaan Hirsi Ali to do her work as a people's representative.

Mohammed B. left a letter on the body of his victim directed to the outspoken Liberal (VVD) MP of Somali origin Ms Ayaan Hirsi Ali, indicating that she was the main target. Ms Hirsi Ali had asked Theo van Gogh to co-produce the short film 'Submission', televised in the summer of 2004. It tells the story of a Muslim woman forced into an arranged marriage, abused by her husband and raped by her uncle. The most controversial scene shows a battered woman in see-through garments with Koranic script written on her body.

Because of death threats against her, Ms Hirsi Ali has been under constant police surveillance since late 2002. At that time she worked for the scholarly bureau of the Labour Party and had initiated a discussion of the emancipation of Muslim women (her primary mission). Later she joined the Liberal Party and became a Member of Parliament in 2003. Two MPs, Ms Hirsi Ali and her former party member Mr Geert Wilders (now independent), are still under high security and are forced to live in secret locations.

The murder of Theo van Gogh and the findings of the Dutch intelligence service, AIVD, on the Hofstad Group, and the increasing radicalisation of Muslim (mainly Moroccan) youngsters, instigated broad parliamentary and public support for new, stricter anti-terrorism measures. They include permanent high security areas where police have preventive powers to stop and search on suspicion. Individuals suspected of involvement in terrorist plans or networks may receive an administrative order to report on a regular basis to the police or a restraining order to bar them from being in the vicinity of specific individuals or objects. There is a 'Safety and Terrorism Dossier' on a government website containing all government plans and adopted measures

(www.regering.nl/actueel/dossieroverzicht/EXTTerrorismebestrijding.jsp).

Broad Initiative on Social Ties

In the context of the security rationale, the Dutch Cabinet has recognised the need to give new life to the coalition agreement 'Participation, employment and deregulation'. The 'Broad Initiative on Social Ties' [Breed Initiatief Maatschappelijke Binding] started in January 2005, aimed at designing new plans with municipalities, social and religious organisations and well known individuals to enhance the ties and commitment of groups and individuals to the Dutch society. Initiatives focus on co-operation and participation of citizens and organisations in education and in schools, neighbourhoods, and the labour market, etc.²²

²² More information can be found on www.regering.nl and www.zestienmiljoenmensen.nl

An example is the €100,000 employment campaign for highly skilled refugees, launched by State Secretary of Social Affairs and Employment, Mr Henk van Hoof. During the launch he declared a 'job offensive' involving a coalition of organisations with the aim of finding work for an additional 2500 refugees during the next three years. The State Secretary wants to invest in special education to retrain refugees with a background in medicine, technology or education so that they can find work. Unemployment is much higher among refugees than might be expected from a group of people with such a level of education and experience.²³ Many of them are trained and have worked in professions that are in high demand in the Netherlands, including medicine, dentistry and education.

1.3 The brain drain debate

The current migration debate focuses on the impact of migration on the Netherlands. Put simply, it is discussed in terms of restriction and integration. In policy terms however, a link has been made between migration and development. The Minister of Development Co-operation, Ms Agnes van Ardenne and the Minister of Immigration and Integration, Ms Rita Verdonk, published a policy report in July 2004 on *Development and Migration*. If the Netherlands wants to keep control of the influx of migrants, it should pay attention to problems in the countries of origin, is the message it sends.

The policy document indicates that the interests of migrants, countries of origin and destination countries are best served by circular migration.²⁴ The departure of well-educated people is a problem in all countries with which the Netherlands has a development relationship. The prospect of work and prosperity is a significant determining factor when a person decides whether or not they will leave a country or stay, and it is also plays an important role in their decision to return. Temporary migration should not become the basis for a longer (illegal) stay.

Therefore the policy concerning developing countries should pay more attention to improving working conditions and generating career and income opportunities. The government wants to support migrants wishing to return to their country of origin in order to help with the process of reconstruction (if the country involved has been given priority by the Dutch development policy). This could also apply to initiatives designed by Dutch social organisations that prepare migrants to return to their country of origin. Activities of this kind should not only benefit the returning migrant, but also the population of the country itself.

The government also wants to encourage migrant and development organisations to seek mutual partnerships so that migrant organisations can make a maximum contribution to development co-operation. The Cabinet intends to involve migrant organisations more closely in development policy by discussing the policy outlines with the National Ethnic Minorities Consultative Committee [Landelijk Overleg Minderheden or LOM].

At the national European Migration Dialogue meeting on labour migration in the Netherlands (March 2005), which focused on the EU Green Paper *on an EU approach to managing economic migration*, participants expressed very different views on the brain drain issue. For example, some argued that in Poland (and India

²³ Less than one third of the refugees from Afghanistan, Iraq and Somalia have work. Approximately half of the refugees from Iran and Yugoslavia are employed.

²⁴ Brain circulation instead of brain drain.

and South Africa) brain drain is not regarded as an issue. Instead, they consider the arguments fundamentally paternalistic. Other countries view trained personnel as an export product. In the Philippines, for example, there is a policy of training more nurses than necessary. The money the additional nurses earn abroad (and send home) is vital to their economy. In the Dutch policy report on *Migration and Development*, this contribution of migrants to the economic development of their country of origin is recognised. The Cabinet is also looking at ways of making money transfers to the countries of origin less expensive for private individuals.

An EU minimum set of rights for workers was discussed and considered highly desirable by migration experts in a meeting in March in the Netherlands. However, they acknowledged that it is probably a difficult goal to reach, especially when looking at recent experiences with the family reunification Directive where the minimum set diluted to an unprecedented all time low.²⁵

²⁵ This paragraph is based on the national EMD meeting on labour migration (organised by FORUM in March 2005) and the policy document 'Ontwikkeling en Migratie'. Ministry of Foreign Affairs, July 2004.

2. Basing policies on evidence and consultation

The first Dutch national report for the European Migration Dialogue (May 2003) contains an extensive list of Dutch stakeholders in the field of migration. The paragraphs below describe a selection of governmental and non-governmental organisations that play an important part in the present Dutch migration and integration debates. They have recently contributed to the debate on the policies set by government.

The Ministry of Justice

The main actor in migration policy in the Netherlands is the Ministry of Justice. Following the negotiations on the formation of a new government after the general elections of May 2002, it was decided to reinforce this policy field by creating a new ministerial position within the Ministry of Justice combining migration and integration affairs, currently headed by Minister Rita Verdonk of the Liberal Party (VVD).

The Ministry holds several departments dealing with migration and integration. The *Immigration Policy Department* develops Justice policy in the areas of immigration, naturalisation and the relief of asylum seekers. It also co-ordinates the input or feedback provided by executive governmental agencies such as the Immigration and Naturalisation Service (IND) and the Central Agency for the Reception of Asylum Seekers (COA). Both organisations fall under the responsibility of the Ministry of Justice. The IND decides which aliens are admitted to the Netherlands for a long-term stay, and deals with requests from aliens who want to become Dutch nationals. In addition, the service is responsible for guarding the borders, monitoring legal domicile in the Netherlands and the removal of illegal immigrants.

The *Minorities Integration Policy (Co-ordination) Department*, known as DCIM, co-ordinates the government's integration policy. This department was transferred from the Ministry of Internal Affairs to the Ministry of Justice in 2002. DCIM is the main (consultative) partner for organisations working on integration.

The *Research and Documentation Centre* (WODC) of the Ministry of Justice developed the **Integration Card**, an immigrant integration monitor which was introduced in October 2004.²⁶

Minister Verdonk wanted an instrument that could be used to assess the effects of her 'New Style Integration Policy'. On the basis of data provided by Statistics Netherlands (CBS), the WODC developed an instrument that can measure the progress of groups of immigrants in various social areas, both over the course of time and by comparing the groups (to each other and to the position of the native Dutch population). The Integration Card must serve as an aid in the evaluation of the current and future policy. It will be part of the scientific yearly report on integration, a co-production of the WODC, the Social and Cultural Planning Office (SCP) and Statistics Netherlands.

A range of factors are considered when evaluating integration, including knowledge and skills, social contacts and social participation. The individual immigrant who arrives in the Netherlands is taken as the starting point. The way in which this immigrant's social participation progresses is influenced by his/her personal history and skills, but also, for instance, by the level of education achieved in the Netherlands and the interaction (or contacts) he or she establishes. The evaluation

²⁶ 'The development of an integration monitor of first and second generation immigrants in the Netherlands.' WODC Cahier 2004-9a, 2004. See <http://www.wodc.nl>.

must also provide some insight into the success of the integration process in society. It should also determine which programmes are successful, and for whom, and which ones are not, paying close attention to the reasons behind the success or failure.

The *Immigration and Naturalisation Service Information and Analysis Centre* (INDIAC) was founded in 1995 to provide insights on changes in asylum influx and migration flows. The main aims of this department of the IND/Ministry of Justice are research in the field of migration, supporting the staff of the IND and informing IND Directors, the Minister, Parliament and external organisations. INDIAC is the national contact point for the *European Migration Network* (EMN), an information exchange network on migration and asylum under the general direction of the European Commission (DG Justice and Home Affairs). The overall aim of the EMN is 'to set-up a systematic basis for monitoring the multidimensional phenomenon of migration and asylum by covering its legal, demographic, economic, social and political dimensions and identifying the underlying causes.' Its first research study on the impact of migrants on EU host societies was presented in Brussels in June 2005. INDIAC is working on the second EMN research project on 'State approaches towards third country nationals residing illegally in the Member States' and has carried out a small scale study on the reception of asylum seekers and on the use of age determination methods.²⁷

The secretariat of the *Advisory Committee on Aliens Affairs* (ACVZ) is based at the Ministry of Justice. The ACVZ has an independent position and advises the government, in particular the Minister of Justice, as well as Parliament on migration policy and law.

This year the ACVZ published advisory reports on (migrant) women and children who are abandoned in the country of origin by their husband and father and on the return policy of the government (how to convince rejected asylum seekers actually to leave the country). In 2004 the ACVZ backed government's plans, from a legal standpoint, to introduce pre-arrival integration exams as a condition for permanent stay in the Netherlands.

The Netherlands Scientific Council for Government Policy (WRR)

The Netherlands Scientific Council for Government Policy is an independent think tank for Dutch government. The WRR takes a long-term approach when it provides policy advice to the government. WRR-reports are policy-oriented but not necessarily in line with government policy. The themes go beyond current priorities, tackling social issues the government might be confronted with in the future. WRR-recommendations are published in public reports that can help to define an issue and/or provide advice.

In 2004 the WRR published the report 'The European Union, Turkey and Islam'. In light of the discussions on the possible acceptance of Turkey as an EU Member State and on whether Turkey's Islamic character is compatible with the political achievements and values of the EU, the WRR wanted to provide the Dutch Government during its EU Presidency with neutral information for an informed judgement on this matter. The report focuses on the relationship between Turkish Islam and the democratic constitutional state. Nonetheless, the WRR concludes explicitly that the fact that Turkey is a country with a majority Muslim population is no hindrance to its EU accession. The principle of the secular democratic state is solidly

²⁷ This study has been made available to the INDIAC/EMN partner organisations, among which the Institute for Multicultural Development FORUM.

rooted in Turkish society. From an EU perspective the issue of Islam in Turkey is not so much a problem of the influence of religion on the state, the WRR argues, as it is a problem of the influence of the state on religion. Government intervention in religion is stronger in Turkey than in EU.

The constitutional restrictions on the democratic process aimed at protecting the secular state system are incompatible with EU principles (www.wrr.nl/english).

Shortly after the publication of the report, the WRR, in co-operation with the Institute of Multicultural Development FORUM, held a meeting during which the findings were discussed by members of the national and European Parliaments, State Secretary of European Affairs Mr Akzo Nicolaï and Dutch-Turkish organisations. Reacting to the WRR-report, the director of FORUM Mr Sadik Harchaoui wondered if integration policy should not take into account that Turks will be EU citizens in 10-15 years time. State Secretary Nicolaï emphasised that Turkey could be a role model for other Islamic countries, showing that Islam and a modern democratic society can go hand in hand. Head of the Turkish Participation Body (Inspraak Orgaan Turken) Ms Can-Egin said the Turkish community was very content with the report. Turks would very much want to be seen as Europeans rather than being labelled Muslims.

The Council for Social Development (RMO)

The Council for Social Development [Raad voor Maatschappelijke Ontwikkeling] advises the Dutch government on social issues. In its recommendations and reports, the Council examines and explains the significance of new social developments in terms of policy. Central to the Council's deliberations is the modern citizen in the setting of today's society. The RMO is a fully independent, impartial body and advises without fear or favour.

This year the RMO published an advisory report on the Dutch integration policy labelled *Unity, Diversity and Social Ties*.²⁸ In the report, the council advises the government to shift its attention from fighting the concentration of ethnic minorities to investing in people and organising social connections. Policy makers have tried to counter-effect the ongoing ethnic minority concentration (or segregation) in city neighbourhoods (housing market), schools and organisations. Research shows that policy towards spreading of population groups or creating 'socially mixed' neighbourhoods can only be limited in their effects, because of legal boundaries (non-discrimination, the constitutional freedom of education), individual preferences of citizens (to live and interact to like-minded others) and simple demographic facts (the majority of youth in the large cities are of immigrant origin). It would be more effective to invest in the quality of and social ties in neighbourhoods and schools.

Although this advisory report has yet to be discussed in Parliament, Minister of Immigration and Integration Rita Verdonk has given a first reaction.²⁹ She was positive about the RMO analysis but strongly rejected the qualification of the RMO that the current integration policy is 'assimilative' by nature. The government strives for integration and not for assimilation, Ms Verdonk stated, and only wants to tackle the cultural differences that hamper integration. The government is not ready to accept a society in which native and ethnic minority groups live separate from each other. A 'culture of unity' is desired, not a 'culture of diversity' as endorsed by the

²⁸ Advice no. 35. 'Eenheid, verscheidenheid en binding: over concentratie en integratie van minderheden in Nederland'. RMO, March 2005.

²⁹ Speech by Minister Verdonk, 17 March 2005.

RMO. The Minister subscribes to the need for social cohesion and social ties, and referred to the Broad Initiative on Social Ties (see paragraph 1.2.4) as an example of how the government is working together with social and religious organisations to enhance social ties in the Dutch society.

The National Ombudsman

The National Ombudsman's main task is to investigate the actions of administrative authorities and decide whether they were improper or not. The Ombudsman can start an investigation by request (petition) and has the power to institute an investigation on his own initiative.

Since 1 October 1999, the National Ombudsman has been Roel Fernhout, who was formerly Professor of European Law, with special emphasis on European migration law, at the Catholic University of Nijmegen. On 24 June 1999 he was appointed by the Lower House for a term of office commencing on 1 October 1999. He has decided not to opt for a second term.

The appointment of Mr Fernhout has had strong influence on the determination of priorities of the National Ombudsman. During his term, the institute has produced a series of critical reports on the Immigration and Naturalisation Service (IND). Not without reason. In the last years the majority of the complaints received by the Ombudsman's office relate to the IND. In 2004 a total of 1,775 complaints were lodged with the ombudsman's office about the IND, compared to 1,389 in 2003.

In the last two reports of the Ombudsman (issued in June 2005), the IND is accused of serious failings in the way it grants residence permits and delays with applications to renew or extend permits. The transfer of administrative tasks from the aliens police to the IND in April 2004 has led to serious delays in the processing of applications for residence permits. The Ombudsman also reported that the IND's complaints procedure leaves a lot to be desired. For instance the IND regularly wrongly dismissed complaints as "obviously unfounded".

FORUM, Institute for Multicultural Development

The largest non-governmental actor in the field of integration policy is FORUM, the Institute for Multicultural Development. The institute focuses on problems relating to the Dutch multicultural society in general, and to the integration of (ethnic) minorities in particular. The Work Programme of 2005 focuses on:

1. Youth and Safety,
2. Religion, Emancipation and Identity,
3. Social cohesion,
4. Education and Integration of Newcomers, and
5. Immigration and Citizenship (Legal Affairs).

FORUM hosts the *Service Centre Integration* that assists local councils and policy makers in implementing and developing integration policies on a local level.

The institute receives a basic subsidy from the Ministry of Justice (Immigration and Integration Department) but also works independently or commissioned by third parties. These can be institutions, subsidies or funds on a local, national or European level.

National Consultation of Minority Organisations (LOM)

The National Consultation of Minority Organisations (LOM) was set up in 1997. The LOM is the structure for consultation meetings between the Dutch Cabinet and minority interest groups. Chaired by Integration Minister Rita Verdonk, the LOM meets at least three times a year to discuss integration policy (plans). Eight umbrella interest groups (working for various ethnic groups such as Turks, Moroccans, Chinese, people from the former Dutch East Indies and the Dutch Caribbean territory) work together within the LOM. The largest organisation of the LOM is the national umbrella organisation for refugee interest groups, the Refugee Organisations Netherlands (Vluchtelingen Organisaties Nederland or VON).

The Minister of Integration also regularly meets with two Muslim umbrella organisations: the Contactorgaan Moslims en Overheid (CMO) and the Contactgroep Islam (CGI).

Concluding remarks

In recent years the Netherlands have left the 'multicultural' integration model in favour of a much more 'assimilative' model wherein the dominant traditional national norms and values take precedence over the protection of cultural diversity.

The debates on migration and integration have a high national character. Measures and intentions from the European level are not easily, or often, brought to the national level.

The migration policy is focused on restriction, with the exception of migration that highly contributes to the Dutch economy (mainly the admission of highly skilled migrants). Limiting migration continues to be the rationale for better integration.

The policy of obligatory integration started in 1998 with the implementation of the Integration of Newcomers Act (WIN). The WIN imposes an (increasing) number of obligations on the migrants. Dutch language skills and social orientation (knowledge of and familiarity with the Dutch values and society) are seen as essential preconditions for integration. Next year the WIN will be extended, making pre-arrival integration exams compulsory for third country nationals who apply for permanent residency in the Netherlands. Not only new immigrants but also long-term immigrant residents are now subject to compulsory integration.

After the murder on film-maker Theo van Gogh in November 2004 the debate on the multicultural society, or on the relation between the native Dutch and those of foreign origin, intensified even further. Those who choose a path of confrontation and (over) scrutinise migration and integration policies still hold the higher ground. However, at the same time a second school of thought is emerging in the political and public debate, calling for dialogue, understanding, reconciliation and enhancing social ties between various groups in society.

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