

Refugee Contribution to Europe

A feasibility study on the establishment of a
Fund for Refugee Employment and Education (FREE)
in the European Union

The Netherlands

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INTRODUCTION

Refugee and human rights organisations across Europe are convinced that those in need of protection should be given a fair opportunity to exercise their rights in developing their talents both in terms of education and access to the labour market.

However, many highly skilled refugees face barriers as they attempt to enter labour markets resulting in high rates of unemployment and underemployment. One of the main barriers is a lack of funding for education, training or to start their own business.

The FREE project aims to tackle the under-utilisation of refugees' skills and experience by creating a European Fund for Refugee Employment and Education (FREE). The Fund will provide refugees with scholarships/grants to access further and higher education to re-qualify for employment and business start-up loans. FREE will be managed at a European level in close co-operation with refugee organisations in all EU member states and jointly funded by the European Union, national Governments, the corporate sector, charitable foundations and other sources.

This report investigates the feasibility of creating a *Fund for Refugee Employment and Education (FREE)* in the Netherlands as part of a European-wide fund.

1. INTEREST AND CONDITIONS OF POTENTIAL DONORS

1.1 Policies

1.1.1 National employment policy on migrants – commitment of the private sector

The Dutch government attaches great value to the full participation of members of minority groups within the social and economic life in the Netherlands. To implement this policy a variety of instruments have been developed to promote a climate in which the importance of this value is reflected.

An important step in this policy was entering into a Framework agreement with a number of large companies, in which these companies commit themselves to a policy of the inclusion of members of minority groups, including refugees, within their operations. By mid 2002 some 110 large companies had entered this Framework agreement. The main sectors among these participating companies are:

- the trade sector;
- the industrial construction sector;
- the financial sector;
- the construction sector ;
- the employment agency sector.

The negotiations on the agreement are mainly done by representatives of the board of directors in following a 'top-down' approach.

- Some 60% agreed on a clear target or intention to recruit a certain number of ethnic minorities.
- Some 55% agreed on an improved effort in general recruitment policy.
- In 75% of the companies the training of personnel in multicultural management personnel policy was mentioned.

The fulfilment of the agreement at company level is supposed to be implemented within the regular strategy and budgets. A minority of the participating companies do allocate specific manpower and budgets to accomplish the set targets. In these cases external experts are hired to achieve good results.

It is noted that being a partner in this Framework agreement advanced the general attitude that these companies consider themselves no longer a monoculture but moving towards a real inter- or multicultural environment.

Furthermore, the majority of the participating companies are convinced that joining the Framework agreement has a positive effect on the general awareness in this area. In a number of cases this agreement caused immediate action, turning intentions into concrete measures.

1.1.2 National policy on the inclusion of higher educated refugees in the Netherlands

Early this year the government submitted a set of policy proposals to Parliament especially designed for the target group of higher educated refugees in the Netherlands. Based on the recognition that among the general refugee population in the Netherlands a significant number of people finished higher education in their home countries, a specific approach was introduced to develop tailor-made action in facilitating the entry to the labour market for this particular group of refugees.

The starting point of this specific approach is that the channelling to the labour market needs to be improved through early investment in an adequate training path which corresponds with previous education and work experience in the country of origin.

This is a major shift in approach; for the first time it is stated in government policy that previous experience in the home country should be the basis for any further steps in terms of the integration process.

Some of the main measures are:

- adequate qualification of overseas certificates;
- suitable procedures for professional re-qualification;
- tailor-made language courses at adequate level and speed;
- specific attention from local communities for those refugees who rely on social benefits;
- dissemination of expertise in the field of labour market entry of higher educated refugees by refugee organisations.

1.2 Conditions

1.2.1 Interest of private companies, government, charitable foundations and others in investing in FREE

The Royal Dutch Shell Group

In the Netherlands one of the main multinationals, The Royal Dutch Shell Group, was addressed on the subject of FREE. Shell has recently adopted a Code of Conduct in which core values are expressed: *...we are striving to fulfil our commitments to society, based on our strong Business Principles. This includes using the principles of sustainable development in all our operations - taking account of their social and environmental consequences as well as the economic dimension....*

According to these principles Shell did develop a policy of social investment from the understanding that any Shell activity is part of a local community. It is the company's intention to look for appropriate ways to contribute to the general well being of the community and the broader societies which allow the company to operate.

In this regard Shell intends to undertake voluntary community development and social investments, including in the Netherlands. It is the intention to work in partnership with other organisations to contribute to the provision of skills and expertise to assist people. In the Netherlands *education* and *ethnic minorities* are two of the top priorities of the Dutch social investment programme.

Three examples of the present project are:

- The **SHELL-ter** project: A cooperation between the University Assistance Fund (UAF) and Shell through which mentoring is being initiated (by Shell employees) for young refugee students who are at the start of their new life and studies in the Netherlands.
- **LiveWire**: Helps 18 to 30 year olds to start and develop their own business and hosts a national competition in eight (some European) countries for new business start-ups.
- **Stason** (Steunfonds Allochtone Startende Ondernemers): a supporting fund facilitating young entrepreneurs from ethnic minorities who want to start their own businesses.

In the context of this range of activities of Shell's social investment programme it is likely that the company is positively favoured towards the FREE initiative.

The Roundtable of Dutch Multinationals on Human Rights

The concept of FREE was introduced to the Chair of the Roundtable of Dutch Multinationals on Human Rights. This Roundtable was established 5 years ago on the initiative of the Dutch section of Amnesty International. *"The ability of companies to continue to operate, to provide goods and services, and to create financial wealth will ultimately depend on their being acceptable to the vigilant international community, which increasingly regards protection of human rights as a major condition of the corporate license to operate"*.

The international human rights organisation believes economic actors, be they companies or international financial institutions, are accountable for the human rights impact of their activities or as Mary Robinson, the UN High Commissioner for Human Rights, says: *"Twenty years ago few companies had environmental policies. Today the environment is unquestionably a mainstream business issue. So it should be with human rights. Having a strong human rights policy and a sound implementation strategy is about risk management and reputation assurance. Human rights is a bottom-line issue."*

On the basis of this policy the Roundtable meets regularly with Amnesty International and other human rights activists with the object of increasing awareness of the human rights issue with the multinationals. Several main Dutch Multinationals, for example Philips, ING, AKZO, Aegon, Shell, KPN and others, are represented in this network.

The initial reception of the idea of FREE was quite positive. Multinationals are increasingly interested to work with future employees who have some 'supra-national' background, staff members who have an international orientation by nature and who are capable of adapting in different societies and cultures. Recognising specific skills that a substantial number of refugees have and emphasising the special plight of those who need protection against persecution, there certainly is interest within these companies to sympathise with this project.

It is agreed that the proposal will be introduced at VNO-NCW, the Confederation of Netherlands Industry and Employers, which is the foremost employers' organisation in the Netherlands. VNO-NCW represents the common interests of Dutch businesses, both at home and abroad, and is the Dutch member of UNICE. VNO-NCW has 150 branch associations, representing more than 80,000 enterprises covering almost all sectors of the economy, including more than 60% of all medium-sized companies in the Netherlands and almost all of the larger, corporate institutions.

FREE may play a role at the fifth anniversary of the Roundtable early next year when all members plan to meet to discuss the achievements of the Roundtable over the past years; FREE might be a subject to be put forward by this group of multinational companies.

Educational Institutions

ALLEA is the federation of National Academies of Sciences, Arts and Humanities in Europe. It promotes the exchange of information and experience between Academies and offers advice from the Academies to science and society in Europe. Academies are self-governing communities of scientists and scholars which:

- promote excellence in science and scholarship;
- value and protect independence from ideological and political interests;
- serve society with advice on science policy and on scientific aspects of public policy.

The membership of ALLEA consists of Academies from 38 countries in Eastern, Central and Western Europe. Among its members are Académie des Sciences - Institut de France, the Royal Institute and the Open Society in the UK, die Union der Deutschen Akademien der Wissenschaften, and the Royal Swedish Academy of Sciences in Sweden.

Since one of the main topics of the ALLEA programme is the subject of science & ethics solidarity with those who are subjected to all kinds of restriction of freedom of thought, freedom of expression and other fundamental human rights is of major concern to the different Academies.

In introducing the FREE project to the Chair of ALLEA it was noted that the Federation would strongly support the idea of establishing a European Fund from which young intellectuals could benefit to develop their individual talents.

Charities and Trusts

The Foundation DOEN is an important Dutch fund aiming to make the world a better place in which to live. To this end, it provides funding to organisations and projects in the fields of: Sustainable Development, Human Rights, Nature and Environment, Sports and Welfare, and Art and Culture. Foundation DOEN achieves its objective through the revenues it receives from the Dutch Postcode Lottery.

Upon its establishment by the Dutch Postcode Lottery (Nationale Postcode Loterij), Foundation DOEN was instructed to find alternative methods for giving money to good causes. According to this approach the traditional way of funding good causes by donating money or goods is not always the best method. A more businesslike approach to funding often proves to benefit those requesting help more in the long run. This has led to new types of funding: credits and participations. These financing instruments promote, according to the Foundation, the entrepreneurial spirit of the recipients and thus serve Foundation DOEN's objective of making a structural and sustainable contribution to a better world. The repayment goes towards supporting other good causes and allows Foundation DOEN to support more organisations with the same amount of money.

Since human rights, and more specifically refugees, are one the three areas of work of the DOEN foundation we submitted the concept of FREE to them in finding out whether some form of cooperation could be established.

1.2.2 Conclusions to date

The current social/economic conditions for FREE in the Netherlands are favourable. There is a growing awareness that in the past many talents have been wasted by not recognising the refugees' potential, which is quite substantial. It is recognised that new and specific policies need to be developed to assure fast, targeted and sustainable integration in the workforce of these newcomers. This is seen together with the fact that in the long (or shorter) run, economic development will be obstructed when there are not enough skilled workers left to be employed.

To identify possible interest and donors for FREE, mainly personal and organisational networks were used. Meetings were arranged with most of the above-mentioned organisations/businesses to discuss the project and ask for their support. To explore interest on a larger scale it will be necessary to have a clearer picture on possible co-participation of the different parties in all EU countries. Despite this a willingness to financial commitment can be expected but will certainly depend on co-participation and clear commitment from other players in the field and can only be the next step in the process of starting up the FREE fund.

2. OVERVIEW OF REFUGEE SITUATION

2.1 Asylum procedure

2.1.1 Submission of the application

All asylum seekers have to submit their application in one of the Application Centres ("Aanmeldcentrum") located at the German border (Zevenaar), in the North near the German Border (Ter Apel), at the Belgian border (Rijsbergen) and at Schiphol Airport near Amsterdam. There are no fixed time limits for submitting the initial request for asylum. However, asylum seekers are expected to come forward as early as possible. As a rule, this means within 24 hours after arrival. If an undocumented asylum seeker fails to submit his/her application within 24 hours, it may be classed as inadmissible.

2.1.2 Accelerated procedure

In the Applications Centres, all applications are examined by the IND (Immigration and Naturalization Service) to determine whether they should be processed under the accelerated procedure or allowed to enter the normal determination procedure.

In the first 24 hours following registration in the Centre, IND's officials investigate the applicant's identity and nationality and his/her travel route and collect personal data (photographs, fingerprints, documentation, etc.). The aim of this preliminary investigation is to identify those claims which have no chance of success and which should be rejected immediately. During this investigation the asylum seeker may be assisted by an interpreter and he/she is also entitled to be accompanied by a lawyer. The asylum seeker receives a written copy of the questions and answers of this first interview.

If the application is deemed to be apparently without basis, manifestly unfounded or inadmissible, a negative decision is made by the IND within 48 (working) hours following registration. With the exception of this 48-hour time limit, the accelerated procedure does not differ radically from the normal determination procedure. If no decision is made within 48 hours, the application is automatically transferred to the normal procedure and the applicant allowed entry into the country.

All applicants processed under the accelerated procedure receive legal aid either from private lawyers or from the lawyers of the Foundation for Legal Aid in Asylum Cases ("Stichting Rechtsbijstand Asiel").

A negative decision by the IND may be appealed to one of the five District Courts if it is combined with detention (this is always the case at Schiphol airport). The appeal has to be lodged within 24

hours. It has no automatic suspensive effect, but this can be granted by the court upon a separate request. If the negative decision is not combined with detention, the asylum seeker must first appeal for review at the IND. Only if this review is negative, can he/she appeal to the Court.

2.1.3 The Dublin Convention

All applications for asylum are screened in order to determine if another state is responsible for examining the claim in accordance with the criteria of the Dublin Convention. If this is the case, a request to take charge will be sent to this state. If the requested state accepts responsibility, the asylum seeker will receive a negative decision and will be transferred to the responsible state. Conversely, if the request to take charge is rejected, he/she will be processed under the Dutch determination procedure.

Members of families travelling through different Dublin states on their way to the Netherlands are usually split up and returned to the respective Dublin states. Exceptions on humanitarian grounds are extremely rare.

2.1.4 Normal determination procedure

Asylum seekers who have not been rejected under the accelerated procedure are referred to a Screening and Reception Centre ("Onderzoeks en Opvangcentrum"), where they stay during the first phase of the procedure.

In the Screening and Reception Centre, all applicants undergo a thorough interview conducted by an official of the IND, where they have the opportunity to elaborate on the motives of their flight. At this interview the asylum seeker may be assisted by an interpreter and he/she is also entitled to be accompanied by a lawyer or a representative from the Dutch Refugee Council. In this way, the Dutch Refugee Council is continuously informed about the submission and processing of asylum applications.

The records of this interview, together with any changes or additional information provided by the asylum seeker, as well as any documents and evidence supporting the claim, form the basis for the assessment of the asylum application.

When it examines the application, the IND first considers whether or not it is inadmissible or manifestly unfounded. Under Section 30 of the Aliens Act, an asylum application may be considered inadmissible on the following grounds:

1. another country, party to the 1951 Geneva Convention, is responsible for the consideration of the claim (i.e. the Dublin Convention);
2. the asylum seeker has submitted a previous asylum application under another name;
3. the asylum seeker has, without good reason, failed to comply with the obligation to make him/herself available for the examination of his/her claim;
4. an earlier request for admission on the same grounds has been definitively rejected;
5. the asylum seeker already has a residence permit;
6. the asylum seeker does not have travel documents, unless he/she immediately registers as an asylum seeker upon arrival in the Netherlands.

Under Section 31 of the amended Aliens Act, an asylum application may be rejected as manifestly unfounded if:

1. it is not founded on any of the grounds which reasonably give rise to legal grounds for admission in the Netherlands;
2. the asylum seeker has the nationality of a third country, and it appears that he/she will receive adequate protection in that country;
3. a third country will readmit the asylum seeker until he/she has found lasting protection elsewhere;
4. the asylum seeker produces travel or identity documents that do not apply to him;
5. the applicant comes from a designated safe country of origin (EU countries, Switzerland, Liechtenstein, Iceland, Norway, Ghana, Senegal, Bulgaria, Hungary, Czech, Poland, Rumania and Slovakia);
6. the asylum seeker does not provide any documents concerning his/her identity, itinerary or asylum motives.

2.1.5 Examination on the merits

When the application is deemed admissible and not manifestly unfounded, it is then examined on the merits. Officially the decision is taken by the Secretary of State but in practice, IND will make the decision on behalf of the Secretary of State.

The basic rule is that a decision in the first instance should be made within 6 months, but this is rarely the case. Sometimes the first instance procedure will take more than a year, depending on nationality and numbers of asylum seekers entering the territory and on the processing capacity of the IND. If no decision has been made within the 6 months, an application for review can be made.

2.1.6 Appeal

If the Secretary of State rejects the case, it can be appealed to one of the five District Courts established under the amended Aliens Act to deal exclusively with immigration cases. If the Secretary of State has not made a decision within 3 months, the asylum seeker may appeal to the District Courts against the delay.

The lodging of an appeal with the District Court does not automatically suspend the execution of the Secretary of State's negative decision; the Secretary of State has discretion to grant or deny suspensive effect depending on the prospects of success. However, if the suspension is denied, the applicant may request a preliminary stay of execution of the decision from the President of the District Court. No appeal can be lodged against the President's ruling on this issue.

Applicants are represented by their lawyer before the District Court, but they may attend the hearing and are given the opportunity to intervene, if they so wish.

The District Courts can refer essential issues to the Court of Unity, which is a chamber of the District Court in The Hague. The Court of Unity's main task is to ensure the unity of jurisprudence throughout the country. Cases involving a change in policy are almost always dealt with by the Court of Unity.

Negative decisions by the District Courts or the Court of Unity are final and cannot be appealed.

2.1.7 Legal aid

In principle, applicants are entitled to receive free legal aid during all stages of the procedure. If an appointed lawyer denies assistance, arguing that the case lacks any chance of success, the asylum

seeker has the right to a second opinion, which in practice means that another lawyer will be appointed.

Legal aid is always available at all Application Centres. If the IND intends to process an application through the accelerated procedure, legal aid must be provided. In practice, it is not possible to reject an application without the asylum seeker having received information and legal aid.

2.1.8 Interpreters

The IND employs a group of interpreters, trained to work with asylum cases. An asylum seeker who is not satisfied with an interpreter can file a complaint with a special commission of the IND.

The Dutch Refugee Council and appointed lawyers also have a group of interpreters at their disposal, other than those employed by the IND.

2.1.9 Unaccompanied minors

Children who enter the Netherlands without parents or adult relatives by blood and/or marriage are considered to be unaccompanied minors.

The minimum age for submitting an asylum application is 12 years. In the case of minors under the age of 12, an application may be filed on their behalf by the minor's guardian. In most cases, the foundation "De Opbouw" is appointed as the acting guardian.

If the IND has reasonable doubts about the applicant's age, it may order a medical investigation to determine the age. The asylum seeker may refuse to co-operate, but in practice, this would generally mean a rejection of his/her asylum request. If the investigation shows that the applicant is over 18 years of age, he/she will be treated as an adult.

When the unaccompanied minor is refused refugee or humanitarian status, the central question to be answered is whether he/she has any parents or other relatives in the country of origin. This may require further investigation in the country of origin itself, which may in some cases be conducted by the Ministry of Foreign Affairs.

If no adequate reception in the country of origin is identified within a period of 6 months following the arrival in the Netherlands, a special residence permit for unaccompanied minors may be granted for 1 year, renewable on a yearly basis. After 3 years, a permanent residence permit for humanitarian reasons is granted.

2.1.10 Female asylum seekers

Women are not dealt with under any special procedure, although they may ask for a female interviewer and interpreter. The IND operates with special guidelines on how to deal with issues specific to women.

2.1.11 Final rejection

Following a final negative decision on their application, rejected asylum seekers are usually given 28 days to leave the country voluntarily. If they fail to do so, they can, in principle, be deported.

As expulsion is optional in accordance with Section 63 of the Aliens Act, the government has the possibility of suspending expulsions of rejected asylum seekers originating from a specific country, when the security situation in that country is considered to be uncertain. In such cases, the suspension of the removal proceeding benefits both the rejected asylum seekers and also those applicants whose claim is being processed under the appeal procedure but who face deportation due to the lack of suspensive effect.

Aliens benefiting from this stay of deportation are entitled to the same rights as asylum seekers. According to the Secretary of State, a stay of deportation should be granted for a short period of time and should be replaced by a provisional residence permit if the situation in the country of origin does not improve rapidly. In practice, however, aliens often remain with a stay of deportation for over a year.

Stays of deportation are meant for specific groups or nationalities. Rejected asylum seekers who cannot be removed but who do not belong to a group or nationality under a stay of deportation, have no possibility of being granted a residence permit. Only those who are ill and cannot travel because of their health problems may be granted a stay of deportation, valid for the time of their illness.

A more restrictive policy was introduced in the course of 2000. Until then, a rejected asylum seeker was granted continued accommodation and financial assistance, if he/she could prove that he/she had made sufficient efforts to obtain travel documents from the authorities of his/her country of origin in order to return. Under the new provisions, a rejected applicant will no longer be granted accommodation and financial assistance after the final decision of rejection. In addition, the full burden of proving that he/she is not able to return to his/her country of origin will always lie with the alien, except in some exceptional circumstances.

2.1.12 Detention

Asylum seekers who arrive by air are processed in the Application Centre of the Amsterdam Schiphol airport. When the application is considered to be inadmissible or manifestly ungrounded, asylum seekers are always detained at the "Grenshospitium" to facilitate their removal from the country. The "Grenshospitium" is a special prison, located near the Application Centre of Schiphol, designed for aliens who are not allowed to enter the country.

One of the five District Courts reviews, on appeal, if the detention is lawful. The court reconsiders the decision of the IND to process the application under the accelerated procedure and, depending on this, whether or not detention should be ordered. If not, the IND must release the applicant and send him/her to a Screening and Reception Centre.

In principle, asylum seekers applying in the other Application Centres can also be detained, but this rarely happens. Asylum seekers rejected under accelerated procedure in the Application Centres of Zevenaar and Rijsbergen are usually asked to move out of the centre and required to leave the country by themselves.

2.1.13 Applications from abroad

An asylum seeker who is in a third country and wishes to apply for asylum in the Netherlands must submit his/her application to the UNHCR representation in that country. If there is no UNHCR representation, the asylum request can be made at the Dutch embassy. There are no clear regulations on the processing of such requests. The Netherlands receives a yearly quota of up to 500 refugees under an agreement concluded with UNHCR.

An application for asylum in the country of origin or in a third country can also be made at the Dutch embassy. The embassy will gather the relevant information and submit it to the IND through the Ministry of Foreign Affairs. The embassy will be requested to deliver a visa to the asylum seeker in case of a positive decision, or to inform him/her if the decision is negative. This procedure is rarely used.

2.2 Asylum statuses

2.2.1 Refugee status

Until April 2000 the only kind of refugee status granted in the Netherlands was Convention status. This was a permanent status (A-status), although in practice, the residence permit had to be renewed every year. The status can only be withdrawn if the refugee renounces the protection granted, for instance by moving back or spending holidays in his/her country of origin, or if it appears that the refugee had lied about the circumstances which made him/her leave his/her country of origin. Although such provision exists in the Aliens Act, refugee status is not withdrawn when the situation in the country of origin improves.

2.2.2 Other types of residence permit

Residence permit for humanitarian reasons

Under certain circumstances a residence permit for humanitarian reasons may be granted to aliens who do not meet the criteria of the Geneva Convention. This permit does not include any recognition as a refugee under the Geneva Convention and does not entitle its holder to any of the benefits and rights provided by the Geneva Convention. It is issued for 1 year renewable.

A residence permit for humanitarian reasons may be granted:

- if the asylum seeker has been traumatised either as a direct victim of acts of violence by the authorities, or if close relatives were victims;
- if expelling the rejected asylum seeker could constitute a real risk of violating Article 3 of the European Convention on Human Rights;
- to those with compelling reasons of humanitarian nature connected to the reasons of their flight and whom in all rationality cannot be expected to return to their country of origin;
- to those for whom returning to their country of origin would be of extreme harshness due to the present situation in that country.

Provisional residence permits were used to grant temporary protection to certain groups or nationalities based upon the human rights and safety situation in their countries of origin.

2.3 Statistics

2.3.1 Number of asylum seekers (source: IND)

| Number of applications submitted in the Netherlands | |
|---|--------|
| 1994 | 52,576 |
| 1995 | 29,250 |
| 1996 | 22,857 |
| 1997 | 34,400 |
| 1998 | 42,217 |
| 1999 | 39,299 |
| 2000 | 43,895 |
| 2001 | 32,579 |

2.3.2 Number of statuses granted (source: IND)

| | Convention status | Humanitarian status | Provisional residence permit |
|------|-------------------|---------------------|------------------------------|
| 1994 | 6654 | 9235 | 3456 |
| 1995 | 7980 | 6203 | 4310 |
| 1996 | 8806 | 7384 | 7400 |
| 1997 | 6630 | 5176 | 5182 |
| 1998 | 2356 | 3591 | 9152 |
| 1999 | 1507 | 3471 | 8512 |
| 2000 | 1808 | 4791 | 3127 |
| 2001 | 488* | 1250 | 5451 |

* In April of this year the new Aliens Act was adopted, which explains the rise in the number of provisional permits in 2001 compared to 2000 (including the new status valid for up to 3 years).

2.3.3 Main national groups to seek asylum in the Netherlands in 2001 (source: IND)

| Country | No. of people |
|--------------------|---------------|
| Angola | 4111 |
| Afghanistan | 3614 |
| Sierra Leone | 2405 |
| Iran | 1519 |
| Guinea Bissau | 1467 |
| Turkey | 1400 |
| Iraq | 1329 |
| Somalia | 1098 |
| Bosnia | 1026 |
| Russian Federation | 911 |
| Other | 13,699 |

2.4 The new Aliens Act

The new Aliens Act, which became valid on 1 April 2000, was meant to simplify and shorten the procedure for determining status. One of the main changes is to grant only one type of status for a fixed term. After an initial examination of the claim for asylum, those who are allowed to stay are all accorded the same status. This residence permit is valid for up to 3 years and can be withdrawn in that period if the grounds which justified its granting have ceased to exist, for public order reasons or if the asylum seeker has given false personal data. No difference is made between Convention status and others. According to the Dutch authorities, the aim of this provision is to prevent people who have been granted humanitarian or temporary protection status from embarking on further proceedings to obtain Convention status. After the initial period of 3 years, it is possible to apply for a permanent residence permit. The spouse or minor children of a person granted a residence permit are entitled to receive the same status provided that they arrived in the Netherlands within 3 months after he/she is granted this residence permit.

2.4.1 Procedure

The decision on the application must be made within 6 months, although this can be extended for another 6 months. However, the Minister of Justice has the authority to postpone the examination of the asylum applications of certain groups for a period of 1 year, if:

- it is to be expected that, for a short period of time, there will be uncertainties about the situation in the country of origin;

- the situation in the country of origin, on the basis of which the application is submitted, will be of short duration;
- the number of applications submitted is so large that the normal time limit for processing the applications cannot be met.

During the suspension period, applicants will be given the same social rights as other asylum seekers. If the situation in their country of origin has not improved after the 1-year period, the normal procedure will then start.

Another innovation in the new Aliens Act is the replacement of the current administrative review procedure by a so-called "intention procedure". According to this, when intending to take a negative decision on an application, the administrative authority communicates the draft decision and the reasons for it to the asylum seeker. The applicant or his/her legal representative can then submit comments on this draft before the final decision is taken.

Unlike the old administrative review, the new "intention procedure" is not regulated by Dutch administrative law, which guarantees fairness and efficiency.

2.4.2 Social and economic rights

All holders of the residence permit in the initial 3-year period have the same social and economic rights and benefits in accordance with the level required under the Geneva Convention. Thus, the existing differences between Convention refugees and people with residence permits for humanitarian reasons or with provisional residence permits will now disappear.

2.4.3 Negative decisions

The rejection of an asylum application (designed as "application for the issuance of a residence permit for definite period") will automatically encompass the following legal consequences:

- the rejected asylum seeker no longer has lawful residence in the Netherlands and must leave the country;
- he/she is no longer entitled to social benefits and accommodation facilities;
- his/her removal from the reception facility, including by force, is authorised;
- the asylum seeker will, in principle, no longer be allowed to start any procedures against these measures.

2.5 Social conditions for asylum seekers

2.5.1 Accommodation

Aliens seeking asylum in the Netherlands must submit their application in one of the four Application Centres, one of which, located in Ter Apel, was recently opened. Applicants normally stay for only a couple of days in the application centres; however, their stay may sometimes last for 1 or 2 weeks.

Applicants whose claim is not immediately rejected under the accelerated procedure while they stay in the Application Centre are then referred to a screening and reception centre, ("Asielzoekerscentrum" – AZC) or to other accommodation facilities, such as boarding houses or hostels.

At present, there are about 100 AZCs in the country and approximately 10,000 additional places available in boarding houses and hostels (AVOs). In almost all AZCs asylum seekers have facilities for cooking their own meals. They may attend classes in Dutch language and society.

The AZCs are run by the Agency for the Reception of Asylum seekers ("Centraal Orgaan opvang Asielzoekers" – COA), which has been especially established for this purpose and which comes under the jurisdiction of the Ministry of Justice.

Until 1996, all asylum seekers still housed in an AZC after 6 months were offered accommodation in houses owned or rented by the municipalities. Since 1996, asylum seekers must stay in the centres until they have been granted a residence permit or have been rejected according to a final decision. However, due to capacity problems caused by the long processing times, temporary changes were made to the reception system in 1998. According to this, asylum seekers, again, can be accommodated in unoccupied houses rented by the COA, where they will have full privacy, as opposed to the AVOs, which are run by a manager.

In addition, a "self-care arrangement" has been introduced, according to which asylum seekers who have stayed in the AZCs for more than 6 months are allowed to live with family members or friends. They are required to report to a centre nearby every week in order to collect their money. Extra financial assistance is granted to help them cover living expenses. In practice, many Dutch municipalities have opposed this form of accommodation, which they consider to be "uncontrollable".

2.5.2 Housing for refugees

All Dutch municipalities are obliged by law to accommodate a certain number of Convention refugees and people holding humanitarian status. The Ministry of Justice publishes this figure every 6 months. Distribution is based solely on the number of inhabitants already living in each municipality. No other factors, such as educational facilities, employment opportunities or the number of aliens already living in that area, are taken into consideration.

Refugees have very little choice as to where they are accommodated. The COA is responsible for distribution and usually only takes account of the presence of close family members – parents, children and siblings – or, on very rare occasions, the fact that someone already has a job or has been accepted as a student in a specific municipality. Furthermore, since they receive only one offer of accommodation, it is almost impossible for them to refuse. Refugees who are able to find their own accommodation are allowed to settle wherever they wish in the Netherlands. About 40% of refugees succeed in finding their own accommodation within 4 months. Others have to wait for accommodation, during which time they remain at the residence centres.

2.6 Key players and activities

The *Immigration and Naturalization Service* (IND) is a department of the Dutch Ministry of Justice. The IND makes the decision about an asylum request. This organisation decides on behalf of the State Secretary for Justice if asylum seekers should or should not receive a residence permit.

The *Agency for the Reception of Asylum Seekers* (COA) is an independent public body, but falls under the political responsibility of the State Secretary for Justice. The COA is responsible for providing asylum seekers with reception services in the Netherlands, and for providing them with the basic necessities of life, such as accommodation. Asylum seekers also receive money from the COA to help provide for their maintenance.

The *Aliens Police* is a section of the Dutch police, and together with the Royal Netherlands Military Police it is responsible for the supervision of asylum seekers. If they are granted a residence permit, this will be issued by the Aliens Police.

Asylum seekers can go to the *Stichting Rechtsbijstand Asiel* (Asylum Seekers Legal Advice Center, SRA) for legal advice during the asylum procedure. The SRA can, for example, help make an objection or an appeal if an asylum request is refused. All legal aid given to asylum seekers by the SRA is free of charge.

The *Dutch Refugee Council* is an independent, non-religious, non-party political organisation, which can provide support during the asylum procedure. Staff from the Dutch Refugee Council are either permanently based in the reception centres, or organise regular consultation sessions there. The Dutch Refugee Council works closely with the SRA.

The *International Organisation for Migration (IOM)* can provide information about returning to asylum seeker's country of origin, or about migrating to another country. The IOM also provides financial support and other help for the departure.

Emplooi is the employment agency for refugees, set up by the Dutch Refugee Council in the late 1980s, which provides advice to all refugees holding a work permit to help find employment reflecting their skills and experiences. The staff of *Emplooi* for a large part consists of retired business people who use their contacts and expertise to help refugees find a suitable job. The agency is now an independent organisation.

The *University Assistance Fund (UAF)* is a private funding organisation that supports refugees and asylum seekers during their studies in the Netherlands by means of:

- scholarships and contributions towards the costs of preparation and studies;
- individual advice and guidance by student counsellors;
- support to graduated UAF clients in finding a job;
- advice to governmental and educational institutions about suitable paths for higher educated refugees.

2.7 Education

2.7.1 Educational system

One of the key features of the Dutch education system, guaranteed under article 23 of the Constitution, is freedom of education, i.e. the freedom to found schools, to organise the teaching in schools and to determine the principles on which they are based (freedom of conviction). This means that people living in the Netherlands have the right to found schools on the basis of their own religious, ideological or educational beliefs and to have them funded by the government. The result of this constitutional right is that schools in the Netherlands differ from each other in terms of their denomination or ideological outlook.

Around 65% of all schoolchildren in the Netherlands attend privately run schools. These are run by an association or foundation. Most of them are either Roman Catholic or Protestant, but there are also Jewish, Islamic, Hindu and humanist schools. In addition, there are private non-denominational schools which are run by an association or foundation but are not based on any specific religious or ideological beliefs. Like some of the publicly run schools, many privately run schools base their teaching on specific educational principles, like those of Maria Montessori. Unlike publicly run schools, which must admit all pupils, private schools can impose criteria for admission. In practice, however, most private schools pursue non-restrictive admissions policies.

2.7.2 Higher and vocational education

On 1 January 1996, a new Adult and Vocational Education Act (WEB) was introduced to impose a single coherent structure on the disparate forms of vocational and adult education. Such courses are now to be provided mainly by 46 Regional Training Centres (ROCs). These all provide a very wide range of education and training and have been created by amalgamating several hundred previously separate vocational and adult education institutions. In addition to the 46 ROCs, there are also 13

specialised vocational training institutions. Senior secondary vocational education and apprenticeship training are now bracketed together under the term secondary vocational education.

Higher education comprises higher professional education (HBO) and university education (WO). These two types of education are provided by 59 higher professional education institutions and 14 universities, one of which (the Open University) provides open higher distance education. Since 1993, the various forms of higher education have all been regulated by a single piece of legislation: the Higher Education and Research Act (WHW). This provides no more than a statutory framework within which the institutions are to operate. It is the responsibility of the individual institution to fill in the details in its teaching and examination regulations. The Central Register of Higher Education Study Programmes (CROHO) is a systematically arranged collection of data relating to the courses provided by higher education institutions. Once a course is entered in the register, the institution concerned is entitled to receive funding for that course from the Ministry of Education, Culture and Science.

2.7.3 WIN

In 1998, legislation on the integration of newcomers (known as the 'Win') came into effect. Under this law, adult newcomers (including refugees and those with humanitarian status) are obliged to take language classes and lessons on social integration and vocational orientation. The programme involves 600 hours of Dutch tuition. The aim is to equip newcomers with basic language skills and other support to facilitate their integration into Dutch society. Municipalities are funded by the government to implement the policy. Refugees undergo an assessment and are then offered a programme which should be tailor-made to fit their specific needs and capacities. The refugee then signs a contract with the municipality, which obliges the municipality to offer a suitable course and obliges the refugee to attend.

If the refugee refuses to participate or drops out of the course, his or her unemployment benefit may be cut. Those with a provisional permit may be offered Dutch tuition and integration courses at the discretion of the municipality. Once the programme has been completed, participants may be referred to employment agencies or to further education. All refugees have access to further education on the same basis as Dutch citizens, except for those granted residence permits for humanitarian reasons whose opportunities to receive state support are restricted during their first year of residence in the Netherlands.

2.7.4 Education for asylum seekers

School attendance in the Netherlands is compulsory between the ages of 5 and 16 and this also applies to the children of asylum seekers. The schools are given extra financial support. Very often special classes are created in the AZCs. Asylum seekers housed in AZCs may attend classes in Dutch language and culture. The lessons are given by volunteers but are based on a professional standard educational programme. Asylum seekers who stay in other accommodation facilities are also entitled to Dutch lessons, but so far, the COA has not been able to organise such classes everywhere. Asylum seekers under the "self-care arrangement" have no right to language tuition.

While still in procedure, asylum seekers do not receive financing for further studies and are therefore dependent on private organisations such as the earlier mentioned UAF (University Assistance Fund).

2.7.5 Recognition of qualifications for education

Throughout the Netherlands there are regional centres for educational and career guidance (AOBs) that can process applications for diploma evaluations. Applications are allocated to three expert agencies according to the level of the diploma:

- Netherlands Organisation for International Co-operation in Higher Education (Nuffic) determines the relative value of international diplomas, titles and degrees; it provides recommendations on the value of specific higher education diplomas.
- 'Colo' evaluates qualifications obtained in vocational secondary education and higher education.
- Informatie Beheer Groep (IBG) deals with diplomas from general secondary education and primary education; IBG deals with the recognition of professional degrees such as those of engineers and teachers. IBG also coordinates student grants and loans in the Netherlands.
- Recognition of other specialised professions may be dealt with by relevant government agencies, for example medical qualifications are evaluated by the Ministry of Health.

In general, the recognition of degrees for higher education is dealt with effectively in the Netherlands. Refugees usually have to go through university or higher professional education in order to acquire a Dutch qualification. The educational institute decides at which level an individual should be admitted and which parts of the syllabus may be omitted. Such institutes have their own assessment processes, and therefore may have different admittance procedures or tests.

However recent research shows that refugees with a medical diploma very often find themselves in a situation where no hope for finding work at their own level is left. Medical specialists often have to be re-trained and do not always have access to work experience or supervision places. Diplomas from countries like Afghanistan, Irak, Iran, Sudan and Somalia are valued less than those from other non-EU countries.

The Netherlands is working towards a comprehensive and integrated system by which informally acquired skills and qualifications (EVC) are recognised, acknowledged and can be used on the labour market.

2.7.6 Tuition / college fees

The "Informatie Beheer Groep" acts as an independent organisation for the Ministry for Education and looks after the financing and information management for students and education institutions.

For all students by the age of 16 (on 31 July) and registered at an education institution, college fees must be paid. The MBO fee for the year 2001/2002 was €852.20. Asylum seekers can be exempt from paying this. The fees for higher education (HBO and university) for the year 2001/2002 was €1329.58.

2.7.7 Student government grants

Most HBO courses last 4 years. During that period, all students are entitled to a basic grant. For the year 2001/2002 the basic grant was set at €68.55 a month for students living at home and €182.58 for students living away from home. In addition, students may take out loans of up to €234.29 a month. Depending on parental income, students can apply for a supplementary grant of up to €165.93 a month if living at home or up to €182.58 a month if living away from home. Students who are not entitled to a supplementary grant because of the level of parental income may take out an additional loan equivalent to the amount of the supplementary grant.

Students requiring extra time to complete their courses beyond the official course duration can take out loans for a further 3 years. In the case of courses lasting longer than 4 years, the period of eligibility for the basic grant, loans and supplementary grant is also longer.

The basic and supplementary grants awarded to students in higher education are performance-related. The system is based on the principle of 'loan then grant'. Students receive their grants initially in the form of a loan, which is converted to a non-repayable grant if they meet certain performance criteria. Student loans must be repaid within 15 years of the end of the period of study but need only be repaid

if the borrower can afford to do so. Those on low incomes need pay back little or nothing, and any outstanding debt is cancelled at the end of 15 years.

2.8 Labour market

At the end of the 1990s the Dutch economy had been growing more than average. The labour market in that period however changed from a vast to a tight market. The number of unfilled vacancies grew as high as 2.5% in 2000 and was higher than it had ever been, despite a growing labour potential. The unemployment declined to a level lower than that of the past few decennia; it was 3.6% in 2000, as low as it was 25 years ago. Even so there still was a large number of unemployed due to the qualitative differences between need and availability. This group was characterised by an over-representation of unskilled workers and ethnic minorities.

Since 2000 however the number of vacancies declined due to the economic recession, and the unemployment figures have been increasing to over 7% in 2002. It is expected that this figure will continue to rise in 2003.

Research by the “Researchcentrum Onderwijs en Arbeidsmarkt” (ROA) in 1999 showed that around 2004 major bottlenecks could be expected in the supply of skilled, higher educated staff. In most sectors in the Dutch labour market there was a growing number of jobs. The strongest growth was foreseen in the commercial services and the trade sector. More precisely this covers the following sectors: information technology, service sector (in particular banking), wholesales, tourism, education and the health & welfare sector. A small decrease in the number of jobs could be seen in the building industry and building installation as well as in public administration. The employment in the printing industry, the chemical industry and the production of transport vehicles remained more or less the same.

In June 2002 CIWI (Centrum voor Werk en Inkomen) published a press release stating that in spite of the growing unemployment figures, in 2001 the number of unfilled vacancies was high, mainly in welfare and health sectors. The same article shows that the growing group of unemployed for a large part consists of older people, low or unskilled workers and ethnic minorities. Employers mention that an average of 7% of their staff is of ethnic origin, while the percentage of minorities in society is 16%.

Vacancy top 10 - Frequently asked workers

The developments in the different sectors and their share in the labour market do give some indication of job opportunities. The list below shows the most frequently asked workers in 2000 in the Netherlands:

- Book keepers and secretaries
- Sales staff
- Nurses, medical staff
- Commercial staff
- Assistants in hotel, catering and services
- Cleaners
- Administrative staff
- Drivers
- Builders
- Mechanics

2.9 Conditions for asylum seekers and refugees regarding work

Asylum seekers: Since 1998, it has been made possible for asylum seekers to work under limited conditions. The work is restricted to a period of 12 weeks each year and the work permit is only given for (agricultural) seasonal work. It is expected that the allowed period of work will soon be extended to 12 weeks in every 39 weeks and that the permit will be issued for a variety of works.

Refugees: All groups are permitted to take up employment and work permits are only necessary for refugees with a provisional residence permit. After settling in a municipality they must sign on at the Employment Exchange. After their integration programme is over, the Employment Exchange supports them in finding jobs.

Unemployment amongst refugees is high; an estimated 40% is looking for work. (The average unemployment of the native Dutch population was 3% in 2000, and 12% amongst the immigrant population). Even if refugees do find work, very often it is not work appropriate to their level of education.

In July 2000 the “Instituut voor Toegepaste Sociale Wetenschappen” (ITS) published research about new ethnic groups in the Netherlands: refugees from Afghanistan, Ethiopia, Eritrea, Iran, Somalia and Vietnam. 439 refugees from these countries were interviewed and the results show that only 35% of those interviewed actively take part on the labour market. Of that 35% almost 50% worked below their educational level. Of the 65% not working 53% was actively looking for work and 46% was not due to study or domestic occupations.

Some explanations for the high unemployment rates amongst refugees are:

- Refugees are relatively old when they enter the labour market and their work experience doesn't always correspond with what is asked at the Dutch labour market.
 - The long procedure forces refugees to be unavailable to work for sometimes years, which means they have been out of the work force for a long time.
 - Refugees do not have the social network of family, friends, neighbours etc who can help them find a job in an informal way.
 - Employers often are not familiar with refugees and do not know to appreciate their qualities.
- (www.vluchtelingenwerk.nl)

2.10 Social security system

Every Dutch citizen that does not have the means to finance the basic needs in his/her life due to long-term unemployment or incapability to work can ask the government for assistance. The Ministry of Social Services and Employment takes care of laws in the field of social security and legal retirement arrangements. The government wants those on benefit to be able to become self-sufficient as quickly as possible, and uses the so-called ‘integration’ policy for this. An example is that all unemployed who can not find work themselves within 12 months are offered a pathway to follow (involving training, interview skills, interest tests etc) that increases their chances to find work.

2.10.1 CIWI

An important task of the “Centrum voor Werk en Inkomen” (CIWI) is to intermediate for the unemployed. Also CIWI are the first office for those on benefits. The benefits themselves are paid by the municipalities. Not just unemployed, but also employed people looking for a different job can come to CIWI.

In overview the tasks of CIWI are:

- Placing vacancies on their website www.werk.nl.
- Assisting employers to find staff.
- Assisting unemployed to find work.
- Registering unemployed as clients.
- Collecting and checking information needed for the social benefits of the unemployed.
- Estimating the chances of a client to find work.

2.10.2 BBZ

The BBZ (Besluit Bijstandverlening zelfstandigen) is an arrangement by the Ministry of Social Services and Employment to grant loans for setting up businesses. Conditions are that that one is fully or partially unemployed and on social benefits and finding a job offers little perspective, or one is about to be unemployed and there are no jobs available immediately. To apply for the BBZ one needs to have Dutch nationality or have a residence permit and be aged between 18 and 65 years.

The municipality decides on the application.

3. REFUGEE BARRIERS AND NEEDS

| Topics | Barriers | Needs |
|--|---|--|
| Language provisions | Not always enough possibilities in AZCs to learn language. Asylum seekers who stay in other accommodation facilities are entitled to Dutch lessons but the COA has not been able to organise such classes everywhere. Asylum seekers under the "self-care arrangement" have no right to language tuition. | All asylum seekers should be entitled to basic language training in the language of the host state, free of charge. |
| Access to higher education | No government financing for asylum seekers. | All asylum seekers should be supported in acquiring new education and skills in the host State. |
| Access to vocational training | No government financing for asylum seekers. | All asylum seekers should be supported in acquiring new education and skills in the host State. |
| Recognition of qualifications for education | Costs and often lack of documents. Low appreciation of previously obtained qualifications. | All qualifications and diplomas of asylum seekers should be recognised and valued properly. |
| Entitlements to work | No entitlements to work for asylum seekers other than 12 weeks per year; as a consequence low skilled jobs only. After not having been allowed to work for years, the barrier to the labour market has become higher to bridge. | Asylum seekers should benefit from access to the labour market of the host State at the earliest possible stage. |
| Recognition of qualifications for employment | Diplomas often valued lower than a Dutch diploma. | Re-qualification and recognition of qualifications and giving employers appropriate information on employing asylum seekers. |
| Changing of careers and transferring of skills | Experience of former jobs does not always correspond to situation on the Dutch Labour market. | Professional advice on re-training and/or re-qualification and more funding for re-training if required. |

| | | |
|-------------------------------------|---|--|
| The recruitment process, job search | Asylum seekers and refugees usually do not have the same family networks to support them as the local population, are usually older when starting to look for work, are likely to suffer discrimination, may lack the language proficiency necessary to gain employment, and are often particularly vulnerable as a result of traumatic experiences, uprooting and/or medical conditions. | Commitment of employers to an articulate policy of the inclusion of members of minority groups, including refugees, in their operation. |
| Setting up businesses | No network of friends and family to assist in starting up a business. | Easier access to start-up loans from government to compensate for lack of networks. |
| Social Benefit system | Full-time education not always allowed when receiving social benefits, even when a short period of studying to re-qualify will improve chances in labour market dramatically. | The terms by which an asylum seeker may qualify for social assistance from the host State should be clearly defined by national legislation, including explanation of how the asylum seeker's own ability to support him/herself will be assessed. |

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