

PREFACE

You have before you the report of the research into the use of Community law by family migrants from third countries. This research was conducted by Regioplan Policy Research in cooperation with the Institute of Immigration in Leiden, and the IND Information and Analysis Centre.

We are very grateful to the members of the Monitoring Committee, who supported and advised us during the research in such a pleasant and helpful manner.

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1 INTRODUCTION

1.1 Background

On 4 November 2008, the State Secretary for Justice answered Parliamentary questions from MP Fritsma about the 'Europe route'. In this context, it became evident that the number of applications on the basis of verification against Community law had increased in the previous three years. Subsequent to this, the political need arose to determine the precise number of cases concerned, and to examine in which cases third-country nationals relied on Community law and whether there were indications of 'abuse of rights' in these cases.¹

On 27 January 2009, the State Secretary for Justice promised the Lower House of Parliament that further investigation was required by the Immigration and Naturalisation Service (IND) and the Research and Documentation Centre (WODC) of the Ministry of Justice before she could provide information about the size and composition of the group of third-country nationals who rely on Community law.² Having regard to this need, the IND and Regioplan Policy Research (Regioplan), on the instruction of the WODC, carried out a joint research project.

The research questions are as follows:

1. What is the size and composition of the group of family migrants from third countries who submit an application in the Netherlands for admission on the basis of Community law?
2. What are the reasons for the increase in the number of applications, as already established on the basis of the first figures in November 2008?
3. To what extent and on which grounds is there reason to believe that an application for a residence permit on the basis of a verification against Community law was used or abused³, and what is the scope of this use or abuse?

¹ Parliamentary Papers II, Appendix to the Proceedings of the Lower House of Parliament, session year 2008-2009, no. 552.

² Parliamentary Papers II, Letter to the Lower House of Parliament, session year 2008-2009, 19 637, no. 1247.

³ In this report the terms 'abuse' or 'abuse of rights' will be used several times. These terms are used in political discussions and this is the reason for including them in the research questions. In this report, we furthermore refer to several forms of use. It has not yet been established whether, and if so, precisely when, a situation can be deemed an abuse of rights (in a legal sense). A more detailed explanation on the terminology used in this report may be found in Section 1.2.

1.2 Terminology Used

1.2.1 Political discussion

In the political discussion, in the media, by Ministries, or in documents of the European Commission, various terms are used that qualify the use of Community law for the purpose of the free movement of EU citizens and third-country family members in different ways. Terms as 'fraud', 'abuse', 'abuse of rights', 'improper use', and 'circumvention of national rules' are used indiscriminately without exactly knowing what is meant by these terms and without a sound legal substantiation of these qualifications. In Directive 2004/38/EC, which provides for the right of free movement and residence within the European Union for citizens of the Union and their family members, Article 35 includes the possibility to adopt measures in the case of abuse of rights or fraud. These concepts are not defined in this Directive.

In her letter to the Lower House of Parliament of 27 January 2009, the State Secretary for Justice substantiated the concepts of abuse of rights and fraud.⁴ She defined the term 'abuse of rights' as the use of the right of free movement of persons within the EU for the sole purpose of circumventing legal national rules. She also referred to this as the improper use of a route which is, in itself, legal. To the State Secretary's knowledge, the concept of 'abuse of rights' was also not used in other Member States.

According to the State Secretary, the concept of 'fraud' only applies in situations where third-country nationals attempt to derive rights from Community law, for instance by entering into sham relationships or marriages of convenience.

1.2.2 European Directive

In its report on the application of Directive 2004/38/EC to the European Parliament and the Council, however, the European Commission did refer to the concepts of abuse and fraud, but these concepts were not defined in more detail.⁵ It only stated that Member States may adopt measures on the basis of Article 35 to prevent abuse, such as marriages of convenience. The Commission furthermore stated that this was confirmed by the judgment in the Metock case.

Also at the request of a number of Member States, the Commission presented Guidelines to improve the transposition and application of the Directive 2004/38/EC in July 2009.⁶ In this communication of the Commission to the European Parliament and the Council, the concepts of fraud and abuse or abuse of rights were explained in more detail.

⁴ Lower House of Parliament 2008-2009, 196 37, no. 1247.

⁵ COM (2008) 840 Final, pp. 9-10.

⁶ COM (2009) 313 Final, pp. 15-20.

'Fraud' is defined as deliberate deception or contrivance made to obtain the right of free movement and residence under the Directive. According to the Commission, 'in the context of the Directive, the concept of fraud is likely to be limited to forgery of documents or false representation of a material fact concerning the conditions attached to the right of residence.'

Abuse is described as 'an artificial conduct entered into solely with the purpose of obtaining the right of free movement and residence under Community law which, albeit formally observing of the conditions laid down by Community rules, does not comply with the purpose of those rules.' The Commission mentioned two forms of abuse. Firstly, marriages of convenience and, secondly, the move to another Member State with the sole purpose to evade, upon returning, the national law on family reunification.

For the definition of marriages of convenience (which may be applied by analogy to other family relationships), it referred to recital 28 of the Directive: marriages of convenience are marriages contracted for the sole purpose of enjoying the right of free movement and residence, which otherwise could not be relied upon.

The other form of abuse mentioned in the Commission's communication is the move to another Member State for the sole purpose of circumventing national rules. The Commission distinguished between genuine and abusive use of Community law. If the exercise of Community rights in a Member State from which the EU citizens and their family members return was genuine and effective, these EU citizens and their family members will be protected by Community law on free movement of persons. In those cases, the personal motives for the move are not relevant (in the Commission's words: should not be inquired into).

When necessary, Member States may define a set of indicative criteria to assess whether residence in the host Member State was genuine and effective. The Commission mentioned the following factors:

- The circumstances under which the EU citizen concerned moved to the host Member State (previous unsuccessful attempts to acquire residence for a third-country spouse under national law, job offer in the host Member State, capacity in which the EU citizen resides in the host Member State);
- The degree of effectiveness and genuineness of residence in the host Member State (envisaged and actual residence in the host Member State, efforts made to establish residence in the host Member State, including national registration formalities and securing accommodation, enrolling children at an educational establishment);
- The circumstances under which the EU citizen concerned moved back home (return effected immediately after marrying a third country national in another Member State).

The Commission emphasised that these indicative criteria should be considered possible triggers for investigation, without any automatic inferences from results or subsequent investigations. The Member State must pay due attention to all the circumstances of the individual case. The conduct of

persons concerned must be assessed in the light of the objectives pursued by Community law and on the basis of objective evidence.

1.2.3 Case Law

Finally, however, it is up to the Court of Justice of the European Communities ('the Court') to decide when a situation of fraud or abuse is concerned. In cases involving the right of the free movement of persons, there are no judgments of the Court in which it assumed that the case constituted a situation of abuse.⁷ In various cases, however, the Court did acknowledge that Member States may adopt measures to fight abuse. This related to cases in which one of the Member States had suggested that the case might involve a marriage of convenience or in which it had been confirmed that the case did not concern a marriage of convenience.⁸ The Court also determined, in cases concerning the free movement of persons, that the intention of the persons concerned was not relevant to the question of whether the situation constituted an abuse. See, for instance, the findings in the *Akrich* case. The Court explicitly found that⁹ *'(...) the motives which may have prompted a worker of a Member State to seek employment in another Member State are of no account as regards his right to enter and reside in the territory of the latter State provided that he there pursues or wishes to pursue an effective and genuine activity.'*

The Court continued and found that the motives are also of no account at the time when the couple returns to their own Member State. *'Such conduct cannot constitute an abuse (...) even if the spouse did not, at the time when the couple installed itself in another Member State, have a right to remain in the Member State of which the worker is a national.'*

In the *Chen* case¹⁰, as well, the Court did not assume abuse: a Chinese woman with previous residence in the United Kingdom went to Northern Ireland to give birth there so that her daughter would have the Irish nationality. On return to the United Kingdom, she subsequently claimed a residence permit in the United Kingdom for her daughter and herself on the basis of Community law.

The United Kingdom argued that this constituted abuse:

*'(...) because Mrs Chen's move to Northern Ireland with the aim of having her child acquire the nationality of another Member State constitutes an attempt improperly to exploit the provisions of Community law.'*¹¹

This reasoning was explicitly rejected by the Court, even though it acknowledged that the woman went to Northern Ireland with this aim, because none of the parties questioned that the daughter had legally acquired the Irish

⁷ See Boeles, den Heijer et al., *European Migration Law*, Intersentia, Antwerp - Oxford - Portland, 2009, pp. 61-62.

⁸ See ECJ 7 July 1992, *Surinder Singh*, case C-370/90, para 24; ECJ 23 September 2003, *Akrich*, case C-109/01, para 57; ECJ 25 July 2008, *Metock*, case C-127/08, paras 46 and 75.

⁹ ECJ 23 September 2003, *Akrich*, Case C-109/01, paras 55-56.

¹⁰ ECJ 19 October 2004, *Chen*, Case C-200/02, paras 34-40.

¹¹ *Ibid.* para 34.

nationality, and it is not permissible for the Member States to impose additional conditions for the consequences of a legally acquired nationality.

*'However, that would be precisely what would happen if the United Kingdom were entitled to refuse nationals of other Member States, such as Catherine, the benefit of a fundamental freedom upheld by Community law merely because their nationality of a Member State was in fact acquired solely in order to secure a right of residence under Community law for a national of a non-member country.'*¹²

In other cases concerning the free movement of persons, the Court seems to apply broader criteria for abuse.¹³ The Commission's communication on guidelines to improve the transposition and application of the Directive 2004/38/EC, frequently refers to this case law of the Court.

1.2.4 Terminology in this report

The initial memorandum of this research project used the terms 'abuse', 'abuse of rights', and 'fraud', which were also used by the State Secretary. The terms 'abuse' or 'abuse of rights' mean the circumvention of national rules (see above).

The substantiation of the concepts of 'fraud', 'abuse' or 'abuse of rights', as applied by the Commission, have, however, not – or not yet – been confirmed by the Court, and may therefore not be considered as a legally binding interpretation. In the continuation of this report, we will therefore speak of the use of Community law without drawing the conclusion as to whether or not a situation of abuse of rights or fraud is concerned.

1.3 Methods Used and Structure of the Research

The research is composed of the following three parts:

1. Part I – Statistical investigation by the IND;
 - a. Survey and analysis of the data of the IND Information System (INDIS);
 - b. Analysis of the results of the so-called 'Belgium Box'.

¹² Ibid. para 40.

¹³ See, for instance ECJ 14 December 2000, *Emsland-Stärke*, Case C-110/99, paras 52-53: *'A finding of an abuse requires, first, a combination of objective circumstances in which, despite formal observance of the conditions laid down by the Community rules, the purpose of those rules has not been achieved. It requires, second, a subjective element consisting in the intention to obtain an advantage from the Community rules by creating artificially the conditions laid down for obtaining it. The existence of that subjective element can be established, inter alia, by evidence of collusion between the Community exporter receiving the refunds and the importer of the goods in the non-member country.'*

2. Part II – Statistical research of the files and other sources by Regioplan Policy Research on the instruction of the WODC and analysis by Regioplan Policy Research.
3. Part III – Interpretation by G.G. Lodder, LL.M., of the Institute of Immigration, Leiden University, on the instruction of the WODC.

Part I – Statistical investigation by the IND

The first part of the research concerned a survey and an analysis of data from INDIS. This part of the report was prepared in March 2009 by the Information and Analysis Centre of the IND (INDIAC). The major purpose of the survey and the analysis of the data from INDIS is to furnish figures to provide an overview of the size and composition of the group of third-country nationals invoking Community law. The second component of Part I of the research consists of the analysis of the results from the 'Belgium Box', which may possibly say more about the above-mentioned third-country nationals and their motives for using the Europe route. Since 2008, data about applicants and sponsors have been collected in this 'Belgium Box' on the basis of a standardised questionnaire.¹⁴ The data collected is meant to give an indication of the degree in which Community law is used and of the motives of the relevant third-country nationals and sponsors.

Part II – Statistical research of the files and other sources by Regioplan Policy Research

In Part II of the research, which was conducted by Regioplan on the instruction of the WODC, an investigation of the files was carried out to supplement or substantiate Part I of the research in those situations where INDIS could only provide information to answer the research questions to a limited extent. In order to be able to answer these questions, a sample of 400 files was drawn from all applications since 2005. This investigation of the files finally resulted in a file with more background characteristics of applicants and sponsors.

Part III – Interpretation by the Institute of Immigration, Leiden University

On the basis of the data collected, Part III of the research investigated the reasons for the increase in the number of verifications against Community law. The researchers furthermore attempted to gain a better understanding of the applicants' motives to use Community law, and they identified several forms of use. Finally, an examination was made to determine whether it was possible to recognise the indicators for possible abuse as defined by the Commission, and which meaning could be attached to these indicators. The researchers used a combination of interviews and office research for this purpose. These interviews included a group interview with five IND employees holding different positions.¹⁵ In addition to this, the researchers interviewed two lawyers who

¹⁴ The entire INDIAC report on the 'Belgium Box' has been included in Appendix 3 of this report.

¹⁵ During the interview, the following persons were present: a desk worker of the Hague Desk; the Hague desk worker's principal, responsible for the Haaglanden Pilot Project (a project to trace sham relationships between EU citizens and third-country nationals), decision-maker of the Rijswijk office, primarily engaged in verifications against Community law in respect of EU sponsor, involved in the project on sham relationships; coordinator for

had handled many applications for verification against Community law from Dutch citizens with third-country nationals as partners or family, or other EU citizens with third-country nationals as partners or family, respectively. Finally, several written questions were submitted to a German respondent to obtain an impression of the possible use of the Netherlands route by German citizens. In the context of the office research, the focus was on the investigation of official documents, such as Parliamentary Papers and documents of the European Commission, case law, articles, reports, and so on, and various websites were consulted that were used by people who were in search of information or who wanted to share experiences about the Belgium route or the Europe route.

Interpretation of the different parts

Regioplan integrated the three separate parts of the research into the present research report. This research report is consequently based on three data sources, i.e. the population data, the sample data, and the data from the 'Belgium Box'. It is therefore not possible to interpret all results in the same way.

The population data are essentially the purest data, for they relate to the entire group. The information provided by these data is, however, limited. The choice was therefore made to provide background information based on an investigation of the files. For this purpose, a sample was drawn from the population. In this sample, the group of (applicants applying for residence with) Dutch sponsors was overrepresented. The choice for this group (although overrepresentation was identified) was made, in order to have enough data to make breakdowns and thereby to be able to answer the research questions. The report also includes data from the 'Belgium Box'. This concerns information that was collected among applicants for residence with Dutch sponsors on the basis of a questionnaire in the period between May 2008 and May 2009. This information comprises valuable data, as the data reveal even more background characteristics of the applicants and the sponsors. Because it is possible that not all questionnaires were completed by applicants who relied on Community law, this information cannot, however, be compared to the information from the above-mentioned sources. Insofar as possible, a selection was made of applicants who resided in Belgium or of cases in which a Europe route was suspected, whereas each application in the period between May 2008 and May 2009 could, in fact, have been in the Belgium Box. The completion of the questionnaire was, however, not an obligation for the applicants.

1.4 Research Questions

The following research questions will be answered in this report:

decision-makers, involved in the sham relationships project; and decision-makers of the IND Implementation Policy Department.

Numbers and characteristics

1. What is the size of the total group who relied on family reunification on the basis of verification against Community law in the period between 2005 and 2009?
2. To what extent do the figures deviate from the figures that were provided to the Lower House of Parliament in November 2008, and how can these differences be explained?
3.
 - a. What is the total number of third-country nationals who were granted admission on the basis of Community law for residence with an EU citizen?
 - b. What is the total number of third-country nationals who were granted admission on the basis of Community law for residence with a Dutch citizen who exercised his or her right of the free movement of persons?
4.
 - a. What may be said about the groups of origin of the Dutch sponsors?
 - b. Which nationalities do the third-country nationals have, broken down by
 - sponsor (i.e. Dutch citizen or EU citizen);
 - nationality of the EU sponsor?
5. What are the background characteristics (such as gender and age) of the third-country nationals, where relevant, broken down by type of sponsor?
6. What is the breakdown of admissions by ground for admission, i.e. residence with spouse/partner/registered partner, parent, or child?
7. How many applications for verification against Community law submitted by third-country nationals were granted, and how many were refused, and on what grounds were the applications refused?

Duration of residence and legal status

8. How long do Dutch citizens (sponsors from the target group) usually stay in another EU Member State before returning to the Netherlands with one or more family members?
9. In what way could it be made clear how long, on average, EU citizens and their family members from the target group stay in the Netherlands?
10. What was the legal residence status of the group of third-country nationals at the time of applying for residence with an EU citizen?
 - a. What proportion relates to the initial admission from a third country that is subject to the visa requirement?
 - b. What proportion relates to the admission from other EU Member States where they have/had lawful residence? (insofar as available)
 - c. Is it possible to make an estimate, on the basis of the above-mentioned categories and previous procedures under Aliens Law involving cases

that were refused, of the number of applications from a residence situation that is not, or not yet, legalised?

11. What was the legal residence status of the group of third-country nationals at the time of applying for residence with a Dutch citizen?
 - a. What proportion had previously had lawful residence in another Member State?
 - b. Is it possible to make an estimate, on the basis of previous procedures under Aliens Law involving cases that were refused, of the number of applications from a residence situation that is not, or not yet, legalised?.

Interpretation

12. To what extent is there reason to believe that the right of free movement of persons has been abused, and what is the scope of this abuse?
13. What are the reasons for the increase in the group of people who relied on Community law?
 - a. To what extent do policy changes at the national and European level and in other Member States of European case law play a role in this?
 - b. To what extent are there any other factors that may explain an increase, such as, for instance, the enlargement of the EU, and the influence of the media and the Internet?

1.5 Reader's Guide

Chapter 2 gives a description of the total group of third-country nationals who were granted admission on the basis of Community law. Chapter 3 subsequently provides an overview of the background characteristics of the sponsors on the basis of data on the entire group and a sample from the total number of applications. The same is done in Chapter 4 in respect of the applicants. Chapter 5 deals with the relationship between the sponsor and the applicant, and Chapter 6 sets out the backgrounds of the application process of the applicants. Chapter 7 elaborates on the interpretation part of this research by interpreting the research findings on the basis of the current state of law. In Chapter 8, in conclusion, the research questions will be answered separately.

The data presented in the chapters will be illustrated by examples selected from the files. These examples are case descriptions in anonymous form and will be presented in boxes in between the texts. In this way, the backgrounds of specific profiles of applicants and sponsors are presented on the basis of practical examples.

2 SIZE OF THE TOTAL GROUP OF APPLICANTS

2.1 Introduction

In this chapter, the question about the size of the total group is answered: what is the total number of applicants who were granted admission on the basis of Community law for residence with an EU citizen or with a Dutch citizen who exercised his or her right of free movement of persons? In addition, attention will be paid to the differences between the figures presented in this chapter and the figures presented to the Lower House of Parliament in November 2008 and how these differences may be explained. Finally, an answer will be given to the question about the proportion of applications granted and refused.

2.2 Third-country Nationals

The analysis of the data files consulted revealed that the nationalities of a number of foreign nationals were not known (6%). The foreign nationals with unknown nationalities were therefore not included in the analysis. These foreign nationals may be third-country nationals or citizens with EU/EEA or Swiss nationality. Table 2.1 shows the total number of applications from third-country nationals that were granted, whereby verification against Community law for family migration was applied.

Table 2.1 Number of applications from third-country nationals that were granted, whereby verification against Community law was applied

	2005	2006	2007	2008	Total
Applications granted	923	896	1,622	2,558	5,999

Source: INDIS

Table 2.1 shows that – in the period between 2005 and 2009 – a total of 5.999 applications from third-country nationals were granted whereby verification against Community law was applied. Notable in this context is the strong increase in the number of applications in 2007 and 2008. Explanations may, for instance, be sought in a tighter national policy and the publicity about the so-called Europe route. This may, however, not be concluded with certainty. A more detailed interpretation of such differences will be provided in Chapter 7.

The group, or selection of this group, as represented in Table 2.1 will be used as a basis in the Chapters 3, 4, 5, and 6.

2.3 Difference with the Figures of November 2008

On 4 November 2008, the State Secretary for Justice answered Parliamentary questions from MP Fritsma about the 'Europe route'. In this context, the State

Secretary mentioned figures concerning the number of third-country nationals who acquired residence on the basis of Community law – and who might consequently be family members of Dutch citizens or EU citizens. These figures are represented in Table 2.2.

Table 2.2 Figures for November 2008

2005	2006	2007
350	240	490

Source: INDIS

The figures represented in Table 2.1 are, however, higher and relate to the number of third-country nationals of whom it is certain that they acquired residence on the basis Community law. The principal reason for the difference between the figures of November 2008 and the current figures is that the automated search procedure that is currently used and the subsequent analysis method used are more accurate than the search procedure and analysis that were used to obtain the figures of November 2008. Below, the differences between the figures will be discussed in more detail.

The most important explanations for the differences between the figures of November 2008 and the figures presented in this report are as follows:

- In order to obtain the figures of November 2008, the residence permit procedure – which is called VVREU (EU Regular Residence Permit) in INDIS – was examined. Logically, this was where all the applications for verification against Community law were expected to be found. More detailed investigation, however, revealed that the applications for verification against Community law were also placed under another type of residence permit procedure. This explains the largest part of the difference.¹⁶
- In November 2008, a decision was made to select three types of applications for verification against Community law within the VVREU category. More detailed investigation revealed that four types of applications should have been selected.
- In November 2008, an examination was not made of all applications granted *with* verification against Community law, *as well as* all applications granted *without* verification against Community law, but which were granted after all.

In the present research, a method was used to ensure that the numbers of applications – in respect of which the applicants relied on Community law – were extracted from the IND Information System (INDIS) as accurately as possible. Although registration in INDIS is entered manually, it may be assumed that currently all applications in respect of which the applicants relied on Community law are being registered.

¹⁶ In addition to this, the figures for 2008 were not included in November 2008.

2.4 The Applications Granted versus the Applications Refused

An application may either be granted or refused. In addition, there are also other decisions. Other decisions include decisions on applications that were withdrawn by the foreign national, on applications that were not considered because the fees had not been paid, or on applications from applicants who had died in the course of the procedure. Table 2.3 shows the numbers as well as the relationship, in percentages, between these three types of decision.

Table 2.3 Numbers and percentages of decisions involving granted or refused applications, , and other decisions

	2005	%	2006	%	2007	%	2008	%	Total	%
Granted	923	83%	896	85%	1,622	83%	2,558	87%	5,999	85%
Refused	94	8%	101	10%	309	16%	324	11%	828	12%
Other	92	8%	60	6%	35	2%	54	2%	241	3%
Total	1,109	100%	1,057	100%	1,966	100%	2,936	100%	7,068	100%

Source: INDIS

It follows from Table 2.3 that – in the period between 2005 and 2009 – 85% of the applications applying verification against Community law were granted, and that 12% of the applications were refused. The remaining 3% relate to applications on which other decisions were made. Table 2.3 relates to individual procedures. This means that applications that had been refused may still have been granted at a later stage.

Grounds for refusal

When the grounds for refusal are examined, the data files consulted do not give a decisive answer. In respect of 720 out of 828 applications that had been refused, the grounds for refusal were not registered. In respect of 75 out of 828 applications that had been refused, the ground for refusal 'did not comply with the restriction' had been registered. This ground for refusal means that the foreign national did not comply with the conditions for the purpose for which he or she wanted residence. This ground for refusal is too general to draw conclusions from; all applications that are refused are, after all, refused because the conditions have not been complied with. Specific grounds for refusal had, however, been registered in respect of the remaining applications, but these numbers form too small a basis for drawing conclusions. These numbers are also not sufficient as an indication. If more information about the grounds for refusal is desired, this could be obtained by means of an additional investigation of the files.

3 SPONSORS

3.1 Introduction

In this chapter, a breakdown will be made – insofar as possible – by nationality, for the total group of 5,999 applications granted as well as for the 393 files that were selected in the sample.¹⁷ This sample consisted of 182 Dutch sponsors and 198 EU sponsors. This answers the question of how many foreign nationals were admitted for residence with Dutch citizens who exercised their rights of free movement of persons and how many foreign nationals were admitted for residence with EU citizens who resided in the Netherlands. An explanation of the sampling method is given in Appendix 1.

Information about sponsors

Since the middle of 2004, the IND has registered sponsor data in INDIS/REGIS. There are three types of sponsors: foreign nationals, related persons, and companies/organisations. The group of companies/organisations was not relevant for the purpose of this research. In principle, foreign nationals are all non-Dutch citizens. This group consequently includes EU citizens as well as third-country nationals. Related persons are in principle always Dutch citizens.

Comments on the information about sponsors

For the purpose of entering an application in the IND system, this system does not oblige the IND employee to register any data of the sponsor. This results in the fact that – in the period between 2005 and 2009 – information about the nationalities of the sponsors was only registered in INDIS in, on average, 70% of the cases. In this context it should be mentioned that information about the sponsor's nationality was registered more frequently in 2008 (81%) than in 2005 (71%), but that the percentage was subject to fluctuations over the course of years. In 2007, for instance, the sponsor's nationality was known in only 57% of the cases. Table 3.1 provides an overview of the percentage of sponsors of which the nationalities were known in INDIS. In addition to the incompleteness of the information about the sponsors, this information contained inaccuracies. There were, for instance, Dutch citizens among the foreign nationals and non-Dutch citizens among the related persons. The former case may be the result of naturalisation of the relevant foreign nationals, and the latter case may relate to persons with dual nationalities in whose cases the non-Dutch nationalities had been registered in INDIS instead of the Dutch nationalities.

Considering the limited degree of completeness and the inaccuracies that were identified, the data cannot provide a true picture. It is therefore not possible to draw firm conclusions from these data. Insofar as the whole

¹⁷ Out of the 400 files selected, 393 files were finally included in the investigation of the files. Seven files from the sample were not available in time, for instance, because a procedure was still ongoing.

population is concerned, all information provided in the next chapters about sponsors and related applicants is therefore indicative. The data that were collected by the investigation of the files are, however, complete.

Table 3.1 Degree to which the nationalities are known in INDIS (numbers and percentages)

Nationality	2005	%	2006	%	2007	%	2008	%	Total	%
Known	654	71%	535	60%	920	57%	2,063	81%	4,172	70%
Unknown	269	29%	361	40%	702	43%	495	19%	1,827	30%
Total	923	100%	896	100%	1,622	100%	2,558	100%	5,999	100%

Source: INDIS

3.2 Background Characteristics of the Sponsors

3.2.1 Sponsor and nationality

In the period between 2005 and 2009, the nationalities of the sponsors were registered in INDIS in respect of 4,172 of the applications granted. Table 3.2 shows more detailed information about the nationalities of these sponsors. In 3,150 cases, the sponsors had EU/EEA or Swiss nationalities. In 753 cases, the sponsors had Dutch nationality. In the other cases, the sponsors were possibly third-country nationals.

With respect to 1,827 sponsors, the nationalities were unknown. On the basis of the investigation of the files, it is, however, possible to draw conclusions about the composition of this group. An overview of the nationalities of the sponsors from the sample is provided in Tables B2.7 and B2.9 in the Appendix to this report.

Table 3.2 Sponsor and nationality

Nationality	2005	%	2006	%	2007	%	2008	%	Total	%
EU/EEA/Swiss	557	60%	429	48%	722	45%	1,442	56%	3,150	53%
Dutch	57	6%	57	6%	146	9%	493	19%	753	13%
Non-EU/EEA/Swiss	40	4%	49	5%	52	3%	128	5%	269	4%
Unknown ¹⁸	269	29%	361	40%	702	43%	495	19%	1,827	30%
Total	923	100%	896	100%	1,622	100%	2,558	100%	5,999	100%

Source: INDIS

¹⁸ On the basis of the data from the random investigation of the files, it is possible to draw conclusions about the composition of this group. Approximately 2% of this group remained unknown in the sample; 12% of the cases concerned non-EU sponsors, 75% concerned European sponsors, and approximately 11% concerned Dutch sponsors.

The percentages contained in Table 3.2 may be adjusted on the basis of the sample data. It is possible to estimate the actual breakdown of the unknown sponsors by nationality on the basis of the results of the investigation of the files. It is estimated that 75% of the cases concerned EU sponsors, and 16 % of the cases concerned Dutch sponsors. It is estimated that 8% concerned non-EU sponsors and in less than 1% of the cases the nationalities of the sponsors were unknown. Where non-EU sponsors were concerned, the cases involved, for instance, a child of a third-country national that was granted residence with this person's partner; in these cases the parent was often regarded as a sponsor.

Case 1 Dutch sponsor

The applicant was an Afghan girl (2005) for whom an application was submitted for residence with her Dutch/Afghan mother. The parents had lived in Belgium for some time. During their residence in Belgium, their registration in the Municipal Administration of a Dutch municipality continued. It is unknown whether the sponsor continued to work in the Netherlands and/or in another Member State. The sponsor had a Belgian certificate of registration. The Belgian identity card had been issued six months before the application. The parents were married in 2004 in the Netherlands, nearly three years before the application.

In the period between 2005 and 2009, the sponsors were known to have Dutch, EU/EEA, or Swiss nationality in 3,903 of the applications granted. Table 3.3 shows the nationalities of the sponsors in respect of these 3,903 applications granted.

Table 3.3 Sponsors with Dutch, EU/EEA, or Swiss nationality (insofar as registered in INDIS)

Nationality	2005	2006	2007	2008	Total	%
Dutch	57	57	146	493	753	19%
British	123	60	148	230	591	15%
German	102	86	135	241	564	14%
Portuguese	49	47	79	162	337	9%
Italian	57	52	63	133	305	8%
French	47	36	78	112	273	7%
Spanish	44	30	46	93	213	5%
Polish	7	*	29	112	152	4%
Belgian	31	17	29	63	140	4%
Greek	21	16	19	53	109	3%
Irish	19	12	25	26	82	2%
Austrian	16	6	18	20	60	2%
Danish	13	6	11	16	46	1%
Lithuanian	1	*	*	36	40	1%
Swedish	7	8	8	16	39	1%
Romanian	*	*	6	29	35	1%
Bulgarian	*	*	*	34	34	1%
Finnish	5	*	8	9	24	1%
Norwegian	*	5	6	6	21	1%
Hungarian	*	*	*	8	19	0%
Swiss	5	*	*	8	18	0%
Czech	*	*	*	9	12	0%
Slovakian	*	*	*	5	8	0%
Slovenian	*	*	*	7	7	0%
Latvian	*	*	*	5	7	0%
Estonian	*	*	*	*	*	0%
Cypriot	*	*	*	*	*	0%
Maltese	*	*	*	*	*	0%
Icelandic	*	*	*	*	*	0%
Luxembourg	*	*	*	*	*	0%
Liechtenstein	*	*	*	*	*	0%
Total	614	486	868	1,935	3,903	100%

Source: INDIS

* Number is less than 5.

Case 2 German sponsor

The applicant was an Israeli woman (1971) who applied for residence with her German husband (1969) who was also born in Israel. They were married in 1995, more than ten years before the application. They had previously cohabitated in Germany, and they currently are living in the Netherlands together.

During the investigation of the files, the researchers also recorded the countries of birth in respect of the Dutch sponsors. Table 3.4 provides an overview of the countries of birth of the Dutch sponsors. The majority of Dutch sponsors, 72%, had also been born in the Netherlands. This group will primarily contain native Dutch citizens, but it will probably also include second-generation immigrants. Table 4.1 shows that 15% and 11% of the applicants

for residence with Dutch sponsors have Turkish or Moroccan nationality, respectively. Research carried out by the WODC revealed that, in 95% of the cases, sponsors of Turkish and Moroccan origin had partners from their countries of origin.¹⁹ If this fact is included, the number of sponsors of Turkish or Moroccan origin who were born in the Netherlands is probably not larger than approximately a quarter (95% of 26%) of the whole group of Dutch sponsors who were born in the Netherlands. This means that at most 33 out of the 130 sponsors who were born in the Netherlands would be of Turkish or Moroccan origin.

With regard to the Dutch sponsors who were born outside the Netherlands, 5% was born in Turkey. Other countries of birth do not take up more than 2%.

Table 3.4 Dutch sponsor's country of birth (n=181)

	Absolute	Percentage
The Netherlands	130	72%
Turkey	9	5%
Surinam	4	2%
Afghanistan	3	2%
India	3	2%
Yugoslavia	3	2%
Morocco	3	2%
China	2	1%
Colombia	2	1%
Germany	2	1%
Indonesia	2	1%
Pakistan	2	1%
Serbia	2	1%
Armenia	1	1%
Belgium	1	1%
Cuba	1	1%
Curaçao	1	1%
Iran	1	1%
Congo	1	1%
Lebanon	1	1%
Liberia	1	1%
Poland	1	1%
Russia	1	1%
Rwanda	1	1%
Senegal	1	1%
Uruguay	1	1%
Sweden	1	1%
Total	181	100%

Source: Investigation of the files

¹⁹ WODC, *Internationale gezinsvorming begrensd. Een evaluatie van de verhoging van de inkomenseis en leeftijdseis bij migratie van buitenlandse partners naar Nederland* (International family formation restricted? An evaluation of the raised income and age requirement with regard to the migration of foreign partners to the Netherlands). Cahier 2009-4, p. 29.

3.2.2 Sponsor and gender

During the investigation of the files, the researchers also recorded the gender of the sponsor. Table 3.5 shows the proportion of men and women in the sample.

Table 3.5 Sponsor's gender by type of sponsor (n=380)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Men	121	67%	126	64%
Women	61	33%	72	36%
Total	182	100%	198	100%

Source: Investigation of the files

In the majority of cases, the sponsors were men. Two thirds of the Dutch sponsors were men; in respect of the EU sponsors this percentage was somewhat lower (64%).

3.2.3 Sponsor and age

The largest group of sponsors was between 27 and 40 years of age. The second largest group was 40 years of age or older. A notable point is that – on the dates of application – the EU sponsors were usually somewhat older than the Dutch sponsors.

Table 3.6 Sponsor's age by type of sponsor (n=380)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Up to 21 years of age	10	6%	7	4%
21 to 27 years of age	42	23%	26	13%
27 to 40 years of age	75	41%	97	49%
40 years of age and older	47	26%	49	25%
Unknown	8	4%	19	9%
Total	182	100%	198	100%

Source: Investigation of the files

The age of the sponsor was also compared to the age of the applicant. In this respect it is notable that the largest group of sponsors had somebody come over from his or her own age category. This may result in the conclusion that it mainly concerned marriages or partner relationships. More information about the relationship between the applicants and the sponsors will be provided in Chapter 5. Tables 3.7 and 3.8 show the breakdown of the Dutch sponsors and the EU sponsors, respectively, by age. It is notable that, with the breakdown of the applicants and sponsors by age, the number of cases in which at least one of them – applicant or sponsor – was younger than 21 years of age is relatively large (approximately 17%).²⁰ This observation concerned 29 out of 174 Dutch

²⁰ In this respect, these cases primarily concern partner relationships (compare Table 5.1).

sponsors (21 applicants plus 10 sponsors minus 2 overlapping cases).

Table 3.7 Dutch sponsor's age by applicant's age (n=174)

Applicant Sponsor	Up to 21 years of age	21 to 27 years of age	27 to 40 years of age	40 years of age and older	Total
Up to 21 years of age	2	5	3	0	10
21 to 27 years of age	9	20	13	0	42
27 to 40 years of age	4	28	39	4	75
40 years of age and older	6	4	26	11	47
Total	21	57	81	15	174

Source: Investigation of the files

Table 3.8 EU sponsor's age by applicant's age (n=179)

Applicant Sponsor	Up to 21 years of age	21 to 27 years of age	27 to 40 years of age	40 years of age and older	Total
Up to 21 years of age	0	4	3	0	7
21 to 27 years of age	2	15	9	0	26
27 to 40 years of age	12	22	56	7	97
40 years of age and older	9	2	23	15	49
Total	23	43	91	22	179

Source: Investigation of the files

4 APPLICANTS

4.1 Introduction

This chapter first of all provides a breakdown of the applicants by gender. Chapter 3 already mentioned that, in respect of 3,903 of the applications granted, the nationalities of the sponsors had been entered in INDIS. The question that will be answered in this chapter is which nationalities do the applicants who were granted admission on the basis of Community law have, and which nationalities do the sponsors have, who are related to these applicants.

4.2 Background Characteristics of the Applicants

4.2.1 Applicant and nationality

Table 4.1 provides an overview of the number of applications from third-country nationals who were granted residence with Dutch sponsors. The largest group of people have other Asian nationalities (15%). In respect of the individual nationalities, the nationalities among this group of applicants seen relatively the most are the Turkish, Moroccan, or Brazilian nationality. From Table 4.1 it may also be concluded that approximately 26% of the sponsors had a Turkish or Moroccan partner coming over. In this group, the applicants might have been second-generation Turks or Moroccans, or naturalised Turks or Moroccans, but also native Dutch citizens. Except for the sponsor's nationality and country of birth, there is no information available about the origin of the group of sponsors.²¹

²¹ See Chapter 3.

Table 4.1 Nationalities of third-country nationals who were granted residence with Dutch sponsors

Dutch (sponsor)	2005	2006	2007	2008	Total	%
Turkish	5	3	15	89	112	15%
Moroccan	3	5	10	62	80	11%
Brazilian	4	3	7	40	54	7%
Nigerian		3	3	27	33	4%
American	4	1	8	16	29	4%
Russian	1	1	9	18	29	4%
Indian	1	8	4	12	25	3%
Colombian			5	19	24	3%
Pakistani	1	2	2	17	22	3%
Thai			3	17	20	3%
Serbian	2	2	5	8	17	2%
Other Asian	13	11	32	57	113	15%
Other African	12	6	18	49	85	11%
Other South American	5	4	10	39	58	8%
Other North American	3	4	7	14	28	4%
Other European	3	4	8	9	24	3%
Total	57	57	146	493	753	100%

Source: INDIS

Case 3 Turkish applicant

The applicant was a Turkish man (1982) who applied for residence with his Dutch wife (the Netherlands, 1987). She had resided in Belgium where she had worked for a month. They were married in the Netherlands seven months before the application was submitted.

The breakdown by nationality of the applicants for residence with EU sponsors is shown in Table 4.2. Here as well, the group with other Asian nationalities is largest (18%). In respect of the individual nationalities, the nationalities among this group of applicants seen most are the American, Turkish, or Brazilian nationality.

Table 4.2 Nationalities of third-country nationals who were granted residence with EU sponsors

EU (sponsor)	2005	2006	2007	2008	Total	%
American	67	44	83	141	335	11%
Turkish	41	25	41	185	292	9%
Brazilian	48	29	66	115	258	8%
Moroccan	22	30	33	75	160	5%
Ghanaian	5	8	32	85	130	4%
Russian	26	17	26	57	126	4%
Australian	30	14	42	39	125	4%
Israeli	12	16	20	47	95	3%
Cape Verdean	7	16	19	45	87	3%
Chinese	17	11	16	34	78	2%
Nigerian	16	11	14	35	76	2%
Canadian	13	12	18	30	73	2%
Egyptian	11	3	12	39	65	2%
Colombian	16	9	13	26	64	2%
Other Asian	119	85	149	228	581	18%
Other African	36	32	46	95	209	7%
Other South American	39	27	52	78	196	6%
Other European	26	29	29	70	154	5%
Other North American	14	19	20	27	46	1%
Total	565	437	731	1,451	3,150	100%

Source: INDIS

Looking at the largest groups of European sponsors, the sponsors appeared to have British, German, and Portuguese nationalities (see Chapter 3). Tables B2.28 up to and including B2.30 in the Appendix show the number of applications from third-country nationals who were granted residence with a British, German, or Portuguese sponsor who had taken up residence in the Netherlands. The American, Australian, and Pakistani nationalities were seen most among third-country nationals who applied for residence with British sponsors. The Turkish, American, and Israeli nationalities were seen most among applicants who applied for residence with German sponsors. The applicants who applied for residence with Portuguese sponsors were, in particular, applicants who had Brazilian, Cape Verdean, and Turkish nationalities. This shows that the combinations of European sponsors with applicants who spoke the same language or had a shared history occurred most frequently.

Case 4 EU sponsor

The applicant was an Australian boy (1994) who applied for residence with his German father who was born in the Netherlands. This sponsor worked for a large international company, and had lived all over the world. He had gotten married in the United States, his wife was Chinese, and his children had been born in Australia.

4.2.2 Investigation of the files

During the investigation of the files, the researchers also recorded the nationalities of the applicants. In this context, a distinction was made between applicants with Dutch sponsors and applicants with European sponsors. Table 4.3 provides an overview of the applicants with Dutch sponsors by year in which a decision was made on the application. The top 3 of nationalities in this context is the same as in the whole population, as represented in Table 4.1. Applicants with Turkish, Brazilian, and Moroccan nationalities were represented most.

Table 4.3 Nationalities of the applicants (third-country nationals) with Dutch sponsors by year in which the procedure was ended (n=175)

Dutch sponsor	2005	2006	2007	2008	Total	%
Turkish	3	1	5	14	23	13%
Brazilian	3	0	3	5	11	6%
Moroccan	0	3	2	5	10	6%
Colombian	1	0	3	4	8	5%
Russian	0	1	5	2	8	5%
Nigerian	0	1	2	3	6	3%
Thai	0	0	2	4	6	3%
Chinese	1	1	1	2	5	3%
Indian	1	2	1	1	5	3%
Yugoslavian	1	1	3	0	5	3%
Peruvian	1	1	1	2	5	3%
American	1	0	2	1	4	2%
Argentinian	1	1	2	0	4	2%
Indonesian	1	0	2	1	4	2%
Mexican	0	1	2	1	4	2%
Afghan	0	0	1	2	3	2%
Australian	0	0	2	1	3	2%
Philippine	0	1	0	2	3	2%
Japanese	1	0	1	1	3	2%
Ukrainian	1	0	0	2	3	2%
South African	0	0	2	1	3	2%
Other Asian	4	2	6	3	15	9%
Other African	3	7	3	1	14	8%
Other European	1	2	3	3	9	5%
Other South American	0	3	1	2	6	3%
Other North American	2	1	2	0	5	3%
Total	26	29	57	63	175	100%

Source: Investigation of the files

Table 4.4 shows that the breakdown of the nationalities of applicants with European sponsors deviates from those with Dutch sponsors. It is notable that the majority of applicants were Americans, whereas this group falls just outside the top 10 of applicants with Dutch sponsors. It is furthermore notable that Cape Verdean and Israeli nationalities were relatively strongly

represented among the applicants with European sponsors.

Table 4.4 Nationalities of the applicants (third-country nationals) with EU sponsors by year of application (n=195)

EU sponsor	2005	2006	2007	2008	Total	%
American	4	5	6	6	21	11%
Turkish	3	1	6	7	17	9%
Brazilian	5	4	5	4	18	9%
Moroccan	1	4	4	2	11	6%
Israeli	3	1	3	1	8	4%
Cape Verdean	2	2	1	2	7	4%
Colombian	1	1	2	2	6	3%
Indian	1	0	0	4	5	3%
South African	0	3	2	0	5	3%
Russian	2	0	1	1	4	2%
Chinese	0	0	3	1	4	2%
Peruvian	0	1	1	1	3	2%
Argentinian	0	1	0	2	3	2%
Indonesian	2	0	2	0	4	2%
Australian	1	2	1	0	4	2%
Philippine	0	1	0	2	3	2%
Ukrainian	2	1	0	0	3	2%
Nigerian	2	0	0	0	2	1%
Thai	0	0	2	0	2	1%
Yugoslavian	1	0	0	0	1	1%
Mexican	0	0	1	0	1	1%
Japanese	0	0	0	1	1	1%
Afghan	0	0	0	0	0	0%
Other Asian	2	9	4	3	18	9%
Other African	3	2	4	7	16	8%
Other North American	3	2	7	2	14	7%
Other South American	0	3	4	1	8	4%
Other European	2	1	1	2	6	3%
Total	40	44	60	51	195	100%

Source: Investigation of the files

The nationalities of applicants from third countries were also compared to the nationalities of the sponsors. This comparison was made both for the population and for the sample. A comparison of the two tables shows that the breakdowns are largely consistent. This indicates that the sample is a true reflection of the whole population.

In Table B2-14 (see Appendix), the number of applications granted from third-country nationals (whereby verification against Community law was applied) has been compared to the nationalities of the sponsors who have taken up residence in the Netherlands and with whom these applicants will acquire residence. The Table shows that the largest group of applicants consists of people with Turkish nationality. The second largest group has the American nationality, and the third largest group has the Brazilian nationality. The combinations that occurred most on the basis of the data on the whole population are a Dutch sponsor with an applicant of Turkish nationality; a

Portuguese sponsor with an applicant of Brazilian nationality; and a German sponsor with an applicant of Turkish nationality. The data from the investigation of the files show a similar breakdown. This breakdown is shown in Table B2-13 in the Appendix.

4.2.3 Composition of the group of applicants ('Belgium Box')

The so-called 'Belgium Box' also collected information about the nationalities of the applicants. The 'Belgium Box' only relates to applicants who desire residence with Dutch sponsors on the basis on Community law. Table 4.5 shows the top 5 of nationalities that were identified among this group of applicants. The top 3 of nationalities is consistent with the breakdown in the population and the sample, as shown in Tables 4.1 and 4.3, respectively. The largest groups of applicants for residence with Dutch sponsors have the Turkish, Moroccan, or Brazilian nationality.

Table 4.5 Nationalities of the applicants (third-country nationals) with Dutch sponsors (n=367)

Nationality	Aantal	%
Turkish	85	23%
Moroccan	45	12%
Brazilian	21	6%
Nigerian	19	5%
Colombian	10	3%
Other	174	47%
Unknown	13	4%
Total	367	100%

Source: INDIAC ('Belgium Box')

4.2.4 Applicant and gender

Table 4.6 shows the breakdown of third-country nationals who submitted an application on the basis of Community law by gender. In this context, it is notable that the proportion of male applicants has increased in the course of years.

Table 4.6 Applicants' gender

Gender	2005	2006	2007	2008	Total
Men	314 (34%)	355 (40%)	644 (40%)	1,130 (44%)	2,443 (41%)
Women	609 (66%)	541 (60%)	978 (60%)	1,428 (56%)	3,556 (59%)
Total	923 (100%)	896 (100%)	1,622 (100%)	2,558 (100%)	5,999 (100%)

Source: INDIS

5 RELATIONSHIPS BETWEEN SPONSORS AND APPLICANTS

5.1 Introduction

This chapter will discuss the relationships – family relationships or otherwise – between the applicants and the sponsors. Once again, it concerns the group of 3,903 applications granted and a sample of 393 applicants that was investigated in more detail.

5.2 Family Relationships

The family migrant who applied for residence in the Netherlands on the basis of Community law has a family relationship with the sponsor. It may concern a marriage relationship, a partner relationship, or a parent-child relationship. There are also a number of other possible relationships, such as the relationship between grandchildren and grandparents. Table 5.1 shows the relationships between sponsors and applicants, both in respect of Dutch sponsors and in respect of sponsors with EU/EEA or Swiss nationality. The table should be read as follows: In the period between 2005 and 2009, the relationship between the Dutch sponsor and the applicant was one of spouses in 80% of the cases.

Table 5.1 Relationship between sponsor and applicant

Dutch sponsor	2005	2006	2007	2008	Total	%
Spouse	48	52	126	373	599	80%
Partner	*	*	8	50	61	8%
Unknown relationship	*	*	*	42	49	7%
Parent	*	*	5	15	25	3%
Other relationship	*	*	*	9	13	2%
Child	*	*	*	*	6	1%
Total	57	57	146	493	753	100%

EU sponsor	2005	2006	2007	2008	Total	%
Spouse	408	324	439	589	1,760	56%
Partner	28	40	187	604	859	27%
Parent	101	46	56	97	300	10%
Unknown relationship	9	11	16	114	150	5%
Other relationship	8	*	16	24	51	2%
Child	*	5	8	14	30	1%
Total	557	429	722	1,442	3,150	100%

Source: INDIS

* Number is less than 5.

Table 5.1 reveals that in most cases the relationship between sponsor and applicant is one of marriage, followed by a partner relationship, and a parent-child relationship. The partner relationships occurred more frequently among sponsors with EU/EEA or Swiss nationality than among sponsors with Dutch nationality. Table 5.2 shows the breakdown by relationship on the basis of the sample. In this context, the percentage of marriage relationships for both types of sponsors is somewhat higher than for the whole population. Section 5.3 will discuss the marriage relationships in greater detail.

Table 5.2 Relationship between sponsor and applicant by type of sponsor (n=380)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Spouse	159	87%	121	61%
Partner	11	6%	45	23%
Parent*	5	3%	18	9%
Child	1	1%	5	3%
Other	5	3%	9	5%
Unknown	1	1%	0	0%
Total	182	100%	198	100%

Source: Investigation of the files

* Including adoptive parents and stepparents.

Table 5.3 shows the relationship between sponsor and applicant in the period between 2005 and 2009, with a breakdown by the nationality of the sponsor. This table should be read as follows: in the period between 2005 and 2009, the sponsor had Dutch nationality in 753 (19%) of the 3,903 cases. In 599 (80%) of the 753 cases, the Dutch sponsor was the applicant's spouse.

Table 5.3 Relationship between sponsor and applicant (between 2005 and 2009)

Sponsor's nationality	Spouse	Partner	Parents	Child	Unknown	Other	Total
Dutch	599 (80%)	61 (8%)		6 (1%)	49 (7%)	13 (2%)	753
British		123 (21%)	92 (16%)	7 (1%)	22 (4%)	13 (2%)	591
German	343 (61%)	160 (28%)	29 (5%)	5 (1%)	21 (4%)	6 (1%)	564
Portuguese	173 (51%)	109 (32%)	18 (5%)	8 (2%)	22 (7%)	7 (2%)	337
Italian	170 (56%)	73 (24%)	39 (13%)	*	17 (6%)	*	305
French	140 (51%)	88 (32%)	24 (9%)	*	12 (4%)	7 (3%)	273
Spanish	131 (62%)	39 (18%)	22 (10%)	*	19 (9%)	*	213
Polish	72 (47%)	69 (45%)	*		9 (6%)		152
Belgian	70 (50%)	43 (31%)	14 (10%)		7 (5%)	6 (4%)	140
Greek	68 (62%)	25 (23%)	12 (11%)	*	3 (3%)		109
Irish	45 (55%)	16 (20%)	16 (20%)		*	*	82
Austrian	37 (62%)	11 (18%)	11 (18%)		*		60
Danish	30 (65%)	10 (22%)	*	*	*	*	46
Lithuanian	14 (35%)	16 (40%)	5 (13%)		*	*	40
Swedish	26 (67%)	11 (28%)	*	*			39
Romanian	11 (31%)	17 (49%)			*		35

Continuation of Table 5.3 Relationship between sponsor and applicant (between 2005 and 2009))

Sponsor's nationality	Spouse	Partner	Parents	Child	Unknown	Other	Total
Bulgarian	22 (65%)	8 (24%)			*		34
Finnish	10 (42%)	9(38%)	*	*	*		24
Norwegian	13 62%)	5 (24%)	*			*	21
Hongarian	10 (53%)	8 (42%)	*				19
Swiss	13 (72%)	*	*				18
Czech	8 (67%)	*	*				12
Slovakian	6 (75%)	*					8
Latvian	*	*		*			7
Slovenian	6 (86%)		*				7
Cypriot	*	*				*	*
Estonian	*	*					*
Icelandic		*					*
Luxembourg	*	*					*
Maltese	*	*			*		*
Liechtenstein							
Total	2,359 (60%)	920 (24%)	325 (8%)	36 (1%)	199 (5%)	64 (2%)	3.903

Source: INDIS

* Number is less than 5.

On the basis of the sample, it was found that in approximately 5% of the marriage and partner relationships, the case concerned a relationship with someone of the same gender. In the majority of cases, these were male couples, and among the EU sponsors there were more homosexual relationships than among the Dutch sponsors. Table B2-3 in the Appendix provides an overview of all marriage and partner relationships from the sample by gender.

Case 5 Relationship with someone of the same gender

The applicant was an American man (1980) who applied for residence with his Dutch partner (1975). They had a Declaration of Relationship, on the basis of which the applicant was finally regarded as a family member of the Dutch sponsor.

The sponsor had lived in France for several years, and this is where he entered into a relationship with the applicant. They subsequently cohabitated in the United Kingdom. Because the sponsor was offered a good job in the Netherlands, he moved back to this country. His partner subsequently applied for residence with the EU citizen, so that they could cohabitate in the Netherlands.

5.3 Marriage Relationships

The percentage of marriage relationships on the basis of the sample is 87% among the Dutch sponsors and 61% among the EU sponsors. In respect of this group, it was investigated how the marriage date related to the application date for the residence permit. Table 5.4 shows that the largest group of the Dutch sponsors (29%) had been married for two to five years before the application. This is different among European sponsors. A majority (51%)

married in the same year as the application. In 16% of the cases, the couples were married in the same month as the application.

Table 5.4 Difference between year of application and year of marriage by type of sponsor (n=258)

Year of marriage	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
After application	9	6%	5	4%
In the same month, before the application	5	3%	18	16%
One month before the application	2	1%	12	10%
Two to six months before the application	9	6%	15	13%
Six to twelve months before the application	23	16%	14	12%
Twelve to eighteen months before the application	16	11%	6	5%
Eighteen months to two years before the application	18	13%	8	7%
Two to five years before the application	42	29%	17	15%
Five to ten years before the application	8	6%	11	9%
Ten or more years before the application	10	7%	10	9%
Total	142	100%	116	100%

Source: Investigation of the files

6 APPLICATION PROCESS

6.1 Introduction

This chapter deals with the route followed by applicants before submitting an application with reliance on Community law. In this context, attention will be paid to factors such as the period that applicants and sponsors resided in another EU Member State or in the Netherlands and what their purpose of residence was in this respect. Another factor that will be discussed in greater detail relates to the procedures followed by the applicants before relying on Community law.

6.2 Sponsor's Purpose of Residence

In respect of both the Dutch sponsors and the EU sponsors, the purpose of residence for which he or she was in another EU country or in the Netherlands, respectively, is known. The purposes stated were nearly the same for both groups. The largest group of sponsors (44%) moved to another Member State to perform work as an employee. In respect of a nearly equally large group, the purpose of residence had not been recorded in the files.

Table 6.1 Sponsor's purpose of residence by type of sponsor

	Dutch sponsor Residence in other EU Member State		EU sponsor Residence in the Netherlands	
	Absolute	%	Absolute	%
Work as an employee	80	44%	87	44%
Work on a self-employed basis	15	8%	10	5%
Own resources	6	3%	6	3%
Study	4	2%	4	2%
Unknown	77	42%	91	46%
Total	182	100%	198	100%

Source: Investigation of the files

The applicant's purpose of residence, as registered by the IND, was also investigated and is shown in Table 6.2. This table also reveals that by far most applicants applied for residence with EU citizens who were economically active. This may indicate that the large group in respect of which the purpose of residence was unknown, as is evident from Table 6.1, will partly concern economically active sponsors.

Case 6 Former au pair

The applicant was a Peruvian woman (1982) who applied for residence with her Polish friend/partner (Poland, 1977). She submitted this application in 2008, after having resided in the Netherlands as an au pair for a year. Her Polish partner worked as a self-employed person, and had had lawful residence in the Netherlands since 2005.

Applicant's residential history

2007 Application for a Regular Residence Permit as an au pair - Granted
2008 Application for an EU regular residence permit - Granted

Table 6.2 Applicant's purpose of residence by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Family reunification with economically active EU citizen	139	76%	170	86%
Family reunification with economically inactive EU citizen	23	13%	18	9%
EU citizen family reunification pursuant to Chapter B2 of the Aliens Act Implementation Guidelines 2000	7	4%	3	2%
Other forms of family reunification	13	7%	7	4%
Total	182	100%	198	100%

Source: Investigation of the files

A small percentage of applicants applied for residence on the basis of the national family reunification policy as set out in Chapter B2 of the Aliens Act Implementation Guidelines 2000 (*Vreemdelingencirulaire 2000*). Chapter B2 provides for the conditions for family reunification and family formation.

6.3 Previous Procedures

Before the applicants submitted an application which relied on Community law, a number of them had previously submitted another type of application. Among the applicants with Dutch sponsors, this was just over a quarter of the applicants. Among the group of applicants with EU sponsors, this percentage was slightly higher. With respect to the applicants with EU sponsors, 35% had previously followed another procedure. Table 6.3 provides an overview of the number of procedures followed. The types of procedures previously followed by the applicants vary widely. It concerned asylum procedures, visa procedures, regular provisional residence permit procedures, and regular residence permit procedures with or without a regular provisional residence permit.

Table 6.3 Number of previous procedures (asylum, visa, regular provisional residence permit, and regular residence permit)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	133	73%	128	65%
1 previous procedure	31	17%	44	22%
2 previous procedures	12	7%	20	10%
3 previous procedures	6	3%	6	3%
Total	182	100%	198	100%

Source: Investigation of the files

Case 7 Applicant with many procedures

The applicant was a Syrian man (1973) who applied for residence with his Portuguese/Dutch wife (1965). The couple married in the Netherlands in August 2003. The sponsor had lived in the Netherlands, at least since December 2002 (according to the registration in the Municipal Administration). The applicant had an extensive residential history. He had followed three previous procedures and he had often applied for review, and had instituted appeals. He was finally granted an EU regular residence permit in 2006.

Applicant's history of residence

1993	<i>Application for asylum</i>	
1996	<i>Decision on asylum application</i>	<i>Refusal</i>
1996	<i>Application for review</i>	<i>Unfounded</i>
1997	<i>Appeal</i>	<i>Unfounded</i>
1997	<i>Postponement of departure</i>	
1999	<i>Application for a regular residence permit</i>	<i>Refusal</i>
2002	<i>Application for review</i>	<i>Unfounded</i>
2003	<i>Provisional ruling</i>	<i>Inadmissible</i>
2003	<i>Appeal</i>	<i>Unfounded</i>
2004	<i>Application for a regular provisional residence permit</i>	<i>Withdrawn</i>
2004	<i>Asylum application to be admitted as refugee</i>	<i>Closed</i>
2004	<i>Application for a regular residence permit</i>	<i>Not granted</i>
2004	<i>Provisional ruling</i>	<i>Withdrawn</i>
2005	<i>Application for review</i>	<i>Unfounded</i>
2006	<i>Appeal</i>	<i>Withdrawn</i>
2006	<i>Application for an EU regular residence permit</i>	<i>Granted</i>

The largest group of applicants with several procedures followed one or more regular procedures (regular residence permit with regular provisional residence permit or regular residence permit without regular provisional residence permit). This concerns 18% of the applicants with Dutch sponsors and 28% of the applicants with EU sponsors.

Table 6.4 Number of previous regular procedures (regular residence permit with regular provisional residence permit and regular residence permit without regular provisional residence permit) of applicant by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	150	82%	144	72%
1	21	12%	34	17%
2	9	5%	18	9%
3	2	1%	2	1%
Total	182	100%	198	100%

Source: Investigation of the files

In addition to the regular procedures, there was also a small group of applicants who only applied for a regular provisional residence permit. This concerned 4% of the applicants for residence with Dutch sponsors and 10% of the applicants for residence with EU sponsors.

Table 6.5 Number of previous regular provisional residence permit procedures of applicant by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	172	95%	176	89%
1	9	4%	21	10%
2	1	1%	1	1%
Total	182	100%	198	100%

Source: Investigation of the files

An equally small percentage of the applicants had previously applied for a short-stay visa for the Netherlands. This concerns approximately 10% of both the applicants with Dutch sponsors and the applicants with EU sponsors.

Table 6.6 Number of previous visa procedures of applicant by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	161	88%	179	90%
1	20	11%	16	8%
2	0	0%	2	1%
3	1	1%	1	1%
Total	182	100%	198	100%

Source: Investigation of the files

Finally, there is also a small group that previously followed an asylum procedure. For both groups, this percentage was only 3%.

Table 6.7 Number of previous asylum procedures of applicant by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	176	97%	193	97%
1	6	3%	4	2%
2	0	0%	1	1%
Total	182	100%	198	100%

Source: Investigation of the files

6.3.1 Previous procedures ('Belgium Box')

In 131 of the 367 cases (36%) in de 'Belgium Box', the applicants previously followed a residence permit procedure in the Netherlands. This was not the case for 192 applicants (52%). In 44 cases, this question was left unanswered on the questionnaire. The applicants had, however, not been obliged to complete the questionnaire. Table 6.8 reveals that, in respect of applicants who had previously followed a residence permit procedure, the last procedure in most cases (31%) concerned an application for a regular residence permit, which resulted in a refusal (whether or not up to and including appeal).

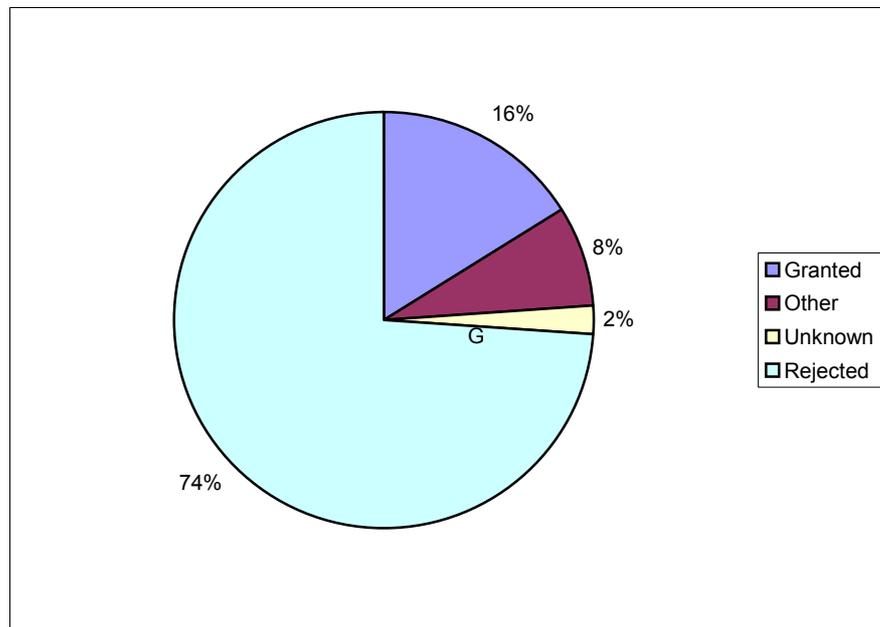
Table 6.8 The last residence permit procedure followed in the Netherlands by the applicant

Procedure	Aantal	%
Regular residence permit refused		31%
Regular provisional residence permit refused	37	28%
Visa refused	17	13%
Visa granted	12	9%
Regular residence permit granted	7	5%
Asylum refused	3	2%
Regular provisional residence permit granted	2	2%
Other	11	8%
Unknown	2	2%
Total	131	100%

Source: INDIAC ('Belgium Box')

Figure 6.1 shows the result of the last residence permit followed by the applicants in the Netherlands. The chart shows that in 74% of the procedures followed last, the applications were refused and in 16% of the procedures, the applications were granted.

Figure 6.1 Result of the last residence permit procedure previously followed by the applicants in the Netherlands (in percentages)



Source: INDIAC ('Belgium Box')

6.4 Legal Residence Status of the Applicants

In the cases where the applicants had Dutch sponsors, 65% of these applicants were admitted from another EU Member State. The applicants had resided in the other Member State, whether together with the sponsor or not. In 8% of the cases, the applicants with Dutch sponsors had not followed any previous procedures and had consequently never had lawful residence in either the Netherlands or another EU Member State. In 9% of the cases, the applicants had previously applied for a visa. In the other cases, the applicants had previously followed one or more regular procedures to obtain a residence permit, a visa, or asylum.

A different picture was found among the applicants with EU sponsors. The largest group of these applicants with had not followed any previous procedures, and had consequently never had lawful residence in either the Netherlands or another EU Member State. On the basis of the available data, it was not possible not say whether some cases concerned unlawful residence elsewhere. A notable point is that the group of applicants with EU sponsors had followed previous procedures more frequently than the group of applicants with Dutch sponsors.

Table 6.9 Legal status of the applicant by type of sponsor

Legal residence status	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
No previous procedures or documented residential history	15	8%	126	64%
2 nd procedure NL (Previously applied for regular residence permit)	14	8%	25	13%
2 nd procedure NL (Previously applied for asylum)	5	3%	3	2%
2 nd procedure NL (Previously applied for asylum)	16	9%	2	1%
3 rd procedure NL (Previously applied for visa + regular residence permit)	0	0%	2	1%
3 rd procedure NL (Previously applied for regular residence permit 2 x)	7	4%	7	4%
3 rd procedure NL (Previously applied for visa 2 x)	0	0%	1	0%
4 th procedure NL (Previously applied for visa + regular residence permit 2x)	2	1%	1	0%
4 th procedure NL (Previously applied for visa 3 x)	1	0%	1	0%
Born in the Netherlands	0	0%	5	3%
Admission from another EU Member State with lawful residence there	118	65%	18	9%
Unknown	4	2%	7	4%
Total	182	100%	198	100%

Source: Investigation of the files

6.5 Period of Residence of the Sponsor

In order to clarify whether Dutch sponsors did not visit another EU Member State for a few days merely for formality's sake, the researchers also looked at the period that passed between the starting date of the residence and the application date. Table 6.10 provides an overview of the difference in months/years between these data in respect of the Dutch sponsors. First of all, it is notable that in one third of the sponsors, the period that they resided abroad is unknown. In 3% of the cases, the starting date of the residence in another EU Member State is later than the application date.

Table 6.10 Period between application date and starting date of residence in other EU Member State in respect of Dutch sponsor

Starting date of residence in other EU Member State	Absolute	%
After application	5	3%
Same month, before the application	2	1%
1 to 6 months before the application	15	8%
6 months to 1 year before the application	29	16%
1 to 2 years before the application	28	15%
2 to 5 years before the application	28	15%
5 to 10 years before the application	10	5%
More than 10 years before the application	5	3%
Unknown	60	33%
Total	182	100%

Source: Investigation of the files

Approximately a quarter of the Dutch sponsors took up residence in another EU Member State within the year before the application. A larger group of sponsors, however, had resided in another EU Member State for more than a year before the application.

Case 8 Europe route

A Turkish woman (1984) applies for residence with her Dutch husband (1982). They had been married in Turkey approximately a year before the application. Both the sponsor and the applicant registered in Belgium two months before the application. They both received a residence permit on the same date. Before and after these permits had been issued, the Dutch sponsor was employed by a company in the Netherlands. Because the sponsor had resources and a healthcare insurance of his own, the Belgian Aliens Affairs Service regarded him as a Community citizen who was not economically active. Before the applicant applied for the EU regular residence permit, she had already submitted an application for a regular residence permit. This application was refused, because she had not turned 21 at the time.

Applicant's history of residence

2005 Application for a regular residence permit

2006 Application for a regular residence permit - Granted

Table 6.11 provides an overview of the EU Member States where Dutch sponsors had residence. The country where the largest group of sponsors had residence is Belgium. Slightly more than one third of the sponsors had taken up residence there. Slightly more than one fifth had residence in the other neighbouring country, Germany. Other popular countries appeared to be Spain and the United Kingdom. There was also a small group of sponsors that had residence in several countries. In these cases, it concerned people with cross-border occupations, such as lorry drivers.

Table 6.11 EU country where Dutch sponsors had residence

	Absolute	%
Belgium	61	34%
Germany	38	21%
Spain	28	15%
United Kingdom	23	13%
France	8	4%
Italy	5	3%
Cyprus	2	1%
Greece	2	1%
Ireland	2	1%
Austria	2	1%
Sweden	2	1%
Norway	1	1%
Portugal	1	1%
Several countries	3	2%
Unknown	4	2%
Total	182	100%

Source: Investigation of the files

In more than 80% of the cases involving EU sponsors, the period between the starting date of residence in the Netherlands and the application date was known. In 22% of the cases, the EU sponsors came to the Netherlands in the month that the application was submitted. In a total of 40% of the cases, the EU sponsors came to the Netherlands within a year after submission of the application.

Table 6.12 Period between application date and starting date of residence in the Netherlands of EU sponsor

Starting date of residence in the Netherlands	Absolute	%
After application	10	5%
Same month, before the application	44	22%
1 to 6 months before application	20	10%
6 to 12 months before application	15	8%
1 to 2 years before application	13	7%
2 to 5 years before application	27	14%
5 to 10 years before application	13	7%
More than 10 years before application	20	10%
Unknown	36	18%
Total	198	100%

Source: Investigation of the files

6.5.1 Period of residence in another EU Member State ('Belgium Box')

Sponsors and applicants had taken up residence in another EU Member State. The period of residence differs case by case. On the basis of the date of taking up residence in another EU Member State (than that of the sponsor) recorded on the questionnaire and the date of application in the Netherlands, it is possible to calculate the period of residence. Table 6.13 shows that the period of residence from 13 to 24 months (24%) and the period of residence from 7 to

12 months (21%) occurred most. In a quarter of the cases, the period of residence could not be calculated because one of the pieces of data had not been recorded on the questionnaire. The average period of residence is 19.7 months.

Table 6.13 Period of residence in another EU Member State

Period of residence	Number	%
0 to 3 months	13	4%
4 to 6 months	27	7%
7 to 12 months	77	21%
13 to 24 months	89	24%
25 to 36 months	41	11%
More than 36 months	28	8%
Unknown	92	25%
Total	367	100%

Source: INDIAC ('Belgium Box')

Part of the group of applicants who had resided in the Netherlands before taking up residence in another EU Member State had been registered in the Municipal Administration. Table 6.14 shows that 8% of the applicants continued the registration in the Municipal Administration, while taking up residence in another EU Member State. In 63% of the cases, the applicants did not continue their registration (or had not been registered). In 29% of the cases, the applicants had not answered this question on the questionnaire.

Table 6.14 Continued registrations in Municipal Administration by applicants

	Number	%
Yes	6	8%
No	46	63%
Unknown	21	29%
Total	73	100%

Source: INDIAC ('Belgium Box')

Part of the group of sponsors and applicants worked during their residence in the other EU Member State. Table 6.15 shows that 26% of the applicants and 35% of the sponsors had been employed in the other EU Member State. Two fifths of the sponsors had not been employed in the other EU Member State.

Table 6.15 Employment in the other EU Member State

Applicant	Aantal	%
Yes	95	26%
No	164	45%
Unknown	108	29%
Total	367	100%

Sponsor	Aantal	%
Yes	127	35%
No	145	40%
Unknown	95	26%
Total	367	100%

Source: INDIAC ('Belgium Box')

6.5.2 Situation in the Netherlands as left behind by the sponsor ('Belgium Box')

When the sponsor took up residence in another EU Member State for some time, he or she left the Netherlands behind for a shorter or longer term. This section will give an answer to the question about what the sponsor's situation in the Netherlands was during the period of residence in the other EU Member State. The discussion will, first of all, focus on the sponsor's administrative situation with respect to the continuation of his or her registration in the Municipal Administration. Next, the sponsor's social situation will be discussed. In this context, the researchers also looked at the dwelling of the sponsor in the Netherlands, whether the sponsor continued to work in the Netherlands, and the presence of children in the family.

Section 6.5.1 already discussed the continuation of the registration in the Municipal Administration by applicants who had resided in the Netherlands before taking up residence in another EU Member State. The questionnaire put the same question to the sponsor. Table 6.16 shows that 17% of the sponsors continued the registration in the Municipal Administration, and 53% deregistered. In 30% of the cases, the sponsors had not answered this question on the questionnaire.

Table 6.16 Continued registrations in Municipal Administration by the sponsor

	Aantal	%
Yes	61	17%
No	196	53%
Unknown	110	30%
Total	367	100%

Source: INDIAC ('Belgium Box')

The sponsors who continued their registrations in the Municipal Administration remained registered at their address in the Netherlands. The questionnaire therefore included a question about what happened with the sponsor's dwelling during his or her residence in the other EU Member State. Table 6.17 shows that the dwelling was kept in 28% of the cases. In a quarter of the

cases, it concerned the dwelling of the parent(s).

Table 6.17 Situation of dwelling that was left behind in respect of a sponsor who was registered in the Municipal Administration

	Number	%
Dwelling was kept	17	28%
Dwelling belonged to parent(s)	15	25%
Relet	5	8%
Terminated the tenancy agreement	2	3%
Other	3	5%
Unknown	19	31%
Total	61	100%

Source: INDIAC ('Belgium Box')

The questionnaire included the question of whether the sponsor had continued to work in the Netherlands during his or her residence in the other EU Member State. Table 6.16 shows that 39% of the sponsors answered this question in the affirmative.

Table 6.18 Sponsor employed in the Netherlands

	Aantal	%
Yes	144	39%
No	136	37%
Unknown	87	24%
Total	367	100%

Source: INDIAC ('Belgium Box')

The sponsors and applicants were asked whether there were children in the family. Table 6.19 shows that 36% of the respondents answered this question in the affirmative.

Table 6.19 Presence of children

	Aantal	%
Yes	132	36%
No	179	49%
Unknown	56	15%
Total	367	100%

Source: INDIAC ('Belgium Box')

If there were children in the family, the respondents were asked where these children resided. Table 6.20 shows that in most cases (70%) the children resided with their parents in the other EU Member State. It is notable that also *combinations* occurred with respect to the place of residence of the children, such as situations involving residence in the other EU Member State, as well as in the Netherlands, or residence in the other EU Member State and residence in the country of origin, for example. In these cases, the family

situation often concerned several children who did not reside together.

Table 6.20 Residence of children

	Aantal	%
In Member State	92	70%
In the Netherlands	9	7%
In Member State and the Netherlands	4	3%
In Member State and the country of origin	3	2%
In the country of origin	2	2%
In the Netherlands and the country of origin	1	1%
Unknown	21	16%
Total	132	100%

Source: INDIAC ('Belgium Box')

7 INTERPRETATION AND CONCLUSIONS

7.1 Explanations for the Increase in the Number of Verifications against Community law

The statistical research of the files and other data carried out by the IND and Regioplan resulted in a number of findings. In the first place, it was revealed that the number of verifications against Community law in the period between 2005 and 2009 increased from 923 in 2005 to 2,588 in 2008 (see Table 2.1). Particularly in 2007 and 2008, there was a notable increase in the number of verifications. A second important observation relates to the breakdown between the group of Dutch citizens with third-country family members and other EU citizens with third-country family members. Although exact data on the breakdown for these two groups are lacking (see Section 3.1), it is clear that the number of Dutch sponsors are very much in the minority (19% in 2008; see Table 3.2). And finally, with respect to the group of Dutch sponsors, it is worth mentioning in this context the relatively long period (on average) of residence in another EU country before the application for verification against Community law was submitted (see Tables 6.10 and 6.13).

In seeking explanations for the increase in the verifications against Community law, a distinction must be made between the group of Dutch sponsors and other EU sponsors. With respect to the group of other EU citizens with third-country family members, a further distinction should be made between EU sponsors who had taken up residence in the Netherlands more or less permanently or who wanted to take up residence in the Netherlands permanently, and EU sponsors who wanted to use temporary residence in the Netherlands to exercise rights under Community law upon return to their own Member State.

It is not possible to derive from the data collected in the investigation of the files whether a particular case concerned a U-turn construction ('Netherlands route') – in which situation an EU sponsor takes up residence in the Netherlands temporarily to circumvent the national rules in his Member State and to subsequently return to his own country of origin with his third-country family member – or whether it concerned an EU sponsor with a third-country family member who had taken up residence in the Netherlands and who also remained here. The fact is that the files did not show whether the EU sponsors had returned to their own Member States after some time.

In providing possible explanations, attention will, however, be paid to both possibilities. This question (whether it concerns a U-turn construction or more or less permanent residence of the other EU sponsors) was specifically included in the interviews. This aspect will be discussed in greater detail in the interpretation part of this chapter, which deals with the question of which people were involved and what their motives were.

Chapter 7 was written on the basis of the conclusions that could be drawn from the statistical research, the interviews, and office research. A group interview was held with five IND employees holding different positions. In addition to this, the researchers interviewed two lawyers who had handled many applications for verification against Community law from Dutch citizens with third-country nationals (hereinafter referred to as 'Lawyer 1') or other EU citizens with third-country nationals (hereinafter referred to as 'Lawyer 2'), respectively. Finally, several written questions were submitted to a German respondent to obtain an impression of the possible use of the Netherlands route by German citizens. All information that was collected by means of the interviews is based on the personal experiences of the interviewees and was used to illustrate the findings on the basis of the statistical research.

7.1.1 Increase in applications by third-country nationals with Dutch sponsors

Third-country nationals who want to obtain residence with a Dutch family member may submit their application on the basis of national rules for family reunification and family formation. If the Dutch sponsor is regarded as a Community citizen on the basis of Community law, his third-country family members have the right to apply for verification on the basis of Community law instead of submitting an application on the basis of national conditions. The explanation for the use of this option is that in the Netherlands (just as in a number of other Member States), the rules, conditions, procedure, and costs for an application on the basis of national rules are less favourable than one on the basis of Community law. This phenomenon is also referred to as reverse discrimination of own citizens in favour of Community citizens.

With respect to the group of sponsors whose nationalities had been registered in the period between 2005 and 2009, the number of decisions granting the applications for verifications against Community law from citizens of third countries who were family members of Dutch citizens increased from 57 in 2005 and 2006 to 146 in 2007 and 493 in 2008 (see Table 3.2).

The fact that people use the option of verification against Community law instead of submitting an application on the basis of national conditions is in

itself not an explanation for the increase in the number of applications on the basis of Community law.

In seeking explanations for the increase in the period between 2005 and 2009, various hypotheses were tested. Factors that could have influenced the increase in the number of verifications are the following:

- Increased mobility of Dutch citizens abroad. In this context, special attention was given to the question of whether or not the increased mobility mainly concerned employees and students.
- Political and media attention.
- Increased familiarity with the possibilities through Internet sites.
- Tightening of Dutch policy on family reunification.
- Developments in case law of the Court of Justice of the EC (in particular in the Metock case).
- Changes in the procedure for submitting applications.
- Policy changes in other countries.

Where possible, these explanations were tested against the available figures. The possible explanations for the increase in the verifications against Community law were also discussed during the interviews. Finally, material pertaining to the above-mentioned factors was sought in the literature and on the Internet. A detailed discussion of the various explanations is given below.

Increased mobility of Dutch citizens abroad.

The investigation of the files and the information collected in the 'Belgium Box' revealed that a relatively large group of Dutch sponsors had resided in another EU Member State for a year or longer. On the basis of the investigation of the files, it was found that this group is 38% (Table 6.10). On the basis of the information from the 'Belgium Box', a percentage of as much as 43% was found. This could imply that Dutch citizens had taken up residence in another EU Member State for a year or longer for a specific purpose, met a partner there and subsequently returned to the Netherlands with that partner after some time.

It is known from data of Statistics Netherlands (CBS) that there was an upward trend in the emigration of Dutch citizens to countries abroad in the period between 2003 and 2008.²² In the period between 1999 and 2007, 61% of the Dutch emigrants moved to a European country. The top 3 was formed by Belgium, Germany, and France.²³ Previous research showed that approximately 50% of the number of Dutch citizens that had emigrated return after some time.²⁴

There are two purposes of residence abroad, of which it is particularly imaginable that the residence is temporarily, namely study and labour migration. There seems to be an increase in the number of Dutch students who study temporarily in one of the Member States.²⁵ The investigation of the

²² H. van Dalen, K. Henkens, *Ik vertrek, maar waarom? De emigratie van Nederlanders* (I am leaving, but why? Emigration of EU citizens), www.mejudice.nl/node/99.

²³ Ibid.

²⁴ H. Nicolaas, *Helft Nederlandse emigranten keert weer terug* (Half the Dutch emigrants return). <http://www.cbs.nl/NR/rdonlyres/849E02D8-AAC1-40F4-8ED5-2F82C1D8783B/0/2004k4b15p043art.pdf>.

²⁵ With respect to the year 2006, this was said to concern approximately 5,000 students. See

files revealed, however, that the number of Dutch sponsors that resided in another EU Member State for study purposes was very limited. In only four out of the 182 files, study had been stated as purpose of residence (see Table 6.1). The interviews also did not reveal that study abroad was a significant explanation for the increase in the number of applications for verifications against Community law. On the basis of these data, it is therefore not plausible that the slight increase in the mobility of students is an explanation for the increase in the number of verifications against Community law.

In 44% of the cases, work as an employee is stated as purpose of residence of Dutch sponsors in another EU Member State (see Table 6.1). In these cases, it may partly concern people who began working in another Member State, entered into a relationship with a third-country national there, and returned to the Netherlands with their partner/spouse after some time. There are not any specific indications, however, why a sharp increase in the number of people that had worked in another EU country and had returned to the Netherlands with a partner/spouse from a third country would occur specifically in 2007 and 2008.

Political and media attention

It is difficult to find out to what degree the political discussion and attention in the media have resulted in an increase in the number of verifications against Community law. When searching the parliamentary documents on the terms 'Belgium route' and 'Europe route', it turns out that these concepts surfaced for the first time in connection with the free movement of persons within the EC in April 2005.^{26/27} It is notable in this context that at that time it was not clear to all parties, including the then Minister for Alien Affairs and Integration, exactly what was meant by the Belgium route, which conditions should be met, and whether this concerned a situation of abuse. In December 2005 and January 2006, this issue was subsequently discussed again several times in the context of the debates on the Bill on the Civic Integration Abroad Act (*Wet inburgering buitenland*) and the Civic Integration Act (*Wet inburgering*). In her letter of 8 December 2005, the Minister for Alien Affairs and Integration explicitly stated that if the conditions have been met, it is not a situation of abuse.²⁸ She also provided clarity with respect to the conditions.

Approximately a year later, there was political attention for the Belgium route once again, following questions about the increase in 'import partners' from Morocco to Belgium. This issue returned several times in the spring of 2007. The political discussion appeared to flare up again in November 2008.

D. Walters, *Nederlandse student blijft thuis* (Dutch Student Stays Home), NRC.nl, 17 juli 2007, http://blog.kennisland.nl/kennisland/2007/07/17/Nederlandse_student_blijft_thuis/. An article of 11 June 2009 in *de Volkskrant* states a number of approximately 14,000 students. See M. Bolwijn, *Nederlandse student gaat niet graag naar het buitenland* (Dutch Students Don't Like to Go Abroad), http://www.volkskrant.nl/binnenland/article1241886.ece/Nederlandse_student_gaat_niet_graag_naar_buitenland.

²⁶ Lower House of Parliament 2004/2005, Proceedings, 62-401 3/4014. Continuation of the debates on the Bill to amend the Aliens Act 2000 in connection with the obligation to meet the civic integration requirement for specific categories of foreign nationals.

²⁷ Prior to that, in 1999/2000, the term was used in connection with pension benefits.

²⁸ Lower House of Parliament 2005/2006, no. 31.

Media attention followed the political discussion, or vice versa. On the basis of this overview, it is not possible to draw firm conclusions with respect to the influence of political and media attention on the increase in the number of verifications against Community law in 2007 and 2008. This does, however, not exclude the possibility that it did play a role in creating a greater knowledge of the available options, both on the part of the persons concerned and on the part of the authorities.

Increased familiarity with the possible options through Internet sites

It is highly probable that the various Internet sites that deal with this issue contributed to an increase in the number of applications. In addition to the website www.buitenlandsepartner.nl, the following two websites also provide information and exchange experiences about the Belgium route: www.mixed-couples.nl en www.rechttopgezinshereniging.nl. Apart from these websites, there are several forums for specific nationalities, such as a Cuba forum, a Turkey forum, and a Morocco forum.

According to Wikipedia, the term 'Belgium route' was used for the first time by Stichting Buitenlandse Partner on its website on 20 February 2004.²⁹ As early as in March 2005, the 'Belgium Route Manual' appeared on the site. In June 2008, an updated version of the 'EU route Manual' appeared on the site. In addition to this informative part of the sites, it is also possible to exchange experiences or to give tips for finding, for instance, accommodation or a good lawyer in the host country, and people provide moral support to each other in making the decision to use the Europe route.

Tightened national Aliens Policy

In the past few years, a number of measures have been implemented that have made family reunification, and in particular family formation, more difficult.

- In the context of the Family Reunification Directive (Directive 2003/86/EC), the following two measures pertaining to family formation were implemented in November 2004:
 - a. Increase in age requirement;
 - b. Increase in income requirement.
- Abolition of policy favouring Dutch citizens after transition period upon implementation of the Aliens Act 2000.³⁰
- Tightening of public order policy in February 2005.
- Implementation of the Civic Integration Abroad Act on 15 March 2006.
- Increase in fees as of 1 July 2005.

These measures were said to encourage people who did not or could not sufficiently meet the national conditions for family reunification or family

²⁹ See: <http://nl.wikipedia.org/wiki/België-route>.

³⁰ On the basis of Section 115 of the Aliens Act, the income requirements of Section 16(1)(c) of the Aliens Act 2000 were not applied to Dutch citizens up to three years after implementation of the Aliens Act 2000 on 1 April 2001. Former legislation applied instead. On the basis of former legislation, an exemption of the income requirement had been included for single parents with the care for a child of 5 years or younger and for persons of 57½ years or older.

formation to seek alternatives. One of the possibilities is the use of Community law.

The investigation of the files revealed that in 17% of the cases at least one of the persons (either the applicant or the sponsor) was under 21 years of age (see Table 3.7 and the explanation to this). Since it turned out that hardly any parent-child relationships were found (see Table 5.1: in 3% of the cases, the Dutch sponsor is the parent; in 1% of the cases, the Dutch sponsor is the child) the obvious conclusion is that the age requirement influences the decision made by those people who choose to use Community law.

According to the IND employees who were interviewed, the increase in the age requirement only had a limited effect. Out of the many dozens of cases handled by Lawyer 1, he could only remember two cases in which this was the reason. In the report 'International family formation restricted?' of the Research and Documentation Centre (WODC), the increased age requirement was also mentioned by one of the sponsors interviewed who knew someone who had gone to Belgium for that reason.³¹ In the discussions held on various Internet sites, the age requirement does not seem to be of any importance. Although the overall study shows that the increased age requirement does indeed appear to be of some importance, it is not clear how great a role this measure actually plays in the issue.

The income requirement and the civic integration abroad requirement were, however, mentioned frequently. According to Lawyer 1, and on the basis of contributions on the websites, these two reasons were observed most frequently. In the above-mentioned report of the WODC, various respondents had mentioned the Europe route as a means to circumvent the income requirement.³²

Lawyer 1 also mentioned the fact that the applicant is registered via an alert in the Schengen Information System as an undesirable foreign national, or has had a criminal penalty imposed, as important reasons. These are situations in which someone cannot obtain a residence permit on the basis of Dutch public order policy, but who does not fall under the Community law criterion of a serious and genuine threat to public order.

Although the increased income requirement and civic integration requirement were implemented as early as in November 2004 and March 2006, respectively, it is very well possible that there is a time-lag with respect to these measures. The IND employees, as well as Lawyer 1, presumed that many couples saw the Europe route as a last resort if the application on the basis of national conditions had been refused or if they could not comply with the national conditions. This presumption was confirmed on the websites.

Developments in case law of the Court of Justice of the EC

³¹ WODC, *Internationale gezinsvorming begrensd? Een evaluatie van de verhoging van de inkomenseis en leeftijdseis bij migratie van buitenlandse partners naar Nederland* (International family formation restricted? An evaluation of the raised income and age requirement with regard to the migration of foreign partners to the Netherlands). Cahier 2009-4, p. 121.

³² The question concerned was whether the couples interviewed knew people in their social network who used this route. WODC. Cahier 2009-4, pp. 84-86.

The Court of Justice gave various judgments in the period between 2003 and 2009 on the question of whether third-country nationals who are family members of citizens of the Union and who had not previously had lawful residence in an EU Member State could exercise rights under Community law. In the *Akrich* case, the Court ruled that a third-country spouse of a citizen of the Union, who had not previously had lawful residence in a Member State, could not exercise a right of residence under Community law upon return to the Member State of the EU citizen.³³ Both in the *Jia* case³⁴ and the *Eind* case³⁵ the Court qualified or reviewed this opinion. In its most recent judgment that pertains to this question, the *Metock* case³⁶, the Court explicitly distanced itself from the position it had adopted in the *Akrich* case.

The Court's judgment in the *Akrich* case and its subsequent judgments did not cause the Netherlands to change its policy on the right of admission and residence of third-country nationals who are family members of EU citizens and who had not previously had lawful residence in an EU Member State.³⁷ The absence of previous lawful residence was not enforced against applicants. In the discussion about the use of Community law on the websites, these judgments from the Court also did not seem to be a significant factor. In response to Advocate General Geelhoed's opinion in the above-mentioned *Jia* case³⁸ a message could, however, be read on the *mixedcouples.nl* site.³⁹ In his opinion, Geelhoed confirmed the trend in *Akrich* and took up the position that national rules should apply to initial admission to the territory of the Union. The message on the *mixedcouples.nl* site, which said that if the Court would adopt the opinion of the Advocate General it would no longer make sense to follow the Belgium route, generated several anxious reactions. After the Court's judgment in the *Jia* case, the writer of the previous message on the *Jia* case reassured the readers and this message also generated several reactions.⁴⁰ In response to the *Metock* case, several messages could be found on the Stichting Buitenlandse Partner website. These messages also generated several reactions. The IND employees stated to have the impression that the judgment in the *Metock* case actually did result in an increase in the number of applications for verification against Community law (but this would not specifically apply to the family members of Dutch sponsors). All in all, the attention for these judgments, however, appears not to

³³ ECJ 23 September 2003, *Akrich*, Case C-109/01.

³⁴ ECJ 9 January 2007, *Jia*, Case C-1/05.

³⁵ ECJ 11 December 2007, *Eind*, Case C-291/05.

³⁶ ECJ 25 July 2008, *Metock*, Case C-127/08.

³⁷ The Minister for Alien Affairs and Integration did, however, defend the position that the *Akrich* case could also be interpreted such that the initial admission and residence of family members of EU citizens were subject to national law of the Member States. See Decision of 24 April 2006 amending the Aliens Decree 2000 (*Vreemdelingenbesluit 2000*) in connection with the implementation of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

³⁸ Opinion of AG delivered on 27 April 2006, *Jia*, Case C-1/05.

³⁹ See the message on www.mixed-couples.nl: Bom onder België-route (Bomb under Belgium Route). www.mixedcouples.nl/forum/index.php?action=printpage;topic,11889.0.html.

⁴⁰ *Ibid.*

be of such significance that it could explain the increase in the number of applications for verifications against Community law in 2007 and 2008.

Changes in the procedure for submitting applications.

In the course of 2007, the IND opened desks throughout the Netherlands where – since that time – applicants have had to submit their applications for regular residence permits. Applications were previously submitted at the town hall (formally to the mayor), where they were taken in, checked whether all documents were in order, and subsequently sent on to the IND. According to the IND employees, it is possible that since 2007, the IND desk employees have been more likely to realise that verification against Community law would be the obvious thing to do. In that case, it is still possible to choose that purpose of residence before submitting the formal application instead of applying for a regular residence permit for the purpose of residence with the partner as indicated by the person concerned. It is unclear whether this occurred frequently or only incidentally, and it is consequently also unclear whether this would explain the increase in the number of applications for verification against Community law.

A second aspect that emerged was that the implementation practice was frequently confronted with a lack of clarity in the application of Community law. The questions mentioned, by way of illustration, were whether it was permitted to set additional requirements for proof of economic activity, apart from the proof of lawful residence of the EU citizen, and whether a specific minimum period of residence in the host Member State applied.⁴¹

Policy changes in other EU Member States

The IND employees could not think of any developments in policies or other developments in the EU Member States that would explain the increase in applications for verification against Community law. Lawyer 1 only referred to the judgment in the case of the Commission versus Spain.⁴² After this judgment, the issuing of visas to third-country nationals who were family members of EU citizens in Spain improved.

At the end of 2005, a news item was published that Belgium wanted to take measures to limit the influx of family migrants and Dutch citizens who wanted to take advantage of the Belgium route.⁴³

In a discussion at the Morocco forum in July 2006, the participants stated that the rules for family reunification had become stricter in Belgium (e.g. regarding proof of housing and income for two persons).

⁴¹ This was also a reason for the European Commission to publish Guidelines on 2 July 2009 to improve the transposition and application of the Directive. These Guidelines removed part of the lack of clarity.

⁴² ECJ 31 January 2006, *Commission versus Spain*, Case C-503/03.

⁴³ België-route op slot? (A Halt to the Belgium Route?) – Radio Netherlands International – news.

<http://static.rnw.nl/migratie/www.wereldomroep.nl/actua/europa/westeuropa/act200511>. It did not concern concrete measures at the time.

The fact that the rules had become stricter in Belgium can hardly be seen as an explanation for the increase. It could at the most mean that people went to other countries.

Conclusion

There is a clear increase in the use of Community law by third-country nationals who are family members of Dutch citizens. Most notable is the long period of residence in another Member State of a large group of Dutch sponsors before the third-country national submitted the application for verification against Community law in the Netherlands. This could point to residence as an employee (or for a different purpose of residence) in another Member State where the Dutch citizen had met a partner from a third country. There are, however, no specific indications that this temporary labour migration from the Netherlands and the remigration – after some time – back to the Netherlands had shown a particular increase in 2007 and 2008. In respect of the factors investigated, the tightening of Dutch aliens policy (in particular the income requirement and the civic integration requirement and, in a lesser degree, the age requirement) seemed to be the most important reasons for the increase in the number of applications for verification against Community law submitted by third-country family members of Dutch sponsors. The fact that the increase did not become evident until several years after the implementation of these measures may be explained by the fact that couples who were confronted with the national rules initially attempted to comply with them or to bring proceedings with respect to them, and only used the Europe route as a last resort.

In addition to the tightening of aliens policy, the Internet seems to have contributed considerably to the increased familiarity with the possibilities offered by Community law (the sites with information and experiences regarding the Belgium route), whereas the influence of political and media attention only seems limited. Furthermore, it appears that the information on the Internet will have induced people to actually take the step.

7.1.2 Increase in applications by third-country nationals with EU sponsors

The majority of verifications against Community law concern third-country nationals who are family members of non-Dutch citizens of the Union. With respect to the cases in which the nationalities of the sponsors are known, 3,150 applications were granted in the period between 2005 and 2009 (see Table 3.2). This is 53% of the total number of applications granted (including the cases in which the nationalities had not been registered). In this group as well, the strongest growth was observed in 2007 and 2008.⁴⁴

As stated above, the files did not show whether or not these EU sponsors had taken up residence or had wanted to take up residence in the Netherlands permanently, or whether it only concerned temporary residence, after which the persons concerned wanted to return to their own Member State with the third-country family member.

⁴⁴ In this context, it must be noted that – in 2007 – the nationalities had been registered in only 57% of the cases (see Table 3.1).

Increase in labour migration from East Europe and opening of labour market
In the cases which concern EU citizens who wanted to take up residence in the Netherlands, the increase in the number of East European employees in the Netherlands may be an explanation.

On 1 May 2007, the labour market opened for citizens of eight Member States that had entered the European Union on 1 May 2004. This concerned citizens of Slovenia, Hungary, Czech Republic, Estonia, Latvia, Slovakia, Lithuania, and Poland.

Tables 3.3 and 3.2 show that 182 sponsors out of the total of 1,442 non-Dutch sponsors whose nationalities were known originated from these countries. In 2005, there were only eight sponsors from these countries. The opening of the labour market and the increased number of employees from East European countries will therefore certainly explain part of the increase.

Entry of Bulgaria and Romania

Secondly, Bulgaria and Romania entered the European Union on 1 January 2007. Citizens of these countries are allowed to work as an employee with a work permit or they may take up residence in the Netherlands on the basis of Community law, for instance, to work on a self-employed basis or as an economically non-active person. In these cases, they are also entitled to residence for family members with the nationality of a third country on the basis of Community law. The number of Romanians and Bulgarians among the non-Dutch EU sponsors was 63 in 2008 compared to 0 in 2005 (see Table 3.3). The entry of Romania and Bulgaria on 1 January 2007 will therefore also have contributed to the increase.

This explanation for the increase was also given by Lawyer 2.

Partner relationships

Thirdly, the Netherlands could be attractive to sponsors with partner relationships instead of marriage relationships. The equal treatment of married and unmarried couples in the context of family reunification does by no means apply in all Member States.⁴⁵

Table 5.2 shows that the percentage of partner relationships is significantly higher for EU sponsors (23%) than for Dutch sponsors (6%). Table 5.3, however, shows that higher percentages were also found among sponsors with the nationalities of EU Member States that provided for the right of family reunification for partner relationships (see, for instance, France 32% or Belgium 31%). Notable in this context is the extremely high percentage among Poles (45%), Lithuanians (40%), and Romanians (49%). An explanation for the relatively high number of partner relationships in the Netherlands may possibly be found in the fact that it was said to have been relatively easy to prove the

⁴⁵ The study into the implementation of the Family Reunification Directive in the EU Member States revealed that unmarried couples only have a right to family reunification in Belgium, Denmark, Finland, France, the Netherlands, Sweden, and the United Kingdom. On the basis of Community law, the Member States are not obliged to grant a right of residence to unmarried partners, unless national legislation provide for equal treatment of married and unmarried couples. See K. Groenendijk, R. Fernhout, et al., *The Family Reunification Directive in EU Member States. The first year of implementation*. CMR, Nijmegen, 2007.

existence of a partner relationship in the period that was covered by the research.⁴⁶

The possibility of partner relationships in the Netherlands may therefore be an explanation for the use of Community law, but it is not clear whether this was done to circumvent the own national rules. Neither are there any indications why unmarried couples would rely to an increasing extent on Community law *particularly* in 2007 and 2008.

Other explanations

Several possible explanations for the increase, which were also mentioned with respect to the group of Dutch sponsors, could also be of importance to this group. The first explanation is increased familiarity with the possibilities as a result of media attention or through own networks (the networks stated for this group are the hotel and catering industry, construction industry, and horticulture). Finally, the tightened national aliens policy may have contributed to the fact that third-country applicants preferred EU sponsors to sponsors with whom they had to comply with national conditions.

Reverse discrimination in other EU Member States

A possible explanation for the use of Community law by EU sponsors who live here temporarily and who subsequently return or want to return with the family member to their own Member State may be found in the phenomenon of reverse discrimination. Just like in the Netherlands, there are several EU Member States which apply stricter national rules to their own citizens who want family reunification with third-country family member than the rules they apply to EU citizens.

In a study into reverse discrimination, Anne Walter took a close look at a number of countries.⁴⁷ With respect to the countries she included in her study, she observed reverse discrimination in the Netherlands, Denmark, Germany, Austria, France, and the United Kingdom. Examples of countries where there would be no reverse discrimination (or at least not with respect to spouse and minor children) are Belgium, Italy, Hungary, and Spain.⁴⁸ A study conducted by Groenendijk et al. into the implementation of the Family Reunification Directive, also mentioned Portugal, Slovenia, and the Czech Republic as countries that treated their own citizens as Community citizens.⁴⁹ In Germany, Austria, and France, the implementation of the Family Reunification Directive had been stated as a reason for new stricter measures which also applied to their own citizens (and not to Community citizens who exercised their right of free movement). Although the implementation or tightening of reverse discrimination could definitely be a possible explanation, it cannot be

⁴⁶ From January 2009 (Decision amending the Aliens Act Implementation Guidelines (WBV) 2009/1) the Aliens Act Implementation Guidelines were amended to the extent that the period of the relationship had to be demonstrated by means of proof of recent cohabitation during a period of at least six months or the fact of having a child together.

⁴⁷ A. Walter, *Reverse Discrimination and Family Reunification*, Nijmegen and Osnabrück, 2008.

⁴⁸ *Ibid.* p. 20.

⁴⁹ See K. Groenendijk, R. Fernhout, et al., *The Family Reunification Directive in EU Member States. The first year of implementation*. CMR, Nijmegen, 2007, parking places. 12-13.

concluded from the figures that the situation specifically concerns an increase in sponsors from these countries. In countries such as Portugal and Belgium, as well, which treat their own citizens in the same manner as EU citizens, an increase in the number of verifications against Community law was observed in 2007 and 2008.

A German lawyer, who lives and practises in the border region with the Netherlands, stated that reversed discrimination could be a reason for him (and other lawyers) to advise clients to exercise their Community rights by taking up residence in the Netherlands temporarily, but there were many clients who did not follow his advice, because the prospect of actually moving to the Netherlands deterred them.

Finally, the increased mobility of this group within Europe could also be a contributory factor. On the basis of the data from the investigation of the files, this does not seem to be an important explanatory factor with respect to students who come to the Netherlands for study purposes. Table 6.1 shows that in only 2% of the cases, study had been stated as the EU sponsor's purpose of residence in the Netherlands. In 44% of the files, the purpose of residence stated by the EU sponsor was work as an employee. It may consequently concern employees from other Member States who meet their partners here and who subsequently return to their countries of origin with their partners. The files did, however, not reveal any data about the duration of residence of the EU sponsors in the Netherlands and about a possible return to their countries of origin.

Conclusion

The increase in the number of applications for verifications against Community law from third-country family members of EU sponsors may partly be explained by the opening of the labour market on 1 May 2007 for eight new Member States, the increase in the number of employees from East Europe in the Netherlands, and the entry of two new Member States to the European Union on 1 January 2007.

The option of seeking family reunification on the basis of a partner relationship in the Netherlands may be an explanation for the use of Community law, but there are not any specific indications for this use to have increased in 2007 and 2008. Increased familiarity with this option through the media, through own networks, or following the judgment in the *Metock* case, could also be possible explanations. These are, however, factors that are difficult to substantiate without further comprehensive qualitative research.

Reverse discrimination in one's own country could have been a reason for EU sponsors who temporarily resided in the Netherlands to take up residence here. The question of whether this was actually the case was not confirmed on the basis of this research. Increased mobility of employees within the European Union could also be an explanation. There are, however, not any specific indications that labour mobility to the Netherlands increased in 2007 and 2008.

7.2 Reasons for Using Community law

The previous section dealt with the possible explanations for the increase in the number of applications for verification against Community law without specifically discussing the question of who these people were who exercised these rights, and what their motives were. This question will be discussed in this section. A distinction will be made again between the group of Dutch sponsors with third-country family members on the one hand, and the group of other EU citizens with third-country family members on the other hand. As stated above, it is not possible to draw any conclusion about the question of whether there is reason to believe that the right of free movement of persons has been abused, because there is not any conclusive legal definition of this concept. Attention will, however, be paid to the question of the extent to which the indicators identified by the Commission in the Guidelines to improve the transposition and application of the Directive may be recognised, and which meaning could be attached to them.

7.2.1 Forms of use by third-country nationals with Dutch sponsors

Lawyer 2 stated that the group using the Europe route is very diverse. The number of highly educated and self-employed persons in this group is relatively high. The relationships observed concerned foreign-born Dutch citizens with partners from the countries of origin, but we also observed many native Dutch citizens who had entered into a relationship with a former holiday love, from countries such as Morocco or Turkey. In addition to partner relationships, it was seen more often that adult children also wanted to have a parent come over or that parents envisaged residence with a minor Dutch child.

Below, a picture will be given of the different forms of use that can be identified on the basis of the data from the investigation of the files, the experiences of the interviewees, and the impressions of the Internet.

Long period of residence in EU host Member State

A notable result from the statistical research is the large group of sponsors that resided in the host Member State for more than a year. The investigation of the files revealed a percentage of 38% (see Table 6.10). On the basis of the 'Belgium Box', this percentage would even be higher, namely 43% (see Table 6.13). With respect to this group, a portion of these sponsors – 23% or 19%, respectively – even lived longer than two years in the host Member State. This group is given too little attention in the political discussion and the media. Lawyer 1 had only rarely met people with such a long period of residence in his practice. He stated that this group probably did not have any problems with the application for verification against Community law and that he therefore did not see these people.

Case 5 is an example of long period of residence in another EU Member States. A Dutch sponsor started working in another EU Member State (or even in different Member States). He entered into a relationship with a third-country national in that Member State and after some time he started working in the Netherlands again. His partner joined him, and he relied on Community law.

It is clear that in the case of such a long period of residence, the residence is 'genuine and effective'. On the basis of the Commission's Guidelines, this is not a situation that would give cause to investigate the possible intentions of the persons concerned.

Long marriage relationships and several procedures

The percentage of marriage relationships in the sample is 81% among the Dutch sponsors. A second notable observation is that 42% of this group of married Dutch sponsors were married two years or longer before submitting the application for verification against Community law (see Table 5.4). In addition, another 24% married between one and two years before submitting the application. Only 10% married after or just before the application (up to two months before the application).

One of the Commission's indicative criteria that leads one to suspect that the case probably does not concern a marriage of convenience is the fact that the spouses married long before the application. On the basis of this criterion, it may be assumed with respect to the group who had been married for a year or longer (66%) that we are not dealing with marriages of convenience here. It is therefore only in a very limited number of cases (10%) that there might be reason to conduct further investigation into the relationship.

The view that the marriages in the case of Dutch sponsors were usually sincere was confirmed by the IND employees, Lawyer 1, and the websites. On the basis of the Commission's criteria, a return to the EU citizen's own Member State shortly after he was married in the host Member State may also contribute to the suspicion that the residence in the host Member State was not genuine and effective.

The picture of long, sincere marriages is completed by the impression that people had already followed one or more procedures to realise family reunification, or had initially attempted to comply with the national conditions. The investigation of the files showed that 27% of the applicants had previously followed one or more procedures (Table 6.3). In only 3%, the cases concerned asylum procedures (Table 6.7). The other procedures related to applications for regular residence permits (18%), regular provisional residence permits (4%), or visa requests (12%) (Tables 6.4, 6.5, and 6.6). The data collected in the 'Belgium Box' revealed a higher percentage of previous applications of 36% (see Section 6.3.1).⁵⁰ Neither the data from the investigation of the files nor the data from the 'Belgium Box' provide an answer to the question of whether the applications related to the same Dutch sponsors.

The European Commission identified previous fruitless attempts to obtain a residence permit on the basis of national law as indicators for the question of whether the residence in the host Member State was genuine and effective. This is only one of the indicators which – when in conjunction with other indicators, and only then – may be reason to suspect that the residence in the host Member State was not genuine and effective.

Dutch sponsors with family members who did not comply with the national conditions

⁵⁰ It must be noted in this context that in 12% of the cases the respondents had not filled in whether previous procedures had been followed.

As mentioned above, there is probably a group of sponsors who could not comply with the national conditions.

During the interview with Lawyer 1 it became clear that there were several specific categories of Dutch citizens who had difficulty complying with the national income requirement, and therefore relied on Community law. These categories concern applicants who are women, persons of foreign heritage, unemployed persons, and self-employed starters, who have great difficulty complying with the national conditions.

Table 4.1 shows that the proportion of male applicants in the period between 2005 and 2009 increased significantly from 34% in 2005 to 44% in 2008. Considering that in 94% of the cases, the relationship was a marriage or partner relationship (see Table 5.2) and that in a very small number (5%) these relationships involved someone of the same gender (see Section 5.2), the conclusion that the large majority were female sponsors is obvious. The proportion of female sponsors consequently increased in the period between 2005 and 2009. This could substantiate the theory that women would have more difficulty complying with the national income requirement, because they more frequently have part-time jobs or lower-paid positions.

WODC's study *International family formation subject to restrictions?* confirmed the suspicion that women have more difficulty complying with the tightened conditions of November 2004 (i.e. the increased income requirement and age requirements in the case of family reunification).⁵¹ After the implementation of the measures, the number of female sponsors involved in application procedures for regular provisional residence permits for family formation decreased more significantly than the number of male sponsors (48% compared to 32%).

A second group mentioned by Lawyer 1 is the group of persons of foreign heritage. With respect to reliance on Community law, the group involved consists by definition of Dutch sponsors. The terms person of foreign heritage and native Dutch citizen do not relate to nationality or country or birth, but to the nationality of either of the parents. The files did not contain any information regarding the nationalities of the parents of the sponsors. On the basis of a combination of data included in the files, a careful estimation may be made with respect to the question of whether there were many persons of foreign heritage among the Dutch sponsors.

With respect to the Dutch sponsors, the researchers looked at the country of birth (see Table 3.4). Notable in this context is the fact that by far the highest percentage (72%) of Dutch sponsors were born in the Netherlands, 5% were born in Turkey, and the remaining 23% originated from all over the world. The table representing the nationalities of the applicants provides a diverse picture (see Table 4.2). It largely shows small percentages of many different nationalities. The three highest percentages concerned applicants with Turkish nationality (15%), Moroccan nationality (11%), and Brazilian nationality (7%).

⁵¹ WODC, *Internationale gezinsvorming begrensd. Een evaluatie van de verhoging van de inkomenseis en leeftijdseis bij migratie van buitenlandse partners naar Nederland* (International family formation restricted? An evaluation of the raised income and age requirement with regard to the migration of foreign partners to the Netherlands). Cahier 2009-4, p. 33.

Although there will certainly be also native Dutch citizens with relationships with Turkish, Moroccan or Brazilian applicants (the holiday loves), as stated by Lawyer 1, it seems obvious that at least a part of the so-called second-generation immigrants who were born in the Netherlands had partners come over from the country of origin. It is not possible to establish the proportion of this group of immigrants on the basis of this research.

The third group mentioned by Lawyer 1 are unemployed persons. In principle, an unemployed sponsor will not be able to comply with the national conditions. Even if his partner would be able to find work in the Netherlands, it is not possible to claim family reunification on the basis of the national conditions. If this unemployed person, however, takes up residence in another Member State and his partner starts working in the other Member State, he may exercise his right to residence for him and his partner under Community law as economically non-active person with own resources (through his working partner). Information as to whether or not this construction was often used cannot be concluded from the investigation of the files. Table 6.1 states only a very small percentage (3%) of sponsors with own resources. These may be unemployed persons with working partners, but also persons who continued to work in their own Member State or have other means at their disposal. In a large number of cases (42%), the purposes of residence of the Dutch sponsors were unknown. The 'Belgium Box' provided another picture (Table 6.15). More than a quarter of the applicants (insofar as known) worked in the other EU Member State. With respect to the sponsors, this percentage was 35%. Two fifths of the sponsors did not work, and in 26% of the cases the status was not known. Among this group of persons who did not work, a part may have been unemployed with a working partner, but this cannot be established with certainty on the basis of these figures.

The last group that was mentioned are the self-employed persons. For self-employed persons it is also difficult to comply with the income requirement. The number of Dutch sponsors that worked on a self-employed basis in the other EU Member State may be an indication for the use of Community law by economically self-employed persons. Table 6.1 shows that it involves a modestly small group of 8%.

In the cases described above, Lawyer 1 stated that in his opinion these cases concerned sponsors who consciously exercised the right of free movement to obtain a residence permit in the Netherlands for their partner/spouse. According to the Commission, the situation concerns abuse if EU citizens whose third-country family members cannot reunify with them on the basis of national rules move to another Member State with the sole purpose to circumvent national legislation upon their return to their own Member States. In order to distinguish between use and abuse, the Commission stated that the assessment must be made as to whether the residence in the other Member State was genuine and effective. If this is the case, there is no reason for the Member State to investigate the personal motives for the previous move. The Commission holds the view that the fact that the above-mentioned groups consciously used the possibilities of Community law is in itself not a situation of abuse as long as the residence is genuine and effective.

No genuine and effective residence

The IND employees stated that the most important ground for refusing an application for verification against Community law from an applicant with a Dutch sponsor is a move of convenience. Lawyer 1 stated that an obvious move of convenience was reason for him to deny assistance in the application (or an application for review or an appeal). In the terms of the Commission, these are situations in which the residence is not genuine and effective.

In this respect, the implementation practice is consistent with the Guidelines of the European Commission. The IND employees find it difficult, however, to determine whether the case concerns a move of convenience. The question is, which criteria could be applied, and how these should be weighed.

The Guidelines of the Commission give something to hold on to in respect of the factors that may be included in the assessment together.

The example described in case 8 contained a number of the factors that could be a reason for further investigation. These factors are the following:

1. A previous application had been submitted on the basis of the national conditions, and was refused.
2. They returned to the Netherlands two months after registering in Belgium.
3. The sponsor continued to work in the Netherlands.

Whether these circumstances considered together suffice to draw the conclusion that the residence in Belgium was not genuine and effective cannot be established on the basis of the Guidelines. The circumstances of this case could be a reason for further investigation, considering the example provided by the Commission.

Apart from the above-mentioned duration of residence in the other EU Member State, the previous fruitless attempts to obtain a residence permit on the basis of national conditions, and the time span between the marriage and the return to the own Member State, the 'Belgium Box' also contained several data that may be reduced to the indicators mentioned by the Commission.

According to the Commission, it is not possible to determine that the residence was not genuine and effective if the sponsor still maintained various ties with this country of origin. Two situations about which the 'Belgium Box' had collected data have also been mentioned by the Commission as possible indicators for a residence that is not genuine and effective. These situations are: the situation involving the place of work (the persons concerned continue to work in the Member State of origin), and the situation involving children (whether they moved with them or stayed behind, and how this may, for instance, be demonstrated by enrolment in school).

Table 6.18 shows that in 39% of the cases, the sponsors stated that they continued to work in the Netherlands (in 24% of the cases, this question had not been answered). Together with other indicators, this could be reason for further investigation. In 79% of the situations involving children, these children moved along to the host Member State. This is an indication that the residence is genuine and effective. In 7% of the situations involving children, the children stayed in the Netherlands. Together with other indicators, this is an indication that the residence was not genuine and effective. In the other cases, the situations were more complex (children in different countries) or unknown.

Conclusion

The group of third-country nationals with Dutch sponsors who use Community law is very diverse. It is still possible to distinguish several forms of use. The most important distinguishing criterion is the question of whether the residence is genuine and effective. In a careful attempt to develop a typology, it is possible to distinguish three variants. Firstly, genuine and effective residence without the intention to exercise Community rights. Secondly, genuine and effective residence with the intention to exercise Community rights, and thirdly the situation in which the residence is not genuine and effective or it is doubtful, and the sponsor had the intention to exercise Community rights. In the first two cases the use of Community law is entirely legal. The third case may constitute a reason to conduct further investigation into the residence in the host Member State or the relationship or the marriage on the basis of the Commission's criteria, with the burden of proof resting with the authorities of the Member States, in this case the IND.

The first form of residence that may be distinguished on the basis of statistical research is a long period of residence in another EU Member State. This concerns a large group of between 38% and 43% who resided in another EU Member State for a year or more. In the case of such a long period of residence, the residence is probably genuine and effective, and it is not a situation of abuse.

A second group that may be distinguished is the group of persons with long relationships and who possibly followed various procedures. With respect to married couples, 66% of the cases had been married for a year or longer before the application for verification against Community law was submitted. On the basis of the Commission's criteria, these marriages will probably be sincere marriages. Only in 10% of the cases was the wedding date immediately before or after the application date. Together with other factors, this could be reason for further investigation into the marriage. A portion of the applicants (between 27% and 36%) had followed previous procedures.

According to the Commission, applications on the basis of national law which had been refused in combination with other indicators may be an indication that the residence in the host Member State was not genuine and effective.

A third group is the group of Dutch sponsors who did not comply with the national conditions. Lawyer 1 specifically mentioned four groups: women, persons of foreign heritage, unemployed persons, and self-employed persons. In particular, the group of women and persons of foreign heritage were clearly evident from the investigation of the files. As long as the residence was genuine and effective, the conscious use of Community law in itself is not, however – in the opinion of the Commission – evidence of a situation of abuse. The last group is the group of which the residence was possibly not genuine and effective. Possible indicators are a very short duration of residence in the host Member State, and previous fruitless attempts to obtain a residence permit on the basis of national conditions. In addition, the 'Belgium Box' also contained data that could be indicators; namely the question of whether or not the Dutch sponsor continued to work in the country of origin, and whether or not the children moved with him or her. If this was the situation, this could also be reason for an investigation into the question of whether the residence was genuine and effective.

7.2.2 Forms of use by third-country nationals with EU sponsors

Patterns in combinations of nationalities

On the basis of the data on the nationalities of the applicants and the sponsors it is possible to recognise combinations of nationalities (see Table B2-15 and 4.3).

The largest group of applicants for residence with EU sponsors were Americans (11%, Table 4.3). The combinations that occurred most were Americans with English sponsors and Americans with German sponsors (Table B2-15). On the basis of the investigation of the files, it is not possible to investigate this group's duration of residence and reason for residence in the Netherlands, and whether this is, for instance, a situation involving international relationships as a result of the internationalisation of the labour market.

The second largest group were Turkish applicants (9%, Table 4.3). With respect to this group as well, we see two nationalities among the sponsors that stand out: German and Polish (Table B2-15). With respect to Germany it is known that relatively many originally Turkish immigrants or second-generation Turks live there. It is obvious that certainly a part of this group of Germans have a Turkish ethnical background. It is also known that Germany has considerably tightened its national policy on family reunification during the last few years (in particular, the civic integration abroad requirement) and that it has applied reverse discrimination to its own citizens in favour of Community citizens. It consequently does not seem improbable to assume that at least a part of these applications relate to residence with sponsors of Turkish-born German citizens who want to derive a right of residence for their family members by means of residence in the Netherlands.

The other important group of sponsors have Polish nationality. This combination was mentioned both by the IND employees and Lawyer 2 as a combination that occurred frequently. According to Lawyer 2, many situations involved Poles who had permanently taken up residence in the Netherlands and who had entered into relationships here with people whom they had met on the shop floor or in the hotel and catering industry (he particularly referred to the construction industry and horticulture). Because these relationships involved persons with a comparable pattern of standards and values in many cases (they often originated from the countryside of their native lands), he did not consider these relationships improbable. The IND judged this differently. On the basis of further investigation, the IND regularly came to the conclusion that the situations concerned sham relationships. The IND employees had also increasingly identified the combination of a Bulgarian sponsor with a Turkish applicant. This picture is confirmed by the figures. Together with Greece and Portugal, Bulgaria takes up the third place with respect to the number of sponsors with Turkish applicants (see Table B2-15).

The third largest group of applicants have Brazilian nationality (8%, see Table 4.3). In the majority of cases, the sponsors come from Portugal or Italy (Table B2-15). Considering the common language, and the historical and cultural ties, the combination of Portugal-Brazil does not seem out of the ordinary. Portugal and Italy do not have reverse discrimination. There are not any indications that could explain the relatively large group of Brazilian applicants with Portuguese

or Italian sponsors. A partial explanation may be the fact that Portugal and Italy do not have the right of residence on the basis of partner relationships. The proportion of partner relationships among Portuguese and Italian sponsors is, however, not significantly higher than the average percentage of partner relationships among EU sponsors.

The last group that is singled out in this context is the group of Moroccan applicants (5%, Table 4.3). With respect to this group, the countries that stand out as the countries where the sponsors originate from are Spain at number one and France at number two. Spain and France are both countries where many first or second-generation Moroccans live, naturalised or not. It is therefore obvious, just as this was the case with the Turks and Germans, that certainly a part of the sponsors have a Moroccan background.

Spain does not have reverse discrimination with respect to its own citizens, France does, since the implementation of the civic integration abroad requirement. This factor of reverse discrimination could be one of the reasons for residence in the Netherlands in respect of the combination of Moroccan applicants with French sponsors. With respect to Spain, the investigation of the files only made it possible to look at the percentage of partner relationships among Spanish sponsors, considering the fact that Spain does not grant the right of residence on the basis of partner relationship. With respect to Spanish sponsors the percentage of 39% (Table 6.3) is relatively high, and could consequently be a reason for residence in the Netherlands.

Relatively many partner relationships and short marriage relationships before the application

A significant difference between the group of Dutch sponsors and the group of EU sponsors is that among the EU sponsors relatively many partner relationships occur (23% compared to 6%, see Tables 5.2. and 5.3). A second significant difference is that compared to Dutch sponsors, the wedding date is closer to the application date. With respect to 42% of the EU sponsors, the wedding date was later than the application date or in the six months before the application.

According to the Commission, short relationships or marriages may be an indicator for further investigation into a possible marriage of convenience or a sham relationship.

On the basis of further investigation⁵² the IND regularly came to the conclusion that the situations concerned sham relationships. It is not clear in how many cases the refusals were upheld in case of an application for review or appeal.

Previous procedure

In 35% of the cases, the applicants had followed previous procedures (see Table 6.3). In only 3%, the cases concerned asylum procedures (Table 6.7).

⁵² From July 2008 to December 2008, the IND conducted a pilot project together with the Haaglanden Aliens Police and the Municipality of The Hague with the purpose to combat sham relationships among citizens of EU Member States with third-country nationals. In the aforementioned period, 65 applications had been registered and in nearly 50% of the cases the authorities suspected sham relationships. These cases were investigated, which resulted in refusals in ten cases.

The majority of cases concerned regular applications (27%, Table 6.4) and applications for regular provisional residence permits (10%, Table 6.5). This Table does not show whether the applications were granted or refused. There is probably a group of applicants who already stayed in the Netherlands without a residence permit at the time that the application for verification against Community law was submitted (see also Table 6.9: Legal status of the applicant).

This is not consistent with the picture described by Lawyer 2, who stated that in his practice he had often met couples whereby the EU sponsors had met their partners in the Netherlands, for instance, in the hotel and catering industry, or in the construction industry or horticulture. According to him, the third-country national had often followed one or more procedures, had often lived in the Netherlands for some time, and often spoke Dutch well.

By entering into a relationship with an EU sponsor, the third-country national obtained the benefit of migration. This does, however, not necessarily mean that the situation concerns a sham relationship or a marriage of convenience. The investigation of the files did not contain any data that were in line with the indicators of the Commission. The only indicator nearing the data collected in the investigation of the files was that family life is not developed until the notification of obligatory departure has been issued. Now that Dutch Aliens law does not have a separate decision for obligatory departure, the obligation to leave the Netherlands and the power to remove a person follow from an irrevocable negative decision, or from unlawful residence after illegal entry, or after the duration of the short-term visa or the free period have lapsed. It may be concluded from Table 6.9, that in 29% of the cases the applicants had previously submitted an application for residence in the Netherlands. It is not clear in how many cases a previous application had been granted or refused, and in how many cases people had been staying illegally in the Netherlands after a refusal of their application or appeal. It is, however, probable that a part of this group did not have lawful residence in the Netherlands. Apart from this, the possibility may not be excluded that part of the group of persons who did not follow any previous procedures had also already been residing in the Netherlands. Unlawful residence may be a reason for further investigation into the marriage or partner relationship.

Conclusion

With respect to the group of third-country nationals who submitted an application for residence with EU sponsors, a distinction should be made between the group of sponsors who took up residence in the Netherlands more or less permanently, and the group of sponsors who resided here for a shorter period of time and subsequently returned to their countries of origin. It can, however, not be concluded from the investigation of the files that the cases concerned sponsors who resided in the Netherlands for a longer period of time or who were here only for a short period of time. With respect to part of the group of EU sponsors who resided in the Netherlands for a short period of time, the purpose of the residence could be to exercise Community rights. This can, however, also not be concluded for certain, from the statistical research. With respect to EU sponsors, a distinguishing criterion appears to be the question of whether a partner relationship or a marriage relationship is sincere.

The statistical research contains few points of departure for firm conclusions. The researchers did, however, discover several patterns on the basis of which tentative conclusions may be made.

In the first place, several patterns in combinations of nationalities could be observed within the wide diversity of nationalities of applicants and sponsors. The largest group of applicants were Americans, with the combinations occurring most being those between Americans with English and German sponsors.

The second largest group were Turkish applicants who applied for residence with German or Polish sponsors. With respect to the combination of Turkish applicants and German sponsors, part of the German sponsors were assumed to have a Turkish background and to want a Turkish partner to come over by means of residence in the Netherlands. This could have to do with the reverse discrimination policy in Germany. The IND employees considered the number of Turkish applicants with Polish sponsors notable. Lawyer 2 also confirmed that he met many Turkish-Polish couples. A third combination is a Brazilian applicant with a Portuguese or Italian sponsor. Due to the common language, the combination of Portuguese-Brazilian seems logic. The investigation of the files hardly resulted in any indications about the reason of these couples for residence in the Netherlands. Portugal and Italy do not have reverse discrimination. A partial explanation may be the fact that Portugal and Italy do not have the right of residence on the basis of partner relationships. On the other hand, the percentage of partner relationships among Portuguese and Italian sponsors was not significantly higher than the average among EU sponsors.

The last notable group is the group of Moroccan applicants with Spanish or French sponsors. These cases could also concern ethnic Moroccans from France or Spain who have partners come over from Morocco. With respect to the French sponsors, reverse discrimination could be one of the reasons for residence in the Netherlands. The possibility of residence with a partner in the Netherlands may partially explain the number of Spanish sponsors. With respect to Spanish sponsors, the large percentage of partner relationships is notable.

Secondly, it is notable that among EU sponsors, relatively many partner relationships occur, and that a large group was married a relatively short period before the application. According to the Commission, short partner relationships or marriages may be an indicator for further investigation into the sincerity of the partner relationship or the marriage. The IND employees stated that sham relationships are quite common among this group. Lawyer 2 stated, however, that in many cases in which the application for verification was refused initially, this decision had to be reviewed after an application for review or an appeal.

Finally, it is notable that a portion of the applicants previously followed several procedures. It is probable that a part of this group of people had been staying in the Netherlands without lawful residence. If the situation concerned unlawful residence, this may be an indicator – on the basis of the Commission's criteria – that this case constituted a marriage of convenience or a sham relationship. The mere fact that a third-country national has the benefit of migration by

entering into a relationship with an EU sponsor does not, however, mean that the situation actually constitutes a marriage of convenience.

8 ANSWERS TO THE RESEARCH QUESTIONS

In this chapter, you will find short answers to the research questions.

1. What is the size of the total group which relied on family reunification on the basis of verification against Community law in the period between 2005 and 2009?

In the period between 2005 and 2009, 7,068 applications had been submitted to the IND which were verified against Community law. Out of this number, 5,999 applications were granted (85%). Over the years, an increase in the number of applications was observed.

2. To what extent do the figures deviate from the figures that were provided to the Lower House of Parliament in November 2008, and how can these differences be explained?

In November 2008, the Lower House of Parliament was informed that in the period of 2005-2007, 1,080 applications had been granted. The present research, found that 3,441 applications had been granted in the same period of 2005-2007. In addition, another 2,558 applications were granted in 2008. This difference is primarily caused by the method that was used to consult INDIS, IND's registration system.

The most important explanations for the differences between the figures of November and the figures presented in this report are as follows:

- It is not only the procedure for an EU regular residence permit (VVREU) that is relevant; verification against Community law also appeared to occur in other procedures. These procedures were also included in the present research.
- In November 2008, it was decided to select three types of applications for verification against Community law within the VVREU category. More detailed investigation revealed that four types of applications should have been selected.
- In November 2008, only the procedures in respect of which verification against Community law had explicitly been requested were considered. This research also includes the applications in respect of which verification against Community law had not been requested explicitly, but in respect of which the application had been granted on the basis of Community law all the same.

In the present research, a method was used to ensure that the numbers of applications in respect of which the applicants had relied on Community law were extracted from the IND Information System (INDIS) as accurately as possible. Although registration in INDIS is entered manually, it may be assumed that all applications in respect of which the applicants relied on Community law are currently registered.

3. a. What is the total number of third-country nationals who were granted admission on the basis of Community law for residence with an EU citizen?

The total number of third-country nationals that gained admission on the basis of Community law to reside with an EU sponsor is 3,150. This is 53% of the total of applications granted. There is, however, a large group of sponsors whose origin is unknown, as a result of which this number will probably be higher, for the investigation of the files revealed that a large part of the sponsors with unknown origins were EU sponsors. It is estimated (on the basis of the investigation of the files) that in three quarters of the cases, EU sponsors were concerned.

- b. What is the total number of third-country nationals who were granted admission on the basis of Community law for residence with a Dutch citizen who exercised his or her right of the free movement of persons?

The total number of third-country nationals that gained admission on the basis of Community law to reside with Dutch sponsors is 753. This is 13% of the total of applications granted. In this respect as well, there is, however, a large group of sponsors with unknown origins, as a result of which this number will probably be higher. On the basis of the investigation of the files we arrive at an estimated 16% of the total of applications granted.

4. a. What may be said about the groups of origin of the Dutch sponsors?
- b. Which nationalities do the third-country nationals have, broken down by
- sponsor (i.e. Dutch citizen or EU citizen);
 - nationality of the EU sponsor?

The first question is difficult to answer on the basis of the results from the research. The majority of Dutch sponsors (72%) were born in the Netherlands. A portion of them may be second-generation immigrants. With respect to the sponsors born in the Netherlands, it is estimated that a maximum of 25% originated from a Turkish or Moroccan group of origin.

The following tables in the appendix of this report give an answer to the second question: Tables B2-12, B2-13, B2-14, and B2-15. With respect to the applicants who applied for residence with Dutch sponsors, the largest groups had the Turkish, Moroccan, or Brazilian nationality. Of the applicants who applied for residence with EU sponsors, the largest groups had the American, Turkish, or Brazilian nationality. Considering all sponsors together (including the Dutch sponsors), the last three groups were also the largest.

5. What are the background characteristics (such as sex and age) of the third-country nationals, where relevant, broken down by type of sponsor?

Considering the whole period, 41% of the applicants were men and 59% of the applicants were women. The percentage of male applicants has slowly increased in the past few years. Most sponsors were between 27 and 40 years of age (approximately 50%). Among the applicants for residence with Dutch

citizens, 13% was under 21 years of age, among the applicants with EU sponsors this was 14%. In the age category from 21 to 27 years of age, this was 32% and 24%, respectively. In the smallest category – 40 years of age and older – this was 8% and 12%, respectively. It is notable that, with the breakdown of the applicants and sponsors by age, the number of cases in which at least one of them – applicant or sponsor – was younger than 21 years of age is relatively large (approximately 17%). These cases concerned 29 out of the 174 Dutch sponsors (21 applicants plus 10 sponsors minus 2 overlapping cases).

6. What is the breakdown of admissions by ground for admission, i.e. residence with spouse/partner/registered partner, parent, or child?

The majority of applicants were admitted on the basis of residence with a spouse or partner. In respect of applicants for residence with Dutch sponsors, 87% of the cases concerned marriage relationships. In respect of applicants for residence with EU sponsors, this applied to 61% of the cases. In this group, 23% of the applicants had partner relationships, compared to 6% of the above-mentioned group. In respect of EU sponsors, it relatively often concerned parents (9%). The other purposes for residence were not observed more frequently than in 5% of the cases.

7. How many applications for verification against Community law submitted by third-country nationals were granted, and how many were refused, and on what grounds were the applications refused?

In the period between 2005 and 2009, 7,068 applications had been submitted to the IND which were verified against Community law. Out of this number, 5,999 applications were granted (85%), and 828 applications were refused. In respect of the other 241 applications, the decisions were unknown (3%). The grounds for refusal had not been registered or had only been registered in a very general way. In respect of the cases in which the ground for refusal had been registered, the ground read 'did not comply with the restriction'. According to the IND employees interviewed, the ground for refusal that was observed most often with respect to applications for residence with EU sponsors was a sham relationship; with respect to Dutch sponsors the grounds for refusal observed most often were a sham move, or insufficient means of existence.

Duration of residence and legal status

8. How long do Dutch citizens (sponsors from the target group) usually stay in another EU Member State before returning to the Netherlands with one or more family members?

The sample resulted in data about the period that had lapsed between registration in the other EU Member State and the application in the Netherlands. In 3% of the cases, the applicant did not register until after submitting the application. In 9% of the cases, the applicants registered one or

six months before the application in another EU Member State. In 16% of the cases, the applicants registered six to twelve months before the application in another EU Member State. In 30% of the cases, the applicants had resided there for one to five years before the application was submitted, and in 5% of the cases this was five to ten years. Approximately 34% of these sponsors resided in Belgium. Other countries where many sponsors resided were Germany (21%) and Spain (15%). With respect to 33% of the applicants, the period between the application date and the starting date of residence in another Member State was not known.

The questionnaire of the 'Belgium Box' included a question which asked the applicants how long the sponsor had resided in another EU Member State. The data resulting from the answers also showed that the majority of sponsors had resided in another Member State for more than six months. The period of residence between 13 and 24 months was observed most often (24%) and the period of residence between 7 and 12 months is the second largest category (21%). The average period of residence was 19.7 months.

The investigation of the files was also used to look at the period between the date of a possible marriage and the application date. This showed that the largest group of the Dutch sponsors (29%) had been married for two to five years before the application.

9. In what way could it be made clear how long on average EU citizens and their family members from the target group stay in the Netherlands?

It is not known how long on average EU citizens and their family members from the target group stayed in the Netherlands. With respect to 80% of the EU sponsors, however, we know the period between the starting date of residence in the Netherlands and the application date. EU sponsors applied for family reunification relatively shortly after having taken up residence in the Netherlands. In 5% of the cases, the EU sponsors came to the Netherlands after the application; in 22% of the cases this was in the month that the application was submitted. In a total of 40% of the cases, the EU sponsors came to the Netherlands within a year after submission of the application. It must be noted in this context that with respect to the EU sponsors, the category 'unknown' was considerably smaller (18%) than with respect to NL sponsors (33%). It is, however, not possible to draw conclusions from these data about the average period of residence of EU sponsors in the Netherlands.

The period between the wedding date and the application date among EU sponsors is shorter than among Dutch sponsors. A majority (51%) married in the same year as the application. In 16% of the cases, the couples were married in the same month as the application.

10. What was the legal residence status of the group of third-country nationals at the time of applying for residence with an EU citizen?

a. What proportion relates to the initial admission from a third country that

is subject to the visa requirement?

This is not clear on the basis of the data from the sample. In 64% of the cases, the applicants for residence with EU citizens were third-country nationals who were in the Netherlands and who had not followed any procedures before their application in the Netherlands, and who had consequently never had lawful residence in the Netherlands or in another EU Member State. Sometimes, the applicants had previously submitted applications. In 28% of the cases, the applicants had previously followed regular procedures, 10% of the applicants had previously applied for a short-stay visa, and 3% had previously followed asylum procedures.

- b. What proportion relates to the admission from other EU Member States where they have/had lawful residence? (insofar as available)

An application for admission from another EU Member State had been submitted by 9% of this group.

- c. Is it possible to estimate the number of applications from a residence situation that was not, or had not yet been, legalised on the basis of the above-mentioned categories and the previous procedures under Aliens Law that were refused?

On the basis of the research data, it is not possible to draw a conclusion about residence situations that were not, or had not yet been, legalised. Residence situations that had not been legalised had not been recorded.

11. What was the legal residence status of the group of third-country nationals at the time of applying for residence with a Dutch citizen?

- a. What proportion had previously had lawful residence in another Member State?

On the basis of the data from the sample, it may be concluded that 65% of the group of third-country nationals who applied for residence with Dutch sponsors had previously resided in another EU Member State. Sometimes, the applicants had previously submitted applications. In 18% of the cases, the applicants had previously followed regular procedures, 10% of the applicants had previously applied for a short-stay visa, and 3% had previously followed asylum procedures.

- b. Is it possible to estimate the number of applications from a residence situation that was not, or had not yet been, legalised, on the basis of the above-mentioned categories and previous procedures under Aliens Law involving cases that were refused ?

On the basis of the research data, it is not possible to draw a conclusion about residence situations that were not, or had not yet been, legalised. In situations where the residence had not been legalised, this had not been registered.

Interpretation

12. To what extent is there reason to believe the right of free movement of persons has been abused, and what is the scope of this abuse?

The initial memorandum of this research project used the terms ‘abuse of rights’, and ‘fraud’. The substantiation of the concepts of ‘fraud’ or ‘abuse of rights’ as applied by the Commission have, however, not – or not yet – been confirmed by the Court, and may therefore not be considered as a legally binding interpretation. As a result of this, it is not possible to draw conclusions as to whether or not it is a situation of abuse of rights or fraud.

The Commission did, however, specify indicators in the guidelines to improve the transposition and application of the Directive. These indicators primarily relate to the establishment of genuine and effective residence and the establishment of sham relationships, and may be a reason to carry out further research. The indicators referred to are related to factors such as the sponsor’s period of residence in the host Member State, the duration of the marriage relationship, the number of procedures followed to realise family reunification, continued employment in the Member State of origin, and the situation of the children (as to whether or not they moved to the host Member State together with the parent).

Quantitative research revealed that a large proportion of the Dutch sponsors had resided in the host Member State for a longer period of time. In only a quarter to a third of the cases, the applicants had resided in a host Member State for a period shorter than one year before submitting their applications. The majority of cases also concern relationships that had been entered into well before the application date (two thirds of the applicants had married one year to more than ten years before the application date).

The picture of long and sincere marriages is completed by the fact that more than a quarter of the applicants followed one or more procedures to realise family reunification. A minority of the Dutch sponsors (17%) continued their registrations in the Municipal Administration. In the cases involving children, these children moved with them to the host Member State in the majority of cases (70%). On the basis of this information, we may draw the tentative conclusion that in most cases the residence was genuine and effective, and that the marriages were usually long and sincere.

With respect to the EU sponsors, it was found that the relationships or marriages were more frequently short. In more than two fifths of the cases, the wedding date was later than the application date, or the wedding had occurred in the six months before the application. This does, however, not necessarily mean that sham relationships are involved. With respect to EU sponsors, the application date is also closer to the starting date of the residence in the Netherlands: 45% of the EU sponsors had resided in the Netherlands for one year or shorter at the time of submitting the application for family reunification. As we do not know if and when EU sponsors returned to their Member State of origin, it is not possible to draw any further conclusions in this context.

13. Are there any other reasons apart from the 'Europe route' that explain the reliance on Directive 2004/38/EC?
- a. To what extent do policy changes at the national and European level and in other Member States of European case law play a role in this?
 - b. To what extent are there any other factors that may explain an increase, such as, for instance, the enlargement of the EU, the influence of the media and the Internet?

In addition to the tightening of aliens policy – and in particular the increased income requirement, the civic integration abroad requirement, and possibly the increased age requirement – the Internet seems to have contributed considerably to the increased familiarity with the possibilities offered by Community law (the sites with information and experiences regarding the Belgium route), whereas the influence of political and media attention only seems limited. The information on the Internet will furthermore have induced people to actually take the step. The increased labour mobility may also be a ground for explanation. Quantitative research revealed that many sponsors had a relatively long period of residence in the host Member State, and were economically active in that Member State. In addition, it is good to emphasise that, although the number of applications considerably increased in the past few years, the total number of applications for residence with Dutch sponsors is not more than 753 in a time span of four years.

The increase in the number of applications for verifications against Community law from third-country family members of EU sponsors may partly be explained by the opening of the labour market on 1 May 2007 for eight new Member States, the increase in the number of employees from East Europe, and the entry of two new Member States on 1 January 2007. Other explanatory factors may possibly be the option to seek family reunification on the basis of a partner relationship in the Netherlands, increased familiarity with the Europe route, the existence of reverse discrimination in one's own country, and increased mobility of employees within the European Union. These factors are, however, difficult to substantiate without further comprehensive (qualitative) research.

APPENDICES

APPENDIX 1

EXPLANATION OF THE METHOD

Population Data

For the purpose of this study, the researchers used data from INDIS. The data of foreign nationals who submit an application for a residence permit are entered in INDIS (and in the REGIS system that is linked to INDIS). In the present study, an analysis was made of the application data over the period between 2005 and 2009.

In addition to this, for the first time – insofar as known to the INDIAC – an analysis was made of the information on sponsors that is available at the IND. This information on sponsors from the whole population was not complete, and contained inaccuracies, as a result of which the reliability of the data may be questioned. In this light, it should not be forgotten that all conclusions made with respect to the sponsors (and with respect to the applicants related to the sponsors) must be regarded as indicative and, insofar as it concerns the whole population, not as firm conclusions.

In this study, the percentages were rounded off to whole numbers. The result of this is that the sum of the percentages in the tables may deviate from 100%. Instead of stating this deviant percentage, it was decided to state 100%.

The research took as its starting point the number of procedures, and not the number of persons, as one person may submit several applications for a residence permit.

In addition to conducting research on the basis of the whole population, a random sample was drawn from the files. The investigation of the files finally resulted in a set of data that provided more, and in respect of some points, more reliable, information about the procedures.

Investigation of the files

The purpose of the statistical investigation of the files was to gain a better understanding of the backgrounds of the applicants and sponsors who relied on Community law in addition to IND's quantitative preliminary investigation. In this context, the aim was to analyse information from the files that

- had not been registered in INDIS; or
- had been entered in INDIS scantily/incorrectly.

This data primarily concerned aspects around the period of residence and the legal status. The preliminary investigation also revealed that the IND did not always register the sponsors. The investigation of the files also contributed to a better understanding of the group of sponsors.

In total, 5,999 applications for admission on the basis of Community law were granted in the period between 2005 and 2009. This group formed the basis of the investigation, for these persons actually gained admission to the Netherlands. By taking a close look at this group, we gained a better understanding of their backgrounds and – as a result of this – indications of possible abuse.

The decision was made to take a random sample of 400 applications that had been granted (on the basis of the argument that these people had actually gained admission to the Netherlands). The alternative was to spread the choice of 400 files over the applications granted and refused, but this would not have increased the reliability of the conclusions.

Random sample of applications granted

The sample was drawn from the 5,999 applications granted.⁵³ On the basis of this sample, the investigation resulted in conclusions about differences in applications found in the various years, in order to be able to identify developments over the course of time. In addition, conclusions must be made about two groups/types of sponsors, namely Dutch sponsors and EU sponsors. The breakdown of the applications granted by year and by group is as follows with respect to the population:

Table B1.1 Applications granted by year and type of sponsor

	2005	2006	2007	2008	Total
EU sponsor	557 (60%)	429 (48%)	722 (45%)	1,442 (56%)	3,150 (53%)
Dutch sponsor	57 (6 %)	57 (6%)	146 (9%)	493 (19%)	753 (13%)
Unknown or non-EU *	309 (33%)	410 (45%)	754 (46%)	623 (24%)	2,096 (34%)
Total	923	896	1622	2,558	5,999

* In a considerable number of applications, the backgrounds of the sponsors are unknown in INDIS (approximately 30%). In addition, in a small percentage of the cases (approximately 4%), the sponsors had been registered as non-EU/EEA/Swiss. This latter group forms an unclear category as, in principle, these persons do not have the right to rely on Community law. This group possibly include people with dual nationalities. As far as possible, the unknown or non-EU sponsors were identified in the Investigation of the files.

Source: Preliminary investigation IND

In order to obtain sufficient 'observations' for each group to be able to draw reliable conclusions, a stratified sample was drawn. Within the respective groups, a random sample was drawn. In analysing the research file, the data

⁵³ It does not necessarily involve 5,999 unique persons. Someone might have been granted an application in, for instance, 2005, returned to the country of origin again in 2006, to subsequently return in 2007 to submit a new application. By drawing the sample by year, the chance that someone occurred twice in that specific year is, however, small. The file was 'dedoubled' so that the sample only included unique persons.

was broken down by subgroups, as a result of which weighing was not necessary.

The final sampling frame is represented in Table B1.2.

Table B1.2 Sampling frame

	2005	2006	2007	2008	Total
EU	25	25	39	39	128
NL	25	25	61	61	172
Unknown	25	25	25	25	100
Total	75	75	125	125	400

In two cases out of the hundred unknown sponsors, the nationality remained unknown, and eleven sponsors had non-EU nationalities. The final breakdown of the sample by type of sponsor is represented in Table B1.3.

Table B1.3 Type of sponsors in the investigation of the files (n=393)

	Absolute
EU	198
NL	182
Non-EU	11
Unknown	2
Total	393

Source: Investigation of the files

Reliability

In a large part of the tables in this report, the results have been represented in the form of percentages. Measurements by means of a sample result in an estimation of reality. The random nature of the sampling implies that the estimation may deviate from the actual value. These possible deviations may be expressed in statistical confidence intervals. In this context, it is customary to use confidence intervals of 95%.

A confidence interval of 95% in a sample percentage and a sample size indicates to what extent the estimated value might deviate from the actual value as a result of the random nature. The meaning of a confidence interval is that if the sample and the measurement would be repeated often and a confidence interval of 95% would be determined for each measurement, the actual value would be within this confidence interval in 95 out of the 100 cases.

A confidence interval, and consequently the inaccuracy, becomes smaller as the sample becomes larger, but also differs from the percentage measured: percentages of around 50% have the largest inaccuracy and the larger the distance to the 50%, the smaller the inaccuracy.

The following table represents the confidence intervals for the percentages measured in the samples or parts thereof in tens for a measurement of the

number of percentages.

Table B1.4 Confidence intervals

Sample size	10%	20%	30%	40%	50%	60%	70%	80%	90%
50	±8%	±11%	±13%	±14%	±14%	±14%	±13%	±11%	±8%
100	±6%	±8%	±9%	±10%	±10%	±10%	±9%	±8%	±6%
150	±5%	±6%	±7%	±8%	±8%	±8%	±7%	±6%	±5%
200	±4%	±6%	±6%	±7%	±7%	±7%	±6%	±6%	±4%
250	±4%	±5%	±6%	±6%	±6%	±6%	±6%	±5%	±4%
380 (full sample)	±3%	±4%	±5%	±5%	±5%	±5%	±5%	±4%	±3%

APPENDIX 2 BOOK OF TABLES

Table B2.1 Type of sponsors in the investigation of the files (n=393)

	Absolute
NL	182
EU	198
Niet EU	11
Unknown	2
Total	393

Source: Investigation of the files

Table B2.2 Sponsor's gender by type of sponsor (n=380)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Men	121	67%	126	64%
Women	61	33%	72	36%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.3 Gender of applicant – sponsor by type of sponsor (n=336)*

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Man – Woman (sponsor)	56	33%	61	37%
Man – Man (sponsor)	5	3%	9	5%
Woman – Man (sponsor)	108	63%	96	58%
Woman – Woman (sponsor)	1	1%	0	0%
Total	170	100%	166	100%

Source: Investigation of the files

* Only marriage relationships and partner relationships were selected.

Table B2.4 Sponsor's age by type of sponsor (n=380)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Up to 21 years of age	10	6%	7	4%
21 to 27 years of age	42	23%	26	13%
27 to 40 years of age	75	41%	97	49%
40 years of age and older	47	26%	49	25%
Unknown	8	4%	19	9%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.5 EU sponsor's age by applicant's age (n=179)

	Up to 21 years of age	21 to 27 years of age	27 to 40 years of age	40 years of age and older	Total
Up to 21 years of age	0	4	3	0	7
21 to 27 years of age	2	15	9	0	26
27 to 40 years of age	12	22	56	7	97
40 years of age and older	9	2	23	15	49
Total	23	43	91	22	179

Source: Investigation of the files

Table B2.6 Dutch sponsor's age by applicant's age (n=174)

	Up to 21 years of age	21 to 27 years of age	27 to 40 years of age	40 years of age and older	Total
Up to 21 years of age	2	5	3	0	10
21 to 27 years of age	9	20	13	0	42
27 to 40 years of age	4	28	39	4	75
40 years of age and older	6	4	26	11	47
Total	21	57	81	15	174

Source: Investigation of the files

Table B2.7 Nationality/nationalities of Dutch sponsor (n=182)

	Absolute	%
Dutch	161	88%
Dutch / EU or EEA	2	1%
Otherwise/dual nationality	19	11%
Total	182	100%

Source: Investigation of the files

Table B2.8 Dutch sponsor's country of birth (n=181)

	Absolute	Percentage
The Netherlands	130	72%
Turkey	9	5%
Surinam	4	2%
Afghanistan	3	2%
India	3	2%
Yugoslavia	3	2%
Morocco	3	2%
China	2	1%
Colombia	2	1%
Germany	2	1%
Indonesia	2	1%
Pakistan	2	1%
Serbia	2	1%
Armenia	1	1%
Belgium	1	1%
Cuba	1	1%
Curaçao	1	1%
Iran	1	1%
Congo	1	1%
Lebanon	1	1%
Liberia	1	1%
Poland	1	1%
Russia	1	1%
Rwanda	1	1%
Senegal	1	1%
Uruguay	1	1%
Sweden	1	1%
Total	181	100%

Source: Investigation of the files

Table B2.9 EU sponsor's nationality (n=198)

	Absolute	%
German	36	18%
British	33	17%
Portuguese	24	12%
Italian	20	10%
French	16	8%
Spanish	13	7%
Polish	12	6%
Belgian	9	5%
Greek	6	3%
Danish	4	2%
Irish	4	2%
Swedish	4	2%
Austrian	3	2%
Romanian	3	2%
Bulgarian	2	1%
Hongarian	2	1%
Finnish	2	1%
Norwegian	1	1%
Czech	1	1%
Unknown	3	2%
Total	198	100%

Source: Investigation of the files

Table B2.10 Applicant's gender by type of sponsor (n=380)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Men	65	36%	89	45%
Women	117	64%	109	55%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.11 Applicant's age by type of sponsor (N=380)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Up to 21 years of age	23	13%	27	14%
21 to 27 years of age	58	32%	47	24%
27 to 40 years of age	86	47%	100	50%
40 years of age and older	15	8%	24	12%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.12 Nationalities of the applicants (third-country nationals) with Dutch sponsors by year in which the procedure was ended (n=175)

Dutch sponsor	2005	2006	2007	2008	Total	%
Turkish	3	1	5	14	23	13%
Brazilian	3	0	3	5	11	6%
Moroccan	0	3	2	5	10	6%
Colombian	1	0	3	4	8	5%
Russian	0	1	5	2	8	5%
Nigerian	0	1	2	3	6	3%
Thai	0	0	2	4	6	3%
Chinese	1	1	1	2	5	3%
Indian	1	2	1	1	5	3%
Yugoslavian	1	1	3	0	5	3%
Peruvian	1	1	1	2	5	3%
American	1	0	2	1	4	2%
Argentinian	1	1	2	0	4	2%
Indonesian	1	0	2	1	4	2%
Mexican	0	1	2	1	4	2%
Afghan	0	0	1	2	3	2%
Australian	0	0	2	1	3	2%
Philippine	0	1	0	2	3	2%
Japanese	1	0	1	1	3	2%
Ukrainian	1	0	0	2	3	2%
South African	0	0	2	1	3	2%
Other Asian	4	2	6	3	15	9%
Other African	3	7	3	1	14	8%
Other European	1	2	3	3	9	5%
Other South American	0	3	1	2	6	3%
Other North American	2	1	2	0	5	3%
Total	26	29	57	63	175	100%

* In the cases where the sponsor has dual nationality, the choice was made to show the nationality the sponsor had in addition to the European nationality.

Source: Investigation of the files

Table B2.13 Nationalities of the applicants (third-country nationals) with EU sponsors by year of application (n=195)

EU sponsor	2005	2006	2007	2008	Total	%
American	4	5	6	6	21	11%
Turkish	3	1	6	7	17	9%
Brazilian	5	4	5	4	18	9%
Moroccan	1	4	4	2	11	6%
Israeli	3	1	3	1	8	4%
Cape Verdean	2	2	1	2	7	4%
Colombian	1	1	2	2	6	3%
Indian	1	0	0	4	5	3%
South African	0	3	2	0	5	3%
Russian	2	0	1	1	4	2%
Chinese	0	0	3	1	4	2%
Peruvian	0	1	1	1	3	2%
Argentinian	0	1	0	2	3	2%
Indonesian	2	0	2	0	4	2%
Australian	1	2	1	0	4	2%
Philippine	0	1	0	2	3	2%
Ukrainian	2	1	0	0	3	2%
Nigerian	2	0	0	0	2	1%
Thai	0	0	2	0	2	1%
Yugoslavian	1	0	0	0	1	1%
Mexican	0	0	1	0	1	1%
Japanese	0	0	0	1	1	1%
Afghan	0	0	0	0	0	0%
Other Asian	2	9	4	3	18	9%
Other African	3	2	4	7	16	8%
Other North American	3	2	7	2	14	7%
Other South American	0	3	4	1	8	4%
Other European	2	1	1	2	6	3%
Total	40	44	60	51	195	100%

Source: Investigation of the files

Table B2.14 Nationalities of third-country nationals compared to sponsor's nationality

	NL	DE	GB	PT	IT	FR	ES	PL	BE	GR	IE	DK	SE	AT	RO	BG	FI	HU	NO	CZ	?	TOT	
Turkish	23	5	1	3		1		3	1	1	1						1					40	
American	4	3	4		2		3	2	2	2	2	1		1								3	29
Brazilian	11	3	2	5	2		1	1	1			2	1										29
Moroccan	10	1			1	3	2	2	1		1											2	23
Colombian	8				2	1	3																14
Russian	9	1	1								1		1										13
Chinese	5		1	1			1											1				1	10
Indian	5		2	1				1								1							10
Canadian	1	2	6																				9
Israeli	1	4	2			2																	9
Cape Verdean	1			7																		1	9
Nigerian	6		2																			1	9
Indonesian	4	1	2										1										8
Yugoslavian	7	1																					8
Peruvian	5	1			1			1															8
Thai	6	1							1														8
South African	3	2	1		2																		8
Argentinian	4				1	1	1																7
Australian	3	2			1					1													7
Ghanaian		3				1			1					1									6
Ukrainian	3					1	1											1					6
Philippine	3		1				1																5
Mexican	4					1																	5
Chilean	1	2	1																				4

Continuation of Table B2.14 Nationalities of third-country nationals compared to sponsor's nationality

	NL	DE	GB	PT	IT	FR	ES	PL	BE	GR	IE	DK	SE	AT	RO	BG	FI	HU	NO	CZ	?	TOT	
Ecuadorian				2													1				1	4	
Iranian	2												1	1									4
Japanese	3				1																		4
Lebanese	2				1		1																4
New Zealand			2					1				1											4
Pakistani	2		1	1																			4
Afghan	3																						3
Albanese	2									1													3
Cuban	2				1																		3
Malaysian	2		1																				3
Romanian	1	1													1								3
Surinam	1					2																	3
Uruguayan	2				1																		3
Venezuelan	3																				1		3
Vietnamese	2																						3
Angolan	1			1																			2
Belorussian	2																						2
Bosnian	2																						2
Dominican	1					1																	2
Egyptian	1														1								2
Gambian	2																						2
Guinean	1							1															2
Iraqi		1							1														2
Kenyan	2																						2

Continuation of Table B2.14 Nationalities of third-country nationals compared to sponsor's nationality

	NL	DE	GB	PT	IT	FR	ES	PL	BE	GR	IE	DK	SE	AT	RO	BG	FI	HU	NO	CZ	?	TOT
Croatian	1				1																	2
Madagascan	1					1																2
Moldavian															1	1						2
Mozambican				2																		2
Senegalese	1					1																2
Sri Lankan	2																					2
Syrian				1				1														2
Algerian	1																					1
Armenian	1																					1
Bengali	1																					1
Bulgarian			1																			1
Georgian										1												1
Guatemalan	1																					1
Haitian	1																					1
Jordanian									1													1
Cameroonian	1																					1
Congolese																				1		1
Kyrgyzstanian																			1			1
Libyan		1																				1
Macedonian	1																					1
Mongolian																					1	1
Myanmar																					1	1
Nepalese	1																					1
Nigerian	1																					1

Continuation of Table B2.14 Nationalities of third-country nationals compared to sponsor's nationality

	NL	DE	GB	PT	IT	FR	ES	PL	BE	GR	IE	DK	SE	AT	RO	BG	FI	HU	NO	CZ	?	TOT	
Uzbek					1																		1
Rwandan	1																						1
Singaporean			1																				1
Sudanese	1																						1
Taiwanese	1																						1
Togolese	1																						1
Tunesian	1																						1
Zambian			1																				1
Total	185	35	33	24	18	16	14	13	9	6	5	4	4	3	3	2	2	2	1	1	12	392	

Source: Investigation of the files

Table B2.15 Nationalities of third-country nationals compared to sponsor's nationality

Nationality of third-country national	Sponsor's nationality																											TOT							
	NL	GB	DE	PT	IT	FR	ES	PL	BE	GR	IE	AT	DK	LT	SE	RO	BG	FI	NO	HU	CH	CZ	SK	SI	LV	EE	CY		MT	IS	LU	LI			
Turkish	112	6	87	24	*	12	*	60	12	24		18	*	9		*	24	*	*		*				*		*							404	
American	29	80	66	*	30	34	24	10	21	*	23	8	8		*	*		*	*	*	*	*	*				*			*			364		
Brazilian	54	17	29	96	70	7	11	6	7	*	*		6		6			*														312			
Moroccan	80	6	19	11	10	37	52	8	7		*	*	*	*	*			*															240		
Russian	16	27	21	*	11	*	*	10	5	20	*		*	5	*	*	*		*	*			*		*	*							147		
Ghanaian	10	29	20	*		34	9	*	15	*	7	*	*	*				*	*							*	*					140			
Australian	5	63	16	*	7	9		*	*	*	15	*	*		*			*	*	*													130		
Nigerian	33	17	17	6	5	7	*	5	*	*		*	*		*			*							*	*							109		
Israeli	*	22	34	*	5	6	*	*	6		*	*	*	*	*		*	*	*	*					*					*				99	
Cape Verdean	5			80	*	*	*																										92		
South African	12	35	11	*	7	5	5	*	*		*		*	*	*																		90		
Chinese	11	11	15	5	7	13	*	*	7		6		*	*	5					*													89		
Colombian	24	7	8	5	12	7	13		*	*	*	*	*	*				*					*					*					88		
Pakistani	22	42	*	9		*	*					*		*		*		*					*											83	
Canadian	*	35	8	*	*	8	*		*	*	5	*		*		*		*	*		*	*												77	
Egyptian	6	*	12	10	5	*	5	10	*	7		*	*		*	*							*	*										71	
Indian	25	16	10	7	*	*	*	*	*								*		*		*													71	
Thai	20	15	12	*	*	5	*		6			*	*			*				*		*												68	
Japanese	6	15	9		*	10	5	*	*		*	*		*	*				*	*		*	*											63	
Mexican	14	6	8	*	*	8	12	*	*			*		*			*	*												*				60	
Philippine	14	14	*	*	*	*	*	*	*	*	*	*	*	*	*		*						*												57

Continuation of Table B2.15 Nationalities of third-country nationals compared to sponsor's nationality

Nationality of third-country national	Sponsor's nationality																											TOT										
	NL	GB	DE	PT	IT	FR	ES	PL	BE	GR	IE	AT	DK	LT	SE	RO	BG	FI	NO	HU	CH	CZ	SK	SI	LV	EE	CY		MT	IS	LU	LI						
Indonesian	12	10	13	*	*	*			7		*			*	*			*			*														55			
Venezuelan	11	8	*	*	14	*	14		*												*														55			
Ukrainian	10	6	*	*	*			10	*	7	*		*	*		*					*															51		
Argentinian	*	5	5		24	*	5			*		*			*						*														49			
Peruvian	7	*	15	*	8	*	*	*	*											*	*															47		
Serbian	17	*	15		*		*	*		*			*								*					*										45		
Albanese	*	*	*	*	9	*	*	*		*				*		15	*			*		*					*						*			42		
New Zealand	*	13	*		*	*	*	*			5		*										*													33		
Malaysian	5	11	6			*		*			*		*																							28		
Cuban	7		7	*	*	*	*			*																						*				27		
Surinam	12		5	*		6	*														*															27		
Bulgarian	*	*	*	*	*		*		*	5					*						*		*														24	
Ecuadorian	6	*		5	*	*	6																														24	
Tunesian	5	*	5	*	*	*			*				*								*																22	
Croatian	*	*	5	*	*			*			*										*				*												20	
Angolan	*			13		*			*																												19	
Iranian	7	*	*			*						*			*					*																	19	
Cameroonian	*	*	*	*		*		*	*		*			*							*																	19
Algerian	*		*		*	8	*	*					*																									18
Chileense	6	*	*		*	*	*														*	*															18	
Georgian			*		*			*		10				*																								17

Continuation of Table B2.15 Nationalities of third-country nationals compared to sponsor's nationality

Nationality of third-country national	Sponsor's nationality																										TOT										
	NL	GB	DE	PT	IT	FR	ES	PL	BE	GR	IE	AT	DK	LT	SE	RO	BG	FI	NO	HU	CH	CZ	SK	SI	LV	EE		CY	MT	IS	LU	LI					
Lebanese	7		*		*	*	*			*																									17		
Afghan	10	*	*					*																											16		
Romanian	*		*	*	*		*																												15		
Singaporese	*	6	*		*	*			*				*																						15		
Bosnian	*		*	*	*																				*										13		
Dominican	*	*	*		*		*			*			*									*													13		
Azerbaijani										*				8											*		*								11		
Moldavian	*	*			*					*						*																				11	
Sri Lankan	9	*	*																																	11	
Togolese	*		*	*		*		*	*																											11	
Uruguayan	*	*	*		6																															11	
Armenian	*		*		*					*					*																					10	
Gambian	*		*						*			*											*													10	
Guinean	*			*			*	*	*																											10	
Iraqi	*	*	*						*																							*				10	
Kazakh	*	*	*		*					*																											10
Other	48	25	32	16	7	17	6	5	7	*	*	6	*	*	*				*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	196		
Total	753	591	564	337	305	273	213	152	140	109	82	60	46	40	39	35	34	24	21	19	18	12	8	7	7	*	3903										

Source: INDIS

Table B2.16 Relationship between sponsor and applicant by type of sponsor (n=380)

	Dutch sponsor		EU/EEA sponsor	
	Absolute	%	Absolute	%
Spouse	159	87%	121	61%
Partner	11	6%	45	23%
Parent*	5	3%	18	9%
Child	1	1%	5	3%
Other	5	3%	9	5%
Unknown	1	1%	0	0%
Total	182	100%	198	100%

Source: Investigation of the files

* Including adoptive parents and stepparents.

Table B2.17 Difference between year of application and year of marriage by type of sponsor (n=258)

Year of marriage	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
After application	9	6%	5	4%
In the same month, before the application	5	3%	18	16%
One month before the application	2	1%	12	10%
Two to six months before the application	9	6%	15	13%
Six to twelve months before the application	23	16%	14	12%
Twelve to eighteen months before the application	16	11%	6	5%
Eighteen months to two years before the application	18	13%	8	7%
Two to five years before the application	42	29%	17	15%
Five to ten years before the application	8	6%	11	9%
Ten or more years before the application	10	7%	10	9%
Total	142	100%	116	100%

Source: Investigation of the files

Table B2.18 Sponsor's purpose of residence by type of sponsor

	Dutch sponsor Residence in other EU Member State		EU sponsor Residence in the Netherlands	
	Absolute	%	Absolute	%
Study	4	2%	4	2%
Work as an employee	80	44%	87	44%
Work on a self-employed basis	15	8%	10	5%
Own resources	6	3%	6	3%
Unknown	77	42%	91	46%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.19 Number of previous procedures (asylum, visa, regular residence permit)

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	133	73%	128	65%
1 previous procedure	31	17%	44	22%
2 previous procedures	12	7%	20	10%
3 previous procedures	6	3%	6	3%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.20 Number of previous regular procedures of applicant by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	150	82%	144	72%
1	21	12%	34	17%
2	9	5%	18	9%
3	2	1%	2	1%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.21 Number of previous visa procedures of applicant by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	161	88%	179	90%
1	20	11%	16	8%
2	0	0%	2	1%
3	1	1%	1	1%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.22 Number of previous asylum procedures of applicant by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
None	176	97%	193	97%
1	6	3%	4	2%
2	0	0%	1	1%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.23 Legal status of the application by type of sponsor

Legal residence status	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
No previous procedures or documented residential history	15	8%	126	64%
2 nd procedure NL (Previously applied for regular residence permit)	3	2%	25	13%
2 nd procedure NL (Previously applied for asylum)	4	2%	3	2%
2 nd procedure NL (Previously applied for visa)	0	0%	2	1%
3 rd procedure NL (Previously applied for visa + regular residence permit)	0	0%	2	1%
3 rd procedure NL (Previously applied for regular residence permit 2 x)	0	0%	7	4%
3 rd procedure NL (Previously applied for visa 2 x)	0	0%	1	0%
4 th procedure NL (Previously applied for visa + regular residence permit 2x)	0	0%	1	0%
4 th procedure NL (Previously applied for visa 3 x)	0	0%	1	0%
Born in the Netherlands	0	0%	5	3%
Admission from another EU Member State with lawful residence there	156	86%	18	9%
Unknown	4	2%	7	4%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.24 Period between application date and starting date of residence in other EU Member State in respect of Dutch sponsor

Starting date of residence in other EU Member State	Absolute	%
After application	5	3%
Same month as application	2	1%
1 to 6 months before application	15	8%
6 to 12 months before application	29	16%
1 to 2 years before application	28	15%
2 to 5 years before application	28	15%
5 to 10 years before application	10	5%
More than 10 years before application	5	3%
Unknown	60	33%
Total	182	100%

Source: Investigation of the files

Table B2.25 Period between year of application and the year in which residence in the Netherlands commenced in respect of Dutch sponsor

Residence in the Netherlands commenced	Absolute	%
After application	10	5%
Same month as application	44	22%
1 to 6 months before application	20	10%
6 to 12 months before application	15	8%
1 to 2 years before application	13	7%
2 to 5 years before application	27	14%
5 to 10 years before application	13	7%
More than 10 years before application	20	10%
Unknown	36	18%
Total	198	100%

Source: Investigation of the files

Table B2.26 EU country where Dutch sponsors had residence

	Absolute	%
Belgium	61	34%
Germany	38	21%
Spain	28	15%
United Kingdom	23	13%
France	8	4%
Italy	5	3%
Cyprus	2	1%
Greece	2	1%
Ireland	2	1%
Austria	2	1%
Sweden	2	1%
Norway	1	1%
Portugal	1	1%
Several countries	3	2%
Unknown	4	2%
Total	182	100%

Source: Investigation of the files

Table B2.27 Applicant's purpose of residence by type of sponsor

	Dutch sponsor		EU sponsor	
	Absolute	%	Absolute	%
Family reunification with economically active EU citizen	139	76%	170	86%
Family reunification with economically inactive EU citizen	23	13%	18	9%
EU citizen family reunification pursuant to Chapter B2 of the Aliens Act Implementation Guidelines 2000	7	4%	3	2%
Other forms of family reunification	13	7%	7	4%
Total	182	100%	198	100%

Source: Investigation of the files

Table B2.28 Nationalities of third-country nationals who were granted residence with British sponsors

British (sponsor)	2005	2006	2007	2008	Total	%
American	18	11	24	27	80	14%
Australian	22	*	18	20	63	11%
Pakistani	10	9	11	12	42	7%
Other	73	67	95	171	406	69%
Total	123	90	148	230	591	100%

Source: INDIS

- Number is less than 5.

Table B2.29 Nationalities of third-country nationals who were granted residence with German sponsors

German (sponsor)	2005	2006	2007	2008	Total	%
Turkish	20	16	10	41	87	15%
American	8	11	14	33	66	12%
Israeli	9	7	9	9	34	6%
Other	65	52	102	158	377	67%
Total	102	86	135	241	564	100%

Source: INDIS

Table B2.30 Nationalities of third-country nationals who were granted residence with Portuguese sponsors

Portuguese (sponsor)	2005	2006	2007	2008	Total	%
Brazilian	17	10	23	46	96	28%
Cape Verdean	7	14	17	42	80	24%
Turkish	*	*	5	18	24	7%
Other	25	22	34	56	137	41%
Total	49	47	79	162	337	100%

Source: INDIS

- * Number is less than 5.

APPENDIX 3

En Route in Europe

An analysis of the use of Community law by family migrants from third countries for residence with a Dutch citizen

July 2009
Immigration and Naturalisation Service (IND)
Implementation Policy Department
IND Information and Analysis Centre (INDIAC)
Version 1.0

EXECUTIVE SUMMARY

Introduction

At the beginning of 2009, the State Secretary for Justice promised the Lower House of Parliament that further research would be carried out by the Immigration and Naturalisation Service (IND) and the Research and Documentation Centre (WODC) of the Ministry of Justice, to enable the formation of a clear picture of the scope and composition of the group of third-country nationals who invoke Community law. For the setup of this research, the WODC drew up an initial memorandum.

The research consists of the following three parts:

1. Part I – Statistical investigation by the IND;
 - a. Survey and analysis of the data of the IND Information System (INDIS);
 - b. Analysis of the results of the so-called ‘Belgium box’.
2. Part II – Statistical research of the files and other sources by external research bureau on the instruction of the WODC;
3. Part III – Analysis by external research bureau on the instruction of the WODC.

The present report contains the findings of the analysis of the results of the so-called ‘Belgium Box’. The findings are outlined below.

The ‘Belgium Box’

The ‘Belgium Box’ is a functional e-mail box which has been used by the IND since 1 May 2008. In this box, digital questionnaires are collected which are largely completed by the IND desk workers during the interviews at the desk with applicants – and where applicable, with the sponsors of these applicants – who want to submit an application for residence with Dutch sponsors on the basis of Community law. The remaining part is completed by the decision-maker after the decision on the application has been made. The ‘Belgium Box’ collected 367 completed questionnaires in the period from 1 May 2008 to 1 May 2009. The following findings are based on the answers to the questions on the questionnaire.

Composition of the group of third-country nationals

The majority of the group of third-country nationals who applied for residence with Dutch sponsors on the basis of Community law were foreign nationals with Turkish (23%) or Moroccan (12%) nationality. In 52% of the cases, the foreign nationals had not previously followed any residence procedure in the Netherlands. In 36% of the cases, they had followed such a procedure. The last residence procedure followed in the Netherlands by this group was in 31% of the cases an application for a regular residence permit which had been refused. In 28% of the cases, the application that was refused concerned a regular provisional residence permit. In 53% of the cases, the applicants had resided in the country of origin before taking up residence in another EU Member State. In 20% of the cases, the applicants had already resided in the Netherlands. With respect to the applicants who had already resided in the Netherlands, a large part (63%) had not continued their registrations in the

Municipal Administration (or had never been registered) before taking up residence in another EU Member State.

Residence in another EU Member State

The other EU Member States where most applicants and their sponsors took up residence were Belgium (43%), followed by Germany (20%), and Spain (12%). By far the most popular place of residence was Antwerp. It is notable that many of the Belgian and German places of residence where the applicants took up residence are in the border regions.

Motives for taking up residence

The reasons stated by the sponsors and applicants to take up residence in another Member State were primarily living and/or work (34%). Family migration (14%) ranked second. The use of the Europe route was also stated as a reason for taking up residence (4%).

Legal residence status of the applicant

In the other EU Member State, the applicants often had lawful residence which could be demonstrated by means of a residence document and/or a residence sticker (85%). Sponsors also often had proof of lawful residence (76%). In 26% of the cases, the applicants started to work in the other EU Member State, and 35% of the sponsors did so.

Period of residence

Most sponsors and applicants resided in the other EU Member State from one to two years. The average period in the other EU Member State is 19.7 months.

Situation in the Netherlands as left behind by the sponsors

With respect to the sponsors who took up residence in another EU Member State, 53% deregistered from the Municipal Administration and 28% of this group kept its dwelling in the Netherlands. In 25% of the cases, the dwelling that had been left behind belonged to the parent(s). In 39% of the cases, the sponsors continued to work in the Netherlands during their residence in the other EU Member State. In 36% of the cases, children were involved. In 70% of the cases, the children resided with the parents in the other EU Member State.

Applications and decisions

Since the introduction of the 'Belgium Box', the number of questionnaires collected in the box has shown a rising trend. This also applies to the number of applications to which the questionnaires relate. The questionnaires revealed that 94% of the applications had been granted and 6% had been refused.

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1. Introduction

1.1 Background

On 4 November 2008, the State Secretary for Justice answered Parliamentary questions from MP Fritsma about the 'Europe route'. In this context, it became evident that the number of applications on the basis of verification against Community law had increased in the previous three years. Subsequent to this, the political need arose to determine the precise number of cases concerned, and to examine in which cases Community law had been relied upon by third-country nationals and whether there were indications of 'abuse of rights' in these cases.⁵⁴

By letter of 27 January 2009, the State Secretary for Justice explained to the Lower House of Parliament that further investigation was required by the Immigration and Naturalisation Service (IND) and the Research and Documentation Centre (WODC) of the Ministry of Justice before she could provide information about the scope and composition of the group of third-country nationals who invoke Community law.⁵⁵ Having regard to this need, the WODC and the IND initiated a joint research project. For this purpose, the WODC drew up an initial memorandum.

The research questions of the joint research project are as follows:

1. What is the size and composition of the group of family migrants from third countries who submit an application in the Netherlands for admission on the basis of Community law?
2. What are the reasons for the increase in the number of applications as already established on the basis of the first figures in November 2008?
3. To what extent and on which grounds is there reason to believe that an application for a residence permit on the basis of a verification against Community law was used or abused and what is the scope of this use or abuse?

The research is composed of the following three parts:

1. Part I – Statistical investigation by the IND;
 - a. Survey and analysis of the data of the IND Information System (INDIS);
 - b. Analysis of the results of the so-called 'Belgium box'.
2. Part II – Statistical research of the files and other sources by an external research agency on the instruction of the WODC;
3. Part III – Analysis by an external research bureau on the instruction of the WODC.

1.2 Purpose of the Report

⁵⁴ Parliamentary Papers II, Appendix to the Proceedings of the Lower House of Parliament, session year 2008-2009, no. 552.

⁵⁵ Parliamentary Papers II, Letter to the Lower House of Parliament, session year 2008-2009, 19 637, no. 1247.

The first part (a) of Part I of the research, the survey and an analysis of the data from INDIS, has been completed by now. The findings from this research were recorded in the report *Community Law and Family Migration*.⁵⁶ The second part (b) of Part I of the research, the analysis of the results if the 'Belgium Box', is the subject of the present report. The present report was prepared in July 2009 by *drs* M.J. Vleugel of the Information and Analysis Centre of the IND (INDIAC). The most important purpose of the analysis of the results of the 'Belgium Box' is to obtain more information about third-country nationals and their motives to use Community law.

For the sake of completeness, Part II and Part III of the research will also be discussed below.

In Part II of the research, which will be conducted by the external research agency *Regioplan Beleidsonderzoek* [Regioplan Policy Research (hereafter: Regioplan) on the instruction of the WODC, an investigation of the files will be carried out to supplement or substantiate Part I of the research in those situations where INDIS could only provide information to answer the research questions to a limited extent. In Part III of the research, the data collected will provide information about the question concerning the extent to which it may be assumed that advantage has been taken of the possibilities provided for in Directive 2004/38/EC for EU citizens to move freely within the EU with their family, and the extent to which this right has caused undesired side effects. More information should be obtained about the question concerning the extent to which there is reason to believe that the right of free movement of persons is being abused and what the scope of this abuse is. In addition, an examination will be conducted into the reasons which could explain the increase in the past few years.

Regioplan will consolidate the three separate parts of the research into one research report that will be delivered in September 2009, after which it will subsequently be presented to the Lower House of Parliament after a policy response has been drawn up.

1.3 Research questions

In the present analysis of the results of the 'Belgium Box', the following research questions will be answered:

1. What was the composition of the group of third-country nationals who applied for residence with a Dutch sponsor on the basis of Community law?
2. In which other EU Member State (not the Netherlands) and where in this EU Member State did the applicant reside before submitting the application?
3. What were the motives of the sponsors and the applicants to take up residence in another Member State, whether temporarily or not?

⁵⁶ IND Information and Analysis Centre (INDIAC), *Gemeenschapsrecht en gezinsmigratie*, (Community Law and Family Migration) April 2009

4. What was the applicant's legal residence status at the time of submitting the application in the Netherlands?
5. How long did the sponsors and applicants usually reside in another EU Member State before returning to the Netherlands?
6. What was the sponsor's situation in the Netherlands that had been left behind during the period of residence in the other EU Member State?
7. What were the results of the applications in the 'Belgium Box'?

1.4 Explanation

For the purpose of this research, the researchers used the data collected during one year of 'Belgium Box'. The 'Belgium Box' is a functional e-mail box which has been used by the IND since 1 May 2008. In this box, digital questionnaires are collected which are largely completed by the IND desk workers during the interviews at the desk with applicants – and where applicable, with the sponsors of these applicants – who want to submit an application for residence with Dutch sponsors on the basis of Community law. The remaining part is completed by the decision-maker after the decision on the application has been given. The questionnaire contains questions about the background of the applicant and his or her sponsor, questions about the residence of the applicant and the sponsor in the other EU Member State, questions about the situation in the Netherlands as left behind by the sponsor, and questions about the application and the decision (see Appendix 1 for a copy of the questionnaire). The questions were answered by the applicants and the sponsors on a voluntary basis, and resulted primarily in 'soft' information, of which the contents has not been verified. It should be noted that the questionnaire does not have any legal status.

The completed questionnaires collected in the 'Belgium Box' until 1 May 2009 were entered into a database (in the form of an Excel file). After processing the data, in the course of which an attempt was made to make the database accessible for analysis in the best possible way, the data have been analysed quantitatively. These data are subject to the following comments. It emerged from the analysis that the questionnaires had not always been completed fully. This resulted in the fact that the tables also state a percentage of 'unknown'. In addition, it should be noted that it became evident from the answers to the questions that a number of questions included in the questionnaire had been misunderstood. The relevant questions were therefore not included in the analysis.

In this research project, the percentages were rounded to whole numbers. The result of this is that the sum of the percentages in the tables may deviate from 100%. Instead of stating this deviant percentage, it was decided to state 100%.

2. The Composition of the Group of Applicants

2.1 Introduction

The 'Belgium Box' collects the questionnaires that relate to the applications of third-country nationals who desire residence with Dutch sponsors on the basis of Community law. One year of 'Belgium Box' generated 367 of such questionnaires. On the basis of the data derived from these questionnaires, this chapter answers the questions about the composition of the group of applicants. First of all, attention will be paid to their nationalities. Next, their previous residence permit procedures will be discussed. This will be followed by a discussion of the question of where the applicants resided before their entry to the other EU Member State. Finally, attention will be paid to the question of whether or not the applicants continued their registration in the Municipal Administration.

2.2 Nationalities of the applicants

All applicants originated from third countries. Third countries are countries outside the EU, EEA, or Switzerland. Table 2.1 shows the top five of nationalities of the applicants. It follows from this top five that, out of the total group of applicants, 23% of the foreign nationals have Turkish nationality and 12% of the foreign nationals have Moroccan nationality.

Table 2.1 – Top five of nationalities of applicants

Nationality	Number	%
Turkish	85	23%
Moroccan	45	12%
Brazilian	21	6%
Nigerian	19	5%
Colombian	10	3%
Other	174	47%
Unknown	13	4%
Total	367	100%

2.3 Previous residence permit procedures in the Netherlands

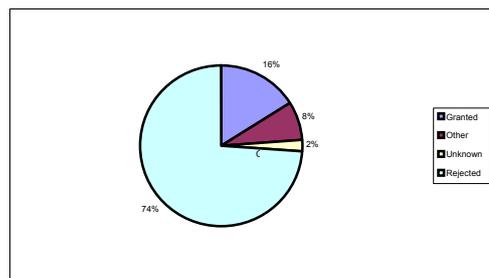
In 131 of the 367 cases (36%), the applicants previously followed a residence permit procedure in the Netherlands. This was not the case for 192 applicants (52%). In 44 cases, this question was left unanswered on the questionnaire. Table 2.2 reveals that, in respect of applicants who had previously followed a residence permit procedure, the last procedure in most cases (31%) concerned an application for a regular residence permit, which resulted in a refusal (whether or not up to and including appeal).

Table 2.2 – The last residence permit procedure followed in the Netherlands by the applicant

Procedure	Aantal	%
Regular residence permit refused	40	31%
Regular provisional residence permit refused	37	28%
Visa refused	17	13%
Visa granted	12	9%
Regular residence permit granted	7	5%
Asylum refused	3	2%
Regular provisional residence permit granted	2	2%
Other	11	8%
Unknown	2	2%
Total	131	100%

Chart 2.1 shows the result of the last residence permit followed by the applicants in the Netherlands. The chart shows that in 74% of the last procedures followed, the applications were refused, and in 16% of the procedures, the applications were granted.

Chart 2.1 – Result of the last residence permit procedure previously followed by the applicants in the Netherlands



2.4 Country of residence before entry to other EU Member State

Before the applicants went to another EU Member State to reside there together with their sponsors for the purpose of being regarded as EU citizen on a later date in the Netherlands, the applicants had resided elsewhere. Table 2.3 shows where they had resided. The table shows that in 53% of the cases the applicants had resided in the country of origin before taking up residence in another EU Member State. In 20% of the cases, the applicants had already resided in the Netherlands.

Table 2.3 – Country of residence before entry to other EU Member State

Country	Number	%
Country of origin	193	53%
The Netherlands	73	20%
Other EU Member State	13	4%
Unknown	88	24%
Total	367	100%

2.5 Continuation of registration in Municipal Administration

Part of the group of applicants who had resided in the Netherlands before taking up residence in another EU Member State had registered in the Municipal Administration. Table 2.4 shows that 8% of the applicants continued the registration in the Municipal Administration, while taking up residence in another EU Member State. In 63% of the cases, the applicants did not continue their registration (or had not been registered). In 29% of the cases, the applicants had not answered this question on the questionnaire.

Table 2.4 – Continued registrations in Municipal Administration by applicants

	Number	%
Yes	6	8%
No	46	63%
Unknown	21	29%
Total	73	100%

3. Residence in another EU Member State

3.1 Introduction

The following research questions will be answered in this chapter:

- In which other EU Member State (not the Netherlands) and where in this EU Member State did the applicant reside before submitting the application?
- What were the motives of the sponsors and the applicants to take up residence in another Member State, whether temporarily or not?
- How long did the sponsors and applicants usually reside in another EU Member State before returning to the Netherlands?
- What was the applicant's legal residence status at the time of submitting the application in the Netherlands?

3.2 The other EU Member State

Before submitting an application for residence with a Dutch citizen on the basis of Community law, the applicant and his or her sponsor reside in another EU Member State, as a result of which the applicant in the Netherlands may be regarded as a family member of an EU citizen. Table 3.1 shows in which other EU Member States the applicants (and their family members) resided temporarily.

Table 3.1 – Applicant's country of residence in other EU Member States

Country	Number	%
Belgium	158	43%
Germany	75	20%
Spain	45	12%
England	11	3%
Other	20	5%
Unknown	58	16%
Total	367	100%

Table 3.1 shows that the applicants primarily took up residence in Belgium, followed by Germany and Spain. Table 3.2 shows in which cities or towns the applicants took up residence in Belgium, Germany, and Spain. Image 3.1 shows where these cities or towns are located in Belgium and Germany. It is notable that these cities or towns are mainly located in the border regions close to the Netherlands.

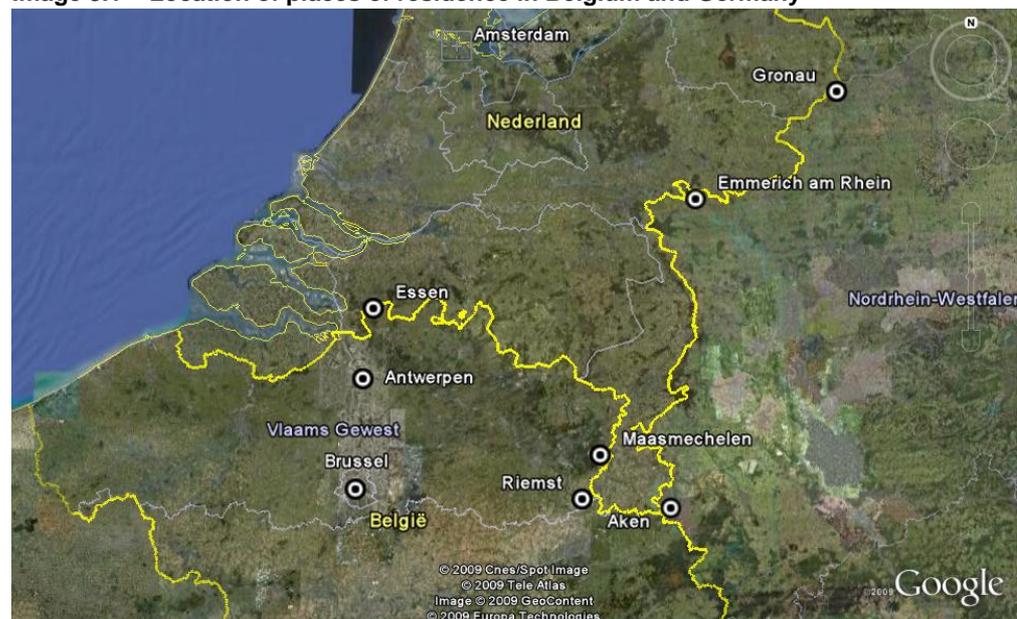
Table 3.2 – Applicant's place of residence in Belgium, Germany, and Spain

Belgium	Number	%
Antwerp	31	20%
Riemst	5	3%
Brussels	5	3%
Maasmechelen	3	2%
Essen	3	2%
Other	29	18%
Unknown	82	52%
Total	158	100%

Germany	Number	%
Gronau	6	8%
Emmerich am Rhein	4	5%
Aachen	3	4%
Other	30	40%
Unknown	32	43%
Total	75	100%

Spain	Number	%
Barcelona	2	4%
Madrid	2	4%
Malaga	2	4%
Other	11	24%
Unknown	28	62%
Total	45	100%

Image 3.1 – Location of places of residence in Belgium and Germany



3.3 Reasons for taking up residence in another EU Member State

The sponsors and applicants stated various reasons why they took up residence in another EU Member State. Table 3.3 shows that – with a percentage of 34% – living and/or work occurred most frequently. It is also notable that in a few cases, the respondents mentioned the use of the Europe route as the reason for taking up residence in another EU Member State. In 33% of the cases, the reason for taking up residence had not been filled in on the questionnaire.

Table 3.3 – Applicant’s reasons for taking up residence

Reasons for taking up residence	Number	%
Living and/or working	124	34%
Family migration	53	14%
Attractiveness of the Member State	18	5%
Europe route	15	4%
Study or traineeship	12	3%
Family problems	8	2%
Other	15	4%
Unknown	122	33%
Total	367	100%

3.4 Period of residence in another EU Member State

Sponsors and applicants had taken up temporary residence in another EU Member State. The period of residence differed in each individual case. On the basis of the date of taking up residence in another EU Member State (than that of the sponsor) recorded on the questionnaire and the date of application in the Netherlands, it is possible to calculate the period of residence. Table 3.4 shows that the period of residence from 13 to 24 months (24%) and the period of residence from 7 to 12 months (21%) occurred most. In 25% of the cases, the period of residence could not be calculated because one of the data had not been recorded on the questionnaire. The average period of residence was 19.7 months.

Table 3.4 – Period of residence in another EU Member State

Period of residence	Number	%
0 to 3 months	13	4%
4 to 6 months	27	7%
7 to 12 months	77	21%
13 to 24 months	89	24%
25 to 36 months	41	11%
More than 36 months	28	8%
Unknown	92	25%
Total	367	100%

3.5 Legal residence status upon submission of the application

During their residence in another EU Member State, the sponsors and applicants had a specific legal residence status in that other EU Member State. Table 3.5 shows that most sponsors and applicants were in possession of a residence document or residence sticker. With respect to the applicants, the documents were often variants of a residence card of a family member of a citizen of the Union. With respect to the sponsors, the documents were often variants of a certificate of registration. Considering the diversity in registration on the questionnaires, it is not possible to state specific numbers of the types of residence documents.

Table 3.5 – In possession of residence document/sticker in other Member State

Applicant	Number	%
Yes	312	85%
No	9	2%
Unknown	46	13%
Total	367	100%

Sponsor	Number	%
Yes	278	76%
No	38	10%
Unknown	51	14%
Total	367	100%

3.6 Employment in other EU Member State

Part of the group of sponsors and applicants worked during their residence in the other EU Member State. Table 3.6 shows that 26% of the applicants and 35% of the sponsors had been employed in the other EU Member State. In 40% of the cases, the sponsors had not been employed in the other EU Member State. Table 4.4 (see below) shows that 39% of sponsors continued to work in the Netherlands.

Table 3.6 – Work in another EU Member State

Applicant	Number	%
Yes	95	25%
No	164	45%
Unknown	108	29%
Total	367	100%

Sponsor	Number	%
Yes	127	35%
No	145	40%
Unknown	95	26%
Total	367	100%

4. Situation in the Netherlands as left behind by the sponsors

4.1 Introduction

When the sponsor took up residence in another EU Member State for some time, he or she left the Netherlands behind for a short or long term. This chapter will give an answer to the question about what the sponsor's situation in the Netherlands was during the period of residence in the other EU Member State. First of all, the sponsor's administrative situation in the form of continuation of the registration in the Municipal Administration will be discussed. Next, the sponsor's social situation will be discussed. In this context, the researchers looked at the dwellings in the Netherlands, whether the sponsor continued to work in the Netherlands, and the presence of children in the family.

4.2 Continuation of registration in Municipal Administration

Section 2.6 already discussed the continuation of the registration in the Municipal Administration by applicants who had resided in the Netherlands before taking up residence in another EU Member State. The questionnaire put the same question to the sponsors. Table 4.1 shows that 17% of the sponsors continued the registration in the Municipal Administration, and 53% deregistered. In 30% of the cases, the sponsors had not answered this question on the questionnaire.

Table 4.1 – Continued registrations in Municipal Administration by sponsors

	Number	%
Yes	61	17%
No	196	53%
Unknown	110	30%
Total	367	100%

4.3 Dwelling that was left behind

The sponsors who continued their registrations in the Municipal Administration remained registered at their address in the Netherlands. The questionnaire therefore included a question about what happened with the sponsor's dwelling during his or her residence in the other EU Member State. Table 4.2 shows that the dwelling was kept in 28% of the cases. In 25% of the cases, it concerned the dwelling of the parent(s) of the sponsor.

Table 4.2 – Situation of the dwelling that was left behind in respect of a sponsor who was registered in the Municipal Administration

	Number	%
Dwelling was kept	17	28%
Dwelling belonged to parent(s)	15	25%
Dwelling was relet	5	8%
Tenancy agreement of dwelling was terminated	2	3%
Other	3	5%
Unknown	19	31%
Total	61	100%

4.4 Employment in the Netherlands

The questionnaire included the question of whether the sponsor had continued to work in the Netherlands during his or her residence in the other EU Member State. Table 4.3 shows that 39% of the sponsors answered this question in the affirmative.

Table 4.3 – Sponsor employed in the Netherlands

	Aantal	%
Yes	144	39%
No	136	37%
Unknown	87	24%
Total	367	100%

4.5 Presence of children in the family

The sponsors and applicants were asked whether there were children in the family. Table 4.5 shows that in 36% of the respondents answered this question in the affirmative.

Table 4.5 – Presence of children

	Aantal	%
Yes	132	36%
No	179	49%
Unknown	56	15%
Total	367	100%

If there were children in the family, the respondents were asked where these children resided. Table 4.6 shows that in most cases (70%), the children resided with their parents in the other EU Member State. It is notable that also *combinations* occurred with respect to the place of residence of the children, such as situations involving residence in the other EU Member State, as well as in the Netherlands, or residence in the other EU Member State and residence in the country of origin. In these cases, the family situation often concerned several children who did not reside together.

Table 4.6 – Residence of children

	Aantal	%
In Member State	92	70%
In the Netherlands	9	7%
In Member State and the Netherlands	4	3%
In Member State and the country of origin	3	2%
In the country of origin	2	2%
In the Netherlands and the country of origin	1	1%
Unknown	21	16%
Total	132	100%

5. Applications and decisions

5.1 Introduction

The IND decides on the application submitted. This chapter will give an answer to the question about the results of the applications in the 'Belgium Box'. First of all, attention will be paid to the applications, and then the decisions given on those applications will be discussed.

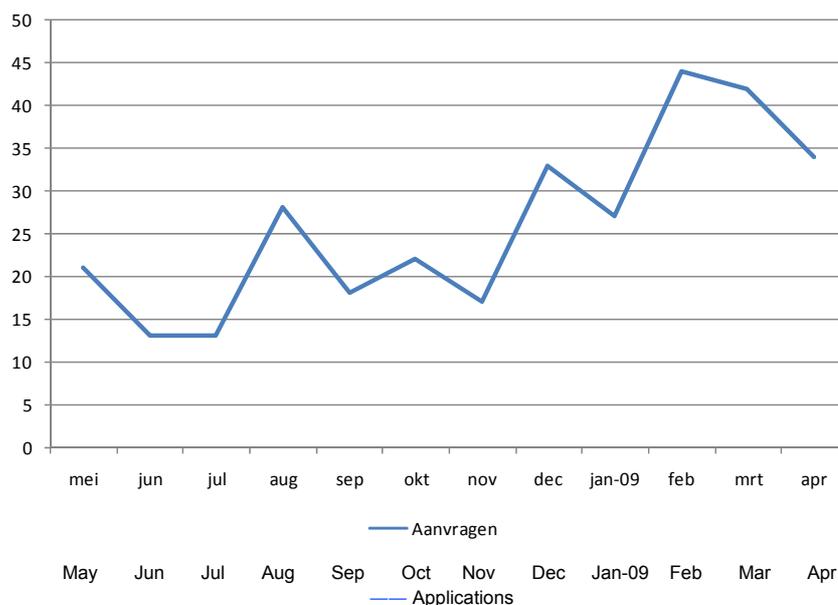
5.2 Applications

The 'Belgium Box' has been in operation since 1 May 2008. The majority of questionnaires collected in the 'Belgium Box' related to applications after this date. It appeared that a number of questionnaires collected in the 'Belgium Box' related to applications of earlier dates. These numbers are represented in Table 5.1. Chart 5.1 provides insight into the numbers by month since the introduction of the 'Belgium Box'. It is notable that the number of questionnaires collected in the 'Belgium Box' has shown a rising trend since its introduction. This is consistent with the rising trend in the number of this type of applications shown since 2007.⁵⁷

Table 5.1 – Number of questionnaires in the 'Belgium Box' per year

Year	Number	%
Application before 1 May 2008	12	3%
Application after 1 May 2008	312	85%
Unknown	43	12%
Total	367	100%

Chart 5.1 – The number of questionnaires in the 'Belgium Box' per month



⁵⁷ IND Information and Analysis Centre (INDIAC), *Gemeenschapsrecht en gezinsmigratie*, (Community Law and Family Migration) April 2009, p. 13.

For the purpose of submitting an application, the applicant and the sponsor may use the services of a lawyer or another authorised representative. Table 5.2 shows that in 13% of the cases, the services of a lawyer or another authorised representative had been used.

Table 5.2 – Use of lawyer or other authorised representative

	Number	%
Yes	46	13%
No	218	59%
Unknown	103	28%
Total	367	100%

5.3 Decisions

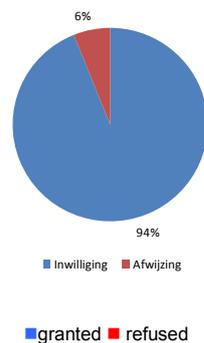
With respect to the applications of which the questionnaires had been collected in the 'Belgium Box', the decisions were given in 2008 or 2009. Table 5.3 shows the numbers by year. With respect to a portion of the decisions, the date is not yet known as these decisions have not yet been given.

Table 5.3 – Number of decisions per year

Year	Number	%
2008	161	44%
2009	180	49%
Unknown	26	7%
Total	367	100%

An application may either be granted or refused. Chart 5.2 shows that with respect to the applications of which the decisions were entered on the questionnaire, 94% of the applications had been granted, and 6% had been refused.

Chart 5.2 – Proportion between applications granted/applications refused



6. Conclusions

In this last chapter, a short answer will be given to each research question.

Section 1.3 presented the following research questions:

1. What was the composition of the group of third-country nationals who applied for residence with a Dutch sponsor on the basis of Community law?
2. In which other EU Member State (not the Netherlands) and where in this EU Member State did the applicant reside before submitting the application?
3. What were the motives of the sponsors and the applicants to take up residence in another Member State, whether temporarily or not?
4. What was the applicant's legal residence status at the time of submitting the application in the Netherlands?
5. How long did the sponsors and applicants usually reside in another EU Member State before returning to the Netherlands?
6. What was the sponsor's situation in the Netherlands that had been left behind during the period of residence in the other EU Member State?
7. What were the results of the applications in the 'Belgium Box'?

Composition of the group of third-country nationals

The majority of the group of third-country nationals who applied for residence with Dutch sponsors on the basis of Community law are foreign nationals with Turkish (23%) or Moroccan (12%) nationality. In 52% of the cases, the foreign nationals had not previously followed any residence permit procedure in the Netherlands. In 36% of the cases, they had indeed done so. The last residence procedure followed in the Netherlands by this group was in 31% of the cases an application for a regular residence permit which had been refused. In 28% of the cases, the procedure that had been refused concerned a regular provisional residence permit. In 53% of the cases, the applicants had resided in the country of origin before taking up residence in another EU Member State. In 20% of the cases, the applicants had already resided in the Netherlands. With respect to the applicants who had already resided in the Netherlands, a large part (63%) had not continued their registrations in the Municipal Administration (or had never been registered) before taking up residence in another EU Member State.

Residence in another EU Member State

The other EU Member States where most applicants and their sponsors took up residence were Belgium (43%), followed by Germany (20%), and Spain (12%). By far the most popular place of residence was Antwerp. It is notable that many of the Belgian and German places of residence where the applicants took up residence are in the border regions.

Motives for taking up residence

The reasons stated by the sponsors and applicants for taking up residence in another Member State were primarily living and/or work (34%). Family migration (14%) ranked second. The use of the Europe route was also stated as a reason for taking up residence (4%).

Legal residence status of the applicant

In the other EU Member State, the applicants often had lawful residence which could be demonstrated by means of a residence document and/or a residence sticker (85%). Sponsors also often had proof of lawful residence (76%). In 26% of the cases, the applicants had started to work in the other EU Member State. and 35% of the sponsors had also done so.

Period of residence

Most sponsors and applicants resided in the other EU Member State from one to two years. The average period in the other EU Member State is 19.7 months.

Situation in the Netherlands as left behind by the sponsors

With respect to the sponsors who took up residence in another EU Member State, 53% deregistered from the Municipal Administration and 28% of this group kept its dwelling in the Netherlands. In 25% of the cases, it concerned the dwelling of the parent(s) that had been left by the sponsor. In 39% of the cases, the sponsors continued to work in the Netherlands during their residence in the other EU Member State. In 36% of the cases, children were involved. In 70% of the cases, the children resided with the parents in the other EU Member State.

Applications and decisions

In the period from 1 May 2008 to 1 May 2009, the 'Belgium Box' collected 367 questionnaires which related to applications in which respect the applicants had envisaged residence with Dutch sponsors on the basis of Community law. Since the introduction of the 'Belgium Box', the number of questionnaires included in the box has shown a rising trend. This also applies to the number of applications to which the questionnaires relate. The questionnaires revealed that 94% of the applications had been granted and 6% had been refused.

APPENDIX 1 'BELGIUM BOX' QUESTIONNAIRE

BELGIUM ROUTE QUESTIONNAIRE

Registration number⁵⁸:

To be completed by the desk worker:	
Name	Date
.....	
To be completed by the decision-maker:	
Application granted	Yes / No
Substantiation for the decision at the bottom of this form	
Name	Date
.....	

To be completed by the desk worker:

The following questions may be answered in advance:

1.	Name of person concerned	
2.	File number	
3.	Nationality	
4.	Had the person concerned previously followed procedures in the Netherlands?	Yes / No
4a.	If yes: Details of the procedures	
5.	Does the person concerned have a criminal record in the Netherlands or has the person concerned received an expulsion order?	Yes / No If yes: refer case asap to decision-maker
6.	Is there an authorised representative?	Yes: Name No/Unknown

The following questions must be answered by the person concerned and the sponsor during the appointment:

Person concerned:

7.	Date and place of residence in other Member State	
7a.	Where did (-) reside before taking up residence in the other Member State?	Country of origin / the Netherlands / other
7b.	If in the Netherlands: Was the registration in the Municipal Administration continued during the residence in the other Member State?	Yes / No
8.	Did the person concerned receive a residence document / other document / sticker in the other Member State?	Yes / No Document name:
8a.	If yes: date of application and issue date of residence document or other document	
8b.	Period of validity	
9.	Date of application for verification in the Netherlands	
10.	Did the person concerned work in the other Member State?	Yes / No
10a.	If yes: from when until when	

⁵⁸NB. The registration number will be filled in by AUB.

Sponsor (Dutch nationality):

11.	Name	
12.	Date and place of residence in other Member State	
12a.	Reason for taking up residence in other Member State	
12b.	Was the registration in the Municipal Administration continued during the residence in the other Member State?	Yes / No
12c.	If yes: what happened to the dwelling during the residence in the other Member State?	
13.	Did the sponsor receive a residence document / other document / sticker in the other Member State?	Yes / No Document name:
13a.	If yes: date of application and issue date of residence document or other document	
13b.	Period of validity	
14.	Did the sponsor work in the Netherlands all the time?	Yes / No
14a.	If yes: how did you commute?	
15.	Did you work in the other Member State?	Yes / No
15a.	If yes: from when until when	
16.	Are there any children involved?	Yes / No
16a.	If yes: where did the children reside during the residence in the other Member State?	

To be completed by decision-maker

Short substantiation for the decision granting/refusing the application: