

# **Tightening sliding scale**

**Estimated results of recent and proposed tightening**

**Summary**

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## Summary

In order to determine whether a final judgment has implications on lawful residence in the Netherlands the principle of the "sliding scale" is used, as is stated in Article 3.86 of the Decree on Aliens 2000 (Vreemdelingenbesluit 2000). According to the principle of the sliding scale (SS) there is a correlation between the length of the sentence imposed and the duration of lawful residence in the Netherlands. The longer an alien lawfully resides in the Netherlands, the more severe the punishment should be in order to be able to terminate lawful residency.

The sliding scale was evaluated in 2009 and tightened in 2010 and 2012. Tightening relates to the duration of lawful residence and the gravity of the punishment, these elements being the two cornerstones of the sliding scale. The State Secretary of Security and Justice proposed in 2013 to tighten the SS even further. In order to know whether this was a good decision, it is necessary to show what the impacts were of the 2010 and 2012 changes to the sliding scale. In this study the results of the SS 2013 proposal for further tightening of the sliding scales are also estimated.. This summary starts with the research approach and results, after which the research questions are answered.

### The research approach

The results of the tightened scales are estimated on the basis of a 2009 research database containing irrevocably convicted aliens. These estimated figures might in reality be higher or lower.

The estimations based on a 2009 survey have been adjusted for relevant social developments which have happened since then. This was done based on the following information:

- statistical information on arrested alien suspects from the Dutch statistical office (CBS)
- reviews on 2008-2013 irrevocably convicted aliens, delivered by the Judicial Information Office ( JustID)
- information on 2013 SS applications by the Immigration and Naturalization Office (IND).

In assessing the three sharpened sliding scales, the following process steps are distinguished:

1. There is a number of irrevocably convicted aliens: the population
2. A part of these aliens meet the criteria on duration of lawful residence and gravity of the punishment of the current sliding scale: that is the scope of the sliding scale
3. A part of the aliens is assessed by IND
4. IND decides to terminate lawful residency of some of the assessed foreigners

### The results

The results of the study are summarized for each of the four process steps. With the exception of the SS2002 results all outcomes are estimated on the basis of the 2009



dataset. The results have been corrected for the following SS relevant social developments:

- number of custodial convicted aliens;
- nature of crimes;
- severity of custodial sentences imposed;
- nationalities of convicted aliens;
- changes on criminal legislation;
- and functioning of relevant organizations such as IND , JustID and aliens Police.

### • Step 1: Estimation of the population

During the last ten years, around 12,000 foreigners were irrevocably condemned per year . In some years there were approximately 1,000 convictions more and in other years 1000 less. Since 2009 the population first decreased slightly and increased afterwards.

<b>1 Population</b>	SS2002	SS2010	SS2012	SS2013 (proposal)
<i>After adjusting for relevant developments</i>				
Population of irrevocably convicted aliens	11.697	10.459	13.903	13.045

### • Step 2: Estimation of the scope

More and more irrevocably sentenced foreigners meet the standard of the sliding scale. This percentage increased from 6.8% in 2009 based on the SS2002, to 47.6% in 2013, based on the proposed SS. Part of this increase is the result of social developments after 2009. There were progressively more foreigners convicted of serious crimes.

<b>2 Scope</b>	SS2002	SS2010	SS2012	SS2013 (proposal)
<i>After adjusting for relevant developments</i>				
Population of irrevocably convicted aliens	11.697	10.459	13.903	13.045
Scope of the sliding scale	797	1905	4877	6215
% of population	6,8%	18,2%	35,1%	47,6%

### • Step 3: Estimation of IND assessments

The number of IND tests increased because there are more statutory contacts, such as the request for a new residence permit. Since 2013, the IND receives information about irrevocably convicted aliens directly from the Judicial Information Office (JustID). The increase in the number of IND tested aliens is thus mainly due to an intensification of statutory contacts with foreigners and due to improved provision of information. In 2013, all aliens who were irreversibly condemned were tested in that year (see table below).



3 IND assessment	SS2002	SS2010	SS2012	SS2013 (proposal)
<i>After adjusting for relevant developments</i>				
Population of irrevocably convicted aliens	11.697	10.459	13.903	13.045
IND assessed aliens	257	1549	4156	6215
% of population	2,2%	14,8%	29,9%	47,6%

- **Step 4: Estimation of terminated lawful residency**

After assessing the aliens, the IND may proceed to terminate lawful residence. In 2009 this was the case for 69 foreigners, which constituted 0.6 % of the population of irrevocably convicted aliens. After 2009 (when SS2002 was applicable) the estimated proportion of the IND decisions to terminate lawful residence increased to 3.1%, 3.4% and 5.4% for each subsequent tightening rounds of the SS (see table below).

4 Termination of lawful residency	SS2002	SS2010	SS2012	SS2013 (proposal)
<i>After adjusting for relevant developments</i>				
Population of irrevocably convicted aliens	11.697	10.459	13.903	13.045
IND decides to terminate lawful residency	69	329	475	706
% of population	0,6%	3,1%	3,4%	5,4%

## Conclusion

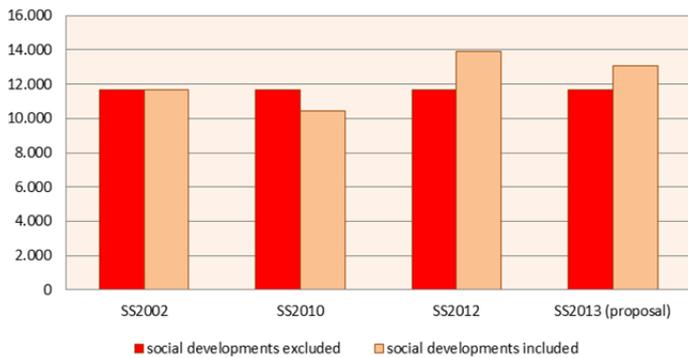
In this study, an estimation of the results of three successive tightening rounds of the SS was made and compared to the last known results for the SS2002 in 2009. Any tightening leads to an estimated larger scope and a larger number of IND assessments. The estimated number of terminated legal residencies increases much more slowly however. This is because of European regulations on persons with a residence permit for an indefinite period. Of the irrevocably convicted aliens, 80% have a residence permit for an indefinite period. Further tightening of the GS can still lead to a larger scope and more assessments by the IND, but will hardly increase the number of terminated lawful residencies.



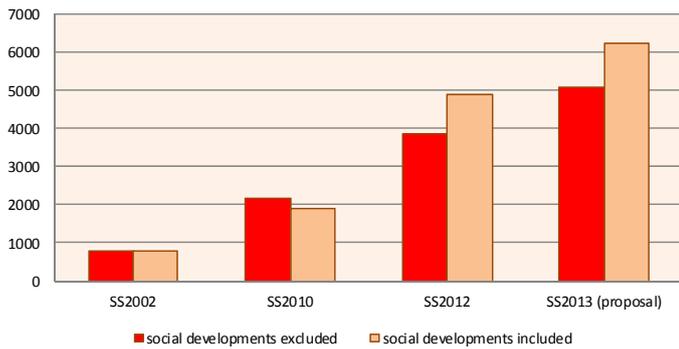
# The research questions

1 What are the estimated results of tightening the "sliding scale" in 2010 and 2012 immigration policy on the scope and application of the SS and the number of terminated legal residencies?

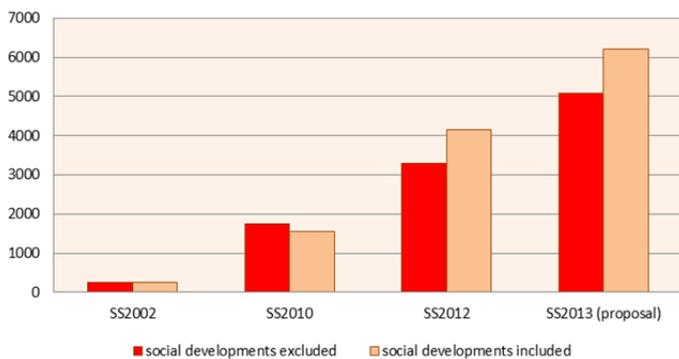
population



scope



IND assessments



In the period of 2010-2013 the number of irrevocably convicted aliens first decreased and increased afterwards. The estimated 2013 population was larger than in 2009, the year in which the first study on the SS took place. It is estimated that any tightening of the sliding scale results in a greater scope, and more terminations of legal residency. The probability that a convicted alien is assessed by the IND increased too, but this increase was not related to the tightening of the sliding scale. The increase is attributable to more mandatory assessments and contacts between aliens and the IND.

Since 2013, the IND receives conclusive information about final irrevocable convictions. In that same year the IND started a new implementation process. As a result, each irrevocably condemned stranger is assessed on the sliding scale by the IND from that year onwards.

2 What is the potential impact of the proposed SS tightening on these numbers?

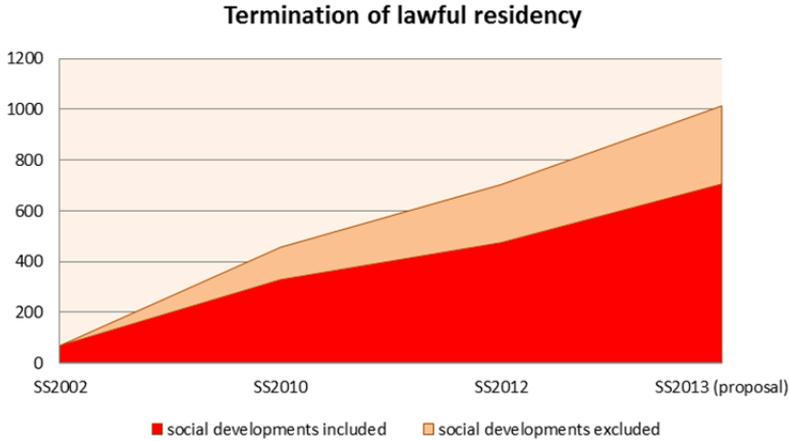
The successive tightening of sliding scales are estimated to have increased the scope of the SS and the number of aliens assessed by the IND . That is also the case for the proposed SS2013 . Part of this increase is related to social

developments, namely so that the population seemed to fluctuate slightly. With an increase of the population, the number of foreigners that meet the scope of the sliding scale is larger than could be expected. With a decrease in the population, the reverse takes place.



3 To what extent did the successive tightening lead to more terminations of lawful residence compared to the previous version?

In 2009, lawful residence in the Netherlands ended for 69 subjects. This was not always, or not solely based on the sliding scale. The successive tightening have led to an estimated 329 terminations of legal residence under the GS2010, and 475 terminations under the SS2012. In the aforementioned increase of estimated endings of lawful residence, social developments have been taken into account. Excluding these social developments there would have been more residence terminations. Each sharpened scale would have led to around 40% more lawful residence terminations.



4 Is there a trend in the supplementary contributions of the tightened sliding scales? If so, what trend and how can this be explained?

Although social trends point to an increase of irrevocably convicted aliens, the percentage of foreigners being hit by three successive tightening rounds of the sliding scales has decreased. This is due to the combination of the composition of the population and the implemented tightening .

A penalty weight of at most three months was imposed on 80% of the custodial sentences. Any tightening relating to prison sentences of more than three months imposed will therefore lead to a limited portion of aliens meeting the standard of the sliding scale. Conversely, the impact of a tightening related to a penalty weight of at most three months will be large.

At the time of the first irrevocable sentence, 63% of the population resided lawfully in the Netherlands for three years or less. Any tightening which covers the first three years of residence thus will reach a large percentage of foreigners. A tightening which relates to a residence duration of 4 years or longer reaches a much smaller number of strangers because of the composition of the population.

Foreigners residing longer in the Netherlands show an increasing overlap between the three distinct versions of the sliding scales. They meet the standards of the regular sliding scale, the scale for repeat offenders and the scale for serious crimes.



## Finally

The SS refers to a specific group of nationalities. Persons with an EU nationality and people who come from a country with which the Netherlands has concluded separate treaties are not envisaged by the GS. For example, in 2013 there were more than 23,000 irrevocably convicted aliens with a custodial sentence. Of this group, 43% do not fall under the scope of the SS because of their nationality; the SS is only focused on a limited part of the criminal aliens. Within the group of foreigners with a nationality that does not fall within the scope of the SS, the number of final convictions increased significantly (35% increase last 4 years). As a result there has still been a rise in crime among foreigners despite the tightening of the SS.

