



Measures regarding asylum-seekers from safe countries

Management summary

DSP-groep

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Management Summary

Since 2014, the EU has seen a high influx of asylum-seekers. The war in Syria had escalated and resulted in an increase in first-time asylum applicants in the Netherlands and in all the other EU member states. In the same period, there was also an increase in the number of first-time asylum applicants from countries designated by the Netherlands as 'safe countries of origin' (hereinafter referred to as 'safe countries'). According to the European Asylum Procedures Directive (2013/32/EU), a country is considered safe if there is no persecution because of, for example, race or religion, torture or inhuman treatment, threats of violence or armed conflict. People from safe countries who seek asylum in the Netherlands are not eligible – exceptions aside – for international protection (refugee status and subsidiary protection status). Extensive legal criteria are used to assess whether a country can be placed on the list of safe countries.

Figure 1.1 Development of the influx of asylum-seekers from safe countries¹ (first-time applicants) in relation to the total influx of asylum-seekers in the Netherlands during the period 2013-2017



Source: Immigration and Naturalisation Service (IND)

Key to graph: the number of asylum-seekers from safe countries (first-time applicants) as a percentage of the total influx was 11% in 2013, 8% in 2014, 9% in 2015, 42% in 2016 and 25% in 2017.

The Dutch government has taken various measures to reduce the influx of asylum-seekers from countries listed as being safe. In November 2015, the Netherlands set up a list of safe countries. Initially, there were nineteen countries on the list (excluding the EU member states)². Since then the list has been extended, up to 32 countries. The Netherlands has the most extensive list of safe countries of all the European member states.

¹ This study focuses on safe countries, excluding the EU member states, other European (mini-)states and countries such as Australia, Canada, Japan, New Zealand and the United States of America. These are not included in the graph.

² EU member states are by definition safe countries.

Country designated as a safe country	Countries
3 November 2015	Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro, Serbia, Vatican City, Andorra, Monaco, Liechtenstein, San Marino, Norway, Iceland, Switzerland, Australia, Canada, Japan, New Zealand and the USA
9 February 2016	Ghana, India, Jamaica, Morocco, Mongolia and Senegal
11 October 2016	Algeria, Georgia, Ukraine and Tunisia
6 December 2016	Togo
24 April 2017	Brazil and Trinidad and Tobago

In order to make the handling of the asylum applications as efficient as possible, asylum applicants in the Netherlands are placed in different tracks at the start of their asylum procedure. This study refers to tracks 1 (Dublin claimants)³, 2 (asylum-seekers from a safe country of origin, or who have already been granted protection elsewhere in the EU) and 4 (asylum applications according to the 8-day General Asylum Procedure (AA) and the Extended Asylum Procedure (VA)).

DSP-groep was commissioned by the Research and Documentation Centre (WODC), part of the Ministry of Justice and Security (JenV), to carry out a study between 18 April and 18 December 2018 into the Dutch measures regarding asylum-seekers from safe countries referred to in the Letter to Parliament dated 17 November 2016.⁴

The Letter to Parliament presents a package of six measures and four objectives regarding asylum-seekers from safe countries. These measures are embedded in a wider asylum policy. Some measures had already been introduced, but in the Letter these measures are combined and extended with further measures. The package of measures in the Letter to Parliament dated 17 November 2016 is therefore the starting point of this study.

Although the title of the Letter to Parliament refers to asylum-seekers from safe countries of origin, some measures and objectives relate to a broader group of asylum-seekers. The focus of this study is on asylum-seekers from safe countries and we have restricted ourselves to the objectives and implementation of the measures regarding this group. The measures have four objectives:

- ③ to tackle the influx;
- ③ to achieve faster handling of asylum applications;
- ③ to achieve a faster departure from the Netherlands;
- ③ to keep the burden for Dutch society to a minimum.

³ Dublin claimants are asylum seekers whose asylum procedure takes place in accordance with the Dublin Regulation (EU No. 604/2013).

⁴ Letter to Parliament dated 17 November 2016. Measures regarding asylum-seekers from safe countries of origin (reference 2015707).

Objective and scope of study

This study uses the 'realist evaluation approach' of Pawson and Tilley (1997) to examine the measures regarding asylum-seekers from safe countries and to study the development of the influx and departure of this group of asylum-seekers during the period 2013-2018; for 2018 only the first six months of the year were taken into consideration. Because we have included the influx and departure statistics for asylum-seekers from safe countries from before 2016 in the analysis, it is possible to provide some insight into the influx and departure of this group of asylum-seekers before and after the introduction of the measures. The central questions in this study were:

- 1 What measures regarding asylum-seekers from safe countries were taken and what were the objectives of these measures?
- 2 How were these measures implemented?
- 3 To what extent is it likely that these measures have had an effect on the arrival and the departure of this group of asylum-seekers, the fast handling of asylum applications and keeping the burden for Dutch society to a minimum?

Our analysis of the measures referred to in the Letter to Parliament dated 17 November 2016 was based on a literature review, interviews with implementing organisations, the administrative department of the Ministry of JenV and collaboration partners in the asylum chain, and a focus group. We also analysed the influx and departure statistics of asylum-seekers from safe countries in the Netherlands and its European (neighbouring) countries Belgium, Germany and Austria. To this end we consulted data from the IND, the DT&V (Repatriation and Departure Service) and Eurostat. The implementation of the measures and influx and departure statistics were analysed by using the realist evaluation approach.

The focus of the study is on asylum-seekers from safe countries outside the EU, with emphasis on the West-Balkan (Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia) and Maghreb (Algeria, Morocco and Tunisia) as these are the largest groups. The group 'other safe countries' includes the 'safe countries' in Asia (India and Mongolia), Africa (Ghana, Senegal, and Togo), Eastern Europe (Georgia and Ukraine) and America (Brazil, Jamaica and Trinidad and Tobago).

The EU member states, other European (mini-)states and countries such as Australia, Canada, Japan, New Zealand and the USA were not included in this study.

The objectives of the measures relating to asylum-seekers from safe countries

Each of the six measures in the Letter to Parliament has a specific objective that aims to contribute to the four overall objectives listed above. Some measures consist of several measures that together have certain objectives. We have summarised the measures and objectives in the table below:

Measure	Objectives
<p>1. Accelerated asylum procedure</p> <p>1a An accelerated asylum procedure for asylum-seekers from safe countries.</p> <p>1b The IND gives priority to asylum applicants from safe countries.</p> <p>1c The small chance of success of an appeal is discussed with the legal profession and an agreement is made with the courts about giving priority to cases of asylum-seekers causing disturbance.</p>	<ul style="list-style-type: none"> • to speed up decisions • to avoid putting unnecessary pressure on the capacity of the IND, the legal profession and the courts • to restrict the burden for the Dutch society • to inform asylum-seekers from safe countries faster about whether their asylum application has been granted • to reduce the duration of the pressure on the asylum and reception capacity of the COA (Central Agency for the Reception of Asylum Seekers) • to send a signal to society • to discourage new asylum-seekers who want to come to the Netherlands for asylum and reception facilities • to speed up departure from the Netherlands
<p>2. Accelerated Dublin procedure</p> <p>Asylum-seekers from safe countries in track 1 (Dublin) are transferred, on the basis of the Dublin Regulation, as fast as possible to the country that is responsible for the asylum procedure.</p>	<ul style="list-style-type: none"> • to speed up the handling of asylum applications from asylum-seekers from safe countries with a Dublin-indication • to reduce the pressure on the asylum and reception facilities and the legal system
<p>3. Shorter use of asylum and reception facilities</p> <p>3a Reception facilities for Dublin claimants are focused on the target group and are austere furnished.</p> <p>3b1 After the first rejection, the asylum and reception facilities for asylum-seekers from safe countries is terminated.</p> <p>3b2 After the first rejection, asylum-seekers from safe countries receive an entry-ban for two years.⁵</p>	<ul style="list-style-type: none"> • facilities at the asylum and reception centre for Dublin claimants contribute to a faster procedure and a fast departure • to make it unappealing for asylum-seekers from safe countries to extend their stay and their use of asylum and reception facilities • to prevent new arrivals on EU territory
<p>4. Faster placement into immigration detention</p> <p>A study to see if, within the relevant legal frameworks, the temporary custody can be used more often.</p>	<ul style="list-style-type: none"> • to ensure that immigrants are available for departure and that this results in an actual (verifiable) departure
<p>5. Reduced repatriation support</p> <p>Asylum-seekers from countries in the ring around the EU - including Morocco and Algeria - and from visa-free countries are excluded from repatriation support.</p>	<ul style="list-style-type: none"> • to achieve a stable system of (financial) repatriation support • to restrict the pull factor of repatriation support as much as possible
<p>6. Coordinated integrated local approach</p> <p>Concrete cooperation between the partners in the criminal law chain, the immigration chain and the local administration through information-exchange and an integrated substantiated action plan.</p>	<ul style="list-style-type: none"> • to tackle asylum-seekers who cause disturbances quickly and effectively

⁵ The Letter to Parliament does not offer clarity as to why the entry ban is linked to a shorter use of asylum and reception facilities. This study retains the structure of the Letter to Parliament.

Implementation of the measures

Based on insights from the literature review, in-depth interviews and a workshop we charted whether it is likely that the supposed mechanisms do or do not occur, or have or have not occurred. We also looked at the side-effects of the introduction of the measures.

Legal frameworks

Firstly, the study shows that the implementation of some measures is not possible within European and Dutch legal frameworks.

- ③ Measure 3a (Reception facilities for Dublin claimants are focused on the target group and are austere) is not possible, as further austerity regarding the asylum and reception facilities for Dublin claimants would violate the minimum asylum and reception standards set out in the EU Reception Directive (2013/33/EU).
- ③ The implementation of Measure 3b (Shorter use of asylum and reception facilities) is becoming more difficult because of the judgment of the European Court of Justice on the 19th of June 2018 in the case of *Gnandi versus Belgium* (ruling ECLI:EU:C:2018:465). The judgment appears to indicate that asylum-seekers are entitled to asylum and reception facilities until the judgment on the provisional ruling.
- ③ Measure 4 (Faster placement into immigration detention) cannot be implemented, as strict justification requirements are attached to detention as a result of the Return Directive (2008/115/EG). It appears, on the basis of our analysis, that the measure cannot be implemented. It is not possible within the current legal frameworks of the Aliens Decree to place an asylum-seeker in detention on the basis of simply disturbances.

Implementation

Secondly, it appears that in practice the implementation of several measures is turning out to be different to what was assumed on the basis of the realist evaluation approach, and some measures have side-effects.

A faster asylum procedure – measures 1a, b and c – for asylum-seekers from safe countries was launched. Asylum-seekers from safe countries are placed in Ter Apel and Budel and the IND gives these cases priority. The legal profession has referred to logistics problems, resulting from the accelerated procedure.

The IND has also committed to speeding up the Dublin procedure – measure 2. Within 24 hours of the identification and registration meeting a 'take charge or take back' request is submitted to the relevant Dublin state. In practice, however, this results in a limited acceleration, in part because several other countries do not cooperate to a great extent, if at all, in the implementation of the actual transfers.

The entry ban that comes under measure 3b2 has a temporary effect that lasts two years. Moreover, an entry ban does not stop people entering the Netherlands or Europe illegally.

Although 'faster placement into immigration detention' – measure 4 – is not possible within the Dutch and European legal frameworks, the measure has contributed to better documentation and information-exchange between the partners in the chain. The communication between the partners in the chain have improved.

The measures relating to repatriation support – measure 5 – have been modified several times over the last few years. They led however to less verifiable departures, difficulties in realising the return of asylum-seekers who wanted to return, and pressure on the capacity of DT&V and the KMar (Royal Netherlands Marechaussee). In July 2018, the repatriation support in the form of a limited financial payment was reintroduced, with the emphasis being on boosting independent returns (supervised) and thus verifiable departures. The measure – and also the objective underlying the measure – was modified as a result of this.

Measure 6, the coordinated integrated local approach, is in fact an adjusted version of the Lokaal Integraal Veiligheidsbeleid (IVB: Local Integrated Security Policy) as implemented by municipalities in the Netherlands. We can consider this approach to be effective. We believe that such an approach is applied locally for asylum-seekers too, although we were not able to obtain a conclusive picture during this study.

Side-effects

Acceleration at the front end of the asylum chain without there being any acceleration at the rear end of the asylum chain (departure) causes congestion in the chain. If the IND gives priority to asylum-seekers from safe countries, this group will sooner end up in the caseload of partners in the chain who are involved in the departure procedures, such as the DT&V and the KMar. These partners need to be sufficiently equipped for this additional caseload.

The prioritising of applications of asylum-seekers from safe countries can have consequences for the asylum procedures for asylum-seekers from unsafe countries and for the asylum and reception capacity of the COA. Since 2016, the duration of asylum procedures for asylum-seekers in track 4 (AA) increased. The question is whether the increase in duration of these asylum procedures is caused by the shift in capacity at the IND and to what extent the asylum and reception facilities are not pressured for a longer time by asylum seekers in track 4 (AA). After all, asylum-seekers in track 4 wait for a decision in an asylum and reception centre. In addition, asylum procedures of asylum-seekers from safe countries in track 2 (safe countries) are shorter than asylum procedures in track 1 (Dublin). Asylum-seekers from safe countries who are processed in track 1 (Dublin) can make use of the facilities of an asylum and reception centre for a longer time than asylum-seekers from safe countries in track 2 (safe country).

In practice, some measures that aim to address the influx have side-effects that affect the departure of asylum-seekers from safe countries. This is particularly visible with measure 3 (Shorter use of asylum and reception facilities) and measure 5 (reduced repatriation support). Since the introduction of the measures, there are more independent departures without supervision than verifiable departures. This means that – for a large group of

asylum-seekers from safe countries – it is not clear if the asylum-seekers have actually left the Netherlands, or have remained illegally in the Netherlands. The measures also appear to focus more on departures from the asylum chain than on actual departures from the Netherlands.

Relationship between measures and influx/departure

Although the **influx** of asylum-seekers from safe countries has fallen considerably since 2016 – following the introduction of the measures relating to asylum-seekers from safe countries – it is likely, on the basis of our analysis, that this decrease in first-time applicants can to a limited extent be attributed to the introduction of the measures. The influx of asylum-seekers also depends on various other factors such as migration routes, various pull factors influencing the asylum-seekers' decision to come to the Netherlands or Europe, and the political and socio-economic situation in the country of origin. The measures do not (sufficiently) address these factors.

It is likely that the measures achieve a **faster handling** of asylum applications of asylum-seekers from safe countries. The measures 1a (accelerated asylum procedure), 1b (priority for asylum-seekers from safe countries) and 2 (faster Dublin procedure) prioritise asylum applications from asylum-seekers from safe countries. The duration of asylum procedures – the number of days from the asylum application to the decision – in track 2 (safe country) are considerably shorter than for track 1 (Dublin) and track 4 (AA).

As regards the achievement of a **faster departure**, it appears likely, judging by our analysis, that the measures have had an effect. The objective underlying the measures aimed at a faster handling of asylum applications of asylum-seekers from safe countries. We can speak of a faster departure procedure. However, it is also likely that the measures have resulted in less verifiable departures.

We are unable, on the basis of this study, to make any judgments about how likely the measures are to achieve the final objective: **reducing the burden** for Dutch society as much as possible.

By using the realist evaluation approach, we can state that it is likely that the package of measures has contributed only to a limited extent to the four objectives. Although asylum applications of asylum-seekers from safe countries are being handled faster, the influx of this group is not (sufficiently) addressed, there are more independent departures without supervision than verifiable departures, and it is not known whether the package of measures reduces the problems for and pressure on Dutch society.

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