

Effective mobile supervision of aliens

Summary

Dutch immigration policy is restrictive. The underlying principle for admitting aliens, established in the Aliens Act, is who has lawful residency in the Netherlands and who does not. Non-Dutch nationals may only lawfully reside in the Netherlands if they have been granted a residence permit or a visa pursuant to the Aliens Act or if they have appealed for asylum. An alien who does not have (or no longer has) lawful residence in the Netherlands must leave the country or runs the risk of deportation.

The operational aliens supervision focuses on tracking down and removing illegal aliens. A distinction can be made between *domestic supervision* (combating illegal residence) and so-called *mobile supervision of aliens (mtv)* (combating illegal immigration). The KMar conducts the latter type of supervision, for which the so-called MTV brigades were formed in 1994. These MTV brigades conduct random checks on the border with Germany and Belgium. The checks can be conducted on motorways, in (international) trains and on waterways.

At the start of the MTV in 1994, a two-fold objective was formulated to implement mobile supervision. The mobile supervision of aliens should:

- contribute to combating (organised forms) of illegal immigration; the so-called *repressive* function, and;
- contribute to preventing illegal immigration; the so-called *preventive* function.

In the first half of 2001, ES&E (Eysink Smeets & Etman) conducted a study on assignment from the Wetenschappelijk Onderzoek- en Documentatie Centrum [Scientific Research and Documentation Centre, WODC] of the Ministry of Justice on the effectiveness of mobile supervision of aliens. The main question of the study was:

"To what extent is the mobile supervision of aliens in its current form able to combat the illegal influx of aliens and what are the options - in terms of authority and collaboration, quantity and goal-orientation of personal effort and/or available resources - for improving the effectiveness of the mobile supervision of aliens?"

The extent of illegal immigration is difficult to establish in absolute numbers, and the objective of the mobile supervision of aliens has never been described in quantitative terms. The answer to the question on the effect or effectiveness of the mobile supervision of aliens strongly depends on the frame of reference of the person answering the question. Experience has shown that there can be various written and unwritten objectives during the policy-forming process and the subsequent allocation and realisation of certain policy instruments. In a formal sense, policy, and certainly a specific policy instrument, may have a certain specific objective. But further consideration shows that various actors in both the policy-making and implementation process also aim for other (partly) conflicting objectives at times. These objectives can vary in nuance or, certainly in certain areas, diverge greatly and even oppose one another. Therefore, four frames of reference or perspectives are distinguished to answer the study question, i.e.:

- The political framework;
- The legal framework;
- The internal framework;
- The external framework.

All four frameworks have (had) direct or indirect influence on the development and effective functioning of the mobile supervision of aliens. This study considers (written and unwritten) objectives and expectations with respect to the mobile supervision of aliens from these four frameworks. Particular emphasis is placed on the political, legal and internal framework.

During the years 1995 through 2000, the MTV brigades checked an average of more than 700,000 border crossers per year. An average of 96.4% of those checked were given passage based on conclusive proof of their identity and right to residence, obtained from their documents or other information. Of these, an average of 1,844 persons (annually) were first transferred to an MTV brigade for screening.

In the same period (1995-2000), an average of 24,140 aliens per year were sent back or given notice to leave the Netherlands. An average of 1,090 aliens per year were also detained by the MTV. Since the recent modification of the Aliens Act, as of 1 April 2001, de facto detention by the KMar (Ministry of Defence) is no longer possible. Rather, an (illegal) alien is transferred to the Aliens Department (police). In practice, it sometimes appears that de facto transfer to the Aliens Department is not possible due to the heavy workload and the limited capacity of the Aliens Department. Moreover, the MTV encounters a relatively small number of individuals who indicate their intention to request asylum (an average of 878 persons per year). These individuals are not always transferred to the Immigration & Naturalisation Department (IND), but are usually shown the way to the Application Centre (AC).

Based on these results, it should be concluded that the effective contribution toward combating illegal immigration by the mobile supervision of aliens must be strongly doubted. This doubt concerns both the repressive function and the preventive function of the mobile supervision of aliens.

By turning back some 3.2 % of the total number of checked individuals, prevention of illegal border crossing is certainly taking place at that moment. However, it is unclear whether these individuals will enter the Netherlands illegally at a later date and/or in another way. Uncertainty also exists about the question of whether (some of) the border crossers that were turned back intended to settle illegally in the Netherlands.

The conclusion about the effectiveness of the mobile supervision of aliens does not mean that the operational staff (the MTV brigades) is not performing its work well or that it is performing it ineffectively. It can be said that 'they make the most of the situation'. Rather, the uncertainty about the effectiveness of the mobile supervision of aliens is determined by the infeasibility of the objectives that are attached to the 'mtv function'.

In order to reach a more effective mobile supervision of aliens, a more concrete and feasible objective for the mtv function is also a first requirement. This objective can be related to the recent developments within the aliens policy, with increasing attention devoted to combating organised forms of illegal immigration (human trafficking). A structured chain approach of human trafficking certainly offers room for enforcing mobile supervision of aliens.

Within the context of combating human trafficking, the mtv function can be assigned the following, more concrete objective, namely:

- a. acquiring information for a study investigating human trafficking;
- b. verifying (interim) study results; and
- c. participating in campaigns, if necessary, based on the results.

Of course, such a chain approach, as well as the specific role of the mobile supervision of aliens within it requires that clear agreements be made and coordination takes place between the various chain partners. The precondition is that the information supply and exchange within and between these chain partners functions thoroughly.

For a more effective implementation of the mtv function it is also necessary to procure greater clarity in the priority and extent of this task. The question as to whether this function is the main task of the operational staff and how the implementation of this (main) task relates to other possible tasks, for which the operational staff of the mtv function may or may not be called upon, needs to be answered. It will also have to be seen which measures can be taken so that the detention of illegal aliens discovered can take place more effectively in practice.

Moreover, it is to be recommended that the implementation of the mtv function be carried out in greater associations/teams than has been the case up to now. This is to prevent having no or only limited mobile supervision of aliens due to an inadequate workforce and the like. Specific training and schooling of the operational staff is also important for the development and implementation of the new objective of the mtv function proposed here in order to guarantee the effectiveness of the mobile supervision of aliens.

Effectief mobiel toezicht vreemdelingen; eindrapportage

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