

Summary

Unlawful residence in the Netherlands: a review of the literature

Background

In 2007, the State Secretary of Justice promised the Lower House of Parliament a broad, qualitative study on irregular migrants in the Netherlands. At her request, the Research and Documentation Centre [*Wetenschappelijk Onderzoek- en Documentatiecentrum* (WODC)] of the Ministry of Justice subsequently carried out a comprehensive review of the relevant literature, the emphasis of which was placed upon unlawful residence. The policy document on irregular migrants [*Illegale nota*] of April 2004 formed the policy context for this study. According to this document, the presence of irregular migrants in Dutch society leads to various types of nuisance and crime. The document also stated that irregular migrants easily become victims of exploitation by human traffickers, fraudulent employers and rack-renters. In this review of the available literature, we will focus in greater detail on the problems as indicated in the policy document, as well as to the problems currently being observed in education, youth care, health care and social welfare.

Research questions and method

The research questions are as follows:

- 1 What is known from literature about the numbers and backgrounds of illegal residents in the Netherlands?
- 2 What is known from literature about problems that irregular migrants in the Netherlands have and the risks that they run?
- 3 What is known from literature about the (negative) impact that irregular migrants in the Netherlands have on society, including crime?

In order to answer these questions, a study was carried out into the literature that has been published since 1998. The emphasis lies on the findings from the most recent academic literature. The publications used were found in various library catalogues, the electronic library catalogue Picarta or on the Internet; the most recent publication that has been referred to dates from December 2007.

Findings

Numbers and backgrounds

According to the most recent estimation, between 1 April 2005 and 1 April 2006, between well over 74,000 and almost 184,000 persons without residency rights

lived in the Netherlands. The number of irregular migrants from Europe has probably decreased over recent years, due to the enlargement of the European Union in 2004 and 2007. It is expected that the number of non-European irregular migrants in the Netherlands will also decrease as a result of a regularisation scheme which has been in force since June 2007.

The available data relating to background characteristics indicate that most irregular migrants are male and aged under 40. In recent years, there has been a growing demand for health care from illegal women. There are also undocumented children in the Netherlands. With regard to family composition studies indicate that among the illegal residents there are single people – both adults and minors – as well as couples and families with children. Some of the single people have partners or families in their countries of origin. A number of the irregular migrants who have been detained by the Aliens Police are from other European countries. Of the non-European irregular migrants detained by the Aliens Police between 2005 and 2006, most came from Asia (including the Middle East) and Central and Southern Africa. It is unclear to what extent this distribution also applies within the population of illegal residents as a whole. The literature distinguishes between various types of irregular migrants: migrant workers who have come to the Netherlands independently, migrant workers and chain migrants who have come to the Netherlands with the help of family members already in the Netherlands and migrants seeking asylum who have come to the Netherlands with the help of a human trafficker, sometimes also for work purposes. Others have crossed the border as a victim of cross-border human trafficking or with the help of a human smuggler, without making use of the asylum procedure. It is unclear what proportion of the irregular migrants has *ever* been an asylum seeker. Studies show that irregular migrants migrate for various reasons, often in combination, such as political, economic, social and individual reasons. The future plans of illegal residents also vary. Some try to stay for as long as possible, whilst others migrate elsewhere or return to their country of origin. Others are unsure about where they will live in the future.

Accommodation

It is estimated that forty percent of the irregular migrants in the Netherlands lived in one of the four metropolitan police regions between 1997 and 2003. Within these regions, they mainly lived in districts that were regarded as being socio-economically poor, and that were characterised by a relatively large number of legal migrant residents. In some rural areas, a relatively large number of irregular migrants were discovered by the Aliens Police, as well.

As far as is known, irregular migrants mostly live with family members or acquaintances, or in hostels or private rented accommodation. Some illegal residents live in houses owned by housing corporations, mainly subletting. Undocumented individuals can also be found in accommodation for the homeless and shelter for asylum seekers who have exhausted all legal remedies. A study conducted several years ago suggested that most of the irregular migrants who worked rented accommodation in the private sector. Landlords were often legally residing migrants, either from the same country of origin or not. According to the available literature, irregular migrants who rented in the private sector lived in rather poor circumstances: the properties in which they rented a room or a bed were often subject to overdue maintenance and a lack of hygiene,

but the residents accepted them, out of sheer necessity. The available research outcomes with regard to the prices paid for a house, a shared room or a bed are not unambiguous.

Work

It is estimated that in 2004, between 65,000 and 91,000 irregular migrants were working on the Dutch labour market. In 2006, the Labour Inspectorate [*Arbeidsinspectie*] found close to 5,500 illegal employees, mainly in the hotel and catering industry, the construction industry, the agricultural and horticultural industries, the retail trade and the temporary employment sector. It is likely that the percentage of illegal residents among the illegal employees found was a maximum of 54% in 2006. Studies show that some of the temporary employment agencies that were established after the deregulation of the temporary employment sector also place illegal residents in employment, but the number of irregular migrants involved is unknown.

Some employers have said that they work with irregular migrants because there is a shortage of motivated legal workers and they are trying to reduce costs. According to studies from several years ago among illegal workers in the region of The Hague, working conditions of illegal employees leave a lot to be desired: they were working without employment contracts and were sometimes underpaid and suffered from periods of unemployment and debts. In the Netherlands, there are allegedly only a limited number of cases of slavery-type exploitation; the illegal residents who are most at risk from this are those who are dependent upon others in several respects. A investigation of cases showed that minors also sometimes find themselves in work situations that are reminiscent of exploitation.

Prostitution

Some undocumented women who work in the prostitution industry are victims of cross-border human trafficking, others fell victim to human traffickers after arrival in the Netherlands and a third group came to the Netherlands on their own initiative, with the aim of working in the sex industry.

Little is known about the number of illegal prostitutes in the Netherlands. It is, however, known how many victims of human trafficking have been reported to the Foundation Against Trafficking of Women [*Stichting tegen Vrouwenhandel* (STV)] and how many women have taken advantage of the so-called B9 regulation for victims of human trafficking. These numbers probably constitute a major underestimation. Of the victims registered with the STV in 2006, 63% lived in the Netherlands without a residence permit.

The available literature suggests that prostitutes without papers mainly work in the less visible forms of prostitution, such as in the escort industry, in private houses and via Internet mediation, and in 'grey sectors', such as saunas and swingers' clubs. Researchers have indicated various forms of exploitation of illegal prostitutes. The B9 regulation for victims of human trafficking was recently broadened. A recent study indicated a number of bottlenecks in the practical implementation.

Health

It is very difficult for illegal residents to insure themselves against medical expenses. However, doctors have a duty of care towards everyone irrespective of whether they are insured and/or have valid residency status. Illegal residents therefore have the right to 'essential' medical care, even if they are unable to pay for it. In the latter case, primary health care providers (GPs, midwives, pharmacists, dentists) can appeal to the fund of the *Stichting Koppeling*. Care provided under the Exceptional Medical Expenses Act (AWBZ) cannot currently be financed from this fund. Hospitals can be reimbursed for costs of health care provided to undocumented individuals from health care insurers (up to an agreed maximum). Attention is being drawn to the fact that access to care is sometimes hindered by ignorance about these opportunities among the irregular migrants themselves, as well as health care providers and receptionists. A difference in willingness with regard to granting aid to irregular migrants causes an unequal distribution of illegal patients among health care providers and institutions.

The majority of illegal patients of GPs and accident and emergency departments in hospitals are male and aged between twenty and forty. A few years ago, irregular migrants required health care for mental problems and among others skin complaints, infectious or parasitic complaints, more often than native Dutch patients. Irregular migrants requested care for other complaints less often than people of native Dutch heritage. The complaints that the irregular migrants brought to the GP were more serious than those of regular (native Dutch and foreign) patients.

The demand for care among illegal women has increased over recent years. Most problems in this group appear to involve mental health. Problems involving sexual health, pregnancy and childbirth have also come to light more often than in the case of native Dutch women.

A specific problem group consists of irregular migrants who are addicted to drugs, some of whom also have mental problems. Provisions for drug addicts are not always accessible to them.

Education and youth care

Children without papers have the right to education and specific forms of child and youth care. According to studies from a few years ago, both irregular migrants themselves and youth care and educational institutions were often not aware of this. Studies carried out during this period also showed that some children who were living illegally in the Netherlands struggled with their own psycho-social problems and/or with their parents' mental problems. Among undocumented pupils, being absent from school occurred relatively often, resulting from psycho-social and other problems and moving house. It is probable that some of the children who were living illegally in the Netherlands did not go to school at all. There were problems in both the education sector and the youth care sector surrounding the financing of services for undocumented children. In addition, there has recently been no specific method available for child and youth care provision to children in this situation.

Crime

During the period from 1997 to September 2003, irregular migrants who were apprehended by the Aliens Police or arrested and handed over to the Aliens Police, were mostly suspected of unlawful residence or (to a much lesser extent) of summary offences. During the same period, both the number and the percentage of irregular migrants arrested on suspicion of committing minor offences increased. This mainly involved theft and the possession of false papers. In 2004, it seemed as though asylum seekers who had exhausted all legal remedies were more frequently suspected of theft and being in the possession of false papers, than asylum migrants who were still involved in the asylum procedure or individuals who had already obtained an asylum permit. Crime among undocumented individuals therefore appeared limited, but it had also increased during the years studied.

In so far as crime occurs among illegal residents in the Netherlands, studies indicate various backgrounds to this: 'residence crime' has been mentioned (including identity fraud), 'subsistence crime' (including theft and drug trading), crime that is related to drug addiction, crime committed by irregular migrants who have already committed offences in their own countries ('import crime') and crime that arises from contacts with criminal networks in the Netherlands.

Other burdens on society

From the studies available, no direct connection has emerged between living in a neighbourhood with a relatively large number of irregular migrants and feelings of insecurity. The feelings of insecurity that were encountered could largely be explained by the socio-economic characteristics of the neighbourhood. In neighbourhoods where there was a concentration of irregular migrants, there was a somewhat higher chance of victimisation of local residents as far as offences against property were concerned. It also emerged that overcrowded hostels where rooms and beds are rented out to irregular migrants and drugs premises where irregular migrants operate also cause nuisance locally.

The extent to which illegal resident tenants displace legal house-hunters has not yet been determined. The available literature suggests that the displacing of legal house-hunters occurs most in situations where irregular migrants rent private accommodation or live in homes owned by housing corporations. At the same time, however, the question has been raised whether legal residents would be prepared to live in the same conditions as illegal residents.

The employment of irregular migrants causes the state to lose income, because illegal residents do not pay premiums and taxes. As far as we can tell, the extent to which this also leads to competition with legal workers and with companies that do comply with regulations has not, so far, been established. It is not clear what would happen if fraudulent employees were no longer able to recruit irregular migrant workers. This partly depends upon the willingness of legal residents to take on the work of irregular migrants, and to work under the same, often poor, working conditions.