

The Dutch Minister for Migration, mr. Mark Harbers, has asked the Advisory Committee on Migration Affairs (ACVZ) to advise him on secondary migration within Europe. In this note we explain:

- **Who we are and what we do;**
- **What the Minister has asked us;**
- **How we envisage to proceed.**

1. The Advisory Committee on Migration Affairs(ACVZ)

The Advisory Committee on Migration Affairs (ACVZ) is a Dutch independent, standing Committee that advises the Dutch Government and Parliament on migration law and policy. The advisory reports are directed primarily at the Dutch government, but are also used by parliament, local governments, NGO's, and scientists. The ACVZ was installed on November 28th, 2001, as a result of the Aliens Act 2000. The Committee consists of ten independent experts from various disciplines and with different backgrounds and networks. The chairman is Mr. Koos Richelle, former Director-General EuropeAid and Director-General Employment, Social Affairs and Inclusion for the European Commission. The other members are academics, judges and experts from agencies.¹ The Committee is supported by a secretariat consisting of ten staff members. The project manager for this research project is Sander Vergeer. He conducts this research together with his colleague Lambert Obermann (contact details on page 5).

2. The request from the Dutch Minister for Migration

The Minister has asked the ACVZ for advise on dealing with secondary migration of asylum seekers to and from the Netherlands, within the EU+ context (i.e. EU plus Norway and Switzerland). Secondary migration in this context is defined as movements of third country nationals and stateless persons who fall or should fall within the scope of the Dublin regulation III, but who move to another European country than the one where they should apply for international protection in line with Dublin III. The ACVZ has formulated the following research questions.

¹ Vice-chairman: Mrs. Tesseltje de Lange (assistant professor Administrative and Migration Law, University of Amsterdam). Members: Minze Beuving (former Head of Police, former Head of the Royal Netherlands Marechaussee and former Chairman of the Frontex Management Board), Mrs. Joanne van der Leun (Professor of Criminology, Dean Law School, Leiden University), Mrs. Evelien Brouwer (senior researcher Migration Law, Vrije Universiteit Amsterdam), Mrs. Saskia Bonjour (assistant professor in political science, University of Amsterdam), Mrs. Judith Louwinger (councillor Court of Appeal, Amsterdam), Mr. Ton van Loon (Lieutenant-General ret.), Mrs. Helga de Valk (Professor of Migration and the Lifecourse, University of Groningen, Theme leader Migration & migrants, Netherlands Interdisciplinary Demographic Institute (NIDI)), Mr. Mark Klaassen (assistant professor Migration Law, Leiden University).

Main question:

How do EU+ Member States deal with secondary migration flows of asylum seekers and can the Netherlands learn from their practices?

Sub-questions:

- 1) To what extent and in what ways are EU+ Member States being confronted with secondary migration flows of asylum seekers?
- 2) How do they interpret this phenomenon?
- 3) What (kind of) measures do Member States take to deal with secondary migration flows of asylum seekers or do they (deliberately) not take and why?
- 4) How do the authorities in these countries assess the effect and efficiency of the measures concerned, also against the backdrop of the objectives of the Common European Asylum System (CEAS)?
- 5) Can we deduce best and worst practices from the comparative analysis of practices of those countries, not only with a view to national, but also with a view to EU policy?

3. Background

The ACVZ considers the Minister's request against the background of the 'refugee crisis' in 2015, the CEAS reform agenda of the European Commission which was drafted in its aftermath, the deadlock of the negotiations on this matter and the so called 'integral migration agenda' (IMA) of the Dutch government.

The overwhelming influx of asylum seekers into Europe in 2015 put pressure on the asylum systems of a number of EU+ Member States. As a result of the 'refugee crisis' also structural malfunctions of the CEAS came to light, including the malfunctioning of the Schengen and Dublin systems, in particular manifesting itself through a lack of effective control on primary entry and on consequent secondary migration. It is widely believed that, apart from family-reunification, the level of and access to reception facilities and welfare benefits somehow affects secondary migration flows within Europe. These flows might undermine an effective and efficient migration management and thus damage the public support for immigration and immigration policy.

Aiming at preserving the CEAS the European Commission initiated seven legislative proposals in 2016.² These proposals aim to contribute to, inter alia, a level playing field, more efficient asylum procedures, discouragement of secondary migration flows within the EU and more equal burden sharing between the Member States. The ACVZ realizes itself, therefore, that this research is being executed in a period in which the CEAS is being or could be substantially revised.

In the Netherlands, migration policy is also in motion. The IMA forms the guideline for implementation of the migration policy of the government. The IMA rests on six pillars³, one of which is aiming at a more solidary

² These concern the Dublin Regulation recast, the Reception Directive recast, the Eurodac Regulation recast, replacement of the Qualification and the Asylum Procedures Directives with regulations and proposals for an EU Asylum Agency Regulation and a Resettlement Framework Regulation.

³ Being:

and solid asylum system in the EU and the Netherlands, one objective being discouragement of secondary migration flows.

4. Relevance

Preventing and improving the management of secondary migration movements of asylum seekers is not only one of the main objectives of the EC reform proposals but also one of the core goals of the Dutch government plans for implementation of the Integral Migration Agenda as mentioned above. In both policy strategies a good functioning of the CEAS and Dublin system is stated to be an important premise for maintaining public support for immigration. Research on the size, causes and management of secondary migration flows of asylum seekers thus is important, not only with a view to policy improvement, but also with a view to public acceptance of migration policy.

5. Delimitation

Below we describe the delimitation of our research with respect to:

- The period concerned;
- Categories of migrants;
- The EU+ Member States.

5.1 The period concerned: 2014 – first half of 2018

Because our aim is to study the way in which secondary migration is being dealt with before, during and after the 'refugee crisis', our survey concerns the period 2014 up to and including the first six months of 2018.

5.2 Asylum seekers falling within or who should fall within the scope of the Dublin regulation III

Secondary migration flows of asylum seekers are triggered by a variety of factors. One of these factors is the way in which the Dublin System is being implemented.

The Dublin Regulation⁴ establishes the criteria and mechanisms for determining the Member State responsible for examining an application

I) Prevention of irregular migration (dealing with the root causes in countries of origin, intensifying the cooperation with countries of origin and transit countries, improvement of border control);

II) Strengthening reception conditions and protection in the region of origin (improve the sharing of responsibilities between countries of origin, transit countries and destination countries, invest in education and employment, special attention for the most vulnerable migrants);

III) A more solidary and solid asylum system within the EU and the Netherlands (further harmonisation of the CEAS, discouragement of secondary migration flows, a solidary resettlement mechanism and a more flexible asylum system in the Netherlands);

IV) Less irregular stay, more return migration (intensifying case management Repatriation and Departure Service, counteracting the limitation of possibilities for detention pending removal, strategic country approach to migration, central facilities for return migrants);

V) Stimulating legal immigration pathways (based on labour market needs, resettlement);

VI) Stimulating integration and participation (reforming integration policy, central role for local communities).

⁴ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State

for international protection. These must ensure quick access to asylum procedures and the examination of an application on the merits by a single, clearly determined Member State.

Those seeking protection are not entitled to choose in which Member State they wish to settle. Asylum seekers applying for international protection in another Member State than the one which is responsible for examining their request, should be transferred to that state.

Secondary migration movements manifest itself in many ways. Asylum seekers, beneficiaries of international protection or other residence permit holders, irregular migrants who have no intention whatsoever to legalise their stay, they all can decide to move on. This ACVZ research is about secondary migration movements of asylum seekers who move to another European Member State than the one where they should apply for international protection in line with Dublin III, **whether a Dublin procedure is being initiated or not.**

5.3 Member States: NL, BE, DE, AT, CH, FR, IT, ES, GR, SE

The focus of our research is not only on destination countries, but also on countries of first entry and transit countries. After studying data on secondary migration from Eurostat, euLISA and Frontex we have decided to compare the Dutch practice with the practices in Belgium, Germany, France, Austria, Switzerland, Sweden, Greece, Italy and Spain, as the majority of secondary migration flows to or from the Netherlands run through these Member States.

5.4 Definitions

In our research we use the following definitions:

- **Dublin system:** all existing and formerly established EU(+) rules and regulations determining the Member State responsible for examining an application for international protection lodged in one of the Member States, being:
 - The original Dublin Convention (Dublin I);⁵
 - The Dublin Regulation of Feb. 18th 2003 (Dublin II);⁶
 - The current Dublin Regulation (Dublin III).⁷
- **Country of first entry:** the country where the asylum seeker has first entered the EU+;
- **Transit country:** the country the asylum seeker passes through on his way to the destination country;

responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

⁵ *Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (97/C 254/01).*

⁶ *Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (L 50/1-10).*

⁷ *Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (L 180/31-59).*

- **Destination country:** the country where the asylum seeker wants to settle;
- **Secondary migration:** onward migration within the EU+ of asylum seekers coming from:
 - the country of first entry, or;
 - the Member State being responsible for examining the application for international protection in line with Dublin III.
- **Regular secondary migration:** onward migration within the EU of asylum seekers based on a Dublin claim which has been accepted;
- **Irregular secondary migration:** onward migration within the EU of asylum seekers not based on a Dublin claim which has been accepted;
- **Dublin claim:** a request from one Member State to another to take charge of or take back the applicant for international protection in line with Dublin III;
- **Decision to transfer:** the decision of a Member State not to examine the application for international protection and to transfer the applicant to the Member State being responsible for the examination based on a Dublin claim which has been accepted.

6. Research methods

In this study the ACVZ makes use of the following research methods:

- Literature survey. The aim of this survey is to identify the mechanisms influencing secondary migration flows (the 'why' and 'how');
- Survey of individual Dublin and asylum cases at the Dutch Immigration and Naturalisation Service (INS). The objective of this survey is to establish a clear picture of the way in which the INS deals with Dublin cases in its relations with the above mentioned nine states. Another aim of this survey is to investigate whether or not there are indications for secondary migration in those asylum cases where no Dublin procedure is being initiated. The results of this survey will be used for the interviews with the authorities in the other Member States;
- Interviews, if possible group interviews. Our respondents in the selected EU+ Member States will receive our questions in advance, so they can prepare themselves. We do appreciate to interview them face to face, because that enables us to formulate further questions for clarification if necessary.
- Analysis of available data. First we envisage to analyze the public data concerning Dublin procedures (Eurostat), Eurodac-hits (euLISA) and detection of irregular border crossings (Frontex). Secondly, we will try to gather operational data on Dublin (from EASO), as well as data on intra-EU migration, irregular border crossings and irregular stay (from Frontex) for the countries we study.

7. Respondents

We interview different groups of respondents:

- European Commission, EASO, Frontex;
- National policy officers;
- Officers from agencies (immigration and asylum services, Dublin units and liaisons, departure services, border police/guards etc.);
- NGO's;
- Academics;
- Expertise centres;
- (...)

8. Planning

July – Sept. 2018:	Literature survey
Oct. 2018:	Survey of individual cases at the Dutch Immigration and Naturalisation Service (INS)
Nov. – dec. 2018:	Interviews in the EU+ Member States
Dec. '18 – Jan. 2019:	Analysis
Jan. – March 2019:	Writing draft report
March – May 2019:	Writing final report

9. Additional information

For further information on this research please contact:

- Sander Vergeer (a.c.vergeer@acvz.minvenj.nl, 0031-(0)646840912), or;
- Lambert Obermann (l.j.obermann@acvz.minvenj.nl, 0031-(0)625685553).