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The asylum procedure in the Netherlands

This fact sheet contains general information about asylum policy in the Netherlands. It tells you what asylum is, and how the application procedure works.

Asylum and asylum policy in the Netherlands

Asylum is a form of protection. Everybody has the right to apply for asylum. When someone applies for asylum, the Immigration and Naturalisation Service (IND) investigates whether or not they qualify. If they qualify, they will be issued with an asylum residence permit.

A different country

In some cases an alien may have to apply for asylum in a different country. If the IND suspects that a different country is responsible, it will not process the asylum application. In these situations, a separate procedure is implemented first to find out which country is responsible. This is called the Dublin procedure. A fact sheet about the Dublin procedure is also available ('Which country is responsible for an asylum application?').

Repatriation

People who are refused asylum in the Netherlands must leave the country as quickly as possible. People who are granted asylum may also have to leave the Netherlands, when the situation in their own country is safe again for example.

Alien, asylum seeker, or refugee?

These terms are often confused. They mean different things however:

Alien

A person who is not a Dutch national.

Asylum seeker

An alien who for various reasons has left his country of origin and requested asylum, but for whom it has not yet been established whether he fulfils the criteria for an asylum residence permit.

Refugee

An asylum seeker who is judged to have left his country of origin because he has 'well-founded fears' of being persecuted there. A refugee fulfils the criteria for an asylum residence permit.

When is an alien entitled to an asylum residence permit?

The IND assesses asylum requests on the basis of the Aliens Act. In general, an alien qualifies for an asylum residence permit:

- if he fears persecution because of his race, religion, nationality, political convictions or because he belongs to a specific social group in his country of origin
- if he runs the risk of being subjected to inhumane treatment (such as torture) in his country of origin
- if he has suffered specific, traumatic experiences in his country of origin
- if the Minister for Alien Affairs and Integration believes that the situation in a person's country of origin is not safe enough for him to be repatriated

No right to asylum

A person has no right to asylum:

- if another country is responsible for processing the asylum application
- if a previous asylum request in the Netherlands was rejected, and no new evidence has been produced or new circumstances arisen that would justify reversing that decision

Being unable to find a job, unable to study, or simply not wanting to live in a particular country, do not constitute grounds for asylum. A person who leaves his country of origin for these reasons is often referred to in the media as an 'economic refugee'.

An asylum request will also be rejected if the IND has clear indications that the person in question has committed war crimes or is a terrorist for example. Article 1F of the 1951 Geneva Convention on Refugees states that these asylum seekers are not entitled to protection. Under the Netherlands Aliens Act, asylum seekers who have committed a public order offence in the Netherlands or some third country (by committing a crime for example) do not generally qualify for an asylum residence permit.

Unaccompanied underage asylum seekers (AMAs)

A special policy applies to the care and admission of unaccompanied, underage asylum seekers. This policy focuses on the interests of the child. The government has an additional duty to provide protection when processing asylum requests from minors. The objective of the policy is to restore children's relationships with their parents and family or return them to a familiar environment.

Criteria for a residence permit

Unaccompanied underage asylum seekers qualify for a residence permit if they meet the following criteria:

- they are minors (younger than 18 and unmarried)
- they are not accompanied by an adult
- they cannot take care of themselves in their country of origin or another country
- there is no suitable child care in their country of origin

Underage?

In some cases the IND may have doubts about the age of an unaccompanied, underage asylum seeker. If an AMA has no documentary evidence to show that he is as old as he claims to be, he may request an age examination. The IND will pay the costs of this.

The Ministry of Justice provides a fact sheet about the policy for unaccompanied, underage asylum seekers (see other fact sheets).

How long does it take to process an asylum application?

Generally speaking a decision on asylum must be made within six months of the application. For some cases however more time may be required. In that case the decision period may be extended by a further six months. The Minister for Alien Affairs and Integration may also invoke a statutory provision for postponement of the decision. This is possible for certain categories of asylum seeker because of the specific situation in their country of origin, or because a large number of asylum applications have been received from a particular country or region. A statutory provision for postponement is not coupled to a specific period when applied to groups of asylum seekers. When it is applied to individual asylum applications however, the decision period can only be extended by one year.

The asylum procedure

In the Netherlands, an asylum application has to be submitted at an application centre (AC); this is also where the initial assessment of the application takes place. The IND has two application centres: AC Ter Apel and AC Schiphol Airport. The procedure in the application centre (AC procedure) takes a maximum of 48 hours, spread over a number of working days. In general, this means asylum seekers stay in the accommodation centre for four to six working days.

The AC procedure starts by investigating an asylum seeker's identity, nationality and travel itinerary. The first interview is part of this investigation. After the first interview, the IND decides whether the asylum application can be processed further at the application centre, or whether more time is needed for investigation. If the application merits further processing, the asylum seeker will be interviewed further at the application centre. During this more detailed interview he is given an opportunity to explain why he applied for asylum.

If more time is needed to decide on an asylum request, the asylum seeker is referred by the application centre to an IND screening office where the asylum procedure continues. In such cases he stays at a reception centre run by the Central Reception Organisation for Asylum Seekers (COA) and travels from there to the IND screening office for appointments. A detailed interview with the asylum seeker is conducted in the screening office. During this interview he is given an opportunity to explain why he applied for asylum. After the detailed interview has been completed, the asylum seeker returns to the reception centre to await the decision on his asylum application.

Fact sheets are also available about the procedures in the application centre and the screening office.

Outcomes and consequences

The asylum procedure has two possible outcomes:

1. The asylum application is granted

If their application is granted, asylum seekers may stay in the Netherlands for the time being. In principle an asylum residence permit is always issued for a fixed period. After this period has ended, an application may be submitted for conversion into a permanent residence permit. In some cases this is not granted, when someone constitutes a danger to public order for example. If a residence permit is not issued, the alien in question must leave the Netherlands.

2. The asylum application is rejected

If their application is rejected, asylum seekers have a right to appeal against the decision. If the appeal is also rejected, then they have exhausted all legal remedies. In that case they must leave the Netherlands as quickly as possible, and return to their country of origin. The IND never informs the authorities in a person's country of origin that they have applied for asylum in the Netherlands. For help with repatriation, rejected asylum seekers may turn to the International Organisation for Migration (IOM). The IOM provides information about repatriation and immigration to other countries. It also provides financial assistance and help with travel arrangements.

Other fact sheets

The IND has the following fact sheets about the asylum procedure:

- The procedure in the application centre
- The procedure in the screening office
- Which country is responsible for an asylum application? (about the Dublin procedure)

In addition, the Ministry of Justice has drawn up a fact sheet about unaccompanied underage asylum seekers:

- Unaccompanied Underage Asylum Seekers (AMAs): Repatriation is central to the policy on unaccompanied underage asylum seekers (www.justitie.nl/publicaties/brochures/en/factsheets/factsheets)

Further information

If you have any questions after reading this fact sheet please visit the IND website (www.ind.nl) for further information. You can also ask any questions you may have by telephone, letter or e-mail.

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