



# IRREGULAR MIGRATION IN THE NETHERLANDS CLANDESTINO



## *Counting the Uncountable: Data and Trends across Europe*

Research Brief

December 2008

### *Main facts and figures*

#### KEY POINTS

- Origin of irregular migrants: Turkey, Morocco, sub-Saharan Africa, Suriname, China and Latin America.
- Most popular economic sectors of illegal labour (2006): agriculture, semi-governmental organisations, construction.
- The highest density of irregular workers per sector (2006): cleaning, metal-processing and semi-governmental sectors.
- Undocumented employment: roughly 80 000 irregular migrants employed on a yearly basis;
- Undocumented residence: roughly 100 000 migrants on an yearly basis.

### *Quality assessment of estimates found in literature*

- Estimation methods have been improved and fine-tuned over the years;
- the quality of the data used by researchers has been improving due to increased co-ordination between government branches and the use of electronic databases;
- estimates generated by these studies are of relatively high quality. They are compromised in so far as the methods deployed and data sources have shortcomings which produce certain population deviations.

### *Main paths of irregularity*

The pathways into irregularity in the Netherlands are:

- Crossing a land, air or sea border clandestinely, for instance as victim of cross-border human trafficking or with the help of a human smuggler;
- overstaying through failure to depart according to the visa time limit or loss of the right to stay by undertaking irregular work or by committing a punishable offence;
- failure to depart after exhausting all asylum-granting procedures;
- by birth to irregular immigrant parent(s);

There are two general tendencies however:

- In general, irregular immigration is mostly a labour migration;
- legal entrance followed by overstaying as the main sources of irregularity.

### *Relevant policies*

- The implementation of the expanded obligation to carry proof of identity as of 2005;
- the Aliens Employment Act amended 2004 - the protection of the domestic labour force, penalties for hiring irregular migrants;
- the Aliens Act of 2000 - restrictive asylum policy;
- the Linking Act of 1998 - delegation of control and enforcement of immigration policies to the public-services providers, extension of the definition of illegal residence;
- the policy document on Return of Aliens, 2003 - the increase of detention capacity;
- the policy document on Illegal Aliens, 2004 – and enhanced supervision capacities of the police over irregular migrants.

### *Main discourses*

- Discourses have become much more open; they evolve mostly around integration matters, in particular that of the Muslim minorities.
- The issue of irregular immigrants is moving to the background of migration debates.
- The debates on irregular migrants evolve around the crimes committed by and with regard to irregular aliens (fraud, survival crime and human trafficking) as well as irregular migrant labour.

### *Main policy implications*

- The 2002 governmental elections were seen as a “watershed” moment, revealing a state of dissatisfaction among the population with the state’s immigration and integration policies. As a result, subsequent immigration policies with regard to irregular migrants were redefined with an emphasis on deterrence, exclusion and removal. This has been tempered lately by the regularisation programme undertaken in 2007.



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<http://www.eliamep.gr/en/category/migration/>

## **THE RESEARCH**

*Estimates and guesstimates of irregular migration in Europe ‘travel’ freely and uncritically among experts, journalists and policy makers without it being clear who produced them first and how. Their source may not be clear, their direction, however, definitely is: these numbers are routinely used as a means of arousing public anxiety about migration and exercising pressure for policy responses.*

*This study critically explores the sources of data and estimates of irregular migration and, in particular, the validity and reliability of the methods used in their production. In doing so, it shows why and how migrants become irregular and whether and how they can achieve legal status. We also critically assess the policies aimed at tackling the phenomenon of irregular migration.*

## **Background of Migration Situation in the Netherlands**

The Netherlands is characterised by a relatively high level of immigration. Each year there are roughly 100 000 legal entries into the country. Family reunification and formation as well as asylum seekers constitute the bulk of legal migration to the Netherlands. Labour migration takes place to a lesser extent. Family reunification and formation is used among Mediterranean immigrants (Turkish and Moroccans), while other immigrants form countries such as Vietnam, Nigeria, Ghana, Iraq, Somalia, Ethiopia come to the country as asylum seekers. The largest ethnic minorities groups are Turkish, Moroccans, Surinamese, Polish, Chinese and Indonesians. In general, the labour market and social position of non-Western immigrants is weaker than that of the native population and Western migrants. They have less job promotion opportunities and a lower quality of labour. Current labour immigration to the Netherlands reflects the demands of the domestic labour market, namely for highly-skilled migrants that come mostly from developed countries.

## **Size and Demographic Features of Irregular Migration**

Each year, there are close to 100 000 irregular migrants residing in the Netherlands. The vast majority of them are unlawfully employed by Dutch employers. Between 2000 and 2006, on average, there have been around 80 000 irregular migrants taking employment in the Netherlands on a yearly basis. Researchers assume that two thirds of all the irregular residents have income from working activities. Fieldwork among irregular immigrants suggests that there are more men than women staying irregularly in the country (85% males, 15% females). The “prototype” of the irregular migrant is thus a young male, aged 40 or lower (80%), employed irregularly (however, in the case of trafficked third country nationals we typically find young women). A minimum 11% and a maximum of 33% of the total yearly illegal population have been through an asylum procedure. The distribution of irregular migrants in the economical sectors varies on a yearly basis, as irregular migrants are highly mobile (due to fear of exposure and profitability). However, it is usually horticulture and the agrarian sectors that are most often associated with undocumented labour in the Netherlands. Other sectors likely to attract irregular employment are the construction industry, catering and temporary employment agencies. Irregular immigrants are more often hired indirectly by employers on the basis of false documents or false identities and the in-between layer of intermediaries appears to have grown. They have also moved deeper into immigrant circuits and there are indications that their involvement in personal services has increased. The only available information regarding births and deaths of irregular immigrants is from 1999, when the Ministry of Health estimated that in the country as a whole 500 - 1.250 irregular babies are born on a yearly basis. With respect to deaths, the same report estimates between 35 and 85 deaths a year. Regarding border-related flows, roughly 10 000 irregular migrants are apprehended each year after trying to cross one of the Netherlands’ external borders (both air and sea borders). The most of irregular crossings take place at Amsterdam Airport Schiphol, in most of cases with the use of forged documents.

Year	Undocumented workers	Irregular residents
1999	128 000	
2000		84 523 (71 578 to 97 467) 91 788 (72 629 to 110 948)
2001		80 000 (46 500 to 115 600) 117 373 (77 973 to 156 772)
2002		104 990 (77 721 to 132 262)
2003	80 000 (60 000 to 100 000)	77 077 (60 469 to 93 684)
2004	66 750 to 89 000	
2005		88 116 (62 320 to 113 912)
2006	86 250 to 115 000 80 000 (60 000 to 97 000)	

## Main Paths into and out of Irregularity

Studies have shown that most of the irregular residing immigrants in the Netherlands have entered the country legally. Thus, the main source of irregularity in the Netherlands is *overstaying*. This can take the form of residing beyond the visa expiration date (or the three months for nationals who do not require visa) or failure to depart after finalising the available asylum procedures. In recent years, the numbers of individuals from asylum countries stopped and questioned by the police has been slightly increasing. They account for more than one third of the total number of irregular aliens stopped by the law enforcement authorities. As the rates of granted asylum requests are low and expulsions are not thoroughly enforced by the Dutch authorities, former asylum-seekers constitute an important source of undocumented immigration.

The channels out of an undocumented situation for third country nationals are virtually non-existent. There are no official provisions for irregular foreigners to legalise their status. Moreover, the Netherlands' track record of regularisation suggests that it is only an exceptional pathway out of illegality, for a tiny minority of undocumented migrants. After the 2007 general amnesty programme, we expect none such actions to be undertaken in the foreseeable future. The far-fetched available tools are asylum application and marriage to a Dutch national. Asylum has a low granting rate in the Netherlands. As far as marriage is concerned, the scope of family formation between a Dutch national and a third country national has been reduced by subsequent legislative acts. For instance, since March 2006, the "Pre-arrival integration law" (*Wet inburgering in het buitenland*) requires those who wish to marry a Dutch citizen to take a Dutch language and culture test at consulates in their countries of origin. Not only does this measure reduce substantially the possibility of legalisation through marriage but it also limits marital migration (for third country nationals) to the Netherlands.

The presence of undocumented workers is a well-known fact in the Netherlands. Moreover, we can say that it has become a "structural" reality that has moved beyond being a temporary adjustment to new conditions. After years of silently accepting "spontaneous migrants", the Dutch government has pursued a comprehensive "discouragement policy" with respect to irregular residence, which has been "fine-tuned" ever since the early 1990s. However, this has not fundamentally altered the structural demand for undocumented workers by the Dutch economy. It also appears that in public debates, the issue of irregular immigration has moved somewhat in the background of immigration discussions. This is indicated, for instance by a drop in news paper coverage between 2002 and 2007. The estimations made with regard to the probable size of the irregular population in the Netherlands are reported in the press, but they do not attract huge attention. The same holds for the use of these numbers in policy discussions. Dramatizing the numbers of irregular migrants is sometimes used in order to adopt a certain policy line. However, on the whole the influence of the estimations of irregular migrants seems to be limited in public policy. What does attract attention on the other hand, are incidents and reports on migrant crime, fraud and human smuggling.

To sum it up, even if, generally speaking, irregular immigration has been a main concern of the Dutch government, today, this is not reflected as such in public debates. Multiculturalism and the integration of ethnic minorities into the Dutch society are the immigration-related topics that attract most of the concern and interest.

## **Main Policy Recommendations**

Dutch researchers have developed significant scholarship regarding quantitative and qualitative aspects of irregular immigration. Most of the time, research into the hidden populations in the Netherlands has been commissioned by the bodies involved in immigration policy-making, namely the government and the social partners. However, to the greatest extent, the scholarship developed in the Netherlands with regard to quantitative and qualitative aspects of irregular immigration is not used in order to develop an effective and realistic immigration policy and to tackle what is a non-shrinking number of irregular migrants. To a certain degree, it seems that undocumented immigrants have responded to the regulations and controls of the Dutch government by behaving more unobtrusively and by going to great lengths in order to escape detection. Moreover, the estimates of the size of the irregular immigration do not demonstrate that it has seen dramatic changes over time. Over the past 4 years, the most significant political process that has contributed to the diminishment of number of irregular migrants has been the two Eastern enlargements of the European Union.

The most important research-policy gaps are the following. These are also our main suggestions for dealing with the issue of irregular migrants in the Netherlands.

Firstly, although research shows that the overwhelming majority of illegal migrants are employed and the economic sectors where these are employed are fairly well-known as well, the effects of policies in this field are still limited. Yet, results of newer measures including higher fines for employers and more attention for individuals and organisations that profit from illegal labour are not yet clear and need to be taken into account.

Secondly, even if, the Dutch police forces have been given additional capacity in order to detect and deal with irregularly residing aliens, these efforts are not coordinated with an increase of effective expulsions. Actually, the share of effective expulsions has been decreasing over the years. Thus, even if irregular migrants are increasingly apprehended and detained, this is not necessarily followed by an expulsion. Many irregular foreigners are just released back to the streets.

Thirdly, although the Dutch government has put in place a set of restrictive entry policies for third-country nationals (contributing to tackling those who enter legally and subsequently overstay), there is currently no policy in sight aimed at resolving the irregular status limbo that affects roughly 100.000 irregular migrants who are neither likely to be legalised, nor to leave the country.

There is extensive information available for policy-makers which can be used as a basis for sustainable immigration policies. But putting it to use and balancing (expected) outcomes with efforts to be made, requires political choices.

### **For more information**

The full report on the Netherlands, by Joanne van der Leun and Maria Ilies, is available at <http://www.eliamap.gr/en/category/migration/>.

Read the research briefs and full reports of the other 14 countries included in the CLANDESTINO project at <http://www.eliamap.gr/en/category/migration/>

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