



**I-CLAIM**

Improving the Living  
and Labour Conditions  
of Irregularised Migrant  
Households in Europe

*Country report*

# The Legal and Policy Infrastructure of Irregularity

*The Netherlands*

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## Executive summary

The I-CLAIM project examines migrant irregularity in Europe, using the concept of ‘irregularity assemblage’ to analyse interconnected factors shaping irregular conditions. This report focuses on Dutch policies, aiming to understand their implementation and impact on the production of migrant irregularity in the Netherlands. In the Netherlands, the most frequently used definition of an irregular migrant is ‘a person without a valid residence permit’, often referred to as ‘undocumented’ (*ongedocumenteerd*). This group includes rejected asylum-seekers, migrants who came (irregularly) to work (irregularly) or people who have reunited with their families irregularly. Support organisations primarily focus on rejected asylum-seekers. Estimates suggest that there are between 23,000 and 58,000 irregular migrants in the country, with the numbers declining over the past 25 years due to policy changes and EU enlargements.

Over the past 25 years, Dutch policies have increasingly aimed to control migration flows, resulting in restrictive attitudes towards irregular migrants. The *Koppelingswet* (‘Linking Act’) of 1998 linked access to welfare services with legal status, thus excluding irregular migrants from essential services. The exclusion under the *Koppelingswet* affects not just irregular migrants but also mixed-status families and/or households. Despite some exceptions, irregular migrants have, since then, largely been excluded from social policies like financial benefits and housing subsidies. Moreover, by banning irregular migrants from the (formal) labour market, working has become increasingly difficult. The *Koppelingswet* exemplifies the shift towards internal control, excluding irregular migrants from the Dutch welfare state.

In the Netherlands, municipalities play a key role in executing national policies. Balancing national policy with local responsibilities, they often adopt a less-restrictive approach and can find ways to provide assistance despite national restrictions. Conflicting policies between national and local governments regarding shelter provision illustrate these challenges. A pilot project, the National Facility for Aliens (LVV: *Landelijke Vreemdelingenvoorziening*), aims to provide a sustainable solution for irregular migrants, involving collaboration between national and local governments, NGOs and the migrants themselves. However, tensions arise regarding the emphasis on voluntary return versus regularisation, highlighting the complexities of addressing irregular migration at different governmental levels.

The national policy discourse emphasises the increased exclusion of irregular migrants, yet this exclusion is nuanced in practice. Local governments and civil society often step in to provide support, challenging the straightforward narrative of exclusion. Table 1 gives an overview of the policy areas discussed:

Table 1: overview of policy areas addressing irregular migrants in the Netherlands

<b>Work</b>	Irregular migrants are prohibited from undertaking legal employment but are still entitled to basic employment rights if they work informally.
<b>Healthcare</b>	While excluded from health insurance, irregular migrants can receive medically necessary care, albeit with challenges in accessing it. Eighty per cent of the costs are covered by the government.
<b>Housing</b>	Excluded from formal social housing, irregular migrants often live in alternative and informal arrangements. They have renters' rights.
<b>Education</b>	Children have access to primary and secondary education but higher education opportunities are extremely limited.
<b>Juridical assistance</b>	Irregular migrants have the right to legal assistance but social lawyers struggle due to the low financial compensation.
<b>Financial services</b>	Irregular migrants are excluded from banking services.

### *Routes in and out of irregularity*

There are various routes leading to irregularity in the Netherlands. The most prominent group consists of asylum-seekers whose asylum requests have been denied. Other routes include being born to irregular parents, entering the country irregularly, not fulfilling the criteria for regularisation or losing one's legal status after obtaining it. A loss of legal status can occur due to moving abroad, committing a crime or failing to (continue to) fulfil residence-permit requirements. Regularisation options include regularising through (renewed) asylum procedures or applying for regular residence permits based on family, medical grounds or work or for humanitarian reasons. One practical barrier that constrains many irregular migrants from regularising is the MVV requirement for obtaining a regular residence permit, for which applicants need to travel back to their country of origin, which it is not always possible or safe to do.

### *Irregular migrants and the labour market*

While high-skilled migration is supported to a great extent, low-skilled migration, especially from non-EU countries, faces severe restrictions. In the Netherlands, irregular migrants are barred from the formal labour market. In theory, they have rights under labour law; however, most irregular migrants in the Netherlands are not aware of their rights. Irregular migrants often rely on subcontractors and work in informally organised sectors like domestic work, agriculture and delivery, where it is unclear to whom abuse should be reported. Although the Netherlands has a relatively small informal economy, the number of fines for illegal work is relatively high, indicating high levels of control.

The I-CLAIM project focuses on irregular migrants in the domestic work and delivery work sectors. For the domestic work sector, Dutch regulation differs from the ILO treaty, providing fewer rights to workers in order to encourage hiring. Although irregular migrants are not explicitly addressed, they often work in this sector, risking exploitation due to their status.

## Nederlandse Samenvatting

### De juridische- en beleidscontext rondom irreguliere migratie in Nederland

Het I-CLAIM-project onderzoekt de irregulariteit van migranten in Europa, waarbij het concept van "irregularity assemblage" wordt gebruikt om onderling verbonden factoren te analyseren die irreguliere condities vormgeven. Dit rapport richt zich op het Nederlandse beleid, met als doel inzicht te krijgen in de implementatie en de impact van beleid op de productie van irregulariteit in Nederland. In Nederland is de meest gebruikte definitie van irreguliere migrant 'een persoon zonder geldige verblijfsvergunning', vaak 'ongedocumenteerd' genoemd. Tot deze groep behoren afgewezen asielzoekers, migranten die (irregulier) werken of mensen die op irreguliere wijze met hun familie zijn herenigd. Steunorganisaties richten zich vooral op afgewezen asielzoekers. Schattingen suggereren dat er tussen de 23.000 en 58.000 irreguliere migranten in Nederland zijn, waarbij de aantallen de afgelopen vijftientig jaar zijn afgenomen als gevolg van beleidsveranderingen en uitbreidingen van de EU.

De afgelopen vijftientig jaar is het Nederlandse beleid er steeds meer op gericht om de migratiestromen onder controle te houden, wat heeft geresulteerd in een restrictieve houding tegenover irreguliere migranten. De Koppelingswet van 1998 koppelde de toegang tot sociale voorzieningen aan de verblijfsstatus, waardoor irreguliere migranten werden uitgesloten van essentiële voorzieningen. De uitsluiting onder de koppelingswet raakt niet alleen ongedocumenteerden zelf, maar ook gemengde-status gezinnen en/of huishoudens. Ondanks enkele uitzonderingen zijn irreguliere migranten sindsdien grotendeels uitgesloten van sociaal beleid, zoals financiële voordelen en huisvestingssubsidies. Bovendien is werken door het weren van irreguliere migranten van de (formele) arbeidsmarkt steeds moeilijker geworden. De Koppelingswet is een voorbeeld van de verschuiving naar interne controle, waarbij illegale migranten worden uitgesloten van de Nederlandse verzorgingsstaat.

Gemeenten vervullen een sleutelrol bij de uitvoering van nationaal beleid. Door het nationale beleid in evenwicht te brengen met lokale verantwoordelijkheden, hanteren ze vaak een minder restrictieve aanpak en kunnen ze manieren vinden om ondanks nationale beperkingen hulp te bieden. Conflicterend beleid tussen nationale en lokale overheden met betrekking tot het bieden van onderdak illustreert deze uitdagingen. Een pilotproject, de Landelijke Vreemdelingenvoorziening (LVV), heeft tot doel een duurzame oplossing te bieden voor irreguliere migranten, waarbij wordt samengewerkt tussen nationale en lokale overheden, NGO's en migranten zelf. Er ontstaan echter spanningen over de nadruk op vrijwillige terugkeer versus regularisatie, wat de complexiteit van de aanpak van irreguliere migratie op verschillende overheidsniveaus benadrukt.

Het nationale beleidsdiscours benadrukt de toegenomen uitsluiting van irreguliere migranten, maar deze uitsluiting is in de praktijk genuanceerder. Lokale overheden en het maatschappelijk middenveld komen vaak tussenbeide om steun te bieden en stellen het duidelijke verhaal van uitsluiting ter discussie. Tabel 1 geeft een overzicht van de relevante beleidsterreinen als het gaat om irreguliere migratie in Nederland.

Tabel 1: overzicht van beleidsterreinen die zich richten op irreguliere migranten in Nederland

<b>Werk</b>	Irreguliere migranten mogen niet legaal werken, maar als ze informeel werken hebben ze wel recht op fundamentele arbeidsrechten
<b>Gezondheidszorg</b>	Irreguliere migranten zijn uitgesloten van een ziektekostenverzekering, maar hebben recht op medisch noodzakelijke zorg, wel kan toegang tot zorg een probleem zijn. 80% van de kosten wordt gedekt door de overheid.
<b>Huisvesting</b>	Omdat irreguliere migranten uitgesloten zijn van formele sociale huisvesting, leven ze vaak in alternatieve en informele huisvesting. Irreguliere migranten hebben wel huurdersrechten.
<b>Onderwijs</b>	Kinderen hebben toegang tot basis- en voortgezet onderwijs, maar de mogelijkheden voor hoger onderwijs zijn uiterst beperkt.
<b>Juridische bijstand</b>	Irreguliere migranten hebben recht op juridische bijstand, maar sociaal advocaten hebben het moeilijk vanwege de lage financiële compensatie.
<b>Financiële diensten</b>	Irreguliere migranten zijn uitgesloten van bancaire diensten

### *Routes in en uit irregulariteit*

Er zijn in Nederland verschillende routes die naar irregulariteit leiden. De meest prominente groep bestaat uit asielzoekers waarvan de asielaanvraag is afgewezen. Andere routes zijn onder meer: geboren worden met irreguliere ouders, het irregulier binnenkomen van het land, het niet voldoen aan de criteria voor regularisatie of het verliezen van de verblijfsstatus. Verblijfsstatus kan worden ingetrokken als gevolg van verhuizen, het plegen van een misdrijf of het niet (blijven) voldoen aan de vereisten voor een verblijfsvergunning.

Tot de mogelijkheden voor regularisatie behoren onder meer regularisatie via (hernieuwde) asielprocedures of het aanvragen van reguliere verblijfsvergunningen op grond van familiale, medische redenen, werk of humanitaire redenen. Een praktische barrière die veel irreguliere migranten ervan weerhoudt zich te regulariseren is de MVV-vereiste voor het verkrijgen van een reguliere verblijfsvergunning, waarvoor aanvragers terug moeten reizen naar hun land van herkomst, wat niet altijd mogelijk of veilig is.

### *Irreguliere migranten en de arbeidsmarkt*

Hoewel hoogopgeleide migratie in grote mate wordt ondersteund, wordt laagopgeleide migratie, vooral vanuit niet-EU-landen, beperkt. In Nederland worden irreguliere migranten uitgesloten van de formele arbeidsmarkt. In theorie hebben ze echter wel rechten op grond van het arbeidsrecht, maar de meeste illegale migranten in Nederland zijn zich hier niet bewust van. Irreguliere migranten zijn vaak afhankelijk van onderaannemers en werken in informeel georganiseerde sectoren zoals huishoudelijk werk, landbouw en bezorging, waar het onduidelijk is aan wie zij misbruik kunnen melden. Hoewel Nederland een relatief kleine informele economie heeft, is het aantal boetes voor illegaal werk relatief hoog, wat wijst op een hoog niveau van controle.

Het I-CLAIM-project richt zich op irreguliere migranten in de sector huishoudelijk werk en bezorgwerk. Voor de sector huishoudelijk werk verschilt de Nederlandse regelgeving van het ILO-verdrag, waardoor werknemers minder rechten krijgen om het uitbesteden van huishoudelijk te bevorderen. Hoewel deze regelgeving niet expliciet over irreguliere migranten gaat werken zij vaak in deze sector, waardoor zij vanwege hun status het risico lopen te worden uitgebuit.

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## Introduction

The I-CLAIM project concerns the dynamic concept of migrant irregularity by looking at how conditions of irregularity are produced in Europe. The project uses the concept of ‘irregularity assemblage’ to refer to how the factors, actors and dynamics are interconnected and create specific conditions of irregularity together. This first report will discuss the policy regarding migrant irregularity in the Netherlands. The goal is to understand how Dutch legislation and policies are implemented and how migrant irregularity is thus shaped in the Netherlands. This report aims to identify critical legislation and policies regarding migration, labour markets, employment and welfare regimes affecting ‘irregularised’ migrants in the Netherlands. To achieve this, we have mapped those changes in legislation, policies and norms over the past 20 years which are relevant to migrant irregularity in the Netherlands. For our analysis, we have used a combination of document analysis and expert interviews.

The report begins by describing the general trends and features of the Dutch policy regarding irregular migration over the past 25 years from the introduction of the *Koppelingswet* (Linking Act) in 1998, which links access to social services with legal status. The report describes how the past 25 years have seen a continuation of the restrictive policy set out in the *Koppelingswet*. A schematic overview of this period can be found in Appendix 1. Over this period, some policy changes have extended the reach of the exclusionary effect of the *Koppelingswet* – for example, to mixed-status households. At other times, policy changes have restricted the exclusion, as is often the case when it is reviewed in terms of the European Convention on Human Rights – for example, the right to shelter, hygiene and food (Bed, Bath, Bread or BBB) following the CEC vs the Netherlands ruling (European Committee of Social Rights, 2014), which resulted in the setting up of BBB shelters for irregularised migrants in order to comply with this ruling. Yet, the basic premise of excluding irregularised migrants from the welfare state remains unchanged. However, the exclusion of irregularised migrants is viewed differently by the various policy levels. Municipalities have to balance the execution of national policy with their responsibility of caring for citizens and safeguarding public order. They therefore tend to have a less restrictive and more practical approach. As an illustration, this section will include a case study regarding the multi-level organisation of the successor to the BBB shelters, the LVV (*landelijke Voorziening Vreemdelingen* or National Provision for Aliens) – the national pilot scheme for municipal shelters for irregularised migrants.

Section 2 explores the relevant national legal and policy frameworks on irregularity by elaborating on the current state of the policy regarding irregular migrants’ access to work, healthcare, housing, education, juridical assistance and financial services. This section will use case studies to show the effects of these policies during the Covid-19 pandemic and on irregularised households, particularly children. Moreover, it will describe the various routes in and out of irregularity – meaning how migrants become irregular migrants and then overturn their irregular position – including possible legal trajectories for regularisation.

Finally, Section 3 examines how these policies work out on the labour-market position of irregular migrants. In so doing, we will demonstrate how the intentionally deregulated sector of domestic work, the novelty of the platform economy and the use of apps in the delivery work sector provide fertile ground for informal employment and the labour exploitation of irregular migrants in the Netherlands.

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<sup>1</sup> We use the term ‘irregularised’ to emphasise how irregularity is produced within the irregularity assemblage.



## 1. Migrant irregularity: general trends and features

In the Netherlands, the most frequently used definition of an irregular migrant is ‘a person without a valid residence permit’. In Dutch, this group is usually indicated by ‘*ongedocumenteerden*’ which translates to ‘undocumented’. In national policy, the terms ‘unlawfully residing aliens’ (*onrechtmatig verblijvende vreemdelingen*), ‘aliens’ (*vreemdelingen*) or illegal migrants (*illegal migranten/illegalen*) are also used. Irregularised migrants in the Netherlands are often either rejected asylum-seekers, migrants who come (irregularly) to work (irregularly) or people who have reunited with their families irregularly. Of the irregularised migrants in the Netherlands, rejected asylum-seekers are the most known to civil-society organisations.

*Aid organisations focus mainly on rejected asylum-seekers, which is just the reality in the Netherlands*

Representative of a national civil-society organisation (NGO1)

The most recent estimates of the WODC – the research division of the Ministry for Justice and Safety WODC (see Van der Heijden *et al.* 2020) – suggest that between 23,000 and 58,000 foreigners are residing unlawfully in the Netherlands. The successive national estimates have shown a downward trend since 2002. On the one hand, estimation techniques have become more refined. The old estimates might have led to an overestimation of the irregular population in general and an underestimation of irregular migrants who are less likely to be stopped by the police, such as women or irregular migrants from Asia (Van der Heijden *et al.* 2020). On the other hand, according to the WODC, a number of changes in national and European policy have contributed to this downward trend. First of all, the most drastic reduction in the number of people staying irregularly in the Netherlands was due to EU enlargements between 2004 and 2007. The estimates of irregular Europeans in the Netherlands went from between 65,000 and 107,000 before EU enlargement to between 5,000 and 6,000 in recent years. Moreover, since the mid-1990s, the illegal residence of foreigners in the Netherlands has gradually been rendered (more) unattractive through various measures, such as the *Wet op de Identificatieplicht* (the identification obligation law) in 1994 and the *Koppelingswet* (linking act) in 1998. By excluding irregular migrants from public facilities, these laws made it gradually more difficult for them to lead an independent existence. The expansion of surveillance and investigative powers through the *Vreemdelingenwet* (Aliens Act) in 2000 and the reorganisation of the immigration police in the early 2000s could be seen to have made irregular stay more unattractive.

While there are no reliable estimates of the number of irregular migrants on the local level, according to the street-level estimates of our interviewees, there are approximately 3,000 to 5,000 irregular migrants living in Utrecht. This is less than in other large Dutch cities, where there are more opportunities for informal work and irregular housing. In Amsterdam, for instance, experts estimate that there are between 10,000 and 30,000 irregular migrants.<sup>2</sup>

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<sup>2</sup> <https://www.amsterdam.nl/zorg-ondersteuning/ondersteuning/vluchtelingen/ongedocumenteerden/#hc7ef970e-b5f5-4663-b035-46a41825d3d5>

## 1.1. General trends and features

The past 25 years in the Netherlands represent a period in which the Dutch government has increasingly aimed to control flows of migration by implementing migration laws and developing policy programmes in collaboration with local, national and international parties. It demonstrates trends of increasingly restrictive approaches towards undesirable, irregular migrants (Ministerie van Justitie en Veiligheid, 2022). Appendix 1 shows a schematic overview of relevant policies. The recurring discussion about criminalisation is exemplary of the restrictive attitudes towards irregular migrants. Irregular stay is not criminalised in the Netherlands.<sup>3</sup> However, over the past 25 years, criminalisation has been a topic of recurring political debate. We see this, for instance, in the 2004 *Illegalennota* (Illegals Act) (*Kamerstukken II, 29537, nr 1&2 2003/04*). Later, in 2012, the coalition agreement between political parties VVD (liberal party) and PvdA (labour party) proposed this criminalisation in a bid to combat and prevent further illegal arrival and stay in the Netherlands. This proposal would also punish all entry and stay without a valid legal status when no entry ban has been instated. This criminalisation was intended to have a more significant deterrent effect (*Kamerstukken II, 33 512, nr 3, 2012/2013*).

### 1.1.1. The 'Koppelingswet': the exclusion of welfare services

The trend towards the control of migration and restrictive policies towards irregular migrants already began in the 1990s, with the idea of 'closing the migration circle', meaning that migrants should either obtain a legal status or leave. The *Koppelingswet* of 1998 linked the access to welfare state and public provisions to migration/legal status. The goal of the *Koppelingswet* was to prevent 'unlawfully staying aliens' to be able to continue their illegitimate residence. Moreover, the exclusion of 'not (yet) accepted' migrants had to be visible in order to prevent them from creating even an appearance of legality, which could potentially hinder their deportation. As stated in the explanatory memorandum:

*Illegals and the not (yet) accepted must be prevented from acquiring the appearance of full legality<sup>4</sup> (Kamerstukken II, 24 233, nr. 3. 1994-1995)*

Prior to the mid-1990s, irregular migrants were able to find forms of inclusion, for example, through (regular) work (see paragraph 2.2.2.1). Today, the explicit goal is to prevent irregular migrants from being able to integrate, as this would be a disincentive for them to leave and would make them difficult to deport. The *Koppelingswet* is characterised by exclusion in (almost) all aspects of social life that were previously unaffected by migration status. The law is an example of the shift in migration policy from one which was heavily influenced and therefore restricted by the minority policy – as differentiating based on nationality or legal status was seen as undesirable as it might provoke discrimination – to an increasingly restrictive migration policy. With this came a binary notion of the inclusion and exclusion of migrants, where those who were not admitted had to be removed and those who were not removed had to be excluded in other ways (Pluymen 2008).

<sup>3</sup> Note that entering or staying in the country irregularly with an entry ban or declaration of undesirability (*inreisverbod of ongewenstverklaring*) is a criminal offence, punishable with a fine or replacement custody.  
<https://ilegalevrouw.nl/?id=181#:~:text=Is%20illegaal%20overblijf%20strafbaar%20voor,wet%20is%20nog%20niet%20ingevoerd.>

<sup>4</sup> Original: 'Voorts moet voorkómen worden dat de illegalen en (nog) niet toegelatenen een schijn van volkomen legaliteit kunnen verwerven'.

In short, the *Koppelingswet* had consequences for five policy areas: justice, education, social affairs and employment, public health and public housing; we will discuss these in more depth in the next chapter. The *Koppelingswet* provoked modifications to 26 laws and systemic changes, such as, for instance, the linking of state registers, the alien administration system and municipal administration systems (WODC, 2001).

However, some exceptions have been made. For instance, irregular migrants can access legal assistance. In an initial version of the *Koppelingswet* in 1995, irregular migrants could access education until the age of 16 and medical care in life-threatening situations – when there is a threat of permanent loss of vital functions, a risk for public health or in pregnancy and childbirth. This has been changed in the current version after protests from teachers and doctors. Medical care can be accessed if deemed ‘medically necessary’. Education can be accessed under the age of 18 and students can finish their education after turning 18 if their education started before then. Irregular migrants are fully excluded from financial benefits and housing subsidies but, under the 1998 law, municipalities and societal actors were allowed to provide assistance if this exclusion would create an extremely difficult situation. Moreover, children are not targeted directly by the *Koppelingswet*. We will discuss the influence of these policies on children and households in Case Study 3. Furthermore, since the introduction of the *Koppelingswet*, a number of court cases, mostly based on international treaties and laws, have caused ‘cracks’ in the binary definition of entitled or not entitled migrants (Minderhoud 2012). Based on the European Convention for Human Rights (ECHR), Article 8 in particular, some categories of irregular migrants have been granted access to certain (social) rights. For example, in 2010, the European Committee on Social Rights (ECSR) ruled that irregular migrant minors cannot be withheld from shelter (Buyse 2010; Minderhoud 2012).

### 1.1.2. *Multilevel exclusion*

The *Koppelingswet* can be seen as representative of migration measures that increasingly moved from external to internal border control, excluding irregular migrants from the welfare state. It can be seen in the trend in the 1990s to shift migration control up to the EU, down to lower levels of government such as municipalities and out to private parties (Van der Leun 2002). An important aspect of the *Koppelingswet* is that its execution largely occurs at the level of service provision. Van Der Leun (2002) describes various dilemmas of street-level bureaucrats working in the execution of social policy. The *Koppelingswet* shifts the central dilemma of the welfare state – i.e., drawing the border between those who are entitled to access to welfare-state provisions and those who are not (Faist 1996) – to organisations and individuals at the executive level (Van der Leun 2002). The detailed character of the *Koppelingswet*, with its meticulously defined categories of migrants and what they are entitled to, generally leaves little room for interpretation (Minderhoud 2012). However, professionals (both governmental and non-governmental) can find ways to help irregular migrants – through formal channels, for instance, by getting medical expenses covered by state funds – or they can find informal ways of granting formally excluded migrants access to certain welfare services (Van der Leun 2002). Not to mention the various ways in which NGOs, volunteers and, sometimes, activists can help irregular migrants.

Moreover, there is a difference between national and local policy regarding irregular migrants. Municipalities are responsible for the execution of many national policies, amongst which the exclusion of irregular migrants from welfare services. However, municipalities also have a local responsibility for public order and safety and a duty of care for people in their districts.

*Municipalities have a duty of care, and the mayor has the authority for public safety. So, in short, if we have a vulnerable person on the street, we have a public safety problem and a care problem. Then you can always say that someone can go to location A or B for support*

Representative of the municipality of Utrecht (GVT1)

Local municipalities are confronted with the practical outcomes of restrictive national government policies – for instance, the consequences of exclusion from social housing on everyday experiences of homelessness and how this affects local communities. Therefore, it is often in the interest of the municipality to be less exclusionary than the national policy. One policy area where this can be clearly observed is that of providing shelter. Utrecht, specifically, is known for its more lenient policies towards irregular migrants.

### Case study 1: Shelter on different policy levels

To illustrate how irregular migration policies work out differently at various governmental scales and how they can be in conflict with each other, this case study discusses the developments regarding the policy for irregular migrant shelters.<sup>5</sup> Since the introduction of the *Koppelingswet*, the number of irregular migrants in need of assistance has increased. Initially, municipalities did not provide assistance to irregular migrants but only to people with renewed asylum claims or following Dublin procedures. The discussion about support for irregular immigrants arose much later, with the new Alien Law in 2001. Around 2000, municipalities began subsidising societal organisations and churches offering emergency shelters:

*From 95/96, we saw that various municipalities began to be involved in terms of support, subsidies, etc. (...). When a group of legal migrants ended up on the streets, it was easier for municipalities to justify this to the councils; it was the leeway to get municipalities involved. There are also public safety arguments.*

Interview 1: Representative of a national civil-society organisation

This went against the national government's policy of excluding irregular migrants from public services (Adviescommissie voor Vreemdelingenzaken 2018). The administrative agreement between the State Secretary of Justice and the association of municipalities stipulated that municipalities must end all direct and indirect support for emergency shelters by the end of 2009. The exclusion of irregular migrants from food and shelter was, however, seen as a violation of human rights by various societal actors who organised demonstrations protesting this exclusion. A later court case brought by the European Council of churches to the European Committee on Human Rights (ECSR) in 2014 ruled that all humans have the right to social care, medical emergency care and housing based on humanitarian grounds, despite their legal status in their country of residence. In 2015, municipalities started to provide emergency shelters called the 'bed, bath, bread' (BBB) provision in which they offered food, water, shelter and clothes. The entitlement to these facilities was unconditional and did not depend on the migrants' cooperation on departure (Adviescommissie voor vreemdelingenzaken 2018, Europees Migratie Netwerk 2016).

<sup>5</sup> In this case study we specifically discuss shelter for adult irregular migrants. Families with children have the right to shelter in so-called 'family units'. Migrants with pending legal proceedings, such as asylum-seekers, are entitled to a place in a reception centre. For more on housing, see paragraph 2.1.3.

The provision of shelter to irregular migrants sheds light on the conflicting policies of the national government and municipalities. Municipalities are not obliged by law to offer emergency shelter; this is the responsibility of the national government, which finances these initiatives. Yet, municipalities largely recognise the need for people to be given shelter, whereas the national government argues that the BBB shelters offer false hope to irregular migrants in terms of their stay in the Netherlands (Adviescommissie voor vreemdelingenzaken 2018). In 2018, a pilot for a National Facility for Aliens (LVV) was implemented to replace the local BBB initiatives with an ‘integrated approach’. With the LVV pilot, five municipalities – Amsterdam, Eindhoven, Groningen, Rotterdam and Utrecht – collaborated with the national government, the Immigration and Naturalisation Service (IND), the service for return and departure (DT&V) and local NGOs to provide a ‘sustainable future solution’ for irregular migrants while providing shelter. However, the LVV does not necessarily provide 24-hour shelter; for example, Rotterdam only had night shelter until recently. The sustainable solution could be regularisation, onward migration or departure. During their stay in one of the LVV locations, irregular migrants were offered legal guidance and could participate in various empowerment activities. These provisions of the LVV positively influenced the well-being of irregular migrants as it created more space for the latter to think about and work towards a sustainable perspective on where to continue and build their lives regularly (Mack *et al.* 2022).

However, the final evaluation report of the LVV pilot (Mack *et al.* 2022) shows an additional complication as the LVV included not only the collaboration between national and local government but also civil society’s important role in its execution. This friction is the most obvious in the issue of the extent to which ‘return’ ought to be part of ‘the solution’. This is an important pillar for the national government. A remarkable trend is visible in the programme concerning voluntary return, while NGOs focus more on regularisation. Municipalities have a mediating role in this. Moreover, despite governmental efforts to regulate shelters nationally, BBB initiatives continue in around 30 cities (Ederveen 2021).

### 1.1.3. *Detention and deportation regime*

In the Netherlands, there are generally no controls specifically intended to apprehend irregular migrants and detain them. However, mundane aspects of daily life tend to be strictly controlled. Therefore, a ‘small slip-up’ like taking public transport without a ticket can cause irregular migrants to end up in detention (see also Echeverría 2020). This takes place in special migrant detention centre, and can be extended up to a maximum of 18 months. When children are involved, this is limited to a maximum of two weeks in the ‘family unit’ of a detention centre. Detention is intended only for people who do not cooperate with return<sup>6</sup> or for people for whom deportation is a possibility in the short term.

The Dutch return policy relies heavily on migrants’ own responsibility to return. Moreover, the policy prefers returns to be voluntary or at least for people to cooperate with their return. If people do not cooperate, they can be deported. In 2022, there were 469<sup>7</sup> ‘return operations’ of either forced return or return guided by the return agency (Inspectie Justitie en Veiligheid 2023).

<sup>6</sup> <https://www.rijksoverheid.nl/onderwerpen/terugkeer-vreemdelingen/vreemdelingenbewaring>

<sup>7</sup> Families are counted as one.

## 2. Relevant national legal and policy frameworks on irregularity

Where (national) policy discourse tends to focus on the increased exclusion of irregular migrants, in practice, this exclusion is not so black and white. Moreover, on the level of policy outcomes for individual irregular migrants, one can question whether this exclusion has increased – among others reasons because, where national policy propagates exclusion from welfare, local governments and civil society can ‘take over’ some of these responsibilities. Below we elaborate on the state of affairs in six policy areas: work, healthcare, housing, education, juridical assistance and access to financial services. Moreover, this section will discuss routes for regularisation. We specifically focus on the situation of irregular migrants, as other policies exist for asylum-seekers and other migrants in the process of legal proceedings.

### 2.1. Policy framework

#### 2.1.1. Work

The *Koppelingswet* has an excluding effect on the employment possibilities of irregular migrants, as it prohibits them from working legally. As a result, they lose social security linked to work. Employers have the obligation to check the identity of their employees and can be fined when they employ someone without a work permit, e.g. irregular migrants. However, under civil law, irregular migrants who work are seen as employees and therefore have rights under labour law.<sup>8</sup> These include all basic employment rights such as a minimum wage, holiday pay, good and safe working conditions, sick pay and 16 weeks’ maternity leave. Moreover, if a specific sector has a collective bargaining agreement, this also covers irregular migrants. The employer must comply with the collective labour agreement that applies to the type of work a person does. Working hours, wages and other rules stated in the collective labour agreement apply to all employees, including undocumented migrants. In sum, irregular migrants are not allowed to work but they have employment rights if they do (Stichting LOS, 2023). In practice, however, it can be difficult for irregular migrants to obtain their rights as they mostly work in the informal economy. We elaborate on this in Section 3.

#### 2.1.2. Healthcare

Irregular migrants have a right to any medical care which a doctor deems necessary and would provide to any other patient. In practice, this means all care that would be covered by basic healthcare insurance (*basispakket*) for legal residents (Klazinga et al. 2007; Staring et al. 2022). However, since the implementation of the *Koppelingswet*, irregular migrants cannot take out Dutch health insurance based on the Health Insurance Act (*Zorgverzekeringswet*) nor can they claim care based on the Long-Term Care Act (*Wet Langdurige Zorg*). Since the *Koppelingswet*, the government has refrained from covering healthcare costs for irregular migrants in a bid to prevent accessible healthcare becoming a pull factor towards the Netherlands. Irregular migrants must, therefore, pay for the costs themselves. In the case that they are unable to do so, there is state funding that covers medical care. Initially, the costs were covered through the ‘*Koppelingsfonds*’ (linking fund), which covered a wide range of health-care expenses. Later, this was changed and only ‘medically necessary’ care was covered through the CVZ (*College voor zorgverzekeringen*) and the municipal health services; this care coverage then passed to the ‘*Zorginstituut*’ and is currently supplied through the Central Administration Office or CAK (*Centraal administratie kantoor*).

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<sup>8</sup> HR 27 maart 2981, NJ 1981/492

Since the *Koppelingswet*, subsidy initiatives have been launched to compensate for the financial costs of doctors who provide emergency care to irregular migrants (*Kamerstukken II, 19637, nr. 452, 1998-1999*). General practitioners can submit a declaration of 80 per cent of the costs to the CAK for primary, medically necessary care for irregular migrants; pregnancy and maternity care can be 100 per cent reimbursed. There is no financing for dentists or physiotherapists. For secondary care, irregular migrants can only access hospitals, pharmacies and institutions contracted by the CAK – except for medical emergencies and care in connection with pregnancy and childbirth.

Although these subsidies should cover financial costs and make health care accessible for irregular migrants, in practice, these reimbursement procedures are a barrier to accessing medical care (Breed Medisch Overleg, 2009). Not all health-care providers know that uninsured people are entitled to care, thinking instead that, when the uninsured cannot pay, they do not have the right to it. Many irregular migrants face hostility or are denied care by hospital staff and doctors refuse to provide services or make referrals to specialised care. What is more, studies show that many irregular migrants lack any knowledge about how the Dutch healthcare system works and what their rights are. Many irregular migrants are not registered with a General Practitioner (GP – a doctor). They do not trust GPs and fear being reported. Without a GP, there is a lack of preventative care. Often, irregular migrants thus avoid primary health-care services and go to the doctor only in an emergency. The ignorance about and avoidance of making physical or mental complaints worsens their medical problems and the costs of eventual treatment become higher (Breed Medisch Overleg 2010; Pharos 2019). NGOs play an important role in mediating access to health care for irregular migrants.

### 2.1.3. Housing

As discussed in the previous chapter, the BBB and LVV are shelter options for irregular migrants. Moreover, families with children have the right to shelter in so-called ‘family units’. However, these shelters are not a solution for everyone and many continue their lives in the Netherlands irregularly while residing in alternative or informal housing – for example, living with family members. Through the *Koppelingswet*, migrants without a residence permit are excluded from formal social housing. They still have the option to buy or rent a house through a private agreement but, often, proof of their income is requested. Because they are excluded from the formal labour market, it is difficult for them to prove their source of income to a landlord or housing agency. It is not possible to terminate a rental contract with a private landlord based on being undocumented. This is only allowed when the public order is disturbed by the tenant. Irregular migrants also hold the right to rent protection and may take legal action against an unreasonable rent increase and contract termination. In the Netherlands, people with a low income are entitled to a housing allowance although irregular migrants are not entitled to it. Moreover, people who live at the same address as the irregular migrant may also lose financial compensation. We elaborate on these effects of the *Koppelingswet* on mixed-status households in Case Study 3.

Few empirical studies have been conducted on the housing and living conditions of irregular migrants since the implementation of the *Koppelingswet*. Leerkes, van San, Engbersen, Cruijff and van der Heijden (2004) found that a third of the irregular migrants resided in the four largest cities – Amsterdam, The Hague, Rotterdam and Utrecht. The reasons for going to these cities were the informal job opportunities there or the fact that they had already lived in or near the city during their residence procedure and had built up a social network there. In her empirical study on irregular migrants in Utrecht, Kox (2009) found that they prefer to go to Utrecht because of the presence of family, friends, a partner or peers who want to help. Many live with family, peers or partners, rent rooms and beds in private housing, sub-rent through peers or commercial intermediaries or continue their

residency in houses that they rented when they had a residence permit. Depending on the recourses of their (migrant) community and their labour and income, the renting options of irregular migrants on the informal housing market are limited. Consequently, many end up on the streets and depend on charitable organisations, churches and informal relational networks. All interviewed experts state that little is known about the living conditions of irregular migrants outside of the BBB and LVV. Empirical studies show that irregular migrants stay in many different types of housing and move frequently. Most of them, among whom are also children, have moved at least twice during the period of their irregular status (Kromhout *et al.* 2014). The reasons for this vary from problems in the family, a too-high rent, the house being demolished or being on the run from the police. Studies show that they must often accept the poor conditions in which they live – such as poor hygiene and small, overcrowded houses – because they know that there is no better alternative available. They want to live as cheaply as possible (Kox, 2009).

#### 2.1.4. Education

The restrictive policies against irregular migrants are also reflected in their limited access to the education system. Based on the Act on Primary Education (WPO), all children from the ages of five to 18 can access education regardless of their legal status. Children under the age of five cannot attend nursery school or preschool. However, they are allowed to enrol in primary school and schools cannot refuse them. Because they have no citizens' service number (BSN), the Dutch education executive agency of the Ministry of Education, Culture, and Science (*Dienst Uitvoering Onderwijs*, DUO) provides such a child at school with a temporary education number (Rijksoverheid 2023).<sup>9</sup> Based on the Secondary Education Act (WVO), irregular students can also register at a secondary school until the age of 18. If the student turns 18 during the course of the programme, he or she may still complete it and the government will fund the study. Moreover, since 2013, an amendment to the Aliens Employment Act has allowed irregular students to do an internship without a work permit, where this previously inhibited them from obtaining their diploma (*Kamerstuk 32144, nr. 21, 2012-2013*). The irregular intern may not, however, receive a salary.

Despite these regulations, many irregular migrants are often excluded from higher education. They cannot start their studies after the age of 18 and it rarely happens that they are younger than 18 on the first day of their course. Consequently, schools often advise enrolling onto lower-level educational programmes (MBO) than the students would normally be entitled to do based on their skills, as this enhances their opportunities for obtaining a diploma. Noticeably, higher education and university institutions like the Utrecht University of Applied Sciences and the universities of Delft, Eindhoven, Nijmegen and The Hague unite to find solutions to make higher education more accessible. This is exemplified through the 'Education Covenant', a pilot scheme running until 2024, whereby institutions made an agreement with municipalities to assist irregular migrants who had finished high school in The Netherlands to gain access to higher education based on a study residence permit or by offering an education contract (Dez & Fiorito 2022). Through this pilot scheme in Amsterdam, a discount on tuition fees is offered. When they have graduated, international students can apply for one orientation year to allow them to look for a job (IND 2023a). However, undocumented migrants face difficulties obtaining a visa that will allow them to look for a job while residing in the Netherlands. This means that they risk becoming irregularised again (Dez & Fiorito 2022).

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<sup>9</sup> A firewall has been established between the education system and local government, therefore we do not know how many children with an irregular status attend school in Utrecht.



### 2.1.5. Juridical assistance

Irregular migrants also have the right to legal assistance. They can receive free legal advice at the Legal Desk and Social Councillors and can be assisted by a lawyer for a small financial contribution. They need proof of income but, if they can prove that they do not have any, certain costs can be reduced. For instance, registry costs (*griffiekosten*) can be remitted. Moreover, in 2003 the application fees (*leges* in Dutch) for migration-related proceedings were reduced drastically. Where, previously, the cost of procedures formed an obstacle, this has now become more accessible.

*When we started in 2003, we organised a whole action because of the high costs (leges). Back then it was 1,000 euros per case, which hindered all sorts of humanitarian cases, like family reunification. Many court cases have been held over this and were eventually won (...) now they have largely abolished them but the 1,000 euros was a huge obstacle. Now it is around 200, which is manageable. (...) it was 1,000 for a 'buitenschuldaanvraag' (an extra debt application), more than 1,000 for family reunification, family formation was 1,000, the hinderance was enormous.*

Representative of a national civil-society organisation (NGO1)

In practice, however, social lawyers generally have trouble working in view of the low compensation they receive from the government for their work. Complicated cases, like renewed asylum requests, are especially not adequately compensated. Adequately covering the costs of legal assistance can, therefore, be a real problem, as evidenced in this next quote.

*For a subsequent request, lawyers get paid 250 euros per request (...) the hourly wage of social lawyers is 165 euros, which sounds like a lot but you have to subtract the costs of the office and then what is left is below bijstandsniveau (level of assistance). So there are 250 euros. But we spend a minimum of 40 hours for a request; there are also lawyers who still do it but they also spend a minimum of 20 hours, so it is impossible.*

Legal expert (NGO3)

Furthermore, based on the European Union Victims' Rights Directive (Directive 2012/29/EU), all residents, regardless of their residence status, hold the right to report criminal offences to the police and/or report the birth of a child to the civil registry of the municipality (Bouts *et al.* 2016). To guarantee the rights of victims of crimes, the 'free in, free out' policy is implemented, meaning that irregular migrants can report a criminal offence to the police while being assured that they do not have to go to a detention centre under the Aliens Act. This national policy should protect the vulnerable group of irregular migrants against crimes. In practice, there appears to be a lack of effective policy in the four largest cities of Amsterdam, Utrecht, Rotterdam and The Hague. Interviews with undocumented immigrants in these cities reveal that they are not familiar with the possibility of safe reporting (Bouts *et al.* 2016). In addition, the fear of deportation and contact with the police based on previous experiences also plays a role. A Utrecht study on experiences with safe reporting among emergency-service organisations shows that a sense of security seems to be missing, as only a few reports are filed (VISA RoC 2023). When a complaint is processed, the credibility of their documents is often questioned by the police. Safe reporting is, in practice, not as successful as the 'free in, free out' guidelines imply. Often social workers go to the police station to accompany and assist the client (VISA RoC 2023).

### 2.1.6. Access to financial services

In the Netherlands, irregular migrants are excluded from services, including financial services. To open a bank account, a valid identity document and a valid residence permit are required. This exclusion is one of the measures intended to make it difficult for irregular migrants to maintain themselves in the Netherlands under the *Koppelingswet* (*Kamerstukken II, 19637, Nr 2688, 2020-2021*). A bank account is increasingly important as cash payments are slowly disappearing. This means, for instance, that irregular migrants cannot pay in certain stores and are increasingly excluded financially (De Lange 2020). Under the European consumer PAD guidelines, however, irregular migrants who cannot be deported can be understood to have a legal status. This would grant them access to a basic bank account. However, this guideline is vague and places bank employees in a position of border controllers (De Lange 2020). In practice, some irregular migrants manage to continue using the bank account which they opened when they were regular (Berntsen *et al.* 2023). Others find forms of online or prepaid financial services, like VIABUY (GGD Haaglanden nd).

#### *Case study 2: The Covid-19 pandemic*

The Covid-19 pandemic exposed the excluding effect of legislations and regulations around irregular migration, particularly the *Koppelingswet*. The lockdowns made the precarious living conditions of irregular migrants in the Netherlands more visible (Aanjaagteam Bescherming Arbeidsmigranten 2020), as it made it difficult for many to uphold their informally constructed lives, for example, concerning employment or housing. Many domestic workers, for example, lost their employment, some losing up to 80 per cent of their income, leaving them unable to pay rent or for groceries (FNV 2023). On the other hand, delivery workers turned out to be essential during lockdown.

Their working conditions also highlight the lack of protection by the government during the pandemic. Although employee rights formally also apply to undocumented employees, they were almost impossible to claim in practice. Irregular migrants could not apply for the government's financial emergency regulations due to the pandemic. Moreover, often working in the informal economy, there was no guarantee that measures were taken to protect them from the virus. Those who were able to work during lockdown, including sex workers and delivery workers, often continued to do so. Consequently, there were greater health risks for themselves and their clients. Their employers partially compensated some of them for the loss of income during lockdown. Irregular migrants often received little or no compensation for staying at home due to health complaints that could indicate Covid-19. Many were unable to continue working and lost their income completely. This applied especially to domestic workers who could no longer go to the house of their clients (Elzinga 2020).

Many people had difficulty paying their rent, although sometimes this was deferred. For irregular migrants without housing, staying indoors and keeping social and physical distance was difficult. Shelters were overcrowded and, as this formed a risk of further spreading the virus, emergency night shelters opened (Aanjaagteam Bescherming Arbeidsmigranten 2020). The pandemic increased feelings of loneliness and depression among irregular migrants. The lack of social contacts also meant that they were often not well informed about the virus measures and their rights. The curfew also meant that they had to pay extra attention and follow the rules so as not to be stopped by the police (De Lange *et al.* 2023). When lockdown measures eased, self-tests formed another obstacle as they were expensive. Although irregular migrants could get vaccinated, without a BSN number they did not receive a QR code and were therefore excluded from accessing public places. Lastly, worldwide travel restrictions made it difficult for people to return voluntarily or be deported, as return flights significantly slowed down or stopped altogether (EMN/OECD 2021).

### *Case study 3: Irregularised children and mixed-status households in the Netherlands*

Children in the Netherlands can have an irregular status. Being a minor or attending school are not grounds for claiming a legal status. The legal status of children is, therefore, tied to that of their parents; if they are classed as irregular, so are their children. However, children have a different position within the policy of irregular migrants. Most of the exclusions of the *koppelingswet* do not apply to them directly while they are minors. For instance, children have the right to education, care and housing. Nevertheless, children who are irregular themselves, have irregular parents or are growing up in mixed-status households are affected by these policies. Research by a free medical clinic (*kruispost*) in Amsterdam, for instance, showed that 30 per cent of the irregular migrants to whom they provided services had children, half of whom were irregular themselves. Some 10 per cent of irregular children did not attend school, 12 per cent did not receive their vaccinations, 30 per cent did not have a stable home and 82 per cent were not registered with a GP (Klok Nentjes et al. 2018). Moreover, public institutions such as schools, youth services and health-care providers are sometimes ignorant about the role they play – or could play – regarding the safeguarding of the rights and living conditions of irregularised children.

While the *koppelingswet* is a law aimed at (adult) irregular migrants, it also influences their children and their regular or Dutch partners in mixed-status households (Minderhoud 2022). One important feature is the ‘*door-koppelingsbeginsel*’ (the continued linking principle). The *koppelingswet* excludes irregular migrants from welfare arrangements while the *door-koppelingsbeginsel* extends this exclusion to the entire household (Minderhoud 2022). In this case, a household is seen as all the people living in the same house, regardless of family or relational ties. This impact on mixed-status households was added to the *koppelingswet*, in 2005, by the change in the *Algemene wet inkomensafhankelijke regelingen* (AWIR), to which a change in the *participatiewet* was added in 2010 (De Hart & De Jong 2020).

In practice, this means that the Dutch or regular partner in a mixed-status household is excluded from welfare provisions, for instance rent subsidies (*huursubsidie*), as these subsidies could potentially benefit an irregular migrant. Additionally, in the case of unemployment, the irregular household members are counted when general welfare benefits (*bijstandsuitkering*) are calculated, causing payments to the entitled/not excluded person to be less, because there is another adult in the household who, theoretically, could contribute financially to the household (De Hart & De Jong 2020; Minderhoud 2022). While separating mixed-status families is not the goal of these policies, it is a potential effect of the continued-linking principle. De Hart and De Jong state that this loss of welfare arrangements is often perceived as a punishment for living together with someone who is irregular – and how people feel pressured to separate from their irregular partner (De Hart & De Jong 2020). Organisations working with irregular families in our stakeholder group indicated that, in such situations, the interest in a child growing up with both parents is lost track of. In practice, mixed-status households are not known by the authorities, as irregular migrants are not registered at the address unless someone tells on them or if the legal status of a household member is accidentally revealed. Moreover, the continued-linking principle means that children in mixed-status households are excluded from child welfare provisions like child benefits or childcare subsidies. The Netherlands is one of the only countries in the world that placed a provision on Article 26 of the Convention on the Rights of the Child. Therefore, children do not have an individual right or entitlement to social security but, rather, their entitlement to an adequate standard of living, as described by Article 27 of the Convention, will be arranged through the family's social security. However, in combination with the continued-linking principle, this causes children in mixed-

status families to be excluded from welfare arrangements for children (Kinderombudsman 2017; Verwey-Jonker Instituut 2021). This exclusion from benefits, in combination with the fact that irregular household members are not allowed to work, is an important contributor to children in mixed-status families growing up in poverty (Kinderombudsman 2017). In practice, however, children who have one legal parent can sometimes receive child welfare benefits. Moreover, in many cases, it remains unknown to the authorities whether there is an irregular household member, causing many households to remain unaffected by the continued-linking principle.

## 2.2. Routes in and out of irregularity

### 2.2.1. Routes into irregularity

There are various routes into irregularity. As discussed above, there is a lot of attention paid to asylum-seekers who have entered the country, either regularly or irregularly, have asked for asylum and have been denied this status. If they continue to live in the Netherlands, they become irregular migrants. Yet, this is not the only way to become an irregular migrant. Kraler and Ahrens (2023) describe three routes into irregularity: birth, in-migration and loss of status. One can be born into irregularity either because the parents are irregular migrants or due to a failure to regularise as a child (at birth). Another way is to enter irregularly and then not regularise, which also results in irregularity (migration into irregularity). A last category exists of people who have entered the country, either regularly or irregularly, have managed to obtain a legal status but have subsequently lost that status, resulting in irregularity. There are also those who have entered regularly, for instance, on a tourism visa, yet subsequently overstayed this visa. Negative decisions regarding status applications can also be considered in this category (loss of status).

#### 2.2.1.1. Loss of status

In the Netherlands, there are three ways to lose one's legal status: moving away, committing a (serious) crime or no longer fulfilling the requirements of one's residence permit. People with a Dutch residence permit must have their main residence in the Netherlands. Depending on the type of permit, people can spend 6 to 12 months abroad while keeping their residence permit. Spending more time abroad or multiple periods abroad in consecutive years can result in losing one's legal status in the Netherlands.

A second reason for losing one's residence permit is committing a crime. To assess whether a crime is serious enough for this to happen, the law makes use of the provision of the sliding scale (*glijdende schaal*). This provision says that to lose a residence permit, the longer someone has been in the Netherlands legally, the more severe the crime has to be. This severity can be expressed in months or years of a prison sentence or the number of convictions a person has. This means that, for someone who has been in the Netherlands for a short time – for instance, less than three years – a short prison sentence of, say, one month, can mean the loss of a residence status. For someone who has been in the Netherlands for a greater period of time, this sentence must be longer or more severe if it is to lead to the loss of legal status. The sliding scale was introduced in 1990 and, since then, the criteria have been restricted many times, making it easier to withdraw residence permits. Until 2012, more than 20 years of legal residence would exempt someone from losing their residence permit in the case of a serious crime. After the change in the law in 2012, this is no longer a clear-cut criterion and serious crimes can still lead to the loss of legal status; however, this has to be evaluated by a judge (Staatsblad 2012). Note that, after five years of legal residence, Dutch citizenship can be acquired, in which case a person's legal status, i.e. citizenship, cannot be revoked.

The third way of losing one's legal status is the broadest category – losing it because one no longer fulfils the requirements of the residence permit. This can occur for various reasons. It can have a financial reason by a person not meeting the income requirements for their residence permit – for instance, if he or she loses their job. Additionally, in the case of family migration, it can occur when the sponsoring spouse can no longer meet the income criteria. In the case of a residence permit based on family, divorce or separation can be a reason to lose the residence permit as it is based on being with a spouse or family. Moreover, in these cases, there is no automatic right to stay with children, which can be especially difficult if the children are not Dutch citizens. The reason can also be related to study; one can lose a study permit, for instance, when the holder does not obtain enough (educational) credits – see Articles 19, 22, 32, 35 of the Aliens Act 2000 (Vreemdelingenwet 2000).

### 2.2.2. *Routes out of irregularity*

Current migration policy often focuses on return to the country of origin as the end of irregularity. However, another option is status-adjustment or regularisation. Regularisation can occur individually (regularisation mechanisms) or in groups (regularisation schemes) (Ambrosini & Hajer 2023).

#### 2.2.2.1. *Regularisation schemes*

While not as embedded in migration policy as in other European countries, the Netherlands has known several large-scale regularisation schemes. In the period between the first plans to limit irregular stay and the *Koppelingswet*, there was a challenge presented by people who had an irregular status. Nevertheless, because they worked and paid Social Security contributions, they were, in fact, taxpayers. Several regularisation measures have been implemented for these so-called '*witte illegalen*' – those with an irregular status but regular work. However, after the *Koppelingswet* there have not been any employment-based regularisations. Regular regularisations from the early 2000s onwards have largely been due to governmental negligence. For instance, there was a general pardon in 2007 for asylum-seekers who had applied for asylum before 2001 and had not received a conclusion to their application. More recently, there have been regularisations of children growing up in the Netherlands; this started with the initial regularisation in 2013, then the definitive regularisation programme which ran until 2019 and the 'closing policy' in 2019. Yet, this last regularisation of children came with the abolishment of the discretionary authority of the state secretary. Where discretionary authority previously could be used to grant residence permanently in particular situations, this is now no longer possible. Note, the regularisations after the *Koppelingswet* always concerned former asylum-seekers, excluding other categories of irregular migrants.

#### 2.2.2.2. *Regularisation mechanisms*

In terms of regularisation, there are two streams for people living irregularly in the Netherlands: a renewed asylum procedure or a request for a regular residence permit.

##### 2.2.2.2.1. *Renewed asylum procedure*

According to a juridical expert from the shelter for irregular migrants in Utrecht, around 60 to 70 per cent of their clients can try to regularise their stay with a new asylum request. In 2022, there were a total of 1,529 renewed asylum requests in the Netherlands (IND 2023 b). A renewed asylum claim may succeed due to changes in policy or jurisprudence, either on the national or the European level. For a new request, new evidence has to be brought in – such as an expert report based on an analysis of scars showing evidence of torture in the past or psychological problems; neither topic is addressed in an initial asylum request. Meantime, too, the situation in the country of origin and/or the country report, may have changed.

Moreover, for certain groups – for instance, LGBTQIA+ people or religious refugees – a second asylum request can be supported by specific civil-society organisations and, therefore, have a greater likelihood of succeeding. Sometimes, too, evidence gathered during a different procedure can be used to start a new asylum request. For example, if a person's initial request was denied due to issues about his or her nationality, a *laissez-passer* received in an attempt to return can be used as proof of nationality and lead to asylum. An asylum residence permit is valid for five years and can be renewed.

#### 2.2.2.2.2. *Regular residence permit*

Another option to regularise stay is for someone to see whether they can apply for a 'regular' residence permit. For this, there are various categories: family life, medical, work or study.

A residence permit based on family life can be primarily based on living with a regular partner (whether Dutch, from the EU or with a valid residence permit) – for example, a spouse or someone with a child. For regularising residence with a partner, he or she has to meet criteria such as a sufficient, independent and durable income.<sup>10</sup> Partners have to be married or in an otherwise durable monogamous relationship. The regularising partner has to submit a number of legalised documents (e.g., passport, birth certificate, marriage act etc.) and pass an integration and language exam. For regularising a stay with a partner, the 'Belgian route' is sometimes used. Applying for a residence permit with a legal partner can be a very complicated process in the country of this partner. Therefore, sometimes opting for the 'Belgian route' or 'EU route' can be easier. This means that the couple lives in a different EU member state (for instance, Belgium) for a minimum period of six months, after which a residence permit based on family life can be requested in this member state; such a process is less complicated than the same procedure in the country of citizenship or legal stay. However, this brings about other complications as people must be able to sustain themselves abroad and still have proof of income.

*You can request a residence permit to stay with a Dutch partner in the Netherlands but it's a lot of hassle, it's very difficult, there are a lot of rules. If you move to Emmerich with your Dutch partner, it's very easy to request a residence permit and that's called the Belgian route.*

Legal expert (NGO2)

A second option for a residence permit based on family life is to request to stay with a child. In this case, the adult's residence is based on the child's right to grow up with his or her parent(s). In the case of a child with Dutch or EU citizenship, this procedure can be based on the Chaves-Vilchez arrest. This arrest concerns the right of the child to exercise his or her EU rights – i.e. grow up in the EU with his or her parents (Maas & Liu 2021). Before the Chaves-Vilchez arrest in 2017, it was common practice to deny a residence permit to the irregular parent in cases where a child had another, i.e. Dutch, parent who could take care of them. Both applications can also be made based on the right to a private life, as established in Article 8 of the European Convention for Human Rights.

Another route that could be used is a residence permit based on medical grounds. For this, it is possible to initially request a Delay of Departure Permit or Article 64 (maximum one year). A precondition for this is that the applicant has to prove that he or she would die in the foreseeable future if medical care were withheld; this used to be within three months but they can now also apply after three months. After this one-year

<sup>10</sup> <https://ind.nl/nl/zelfstandig-duurzaam-en-voldoende-inkomen>

period, one can request a residence permit based on medical grounds if these are still present, which could then be converted into a long-term humanitarian residence permit.

Regularising one's stay based on work is a possibility for irregular migrants. However, there are few opportunities to obtain a work visa and it is not easy due to the labour-market-wide preferential treatment of European workers; employers have to demonstrate that they cannot find European workers for the job and there are strict salary requirements – which are higher than the minimum wage. Regularising via work is, therefore, in practice, only possible for 'skilled' workers.

*There are possibilities but then we speak about 'knowledge migrants', highly educated, with a high salary (...) our clients do not often fall into that category. We now have a boy who is a dentist who found an apprenticeship in a dentistry practice that wants to hire him; they pay a high salary – like 5,000 a month – it is incredible but it does meet the criteria.*

Legal expert (NGO2)

Due to all these preconditions, work is not a viable way to regularise for many irregular migrants living in the Netherlands. Lastly, as discussed in paragraph 2.1.3, higher education could become a way to regularise through the higher education pilot scheme.

#### 2.2.2.2.3. *Humanitarian permits*

In certain cases, irregular migrants can regularise through a humanitarian permit. These can be granted to victims of human trafficking, those needing medical treatment, people who cannot return to their country of origin through no fault of their own (*buiten schuld vergunning*), people who have had traumatising experiences in the Netherlands or through gender-related aspects, such as the risk of honour-killing (*eerwraak*) or domestic violence. A delay-of-departure permit or Article 64 can also be granted in the case of pregnancy; this will be valid from six weeks before until six weeks after the date of birth. The various humanitarian permits have different durations; most are temporary (often one year) and some can be renewed as a non-temporary permit (typically five years). Due to the abolishment of the discretionary space, the minister or state secretary can no longer grant a humanitarian permit in the case of poignant situations – for instance, when people risk being separated from their children or legal or family members. In this case, people can try to apply for a residence permit based on Article 8 of the ECHR.

#### 2.2.2.3. *Precarious pathways out of irregularity*

Not all residence permits give immediate access to a secure legal status but, instead, (initially) provide forms of temporary or partial regularity. For instance, victims of human trafficking can obtain a residence permit for one year (which is renewable and transformable into a continued stay permit) when they cooperate with legal procedures against their employer/trafficker; a medical condition can be a reason for a one-year 'delayed-departure permit'. Furthermore, not all residence permits include a work permit – e.g. those based on medical grounds. In practice, this could still mean people live in some sort of irregular situation, where their stay is regular, yet their employment is not.

Other permits have strict conditions that often are beyond the control of the person trying to regularise. Victims of trafficking have to cooperate with the prosecution of their trafficker if they are to obtain a residence permit.<sup>11</sup> If the state decides not to prosecute or to prosecute for a lesser crime (e.g. severe disadvantage [*ernstige benadeling*] instead of trafficking), victims do not get a residence permit despite their cooperation and the risk this entailed (Berntsen *et al.* 2022). Another example is the residence permit for people who cannot return through no fault of their own. This permit requires continued cooperation with return and deportation, even after they have obtained it, as continued cooperation is a requirement for its renewal.

#### 2.2.2.3.1. *The MVV-obstacle*

It is important to note that there are practical barriers to obtaining a regular residence permit. Many such permits require the applicant to apply, at an embassy or consulate in their country of origin, for a MVV (*Machtiging tot Voorlopig Verblijf*) – a visa with which they could then travel legally to the Netherlands. This requirement also counts for people already residing in the Netherlands. An example of this is the irregular students participating in the education pilot scheme – see paragraph 2.1.3. On this pilot scheme, they could obtain a Study Permit (*studie verblijfsvergunning*); for this permit, students had to return to their country of origin to apply for an MVV. One example is the situation of ‘Jack’; he was living in Rotterdam but had to return to Mongolia to apply for the MVV and then had to travel to Beijing to pick it up at the closest Dutch embassy, from where he could then return to the Netherlands to study. This is despite the fact that he had been living in the Netherlands for 15 years (Oosterom 2023). However, not everyone is able to travel to their country of origin, for various reasons.

*It is bizarre that someone who meets all the criteria has to fly back, worry, has to rent a house there, has to wait and then has to travel back again. It costs five to ten thousand euros all included... even though they meet all requirements*

Legal expert (NGO2)

Moreover, not everyone trusts that, after travelling back to apply for the MVV, they will be able to return to the Netherlands. This is often the case, for instance, when someone has received an entry ban after a denied asylum request. The MVV requirement, therefore, forms an important obstacle to regularisation.

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<sup>11</sup> The B9 rule for victims of human trafficking grants victims of trafficking a residence permit for the duration of the legal proceedings against the perpetrator if they collaborate with these proceedings; after three years, this permit will become permanent. If the proceedings end within three years, trafficking victims can apply for a poignant permit. If the victim of trafficking cannot or will not report, they can obtain a one-year permit.



### 3. The entanglement of irregularity, employment and the welfare regime

As explained in section 2.1.1, in the Netherlands, irregular migrants have an ambiguous position on the labour market because they are barred from the formal one and not allowed to work. In the early 1990s, 30 per cent of irregular migrants worked on the formal labour market and paid taxes and social-security contributions. Ten years later, this was already barely the case. This shift is strongly related to the exclusionary alien policies. In the Netherlands, labour-market demand plays a crucial role in migrants' residence access and government migration management. As a 'knowledge economy,' the Netherlands aims to attract high-skilled knowledge migrants (*kennismigranten*) to bolster its economy. Employers hiring high-skilled migrants often use a salary criterion for labour-market access without needing to justify hiring someone from outside the EU or the Netherlands (Ministerie van Justitie en Veiligheid 2022). However, for 'lower-skilled' or lower-earning non-EU migrants, employers must first consider the potentiality of European applicants before hiring from outside the EU.

Irregular migrants are barred from the formal labour market and cannot obtain a work permit without a residence permit. Therefore, they mainly work in the informal economy and have become more dependent on sub-contractors and rogue employment agencies (Leerkes *et al.* 2004). Certain labour sectors in the Netherlands, like domestic work, delivery, catering, construction and agriculture, have a demand for low-skilled labour. These sectors often operate informally, attracting migrants from outside the EU and serving as the main option for irregular migrants. These latter predominantly work in the informal economy, relying more on sub-contractors and illicit employment agencies. While the Netherlands has a relatively small informal economy (9 per cent compared to the European average of 18 per cent), the number of fines handed out by the labour inspectorate for illegal work is among the highest in Europe (Berntsen *et al.* 2022). Dutch policies criminalise employers for hiring individuals without a legal status or a work permit (*Tewerkstellingsvergunning* or TWV), consistent with the European Employers Sanctions Directive and previous domestic policies (de Lange 2011). Working is not criminalised for irregular migrants themselves.

The complicated task of the Dutch labour inspectorate contributes to the difficulty of obtaining rights for irregular migrant workers. The labour inspectorate is formally charged with protecting employment rights and this, in theory, also includes those of (irregular) migrants. The Dutch government allocated 60 million euros to the implementation of the recommendations of the Roemer Committee in a bid to combat abuse among migrant workers in flexible and informal labour sectors. As many migrant workers are employed through agencies, one measure that is currently being introduced is a certification requirement (Nederlandse Arbeidsinspectie 2022). It is unclear what the effect of this measure on irregular migrant workers will be. However, in practice, the labour inspectorate focuses mainly on preventing 'shadow employment' (*schijnconstructies*), where the work on paper differs from the actual employment – often to pay fewer taxes and social security contributions – and 'illegal' or irregular work. This can concern irregular migrants as well as EU migrants being employed (semi-) irregularly.

Furthermore, Berntsen *et al.* (2022) show that, despite the formal distinction between the labour inspectorate and the alien police, labour inspectors and police agents often collaborate during workplace inspections, making this distinction difficult to maintain in practice. Moreover, they report various instances in which irregular migrants have been deported after a complaint procedure (Berntsen *et al.* 2022). To date there is no alternative (formal) complaint procedure for irregular migrant workers to report complaints, as recommended by the UN Human Rights Committee (2019), without having to fear deportation.

To claim workers' rights it is important that irregular migrant workers are aware of them. In the Netherlands, trade unions, NGOs and grassroots organisations – like FNV domestic workers/the riders union and Fairwork – occupy themselves with creating awareness about workers' rights among those without residence permits. A great example of this is the 'City Rights App' developed by Amsterdam City Rights.<sup>12</sup> Another difficulty with claiming employment rights is that many irregular migrants try to avoid contact with government officials and would therefore refrain from reporting exploitative labour conditions out of fear of their employer being fined, which could result in the migrants losing their employment or even being deported (Berntsen *et al.* 2022; Kox 2009).

The I-CLAIM project will focus on irregular migrant labour in specific sectors. In the Netherlands these will be the domestic work sector and the delivery sector. Below, we elaborate on the work of irregular migrants in these two sectors.

### 3.1. The domestic work sector

In the Netherlands, domestic work is intentionally regulated in a different way to other sectors in order to stimulate the free-market economy of personal services<sup>13</sup> – i.e. domestic work (*Kamerstukken II, 2007/08, 30804 nr. 3*). The Netherlands signed – but did not ratify – the ILO Domestic Workers' Convention (DWC)<sup>14/15</sup> and chose to continue following the Dutch regulation '*Regeling Dienstverlening Aan Huis*' (RDAH). The ILO Convention states that domestic workers should have equal rights to other workers. The RDAH grants fewer rights to workers to alleviate the (financial and administrative) burden on private households – employing a domestic worker for less than four days a week – of paying taxes and welfare contributions. In practice, the RDAH means that domestic workers are, on paper, entitled to at least the minimum wage, including 8 per cent holiday pay, four weeks of paid vacation, up to six weeks of paid sick leave (70 per cent of the salary) and 16 weeks of (for irregular migrants, unpaid) maternity leave (FNV 2009). Because the employer does not pay social security contributions, domestic workers are not entitled to two years of long-term sick leave nor are they protected against dismissal or receiving unemployment benefits (Bouwens *et al.* 2014). The goal of the RDAH is to stimulate the hiring of domestic workers by deregulating the sector. The committee charged with evaluating the RDAH and the possible ratification of the DWC sees domestic workers as (Dutch) women who use domestic work to supplement the household income but who are not financially dependent on it, due, for instance, to the income of a partner who is the breadwinner. Alternatively, domestic workers are seen as people who work irregularly while receiving social benefits (*bijstandsuitkering*). In other words, in the RDAH it is assumed that domestic workers do not fully depend on this income.

Moreover, the committee evaluating the RDAH and the possible DWC ratification explicitly states that it does not concern irregular migrant domestic workers. However, the deregulation of this sector makes it an important labour market for migrants who cannot work in other, more regulated, sectors. A recent study found that the majority of their employed irregular-migrant respondents were domestic workers (Berntsen

<sup>12</sup> The app can be downloaded in the appstore or via the website: <https://www.amsterdamcityrights.org/app/>

<sup>13</sup> The explanatory memorandum of the 2007 tax plan states: "To stimulate the market for personal services it is proposed to introduce the "regulation of domestic services' services" (*regeling dienstverlening aan huis* or RDAH). This RDAH offers preconditions to outsource all sorts of services around the home."

<sup>14</sup> [https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::p12100\\_ilo\\_code:c189](https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::p12100_ilo_code:c189)

<sup>15</sup> The treaty was signed with the aim of tackling problems of exploitation in other countries because, according to the committee, there is no abuse and exploitation of domestic workers in the Netherlands (Bouwens *et al.* 2014).

*et al.* 2022). Moreover, according to the FNV (2022), 220.000 families in the Netherlands make use of migrant domestic work – several tens of thousands of whom are irregular. FNV domestic workers strive for the ratification of the ILO treaty. One important aspect is recognising the importance of domestic workers in the Netherlands. A recent publication featuring stories of migrant domestic workers also shows the importance of regularising irregular domestic workers. Due to their irregular status, they are prone to exploitation and can have difficulties with payments due to their not having a bank account. The hope is that recognising domestic work as work opens up avenues for regularisation based on employment (FNV 2023).

### 3.2. The delivery sector

Delivery work is another sector of the labour market which, compared to other sectors, is less regulated or formalised, thus providing opportunities for irregular migrants to find work. On the one hand, delivery work concerns the home-to-home delivery of newspapers and advertising fliers, which is decreasing due to increasing digitalisation. On the other hand, there is food delivery – an activity that is growing in popularity mainly due to digital platforms.

Newspaper-delivery workers are generally employed as freelancers, meaning that they enjoy fewer employment rights than if they were employed directly by the delivery companies. However, for freelance work, a work/residence permit is required and this officially excludes irregular migrants from newspaper delivery.<sup>16</sup> Yet irregular migrants can still find employment due to various forms of sub-contracting. This was the case, for instance, in the example of the judicial proceedings against the newspaper *Financieel Dagblad* in 2011 (see Gerards 2014).

One new employment opportunity for irregular migrants is that of food delivery via digital platforms. Location-based platform work is appealing to migrants as the quick and automated onboarding process largely eliminates hurdles like language barriers, legal restrictions, discrimination or a lack of formal qualifications (Hampel & Krause 2023). The circumstances for riders illustrate the extreme flexibility of the labour market in the Netherlands. Formally, riders are self-employed and have to declare their income to the Dutch tax authorities themselves, yet the way this is controlled remains unclear. Platform work is characterised by a more-or-less-anonymous employment relationship, where the employee interacts with an app rather than a line manager. These characteristics favour the employment of irregular migrants, who work on ‘borrowed accounts’ or other types of informal subcontracting. In 2018, the labour inspectorate fined a food-delivery platform 176,000 euros for ‘employing’ irregular migrants, thus violating the WAV (Wet Arbeid Vreemdelingen).<sup>17</sup>

The novelty of platform delivery work makes it a fairly unregulated sector. Both unions and the labour inspectorate express their concerns regarding employment conditions and possibilities for exploitation (FNV 2020; NLA 2022). In this case, the poor working conditions concern all delivery workers, not just the irregular ones, which is always an aggravated factor. Delivery workers often work long hours for a low salary. There is a risk of traffic incidents, exacerbated by the increased use of electric bicycles. The Radical Riders’ Union has published a number of ‘riders’ stories’ concerning serious injuries due to traffic accidents. The riders who are the most marginalised are often also the most affected by the lack of employment rights – for

<sup>16</sup> <https://www.bezorgdekrant.nl/veelgestelde-vragen>

<sup>17</sup> <https://www.inspectiewerkt.nl/maaltijdplatform-krijgt-boete-van--176000-/>

example, riders who have become homeless when they were unable to continue working due to a broken leg sustained on the job (Rengers & Bronzwaer 2022). Due to the various constructions of (pseudo) self-employment, riders lack many of the forms of employment protection which regular employees would have. In March 2023, the final ruling of the Dutch High Court against Deliveroo ruled that riders working for the app should be considered employees and therefore be entitled to workers' rights (Hoge Raad 2023). However, since November 2022, the platform was no longer active in the Netherlands.

#### 4. Concluding remarks

This report has analysed 25 years of irregular migrant policy in the Netherlands in a bid to understand its implementation and its impact on migrant irregularity. By examining policies regarding migration, labour markets, employment and welfare, we aimed to uncover the factors shaping conditions of irregularity. The *Koppelingswet*, introduced in 1998, characterises current policy by excluding migrants without residence permits in order to discourage their irregular stay. In the past 25 years, national policy regarding irregular migrants has been characterised by this far-reaching exclusion. Sometimes, based on societal criticism or juridical contestation, certain policies have become more inclusive of irregular migrants, whereas other areas have become more restrictive. Despite increased exclusion, irregular migrants persist in the Netherlands, causing friction with local governments and particularly municipalities which are charged with public order and care. Some municipalities offer support despite national policy, with Utrecht advocating for inclusive policies.

Apart from the general trend of restrictive policy concerning irregular migrants, some specific aspects stood out. Firstly, the emphasis on irregular migrants as former asylum-seekers. Other groups of irregular migrants living in the Netherlands might remain invisible to state actors and service-providers. Secondly, the policies overlook irregular migrants' roles on the labour market. Work, therefore, seldom leads to regularisation for irregular migrants, who are often employed in low-skilled, low-paid work. Moreover, the Dutch labour market is highly regulated. Within this landscape, irregular migrants find work opportunities in the least-regulated sectors, such as domestic work and platform delivery work. Lastly, the policy's far-reaching bureaucracy and exclusionary approach leave irregular migrants in dire situations. Where the policy does not seem to prevent irregular stay, it leaves little room for change or the improvement of irregular daily lives, either formally (e.g., through regularisation) or informally (e.g., through informal work). The I-CLAIM project will further investigate irregularity conditions in the Netherlands.

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## Annex 1: Timeline the Netherlands.

YEAR	LAW	EVENT	REGULARISATION	TREND
1987		Hoorn: First detention centre for irregular immigrants in the Netherlands opened		
1991	Stop issuing social security numbers to irregular migrants		91–95 Silent Regularisation ' <i>Witte Illegalen</i> '	1990–2000 Beginning of comprehensive migration policy Linking Act ( <i>Koppelingswet</i> )
1991		Opening of Border Center for Detention for illegal entry		
1992		Bijlmer Disaster (plane crash)	Regularisation for residents of the Bijlmer flat	
1997				Return Note, start of termination of reception of rejected asylum-seekers due to increasingly strict 'cooperation criteria'
1998	Linking Act	Turkish community protests	95–97 Circular on long-term illegal immigrants	
1998	No more shelter for Dublin claimants and renewed asylum requests			
1999			Temporary arrangement for ' <i>Witte Illegalen</i> '	No-fault to return policy ' <i>Buitenschuldbeleid</i> '
2000	Aliens Act			2000–2010 Intensification of exclusion in the Netherlands
2000				Introduction of immigration detention

YEAR	LAW	EVENT	REGULARISATION	TREND
2001		Emergency shelter Utrecht		
2002				Establishment of SIOD (Social Intelligence and Investigation Service) [until 2011]
2003	Return note	Utrecht Support Centre for former unaccompanied minors (Ex-ama)		Police reorganisation
2003		Ex-ama team; living allowance stopped, 18+ unaccompanied minors not continued to be paid		
2004	Illegal note	Utrecht intervention team		Police more capacity for migration control + crime
2004	Aliens Employment Act	EU expansion		
2005		FRONTEX		
2005	Identification obligation	2600 Faces – Action		
2005	New definition of human trafficking including labour exploitation	Utrecht intervention team		
2005	AWIR-‘doorkoppelingsbeginsel’			
2006		Schiphol Fire		
2006		Disappearance of unaccompanied minors from shelter		
2007		Political/societal debate about regularisation ( <i>Generaal Pardon</i> )	Regularisation of unaccompanied minors	Establishment of the Return and Departure Service (DT&V)
2007			General Pardon (RANOV) Regularisation	
2007			Regularisation of the legacy of the old Aliens Act	

YEAR	LAW	EVENT	REGULARISATION	TREND
2008		Utrecht intervention team		Intensification of the approach to illegal stay + Human trafficking task force
2008		Action team Nigeria against human trafficking/smuggling		EU Return Directive
2008		Debate Chinese asylum-seekers		
2009	Healthcare law	Motion municipal shelter for migrants out of procedure		
2010	EU Employers Sanction Directive	Criticism of immigration detention political/societal debate		2010–2020 Internationalisation European collaborations EU Policy
2010				Intensifying return agency DT&V
2010				Identification technologies
2010/2012		Project The Wall		
2011		Actions Somali community Ter Apel		Cooperation with return countries of origin + reception in the region
2011		Mauro		More emphasis on voluntary departure
2011				EU standard return EURINT
2011				Fewer work permits
2012	Internships become possible for irregular students	Start We Are Here movement + refuge church ( <i>vluchtkerk</i> )		
2013		CEC vs the Netherlands: BBB ruling	Children's regularisation scheme for long-term resident children	
2013	Cabinet proposal to criminalise illegal residence, withdrawn in 2014			

YEAR	LAW	EVENT	REGULARISATION	TREND
2013	End of ama permit; after the end of the asylum procedure they become illegal but continue to receive shelter	Hunger strike + the Dolmatov case		
2014		Debate Child regularisation ( <i>kinderpardon</i> )		Subsidy for independent departure
2015	BBB	Cabinet crisis BBB		Introduction of a list of safe countries
2015		EU–Turkey deal		Municipalities shelter for victims of human trafficking
2015	New grounds for residence for Dublin claimants out of procedure	Crisis Refugee shelter		
2016				Ease of withdrawal of residence permit after criminal offence
2017		LVV Pilot		
2018	Alien detention more explicitly included in the Return and Aliens Detention Act	Lili + Howik	Child Regularisation ( <i>kinderpardon</i> )	
2018	Aliens Act	Church asylum		
2019	Abolition of discretionary power		Child Regularisation ( <i>kinderpardon</i> )	Programme of cooperation against human trafficking: ministries
2020		BREXIT		Network municipalities against human trafficking
2020	Aliens Act	Covid-19		Programme to prevent irregular migration
2020				24 hours economy + meal delivery

YEAR	LAW	EVENT	REGULARISATION	TREND
2020				Determination of book standard for employers
2022	Aliens Act	War Russia–Ukraine		Pick up return operations
2022		Amsterdam Covenant		
2022		Temporary Protection Directive Ukraine		
2023	Modernisation of labour exploitation law			Multi-year plan of the Dutch labour inspectorate
2023		I-CLAIM project		

## Annex 2: List of Interviews

SECTOR	POSITION	DATE OF INTERVIEW	NO OF INTERVIEW
NGO	Expert	25.10.2023	NGO1
NGO	Legal expert	10.11.2023	NGO2
NGO	Legal Expert	25.1.2024	NGO3
Trade Union	Organiser	19.12.2023	TU1
Government: municipality	Policy maker	01.11.2023	GVT1



## I-CLAIM Consortium



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# I-CLAIM

Improving the Living  
and Labour Conditions  
of Irregularised Migrant  
Households in Europe