

Summary of advisory report on labour migration policy

The Social and Economic Council of the Netherlands issued an advisory report to the Dutch Government on 16 March 2007 concerning the Cabinet's labour and student migration policy. The report was in response to the Cabinet's request for advice, which it had submitted in the autumn of 2006.

In its advisory report, the Council sets out its views on labour and student migration policy for persons from *outside the European Union* (third-country nationals). The free movement of workers applies within the European Union, the sole exception being workers from Bulgaria and Romania, who are subject to a transitional period. The EU Member States therefore have no leeway to set their own policy regarding labour migrants from other EU countries.

The Council's views

Change needed

According to the Council, the Netherlands' labour migration policy must undergo a change. The principle of “*no, unless*” should give way to a more welcoming attitude towards labour migrants who can offer Dutch society added value. Instead of “*no, unless*”, the underlying assumption should be “*yes, provided that*”. A more welcoming policy is particularly desirable when it comes to highly skilled labour migrants. Non-EU labour migrants in the lower and middle segments of the labour market should be made welcome if the supply of labour from within the EU is non-existent.

The policy change that the Council favours is needed to support the transition to a knowledge-driven society and to ensure that the Netherlands remains competitive in the international marketplace.

The Council believes that the admission policy for labour migrants should be *simplified* and *streamlined* across the board. This applies not only to the actual legislation and regulations, but also – and in particular – to their implementation. Various changes have been made to the implementing organisation in the past few years, but a number of problems have persisted.

Labour migration will not solve the problem of an ageing population

The Council does not believe that the general phenomenon of labour migration will help to solve the problem of the ageing population. Its impact will have to be counterbalanced primarily by increasing the employment participation rate and by making adjustments to institutions that are likely to be sensitive to an ageing population.

The Council views labour migration policy as supplementary to a national labour market policy that aims to increase the employment participation rate among persons and groups that have remained on the sidelines. One aim would be to make better use of the asylum migrants who live in the Netherlands. Research should also reveal the extent to which highly skilled workers are leaving the Netherlands and what needs to be done to keep them here or persuade them to return.

Temporary labour market problems are no reason to relax labour migration policy on the whole; what is necessary is for labour migration procedures to be sufficiently quick

and efficient, so that the admission of labour migrants can respond flexibly to temporary imbalances in the labour market.

New admissions model

In its advisory report, the Council discusses the Cabinet's proposal for a new admissions model (as it applies to labour and student migrants). The model consists of five "columns" of different migrant categories. Different rights and obligations apply to each column. There are separate columns for labour migrants who remain in the Netherlands for less than a year, for those who remain longer than a year, and for knowledge migrants.

Covenants

The new admissions model introduces a system whereby a company or institution that wishes to employ a labour migrant or accept a student migrant must have concluded a covenant with the Dutch Immigration and Naturalisation Service (*Immigratie- en Naturalisatiedienst*, IND). In this system, the company or institution would be responsible for the migrant's admission to the Netherlands, thereby speeding up the admissions procedure considerably.

The Council sees this system and the associated shift in responsibility as a key element of the new model. The accelerated admissions process is an advantage, but at the same time the Council is concerned about ensuring that the covenant system will take the many disparate interests into account (the migrant's, the company or institution's, society's).

Much depends on how the system is actually structured. The Council would draw particular attention to the position of the migrant and of those companies that only employ labour migrants on occasion (in particular small businesses). The requirement that every company must have a covenant with the implementing organisation adds an extra step to the admissions process. The Council would like to explore the role that industry organisations could play in this regard.

The Council also points out that the covenant system proposed by the Cabinet may be at odds with the European legal framework applying to third-country nationals seconded by service providers located in the EU.

More flexible residency columns

The Council proposes altering the new admissions model by changing the different categories of labour migrants in the various columns. Labour migrants who are not knowledge migrants should be placed in a single column, regardless of the length of their stay in the Netherlands. In the Cabinet's proposal, all labour migrants under contract to an employer for less than a year who wish to re-enter the Dutch labour market after their contract expires must first return to their country of origin in order to apply for a new residence permit. The Council's proposal makes it possible to adjust the period of residence and also suggests ways of improving the implementing organisation.

The importance of proper implementation

It is vital for any new admissions policy to be properly implemented and enforced. The Council presses for a major improvement in the quality and efficiency of implementation. It considers it crucial to set up a “one-stop shop” that will provide all the documents and information relevant for the admission of foreign employees.

Policy on knowledge and student migrants

The Netherlands must become more appealing

The Council argues that steps must be taken to make the Netherlands a more appealing destination for highly skilled labour migrants. It proposes supplementing the current demand-driven policy by a supply-driven policy for labour migrants in this category. This would involve admitting such migrants to the Netherlands even if they did not have an employment contract with a company or organisation located here, provided that certain requirements have been met (“yes, provided that”).

The Council prefers a *points system* and suggests a few relevant elements. The basic requirements should be as follows:

- migrants must have a sufficient command of English or another language to enable them to communicate effectively on the job;
- they must be able to provide for themselves.

Among the criteria for which points could be awarded are the following:

- education;
- income or possible work experience;
- age;
- language;
- experience in the Netherlands.

Admission could initially be for a two-year period.

The Council recommends involving the trade unions and employers’ associations in developing the points system. Proper monitoring and evaluation are also necessary.

Students

It is important to the Netherlands that foreign students come to study here. Student exchange programmes fit in with globalisation and create opportunities to attract knowledge migrants.

The Council favours giving students who graduate in the Netherlands more time to find employment after completing their study programme. At the moment, they have only three months to do so, and experience has shown that that is simply not long enough. The Council recommends extending this to a year; that is more in line with the period of grace allowed by other countries. During that period, the graduates should provide for their own living expenses.

Labour migration and social security

The Council observes that labour migrants no longer have easy access to social security. It does not expect that updating the labour and student migration policy will put extra pressure on the system of social security.

The Council advises caution when it comes to restricting access to social security any further for labour migrants, insofar as such restrictions are even possible in view of the Netherlands' obligations under international law.

European labour migration policy

There are few rules and regulations at European level that are specific to labour migration. The European Commission presented various proposals in 2005; if the Netherlands wishes to influence these proposals, then it should do so soon, particularly given the overlaps with elements of the Cabinet's own intentions.

When it comes to the highest segment of the labour market, the Council acknowledges the value of regulating more matters jointly at EU level. That is less the case for the lower and middle segments of the labour market. The Council does, however, believe it would be advantageous to offer low-skilled labour migrants a minimum level of protection.

New European policy

The Council calls the proposals put forward by the European Commission in its Policy Plan on Legal Migration a step forward when compared with the directive proposed in 2001. The Policy Plan makes an explicit distinction between different categories of migrants.

Developing an EU-wide policy on the mobility of third-country nationals can help to make Europe more appealing as a destination. If the mobility of highly skilled labour migrants is permitted, a common agreement must be made on the admission requirements. The Council favours tackling this gradually, given the current differences in admission requirements and the need to discourage possible fraud and corruption.

The Council does not believe it is necessary, or indeed desirable, to agree on common requirements for the admission and mobility of seasonal workers within Europe. Seasonal work is local in nature, and as the labour market opens up to the new Member States, a huge reserve supply of labour will become available that has priority.

The Council also sees added value in policies that support the creation of a European knowledge and research area with a view to competing more effectively with the United States. A system for seconding third-country nationals would also offer added value.

Labour migration from developing countries

It is thought that supporting temporary labour migration from the developing world can enhance the positive impact of labour migration. However, temporary labour migration does not lead automatically to a win-win situation for all the various parties involved (the individual migrant, the employer, the country of origin and the host country).

The Council recognises the importance of the initiative of the Dutch Ministry of Health, Welfare and Sport to draw up a code of conduct for the non-active recruitment of care professionals from developing countries. The Council believes that close coordination with respect to a recruitment code for the healthcare sector is necessary at European level as well.

In order to promote “brain gain” in the countries of origin, the Council is in favour of continuing and expanding programmes for circular migration. To promote the temporary labour migration of low-skilled and medium-skilled migrants, the Council suggests introducing two supplementary facilities: bilateral agreements, for example with the partner countries targeted by development cooperation, and training programmes.

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