

# The Aliens Act 2000

The Ministry of Justice is responsible for the admittance and naturalisation of aliens and for the integration of ethnic minorities in Dutch society.

The Ministry of Justice stands for just immigration and full integration



***The Aliens Act 2000***

*Aliens in the Netherlands:  
admission and reception*

## **Contents**

- 1 The Aliens Act 2000 **3**
- 2 Applying for a residence permit **4**
  - The regular procedure **4**
  - The asylum procedure **8**
- 3 Checks and deportation **14**
- 4 Organisations involved **15**
- 5 More information **18**

# **1 The Aliens Act 2000**

When people leave their own countries it is often because of war, armed conflict, famine, natural disasters and human rights violations. Escaping poverty is another motive: people from all over the world travel abroad in search of a better future elsewhere. People also come to this country to work, study or join their families. The Netherlands needs a clear policy on aliens in order to regulate their admission to the country.

## **Clearer rules, shorter procedures**

On April 2001 the Aliens Act 2000 entered into force. This act does not solve all the problems surrounding immigration, but it helps to make matters more manageable. Clearer rules and shorter procedures speed up decisions on applications for residence permits while maintaining high standards. Each application must be dealt with separately. Each applicant must be given the chance to tell his own story. And each applicant who is turned down must know for a fact that his application has been carefully considered.

## **This leaflet**

This leaflet contains information about the Aliens Act 2000 and the organisations that help to carry out aliens policy.

N.B. For 'he', read also 'she'.

## **2 Applying for a residence permit**

The application procedure for a residence permit is explained below. See also the diagrams on pages 6-7 and 12-13. In fact there are two different procedures. Aliens can apply for a residence permit either through the regular procedure or through the asylum procedure.

### **The regular procedure**

Most aliens come to the Netherlands through the regular procedure. They are people who want to live here, perhaps because they want to work or study here. Or because they want to join their families or partners in the Netherlands.

#### **Applying for a residence permit**

Aliens wanting to stay in the Netherlands must first apply to a Dutch embassy or consulate in their own country for an 'authorisation for temporary stay' (machtiging tot voorlopig verblijf or MVV).

In order to be admitted, applicants must meet certain basic conditions.

They must:

1. be able to show that they have enough money to live on;
2. submit documents proving their identity;
3. not have any past convictions for criminal offences.

#### **Specific conditions**

Different or additional rules may apply, depending on people's motives for coming to the Netherlands. Moreover, nationals of certain countries (for example member states of the European Union) do not need to apply for an MVV in order to enter the Netherlands. Separate leaflets describe the rules for different categories. The categories include people intending to work for a Dutch employer, self-employed people, EU nationals, au pairs, students, interns and young people. You can order the leaflets from the Immigration and Naturalisation Service (IND), whose address is given in the back of this leaflet.

## **Assessing applications**

After confirming that applicants have met the necessary conditions, the IND or the Aliens Police (Vreemdelingendienst) assess their application for a residence permit. A decision is taken within six months. Only in special cases may the authorities take longer to decide - for instance, if they need to call in an outside body to give advice or carry out an investigation.

### *Granting the application*

If the application is granted, the applicant is given an 'authorisation for temporary stay' (MVV). This is a visa entitling him to enter the Netherlands. On arrival, the MVV is converted into a temporary residence permit. This permit is renewed every year as long as the holder continues to meet the necessary conditions. After five years, he can apply for a permanent residence permit.

### *Rejecting the application*

If an MVV application is turned down, the alien can register a formal objection with the IND. People who do not need an MVV because of their nationality, and who can thus apply for a provisional residence permit in the Netherlands, may await the outcome of the objection procedure in the Netherlands.

## **Appeal**

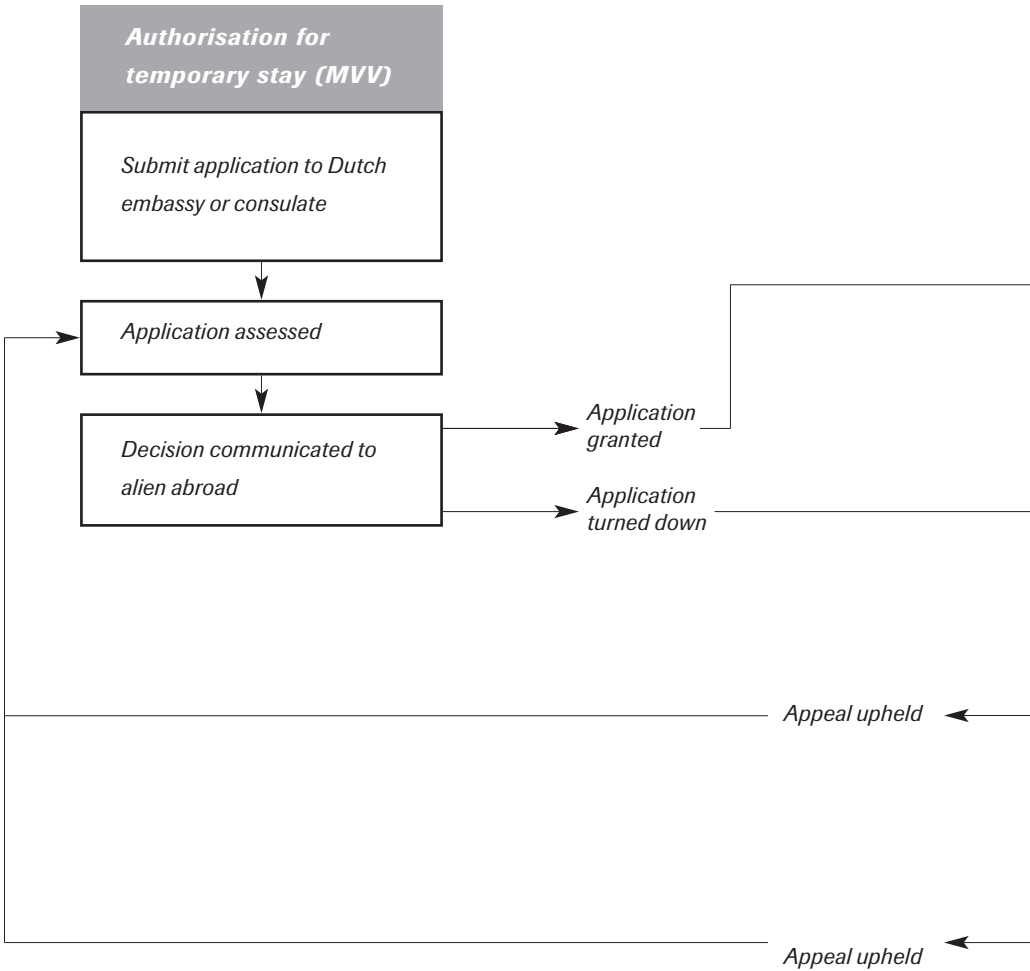
### **Appeal**

If the IND dismisses the applicant's objection, he may appeal to the district court. He is not allowed to await the outcome of the appeal procedure in the Netherlands. If the court upholds the appeal, the IND must re-assess the application.

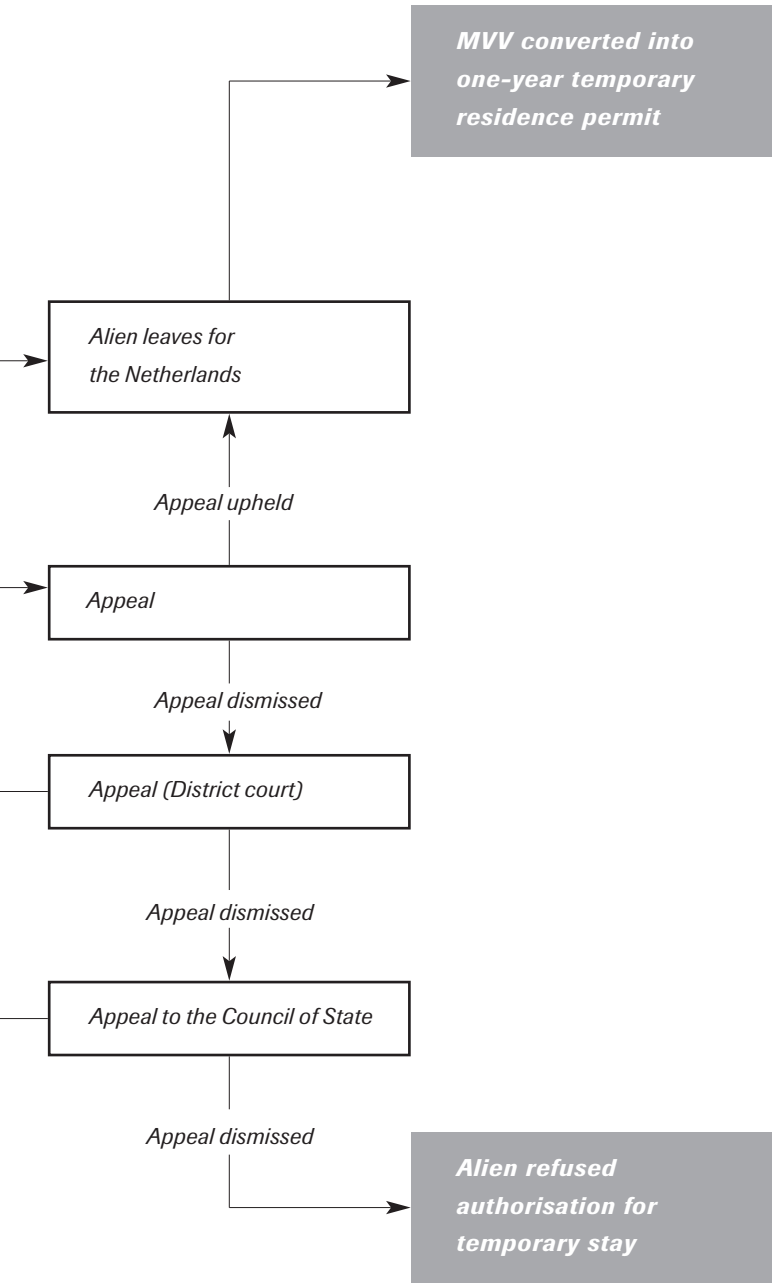
### **Appeal to the Council of State**

If the court dismisses the appeal, the applicant may appeal to the Council of State. If the Council of State upholds the appeal, the IND must re-assess the application. If the Council of State dismisses the appeal, it thereby confirms the district court's judgment and the applicant does not receive an authorisation for temporary stay.

## Diagram of the regular procedure



NB: Aliens who are not obliged to apply for an MVV (e.g. nationals of EU countries) follow the above procedure when applying for temporary residence permits.





## The asylum procedure

People who apply for asylum in the Netherlands fall into a separate category. Asylum seekers can be awarded a residence permit:

1. on the basis of the 1951 Geneva Convention relating to the Status of Refugees or the European Convention for the Protection of Human Rights and Fundamental Freedoms;
2. for compelling humanitarian reasons relating to their individual circumstances, for instance in the light of traumatic experiences;
3. if return to their country of origin would place them at grave risk because of the general situation there, for instance because it is at war.

### Submitting an asylum application

Aliens can submit an asylum application at one of the IND's four application centres. After an interview with an IND official, the asylum seeker is told within 48 working hours (= 5 working days) that further investigation is required or that his application stands no chance of success. In the latter case, the asylum seeker may appeal. However, he may not await the outcome of the appeal in the Netherlands.

**Alien:** *someone who is not a Dutch national.*

**Asylum seeker:** *alien seeking protection outside his country of origin.*

**Refugee:** *alien who, under the terms of the 1951 Geneva Refugee Convention has 'a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion'.*

If further investigation is required, the asylum application is processed and the IND investigates the applicant's motives for seeking asylum. During this investigation the asylum seeker is allowed to remain in the Netherlands, at one of the reception centres run by the Agency for the Reception of Asylum Seekers (COA).

## **Assessment by the IND**

After a thorough investigation the IND decides whether or not to grant an asylum application. It must decide within six months. Only in special cases may it take longer to decide - for instance if it needs to call in an outside body to provide advice or carry out an investigation, or if the situation in the asylum seeker's country of origin is unclear or unsafe, but is expected to change soon.

### *Granting an asylum application*

If the IND grants an asylum application, the asylum seeker is given a temporary residence permit. This means that he may stay in the Netherlands temporarily (up to three years) as long as he continues to need protection. As soon as he no longer needs protection he must return to his country of origin.

*Under the Aliens Act 2000, all asylum seekers admitted to the Netherlands are given the same type of residence permit.*

Under the Aliens Act 2000, all asylum seekers admitted to the Netherlands are given the same type of residence permit. It allows them to do paid work and gives them the right to housing, education and student finance. Under certain conditions, members of their families may also join them in the Netherlands.

If, after three years, an individual still needs protection, he qualifies for a permanent residence permit, and may settle in the Netherlands for good.

### *Rejecting an asylum application*

If the IND intends to reject the asylum application, it informs the asylum seeker of this fact. The asylum seeker is allowed to explain why he does not agree with this decision. The procedure ensures that the asylum seeker's arguments and point of view are given a fair hearing. When it takes a final decision, the IND must respond to them.

## Appeal

### *Appeal to a district court*

If the IND rejects the asylum application, the asylum seeker must leave the country. However, he may appeal to the district court against the rejection. If he does so, he is allowed to remain in the country while awaiting the outcome of the appeal. During this period he has no right to housing, education, student finance, etc. Asylum seekers in this position are housed at a COA reception centre.

There are a few exceptions to this rule. For instance, asylum seekers who have been told at the application centre that their application stands no chance of succeeding, or who have previously submitted unsuccessful asylum applications, are not allowed to await the outcome of their appeal in the Netherlands.

### *Appeal to the Council of State*

If the court upholds the appeal, the IND must re-assess the application. If the court rejects the appeal, the asylum seeker may appeal to the Council of State. He may not await the Council of State's judgment in the Netherlands. If the Council of State upholds the appeal, the application must be re-assessed. If the Council of State rejects the appeal, it thereby confirms the court's judgment, and the asylum seeker is refused a residence permit.

*The asylum seeker may remain in the Netherlands while awaiting the judgment of the district court but not while awaiting the judgment of the Council of State.*

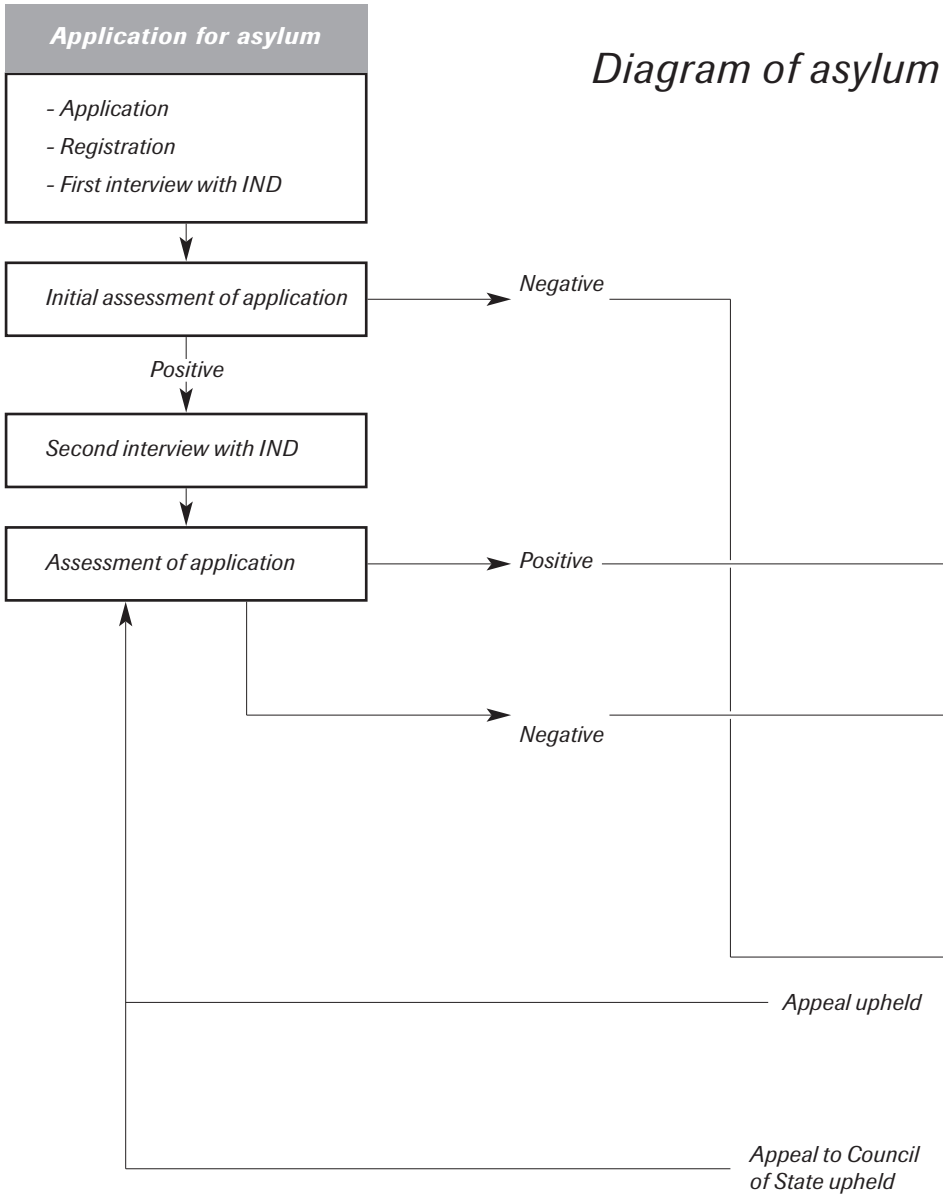
## **What happens after the final rejection of an asylum seeker's application?**

After the final rejection of an asylum seeker's application, he must leave the Netherlands within four weeks. COA will no longer provide housing and reception facilities once these four weeks have passed. In order that the asylum seeker shall have sufficient time to prepare for this possibility, he will be informed during the application procedure of the consequences of a rejection of his asylum application. The International Organisation for Migration (IOM) will help the asylum seeker to leave, if he wishes. If the asylum seeker is not willing to leave, the Aliens Police and the Royal Military Constabulary can expel him from the country.

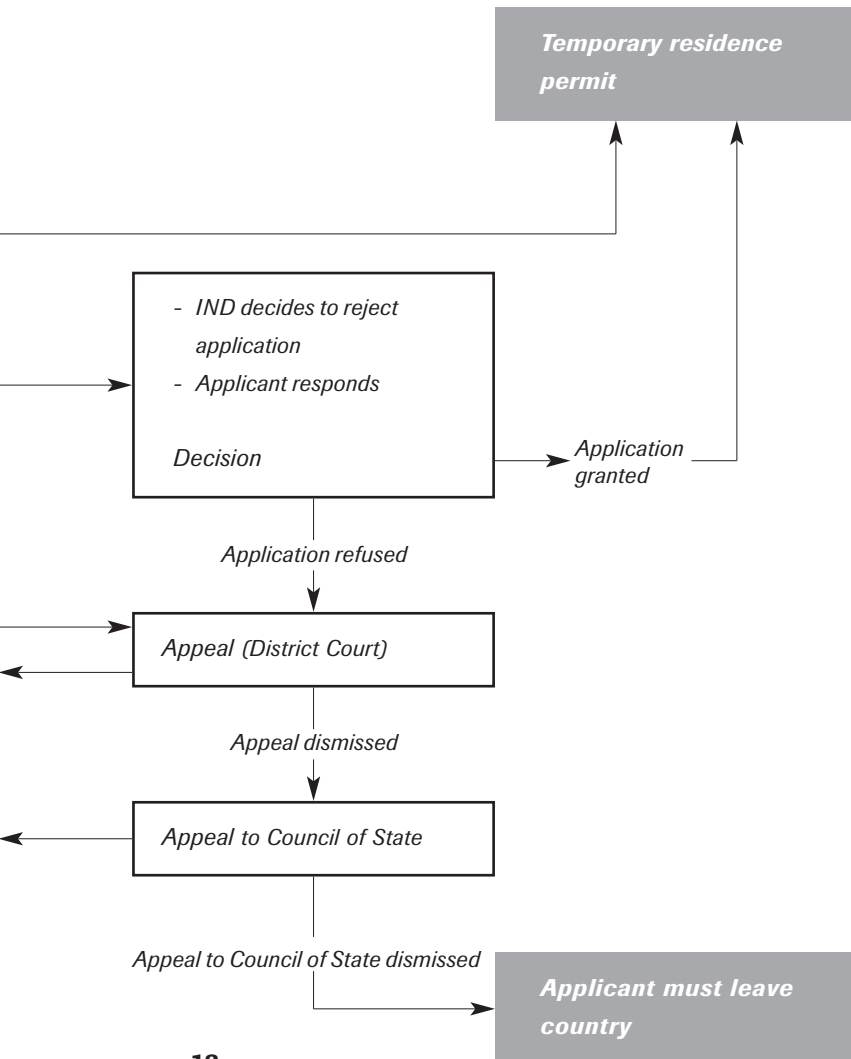
*If an asylum application is rejected:*

- the asylum seeker loses his right to COA housing and reception facilities;*
- the asylum seeker must leave the country.*

# Diagram of asylum



*procedure*



### 3 Checks and deportation

Under the Aliens Act 2000, an alien's freedom of movement can be restricted or taken away entirely in certain cases. This may be done to prevent someone going into hiding to avoid deportation.

*Illegal immigrants are aliens who live in the Netherlands without official permission.*

The Aliens Police and the Royal Military Constabulary can check to see whether aliens are lawfully resident in the Netherlands. They can stop them, ask them for identification and take them away for questioning if they suspect that they are illegal immigrants. They may also stop vehicles, confiscate travel and identity documents and, if they suspect unlawful residence, enter a home without the owner's permission.

## 4 Organisations involved

The Ministry of Justice works together with other organisations that play an important role in putting aliens policy into effect. A list of organisations involved with aliens policy and a description of their tasks is given below.

### **Ministry of Justice**

The Minister for Immigration and Integration is politically accountable for the Dutch government's policy on aliens, including the admission of aliens and the reception of asylum seekers.

### **Immigration and Naturalisation Service (IND)**

The Immigration and Naturalisation Service is an agency of the Ministry of Justice. The IND decides on behalf of the Minister for Immigration and Integration who will be admitted to the Netherlands. It also deals with applications for Dutch nationality. Together with the Aliens Police and the Royal Military Constabulary it shares responsibility for border controls, checking whether aliens are lawfully resident in the country and deporting illegal aliens.

### **Agency for the Reception of Asylum Seekers (COA)**

COA is an authority that falls under the Ministry of Justice. It is responsible for providing housing and reception facilities for asylum seekers.

It accommodates them in reception centres or in ordinary housing until a decision has been taken on their asylum application.

### **Local authorities**

Local authorities are responsible for housing aliens who have been given permission to stay in the Netherlands, and for teaching them the basic skills they need in Dutch society. Where appropriate, they also issue social security payments and housing benefit.



## **Aliens Police**

Each police region has a department that deals with aliens: the Aliens Police. It maintains checks on foreign residents, helps to administer the asylum procedure and ensures that aliens comply with regulations, particularly the requirement to report to the police within a set period. The Aliens Police is also involved in deporting aliens whose application to stay in the Netherlands has been finally turned down.

## **Royal Military Constabulary (KMar)**

The Royal Military Constabulary's main duties are to patrol the borders at Schiphol airport and Dutch ports, and to maintain checks on aliens in border areas. It falls under the Ministry of Defence.

## **Dutch Refugee Council**

The Dutch Refugee Council is an independent organisation that represents the interests of refugees and asylum seekers in the Netherlands. The assistance it provides varies from personal support during the asylum procedure to practical help in building up a new life in Dutch society. The Dutch Refugee Council works closely with the Asylum Seekers Legal Advice Centre (SRA).

## **Asylum Seekers Legal Advice Centre (SRA)**

The SRA is a platform in which the Dutch Refugee Council, legal-aid advisory centres and lawyers combine forces. It provides asylum seekers with free legal advice and representation during the asylum procedure.

## **Aliens Chamber**

The Aliens Chamber is a division of the Hague District Court which deals with appeals by aliens (both asylum seekers and ordinary applicants) whose applications to remain in the Netherlands have been turned down. The Chamber sits in several cities in the Netherlands.

## **Council of State**

The Administrative Law Division of the Council of State hears second-stage appeals by aliens denied permission to remain in the Netherlands (both asylum seekers and ordinary applicants). It sits in The Hague and several other cities across the country.

## **International Organisation for Migration (IOM)**

The IOM is an intergovernmental body that helps to transport and resettle migrants all over the world. It assists people who want to return to their own countries or to migrate. It also mediates in cases of family reunification. Under certain conditions the IOM provides financial support to people leaving the country.

## 5 More information

### **Would you like general information or leaflets?**

Call our free helpline (Postbus 51 Infolijn): 0800-8051

Monday to Friday from 09.00 to 21.00

Internet: [www.postbus51.nl](http://www.postbus51.nl)

E-mail: [vragen@postbus51.nl](mailto:vragen@postbus51.nl)

### **Do you have specific questions about the Aliens Act 2000?**

Contact the Ministry of Justice:

Ministerie van Justitie

Directie Voorlichting

Afdeling In- en Externe Communicatie

Postbus 20301

2500 EH DEN HAAG

Telephone: (070) 370 68 50, Monday to Friday from 09.00 to 17.00

Internet: [www.justitie.nl](http://www.justitie.nl)

E-mail: [voorlichting@minjus.nl](mailto:voorlichting@minjus.nl)

### **Would you like more information on the admission and naturalisation of aliens?**

Contact the Immigration and Naturalisation Service:

Immigratie- en Naturalisatiedienst (IND)

Afdeling Communicatie

Postbus 30125

2500 GC DEN HAAG

Telephone: (0900) 123 45 61 (€ 0.10 p.m.)

Monday to Friday from 09.00 to 17.00

Fax: (070) 370 31 34

Internet: [www.ind.nl](http://www.ind.nl)

E-mail: [voorlichting@ind.minjus.nl](mailto:voorlichting@ind.minjus.nl)

You can also order the following leaflets from the IND:

- Au pair in the Netherlands
- Family Reunification and Family Formation in the Netherlands
- Paid Employment, work emplacement and practical training in the Netherlands
- Working in the Netherlands as a Self-employed Person
- Visa for short Stay in the Netherlands
- The Admission of EU Citizens in the Netherlands
- Study in the Netherlands

### **Would you like more information on reception facilities for asylum seekers?**

Contact the Agency for the Reception of Asylum Seekers:  
 Centraal Orgaan opvang asielzoekers (COA)  
 Postbus 3002  
 2280 ME RIJSWIJK  
 Internet: [www.coa.nl](http://www.coa.nl)

## **Other addresses**

### **International Organisation for Migration (IOM)**

Postbus 10796  
 2501 HT DEN HAAG  
 Telephone: (070) 318 15 00  
 Fax: (070) 318 15 01  
 Internet: [www.iom-nederland.nl](http://www.iom-nederland.nl)  
 E-mail: [missionthehague@iom.int](mailto:missionthehague@iom.int)

### **Royal Military Constabulary (KMar)**

Postbus 20701  
 2500 ES DEN HAAG  
 Telephone: (070) 318 83 57  
 Fax: (070) 318 84 03  
 Internet: [www.mindef.nl](http://www.mindef.nl)

**Landelijk Stafbureau Vreemdelingenkamers  
(Aliens Chamber National Office)**

Postbus 20302

2500 EH DEN HAAG

Telephone: (070) 381 12 10

Fax: (070) 381 30 41

Internet: [www.rechtspraak.nl/landelijk\\_stafbureau\\_vreemdelingenzaken/s-gravenhage](http://www.rechtspraak.nl/landelijk_stafbureau_vreemdelingenzaken/s-gravenhage)

**Raad van State (Council of State)**

Postbus 20019

2500 EA DEN HAAG

Telephone: (070) 426 44 26

Fax: (070) 365 13 80

Internet: [www.raadvanstate.nl](http://www.raadvanstate.nl)

**Asylum Seekers Legal Advice Centre (SRA) - Amsterdam**

Schipholweg 1

2034 LS HAARLEM

Telephone: (023) 530 76 85

Fax: (023) 530 76 90

**Dutch Refugee Council (VVN)**

Postbus 2894

1000 CW AMSTERDAM

Telephone: (020) 346 72 00

Fax: (020) 617 81 55

Internet: [www.vluchtelingenwerk.nl](http://www.vluchtelingenwerk.nl)

E-mail: [info@vluchtelingenwerk.nl](mailto:info@vluchtelingenwerk.nl)

**Aliens Police (Vreemdelingendienst)**

Your local police station can refer you to the nearest Aliens Police.

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