

Access to procedures and non-refoulement - Netherlands | DIP EUAA

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Overview

Relevant EU legislation

The Netherlands is bound by the recast Asylum Procedures Directive and has transposed its provisions through the [Aliens Act 2000](#).

National legislation

The relevant national legislative provisions transposing the Asylum Procedures Directive are the following:

[Aliens Act 2000 | Vreemdelingenwet 2000](#)

[Aliens Decree 2000, Vreemdelingenbesluit 2000](#)

[Aliens Circular 2000 \(A\), Vreemdelingencirculaire 2000 \(A\)](#)

[Aliens Circular 2000 \(B\), Vreemdelingencirculaire 2000 \(B\)](#)

[Aliens Circular 2000 \(C\), Vreemdelingencirculaire 2000 \(C\)](#)

[Regulation on the border accommodation regime | Reglement regime grenslogies](#)

Competent authority and stakeholders

Area	Competent national authority	Assistance to competent authority by (if applicable)
Screening at the external border	Royal Netherlands Marechaussee <u>Koninklijke Marechaussee</u> (KMar)	Not applicable
Biometric data	Aliens Police, Identification and Human Trafficking Department <u>Afdeling Vreemdelingenpolitie Identificatie en Mensenhandel</u> (AVIM) The Asylum Seekers Identification and Screening Service De Dienst Identificatie en Screening Asielzoekers (DISA)	Not applicable

Area	Competent national authority	Assistance to competent authority by (if applicable)
Making an application	<p>At the border: Royal Netherlands Marechaussee Koninklijke Marechaussee (KMar)</p> <p>On the territory: Immigration and Naturalisation Service Immigratie- en Naturalisatie Dienst (INS IND)</p> <p>Asylum Seekers Identification and Screening Service De Dienst Identificatie en Screening Asielzoekers (DISA)</p> <p>In detention: Custodial Institutions Agency Dienst Justitiële Inrichtingen (DJI)</p>	Not applicable
Registering an application	<p>Royal Netherlands Marechaussee Koninklijke Marechaussee (KMar)</p> <p>The Asylum Seekers Identification and Screening Service De Dienst Identificatie en Screening Asielzoekers (DISA)</p>	Not applicable
Lodging an application	Immigration and Naturalisation Service Immigratie- en Naturalisatie Dienst (INS IND)	Not applicable
Information provision	Immigration and Naturalisation Service Immigratie- en Naturalisatie Dienst (INS IND)	Dutch Council for Refugees VluchtelingenWerk Nederland (VWN)

Access to the territory

Official external border crossing points

The Netherlands has [11 air border-crossing points](#): Amsterdam Schiphol, Breda, De Kooy, Eindhoven, Enschede Twente, Groningen Eelde, Kempen, Lelystad, Maastricht Aachen, Midden Zeeland and Rotterdam.

The Netherlands has [2 external land border-crossing points](#): Amsterdam Central Station and Rotterdam Central Station.

The Netherlands [has 12 external sea border-crossings points](#): Amsterdam IJmond, Den Helder, Dordrecht, Eemshaven, Gent-Terneuzen, Harlingen, Hoek van Holland/Europoort, Moerdijk, Rotterdam-Havens, Scheveningen, Vlissingen and IJmuiden.

Emergency measures in cases of mass arrivals

On the basis of Article 111 of the Aliens Act, a Royal Decree on the recommendation of the Prime Minister can implement measures allowing for a derogation of Chapter 1-7 of the Aliens Act in the case of extraordinary circumstances. This article has not yet been entered into force.

Protection from refoulement

The principle of protection from *non-refoulement* is assessed within the asylum procedure by the Immigration and Naturalisation Service (IND) (Aliens Act, Article 29).

Asylum seekers may express their wish to apply for asylum either at the border, to the border authority/police (Royal Netherlands Marechaussee) or within the national territory before the authorities. All asylum applications are forwarded to the relevant authority (IND) ex officio, including applications made in detention (at the border to the KMar or on the territory in immigration detention to the Custodial Institutions Agency). A border procedure exists to process asylum applications received at the border.

Protection from *refoulement* at air borders

If the asylum seeker enters through the external borders (either airports or harbours), he/she may apply for asylum with the border guards, most often this is the Royal Netherlands Marechaussee. The Royal Netherlands Marechaussee writes down all relevant information and the asylum seekers formally signs the asylum application. The Royal Netherlands Marechaussee then postpones the decision of entry to the Schengen territory and the asylum seeker is transferred to a detention facility. At the detention facility, the Dutch Council for Refugees provides information to the asylum seeker about his/her rights and obligations. The following day a lawyer is assigned to the asylum seeker.

Protection from *refoulement* at land borders

Information not currently available. The Netherlands does not have external land borders. When asylum seekers enter the Netherlands through one of the internal borders, they need to go to Ter Apel within 48 hours to file an application.

Protection from *refoulement* at sea borders

If the asylum seeker enters through the external borders (either airports or harbours), he/she may apply for asylum with the border guards, most often this is the Royal Netherlands Marechaussee. The Royal Netherlands Marechaussee writes down all relevant information and the asylum seekers formally signs the asylum application. The Royal Netherlands Marechaussee then postpones the decision of entry to the Schengen territory and the asylum seeker is transferred to a detention facility. At the detention facility, the Dutch Council for Refugees provides information to the asylum seeker about his/her rights and obligations. The following day a lawyer

is assigned to the asylum seeker.

Protection from *refoulement* in cases of emergency measures related to mass arrivals

In cases of mass arrivals, the focus lies on proper identification and registration. Different measures could be taken depending on the specific situation. As long as a (basic) identification and registration process is followed, access to the asylum procedure is guaranteed. Also in the case of mass arrivals, a basic asylum process that adheres to the minimum European requirements is guaranteed. In the case of a negative decision, the asylum seeker is always able to appeal the decision.

Border procedure

At the border, a border procedure is applied for asylum seekers arriving by plane or boat and coming from outside the Schengen area.

The maximum time limit for the border procedure is 4 weeks, without the possibility of an extension. If 4 weeks elapse without a decision, then the applicant will automatically gain access into Dutch territory.

The following groups are exempted from the border procedure:

- unaccompanied minors;
- families with children (where there are no counter-indications such as a criminal record or family ties not found real or credible) who are transferred to an open Application Centre;
- persons for whom, due to individual circumstances, border detention is disproportionately burdensome;
- persons who are in need of special procedural guarantees on account of torture, rape or other serious forms of psychological, physical and sexual violence, for whom adequate support cannot be ensured;
- persons holding a residence permit or a long-stay visa issued by a Schengen Member State.

Applicants belonging to an exempted group are granted access into Dutch territory and will be referred to Ter Apel where they can submit an asylum application.

Procedural Aspects

The making, registering and lodging of an application takes place at separate yet linked instances involving a series of steps.

Making an application

Responsible authority and place

Asylum seekers in the Netherlands may express their wish to apply for asylum either at the border to the Royal Netherlands Marechaussee or within the national territory before the Immigration and Naturalisation Service. All asylum applications are forwarded to the relevant authority (IND) *ex officio*, including applications made in detention.

Possibility to apply from outside the territory

It is not possible to apply for asylum in the Netherlands from abroad, including from Dutch embassies or diplomatic representations. Any Dutch diplomatic mission though can offer protection on a temporary basis for people facing situations of acute emergency according to the Dutch authorities. There is no scheme for issuing humanitarian visas.

Formal requirements for making an application

It is not possible to apply for asylum through post or email, applicants must be physically present. It is not possible to apply on behalf of family members, unless they are children under the age of 15 years old. In this case they are included in their parents' application form.

Registering an application

Responsible authority and place

Asylum applicants must report in person to an IND Application Centre (AC) in order to be registered. The IND has 5 ACs. The AC in Ter Apel (near Groningen) and at the Amsterdam Schiphol airport [which is a closed centre – Border Detention Centre (*Justitieel Complex Schiphol*)] work as first application desks for spontaneous applicants. The AC in Den Bosch, Zevenaar and Budel are open application centres but can be visited by applicants only on appointment.

Registering is a separate step to the making of an application. Asylum seekers arriving by plane or boat must apply for asylum immediately. Applications from people entering the country by land must be reported for registration as soon as possible, but within 48 hours, to the AC in Ter Apel.

During the pre-registration, the IND will ask the applicant about their identity and nationality, and check whether they have already submitted an asylum application with the IND. They will then be provided with a letter with a code. The applicants will be directed to the KMar or DISA to whom they must show their letter. KMar and the DISA are responsible for identification and registration.

Practical steps to register the application

The DISA or KMar takes the applicant's identity documents and requests documents about the applicant's journey and their motives for requesting asylum. Their fingerprints will be taken and stored. Applicants sign their asylum application upon registration.

Data collection

The interview conducted by DISA focuses on the applicant's identity; place and date of birth; nationality; date of leaving the country of origin; arrival date in the Netherlands; eventual stay in one or more third countries; identity cards or passport; and itinerary.

The DISA also take their photos and fingerprints.

The IND has an asylum database (INDiGO) where all asylum applications and subsequent decisions are registered. This database is linked to the Central Shared Database, which contains basic information on applicants, which is the central system used by government authorities. In this way, asylum seekers can be quickly processed also by the local authority they will be assigned to following the registration/lodging procedure.

Article 9 of the EUODAC Regulation (604/2013) obliges Member States to promptly take fingerprints of all fingers of every applicant for international protection of at least 14 years of age.

Article 15 of the new EUODAC Regulation (2024/1358) obliges Member States to take the biometric data of every applicant for international protection of at least 6 years of age.

Documentation

Applicants are given a Foreign Nationals Identity Document Type W. This document is not a resident permit but is a proof of lawful residence in the Netherlands for applicants during their asylum procedure.

Lodging an application

Responsible authority and place

The IND is responsible to lodge the application 3 days after the applicant is registered. Lodging consists of an application interview with an IND staff member. An invitation for an application interview is sent within a couple of days after registration.

Formal requirements to lodge an application for international protection

The application interview concerns the applicants' origin, travel route, family members, population group, religion, previous asylum applications and other Dublin

indications, and a brief statement on the applicant's reasons for fleeing to the Netherlands.

Documentation

A few days after lodging the application, applicants receive a Foreign Nationals Identity Document Type W. This document is proof of lawful residence during the asylum procedure. Upon request, the applicant may receive a copy of his/her signed application form.

Information provision

At the start of the registration/lodging procedure, the IND provides the applicant with several brochures which provide general information about the asylum procedure. Following the lodging phase, during the rest and preparation period, the applicant will receive information from the Dutch Council for Refugees on the asylum procedure and on their rights and obligations.

Passport and other documents

Obligation to surrender original documents

Requirement to submit original documents

The Aliens Act, Article 31 and the Aliens Act Implementation Guidelines, paragraph C1.4.3 state that the applicant must surrender his/her national passport to the authorities.

Consequence of refusal to surrender documents

If an applicant is not in possession of a passport, no legal consequences are foreseen. If the applicant is in possession of his/her passport but refuses to surrender it to the authorities, this may have negative consequences for the outcome of the procedure.

Return of original documents to the applicant

An applicant can request the national passport back while the asylum process is still ongoing. The IND then decides if the passport is returned or not. Original documents are returned once the applicant is granted international protection or, if the application is rejected or withdrawn, when the applicant is returning to the country of origin.

Other documents

National law does not specify the requirement for the submission of other documents/items besides identity documents. The applicant does have an obligation to provide all relevant information regarding the application, this may include documents. There may be negative consequences if the applicant refuses to provide relevant documents.

Requirement to read digital data

The authorities can only search applicant's digital devices if the applicant consents.

Guarantees for applicants

Confidentiality principle

On the basis of Article 1 of the Aliens Circular 2000 C, the IND treats the elements provided by the applicant in support of their application with strict confidentiality, in accordance with the [Personal Data Protection Act](#). This information is not provided to third parties, other than on the basis of legal obligations or after obtaining the applicant's consent.

Information provision

Representatives of the Dutch Council for Refugees are present at every stage of the asylum procedure to inform and assist asylum seekers on their rights/obligations and the procedure itself. Information is systematically provided through leaflets and brochures, available in 33 different languages.

The IND also has information leaflets on the different types of procedures available, which are provided systematically. The IND also continuously updates information on their website about the asylum procedure. UNHCR checks the content of the leaflets by the IND and the Dutch Council for Refugees. Asylum seekers detained at the border equally have access to NGOs and UNHCR.

Authority/Agency: The Immigration and Naturalisation Service

Title: Asylum

Type: Website

Hyperlink: <https://ind.nl/nl/verblijfsvergunningen/asiel>

Authority/Agency: Centraal Orgaan opvang asielzoekers

Title: Reception and guidance during the asylum application process

Type: Website

Hyperlink:
[https://www.coa.nl/en#:~:text=The%20Dutch%20Council%20for%20Refugees%20\(VWN\)](https://www.coa.nl/en#:~:text=The%20Dutch%20Council%20for%20Refugees%20(VWN))

Authority/Agency: The Dutch Council for Refugees

Title: Information leaflets on the Asylum procedure and the Family reunification procedure

Type: Information Leaflets

Hyperlink: <https://www.vluchtelingenwerk.nl/nl/voorlichtingsfolders-over-de-asielprocedure-en-de-gezinsherenigingsprocedure>

Interpretation

Interpretation is provided at the registration and lodging stage, sometimes by phone.

Legal assistance and representation

During the asylum procedure, every asylum seeker is appointed a lawyer free of charge by the state-funded Legal Aid Board (Raad voor de Rechtsbijstand). When applicants initially register their asylum application at an application centre, they are appointed a lawyer. Asylum cases are distributed to lawyers according to a roster of availability as scheduled by the Legal Aid Board. Legal assistance is also provided by the Dutch Council for Refugees.