FAMILY MIGRATION POLICIES IN THE NETHERLANDS

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WP5: Gendered patterns of migration: Empirical developments &
WP6: Comparative legal and policy analysis
About the project

Family related migration has been the dominant legal mode of entry in Europe for the past decades, but has become increasingly contested in recent years. Granting migrants the right to family union traditionally has been considered as promoting the integration of migrants into receiving societies, however, in current debates over ethnic closure of migrant communities and over the alleged “failure” of integration, the “migrant family” is increasingly seen as an obstacle to integration - as a site characterised by patriarchal relationships and illiberal practices and traditions such as arranged and forced marriages. As a result, family related modes of entry have been increasingly subject to restrictions, while the existing conditionality has been tightened up.

The research project analysed family migration policies in nine European countries from two angles. First, the project analysed policies and policy-making in regard to family related migration in a “top-down” perspective through the analysis of legislation, public debates, as well as through expert interviews. Secondly, the project analyses family migration policies from a “bottom-up” perspective, by investigating the impact of conditions and restrictions on migrants and their families and the responses and strategies migrants adopt to cope with these and to organise their family lives.

This project was financed under the programme New Orientations for Democracy in Europe (NODE, www.node-research.at) which is committed to exploring the future democratic development of Europe and its effects on citizens as well as politics. Within the perspective of the NODE-Research, the project on Civic Stratification, Gender and Family Migration Policy in Europe aimed at:

- Providing an empirically grounded analysis and evaluation of family migration policies in a broad range of immigration countries in Europe, including Eastern Europe;
- Investigating how family migration policies create civic stratification;
- Providing empirical evidence for the consequences of stratified rights for migrants immigrating for family related reasons;
- Analysing how migrants challenge and cope with the constraints imposed by family migration policies;
- Analysing the relationship between “civic integration” and social and political integration, and conversely, relationship between civic stratification and social and political exclusion;
- Applying a gender based analysis both to the analysis of family migration policies and the impact of these policies on migrants; and
- Developing basic principles that might help governments to design and implement fairer immigration legislation.
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1 Introduction

Current Dutch family migration policies are among the most restrictive in the European Union. (Groenendijk et al 2007b) From the 1990s onwards, the conditions for admission and stay of foreign family members in the Netherlands have gradually been tightened. Most recently, the centre-right government under Premier Balkenende which was in office from 2002 to 2006 implemented a number of significant restrictive reforms. The Law on Integration Abroad (2005) in particular attracted a great deal of attention both within the Netherlands and internationally. This law makes the granting of entry visa to family migrants conditional upon their demonstrating a sufficient level of knowledge of Dutch language and society. The Netherlands were the first country in the world to introduce such integration requirements at entry for foreign family members. (Groenendijk 2005: 12)

This paper provides an overview of the main developments in Dutch family migration policies, with a focus on recent years. By way of introduction, it sketches the main trends of immigration to the Netherlands since the Second World War and presents statistical data on migration flows, migrant population and family migration in the Netherlands. The second section traces the history of Dutch family migration policies from the 1950s until the end of the 1990s. Finally, the third section provides an overview of the current policy framework, as well as a discussion of the political debate about family migration in the Netherlands since 2002.

This paper is based on literature research and analysis of government documents. The overview of the current policy framework is based primarily on information provided by the Immigration and Naturalisation Service (IND). The quantitative data are taken mainly from the online database of Netherlands Statistics (CBS). In addition, interviews have been conducted with three experts in the field: an official at the Directorate Foreigner Policy of the ministry of Justice; Wanda Pelt, representative of the NGO Stichting Buitenlandse Partner; and Betty de Hart, associate professor at the Centre for Migration Law in Nijmegen.

1.1 International migration to the Netherlands since WWII

A significant part of the migration flows to the Netherlands since the Second World War originated in (former) colonies. Between 1945 and 1970, an estimated 300 thousand persons came from what had been the Dutch East Indies and became the independent Republic of Indonesia in 1949. In large majority, those refugees were persons of mixed descent, so-called ‘Indische Nederlanders’. (Ellemers&Vaillant 1987; Amersfoort&Penninx 1993: 65-66)

The years preceding and following the independence of Surinam in 1975 also witnessed sizeable migration flows. Between 1973 and 1980, more than 90 thousand Surinamese emigrated to the Netherlands. The idea that it was ‘now or never’, combined with fears of political instability after independence, led to an emigration flow that was a real exodus for Surinam, which counted less than 400 thousand inhabitants at the time. In 1980, visa requirements were imposed for Surinam. (Amersfoort 1987; Entzinger...
Since then, Surinamese immigration has continued but in limited numbers, averaging about 3 thousand per year between 1995 and 2007, mainly through the channels of family reunification and formation. In 2007, 333 thousand persons of Surinamese origin lived in the Netherlands. (CBS 2008a)

The Netherlands Antilles are still today part of the Dutch Kingdom. Immigration from the Antilles has never been as massive as the Surinamese immigration flows in the 1970s, but it has been constant. Since 1975, between 2 and 10 thousand Antilleans have migrated to the Netherlands every year. In the mid-1980s, some 40 thousand persons of Antillean origin were living in the Netherlands; in 2007, their number had risen to 130 thousand. (Entzinger, 1985: 55; CBS 2008a)

Between 1960 and 1975, the majority of immigration flows was made up by labour migrants from countries around the Mediterranean Sea, who came – either through recruitment channels or ‘spontaneously’ – to ease the severe labour shortages Dutch companies were facing at the time. (De Lange 2007: 91-93) In 1965, almost 40 thousand workers from the Mediterranean area were living in the Netherlands. By 1973, their number had increased to 128 thousand. (Penninx 1979: 95) As of 1974, the demand for foreign labour dropped sharply, and labour migration to the Netherlands came almost completely to a halt.

While initially, Italians formed the large majority of foreign workers in the Netherlands, they were soon outnumbered by the Spanish. In the late sixties, Turks and Moroccans became the largest group of foreign workers. As expressed by the term ‘gastarbeiders’, their stay in the Netherlands was expected to be temporary, not only by the Dutch government but also by the workers themselves. (Penninx 1979; Tinnemans 1994; Obdeijn 1987) However, the Spanish were the only ones among the Mediterranean workers to return to their home country in significant numbers. While the size of the other groups of Southern European migrants stabilized in the 1970s, the Moroccan and Turkish population has increased continuously up until today, mainly as a result of family migration. (Lindo 1994; CBS 2008a)

The inflow of refugees in the Netherlands finally remained limited to some thousand a year until the mid-1980s. In 1985 however it was up to 5,6 thousand and in 1989 almost 14 thousand. The annual number would remain above 20 thousand in the 1990s, with peaks of 52,5 thousand in 1994 and 45 thousand in 1998. Between 1992 and 2001, the Netherlands received the second highest number of asylum seekers per capita in the European Union, preceded only by Sweden. (Hovy 2002: 112-113; Bonjour 2005: 179) In the course of the 1980s and 1990s, the issue of asylum would come to dominate Dutch debates on immigration control. (Amersfoort 1999: 150-155; Entzinger 1985: 67; Amersfoort & Pennix 1993: 67-71) Since the turn of the century, asylum inflow has dropped sharply, from 43,560 asylum applications filed in 2000 to 14,470 in 2006. (CBS 2008c) Since 1995, the main countries of origin of asylum seekers in the Netherlands have been Afghanistan, Angola, Iraq, Iran, former Yugoslavia, Sierra Leone, Sudan, Somalia and the former Soviet Union. (CBS 2008b)

1.2 Numbers and statistics

Between 1945 and 1985, half a million Dutch emigrated, mostly to Canada, Australia, the US and New Zealand. (Ellemers 1987; Van Faassen 2001) During the 1950s and

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1 These numbers include labour migrants from Greece, Yugoslavia, Portugal, Spain, Turkey, Morocco and Tunesia.
early 1960s, emigration from the Netherlands exceeded immigration, in spite of substantial inflow from Indonesia. Since 1961 however, annual net migration has been positive2, with peaks in the second half of the 1970s and in the early 1990s.

Annual net migration* to the Netherlands by country of birth at five year interval (x1000): 1950-1995

<table>
<thead>
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</tr>
</thead>
<tbody>
<tr>
<td>Total net migration</td>
<td>19.9</td>
<td>-5.2</td>
<td>-12.8</td>
<td>18.8</td>
<td>33.4</td>
<td>72.1</td>
<td>53</td>
<td>24.2</td>
<td>60.1</td>
<td>32.8</td>
</tr>
<tr>
<td>Netherlands</td>
<td>-25.5</td>
<td>-19.1</td>
<td>-13.3</td>
<td>-9.8</td>
<td>-2.4</td>
<td>-9.5</td>
<td>-6</td>
<td>-7.1</td>
<td>-13.4</td>
<td></td>
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<tr>
<td>European Union</td>
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<td></td>
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<tr>
<td>(excluding Netherlands)</td>
<td>5</td>
<td>8.6</td>
<td>6.3</td>
<td>5.2</td>
<td>9.3</td>
<td>5.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indonesia</td>
<td>15.7</td>
<td>-0.6</td>
<td>4.2</td>
<td>0.6</td>
<td>1.3</td>
<td>1.3</td>
<td>0.6</td>
<td>0.9</td>
<td>0.3</td>
<td></td>
</tr>
<tr>
<td>Surinam and the Dutch Antilles</td>
<td>0.9</td>
<td>1.1</td>
<td>3.8</td>
<td>7.2</td>
<td>37.1</td>
<td>19.6</td>
<td>7.3</td>
<td>10.7</td>
<td>1.8</td>
<td></td>
</tr>
<tr>
<td>Morocco</td>
<td>5.6</td>
<td>7.3</td>
<td>9.3</td>
<td>4.2</td>
<td>8.6</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Turkey</td>
<td>7.5</td>
<td>9.8</td>
<td>15</td>
<td>1.7</td>
<td>10</td>
<td>3.1</td>
<td></td>
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</tr>
</tbody>
</table>

* Net migration : immigration minus emigration (own calculation)

Source : CBS (2008a)

In the last ten years, migration inflow has been relatively high, peaking at the turn of the century with a net migration of over 70 thousand per year in 2000 and 2001. Since 2002, net migration has decreased sharply.

Annual net migration* to the Netherlands by country of birth (x1000): 1995-2006

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total net migration</td>
<td>32.8</td>
<td>43.7</td>
<td>47.7</td>
<td>62</td>
<td>60.2</td>
<td>71.7</td>
<td>70.1</td>
<td>54.6</td>
<td>35.6</td>
<td>19</td>
<td>8.9</td>
<td>10.2</td>
</tr>
<tr>
<td>Netherlands</td>
<td>-13.4</td>
<td>-13.1</td>
<td>-10.4</td>
<td>-6.1</td>
<td>-5.8</td>
<td>-8.9</td>
<td>-11</td>
<td>-14.4</td>
<td>-16.1</td>
<td>-19.1</td>
<td>-25.1</td>
<td>-25.8</td>
</tr>
<tr>
<td>European Union</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(excluding Netherlands)</td>
<td>5.8</td>
<td>8.1</td>
<td>9.4</td>
<td>9.9</td>
<td>10.5</td>
<td>11</td>
<td>11.4</td>
<td>9.1</td>
<td>7.5</td>
<td>6.5</td>
<td>13.6</td>
<td>16.4</td>
</tr>
<tr>
<td>Indonesia</td>
<td>0.3</td>
<td>0.5</td>
<td>0.6</td>
<td>1.2</td>
<td>1</td>
<td>1.3</td>
<td>1.4</td>
<td>1.2</td>
<td>1</td>
<td>0.7</td>
<td>0.5</td>
<td>0.4</td>
</tr>
<tr>
<td>Surinam and the Dutch Antilles</td>
<td>1.8</td>
<td>3.8</td>
<td>5</td>
<td>9.1</td>
<td>9.2</td>
<td>11.1</td>
<td>8.8</td>
<td>5.6</td>
<td>3.2</td>
<td>0.9</td>
<td>-0.4</td>
<td>0.1</td>
</tr>
<tr>
<td>Morocco</td>
<td>2</td>
<td>3.4</td>
<td>4</td>
<td>4.8</td>
<td>4</td>
<td>3.9</td>
<td>4.6</td>
<td>4.6</td>
<td>4.2</td>
<td>2.9</td>
<td>1.3</td>
<td>0.7</td>
</tr>
<tr>
<td>Turkey</td>
<td>3.1</td>
<td>4.5</td>
<td>4.9</td>
<td>4.3</td>
<td>3.8</td>
<td>4.5</td>
<td>5.2</td>
<td>5.4</td>
<td>5.7</td>
<td>2.8</td>
<td>1.8</td>
<td>1.4</td>
</tr>
</tbody>
</table>

* Net migration : immigration minus emigration (own calculation)

Source : CBS (2008a)

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2 With the exception of 1967.
On 1 January 2008, the number of ‘allochtons’ – that is persons with at least one parent who was born abroad – living in the Netherlands was 3,215,416, or almost 20 per cent of the population. Of those, 1,765,730 or almost 11 per cent of the populations were ‘non-Western allochtons’.3

![Allochtons in the Netherlands, 1 January 2008](image)


On 1 January 2007, the total number of foreigners – that is people who do not have Dutch nationality - living in the Netherlands was 681,900 or 4 per cent of the population. (CBS 2008a)

Statistics Netherlands provides data on immigration flows per migration motive as of 1995. Between 1995 and 2006, the number of family migrants coming to the Netherlands fluctuated between 28 and 39 thousand a year.

![Family migration in the Netherlands, 1995-2006](image)

3 ‘Non-Western allochtons’ are defined by Statistics Netherlands as persons with at least one parent born in Africa, Latin-America, Asia (excluding Indonesia and Japan) or Turkey.
Source data 1995-2004: CBS (2008b) – The CBS distinguishes three categories of family-related migration motives: family reunification, family formation, and ‘meemigrerende gezinsleden'; i.e. family members who immigrate in the same year as the main applicant. The numbers presented here are the sum of these three categories – own calculations.


Family migration roughly made up between 35 and 50 per cent of total immigration per year:

![Graph showing family migration trend over years](image)


The share of family formation in the total family migration flow had increased from 39 per cent in 1995 to 60 per cent in 2003, to drop slightly to 54 per cent in 2004:
Between 1995 and 2004, persons who were born in Europe, Morocco or Turkey made up between 50 and 55 per cent of the annual family migration inflow. The other 45 to 50 per cent were born in a great many different countries, varying from the United States and Surinam, to Afghanistan, Indonesia, Somalia, Iraq and Brazil. (CBS 2008b)

In 2004, the origin of family migrants was as follows:

Over the last ten years, the share of male migrants in family migration has decreased very slightly, from 39 per cent in 1995 to 36 per cent in 2004. Since 1995, the age distribution of family migrants has remained fairly stable, with those between 18 and 30 years old forming the largest group:

Source: CBS (2008b) – own calculations

In 2004, the number of female marriage migrants was more than twice as high as the number of women who came under family reunification. This is reflected in the age distribution of female family migrants. Girls of less than 18 years old make up only a relatively small group, whereas the large majority is between 18 and 40 years old.

Female family migrants in 2004:

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Family reunification</th>
<th>Accompanying family member</th>
<th>Family formation</th>
<th>Total family migration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>5421</td>
<td>1440</td>
<td>11261</td>
<td>18122</td>
</tr>
<tr>
<td>Less than 13 years old</td>
<td>2404</td>
<td>590</td>
<td>11261</td>
<td>2994</td>
</tr>
<tr>
<td>13 to 18 years old</td>
<td>864</td>
<td>103</td>
<td>11261</td>
<td>967</td>
</tr>
<tr>
<td>18 to 30 years old</td>
<td>1196</td>
<td>144</td>
<td>6010</td>
<td>7350</td>
</tr>
<tr>
<td>30 to 40 years old</td>
<td>537</td>
<td>360</td>
<td>3535</td>
<td>4432</td>
</tr>
<tr>
<td>More than 40 years old</td>
<td>420</td>
<td>243</td>
<td>1716</td>
<td>2379</td>
</tr>
</tbody>
</table>

Among male family migrants, the share of family formation was only slightly higher than that of family reunification in 2004. Again, this affects the age distribution. In contrast to the relatively small share of children in female family migration, boys up to 18 years old are almost as well represented among male family migrants as men between 18 and 40 years old.
Male family migrants in 2004:

<table>
<thead>
<tr>
<th></th>
<th>Family reunification</th>
<th>Accompanying family member</th>
<th>Family formation</th>
<th>Total family migration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>5202</td>
<td>910</td>
<td>4116</td>
<td>10228</td>
</tr>
<tr>
<td>Less than 13 years old</td>
<td>2509</td>
<td>640</td>
<td>3149</td>
<td></td>
</tr>
<tr>
<td>13 to 18 years old</td>
<td>931</td>
<td>99</td>
<td>1030</td>
<td></td>
</tr>
<tr>
<td>18 to 30 years old</td>
<td>1160</td>
<td>49</td>
<td>3254</td>
<td></td>
</tr>
<tr>
<td>30 to 40 years old</td>
<td>398</td>
<td>75</td>
<td>2015</td>
<td></td>
</tr>
<tr>
<td>More than 40 years old</td>
<td>204</td>
<td>47</td>
<td>780</td>
<td></td>
</tr>
</tbody>
</table>
2 Policy and debate about family migration until 2002

2.1 Migration Policy in the 1960s and early 1970s

Up until the mid-1970s, Dutch family migration policies were firmly rooted in the male breadwinner model. The eligibility of refugees from Indonesia for stay in the Netherlands for instance was decided for the family as a whole: if the head of the family – the man – fulfilled the criteria, his wife and children could accompany him. (Van Walsum 2008: 109-110; cf. Schuster 1999: 85-111; Jones 2007: 137-183)

The conditions for residence and stay of foreign family members of Dutch nationals were regulated almost entirely through Dutch citizenship law. Until 1964, this law was based on the principle that the father and husband determined the nationality and place of residence of his family. Therefore, the foreign wife of a Dutch man was automatically granted Dutch citizenship at marriage, while the Dutch woman who married a foreigner automatically lost her citizenship: it was self-evident that a woman would follow her husband. After 1964, the foreign wife of a Dutch man no longer became Dutch automatically, but she retained the right of option. A Dutch woman with a foreign husband no longer lost her Dutch citizenship, but she couldn’t pass her nationality on to her children and no special right of residence was granted to her husband or children: they had to fulfill the normal conditions for entry and stay. (De Hart 2003a: 78-81, 101-103)

The conditions for family reunification by labour migrants were relatively strict in the 1960s, partly as a result of the assumption of temporary stay and partly because of the severe housing shortages the Netherlands were facing at the time. A labour migrant was allowed to bring his wife and children over if he disposed of suitable housing and a labour contract for another year, and if he had lived and worked in the Netherlands at least one year if he was an EC citizen, or two years if he was not.4 This last condition – the waiting time – in particular met with objections from the Christian Democrat Members of Parliament, who found it morally unacceptable to keep men separated from their wives and children for so long. Their plea was supported by the right-wing Liberal MPs, because strict conditions for family reunifications made the Netherlands an unattractive country of destination and thus hindered Dutch employers in recruiting the foreign workers they so urgently needed. This parliamentary plea for more liberal policies was welcomed by the officials in the ministry of Social Affairs, who shared the views of the right-wing Liberal MPs. Within the ministry of Justice however, officials favoured strict conditions, so as to keep control over the settlement of foreign families in the Netherlands. With the support of Parliament, Social Affairs eventually outweighed Justice: by 1970, the waiting time had been abolished for EC citizens, and set to one year for labour migrants from recruitment countries. In addition, the waiting time was waved for wives of labour migrants who had no children and were willing to work. (Bonjour 2008; forthcoming)

4 Although the Netherlands also recruited female labour migrants between 1960 and 1975, e.g. from Spain, Yugoslavia and the Philippines, the reunification of these women with their families was not subject of debate or policy. Female labour migration was relatively small in scale. Officially, recruitment was limited to unmarried women, but in practice married women came to work in the Netherlands too. Should they have wished to reunite with their husbands, then their husbands could probably enter the Netherlands easily as labour migrants. (De Lange 2007: 171-172; Chotkowski 2000: 80-82, 87-91)
2.2 Migration Policy in mid 1970s –1980s

The ‘cultural revolution’ which shook the Western world in the late 1960s also had a profound impact in the Netherlands. The dominant norms with regard to family, sexuality and relations between men and women were fundamentally altered. Under the Den Uyl cabinet (1973-1977), probably the most progressive government in Dutch history, family migration policies were adopted to the new moral norms.

Thus, in 1975, non-marital relationships with Dutch nationals – both heterosexual and homosexual – were acknowledged as a ground for entry and stay in the Netherlands, provided the relation was ‘serious’ and the Dutch citizen could provide for his or her foreign partner. (Van Walsum 2008: 149-151; Bonjour forthcoming)

Also in 1975, it was decided that Dutch women who wished to bring their foreign husbands to the Netherlands would be exempted from the income requirement, unless they had refused to accept suitable work. This significant liberalization was intended to soften the inequalities between men and women. Although Dutch men were still distinctly privileged – their foreign wives could opt for naturalization directly and were therefore not subject to immigration law and regulations – the position of Dutch women was substantially improved. (De Hart 2003a: 106; Bonjour forthcoming)

Finally, for the first time, policy was formulated for foreign women living in the Netherlands who wished to bring family members over. As of 1975, ‘reversed family reunification’ – as it was commonly referred to – was allowed, provided the woman had lived and worked in the Netherlands for at least one year, disposed of suitable housing and a labour contract for another year, and provided the marriage had lasted at least one year. This last condition applied only to women and reflected the administration’s fear that foreign husbands would ‘abuse’ the marriage migration channel to gain access to the Dutch labour market. Only in 1979, after a strong lobby from left-wing parliamentarians, was this additional requirement abolished, and formal equal treatment of men and women in Dutch migration policy achieved. (De Hart 2003a: 103-104, 108-109; Van Walsum 2008: 151-152; Bonjour forthcoming)

Equality of men and women in Dutch citizenship law was realised in 1985. Henceforth, marriage partners of Dutch nationals could apply for naturalization after three years of residence in the Netherlands, instead of five years like other foreigners. Dutch women were granted the right to pass their citizenship on to their children. The position of Dutch women and their foreign family members then was improved. Dutch men however lost most of their privilege: their foreign wives could no longer opt for naturalization directly. (Van Walsum 2008: 179-183)

Because of the population density in the Netherlands, which is among the highest in the world, Dutch politicians had emphatically rejected any suggestion of settlement migration in the Netherlands: for a long time, they assumed that migrants both from the Mediterranean and from Surinam would soon be returning home. By the late 1970s however, it had become clear even to the most reluctant of Dutch politicians that the large majority of migrants living in the Netherlands were there to stay. The government therefore set forth to develop policies that would enable resident migrants to participate in Dutch society fully and equally.

The norm of equal treatment – a norm which, since the ‘cultural revolution’ of the 1960s, had become of central importance in Dutch political discourse – was also applied to the regulations for family reunification. In 1979, foreigners with a permanent residence
permit5 and refugees were granted the right to bring non-marital partners over under the same conditions as Dutch citizens. Moreover, like Dutch women, they were exempted from the income requirement unless they were directly to blame for not disposing of sufficient income. (Bonjour forthcoming) Considering the number of migrants who lost their job in the economic recession of the 1980s – unemployment reached 40 per cent among Turkish and Moroccan migrants in 1987 – this was a liberalization of great significance. 6 (Penninx 1988: 68,70) In addition, the residence rights of second generation migrants were substantially strengthened. (Van Walsum 2008: 173-174)

The new family norms, combined with the acceptance of migrants as full and equal members of Dutch society, thus resulted in a series of liberalizations, which were all very broadly supported in Parliament. Throughout the post-war period, Dutch family migration policies have not been more liberal than in the 1980s. (Bonjour forthcoming)

2.3 Migration Policy in the 1990s

By the late 1980s, it appeared that in spite of the ‘minorities policy’ implemented by the government since the early 1980s, the situation of migrants in Dutch society had worsened instead of improved, particularly in terms of employment and education. (WRR 1989: 77-78) As a result, government policies came under increasing criticism, both in Parliament and in the media, for being too soft. (Tinnemans 1994: 329-339, 355-364) Furthermore, it started to become clear that immigration was a structural phenomenon and that the government would have to reckon with continuing inflows, in spite of restrictive entry policies. (WRR 1989:9; Scholten & Timmermans 2004: 16-17)

Prime minister Ruud Lubbers, a Christian Democrat, was the first politician to publicly express that he was ‘losing his patience’ with the immigrant issue and wanted to fundamentally change the government approach. (Scholten 2007: 165-166) Where rights had been at the heart of immigration and integration policies in the 1980s, the policies of the 1990s would have to be based on the idea that rights go hand in hand with duties. This ‘rights and duties’ approach was at the heart of the political program of the Christian Democrats in the early 1990s and had a wider resonance in Dutch politics as well. (Van Doorn 1996: 131; Voerman & Lucardie 1992). It reflected the idea that the state, in its ambition to care for every aspect of people’s lives, had turned them into passive and dependent ‘welfare clients’. Instead, the government should appeal to the responsibility of citizens and civil society, thus stimulating them to be active and autonomous. (Fermin 1997: 190-191; Van der Veen 1999: 46) In this general context, the liberal family migration policies of the 1980s were called into question as well.

In 1993, the third Lubbers cabinet, a coalition of Christian Democrats and Social Democrats, implemented the first restrictive reform in family migration policies in a long time. The Christian Democrats put their full weight behind the reform. In their view, the difficulties with the integration process of migrants in the Netherlands urgently required a government response. First, the size of immigration flows should be reduced. Second, migrants ought to be stimulated to actively take their own and their family’s future in the

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5 The permanent resident permit had been introduced by the Aliens Law of 1965. It was granted after five years of residence in the Netherlands, conditional on sufficient income. By the early 1980s, the large majority of migrants from recruitment countries had a permanent residence permit. (Boeles 1984:88; Groenendijk 1981: 533)

6 The only condition for family migration which – until 2001 – applied to foreigners with a permanent residence permit but not to Dutch nationals (or to refugees) was the housing requirement.
Netherlands in hand. An appeal should be made to the ‘personal responsibility’ of those who wished to bring family member to the Netherlands. Therefore, the Christian Democrats wanted to sharpen the income requirement: the exemption for those who were involuntarily unemployed should be abolished. The Social Democrats however were reluctant at first to impose financial barriers to family migration, since this would primarily affect vulnerable social groups. The result was a compromise: the exemption was replaced by a ‘hard’ income requirement, which was set at 70 per cent of the welfare level however, instead of 100 per cent as the Christian Democrats would have preferred. Also, parents caring for small children as well as elderly and permanently disabled persons would not have to fulfil the income requirement. Importantly, not only the reform itself but also the ratio behind it – that it was legitimate to appeal to the ‘personal responsibility’ of the individuals concerned by imposing conditions on family migration – were accepted by all political parties in Parliament except the Greens. This opened the way to further restrictive reforms. (Bonjour forthcoming; Van Walum 2008: 237-241)

As part of the reform of 1993, the conditions for family formation were somewhat sharpened as well: a minimum residence period of three years was introduced, as well as a minimum age of 18 years and the requirement that both partners were at least 16 years old at the time of their marriage. (Bonjour forthcoming)

It is important to note that all these reforms applied to Dutch nationals as well as to resident foreigners. With this reform therefore, a significant difference in terms of family reunification rights was introduced between Dutch nationals and other EU-citizens living in the Netherlands. The entry and stay of family members of EU-citizens is governed by the relatively lenient Community law on the freedom of movement: the income requirements would be much lower for them than for Dutch men and women. Parliamentarians initially protested against this ‘discrimination’ of Dutch nationals. However, all parties but the right-wing Liberals accepted the government’s response that equal treatment of resident migrants and Dutch citizens was more important than equal treatment of Dutch citizens and EU-citizens, especially since the latter would mean a ‘substantial loosening of current policies’. (House of Representatives 1993: 1-3) More than a third of family migrants were partners and children of Dutch nationals: the new income requirement would not have the effect of reducing immigration if it was not applied to Dutch citizens. (Bonjour forthcoming)

The restrictive trend that was introduced with the reform of 1993 was continued and strengthened in the course of the nineties. As of 1993, all foreign documents presented to the immigration authorities establishing identity and status, such as birth and marriage certificates, were to be consistently legalized. In 1996, this requirement was sharpened: information from documents from ‘problem countries’ – i.e. Ghana, India, Nigeria, Pakistan and the Dominican Republic – was to be officially verified. (Van Walsum 2008: 223-224)

In 1994, the Law on the Prevention of Marriages of Convenience (Wet Voorkoming Schijnhuwelijken) was introduced. It stated that each couple with at least one foreign partner that wanted to get married or have their marriage registered in the Netherlands, should obtain a declaration from the Immigration Service stating whether there were grounds to suspect a marriage of convenience. A list of ‘objective indications’ was established to determine the sham character of a marriage, such as the residential status of the foreign partner, age difference, knowledge of each other’s language and duration of the relationship. If convinced that it was sham, the civil servant at the registrar’s office could refuse to conclude or register the marriage. (Groenendijk & Barzilay 2001: 34-35; De Hart 2003a: 120-140)
As of 1998, applications for a residence permit were only taken into consideration if the applicant had received a ‘machtiging tot voorlopig verblijf’ (‘mvv’ or provisional residence permit) in his country of origin. Thus, the government aimed to determine whether a foreigner fulfilled the conditions for entry before his arrival in the Netherlands, so as to avoid being faced with a fait accompli. Up until then, the ‘mvv’ had not been a hard condition for entry, as a result of judicial rulings that the Foreigner Law did not permit refusing a residence permit solely because the foreigner did not possess an mvv.

Following a proposal by Christian Democrat and right-wing Liberal MPs, the Law was changed so as to sharpen the mvv-requirement. (Groenendijk & Barzilay 2001: 11-15; Van Walsum 2008: 218-219)

In 2000, a new Foreigner Law was introduced, primarily aimed at addressing the asylum crisis that the Netherlands were facing at the time. The Law established a single status for asylum seekers, instead of the three different statuses that existed before, so as to reduce the number and length of judicial procedures. In the field of regular migration, only a small number of limited adjustments were proposed. Among these was the raise of the income requirement for family migration from 70 per cent of the welfare level to 100 per cent. This reform was part of the coalition agreement that the Social Democrats, right-wing Liberals and left-wing Liberals had concluded in 1998. It kicked up very little political dust: all parties in Parliament except the far-Left, i.e. the Greens and the Socialist Party, supported the raise of the income requirement. (Bonjour forthcoming)

According to De Hart (2003b: 60), the main impediments to family migration in 2003 – that is before the reforms of the second Balkenende government – were the income requirement, the mvv-requirement and the legalisation of documents.

3 Current policy framework in the Netherlands

3.1 Current conditions for family migration

The conditions set out below apply to Dutch citizens or third country nationals (TCNs) who wish to bring a family member who is a TCN to the Netherlands. The entry and stay of Swiss nationals and EU/EEA citizens as well as their family members is governed by the Community law on the freedom of movement. This means they have a right to settle in the Netherlands provided they have a valid passport, medical insurance, and are either (self-)employed – no matter if they work full-time or part-time, have a temporary contract, or earn less than the minimum wage\(^7\) – or dispose of an income at the welfare level or above. (European Commission 2008) These requirements are significantly less stringent than the conditions for family migration applied to Dutch nationals and TCNs.

3.1.1 The admission of spouses and partners

The conditions for the admission of spouses and partners are as follows:

i) the partners are married, have a registered partnership or can prove that they are both unmarried

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\(^7\) Only ‘activities on such a small scale as to be regarded as purely marginal and ancillary’ are considered insufficient ground for free movement rights. (European Commission 2008)
ii) the applicant poses no threat to public order

iii) both partners are at least 21 years old in case of family formation and at least 18 years old in case of family reunification

iv) the partners will live together from the moment the applicant arrives in the Netherlands, will be registered at the same address and will ‘run a joint household’

v) the applicant passed the ‘civic integration exam abroad’

vi) the sponsor disposes of sufficient income

(IND 2008a)

Ad i) In the Netherlands, the conditions for entry and stay of non-marital partners are the same as for marital partners.

Ad iii) The minimum age in case of family formation was raised from 18 years to 21 years in 2004.

Ad v) This criterion was introduced by the Law on Integration Abroad (2005), which entered into force on 15 March 2006. It makes the granting of a provisional residence permit (machtiging tot voorlopig verblijf – mvv) conditional on the applicant proving a basic level of knowledge of Dutch language and society. This knowledge is tested through an oral exam at a Dutch Embassy or Consulate General abroad. The Dutch government does not provide courses, but it has compiled a ‘practice pack’ – with a film about the Netherlands, a booklet, a CD with all the questions that may arise in the ‘Knowledge of Dutch Society’ test and three mock examinations for the language test – which can be purchased for €63.90.

Citizens of Australia, Canada, Japan, New Zealand, South Korea and the United States do not require an ‘mvv’ to enter the Netherlands and are therefore exempted from the civic integration exam. Surinamese nationals who can prove having attended at least primary education in Dutch in Surinam or in the Netherlands are also exempted, as are persons who can show a doctor’s declaration to the effect that they are unable to take the exam due to severe permanent physical problems or psychological disabilities.

(IND 2008b)

Ad vi) In case of family reunification, independent income of at least the welfare level for couples is required. As of 1 July 2008, this amounted to €1,273.37 net a month including holiday pay.

Since 2004, the income requirement in case of family formation is higher than in case of family reunification, namely 120 per cent of the minimum wage. As of 1 July 2008, this amounted to €1,528.04 net a month including holiday pay.

Income from paid employment, self-employment and unemployment or disability benefits is considered independent income, but welfare benefits are not.
Persons who are at least 65 years old, or who are permanently prevented from performing paid labour due to disability, are exempted from the income requirement.

(IND 2008c; 2008d)

3.1.2 The admission of minor children

The conditions for a minor child to join its parent or parents in the Netherlands are as follows:

i. the child is less than 18 years old

ii. it is not married and has never been married

iii. it is ‘an actual part of the family’

iv. it has a family relationship with the parent(s) with whom it intends to stay

v. it poses not threat to public order

vi. parent(s) and child will live together from the moment the child arrives in the Netherlands and will register at the same address

vii. the child has permission from the parent who is staying behind in the country of origin to come to the Netherlands

viii. the parent(s) disposes of sufficient income

(IND 2008e)

Ad iii) The criterion of being an ‘actual part of the family’ (feitelijk behoren tot het gezin), in case of minor children, is considered not to be fulfilled if the child is living on its own and is financially independent; if the child has formed its own family by entering into a marriage or relationship; or if the child has the (duty of) care for a child or other dependent family member. (IND 2008f)

Until 2006, the family connection was thought to be severed, and admission of the child therefore refused, if the parent(s) had left their child to the care of another family for five years or more8, and the parent(s) no longer provided for the costs of the child’s upbringing. After two judgements by the European Court of Human Rights in Strasbourg denouncing this policy line as a breach of the right to family life9, minister Verdonk announced one of the very few liberal reforms implemented during her time in office: henceforth a family relation would always be assumed to exist between an

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8 The five-year period was introduced in 2001. From 1986 – when the criterion ‘feitelijk behoren’ was introduced – until 2001, the regulations stated that the family connection with the parents should be considered severed if the child had been ‘durably’ taken up in another family, leaving it to the discretion of the immigration services to determine after how many years of separation this was the case.

9 Sen v. the Netherlands, 21 December 2001, no. 31465/96; Tuquabo-Tekle e.a. v. the Netherlands, 1 December 2005, nr. 60665/00. Website ECHR, www.echr.coe.int. Law scholars assume that the EU Directive on family reunification (2003) may also have played a role in the decision to soften the ‘actual belonging’ criterion, although the government made no reference to the directive in its presentation of the reform. (Groenendijk et al 2007a: 22-23; Lodder 2007: 29.)
minor child and its parents, except in the situations mentioned above. (Bonjour forthcoming)

Ad viii) The income requirement for reunification with a minor child is the same as for reunification with a spouse or partner, i.e. at least the welfare level for couples or 1,273.37€ net a month including holiday pay as of 1 July 2008.

If however the parent that the child comes to join is single, then the income requirement is lower, namely 891.36 euro net a month including holiday pay as of 1 July 2008. (IND 2008c; 2008d)

3.1.3 The admission of family members of refugees

Foreigners who are granted asylum in the Netherlands may reunite with their minor children and partner or spouse without having to fulfil the criteria above, such as the income requirement, if:

i. the sponsor has an asylum permit

ii. the marriage or relationship existed when both partners were living abroad. If not, i.e. in case of family formation, the regular conditions apply.

iii. the child or partner has the same nationality as the sponsor

iv. the child or partner poses not threat to public order

v. the child or partner entered the Netherlands with the sponsor or within three months after the sponsor was granted an asylum permit, or an application for family reunification was filed within three months after the sponsor was granted an asylum permit.

vi. After this 3 month period, the regular conditions for family reunification apply. (IND 2008g)

3.1.4 The admission of family members beyond the nuclear family

Besides minor children and spouses or partners, two categories of family members may be considered for admission to the Netherlands, namely adult children and elderly parents.

Children of Dutch residents who are 18 years or older may be admitted to the Netherlands if:

i. to leave the child behind in the country of origin would be ‘disproportionally harsh’

ii. the child is ‘an actual part of the family’, i.e. it has not been separated from its parents for more than one year

iii. it has a family relationship with the parent(s) with whom it intends to stay

iv. it poses not threat to public order

v. parent(s) and child will live together from the moment the child arrives in the Netherlands and will register at the same address
vi. the child passed the ‘civic integration exam abroad’

vii. the parent(s) dispose of sufficient income

(IND 2008e)

Ad ii) The family connection between adult child and parent will be considered severed in the same three situations described above for minor children. In addition, in case of adult children, it will be considered broken if they have been separated from their parents for more than one year.10

Ad vi) The requirement of passing the civic integration exam in the country of origin is the same for adult children as for partners and spouses.

Ad vii) For the admission of adult children, an income is required of at least the welfare level for couples plus the welfare level for singles. As of 1 July 2008, this amounted to 1910.06 euros net a month including holiday pay. (IND 2008c; 2008d)

Ad vii) The income requirement for single elderly parents is the same as for adult children, i.e. at least the welfare level for couples plus the welfare level for singles or 1910.06 euros net a month including holiday pay as of 1 July 2008. (IND 2008c; 2008d)

If the sponsor has brothers or sisters who are also living in the Netherlands, the income of these other children may be counted in.11 (IND 2008h)

10 The right to family life as laid down in article 8 of the European Convention on Human Rights and the jurisprudence of the Court in Strasbourg grants far more protection to the relation between minor children and their parents, than that between adult children and their parents.

11 In a document of June 2008, the government has announced its intention to modify these conditions. In future one child living in the Netherlands will have to fulfill the income requirement, without help of brothers or sisters, for the single elderly parent to be allowed entry. By way of
Polygamous families are not recognised in Dutch family migration policy. Only one spouse or partner and only his or her children may be admitted to the Netherlands. (IND 2008i) That is to say, if a Dutch resident has foreign children with two different partners, the one partner and his/her children must leave the Netherlands before the other partner or his/her children are allowed entry.

3.1.5 Administrative fees

The fees for allocation of residence permits in the Netherlands – although only intended ‘to cover the expenses incurred by the Immigration and Naturalisation Service (IND) in processing applications’ according to the IND – are so high that they may be considered a condition for admission in themselves. The administrative fees were raised quite steeply – in fact increased fivefold – in April 2002. (Bonjour forthcoming)

As of February 2008, the fees were as follows:

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civic integration examination</td>
<td>350€</td>
</tr>
<tr>
<td>Provisional residence permit (mvv) to stay with a family member or relative</td>
<td>830€</td>
</tr>
<tr>
<td>Provisional residence permit (mvv) for accompanying family members</td>
<td>188€</td>
</tr>
<tr>
<td>Regular temporary residence permit with mvv, or extension of regular residence permit</td>
<td>188€</td>
</tr>
<tr>
<td>Extension of residence permit for family reunification with one or both parents</td>
<td>52€</td>
</tr>
<tr>
<td>Permanent residence permit</td>
<td>201€</td>
</tr>
</tbody>
</table>

In case family members enter the Netherlands at the same time as the foreign national (for instance labour migrant) with whom they will be staying, they pay the ‘family rate’, i.e. 188 euro for a provisional residence permit. This family rate also applies when two or more family members apply at the same time for admission to the Netherlands to unite with a Dutch resident. In this case, only one family member pays the full fee of 830 euro, and all others pay 188.

Exemptions may be granted to certain categories of foreigners, such as ‘victims of human trafficking, non-privileged NATO personnel and (in certain cases) foreign nationals who are unable to leave the Netherlands through no fault of their own’. Also, pursuant to article 8 of the European Convention on Human Rights, foreigners may be exempted from the administrative fees ‘if, despite all efforts, the foreign national does not have any financial resources and also has absolutely no means of obtaining such resources’. As long as the person concerned is able to take out a loan to finance the fees, for instance, he or she will not be exempted. (IND 2008j)

To these application fees, one has to add the costs of legalization of documents which prove identity and family relations. For a spouse or partner, these costs are 248 euro. This means that to bring a spouse or partner from outside of the EU/EEA to the Netherlands, one would have to pay for the civic integration exam, the provisional residence permit, the regular residence permit and the legalization of documents. In compensation, the requirement that almost all the children of the applicant reside in the Netherlands will be dropped. (House of Representatives 2008a: 42)
total, this amounts to 1,616 euro. In most EU member states, the fee for bringing in a spouse is between 50 and 150 euro. (Groenendijk et al 2007b: 48)

3.1.6 Continued right of residency after relationship or marriage has ended

In the Netherlands, a permanent residence permit can be granted to foreign family members who have resided in the Netherlands legally for at least five years, provided they dispose of sufficient income and pose no threat to public order.

During these first five years then, the right of residence of foreign family members is dependent in character, in the sense that should the family relation be severed, the ground for allowing residence disappears and the residence permit may be withdrawn.

Foreigners who have been admitted to the Netherlands as partners or spouses of a Dutch resident and whose relationship or marriage ends after at least three years of residence in the Netherlands are granted an autonomous residence permit, providing they do not pose a threat to public order. No income requirement is applied in these cases.12

If the marriage or relationship ends within three years, the foreign spouse or partner will in principle have to leave the country. Exceptions to this rule are only made on humanitarian grounds, that is to say in case of decease of the sponsoring partner, in case of domestic violence, or if a combination of the following factors provides sufficient grounds: the position of (single) women in the country of origin, the care for children born in the Netherlands or enrolled in Dutch education, and the relations of the children with their father. (Bonjour forthcoming; IND 2007)

3.1.7 The current Dutch policy framework for family migration in a comparative European perspective

Compared to the policies in other EU member states, current Dutch family migration policies are relatively strict.

According to Groenendijk et al (2007b: 25-26), the Netherlands pose the highest income requirement in the Union. Belgium and Sweden do not apply an income requirement; the other member states have income requirements at the welfare level or at the level of the minimum wage. No other member state requires 120 per cent of the minimum wage, as the Netherlands do in case of family formation.

The minimum age for family reunification in the Netherlands is 21 years; only five other member states set a minimum age for the admission of spouses above 18 years. Denmark is more stringent than the Netherlands in this regard, with a minimum age of 24 years. Besides the Netherlands, only Denmark applies integration requirement for the admission of foreign family members. The Netherlands are also relatively strict with regard to the conditions for admission of foreign family members of their own nationals. (Groenendijk et al 2007b: 12-14,20, 27-28)

12 According to the official of the ministry of Justice interviewed in the course of this project, Rita Verdonk – who was minister of Foreign Affairs and Integration from 2003 to 2007 – had plans to extend this minimum period of residence from three to five years, but refrained from doing so for emancipatory reasons.
The Netherlands takes a liberal position however in admitting non-marital partners: only six other EU member states do so. In addition, the Netherlands are one of only four member states which do not apply a housing requirement and one of the eleven member states which do not apply a waiting period. (Groenendijk et al 2007b: 18-19, 23, 25)

3.2 The background of recent restrictive reforms in Dutch family migration policy

Currently then, Dutch family migration policies are among the strictest in the European Union. It is important to note that the restrictive turn in this policy field dates from the 1990s. In response to continuously high immigration flows and – perhaps even more importantly – to the disturbing lack of progress in the societal integration of migrant groups, particularly in socio-economic terms, successive governments gradually tightened up the conditions for family migration, so as to reduce the size of the inflow. The new neo-liberal norm of ‘personal responsibility’, stating that the state should stimulate people to be active and autonomous, legitimised this restrictive turn. This gradual tightening up of policies in the 1990s was not implemented by right-wing governments, but by a coalition of Christian Democrats and Social Democrats under Premier Lubbers and two successive coalitions of Social Democrats and Liberals under Premier Kok.

However, the most pronounced restrictive features of the current policy framework, namely the income and age requirement for family formation and the civic integration examination abroad, are the result of reforms implemented in 2004 and 2005 by the second Balkenende government. In aiming to reduce the size of the inflow by appealing to the ‘personal responsibility’ of the applicant, these recent reforms are very much a continuation of the restrictive turn in the 1990s. In other respects however, the policy perspectives underlying these reforms and the goals of the new policy measures were distinctly new and different. The reforms of family migration policies implemented by the second Balkenende government can only be understood if one considers the broader societal and political context in the Netherlands in those tumultuous years immediately after the turn of the century.

3.2.1 The political debate on migration and integration after the ‘Fortuyn revolt’

As in many other European countries, the terrorist attacks of 11 September 2001 were interpreted as an ‘attack on “us”’ in the Netherlands: as an attack on the fundamental values and beliefs that the Dutch shared with the Americans. By the end of September however, several opinion polls revealed that a large majority of Muslims in the Netherlands could understand the motives of the perpetrators of the attacks. This caused great dismay: all of a sudden, the ‘clash of civilisations’ appeared to be set right in the middle of Dutch society. Members of government, including Prime Minister Kok, concluded from these opinion polls that the integration of the Muslim population in the Netherlands was failing dreadfully. (Fennema 2002: 230, 236-238)

The housing requirement was abolished in 2001. (Bonjour forthcoming) According to the official from the Dutch ministry of Justice interviewed in the course of this project, the Dutch government’s point of view is that ‘to judge whether living in one room with three children is morally acceptable or not’ is a private affair, with which the government should not meddle.
Months after 9-11, Pim Fortuyn made his stormy entrance onto the Dutch political scene. The migration and integration issue was at the heart of his program. Fortuyn gained immense popularity by rejecting the prudent way of addressing the migration issue that had been dominant among Dutch politicians as a source of ‘politically correct taboos’ which had resulted in the political establishment failing to address the concerns of ordinary people. (Prins 2004: 42-43) Instead, Fortuyn chose not to mince his words: he spoke of Islam as a ‘backward’ culture, suggested that the principle of equality could be dropped from the constitution and declared that the Netherlands were ‘full’. Fortuyn was murdered on 6 May 2002 by an extreme-left environmental activist. After the parliamentary elections which took place nine days later, the Lijst Pim Fortuyn (LPF) became the second largest party in Parliament. Together with the Christian Democrats and the right-wing Liberals, the LPF formed the first Balkenende government, which remained in office no longer than 86 days however, due to internal conflicts in the LPF. In the elections of 2003, the LPF only obtained 8 seats and three years later, it disappeared from Parliament.

While the LPF as a political movement may have been short lived, what came to be known as the ‘Fortuyn-revolt’ had a lasting influence on Dutch politics. (Pellikaan et al 2003: 163-171) It was interpreted as a vote of no-confidence against the political system as a whole: fundamental changes were needed to close the deep gap between politicians and their electorate which was deemed to have surfaced. Since migration and integration had been key issues in Fortuyn’s success, this was the policy field where mainstream political parties primarily targeted their efforts to regain their voters’ confidence after 2002.

First, Dutch politicians parted with the depoliticising style that had been characteristic for their approach to the migration issue for so long. From the early 1980s onwards, Dutch politicians had made a conscious effort to keep disagreements about migration and integration policies indoors, and never to play it out as an electoral issue, so as to ‘prevent unnecessary provocation of public opinion’. (Guiraudon 2000: 141) Throughout the 1990s, although public debate grew harsher and more critical, politicians both in government and in Parliament had remained reticent to publicly present migration or integration as a problem, for fear of nourishing anti-immigrant feelings among the population. After Fortuyn, mainstream political parties strove to re-establish their legitimacy by ‘articulating’ the concerns of the public, thus showing that they acknowledged and shared their electorate’s worries. (Penninx 2006: 21; Scholten 2007: 231, 240) Henceforth, Dutch politicians would call a spade a spade.

Second, a new emphasis was placed on the cultural dimension of the migration and integration issue. In the 1990s the place of Islam in Dutch society and the compatibility of Muslim ways of life with core Western values had been an increasingly prominent theme in the Dutch media. The purple cabinets however had not followed this trend in the public debate. They expressly defined integration as a socio-economic issue and focused their policy efforts on participation in education and on the labour market. (Roggeband & Vliegenthart 2007: 533-537; Prins 2004: 25-26) This changed after the Fortuyn-revolt: mainstream politicians then defined the issue of migration and integration largely as a cultural problem. As the first Balkenende government put it, in its coalition agreement:

The integration of many migrants is encountering difficulties. Differences in ethnic background, way of life and habits are putting a strain on daily contacts and living and working together. Moreover, differences in ethnic background increasingly coincide with

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differences in education, labour participation and also implication in criminality. It prompts centrifugal forces in society and leads to physical, social and mental segregation of population groups. Isolation leads to incomprehension, then to mutual aversion and finally to ever sharper tensions.

The issue of migration and integration was now defined as a problem of social cohesion, a cohesion which was put at risk by too much ethnic and cultural diversity. To counter these ‘centrifugal forces’, the government intended to ‘mobilise what unites society’ by emphasising ‘respect for the fundamental values and norms which characterise Dutch society’. (House of Representatives 2002a: 15-16)

Finally, mainstream politicians interpreted Fortuyn’s electoral success as a call for firm and concrete action in the field of migration and integration. This action was targeted primarily at restricting family migration since, as the first Balkenende government stated in its coalition agreement:

To give integration a chance of success, the admission of foreigners who contribute to the integration problem must be restricted as much as possible. That the very large majority of young people (about 75%) from two out of the three largest migrant groups brings over a partner from the country of origin is cause for concern in this regard. (House of Representatives 2002a: 16)

In the eyes of the Balkenende government, foreign marriage partners of second and third generation migrants were a highly undesirable category of immigrants.

3.2.2 The problem of family migration as perceived by the second Balkenende government

The first Balkenende government was not in office long enough to carry through any reforms of family migration policies. It was succeeded in 2003 by the second Balkenende government, which consisted of the Christian Democrats, the right-wing Liberals and the left-wing Liberals. In its coalition agreement, this new government declared its intention to implement two reforms of family migration policies. First the conditions for family formation would be tightened, through a rise of the income requirement from 100 per cent to 120 per cent of the minimum income and a rise of the minimum age from 18 to 21 years. Second, the Balkenende government intended to require foreign family members to acquire a ‘basic level’ of Dutch language skills before being admitted to the Netherlands. (House of Representatives 2003: 14)

Underlying both policy reforms was a perception of family migrants as an inherently problematic category of migrants. The Balkenende government stated that more restrictive family migration policies were needed because integration was ‘lagging behind’ and because ‘public support for welcoming new migrants knew its limits’. The government explicitly denounced family migration as a primary cause of the difficulties encountered in incorporating immigrants into Dutch society: ‘the large scale family migration has seriously hindered integration at the group level’. This was so because the foreigners entering the Netherlands as family migrants were the wrong kind of immigrants: ‘an important part of the family migrants has characteristics that are adverse to a good integration into Dutch society. Most prominent among these – also in scale – is the group of family migrants from Turkey and Morocco, who have a bad starting position’. The level of education among Moroccan and Turkish marriage migrants, so the government stated, was very low, and their prospects on the Dutch labour market were
bleak. Their socio-cultural characteristics were equally ‘adverse’ to successful integration, since they tended to be oriented towards their own group, language and culture rather than to Dutch society and to hold traditional opinions concerning marriage, family and the position of women.

Family migrants made up almost half of all immigrants entering the Netherlands, and ‘the flow of marriage migrants’ was expected to ‘keep on in the following years’. Thus, the ‘repetitive phenomenon of family formation’ would result in ‘a permanent growth of groups of ethnic minorities in a situation of deprivation’. This process of ‘marginalisation’ led to ‘structural dependence on welfare and other government aid, aversion to society, anti-western sentiments, segregation and delinquency’, thereby threatening ‘the economic welfare of the Netherlands, public order and security, and the rights and freedoms of others’. In other words, family migration was defined as the direct cause of integration problems which posed a serious threat to social cohesion and security. Marriage migrants from Turkey and Morocco in particular were considered inherently unsuitable to participate in Dutch society. (House of Representatives 2004a; 2004b)

The way the Balkenende government defined the problem of family migration was subscribed to by all parties in Parliament, across the entire political spectrum. The Greens were the only party in Parliament to express any criticism at all to the government’s problem definition. They objected to the presentation of marriage migration as ‘a danger to national security and a threat to fundamental values such as freedom of expression and religion’ and rejected the image of ‘the Netherlands being flooded by illiterate foreigners’, an image which obscured the fact that most marriage migrants came to the Netherlands to join either a Dutch citizen or a well integrated and highly educated allochton. Even the Greens agreed with the government though, that large scale family formation was harmful for the integration process. (House of Representatives 2004c; 2005a: 3895-3896. Cf. Spijkerboer 2007: 59)

3.2.3 Tightening the conditions for family formation

In September 2004, the right-wing Liberal Verdonk, minister for Aliens Affairs and Integration, presented a proposal to Parliament implementing the restrictive reforms of family formation policies announced in the coalition agreement. First, family formation would only be possible when both partners where at least 21 years of age, instead of 18. This was meant to prevent young adults from leaving school to find a job so as to be able to fulfil the income requirement. In addition, young people of 21 were expected to be better able to ‘withdraw from the influence of parental authority and other bonds of family or tradition, if so desired’ than 18 year olds. Underlying this argumentation was the perception of family migration as rooted in non-western traditions, and the idea that the government should further the emancipation of young people from these traditions. Second, the income requirement would be raised from 100 per cent of the welfare level to 120 per cent of the minimum income, so as to prevent any appeal to supplementary benefits or exemption from taxes. Single parents caring for small children and elderly persons were no longer exempted from the income requirement. The memorandum stated that the integration perspective of the foreign partner would be ‘better warranted’ if the partner in the Netherlands could ‘fulfil his responsibility financially as well’. As a positive side effect, both measures were expected to have a ‘restrictive effect’ on immigration: minister Verdonk estimated that the number of applications for family formation would decrease by no less than 45. (House of Representatives 2004a)
The reform proposal was fairly well received in Parliament. All political parties shared the government’s analysis of the problem at hand, that is the definition of family formation as the direct cause of serious difficulties for the integration of the migrant population. They also all adhered to the government’s implicit statement that family formation was the result of insufficient integration among second and third generation migrants. It was considered to be rooted in a lack of identification with Dutch society as well as in traditions which were at odds with Dutch values. As the Christian Democrats put it, the fact that two thirds of Turkish and Moroccan youth ‘still’ married a foreign partner, showed that ‘these citizens are strongly oriented towards their country of origin or that of their parents’. Both the right wing Liberals, the Greens and the Socialist Party expressed their support for the government’s intention to further the emancipation of individuals from traditional and family bonds.

While there was broad political consensus about the problem, opinions diverged about the solution the government had chosen. The coalition parties, that is the Christian Democrats, the right-wing Liberals and the left-wing Liberals, were pleased with the government proposal. The left-wing opposition parties however voiced strong objections to the raise of the income requirement. The Social Democrats, the Socialist Party and the Greens stated that this measure would result in ‘arbitrariness’ and in discrimination of vulnerable groups in society. As the Social Democrats put it, ‘a higher financial barrier does not automatically imply faster integration’. The new conditions for family formation entered into force on 1 November 2004, with the support of a relatively narrow political majority. (House of Representatives 2004c)

According to the NGO representative interviewed in the course of this project, while the age limit does not pose too many problems to aspiring family migrants, the income requirement is a major obstacle.

3.2.4 The Law on Integration Abroad

Also in 2004, minister Verdonk presented a legislative proposal to Parliament implementing the second reform of migration policy announced in the coalition agreement of 2003. The Law on Integration Abroad (Wet Inburgering in het Buitenland) introduced a new requirement in the Aliens Act: henceforth, the granting of an entry permit to family migrants would be conditional on their possessing a basic level of knowledge of Dutch language and society, that is on their passing an exam in Dutch embassies and consulates abroad. (House of Representatives 2004b: 8)

In December 2002, the Christian Democrat MPs had initiated a motion which was accepted by a very broad majority in Parliament, requesting the government to come up with ‘concrete proposals’ to begin the integration of family migrants in the country of origin. (House of Representatives 2002b) That same month, the Parliament accepted a motion initiated by the right-wing Liberals, calling for government proposals to ‘bring the importance of essential Dutch values, norms and fundamental rights to the attention of the applicant during the application procedure for an entry visa in the country of origin’. (House of Representatives 2002c) Thus, the Law on Integration Abroad was drafted in response to parliamentary policy proposals.

The objective of the requirement of integration abroad was ‘a more efficient and effective’ working of integration, which was to result from making an appeal to the ‘responsibility in the integration process’ of both partners ‘already before coming to the Netherlands’. In addition, the new requirement was to work as a ‘selection mechanism’: those who were unable to master a basic level of knowledge of Dutch language and
society would certainly encounter severe difficulties in the further integration process. Henceforth, these persons would ‘not be granted permission to settle in the Netherlands’. However, since it was deemed legally inadmissible and politically hard to stomach to permanently exclude specific groups from family migration, the level of the exam was to be so modest as to make it ‘reasonably’ attainable through ‘private study in the country of origin’. The objective of the integration requirement, so the Explanatory Memorandum stated, was ‘not so much to select on level of education, as on motivation and perseverance’. Since experience with integration programs in the Netherlands had shown that not all immigrants were sufficiently committed, the ‘selection mechanism’ was expected to have the ‘side effect’ of reducing the inflow of family migrants by 25 per cent. (House of Representatives 2004b: 11-17; 2004d)

Predictably, the government’s proposal was well received in Parliament. Again, political discussions targeted the approach chosen by the government, rather than the definition of the problem which all political parties subscribed to. The Social Democrats for instance, proposed to require proof of literacy in the language of origin, rather than of mastery of the Dutch language, as a condition for entry because they considered illiteracy, rather than lack of motivation, as the main impediment to integration. Their proposal was rejected however because the exclusion of illiterate persons from family migration was assumed to be legally inadmissible. The Socialist Party had even stronger objections to the legislative proposal, which were all material in nature: the costs of the exam – 350 euro – were too high and the means of examination – a voice recognition computer – was considered unreliable. The Greens finally felt that knowledge of Dutch language and society could be much more effectively acquired in the Netherlands than abroad and rejected the suggestion of replacing ‘curtailment of the freedom of choice by family members’ by ‘curtailment of the freedom of partner choice by the government’. The coalition parties wholeheartedly supported the government’s proposal. In the end, the Law on Integration Abroad entered into force on 15 March 2006, with the support of all political parties except the Socialist Party and the Greens. (House of Representatives 2005a; 2005b)

The reforms of Dutch family migration policy implemented by the second Balkenende government then aimed at reducing the size of the family migration flow. In particular, they were designed to pose obstacles to the entry of migrants with ‘characteristics that are adverse to a good integration into Dutch society’, that is to Turkish and Moroccan marriage migrants. These selective, qualitative goals – to differentiate at entry between desirable and undesirable family migrants – set the current Dutch policy framework apart from the policies that have been implemented in the past.\footnote{Although the Dutch government has denied recently that the Law on Integration Abroad was introduced to reduce the inflow of specific categories of migrants (House of Representatives 2008c), the official of the ministry of Justice interviewed in the course of this project confirmed that ‘selectivity is now more accepted’ and that minister Verdonk was ‘very open about stopping certain groups. She said: we do not want illiterate women from the country side who can only keep goats. (…) We want motivated people who can participate.’}

\footnote{With the exception of the raise of the income requirement.}
3.2.5 Most recent developments in Dutch family migration policies

Considering the very broad political support with which the reforms of 2004 and 2005 were adopted, it comes as no surprise that the most recent change in government in the Netherlands has not led to a change in Dutch family migration policies. In 2007, a coalition of Christian Democrats, Social Democrats and the small Christian Union entered office. Balkenende stayed on as Prime Minister. In a policy document of June 2008, this new centre-left government declared that it would not alter the conditions for admission of family migrants.17 (House of Representatives 2008a: 41-42)

Dutch family migration policies have been challenged however by two recent court decisions. On 15 July 2008, the court in Amsterdam ruled that the integration requirement at entry as introduced by the Law on Integration Abroad was unlawful. The problem was an ‘apparent mistake of the legislator’, as the court put it. The Dutch Aliens Decision provides an exhaustive list of the conditions for family migration: if these conditions are met, the authorities are obliged to grant a residence permit. However, the integration requirement is not mentioned in the Aliens Decision. A family migration may therefore not be refused entry, so the court ruled, solely because he or she has not passed the civic integration exam.18 A majority in Parliament – Social Democrats, Christian Democrats, right-wing Liberals and the far-right PVV – remains strongly in favour of integration abroad however. (NRC Handelsblad 2008b) In response to written questions from Parliament, the government has already announced that should the ruling be confirmed in appeal, it will make the necessary changes to the regulations as soon as possible. (House of Representatives 2008b)

On 4 July 2008, the court in Roermond ruled that the income requirement of 120 per cent of the minimum wage as it applies for family formation is a violation of the EU Directive on family reunification of 2003.19 Already in 2006, the legal scholar Kees Groenendijk argued that the Dutch income requirement might not be compatible with the definition of ‘sufficient resources’ in EU law and jurisprudence. (Groenendijk 2006: 221, 226-227) The ministry of Justice has appealed to a higher court. (NRC Handelsblad 2008a) Should the Court of Appeal confirm the ruling, then the income requirement of more than 100 per cent of the minimum wage will henceforth only be applicable to the admission of foreign family members of Dutch citizens, who fall outside of the scope of the Directive.

17 Except for a modification of the entry conditions for single elderly parents: see footnote 11.
18 Website of the Judiciary and the Supreme Court of the Netherlands, LJ Nr. BD7189, www.rechtspraak.nl.
19 Website of the Judiciary and the Supreme Court of the Netherlands, LJ Nr. BD6637, www.rechtspraak.nl.
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