

# SOM



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# Legal and Policy Situation of Immigrants: The Netherlands

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Support and Opposition to Migration: A cross national comparison of the  
politicization of migration (SOM)

<http://www.som-project.eu/>

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Please note: This paper was originally written in early 2010 before the latest MIPEX data became available and does not reflect changes thereafter. The data for 2004 and 2007 are taken from MIPEX, for the other years, new data were collected.

## **Introduction**

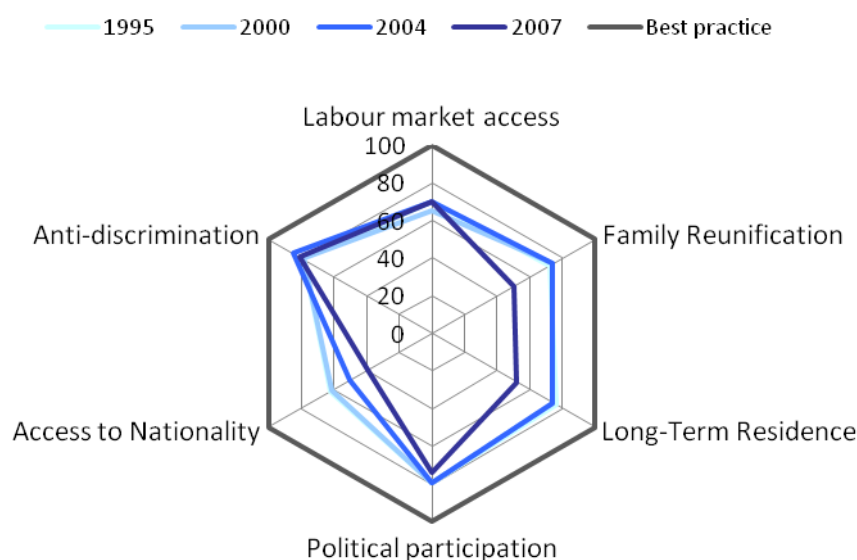
This working paper was written in the context of the FP7 project SOM (Support and Opposition to Migration). The comparative design of the project includes seven countries, namely Austria, Belgium, Ireland, the Netherlands, Spain, Switzerland and the United Kingdom. Equivalent working papers exist for the other countries, all describing the legal and policy situation of immigrants. They all draw on the framework provided by the Migrant Integration Policy Integration Project (MIPEX), using over 100 policy indicators (questions on a three-point scale) across six policy areas to evaluate migrant opportunities to participate in European societies. For each policy area, an index measures the proximity of the policies of each country in relation to best practice as defined by current EU legislation.

The six policy areas are labour market access, family reunification, long-term residence, political participation, access to nationality, and anti-discrimination. Within each of the policy areas, there are four dimensions (e.g. the labour market access policy area is made up of eligibility, labour market integration measures, security of employment, and rights associated with status). A value for each of these dimensions is determined by a series of questions with responses of 0, 50 or 100 representing a measure of alignment with 'best practice'. The MIPEX indicators have been specifically designed to quantify the level of implementation of the EU-directives into the national legislation, and best practice corresponds to current EU-legislation.

This working paper covers the period from 1995 to 2007, covering the situation in 1995, 2000, 2004, and 2007. Data for 2010 have recently been available by MIPEX. While the questions from 2004 to 2007 almost entirely overlap, it is specifically the questions from 2007 that are used to determine the values for 1995 and 2000. Data collected for each year reflects the situation as at 31<sup>st</sup> December. Outcomes should be seen as general indications of the legal and policy situation of third country nationals.

## Findings

In the case of the Netherlands, the situation has changed only marginally, with the legal situation becoming decreasingly favourable to migrant participation between 2004 and 2007. More detailed examination of several procedures, especially related to civic integration policies, additionally shows that the actual situation is even less favourable than reflected in the observed decrease of the index-scores used in this study. However, this should be understood in light of the high scores on various dimensions that reflect a generally favourable legal status for migrants in the Netherlands.



**Figure 1 the Netherlands MIPEx Scores 1995-2007**

Figure 1 presents an overview of the legal situation in all six evaluated fields during 1995 to 2007. It shows that policy and legislation on labour market access, political participation and anti-discrimination remained more or less constant over the past decade. The absence of substantial changes in the legal and policy situation is surprising, considering that immigration and integration has been a subject of increasing political debate throughout the period under review. However, we observe some changes in specific time periods for specific aspects of migration law. These are both positive and negative for immigrants' legal status and occur mainly after 2000 and even more so between 2004 and 2007. The scores on family reunion, long term residence and access to nationality declined noticeably in that time period. This has been mainly caused

by the introduction of stricter integration regulation and the progressive raise in the costs for issuance of residence permits.

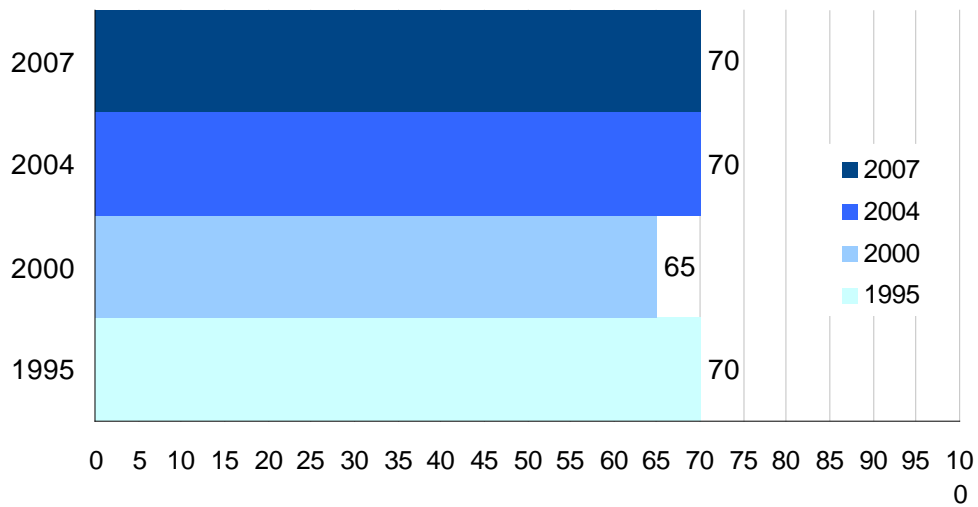
More specifically, anti-discrimination legislation could be considered favourable according to MIPEX for the full time period under study. The rather stable policies on labour market access and political participation remained slightly favourable throughout. Family reunion, long term residence and nationality decreased on the MIPEX scale between 1995 and 2007. Of these areas by 2007 regulation on nationality was considered slightly unfavourable and the other two policy areas dropped to a mid-range position on the scale.

In order to put the figures and scores into perspective, an elaboration on the broader context of the developments will be presented below. Each policy area is subdivided in four aspects that together produce a score as represented in figure 1. In the following section the findings on different policy areas and the various sub-fields will be discussed.

## **Tracing Legal Developments**

### ***Labour Market Status***

In 1995, the Aliens Employment Act 1994 came into force. Although the law has been amended several times, the status of migrants on the labour market has not gone through significant changes and thus remained constant at 'slightly favourable' scores throughout 1995-2007. One important modification, which is not covered by the index and thus did not influence the scores in figure 2, constituted the launch of the Highly Skilled Migrant Program in 2004. This program aims to attract (well paid) highly educated migrants to the Netherlands. This policy simplified entrance for migrants receiving a minimum salary of approximately €50,000 per year (de Lange, 2007: 332). For these types of migrants Dutch labour market regulation is thus more favourable than suggested by the aggregate figure 2.



**Figure 2 Labour Market Status in the Netherlands**

### Eligibility

According to the Aliens Employment Act, TCNs are ‘free’ on the labour market after holding a work permit or a residence permit as a self-employed person for three years (least favourable score). Accordingly, they had access to either employment or any self-employed activity equal to EU nationals only after that period of time has lapsed. That is, if the condition of sufficient and stable means remained fulfilled.

### Labour Market Integration Measures

As from 1994, laws have been in place to further the integration of immigrants (other than labour migrants) into the labour market (Gijzen, 2006: 253). By 2007, the amount of policy measures taken to promote integration has increased. As regards access to education and vocational training no distinction has been made between EU and non-EU nationals (most favourable score).

### Security of Employment

The small decrease in 2000 depicted in figure 2, can be explained by the decline of TCNs’ security of employment. Due to amendment of the Aliens Employment Act in 2000 work permits granted for less than three years were in principle not subject to renewal (Groenendijk, 2001: 42-43). However, by 2004 this policy was already repealed and in the end not much changed with regard

to the renewal procedure (de Lange, 2007: 282-284). The lower score in this category in 2000 does not seem to reflect actual practice.

### Rights Associated with Status

Between 1995 and 2007, migrants have had the right to participate in trade unions and work-related negotiation bodies equal to nationals, producing 'favourable' scores in this category. The law allowed migrants the right to change working status (without going through the application procedure all over again) only after three years. In practice, however, changes have been allowed after one year of legal employment because the three-year term would be in conflict with international obligations (Kuijer, 2002: 575). Nevertheless, by 2007 the stricter, unfavourable three-year policy has actually been endorsed.

The Dutch law is favourable in terms of integration on the labour market and security of employment for migrants and somewhat less favourable in terms of eligibility and rights associated with labour market participation.

### ***Family Reunification***

The introduction of the Aliens Act 2000 (Vreemdelingenwet, 2000) and coming into force of the Civic Integration Abroad Act in 2006 restricted the opportunities for family reunion. This also limited the access to long term residency for TCNs discussed in the next section. The policies in the field of family reunion shifted from slightly favourable (72/74) in 1995-2004 to the middle category (50) in 2007. In terms of the scores, this is the most substantial change observed in this study.

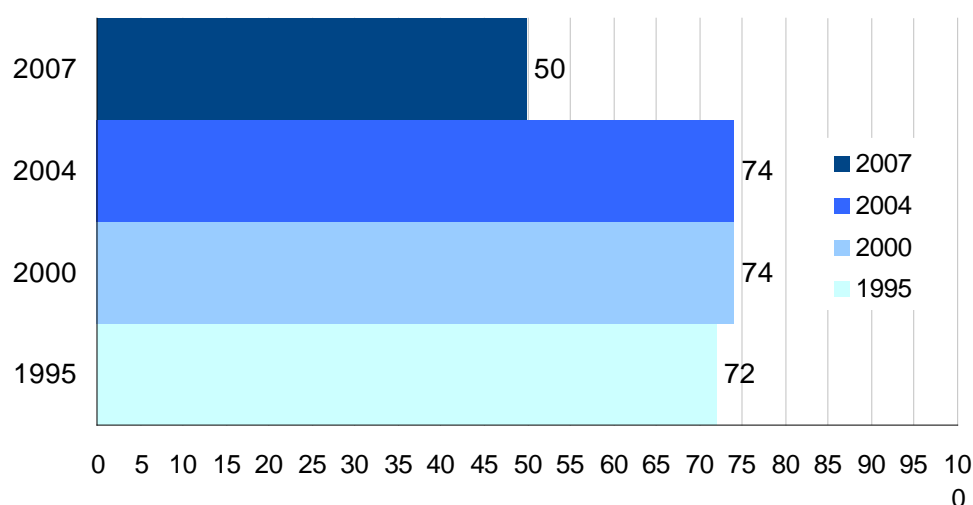
### Eligibility

In the period under review, Dutch law draws a distinction between family reunion and family formation<sup>1</sup>. The eligibility of family members who intend to reunite with the sponsor in the Netherlands has always been subject to numerous conditions (mostly in terms of age and financial independence) but

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<sup>1</sup> Family formation has been defined in the Aliens Decree as 'family reunification of the spouses ... in so far as the family relationship arose at a time when the principal place of residence of the principal person was the Netherlands'. By 2010 the European Court of Justice decided that it did not accept the distinction between family formation and family reunification in applying the income requirement set out in the Family Reunification Directive (Case C-578/08, Chakroun v Minister van Buitenlandse Zaken, judgement of 4 March 2010, ECR 2010, nyp). This was, however, not relevant for the period covered here, since at the time the distinction was considered legitimate.

in case of family formation even stricter conditions applied. In 2004, an age limit of 21 for both partners has been introduced and the income threshold for the sponsor has been raised to 120% of the minimum wage (Kuijer, 2005: 186). On the other hand, the abolishment of the different treatment of spouses and unmarried partners ensuing from the Aliens Act 2000 constitutes a positive development. Unmarried partners and spouses became subject to the same eligibility conditions.



**Figure 3 Family Reunification in the Netherlands**

### Conditions for acquisition of status

By 2006 acquiring a residence permit has become more complicated with the introduction of a pre-admission integration test under the Civic Integration Abroad Act. The decline of the scores between 2004 and 2007 can largely be attributed to this requirement. The test requires knowledge of the Dutch language as well as culture, customs and tradition. In addition, the costs involved are relatively high. Migrants from 'developed world' countries are exempted (van der Winden, 2006: 77ff).

The costs of issuing a residence permit have increased substantially. There were no charges involved for issuing a residence permit, until 1994 when an administrative fee was introduced. In 2002, this fee was in some cases multiplied by seven and in 2003 these amounts have again been raised



drastically (Groenendijk, 2003)<sup>2</sup>. Needless to say that this is unfavourable to migrants.

The length of the application procedure has shortened over the years. According to the law, the procedure should take no more than six months. However, in practice it could take much longer. Therefore, a so-called three-year policy (*drie-jarenbeleid*) was enacted. This means that in case a decision was not taken within three years from the date of application, a permit was granted to the applicant (Kuijer, 1996: 145). This policy was revoked in 2003. By 2007, applications were decided within the period prescribed by law.

The MIPEX indicators do not evaluate the subject of entry clearance visa as part of the conditions for acquisition of status. However, stricter application of this part of the procedure produced a substantially stricter legal environment for migrants entering the Netherlands. Dutch immigration law requires migrants to present an entry clearance visa<sup>3</sup>. This document must be applied for in the country of origin before arrival in the Netherlands. The entry clearance visa requirement came to be applied strictly from 1998 onwards. Before that, non-compliance with this rule did not lead to refusal of the application in practice. The law had been amended and the migrant's application for a residence permit would be refused in case he did not obtain the entry visa prior to arrival in the Netherlands. With the introduction of Aliens Act 2000, the entry visa requirement became an optional ground for refusal (Groenendijk, 2001: 17). This is unfavourable for applicants. Figure 3 should thus be read with some caution and the situation should be understood as from 2000 to be less favourable to migrants than reflected in the scores.

### Security of Status

Dutch policy regarding the security of family members' status remained quite constant throughout the years. Even though there are many grounds on which renewal can be refused or the permit withdrawn, this refusal or withdrawal must always be in accordance with the right to respect for private and family life as laid down in Article 8 of the European Convention on Human Rights (Kuijer, 1996; Kuijer, 2002; 2005). Nevertheless, not all elements, which the

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<sup>2</sup> 1995: Until the age of 12: f 50,- (: e23,-), Above the age of 12: f 125,- (:e57,-). In 2002 respectively: e169,-/ e258,-. In 2003 respectively: e285,- /e430,-.

<sup>3</sup> Machtiging tot voorlopig verblijf (MVV).

Convention obliges the Netherlands to consider, are laid down by law. Decisions of the authorities must be well-reasoned and are subject to appeal.

### Rights Associated with Status

Over the entire period the rights associated with the status are favourable to migrants. Family members have access to education, employment, social security, healthcare and housing equal to the sponsor. Minor children have a right to autonomous residence after one year, other family members after three years. Abolishment of the different treatment of spouses and unmarried partners by 2000 allowed for application of the same conditions to partners as for spouses (i.e. after 3 years of relationship instead of three years holding of a residence permit which was the rule prior to 2000).

Overall, the introduction of integration measures and rising costs for issuance of a residence permit accounts for the decline observed in 2007 (figure 3). Additional measures, not included in the scoring table, make the legal situation even less favourable to migrants than becomes apparent from the figure.

In general, policies regarding the eligibility and the acquisition of legal status for members of family of migrants have become stricter. The rights are favourable to migrants and have not changed over the past decade. The security of status also remained constant.

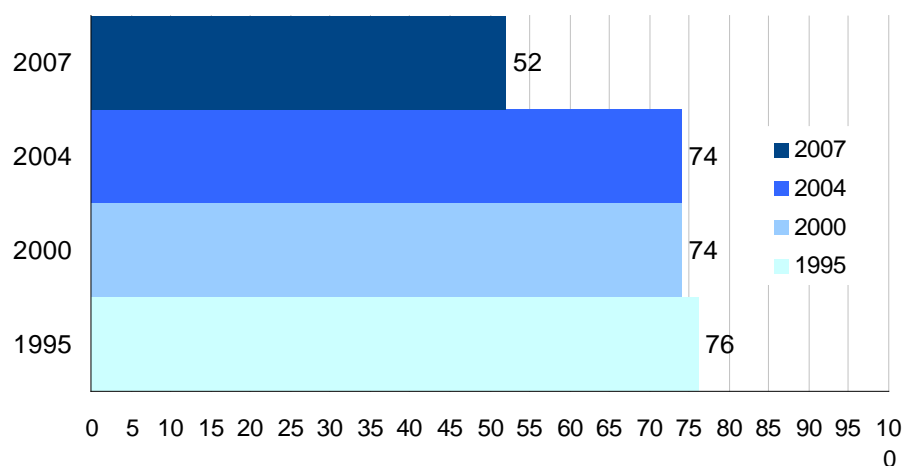
### ***Long Term Residence***

As can be seen in figure 4, the situation for long term residents deteriorated from slightly favourable in 1995-2004 to 'neither favourable, nor unfavourable' in 2007. This drop is primarily caused, as with family reunion policy, by the introduction of integration measures. The introduction of European legislation in this field is an important development but did not affect the aggregate scores as favourable and unfavourable changes cancelled one another.

### Eligibility and European Influence

Dutch law changed regarding long term residence in 2007 following implementation of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents (hereafter: Long-Term Residence Directive). Two different possibilities were introduced. One could opt for the national status (after 10 years of legal residence and without requirements on sufficient and stable means) or for a long-term resident's EC residence permit (after 5 years of legal residence and after several conditions

were fulfilled, which will be discussed below)<sup>4</sup>. Prior to the amendment, migrants were also eligible after five years of legal residence. Hence, in that respect there has been no deviation from former policy.



**Figure 4 Long-Term Residence in the Netherlands**

Generally, the indicators used for eligibility could be coded in the favourable category. However, with the introduction of the Aliens Act 2000 the eligibility criteria have become slightly more stringent than reflected in these measures. For instance, increasingly strict criteria apply for students (Baudoin, 2002: 108) and by 2007 the period of absence allowed (prior-to and after the grant of status) has been limited.

#### Conditions for acquisition of status

Similar to the situation described above for family members, the conditions for acquisition of long term residence status have become harder to fulfil as a result of the introduction of the Civic Integration Act in 2007. A language and integration test must be completed successfully in order to acquire the status (See van de Vrie, 2007:63ff). Furthermore, following implementation of the Long-Term Residence Directive, sickness insurance is required in addition to the condition of stable and sufficient means (middle category score). The costs

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<sup>4</sup> The data for 2007 in figure 1 and 4 are based on the EC residence permit.

for issuance of the permit, which always exceeded administrative fees, have been tripled in 2003 (least favourable score throughout time period)<sup>5</sup>.

### Security of Status

The implementation of the Long-Term Residence Directive in 2007 has also led to changes in the security status of long-term residents. On the one hand, this produces lower scores, as the period of absence allowed after having obtained the status has been shortened to one year outside EU-territory. On the other hand, protection against expulsion has improved, which is favourable to immigrants. The obligation to take into account migrant's personal circumstances is explicitly laid down and more grounds on which expulsion is precluded are included in the law (Aliens Decree).

### Rights Associated with Status

Right to remain after retirement and equal access to employment, healthcare, social security etc. have been guaranteed throughout 1995-2007. See (Baudoin, 2002: 57; Holterman, 1996: 167ff). This access to welfare state arrangements leads to favourable scores on a number of indicators in this sub-category. The most important enhancement from being unfavourable to favourable is the freedom to move and reside within the EU. This follows from the EC Directive on long term residence. Simultaneous holding of a permit in more than member state is not allowed (producing unfavourable scores throughout 1995-2007).

### ***Political Participation***

Migrants' participatory rights and opportunities are slightly favourable and have remained constant over the years. A slight decline is observed in 2007, when it decreased from 79 to 74 percent, still in the category 'slightly favourable' to migrants.

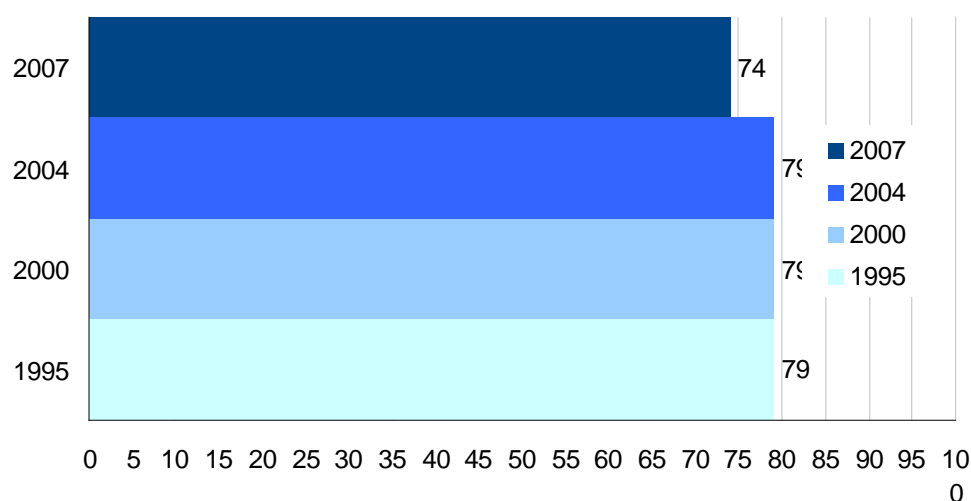
### Formal Political Rights

During the entire period migrants have had no right to participate in national and regional elections (least favourable scores). In local elections, however, migrants have active and passive participatory rights from 1985 onwards. After five years of uninterrupted residence migrants have the right to vote as well as the right to stand for elections at local level (Elections Act). While not reflected

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<sup>5</sup> 1995: f500,- (: e226,-) 2003: e890,-.

in the indicators, this right has become more restricted from 1997 onwards, as only the period of legal residence (i.e. on the basis of a permit) was counted.



**Figure 5 Political Participation in the Netherlands**

### Informal Political Rights

Scores considered favourable to migrants have been attained throughout 1995-2007 on all indicators on informal political rights. There have been no restrictions on the right to association and many migrants from different ethnical groups have actually organised themselves in the Netherlands (Van Heelsum, 2004a). Migrants have had equal access to membership of political parties. That is, it is not restricted by government regulation.

### Consultative and Advice Bodies

The indicators in this sub-category are favourable. This fits Dutch corporatist tradition of group consultation in the policy-making process. During the eighties the Dutch authorities unfolded the plan to develop national policy to enhance political participation of minorities (Blok, 2004: 479). By 1985 the first consultative and advisory body had been established at the national level. In 1994 a law<sup>6</sup> was adopted which obliged the government to consult minority advisory groups on matters pertaining to minorities. The government

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<sup>6</sup> Minority Advisory Bodies Act (Wet adviesorganen minderhedenbeleid)

committed itself further by adopting another act<sup>7</sup> in 1997 which stipulated that the government would arrange at least three annual meetings with the newly established national consultative body for minorities<sup>8</sup> composition of the body was at the discretion of the organisation itself, without state intervention.

An exception to this procedure has been laid down in the 1997 act, which provided the state with the possibility to exclude a member when this would be in the public interest. At the regional level, in Amsterdam and Rotterdam, the two cities with the highest proportion of foreign residents, no formal consultation exists which would be comparable to that at the national level. Nevertheless, following decentralisation in the eighties local and regional authorities were also expected to develop policy aimed at participation of minorities (Blok, 2004: 484). Hence, consultation occurred on these levels as well, albeit on a more ad-hoc basis and aimed at problem-solving, involving different organizations when considered instrumental for reaching specific policy aims (Poppelaars, 2008). This is reflected with regard to state intervention in the composition of the consultative bodies of the cities under review. Before 2007 the organisations were free to elect or appoint their members<sup>9</sup>, while more recently local authorities seem to increasingly interfere in this process. This development accounted for the slight decline displayed in figure 5.

### Implementation Policies

Public funding for migrant organisations involved in consultation has been available between 1995 and 2007 on national, regional as well as local level (e.g. Blok, 2004:497-506). This funding has been granted largely because the organisations play an important role in the emancipation- and integration process. Therefore, when granting subsidies it has been taken into account whether the organisation actually strives for integration of members of their particular group in Dutch society (Van Heelsum, 2004b:79). This, again, produces favourable scores.

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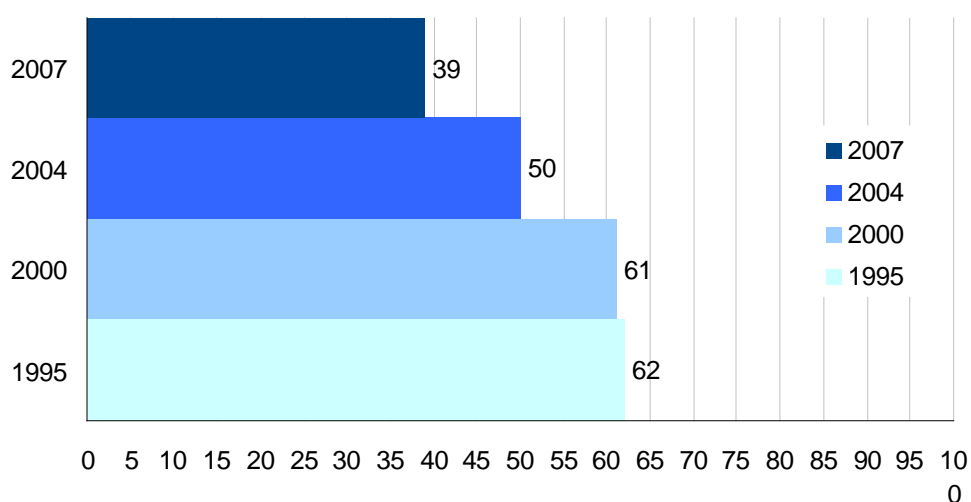
<sup>7</sup> Minority Consultation Act (Wet overleg minderhedenbeleid)

<sup>8</sup> Landelijk Overlegorgaan Minderheden (LOM)

<sup>9</sup> According to Radj Ramcharan, expert on the issue at FORUM Instituut voor multi-culturele ontwikkeling. Consulted 8 June 2010 on questions concerning the political participation strand

## ***Access to Nationality***

Dutch policy on access to nationality has gradually become more restrictive since 2000. As figure 29 shows, it shifted from slightly favourable in 1995 and 2000 to mid- range scores in 2004 and further down to slightly unfavourable in 2007. This decline has been mainly due to three changes in the legal landscape: amendment of the Dutch Nationality Law in 2003, the 2002 Decree which introduced the naturalisation test and the Integration Act in 2007 (the last act also produced the less favourable scores in terms of family reunion and long term residence). The aim of the modification of the Dutch Nationality Law in 2003 has been to combat statelessness, to limit dual nationality and to promote gender equality (de Groot, 2010: 117).



**Figure 6 Access to Nationality in the Netherlands**

### Eligibility

Regulation on eligibility for Dutch nationality did not go through major changes. It is favourable for spouses and partners, and unfavourable to second and third generation migrants. During the whole period under review, spouses of nationals have been eligible under more lenient conditions than partners. Second and third generation migrants did not automatically acquire Dutch nationality when born in the Netherlands, additional requirements had to be met all along (unfavourable scores) (de Groot, 1998: 63ff; 2002: 95ff; 2010: 69ff).

A minor change is the restriction on the periods of absence allowed previous to acquisition of status by 2007.

#### Conditions for Acquisition of Status

The acquisition of status was conditional on 'integration in society' even before 1995. This condition has become considerably more stringent after 2002 and 2003 with the introduction of more detailed requirements. That is, although the law always required the applicant to be integrated into society and to have knowledge of the Dutch language, there were no clear regulations on how this should be measured (de Groot, 1998) p. 119ff. This changed in 2003, when the Naturalisation Test Decree came into force. The test required a high level command of the Dutch language and some knowledge on Dutch society and political system (Driouichi, 2007) p.153. By 2007 passing of the (stricter) integration exam is required, following the Integration Act. In addition, applicants have been obliged to attend the Naturalisation Day ceremony which has become part of the naturalisation procedure since 2006. These adjustments have been largely responsible for the decrease of access to nationality from slightly favourable in 1995 to slightly unfavourable in 2007.

#### Security of Status

All indicators in this sub-category remained constant over the period studied. Yet, policies on the security of status have evolved. That is, after 2003 the rules on periods of absence have been restricted in some situations and softened in others (de Groot, 2010: 129ff) and fraud has been inserted as an additional ground for withdrawal. Before 2003, Dutch nationality could not be withdrawn in case this would lead to statelessness. With the inclusion of fraud as a ground for withdrawal, proven fraud became an exception to this rule (de Groot, 2010: 56). Hence, in case of fraud Dutch nationality could be withdrawn even if this would lead to statelessness. Although not directly apparent from the scores, the security of status slightly deteriorated.

#### Dual Nationality

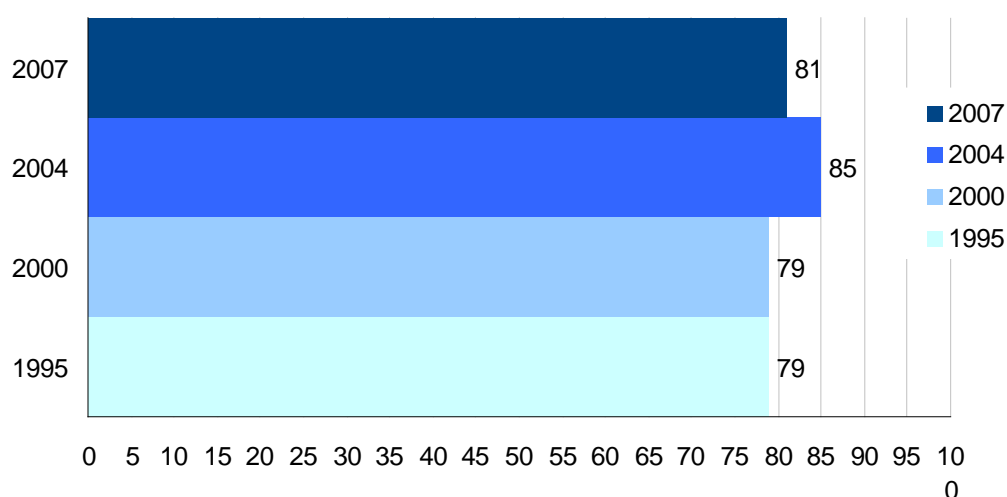
The requirement to renounce one's foreign nationality upon naturalisation – although with exceptions – has been laid down by law in the entire period covered (middle range scores). Nevertheless, favourable to migrants, from 1<sup>st</sup> January 1992 to 1<sup>st</sup> October 1997 the rule was not applied in practice due to controversy on the subject (de Groot, 2002: 78-79). After much discussion the



requirement has been upheld in the 2003 law<sup>10</sup>, albeit with further exceptions (de Groot, 2010: 108. The rule that children born in the Netherlands obtain Dutch nationality in case one of the parents has Dutch nationality (ius sanguinis-principle) remained unchanged and is considered favourable to migrants.

### ***Anti-Discrimination***

Of all subjects reported on here, the Netherlands scored highest on anti-discrimination. As shown in figure 7, MIPEX-scores increased from 79 percent in 1995-2000 to 85 and 81 in 2004 and 2007, respectively. The Netherlands has been considered a 'special case' since it has developed a profound body of anti-discrimination legislation prior to EU action in the field (Schiek, 2007:21).



**Figure 7 Anti-Discrimination in the Netherlands**

### Definitions and Concepts

Following the enforcement of the General Equal Treatment Act (GETA) in 1994, Dutch law provided for specific regulation to combat discrimination.

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<sup>10</sup> Nevertheless, discussion remained. In 2005 a bill had been submitted to parliament to make the conditions of renouncing one's original nationality stricter and to add the possibilities to withdraw the Dutch nationality of persons with dual citizenship in case of severe criminal conduct. The proposal has however been revoked in 2007 when a different minister entered office (de Groot, G.R. and Tratnik, M. (2010) *Nederlands nationaliteitsrecht*. 4 ed. Deventer, Kluwer p.53).

Discrimination is prohibited, amongst others, on grounds of race and ethnicity, religion and faith and nationality<sup>11</sup>. Given the fact that the GETA already existed in 1994, a basis for solid policy was present as from 1995. This explains the relatively high scores. At some stage in 1995-2007, amendments have been made. In 2004, several provisions have been added in order to comply with EC law (implementation of Directives 2000/43/EC and 2000/78/EC). For example, harassment is prohibited only as from 2004 (Holtmaat, 2007: 39). Discrimination by association is not explicitly excluded by the GETA; hence, it seemed the act would cover this. However, the matter is subject to judicial interpretation and by 2007, the possible inclusion of discrimination by association has not been affirmed (Holtmaat, 2007: 24ff).

### Fields of Application

During the entire period, anti-discrimination law covered employment, education, access to and supply of public goods and services available to the public, including housing and health. Before 2004, the law did not cover social protection including social security and advantages. In order to comply with Directive 2000/43/EC these areas have been added only on the grounds of race (Holtmaat, 2007:55), so discrimination on grounds of nationality or religion and belief was still not prohibited in these areas.

### Enforcement

Enforcement of anti-discrimination law has improved in 2004 resulting in favourable scores in 2004-2007. Key was the codification of – again in order to implement an EC directive – the shift in burden of proof from the complainant to the respondent and the insertion of a provision which granted protection against victimisation in every situation (Holtmaat, 2007: 82ff). Thus, here one can clearly see the influence of EC legislation on Dutch legislation.

### Equality Policies

With the introduction of the GETA in 1994, the Equal Treatment Commission (ETA) was established. This specialised agency had the mandate to combat discrimination on all grounds referred to in the act and the power to assist victims by way of independent investigation and legal advice. Although, the Commission had the power to instigate its own proceedings it could not enforce

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<sup>11</sup> It should be noted that the Act used the term 'distinction' instead of discrimination.

its findings. The ETA had legal standing to instigate proceedings in its own name or on behalf of the complainant. Dutch law did not provide for a compliance mechanism of legislation with anti-discrimination law. The law did allow for positive action measures in the context of discrimination on grounds of sex, or being part of an ethnic or cultural minority. Between 1994-1996 and 1998-2003 Acts on the Promotion of Labour Participation of Ethnic Minorities were in force, which obliged employers to take positive action in order to come to a proportional representation of ethnic minorities in the employer's workforce (Gijzen, 2006: 253).

## **Conclusion**

### Substantive conclusions

While generally favourable to migrants, Dutch immigration and integration policy has become more stringent over the years. We found that in half of the fields under study the legal situation has become less favourable to migrants while in the other half policies have remained constant.

First, the less favourable legal situation is largely a reflection of the introduction of increasingly strict integration policies. This limits family reunion, the possibility to obtain long term residence status in the Netherlands and access to Dutch nationality. For instance on nationality, migrants are now required to pass an increasingly difficult integration exam, attend a Naturalisation Day ceremony and may lose Dutch nationality again on procedural grounds (fraud). In addition to the measures reflected in the indicators for these indexes, there are several (procedural) rules, such as those on entrance clearance visa and income requirements that make the legal situation less favourable to migrants.

Second, policies in the fields of anti-discrimination, political participation and labour market access hardly changed. Anti-discrimination legislation was in place even before the EU developed ambitions in the field. The implementation of EC-directives improved legislation already in force and is categorised 'favourable'. With respect to political participation, the Netherlands continues to pursue an active policy to enhance political participation (especially via migrant organisations) during the entire period under review. At both national and local level, politicians seem to be increasingly keen on influencing the composition consultation bodies, as well as to stimulate certain activities of migration organisations. In addition, promotion of labour market participation of immigrants also has been a point of attention for the Dutch government over

the years. This fits with the Dutch philosophy that integration of migrants – other than labour migrants – is best achieved through labour market participation.

Last, the different separate fields relating to migrant integration and immigration seem to be heading in different directions – with specialist approaches for economic migration, family reunion and the regulation of refugees. In the mid-nineties, Dutch policies in each of these fields were reasonably consistent and only partially differentiated. From then onwards, legislation increasingly sought to differentiate these strands and, as said, restricted, first, humanitarian migration and, second, family reunion, while seeking to remain open to certain economic migration. Civic integration programs also differentiate between these types of migration. This can be observed from the aggregate figure 1, where the spread between the various dimensions increases from about twenty points in 1995 to about forty points in 2007.

In conclusion, first, the introduction of increasingly strict integration policies accounts to a large extent for the less favourable legal situation for migrants seeking family reunion, long term residence status or the Dutch nationality. Second, policies in the fields of labour market access, political participation and anti-discrimination hardly changed.

### Methodological Remarks

The report presents a broad, systematic and comparable overview of the legal and policy situation of migrants. As discussed in the introduction, even despite this broad focus we had to narrow down the study by, first, focusing on TCNs (and thus excluding illegal migration and EU migration), and second, by selecting only certain policy fields (and thus excluding potentially important policies on for instance asylum). But even after these selection choices, our study still maintains a broad perspective. This potentially comes at a cost of losing case specific information and produce additional methodological challenges in the aggregation of information. While we have tried to address this in the report a couple of remarks on the restrictions of our approach are in order. Because these points are largely covered in this report, these notes of caution are especially important for future use of the data set.

First, each policy field and the sub-field within those fields are measured by a number of indicators. In general, these provide valid measures. In a number of

fields, we have come across important policy changes that are only partially covered by our indicators. This has especially been the case for rules on nationality and family reunion, where very specific conditions (e.g. on entry clearance visa) have had severe consequences. This has been pointed out throughout the report.

Second, an underlying scale from favourable to unfavourable is assumed for each of the indicators, sub-categories and fields. While largely appropriate, some of the policies may be interpreted otherwise. As a first example, we have considered civic integration policies to be 'unfavourable' to migrants because of the 'integration' tests. These are part of this policy and form an additional restriction in the access to nationality and residence. However, parts of these civic integration programs may also be favourable to migrants, for instance when they give access to (subsidised) language courses, labour market training and other social welfare programs. This is the underlying rationale for the 'integration' indicators that are part of the labour market field, where policies to encourage participation are considered to be favourable to migrants. In practice, there is only a thin line between these different aspects of migrant-related legislation. As a second example, we scored government intervention in the composition of consultation and advisory boards as unfavourable to migrants. While scored as 'unfavourable' to the political participation of migrants, such involvement may also reflect active government outreach and support for (local) migrant communities, and thus strengthen political participation in public policies, thus increasing participation and representation of migrant interests. Throughout the report we have pointed to these types of tensions in our method and suggest the reader to interpret the figures accordingly.

Third, the indicators used are assumed to have similar weights within each field studied. Again, this is largely appropriate but may be disputed as well. For instance, if migrants were to be granted voting rights in national elections, this would increase their political participation score by the same amount as when local Amsterdam politicians would choose to engage in a structural dialogue with local migrant community organizations. The latter, however, is likely to be less consequential for migrants' participation than the former.

Fourth, the indicators and the field specific composite indexes are assumed to be similarly valid for the full time period under study. However, as legislation and policy develops over time, different indicators may be used. For instance, a number of indicators deal with the content of civic integration tests. These are

appropriate indicators from about 2000 onwards when such tests become part of legislation. However, in earlier times there were no such tests and the indicators are then no valid measures for conditions for citizenship.

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