

Summary

Duration of asylum procedures under the Aliens Act 2000. Part of the Evaluation of the Aliens Act 2000 regarding the asylum procedure

Introduction

Background and motivation

The Aliens Act 2000 ('Vreemdelingenwet 2000') came into effect on the 1st of April, 2001. One of its main aims was to reduce how long the (asylum) procedures for requesting and obtaining a residence permit take. This lets asylum seekers know more quickly what their future prospects are in the Netherlands.

At that time, the Lower House of the Dutch Parliament requested that an evaluation should take place three years after the Aliens Act 2000 came into effect. The evaluation should examine whether the aims of shortening the (asylum) procedure and reducing the number of extra procedures (for a better status) have been achieved, and the degree to which the new elements in the Aliens Act 2000 contributed to this effect. The research presented in this report, 'Duration of asylum procedures under the Aliens Act 2000', is part of the study 'Asylum procedure' for the evaluation of the Aliens Act 2000.

Aim

The aim of this research is to investigate:

- 1 the degree in which different routes are followed in the asylum procedure;
- 2 the duration of an individual asylum procedure under the Aliens Act 2000;
- 3 whether the procedures are completed within the period allowed by law (statutory periods);
- 4 which factors affect the duration of an individual asylum procedure.

The asylum procedure

The research project covers the entire asylum process from the moment that the asylum seeker submits his request for asylum to the moment that the asylum seeker has been given a residence permit or is no longer taking part in the process. A distinction is made between the 'AC procedure' (AC = Application Centre), where a decision is made in a few days, and the normal asylum procedure, with a standard statutory period of six months for a decision.

In principle, the asylum seeker enters the asylum process via the AC procedure, after a stay in the Temporary Facilities ('Tijdelijke

Noodvoorziening', hereinafter the 'TNV'). The purpose of the AC procedure is to quickly shift out those requests which definitely do not come into consideration for a residence permit. The process step 'AC decision' has a duration of 48 process hours (process hours are the hours between 8.00 a.m. and 10.00 p.m. on all days) and results in either a negative decision or transfer to the normal asylum procedure. It should be noted that this description of the AC procedure applies to the period the research project considers. Since the 6th of December 2004 it is possible to give a positive decision in the AC procedure. Moreover the definition of process hours was changed; only the hours between 8.00 a.m. and 6.00 p.m. count as process hours and only the Application Centre in Schiphol is open at weekends.

In the normal asylum procedure, the statutory period within which the Immigration and Naturalisation Department (IND) should reach a decision (in the process step 'asylum decision') is 6 months. If further investigation of the case is required by a third party, then the statutory period can be extended by a maximum of 6 months. If the asylum seeker falls under a decision moratorium, then an extension for a maximum of a year is possible. Should there be a positive decision, then the asylum seeker is given a temporary residence permit, which can be converted to a permanent residence permit when the temporary period has elapsed. Asylum seekers can submit an appeal to the immigration chamber of the district court of law and, if that appeal is rejected, to the department of public law of the Council of State ('Afdeling Bestuursrechtspraak van de Raad van State', hereinafter the ABRvS) after a negative decision in the AC procedure (the process steps 'AC appeal' and 'AC high court appeal') or a negative decision in the normal asylum procedure (the process steps 'asylum appeal' and 'asylum high court appeal').

Research approach

The research made use of electronic data files that were provided by the IND, the national staff bureau for the immigration chamber of the district courts ('Landelijk Stafbureau van de Vreemdelingenkamers') and the ABRvS. Files with data on individual asylum requests formed the basis for the research. The files contained the start date, finish date and result for each process step. Furthermore, the files contained information about the asylum seekers such as their nationality, and a unique identification number for the asylum seeker (the 'bvv-number'). The individual files were linked together using this unique number, so that it was possible to follow the asylum seeker throughout the entire asylum process. The research is concerned with the duration of procedures under the new Act during the period from the introduction of the Act on the 1st of April 2001 until the 30th of June 2004 (the 'research period'). The research

population is made up of all asylum seekers who submitted a request for asylum in the period between the 1st of April 2001 and the 30th of June 2004. No direct comparison was made with the duration and numbers of procedures under the previous Aliens Act (known as the 'Aliens Act 1994').

The validity of the results

The numbers in this report may differ from results in other reports. This is due partly to differences in the definitions used. For example, this report excludes asylum seekers who submitted an asylum request before the 1st of April 2001 but who fell under the Aliens Act 2000 because on introduction of the new Act no decision had been made on their case. Furthermore, the numbers in this report allow for asylum seekers who submit a request more than once; they are not counted as two asylum seekers. Other publications generally report the number of asylum requests and not the number of asylum seekers. As well as these differences in definition, it was not possible to use all data for this research due to administrative errors and missing unique identification numbers. These omissions probably mean that the reported numbers differ slightly from the actual numbers. The calculated procedure durations give a reliable estimate of the actual durations because of the large amount of data used for the calculations and because of the use of the median, a statistic which, unlike the mean, is not sensitive to extreme values. The median duration is the duration for which the following applies: half of the asylum seekers have a shorter duration and half of the asylum seekers have a longer duration.

The results

First, the developments in employee numbers (the capacity) during the research period are discussed, together with the stock levels of cases to be dealt with for the organisations in the immigration process. These developments are relevant, as they affected the durations. Next, a description is given of the numbers and durations for the asylum process as a whole and for the individual process steps in the AC procedure and in the normal asylum procedure.

Capacity and case stock levels for the organisations in the immigration process

In this section a description is given both of the capacity and case stock levels for asylum cases under the Aliens Act 2000 and of other immigration cases for the following organisations: the IND, the district courts and the ABRvS.

Capacity and case stock levels for the IND

The number of new asylum cases (both 'AC decision' and 'asylum decision') went down in the period 2001-2004 as a result of the reduction in the number of new asylum seekers entering the Netherlands. Because the production rates (the number of cases on which a decision was made) did not initially fall by the same amount, there was a sharp reduction in case stock levels in the period to December 2002. Thereafter production rates were reduced, so that the case stock levels began to rise again slightly. The case stock levels in June 2004 consisted of about 13,000 cases compared to about 24,000 cases in March 2001.

During the research period the IND employees had to deal not only with cases under the Aliens Act 2000 but also with cases of objection ('bezwaarzaken') which fell under the previous Aliens Act (the Aliens Act 1994). In the first 2 years of the research period in particular, the IND attached a high priority to the clearance of the cases of objection. This led to a big reduction in case stock levels from 51,000 cases of objection at the end of March 2001 to 4,000 cases at the end of June 2004.

The number of FTEs for asylum cases remained stable in 2001 and 2002. In combination with the falling number of new cases, this made the sharp decrease in case stock levels possible. The number of FTEs fell from 2003 onwards. In 2004 there were 586 FTEs available for asylum cases, 59% less than the 1,440 FTEs for asylum cases in 2001.

Capacity and case stock levels for the district courts

When the Aliens Act 2000 was introduced, an agreement was made about the allocation of production capacity in the immigration chambers at the district courts. The AC appeal cases and detention cases would receive priority. The remaining production capacity would be distributed over the following products: other 'new Act' asylum cases, other 'old Act' asylum cases and regular immigration cases (cases concerning regular aliens who for example wish to immigrate to the Netherlands for family reasons). The result of this agreement was that developments in the number of AC appeal cases and detention cases had a big effect on the available capacity and on the case stock levels for the remaining products. The number of detention cases in particular was higher than had been foreseen. The 10 day check was introduced early in 2001, and this led to a big increase in the number of detention cases. Partly as a result of this, the production of 'new Act' asylum appeal cases did not keep level with the supply of new cases. The case stock levels increased from no 'new Act' cases on introduction of the Aliens Act 2000 (logically enough) to a peak of 23,000 cases at the end of 2002.

The research period saw an increase in the capacity in the district courts for immigration cases; in 2004 there were 31% more FTEs (853 FTEs) than in 2001 (651 FTEs). Moreover, the number of trial locations increased. As of April 2003, all 19 district courts had a chamber for immigration cases.

Capacity and case stock levels for the ABRvS

The new Immigration Act introduced the option of a high court appeal in immigration cases. This meant a new task for the ABRvS. Unlike the other two organisations in the research period, the ABRvS did not have to deal with immigration cases falling under the Aliens Act 1994.

The supply of new immigration cases of all categories for the ABRvS in 2001 and 2002 was low and did not reach the levels that had been expected according to the immigration chain predictions. However, in 2003 the total number of new immigration cases was much higher than expected. This increase was primarily due to a quadrupling in the number of asylum cases (excluding AC cases).

Partly in reaction to the increase in the number of cases, the ABRvS expanded the capacity for immigration cases. In 2004 the ABRvS had 78 FTEs, 42% more than in 2001, when the ABRvS had 44 FTEs.

Procedures and durations

This section begins with a global description of the process indicators for the whole asylum process. Then the process steps in the AC procedure and in the normal asylum procedure are discussed in detail. Finally, an overview of the durations for each part of the asylum process is given in a table.

The durations are given in calendar days unless otherwise stated. The total duration is made up of the time that the case is actually being dealt with plus queuing time (or waiting time), which in turn is partly made up of waiting periods laid down in law and partly of waiting periods for logistical reasons. It should be noted that the end date in the calculation of the durations is taken to be the date on which the decision was made or judgement was passed; the statutory period after a decision or judgement for filing an appeal is not included.

Characteristics and durations for the entire asylum process

In total 53,622 asylum seekers requested asylum in the Netherlands in the period between the 1st of April 2001 and the 30th of June 2004.

The vast majority of these asylum seekers (46,134 asylum seekers, 86% of all the asylum seekers) first entered the 'AC decision' process step. Three quarters of the asylum seekers (40,297 asylum seekers) entered the 'asylum decision' process step, either directly or via 'AC decision'. In total 26,321 asylum seekers (49% of the total number of 53,622 asylum seekers) filed an appeal in the law courts and 2,530 (5%) filed a high court appeal. These percentages for (high court) appeal will increase as some of the asylum seekers had not yet received a first decision on their case by the 30th of June 2004.

The research period was distinguished by a considerable fall in the influx of new asylum seekers; the number of new asylum seekers in the nine

months of 2001 from the introduction of the Aliens Act 2000 was 20,936 compared with 11,958 asylum seekers for the whole of 2003. There were fluctuations in the mix of countries of origin, reflecting the developments in those countries during the research period. In 2001 and 2002 there were relatively more asylum seekers from Angola and Afghanistan, while 2003 saw an increase in the number of asylum seekers from Iraq.

About 28% of the 53,622 asylum seekers were still in the asylum process on the 30th of June 2004. Even when the first 4 month cohorts are considered, 20% were still in the asylum process at that date (a 4 month cohort is a group of asylum seekers who submitted a request for asylum in the same 4 month period). Of the asylum seekers who had completed the process, 12% received a residence permit and 60% had their request rejected. The remaining asylum seekers withdrew their request or appeal (10%), no longer took part in the process for other reasons such as departure for an unknown destination (11%), or had a result which was not registered in the computer system (7%).

The analysis results for the total duration from the submission of a request for asylum to the date on which the asylum seeker no longer takes part in the asylum process show huge variations in durations. The process lasted 23 days or less for a quarter of all asylum seekers; however, a further quarter of all asylum seekers had an asylum process with durations of 389 days (nearly thirteen months) or more. This variation was largely caused by the big differences in durations for the different routes (combinations of process steps). Routes only involving process steps in the AC procedure had short durations, from a few days to at most 6 months. On the other hand, routes in the normal asylum procedure involving the process steps 'asylum decision' and 'asylum appeal' had long durations. For example, 25% of the asylum seekers who entered the normal asylum procedure via the AC procedure and who then submitted an appeal had a total duration of more than 800 days (more than 2 years).

Characteristics and durations in the AC procedure

About 15% of all asylum requests in the AC procedure were repeat requests. A repeat request is an asylum request by an asylum seeker who has already submitted a request before for asylum in the Netherlands (frequently prior to the introduction of the new Act). Only 2% of the asylum seekers submitted more than one request for asylum during the research period.

The asylum request for 32% of the asylum seekers in the 'AC decision' process step was rejected and 66% of the asylum seekers were transferred to the normal asylum procedure. The remaining 2% withdrew their request or were given a 'Dublin decision' (the asylum seeker entered the Netherlands via another EU country and is therefore required to submit his request for asylum in that other country). The proportion of requests which were rejected in the 'AC decision' process step was not constant

over time. The rejection percentage was relatively low in 2001 (20%) and rose considerably in 2002. The peak was for the last cohort in 2002 (57% of requests rejected), followed by a decrease to 30-40%. The increase was probably partly due to the fall in the influx of new asylum seekers and in the reduction of the workload of cases of objection under the Aliens Act 1994, whereby more capacity was available for dealing with the AC cases. The tougher policy with regard to certain countries of origin undoubtedly also played a role; however – given the pattern of countries of origin for the new cases – this factor alone cannot fully explain the rise in rejection percentages. The fall in 2003 was possibly due to the temporarily high influx of Iraqis who could not be dealt with in the AC. There is no clear explanation for the fact that the rejection percentage stayed at that lower level.

More than half of the asylum seekers whose request was rejected in the AC procedure filed an appeal. There appears to have been an increase during the research period in the proportion of asylum seekers appealing against the decision. The proportion of asylum seekers with a (negative) decision in the 'AC decision' process step who filed an appeal was 63% in 2004 compared with 41% in 2001. In all, 17% of the appeal cases were upheld and 68% were rejected. In the remaining 15% of cases, the asylum seeker withdrew the appeal or the judgement fell under another category. Less than 2% of all asylum seekers who followed the AC procedure filed a high court appeal with the ABRvS (this is an estimate based on data provided by the ABRvS). This is about 10% of the asylum seekers who appealed against a negative decision. In 18% of the high court appeal cases, the case was upheld and 64% of the cases were rejected. In the remaining cases (18%), the high court appeal was withdrawn or the judgement did not have a bearing on the validity of the appeal. Around 19% of all high court appeals were filed by the Minister. These appeals were upheld more frequently (70%) than high court appeals submitted by the asylum seeker (5%).

The duration in the AC procedure is made up of the time in the process steps 'AC decision', 'AC appeal' and 'AC high court appeal'. The time prior to the AC procedure in the TNV is also discussed.

The TNV functions as a kind of buffer for entry into the AC procedure. The mean duration for asylum seekers staying in the TNV was 16 days. The duration rose clearly during the research period from less than 2 weeks (in 2001 and 2002) to three to four weeks (in 2003 and 2004).

The median duration for the process step 'AC decision' was 39 process hours. The statutory limit for the process step 'AC decision' is 48 process hours. During the research period the duration exceeded 48 *registered* process hours in 16% of all asylum requests. In all probability, these are cases where the clock was temporarily stopped, for example because the asylum seeker was sick, with the actual number of process hours still being less than 48 hours. The temporary stopping of the clock is not

registered in the IND computer system. There is a clear trend break to be seen in the proportion of requests with more than 48 registered process hours. That proportion was much lower from the second cohort of 2002. Possibly this is due to judgements by the ABRvS which reduced the number of different situations in which temporary stopping the clock was allowed.

The IND has norms – measured in work hours: the number of hours IND employees spend on a case – for the time which is required for handling AC cases (it should be noted that work hours are not the same as process hours; if two employees working at the same time each spend one hour on a case, that constitutes two work hours but only one process hour). The handling time norm for an asylum request in the process step ‘AC decision’ for the IND varies from 7 work hours (for a request which is sent on to the normal asylum procedure after the first hearing) to 21 work hours (for a request on which a decision is made in the process step ‘AC decision’). In addition, some of the time in the process step ‘AC decision’ is reserved for the asylum seeker and his legal aid representative, for example for the formulation of a view in reaction to a proposed decision by the IND.

The median duration for AC appeal cases in the district courts was 19 days. There are no statutory periods for appeal cases.

The median duration for high court appeals at the ABRvS was 38 days. The statutory period for judgements by the ABRvS is 23 weeks. This period was almost never exceeded. The target period for AC cases however is 5 weeks. In only 45% of all cases was this target met. The duration for high court appeals was not constant; the duration in 2003 was longer than in 2002 and in 2004, possibly as a result of the big increase in new cases and resulting capacity problems in that year.

Characteristics and durations in the normal asylum procedure

The influx of the 40,297 asylum seekers in the normal asylum procedure was made up of transfers from the process step ‘AC decision’, direct entry of new asylum seekers in the normal asylum procedure and cases which had been sent back for reassessment after an appeal or high court appeal. Transfers from the process step ‘AC decision’ account for the bulk of the influx.

The statutory period of 6 months for the process step ‘asylum decision’ can be extended by 6 months in the eventuality of further investigation by a third party or by a year if there is a decision moratorium. Further investigation by a third party was carried out for 18% of all asylum seekers. According to the registration system, 9% of the asylum seekers fell under one of the four decision moratoria which applied during the research period. Because of shortcomings in the registration of decision moratoria – generally an asylum seeker is only registered as having fallen under a decision moratorium when the final decision on his case

is made – the true number of asylum seekers falling under a decision moratorium is almost certainly considerably higher. For example, only one asylum seeker was registered as falling under the decision moratorium for Central Iraq although several thousand asylum seekers from Iraq came to the Netherlands in that period.

The asylum request resulted in a rejection in 69% of the cases in the process step ‘asylum decision’. A residence permit was given for 15% of the asylum requests. In 4% of the cases, the asylum seeker withdrew his request and in 12% of all cases the process step was completed for other reasons (such as departure of the asylum seeker for an unknown destination or the death of the asylum seeker).

In total 45% of all 40,297 asylum seekers in the normal asylum procedure filed an appeal. An analysis of the completed appeal cases showed that 11% of cases were upheld and 66% were rejected. In the remaining 23% the appeal was withdrawn or the judgement fell in another category. About 4% of the asylum seekers in the normal asylum procedure filed a high court appeal with the ABRvS. In 10% of the completed cases the appeal was upheld and in 74% of the cases the appeal was rejected. In the remaining cases (16%) the appeal was withdrawn or the judgement did not have a bearing on the validity of the asylum seeker’s case. The Minister filed 8% of the high court appeals. Just as in the AC procedure, the cases which were submitted by the Minister were upheld more frequently (62% of the cases) than the cases which were submitted by the asylum seeker (5%).

The median duration in the process step ‘asylum decision’ was 162 days (5.5 months). However, no conclusions can be drawn on the basis of this result. This duration is misleading as asylum requests requiring investigation by third parties and requests falling under a decision moratorium are included. If only asylum requests are included without further investigation or a decision moratorium, then the median duration is 137 days (4.5 months). A check has shown that this result is not distorted by the under registration of decision moratoria. The median duration for requests with further investigation by a third party was 262 days (nearly 9 months), while the median in the case of a decision moratorium was 419 days (14 months).

The proportion of asylum requests without further investigation or a decision moratorium where the duration exceeded the statutory period of 6 months was 34%. This percentage was not stable but fell up until 2003 and rose thereafter. This development parallels the trend in the rejection percentage in the AC procedure and probably had the same underlying causes. The fall in 2001 and 2002 could be due to the fall in the influx of new cases. Because the IND’s total capacity remained at the same level, the available capacity for dealing with cases increased. The reason for the increase in the proportion of cases exceeding the statutory period in 2003 is not clear. The increase is not caused by under-registration of

the decision moratoria which applied in that period for asylum seekers from Liberia and parts of Iraq; the increase can still be seen even when asylum seekers with Liberian or Iraqi nationality are excluded from the calculations. The temporary increase in the influx of new cases at the start of 2003 possibly played a role.

The duration for requests requiring further investigation by a third party also frequently exceeded the statutory period. No registration takes place of the formal extension of the statutory period. However, if the maximum extension of 6 months is assumed for all cases then the statutory period was exceeded in 31% of requests. No conclusion can be drawn on the degree to which the statutory period was exceeded for requests falling under a decision moratorium, partly because three of the four decision moratoria only ended in 2004 and most requests which fell under those moratoria had not been completed by the 30th of June 2004.

The IND's handling time norm for dealing with asylum requests in the process step 'asylum decision' is 18 work hours. The total handling time for an asylum seeker who was sent on to the normal asylum procedure after the first hearing in the AC procedure is 25 work hours. There is a considerable gap between the handling time and the duration. As well as the handling time, the duration consists of statutory waiting time (for example, the time allowed for the asylum seeker to formulate a view on the proposed decision) and of logistical waiting time. The logistical waiting or queuing time can partly be explained by the high stock levels of uncompleted cases.

The median duration for completed appeal cases in the normal asylum procedure was 415 days (14 months). There are no statutory periods for appeal cases in the district courts.

Half the asylum seekers in the normal asylum procedure with a completed high court appeal case had a duration for their appeal case of 51 days or less. In 2003 there was a sharp increase in the median duration from 28 days to 52 days. This increase can be explained by the developments in that year in capacity and case stock levels. All cases handled by the ABRvS have a statutory period of 23 weeks. This limit was virtually never exceeded.

Table S1 gives a summary of the durations in the asylum process as a whole and in the individual process steps in the AC procedure and in the normal asylum procedure.

Concluding observations

One of the main aims of the new Immigration Act was to reduce the time it takes to complete the asylum process. To this end, statutory periods were established for some specific steps in the asylum process. No conclusion can be drawn regarding a reduction in durations compared

Table S1: Overview of the durations in the asylum procedures under the Aliens Act 2000

Process step	Duration	Statutory period (% cases which exceeded the statutory period)
Total asylum process	Considerable variation in total duration: quarter of asylum seekers have duration of 23 days or less quarter of asylum seekers have duration of 389 days or more	Not applicable
TNV	Mean duration: 16 days	Not applicable
AC decision	Median duration: 39 registered process hours	48 process hours (% exceeding limit cannot be determined)
AC appeal	Median duration: 19 days	Not applicable
AC high court appeal	Median duration: 38 days	161 days (1%) Target period: 35 days (55%)
Asylum decision	Median duration (days): without further investigation or decision moratorium: 137 with further investigation: 262 with decision moratorium: 419	Statutory periods: standard: 183 days (34%) with further investigation: 365 days (31%) with decision moratorium: 548 days (not enough data to calculate % exceeding limit)
Asylum appeal	Median duration: 415 days	Not applicable
Asylum high court appeal	Median duration: 51 days	161 days (0%)

to the situation before the introduction of the Aliens Act 2000. After all, no comparison was made with the durations before the 1st of April 2001. However, the conclusion that the aims of the Aliens Act 2000 have not been fully met is valid, as the statutory periods were regularly exceeded. For example, the statutory period was exceeded in about a third of all requests handled in the normal asylum procedure with a statutory period of 6 months. There is a large difference in the total duration between asylum seekers who only follow the AC procedure and asylum seekers who follow the normal asylum procedure. The (high court) appeal cases of asylum seekers in the AC procedure are given priority and these asylum seekers have nearly always completed the entire asylum process within 6 months. This group of asylum seekers is indeed given a clear picture of their future relatively quickly. The durations for asylum seekers who follow the normal asylum procedure are often much longer, especially if the asylum seeker files an appeal.

The durations in the normal asylum procedure are considerably longer than the handling times. The handling time norm used by the IND in the process step 'asylum decision' is 2 to 3 days whereas the median duration

for cases without further investigation and not involving a decision moratorium was 137 days. In other words, the durations consist largely of waiting time. To some degree this is statutorily defined waiting time, in addition there is logistical waiting time as a result of the high case stock levels, the operational organisation and the fact that IND employees also have other tasks (the objection cases under the Aliens Act 1994). It is most likely that the long durations for appeal cases – for which no information on handling times was available – have similar causes.

In situations where the durations are primarily made up of waiting time, measures to reduce the handling time further will have little effect on the total duration. Measures to reduce the logistical waiting times, on the other hand, will have effect. The durations can be permanently reduced by ensuring that the labour capacity is adjusted to match the number of new cases and by temporarily deploying extra capacity in order to reduce the case backlog. In addition, measures that focus on the organisation of operations will have an effect by reducing the logistical waiting times after starting to deal with a case.

Throughout the research period, one clear problem has been matching capacity to the influx of new cases and to existing case stock levels. Two causes of this problem can be identified.

First, there was insufficient insight into how the immigration chain functioned as a whole, both prior to and during implementation, and developments at the other immigration organisations were not anticipated or acted on in time. For example, the ABRvS did not adequately take into account the effects on its own influx of new cases of the higher production levels by the Chambers of Immigration in 2002 and 2003. Timely anticipation of the effects of developments elsewhere is particularly important when they entail an expansion in capacity, as recruiting and training new personnel also takes (a considerable amount of) time.

The lack of insight into the functioning of the immigration chain during the research period was partly due to shortcomings in the recording of information. Already during the research period the Coordination of the Immigration Chain Project (later the Staff Division for the Coordination of the Immigration Chain) took a number of important steps towards a sector-wide registration system. However, in the course of this research it was discovered that some crucial deficiencies in the registration system still remain. The computer systems are not set up to allow standard reporting of movements of cases between organisations in the immigration chain. Furthermore, information that is essential for verifying whether the statutory periods have been kept to, is not recorded or recorded too late.

Secondly, the chain for asylum cases under the Aliens Act 2000 does not operate in isolation from the other parts of the immigration chain. The takeover by the IND of duties previously carried out by the Immigration

Service (in Dutch, 'Vreemdelingendienst'), the developments in the influx of regular cases, detention cases and cases which fell under the Aliens Act 1994 and the priority which was given to these cases, all had an effect on the available capacity. Moreover, extra assignments which had not been taken into account when planning the necessary capacity, such as the handling by the IND of requests under the One-off Settlement (in Dutch, 'Eenmalige Regeling'), had a detrimental effect on the available capacity for asylum cases under the Aliens Act 2000.

During the research period there were various trends and developments in the durations but there was certainly no general gradual reduction in durations. A decrease can be seen in some areas – for example, the number of cases in the process step 'AC decision' with more than 48 registered process hours fell. In other areas the duration rose – as was the case with the time in the TNV – or first fell only to rise again later – as was the case with the durations in the process step 'asylum decision'.

The conclusions discussed above concern general aspects of the new law which are also relevant for the years to come. The results, however, are the product of the specific circumstances in which the Aliens Act 2000 functioned in the first 3 years. Important factors were the objection cases and appeal cases which fell under the old law (Aliens Act 1994) and which had a significant effect on the functioning of the Aliens Act 2000 in the first two years. Although there are still cases being handled which fall under the Aliens Act 1994, they are relatively few and will not play a major role in the years to come. An additional factor was the big fall in the number of new asylum seekers during the first three years of the Aliens Act 2000. In the preliminary inquiry carried out prior to the introduction of the Aliens Act 2000, an annual influx of 50,000 asylum seekers was assumed. On the basis of the results in this report, no conclusions can be drawn about the durations if the annual influx had really been 50,000 asylum seekers; however the assumption is warranted that the durations would have been longer than in fact was the case.

The effect of individual policy instruments

The Aliens Act 2000 contains various policy instruments which were expected to have a certain effect on the durations. In practice, the expected effect often failed to occur or was compensated by other developments.

Abolishing the objection procedure and introducing the intention procedure was expected to lead to reduced workloads for the IND. However, it is impossible to determine the actual effect without detailed data on handling times.

The Aliens Act 2000 gives the possibility of extending the statutory period for the process step 'asylum decision' when further investigation is required or when there is a decision moratorium. This was expected

to lead to longer durations, but also to fewer cases in which the statutory period is exceeded and fewer appeals against late decisions. Frequent use was made of the possibility of extending the statutory period throughout the research period, and the durations were – just as expected – longer as a result. However, at any rate in cases with further investigations the statutory period was often still exceeded even after extension. There are no data on appeals against late decisions.

The introduction of a comprehensive decision that also concerns the right to accommodation and departure from the Netherlands as well as the introduction of a standard period for departure were expected to lead to fewer appeals cases and therefore to more available capacity for the district courts for asylum cases. However, the research period actually saw a reduction in the available capacity for asylum cases (with the exception of AC appeals) as a result of the unexpectedly large number of detention cases.

The introduction of the sequential status system was expected to reduce the opportunities for a series of legal actions, resulting in shorter durations and reduced workloads for the IND and the district courts.

Under the old Act, the vast majority of asylum seekers filed an appeal after a positive decision by the IND (source: cohort analyses 1998-2002, INDIAC/IND). Appeals are no longer made after a positive decision under the Aliens Act 2000. However, the expected positive effect on the durations is less evident. First, the capacity of the immigration organisations is adjusted to match the new cases and not the existing case stock levels. Furthermore, both the IND and the district courts were confronted with more cases in other categories (objection cases, detention cases and regular immigration cases) during the research period than expected.

The Aliens Act 2000 introduced the standard right to await the decision on the appeal in the Netherlands within the normal asylum procedure.

In practice, applications to be allowed to await the decision in the Netherlands with temporary facilities (in Dutch ‘verzoek om voorlopige voorzieningen’) are still submitted in about 18% of the appeal cases in the normal asylum procedure, probably in situations which constitute an exception to the standard right. At the same time, no application for temporary facilities is made in the vast majority of high court appeals cases, even though the standard right to await the decision in the Netherlands does not apply for high court cases.

No statement can be made about the effects of the introduction of *ex nunc* examination on the basis of this research project, as there were no data available on this subject.

The introduction of the possibility of a high court appeal should in principle lead to longer durations. In practice the direct effect on the research population was limited because of the relatively small number of asylum seekers that filed a high court appeal. However, the ABRvS had an

indirect effect on the functioning of the asylum process under the Aliens Act 2000 through its judgements. That effect is most clearly seen in the AC procedure, where judgements by the ABRvS during the research period led to an increase in the rejection percentage in the process step 'AC decision' and to shorter durations.

The introduction of the judicial check in the case of detention of suspected illegal aliens (known as the ten day check) had a distinct effect on the durations in appeal cases. As expected, introduction of the 10 day check resulted in a higher workload for the district courts and therefore less capacity available for asylum cases and longer durations. The effect on the available capacity was reinforced by the fact that the number of detention cases in the early years was much higher than the district courts had predicted.

Recommendations

This report makes no recommendations regarding matters of policy or regarding the operations of individual organisations. A number of recommendations are made with the intention of improving insight into the functioning of the Act and of facilitating the matching of capacity to numbers of new cases and case stock levels. In the 1995 evaluation of the Aliens Act 1994, the Netherlands Court of Audit ('Algemene Rekenkamer') made recommendations for linking the management information systems of the individual organisations within the immigration chain together and for better consultation between organisations so that 'capacity problems can be recognized and dealt with promptly' (Asylum Policy, TK 1995-1996, 24 440, no. 2). These areas have been the subject of attention, resulting in developments such as the introduction of the unique bvv-number for every asylum seeker and the use of the 'standard quantitative model' for predictions in the asylum chain, developed by the Staff Division for the Coordination of the Immigration Chain (SCV). However, the current evaluation has shown that there are still shortcomings in the provision of information, which are a hindrance to the control of the asylum chain. The recommendations in this report build on the initiatives that have already been taken and aim to improve the matching of capacity to requirements. Moreover, rapid implementation of the recommendations would guarantee the efficiency and efficacy of the subsequent evaluation of the durations, which should take place in 2009, in accordance with the Dittrich motion (TK 1999-2000, 26 732, no. 76).

Measures to reduce logistical waiting times

As the long durations in the normal asylum procedure and appeal cases are largely due to the high case stock levels, measures to reduce case stock levels are recommended. This can be achieved by temporarily deploying extra capacity or – if there is a fall in new cases – by not reducing capacity

levels proportionately. At the same time a study is recommended into possible modifications in the organisation of operations to make processes more efficient. These measures would allow an enduring reduction in logistical waiting times and thus total durations.

Improvements in information systems

It is recommended that the information systems be improved by:

- 1 improving the registration of data concerning the durations;
- 2 improving the registration of data regarding the available capacity in the organisations in the immigration chain;
- 3 standardising the linking of data on an individual asylum seeker across different data systems.

The start date and end date of all process steps are currently recorded. However, a number of properties which are relevant for the durations are not recorded, incompletely recorded or only recorded at a later date. As a result, insight into the actual durations and the degree to which statutory time limits are met is limited. These remarks apply particularly to the registration of 'stopping the clock' in the AC procedure, further investigations, decision moratoria, appeal cases and high court appeal cases. A modification of the protocols for electronic registration is recommended to ensure correct, complete and timely registration of the necessary data. This will enable monitoring of durations and compliance with the statutory periods and prompt signalling of bottlenecks. Only global figures were available on capacity and the deployment of capacity by the immigration organisations for this research study. A recommendation is made to collect and report detailed data on the actual capacity as a part of standard operations. This will facilitate the determination of the necessary adjustment in capacity given the (expected) influx of new cases and the case stock levels.

The use of a unique bvv-number for every asylum seeker makes it possible to follow the asylum seeker throughout the entire asylum process. However, the duplicate registration of some data in different systems together with the manner in which the data is stored in the different electronic files mean that linking data from different sources on the same asylum seeker is a complex and time-consuming exercise. The individual organisations in the immigration chain have little room for such an undertaking in their daily activities. Modifications of the computer systems are recommended that would allow the linking of files to become part of routine activities. Results based on linked analyses should become part of the regular reports such as the Immigration Chain Report ('rapportage Vreemdelingenketen') and the Purple Book ('het Paarse Boek') containing management information on the IND. This addition would improve the information value of these reports.

Use of monitor data for better control of the asylum chain

It is recommended that monitor data should be collected on the functioning of the asylum chain, for the purposes of better control of the asylum chain. Detailed data on the extent and characteristics of the influx of new cases in the Netherlands should be used in the prediction models along with the case stock levels, the numbers in the different process steps, the durations and the results of the individual process steps. This would allow better predictions of changes in numbers for each organisation and the resulting capacity requirements. In fact a start has already been made with the SCV's 'standard quantitative model'. The recommended modifications in the registration of information and the computer systems will improve the quality of the predictions. With the recommended improvements in the registration of the capacity, it will be clearer where bottlenecks exist and what adjustments are needed. In this way, capacity in the asylum chain can be better matched to the numbers of asylum seekers, so that there is less chance of long durations and statutory time limits not being met.

Immediate implementation of improvements in registration for the next evaluation

On the 8th of June 2000 members of the Lower House of the Dutch Parliament asked the Government 'to promote the evaluation of the Aliens Act 2000 3 years after its introduction (...) and thereafter every five years' (Dittrich motion, TK 1999-2000, 26 732, no. 76). If the Aliens Act 2000 is to be evaluated again 5 years after this first evaluation (in 2009), then a speedy implementation of the improvements in the registration is advisable. Only then will it be possible to get a complete picture of the developments in durations and capacity for the whole period 2004-2009. Moreover, the improvements in management information and the introduction of facilities for the standard linking of data from different sources would greatly improve the efficiency of the next evaluation.