



# Re-thinking approaches to labour migration

## Potentials and gaps in four EU member states' migration infrastructures

### Case Study Summary Netherlands

This summary briefing is part of a series of publications mapping legal pathways for labour migration and mobility to EU countries commissioned by ICMPD's Migration Partnership Facility (MPF) in the context of their efforts supporting the enabling environment for labour migration to the EU.

It summarises existing legal labour migration pathways and their use in Netherlands. It provides suggestions for adaptations in order to better serve the needs of the Dutch labour market and to explore potentials for migration and mobility pilots in the context of the EU Talent Partnership Framework.

The full case studies, along with an overarching policy brief which analyses the findings from all of them, can be downloaded at [www.migrationpartnershipfacility.eu](http://www.migrationpartnershipfacility.eu).

#### KEY MESSAGES

- The Dutch labor market faces structural shortages of workers in the ICT, health and specific technical professions as well as in the horticultural and agricultural sector. The percentage of employers reporting difficulties in filling jobs in the Netherlands is on the rise.
- Pathways to the Netherlands exist mainly for highly skilled migrants through the *Knowledge Worker (Kennismigratie)* scheme, which is seen as successful both in terms of numbers and effectiveness. Other promising schemes are the residence pathways for start-up employees and entrepreneurs. The Dutch system is very restrictive for the low- and middle-skill segment with only few exceptions for specific jobs.
- The Dutch Government is currently exploring in what way circular migration schemes could be included or embedded in partnerships on broader migration governance with a view to strengthen cooperation on return and readmission. The focus is on Morocco and Egypt. This provides entry points for exploring skills and mobility partnerships under the EU Talent Partnership framework. Other countries that could be interesting for the Dutch labour market, especially in the health sector, are Indonesia, the Philippines and India.
- Depending on the sector, existing migration pathways could be utilised. For some sectors and skill levels adaptations to increase flexibility would need to be introduced, such as exemptions to the labour market test or the lowering of salary requirements, so as to allow for such schemes to be effective.

## BACKGROUND AND CONTEXT

The Netherlands is known to have a vibrant and multicultural sporting, business and cultural life. Several sectors of the Dutch economy depend on migrant workers and labour migrants, especially knowledge migrant workers make a strong contribution.

The Netherlands has a history of labour immigration responding to economic needs. During the period of rebuilding and industrialisation after the Second World War migrant workers from Southern Europe were recruited and during the 1960s, mainly Moroccan and Turkish guest workers arrived. Today family reunification, introduced in the 1970s, plays an important role for Dutch immigration, especially from outside the EU.

The Netherlands has a positive net migration with the majority of immigrants coming from other European countries. Immigration to the Netherlands – specifically that of other EU and EFTA countries – is characterised by a temporal nature with the majority of migrants departing again within 10 years. For immigrants from non-EU/EFTA countries, family reunification plays a large role with labour migration being the second most important motive for entry. The top three country of origin for highly skilled workers (*Kennismigratie*) were India, China and Turkey in 2021. Other labour migrants are predominantly from China, the US and India.

For years, labour migration to the Netherlands has been subject to political discussions. The rise of far-right populist movement in Dutch politics is connected to the Dutch migration history, especially the large migration from Muslim countries, as well as incidents such as the 2002 assassination of Pim Fortuyn and the murder of Theo van Gogh. Since then there have been tensions between moderate forces aiming for tolerance and multiculturalism and those that lobby for stricter anti-immigration rules, partially based on fear and stoked by right-wing populists.

## CURRENT AND FUTURE LABOUR SHORTAGES

In the Netherlands and the rest of the EU, there are structural shortages of skilled workers in some economic sectors, such as ICT, health and specific professions. The percentage of employers reporting difficulties in filling jobs in the Netherlands is on the rise. Employers' Federations have stressed that there are currently staff shortages in almost all sectors with the numbers of open vacancies being higher than the number of people being unemployed in the Netherlands. Shortages are greatest among highly skilled professions: engineers, technicians and ICT specialists. However, there are also specific shortages of workers educated at the senior secondary level, such as professionals in sectors such as healthcare, education and construction.

In the **ICT sector**, ICT specialists and professionals face very large shortages. There is a big gap also for teachers and child care supervisors in the education sector.

**Healthcare and welfare professions** have had a long history of facing bottlenecks when it comes to personnel. Within the sector there are, however, big differences between specific professions. Gaps are documented in mainly professions which require a high to medium-level of education, such as doctors, nurses and health care professionals.

For **technical professions**, there are differences in how strong labour shortages will exist depending on the specific profession. Employers that want to employ specialists in nature and technology (for example, engineering and environmental technicians), production managers for industrial construction, or electricians and electrical engineers will face shortages on the labour market. Large bottlenecks are also expected for engineers, physics, technical scientists and research mathematicians. In short supply are also senior secondary vocational (specialist or middle management training; Dutch MBO-4 level), bachelor and master-level educated workers in engineering.

An example is the **metal industry** suffering from shortages of **mechanical engineers**.

Within the **agricultural sector**, some bottlenecks are expected for land and foresters and farmers. In the agriculture sector, demand for MBO-3, MBO-4 and Bachelor level educated persons is higher than supply.

Employers federations in the agricultural sector (e.g. LTO<sup>1</sup>) also advocate for the horticulture sector to recruit migrants and representatives of the agricultural sector note their strong interest in labour immigration from outside the EU.

## LABOUR MIGRATION POLICY IN THE NETHERLANDS

The Dutch labour migrant admission policy is very selective. The country is welcoming to highly skilled migrants while showing reluctance to admit other migrant workers with the exception of certain specialist jobs.

The Netherlands has focused its migration policy at attracting high-skilled labour migrants for its knowledge economy (through its knowledge migrant scheme). It does not have an overarching policy oriented at specific sectors, though for some extreme cases (such as Asian chefs) it has in the past granted exemptions. Dutch labour migration pathways exist predominantly for high-skilled migrants and remain restricted for lower- to mid-level skilled workers. In vital sectors such as healthcare, there is certainly room for adopting more flexible pathways. The opportunities that labour migration from outside the EU offers to Dutch society are currently not being sufficiently researched, considered or utilised.

The migration topic played an important role in the lead up to the 2021 elections. The issue of concern is not only how many people should be allowed to

migrate to the Netherlands in the future, but also, the position and situation of labour migrants currently in the Netherlands, which includes their rights, living conditions and access to services.

Concerning labour migration in particular, the priorities of the current Government as laid out in the coalition agreement are threefold:

- Periodically assess expected labour, knowledge and asylum migration in order to increase control over migration and to better anticipate trends. Possibly introduce policy targets for numbers of migrants;
- support more structured labour migration in important sectors, while combating abuses associated with labour migration (exploitation of employees, prevent unfair competition on the labour market, substandard housing); and
- permit temporary legal, circular labour migration in return for cooperation on return of failed asylum policies as part of strict reciprocal agreements with third countries.

With these points, the current coalition Government has put more emphasis on the issue of labour migration than previous governments, though it is yet to be seen what concrete steps the government will take.

Dutch debates on labour migration increasingly take place in the context of a so-called 'well-being approach to labour migration' – a concept brought forward by the Dutch Advisory Committee on Migration. It takes both labour market needs and the interest in filling employer demand for migrant workers, as well as societal concerns about the impact of labour migration on housing, education and healthcare into account.

1 LTO is Netherlands Agricultural and Horticultural Association

## LEGAL MIGRATION PATHWAYS

### Highly-skilled segment: Knowledge migrant scheme

The scheme for highly skilled migrants, or knowledge workers (kennismigrant) was launched in 2004. Highly-skilled migrant workers are defined by a minimum monthly market salary and migrants that meet the qualification requirements of academic research or doctor training to be a specialist. Another precondition is that the employer has to be a recognised sponsor and meet certain conditions. The highly skilled migrant residence permit can be issued for a maximum of five consecutive years.

Almost two thirds of all labour migrants from outside the EU come through this scheme. After a dip in 2020 (with only 13,710 applications) due to the COVID-19 pandemic, numbers picked up in 2021 again with 22,840 received applications. The approval rates are high ranging between 91% to 94% during the last three years. Main nationalities are Indian, Chinese and Turkish. Many end up leaving again after a period of time: Of the knowledge migrants who entered the Netherlands in 2009, more than 80% had left the country within 10 years.

The knowledge migrant scheme is restrictive and often used by IT professionals. It works well for younger entry-level IT labour with university education, which meet the salary requirements. Companies in other sectors with labour shortages, such as the technical installation sector mentioned above, are only rarely using the scheme, because the burden of proof for qualification is difficult since people are often trained on the job (with the exact match between employee and company being created not upfront but through on the job training and work-based learning). Workers needed in the healthcare sector, such as nurses, usually do not qualify for the knowledge worker scheme because of the salary requirements and their salary level not being high enough.

### Middle-skill segment

The middle segment of the labour market is not supported by a labour migration policy that is specifically geared to it. For less labour-intensive work or for lower paid specialist work which is subject to increasing shortages in the labour market, the Netherlands uses a restrictive framework.

The application of a strict labour market test for workers in the low- and middle-skill section is the key reason for the low admission number of migrant workers that do not qualify for the knowledge worker scheme. For health workers hurdles in the skills recognition process and the wage criterion is another factor.

### Asian catering industry

A scheme specifically for Asian chefs to receive temporary residence permits had been introduced in 2016. The scheme is based on a covenant between the Asian catering industry, the 'Uitvoeringsinstituut Werknemersverzekeringen' (UWV, the employee insurance agency Netherlands) and the Immigration and Naturalisation Service (IND). For specific roles, IND and UWV agreed to issue a maximum number of work permits and combined residence and work permits for qualified Asian cooks, without subjecting applications to a labour market priority test, which would usually apply. As quid pro quo, the Asian employers are required to also employ and train Dutch or European cooks and pay the agreed wages to the foreign cooks. The Netherlands granted 1,800 permits between October 2016 and October 2017 and another 1,530 permits between October 2017 and October 2018. In 2019, the quota was removed and an assessment of the presence of priority labour supply from the EU or the Netherlands introduced, however employers were not required to actively search. From 1 January 2022, the scheme expired and has not been renewed. This was mainly due to signals of abuse (EMN 2019b) and the employers not following the requirement to train and employ Dutch and European nationals.

## European legal provisions and their use

Access to the Dutch labour market under the **Blue Card scheme** exists in parallel with the *Kennismigrant* scheme. The Netherlands applies a wage requirement to Blue Card applicants, similar to the Kennismigrant scheme. Applicants also need to have completed a higher education programme demonstrated by a recognised diploma and hold an employment contract that lasts for at least 12 months. Under the Blue Card scheme, however, only few labour migrants enter the Netherlands. In 2020, only 150 migrants were granted a work and residence permit under the EU Blue Card Scheme. In 2018, the number stood at 118 (EC n.d.-b). Between 2011 and 2016, a total of 74 residence permits were issued under the Blue Card Directive (EC 2018: 73).

**The Seasonal Workers directive** offers third-country nationals the opportunity to work temporarily in the EU as seasonal workers. Under the directive, EU member states have the right to carry out a labour market test before granting permits. The Netherlands makes use of this right, which, in effect, has meant that it has been impossible to receive a work permit as a seasonal worker under the EU directive. So far, no third-country nationals have been admitted to the Netherlands on the basis of the Seasonal Workers directive, because the labour market test has always shown that there are other workers in the Netherlands or the EU that could carry out the work. To date, seasonal work in the Netherlands has been done mainly by workers from Poland, Romania and Bulgaria. However, since it is becoming increasingly difficult to attract workers from these countries, attracting seasonal workers from outside the EU may be important in the future.

The Dutch system has incorporated the guidelines of the **EU Intra Corporate Transferees Directive**, which allows managers, specialists and trainees to be transferred to Dutch branches of international companies where they are employed. In 2020, 2,150 knowledge workers came through this provision.

The Netherlands has experienced an increasing trend of **'secondment of third country nationals'** from

other EU member states. This describes a phenomenon of third-country nationals, who hold a residence or work permit in another EU country, make use of the right to cross the border into the Netherlands to offer work services under the EU's internal market and free movement of services. While numbers are still limited, there has been a growth which has been cause for concern. First, because it limits the Dutch Government's control over who enters and whether workers in the Netherlands are crowded out from the labour market. Second, because also these third-country nationals may be vulnerable to exploitation and it has been difficult to monitor labour conditions. This trend has triggered a political debate in the Netherlands with some Members of Parliament asking the Government for possibilities to restrict this type of movement at European level, for instance, by introducing additional work permit requirements.

## Seasonal workers in the agricultural sector

As mentioned above, under the EU Seasonal Workers directive, the Netherlands has opted to apply strict regulations when transposing it into national law. Netherlands has a scheme that makes it possible to apply for a residence permit for seasonal work specifically in the agricultural sector. This permit allows a labour migrant to work for a maximum period of 24 weeks for an employer in agriculture or horticulture, who acts as a sponsor or recognised sponsor. The income requirement is to earn a minimum of €1,725 euro gross per month, excluding holiday pay. This scheme is however also rarely used in practice. Applications are rejected on the basis of a strict labour market test by the UWV

## Bilateral or special labour agreements and partnerships

The Netherlands has experience with some pilot schemes on labour migration in the past (Blue Bird Scheme) which planned to give 160 mid-skill professionals from South Africa and Indonesia the opportunity to temporarily work in the Netherlands.

This circular migration scheme did however not bring the envisaged results and was therefore discontinued.

There is currently one scheme for the purpose of work, the Match project, implemented by IOM. It aims to address labour market shortages in four EU countries, including the Netherlands.

The Government is currently exploring in what way circular migration schemes could be included or embedded in partnerships on return and readmission and wider migration governance with third countries as part of a comprehensive approach to migration management.

### Innovative pilot schemes and programmes

In 2015, The Netherlands put in place a **start-up scheme** for innovative entrepreneurs. With this policy it became one of the frontrunners in Europe to establish policies for start-ups within and outside the EU, next to Estonia and France. In order to receive a start-up residence and work permit, a number of conditions (existing business plan, cooperation with registered facilitator, sufficient financial resources etc.) must be met and a process has to be followed. As part of the access scheme, start-ups must cooperate with a so-called recognised facilitator, that offers the starting entrepreneur a tailored support package and helps with business operations, marketing, market research and finding investors. The start-up scheme receives between 100 to 150 applications yearly with approval rates of 68%, 64% and 82% respectively for 2019, 2020 and 2021. Most applications for the start-up schemes during the past three years have come from Indian, Iranian and Russian nationals

A pilot residence scheme for **key essential personnel of startups** has entered into effect in June 2021. This scheme makes it possible for innovative companies to hire essential personnel from countries outside the EU at a reduced salary criterion in exchange for a share in the company. This was based on the realisation that key personnel were often not able

to meet the high salary threshold of the knowledge migrant scheme.

There is a residence permit scheme for **self-employed people** who want to work and live in the Netherlands. The services offered, or activities performed, will need to serve the interests of the Dutch economy and the IND takes the advice of the RVO on this. The essential interest of the Dutch economy is assessed on the basis of a points-based scoring system.

## DISCUSSION OF POSSIBLE FUTURE ADAPTATIONS TO LEGAL MIGRATION POLICY

The current Dutch labour migration policy is unable to keep pace with the demand for workers across skill levels. Especially for labour migration pathways in middle skilled sectors covering for instance specific technical or health sector professions, introducing increased opportunities in the future could be useful. There are several options to increase flexibility in the Dutch labour migration system and open pathways through adjusting policies within the existing Dutch legal framework.

### *Introducing exemptions for the labour market test or work permit for specific sectors*

The application of the strict labour market test for workers in the low- and middle-skill section is the key reason for the low admission number. Employers in agriculture but also in technical fields would welcome additional opportunities, for instance through exemptions from the work permit or labour market test for specific professions or sectors that are short in supply. While currently not concretely discussed by the Dutch government, the following options would provide such flexibility. One way to introduce such exemptions is for employers in specific sectors to establish **sectoral agreements** (so-called covenants) with the trade unions and the UWV. These agreements could include exempting specific groups from the strict labour market test and can also be combined with

quotas. Other criteria or conditions, such as provision of housing, fair pay, training or other support could also be included. A second way to establish such exemptions is through a **ministerial declaration** issued by the minister to exempt certain professions from the labour market test or the need to have a work permit issued. This is how the knowledge worker scheme came into being. Such exemptions can be combined with measures such as the salary threshold for knowledge workers. The introduction of a more limited labour market test instead of a full one is possible already for specific groups such as working students, trainees, practitioners, teachers in international education and short-stay highly-skilled migrants. Extending it to other groups would require a decision of the Ministry of Social Affairs and Employment, which is able to apply it to other groups in exceptional circumstances on the basis of international exchange, trade relations or study. Another way to introduce exemptions is for the government to relax the labour market test (e.g. for specific professions) as also discussed further below or to introduce a list of labour shortage occupations (periodically assessed) for which exemptions or relaxed rules could be introduced.

#### *Lowering the threshold for the salary requirement of the knowledge migrant scheme*

This would mean that more professions (including in the middle-skill sector, such as nurses who at the moment do not meet the salary requirements) would qualify for the scheme. A government interviewee thought it unlikely to happen in practice, however given that the wage criterion is a cornerstone of the Dutch labour migration system for highly-skilled. It helps to ensure that there is indeed a high need (expressed through a minimum salary-level) for the worker. The risk with lowering the salary threshold is that this key characteristic vanishes. Since the knowledge migrant scheme is seen as efficient and effective by the government, this may be an unlikely route.

#### *Lower assessment threshold and introduce flexibility for the priority offer (labour market test)*

In principle, the Netherlands has a flexible system that should allow employers to hire foreign nationals if

there is a shortage in the labour market and if sufficient attempts have been made to find labour supply in the Netherlands or in the EU. In practice however, the assessments of UWV are rather restrictive. Given that there are several hundreds of thousands of Dutch nationals receiving social assistance, there is a view that in principle, labour is available (even if not the case in practice) and based on this requests (especially for lower skilled workers) are declined. UWV could be flexible in their assessment whether labour is available or not. Another option is to reduce the required vacancy notification period required for the labour market test and accelerate it for certain shortage professions as it was the case with the Asian catering industry).

#### *Exploring skills mobility partnerships and circular migration schemes in the framework of EU Talent Partnerships*

The Netherlands currently does not have a specific and official skills and migration partnership with a partner country. There are current deliberations to explore possibilities to introduce targeted and limited temporary legal migration opportunities with partner countries that would then cooperate more strongly on return and readmission questions. Such an approach could support broader migration partnerships, while also contribute to addressing some labour market shortages – even if at a very small scale. From the EU Talent Partnership priority countries, North African countries such as **Morocco and Egypt** are likely candidates for such schemes given the Dutch interest on broader migration cooperation, existing economic relations. **Tunisia** has some potential given that ICT and engineering are polar sectors for tertiary education in Tunisia and due to its high unemployment rate among educated youth. In **Nigeria**, popular education subjects are engineering and health and there is a relatively high unemployment rate for those with post-secondary education. It is also an important country for cooperating on irregular migration to the EU. The Dutch Employers' Federation of SMEs lists Nigeria among the top three countries for economic relations. Nigeria could thus be another viable partner to further explore - possibly building on experience gained as part of IOM's MATCH programme. Other countries that may be relevant for Talent Partnerships include

**Indonesia**, with which discussions on recruiting health workers have taken place previously and which, due to its colonial history, has cultural ties with the Netherlands. In the healthcare sector also the **Philippines or India** can be interesting, given that some vocational schools and care work agencies have started to recruit nurses who are then retrained in the Netherlands in order to work for 5 years in Dutch hospitals.

Depending on the skill and salary level as well as sector, setting up such schemes may possibly require adaptations in terms of the existing immigration pathways described in the previous two sections.

#### *Accelerate visa issuance and skill recognition*

The lengthy time it takes to process residence and work permits (in some cases up to 6 month) has been noted by employers as a barrier to flexibly hiring workers from third countries. Other than above mentioned possibilities for reform it would be important to increase the facilitation and acceleration of visa issuance for priority sectors. Moreover, other administrative barriers include the collection and effective review of required documents such as diplomas, birth certificates and certificates of good conduct. These aspects can be addressed through partnerships and capacity building activities with public employment agencies in partner countries and they also fit into Dutch policies of supporting a digital transformation agenda.

#### *Linking labour market analysis, employers' needs and migration policies*

Employers' federations suggest a long-term strategic labour migration policy based on analysis and forecasts of shortages in sectors rather than the current process of lengthy procedures for individual vacancies. The

Dutch public employment service UWV provides periodic forecasts on shortages in economic sectors in the Netherlands. Such forecasts and analysis could be more strongly linked to migration policies. A specific advisory committee providing recommendations on how to adjust labour migration policies and opportunities based on labour market needs could help to depoliticise the system of labour migration and has been suggested by the ACVZ. However, it is still a political decision how much weight such a body would have over policymaking. Such a body would also need to be able to quickly (e.g. on a quarterly basis) re-evaluate quotas, job descriptions and help to adjust migration policy for it to be effective.

#### **Knowledge capacity and support**

The Dutch Government is currently exploring possibilities for circular labour migration schemes, specifically with North African countries as part of broader migration cooperation, as noted above. A key aspect is to learn from others' experiences in this regard. Interviewees noted that Germany's experience with skills and mobility partnerships, e.g. in the health sector, and its experimentation with flexible procedures at the vocational skills level are interesting for Dutch policy-makers to learn from. Interviewees also mentioned that better comparable and up to date statistics and data on labour migration and the contribution of migrants to the economy of EU member states could be useful. Such exchanges and capacity building could also be organised in the framework of EU Talent Partnerships, which allows for the potential to explore opportunities and experiment, including joining up with and learning from other countries' experiences.