

Crime prevention policy	
EU- priority	Illegal migrant smuggling
Country	Netherlands
Year	2020

1. Overview of the field

Definition of Illegal migrant smuggling

Definition of migrant smuggling is:

- (1) Any person who assists another person to enter, or transit across the Netherlands or another Member State of the European Union, Iceland, Norway, or a state party to the (...) protocol against the smuggling of migrants over land, sea and in the air, supplementing the (...) Treaty against transnational organised crime, or provides opportunity thereto, means or information.

The Dutch Penal Code contains a specific provision that criminalises migrant smuggling. The provision is in line with the “The United Nations Protocol against the Smuggling of Migrants, EU-Directive2002/90/EC and Framework Decision 2002/946/JHA”.

Article 197a of the Penal Code

(1) Any person who assists another person to enter, or transit across the Netherlands or another Member State of the European Union, Iceland, Norway, or a state party to the (...) protocol against the smuggling of migrants over land, sea and in the air, supplementing the (...) Treaty against transnational organised crime, or provides opportunity thereto, means or information, while he knows or should seriously suspect that this entry or transit is unauthorised, shall be if found guilty of human smuggling punished with a imprisonment of at most 4 years or a monetary penalty of the fifth category.

(2) Any person who for financial gain assists another person with entering in order to reside in the Netherlands or another Member State of the European Union, Iceland, Norway, or a state party of the in the first paragraph indicated protocol, or provides opportunity thereto, means or information, while he knows or should seriously suspect that this access or transit is unauthorised, shall be punished with a prison sentence of at most 4 years or a monetary penalty of the fifth category.

(3) If one of the acts, described in the first and second paragraph, is committed in the execution of any duty or profession, a prison sentence of at most 6 years or a monetary penalty of the fifth category shall be imposed (...)

(4) If one of the acts, described in the first and second paragraph, is committed by a person who makes of this a customary practice or acts in association with other persons, this shall be punishable with a prison sentence of at most 8 years or a monetary penalty of the fifth category.

(5) If one of the acts, described in the first and second paragraph results in grievous bodily harm or life threatening danger to another person, it shall be punishable with a prison sentence of at most 12 years or a monetary penalty of the fifth category.

(6) If one of the acts, described in the first and second paragraph results in death, it shall be punishable with a prison sentence of at most 15 years or a monetary penalty of the fifth category

Assessment of trends and developments

The Expertise Centre for human trafficking and people smuggling (EMM) gathers and processes information from different organisations. The KMar, Labour Inspectorate (ISZW), the National Police and the INS participate in the EMM. The EMM gathers information on a national level and exchange this in close cooperation with international operating organizations combating international organised crime. Based on the gathered information, the EMM makes proposals to initiate criminal investigation. Besides that, the participating partners in the EMM produce quarterly reports on human trafficking and people smuggling.

Recent trends

Are an increase of (organised) illegal transit migration from the NL to the UK. The smuggled migrants are hidden in lorry or other vehicles.

Recent overview of statistics and research

Number of criminal investigation in 2019 approximately 148.

Top 5 nationalities smuggled migrants: Vietnamese, Afghans, Iraki, Syriansche, Albanian.

Top 5 nationalities smugglers: Dutch, Romanian, Syrian, Polish, Bulgarian.

2. Crime strategy and coordination

Objectives of the crime strategy

A multidisciplinary barriermodel in combating migrant smuggling has been developed in 2014. All different aspects relating to migrant smuggling are addressed in this barrier model, taking into account prevention, investigation and prosecution of organised crime groups and migration aspects. It includes activities for police, public prosecutors, border guards, immigration services, NGOs, private sector and includes cooperation with countries of origin and transit, as well as migrant smuggling in the Netherlands. See document attached

Role of prevention in the crime strategy on state/regional/local level

Prevention is an important element to address migrant smuggling. NL has several capacity building projects in third countries, eg Niger.

Implementation of the policy (which level is responsible for the implementation and how is the implementation coordinated?)

The ministry of Justice and Security is political responsible for the policy and implementation of migrant smuggling.

An steering group on migrant smuggling was established where migrant smuggling can be discussed on a strategic or policy level.

The migrant policy department in close cooperation with the operational authorities and the public prosecutor office is responsible for the developing of the migrant smuggling policy.

Stakeholders (working groups, specialised agencies, partners, etc)

Within the Royal Marechaussee a special unit is responsible for the investigations on migrant smuggling. In The Netherlands there are public prosecutors specialized in migrant smuggling dealing with these migrant smuggling cases. Besides the expertise centre on human trafficking and people smuggling, a special I multidisciplinary team was established targeting migrant smuggling in the Netherlands in 2014. This facilitates focus on migrant smuggling cases of all actors and authorities involved. It also yields better coordination and the exchange of information. This multidisciplinary team also links with several operational actions within Europol Empact project Facilitated Illegal Immigration so there's also a focus on sharing information with international partners and Europol as well. There's an important role for the international liaison network of both the Royal Marechaussee liaisons and the National Police.

Participation in European/ international networks, working groups, etc.

NL participate in eg :
the Europol EMPACT project illegal immigration.
the contactgroup of the Commission on migrant smuggling
Eurojust
WG of the Council of Europe on Fostering International Co-operation and Investigative Strategies in Fighting the Smuggling of Migrants
WG and MB of European Border and Coast Guard Agency

3. Good practices

Overview of recent good practices, prevention programs, etc.

COP Project in Nigeria.
A Dutch liaison magistrate is stationed in Italy to strengthening the cooperation to address migrant smuggling.
NL is financing several capacity projects in third countries to address migrant smuggling.