

# LEAVING DETENTION...

**A study on the influence of immigration  
detention on migrants' decision-making  
processes regarding return**



IOM International Organization for Migration



Return: not necessarily a step backward

# LEAVING DETENTION?

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A study on the influence of immigration detention on migrants' decision-making processes regarding return.

November 2011

**Researcher**

Mieke Kox



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IOM International Organization for Migration



Return: not necessarily a step backward

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental body, IOM acts with its partners in the international community to assist in meeting the operational challenges of migration; advance understanding of migration issues; and uphold the human dignity and well-being of migrants.

This research report is published within the framework of the project 'Assisted Voluntary Return from Detention (AVRD) II'. The project was financed by the European Return Fund and the Dutch Ministry of Justice.

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# PREFACE

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Immigration detention in the Netherlands is routinely criticised but it is still used because the Dutch government considers it an indispensable tool for the effectuation of its return policy. Through immigration detention the Dutch government tries to realize a migrant's return to the country of origin or another country in which his (re)admission is guaranteed.

Migrants in immigration detention have the opportunity to return from immigration detention to their countries of origin with assistance of the International Organization of Migration (IOM). Since 2007 IOM runs projects within immigration detention. IOM staff has been allocated in the detention centres for immigration detention to provide information and assistance to migrants to enable them to take a well informed decision on whether to return voluntarily to their countries of origin.

The role of IOM in immigration detention has been criticised as well. It has been doubted whether migrants in immigration detention are sufficiently able to make voluntary and well informed decisions considering the time constraints and limited options of the migrants in detention. IOM has been well aware of these circumstances but nevertheless decided not to exclude these migrants in immigration detention from their services and support. IOM has included a study on the influence of immigration detention on the intention of migrants to leave within its project Assisted Voluntary Return from Detention (AVRD). This study makes it possible to contribute to knowledge development about the return of irregular migrants from immigration detention. The results are hopefully not just relevant for IOM but also for other stakeholders in immigration detention.

I am grateful that I was given the opportunity to prepare this interesting study on the influence of immigration detention on the willingness of migrants in detention to return. Of course I could not have done this on my own. Therefore I like to take the opportunity to thank everyone who supported me in undertaking this study.

First of all, I want to thank the migrants who were willing to be interviewed during their stay in immigration detention. They gave me the opportunity to map their decision-making processes regarding return and to determine the influence of immigration detention on their intention to leave. Needless to say, this study would not have been possible without the cooperation of these migrants. I cannot thank them by name, since their anonymity has been guaranteed, but I hope these well-deserved words of thanks will do.

Interviewing these migrants would have been impossible without the permission of the Custodial Institutions Agency to conduct this study in the Dutch detention centres in Rotterdam, Zaandam and Zeist. Therefore, I want to thank the Custodial Institutions Agency and in particular the Directorate for Special Detention Facilities for enabling us to work on location and providing me with all the information requested; and their staff at the detention centres for their cooperation during the interviews.

In addition, IOM's Project Officers deserve a word of thanks: Eric van den Boom, Claver Ndikumana, Ard Venhuizen and Euphrem Yamuremye informed and explained the aim of the interviews to the migrants and asked them if they wanted to cooperate on this study. It took a lot of time to find a sufficient number of respondents and to fill in an inquiry form together with the migrant. It was not a rewarding task, since almost half of migrants approached were unwilling to cooperate. However, IOM's Project Officers found a sufficient number of detained migrants who were willing to be interviewed.

The interviewers cooperating in this study also deserve thanks. Zia Gulam, Solomon Desta, Karel van Driel, Daniël Hardenbol, Sanja Heric, Arjen Leerkes, Anke Lenaers, Claver Ndikumana, Hafsah Warraich, Euphrem Yamuremye and Pauline Yick conducted two or more

interviews and sent me their reports. I could not have conducted so many interviews on my own.

Furthermore, the Immigration and Naturalisation Service deserves a word of thanks for the information they provided and their kind cooperation: this agency gave my colleague Barbara van Spaandonk and me the opportunity to consult the personal files of the respondents to obtain additional information. Therefore, I want to thank Barbara as well for her help while obtaining this information.

I would also like to show my appreciation to the Repatriation and Departure Service, which provided additional information on the effects of immigration detention and the repatriation process, answered my questions on these topics and provided information on the legal status of the respondents. This created an opportunity to present the effects of immigration detention in recent years and to draw conclusions regarding the respondents' intentions to leave and their possibilities for return.

I am also grateful that Joost van der Aalst, Anne Marie Hollander, Anton van Kalmthout, Arjen Leerkes, Marian Lenshoek, Joris van Wijk and Adri Zagers were willing to read and comment on the research outline and report. Their constructive comments helped me greatly during this study. Finally, Anne Marie deserves a special word of thanks. She hired me to conduct this study, guided me through the study, gave me a lot of advice, and made sure I could focus on the research without being distracted by other tasks. So, Anne Marie, many thanks.

The results of the study are presented in this research report. I hope these will contribute to the discourse on the Dutch migrant return policy.

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# 1. TO LEAVE OR NOT TO LEAVE

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‘To leave or not to leave?’ That is the question for many migrants all over the world who once migrated from their countries of origin to another country. This applies in particular to migrants who are not allowed to stay in their country of destination, since they do not meet international, continental and national admission criteria. These so-called ‘irregular migrants’ will have to leave their destination country. As a result, the question of whether to leave will arise. They have to make a decision to return to their countries of origin, stay irregular in their country of destination or migrate (irregularly) to another country. At this stage, such a decision is no longer only up to the migrant. An irregular migrant may be forced by the government of the destination country to leave if they have not left the country of destination of their own free will. As a last resort, they might be detained in immigration detention for the purpose of removal.<sup>1</sup>

This also applies to the Netherlands. The Dutch government has regulations regarding the admission and return of migrants. For example if a migrant does not obtain legal residence and if he is not permitted to stay in the country, he will have to leave the Netherlands since his stay has become irregular.<sup>2</sup> Initially this is considered a responsibility of the irregular migrant, who will be encouraged to return and offered assistance regarding return. However, if an irregular migrant does not leave the country within the set time, he will be forced to do so by the Dutch government. More restrictive measures will be taken to realise his return and, as a last resort, the irregular migrant may be detained in immigration detention with the purpose of removal.<sup>3</sup>

## 1.1 DIFFICULTIES REALIZING THE RETURN OF IRREGULAR MIGRANTS

Immigration detention is considered an indispensable tool for the effectuation of the return policy by both the present Dutch Minister of Immigration and Asylum and his predecessors. It is used as a means to prevent the avoiding of irregular migrants from their (forced) return and is designed to result in the departure of irregular migrants from the Netherlands.<sup>4</sup> Several scholars argue immigration detention is also meant to bring about deterrence: the threat of immigration detention should deter (potential) irregular migrants from violating migration and residence laws (general deterrence) and the detainment itself should discourage migrants from staying irregularly in the country (specific deterrence).<sup>5</sup> However, according to Dutch immigration detention legislation immigration detention may only be used as a last resort to realise repatriation of irregular migrants

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<sup>1</sup> It should be noted the male gender will be used to indicate migrants within this study. Due to the reading comfort, it is decided to use one gender within this report even though migrants might be either male or female. Since a majority of irregular migrants in the Netherlands is male, a decision has been made to use the male gender for the indication.

<sup>2</sup> In the Netherlands, a migrant is considered to be staying irregularly in the country if he does not have lawful residency according to section 8 of the Dutch Aliens Act 2000. This concerns rejected asylum seekers, migrants who enter the country without required visas or residence permits, migrants who stay in the country after the expiration or withdrawal of their visas or residence permits and migrants whose applications for residence permits were rejected.

<sup>3</sup> The requirements for detaining irregular migrants in immigration detention, and especially this group, are more extensively discussed in Chapter 2.

<sup>4</sup> Section 59 of the Dutch Aliens Act 2000 and Parliamentary Documents 2010/11, 19 637, no. 1396.

<sup>5</sup> See, for example Leerkes and Broeders: 2010, Mommers and Velthuis: 2010 and Van Kalmthout: 2007.

from the Netherlands to their countries of origin under two conditions: if an irregular migrant has not returned and if other means to effectuate the migrants' return will fail or have already failed.<sup>6</sup>

In recent years the Dutch government has sharpened its return policies, taken an increasing number of measures and offered several return programmes to realize the return of migrants. However, effecting the return of irregular migrants is still complicated by several factors, including the migrants' lack of willingness to return and the lack of valid travel documents, which are required for their return.<sup>7</sup> Despite efforts taken to effectuate return such as the use of immigration detention, an unknown number of irregular migrants prefers staying irregularly in the Netherlands to returning to their countries of origin or migrating (irregularly) to another country. According to estimates, there were for example between 60.667 and 133.624 irregular migrants in the Netherlands in 2009.<sup>8</sup>

The difficulties in the effectuation of the return policies have resulted in several studies on the decision-making processes of migrants regarding voluntary return. These studies show a complex decision-making process in which migrants consider whether to leave on basis of numerous factors. Their decisions are often time and personal dependent. In general it seems migrants' decision-making processes are hard to influence by governmental policies since decisions are mainly based on factors which are either personal or out of the sphere of influence of governments in the destination country. Many authors conclude that the risk of being arrested, detained and possibly repatriated plays only a modest role in the migrants' decision-making process about leaving the country. It is a factor, but it does not seem to be a compelling factor.<sup>9</sup> Consequently the function of immigration detention as a general deterrence to return seems to be modest.

Immigration detention is also considered a specific deterrence for irregular migrants in immigration detention although this is not the governmental intention of detainment with the purpose of removal. Yet in several publications it is stressed that immigration detention is meant to bring about specific deterrence. Specifically the imposition and execution of immigration detention intends to increase the pressure on irregular migrants—while in immigration detention—to leave the country and to cooperate with the repatriation procedure according to these publications.<sup>10</sup> This is also mentioned by the present Dutch Minister of Immigration and Asylum.<sup>11</sup>

However, a study of Prof. Dr. A.M. van Kalmthout et al shows personal factors as the main factor hindering the return of migrants from immigration detention. Specifically, the lack of willingness of the migrants to cooperate on their return hampers their return from immigration detention. This is according to the only known study conducted on possibilities of return of migrants in immigration detention.<sup>12</sup> Van Kalmthout et al mention several reasons for migrants' lack of willingness to return, but they did not place the migrants' intentions to leave centrally in their study.

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<sup>6</sup> According to both international and national law, immigration detention is supposed to be a last resort. See for example Section 9 of the International Covenant on Civil and Political Rights, Section 5 of the European Convention on Human Rights, guideline 6 of the Twenty Guidelines on Forced Return of the Council of Europe and Section A6/1 of the Dutch Aliens Circular 2000. However, there is discussion of whether the Netherlands actually uses this type of detention as a last resort since many irregular migrants are detained in the Netherlands compared to other European countries. For more information see Van Kalmthout et al: 2007. Therefore, the Dutch government has been repeatedly criticized by both national and international organizations. See for example Council for the Administration of Criminal Justice and Protection of Juveniles: 2008 and Amnesty International: 2008.

<sup>7</sup> See Minister of Immigration and Asylum, *Letter on return policies*, 1 July 2011.

<sup>8</sup> Van der Heijden et al: 2009.

<sup>9</sup> See for example Black et al: 2004 and Van Wijk: 2008.

<sup>10</sup> See for example Van Kalmthout: 2007, Leerkes and Broeders: 2010, Mommers and Velthuis: 2010, Amnesty International: 2008, Advisory Committee on Migration Affairs: 2005 and Justitia et Pax: 2010.

<sup>11</sup> Parliamentary documents 2010/11, 19 637, no. 1396 p. 17, 22 and 28.

<sup>12</sup> Other factors related to the country of origin, the difficulties to get travel documents, the treatment of the migrants during the repatriation process and the operationalization of the repatriation process by the institutions concerned with the repatriation. These are focussed on in Chapter 2. See Van Kalmthout et al: 2004.

Besides, several governmental actions have been taken and there have been a few interesting developments since the publication of the study. Therefore, questions arise whether a stay in immigration detention with the purpose of removal influences a migrant's decision-making process regarding return and subsequently to what extent migrants in immigration detention consider it a specific deterrence to return.<sup>13</sup>

## 1.2 A STUDY ON THE INFLUENCE OF IMMIGRATION DETENTION ON MIGRANT INTENTION TO RETURN

These questions have not been answered yet. So far the decision-making processes of migrants *inside* immigration detention about whether to leave the destination country have not been central in any academic study; whereas those of migrants who are *outside* immigration detention have received much attention. This seems to be an omission in the field of research. These questions are relevant since the unwillingness of irregular migrants in immigration detention to return is considered an essential hindering factor for realizing return from immigration detention and since return decisions of migrants outside immigration detention seem to be hard to be influenced by governmental policies. And given that this question has not been sufficiently asked to and answered by those in immigration detention themselves, the International Organization for Migration (IOM) commissioned a study on this subject from the perspective of migrants in immigration detention in the Netherlands.

The study aims to examine the influence of staying in immigration detention on the decision-making process of irregular migrants in immigration detention regarding leaving the country. It will do so by making an inventory of the factors and roles of immigration detention in these decision-making processes. Such an inventory makes it possible to map the influence of staying in immigration detention on the decision-making process of irregular migrants regarding return. Moreover, the study will determine to what extent migrants in immigration detention consider immigration detention a specific deterrence to return to the country of origin.

## 1.3 RESEARCH QUESTIONS

The main question of the research is as follows: To what extent is immigration detention a specific deterrence to return for irregular migrants in immigration detention?

This question will be answered using the following sub-questions:

- Is the willingness of irregular migrants in immigration detention to leave the Netherlands influenced by their stay in detention?
- What role does staying in immigration detention play in the migrants' decision-making process regarding leaving the Netherlands?
- Does immigration detention play a different role in migrants' decision-making processes among migrants with different characteristics?

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<sup>13</sup> Deterrence is a common concept in criminal law which is based on the principle that persons will refrain from certain acts due to negative consequences of such acts. Within this movement it is assumed offenders should be punished to deter potential offenders from committing crimes: potential offenders and society in general will be withhold from committing crimes due to the negative example that has been given to them (general deterrence) and the specific offender will be deterred from committing crimes again due to the punishment itself (specific deterrence). This concept is copied in immigration law in which immigration detention is assumed to be a general deterrence for irregular migrants in the Netherlands not to stay in the country due to the risk of being arrested, detained and forcibly returned (general deterrence to return) and a specific deterrence for irregular migrants in immigration detention to return due to the deprivation of liberty under restrictive conditions (specific deterrence to return). This concept is also used during this study.

- What conditions are imposed on return from immigration detention?
- What are the effects of immigration detention in terms of the number of irregular migrants that return to their countries of origin from immigration detention?

## 1.4 METHODOLOGY

The study below should be considered an explorative study on the influence of immigration detention on the decision-making process of migrants in immigration detention. During this study, different kinds of data collection are used.

The first part of the study consisted of traditional ‘book research’: relevant international and national literature, policy papers and prison papers on detention were studied to describe the theoretical framework for the study. The results of this non-exhaustive research are discussed in Chapter 2.<sup>14</sup>

The second part, data collection, consisted of doing interviews with migrants who were detained in immigration detention under section 59 of the Dutch Aliens Act 2000 because of their irregular stay in the Netherlands.<sup>15</sup> These interviews were conducted in May, June and in the first weeks of July 2011, among migrants staying in the detention centres in Rotterdam, North-Holland location at Zaandam, and in Zeist.

These migrants were interviewed on the basis of a semi-structured questionnaire which was composed on the basis of the book research.<sup>16</sup> An equal number of respondents were identified at each of the three detention centres. This allowed us to examine whether there are any remarkable differences between these centres. Respondents were selected at random on basis of the detention centres’ residence lists. This resulted in an as representative as possible reflection of the detention population at the moment of this study. Due to the tight schedule it was decided to conduct 81 interviews during this explorative study. This did not seem to be a problem since the saturation point had been achieved during the interview process. That is the information obtained during the interviews was only confirmed and hardly any new information was obtained.

It was not easy to find irregular migrants in immigration detention who were willing to cooperate with this research. At the start of the interviews 1.068 migrants were staying in the detention centres in Rotterdam, Zaandam and Zeist according to its residence lists. At first, over 54 irregular migrants in each detention centre were randomly selected from the residence lists of 28 April. These residents were approached individually by the Project Officers of IOM who work in the detention centres.<sup>17</sup> The Project Officers explained the research objectives and contents after which they asked the migrants if they were willing to cooperate on the research. However, not all migrants were willing to cooperate. Reasons stated were because they did not like to talk about their situation or return in general or because they were scared, emotional or they did not trust anyone in detention. Additionally, some of the selected migrants could no longer cooperate because they had already been released from immigration detention or because they were, for other reasons such as transport or hospital visits, not present in the detention centre. Furthermore, some migrants in immigration detention could not be interviewed due to language barriers. Prior to this study, a substantial non-response was expected. For this reason twice as many migrants as necessary were

<sup>14</sup> It should be noted that literature and parliamentary documents which were published after 6 September 2011 could not be taken into account in this study.

<sup>15</sup> These are the so-called section 59-detainees. These irregular migrants are detained on basis of section 59 of the Dutch Aliens Act 2000 because they stay irregularly in the Netherlands. They can be detained if they meet some criteria for forcible return from the Netherlands. In the Netherlands, it is also possible to detain migrants on the basis of article 6 of the Dutch Aliens Act 2000. This concerns migrants who are refused at the border. These detained migrants are not part of the research. These criteria will be clarified in Chapter 2.

<sup>16</sup> This questionnaire, in its English equivalent, is included in Appendix 1.

<sup>17</sup> The role of IOM and its Project Officers in immigration detention is discussed in Chapter 5.

initially selected. This still was insufficient. In the end more migrants were randomly selected from residence lists to ensure that sufficient respondents could be interviewed for this study who for several reasons have not all been approached by a Project Officer of IOM to cooperate on this study. The composition of the research group is presented in the table below:

**Table 1.1: Composition of the research group.**

<b>Total of migrants selected</b>		<b>Number</b>	<b>Percentage</b>
		273	26
Response	Useful interviews	81	8
	Non-useful interviews	7	0
	Total response	88	8
Non-response	Not willing to cooperate	51	5
	Released from immigration detention	48	4
	Language barriers	30	3
	Logistical reasons	15	1
	Total non-response	144	13
Non approached migrants		41	4
<b>Total migrants in detention centres Rotterdam, Zaandam and Zeist on 28 April</b>		<b>1.068</b>	<b>100</b>

The above means approximately 8% of the immigration detention population in the detention centres Rotterdam, Zaandam and Zeist on 28 April 2011 has cooperated on this study.

If a respondent agreed to cooperate with this study, he had to fill out an inquiry form together with the Project Officer. He also had to indicate which language he would like to be interviewed in since, in view of the validity, the interviews were held in the migrants' mother tongue or another familiar language.<sup>18</sup> The interviews were conducted in Amharic, Arabic, Dari, Dutch, English, French, Mandarin, Russian, Serbian and Spanish. Five interviews were conducted using an interpreter by phone because either communicational problems arose during the interview or there was no interviewer available for his preferred language. A team of twelve interviewers was composed of eight employees of IOM, assistant professor in Sociology Arjen Leerkes of the Erasmus University Rotterdam, three students of the same university who were writing a thesis for their Masters degree in Sociology and the author.

The interviewer was selected on the basis of language and availability. If there was a match between respondent and interviewer an appointment was made for the interview. The interviews took place in the consulting rooms of the detention centres where interviewer and respondent could talk in private. The interviews lasted between 45 minutes and 3 hours, depending on how talkative the respondent was and his history both in the Netherlands and immigration detention. Some interviews were conducted in two parts due to the detention centres' daily schedule which states that migrants have to be locked in their cells at 12 and at 5 pm. If the interview was not finished by then a second appointment was made. Some interviews could not be finished at all due to language issues or emotional weight of the topics discussed.

The interviewers recorded the interview or took notes during the interview, depending on the possibilities for recording in the detention centre and the preferences of both interviewee and interviewer. The interviewers wrote the interviews out shortly after they had conducted the interview. They also wrote down their own impression of the interview, the credibility of the respondent, and their main findings regarding the return intentions of the respondent. Eventually 88 interviews were conducted of which 81 interviews were useful for this study. Seven interviews could not be used, either because these were incomplete or because the respondent lacked the

<sup>18</sup> This inquiry form, in its English equivalent, is included in Appendix 2.

willingness or ability to provide sufficient information on their decision-making process regarding return. As a result, the required information was missing in these interviews. It was decided to replace them with respondents who could provide information on the influence of immigration detention on their decision to return. Eventually the data obtained from 81 useful interviews were organised thematically in a database.<sup>19</sup>

The third part of the data collection consisted of a study of the personal files of the respondents, since these files would provide supplementary information. It concerned data not or briefly asked for during the interviews. It was decided to obtain this information through personal files instead of interviews due to the complexity of this information and the burden of lengthy interviews on the respondents. This information was obtained from personal files of IOM, the Immigration and Naturalisation Service [*Immigratie- en Naturalisatie Dienst*] and the Repatriation and Departure Service [*Dienst Terugkeer en Vertrek*].

First, a migrant's personal files at IOM were used to obtain additional information on the migrant's history with IOM and to check the status of the migrant's application. These data were included in the database.

Second, a migrant's personal files of the Immigration and Naturalisation Service were used. These personal files were consulted to collect additional information on the following subjects:

- Year of birth
- Nationality
- Year of arrival in the Netherlands
- Application history regarding residence permits, and more specifically:
  - Number of applications
  - Type of applications
  - Grants, withdrawals and rejections of (applications for) residence permits
  - Current legal status
  - Start date of their irregular stay
  - Numbers and dates of previous stays in immigration detention
  - Possible declarations of undesirable aliens under section 67 of the Dutch Aliens Act 2000

The data collected through the migrants' personal files of the Immigration and Naturalisation Service were included in the earlier mentioned database. It should be noted not all respondents were asked for permission to examine their personal files of the Immigration and Naturalisation Service since the permission of the Immigration and Naturalisation Service to examine the migrants' personal files was granted after the interviews had taken place. However, all migrants who were asked whether their personal files could be consulted gave their permission and the information obtained was used exclusively for this study.

Finally, information of the respondents' personal files from the Repatriation and Departure Service was obtained. This information was not examined by the author but by an employee of the Repatriation and Departure Service using the registration numbers of the respondents.<sup>20</sup> On 22 August 2011 he sent information on the legal status of the respondents up to this date, to find

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<sup>19</sup> It should be noted this does not influence the validity of the conclusions which are drawn in this study. The attempt was to create a representative sample of the total immigration detention population during this explorative study, but the representativeness was already influenced due to the lack of willingness or availability of the migrants in immigration detention. And since only 81 migrants in immigration detention have been interviewed out of an immigration detention population of 8.460 in 2010, the results may not be generalised anyway. For more information, see Chapter 1.5 on the constraints of this study.

<sup>20</sup> It should be noted that only the respondents' registration numbers and their names according to the residence lists of the detention centre were provided to the Repatriation and Departure Service to obtain these data. This information was already known. Which migrants in immigration detention cooperated on this study was also already known, since appointments for interviews with respondents had to be made with employees of the detention centres. However, it was ensured that the stories are not traceable back to individual respondents.

out whether the respondents were repatriated, returned with assistance of IOM, released in the Netherlands, or remained in immigration detention.

At last all the collected data were organised in one database for analysis during which the data obtained in the book research and the interviews were compared and related to each other. This analysis created the opportunity to map the decision-making processes of irregular migrants in detention regarding return, and to determine to what extent migrants in immigration detention consider immigration detention a specific deterrence to leaving the Netherlands. The results of the analysis are discussed in Chapters 3, 4 and 5.

## 1.5 CONSTRAINTS

It should be noted this study had its constraints. One concerns the collection of data. Different kinds of data were used during this study, but the interviews with the 81 irregular migrants in immigration detention were the main source. Except for the information from their personal files it has not been possible to verify the respondents' stories due to time constraints and the lack of data sources. Additionally, the respondents found themselves in an extreme situation during the interviews which might have influenced their stories: why would they reveal their whole story to an interviewer whom they did not know? And are they even able to describe a decision-making process and the influence of immigration detention on this process which might be different at different stages? These questions should always be asked when using interviews for a study, but this question is even more relevant for this research group due to their particular situation of staying in immigration detention. It is far from likely that the migrants mentioned everything weighing on their hearts and minds at the moment of the interview. However, the attempt was to interview them in a familiar language, to show them neutrality of the study, to verify their stories with questions meant for controlling and to arrange interviewers who are familiar with the specific culture and/or language of the irregular migrants. Since the interviews showed many similarities, it has been possible during this explorative study to map the decision-making processes regarding return of migrants in immigration detention from their particular perspective. Nevertheless, this method of data collection could have influenced the reliability and validity of the data obtained.

Furthermore, the research group may not be regarded a representative sample of the entire immigration detention population. Merely 81 irregular migrants in immigration detention were interviewed while about 8.400 irregular migrants are annually detained in immigration detention in the Netherlands. And it cannot be excluded that some selectivity has occurred within the research group. The migrants were randomly selected but not all migrants selected are actually asked for their cooperation and there was a substantial non-response due to the lack of willingness to cooperate on this study, language barriers, the release of migrants from detention before they could be interviewed and logistical reasons. The lack of willingness to cooperate because of emotions, lack of confidence, medical issues and so on was the main reason for non-response. It could reasonably be assumed that migrants who are not willing to cooperate on this study are less willing to leave the Netherlands but this is not guaranteed to be true. The release from immigration detention was an equally important reason for non-response. It could have been a migrant was willing to return and returned from immigration detention, but it might also be a migrant was not willing to return and was released since he could not be forcibly returned from detention. Besides, not all migrants could be interviewed since there were no interviewers available who spoke the languages of these migrants.<sup>21</sup> Lastly, migrants who spent relatively much time in immigration detention might be overrepresented in this study since they had a better chance of being selected

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<sup>21</sup> This concerned mostly Indian and Iranian migrants and some migrants from smaller countries. However, other migrants of these countries were interviewed, since they were able to speak Dutch, English or another language which was known by at least one member of the team of interviewers.



from the residence lists. This means the implications and consequences of the non-responders are not sure. However, this might have its impact on the representativeness of the research group.

In addition it has not been possible to question the respondents on their willingness to return prior to their stay in immigration detention. During their stay they were asked on both their willingness to return prior to their detention and during their detention. Respondents' memories of their willingness to return prior to their detention may be influenced during their stay in detention. However, the respondents were asked about how staying in immigration detention influenced their decision-making process regarding return. A measurement prior to their detention would have been preferable. Still, the method used in this study does create the opportunity to map their decision-making process regarding return during their stay in immigration detention. In the end it also allows the influence of immigration detention within this decision-making process to be determined.

Despite the aforementioned constraints it was possible to map the decision-making processes regarding return of different migrants with different characteristics in immigration detention. It was also possible to determine to what extent the interviewed migrants in immigration detention consider immigration detention a specific deterrence to return. It should be noted that the results of this study only apply to the research group. These cannot be generalised to the total immigration detention population since the research group is not representative for the entire immigration detention population. However, the results of this study do give indications to what extent immigration detention is considered a specific deterrence by at least some migrants in immigration detention. The meaning of this indication should be tested among a more extensive research group, preferably both prior to their stay in immigration detention and during their detention.

## 1.6 READING GUIDE

The results of this study are presented in the underlying research report. In Chapter 2, the decision-making processes regarding return of migrants outside detention, immigration detention in the Netherlands, and the return possibilities of migrants from immigration detention in the Netherlands are discussed on basis of the book research. That chapter shows the context of this study and therefore mainly provides background information on these subjects. The chapters that follow thereafter can be understood without reference to this chapter.

The main findings are presented in the empirical chapters. Chapter 3 is the first empirical chapter. It describes the research group and their developments from their countries of origin up to their stay in immigration detention. It helps to envision the diverse group of migrants interviewed.

Chapter 4, the second empirical chapter, addresses the influence of immigration detention on the decision-making process of the migrants. First, the respondents' thoughts on leaving the Netherlands prior and during their stay in immigration detention are described. Then, the influence of immigration detention on the respondents' intentions to leave is presented and subsequently the respondents' decision-making processes. Thereafter, the role of immigration detention in the decision-making processes between migrants with different characteristics is described. Finally, some conclusions are drawn regarding the different effects of immigration detention on the respondents' intentions to leave.

Chapter 5 is the final empirical chapter. It begins by describing the effects of immigration detention in terms of the number of irregular migrants who returned from immigration detention. Then the return conditions of the Repatriation and Departure Service, IOM and the interviewed migrants are clarified, before the respondents' status on 22 August 2011 is described. Finally, some conclusions on the respondents' leaving intentions and their return possibilities are drawn.

Chapter 6 is the concluding chapter in which the research questions are answered and where is determined to what extent immigration detention may be regarded a specific deterrence to return for the migrants interviewed. Subsequently, the theoretical, policy and research implications are described in a discussion section.

## 2. MIGRANTS' RETURN FROM IMMIGRATION DETENTION

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The possibilities to deprive irregular migrants of their liberties with the purpose of removal have existed in the Netherlands since 1965. However, these possibilities only began to be used in the 1980s, when the number of migrants coming to the Netherlands increased and the social and political climate towards migrants changed. As a result, the first irregular migrants were detained with the purpose of removal. This trend continued after the 1980s, as the policies towards irregular migrants were sharpened and special detention centres for irregular migrants were built. In 2001, the Aliens Act 2000 [*Vreemdelingenwet 2000*] came into force, which created more opportunities to deprive irregular migrants of their liberties.<sup>22</sup> Due to this Act, the sharpened policies regarding immigration and the increased political attention for irregular migration, the number of irregular migrants in immigration detention and the average length of immigration detention increased until 2006. That year, the number of migrants in immigration detention decreased, probably due to a regularization scheme and the expansion of the European Union.<sup>23</sup> This downward trend has continued up to the present.

Immigration detention is a means to effectuate the return of irregular migrants. Yet this is, in actual practice, accompanied by many difficulties. In this chapter the possibilities of return of migrants from immigration detention are central. First the decision-making processes of migrants regarding voluntary return are described. Then immigration detention in the Netherlands will be explained. Thereafter migrants' possibilities for return from immigration detention, governmental actions regarding immigration detention and the governmental influence on migrants' intentions to return will be discussed successively before some conclusions on the return of migrants from immigration detention are drawn.

### 2.1 MIGRANTS' DECISION-MAKING PROCESSES REGARDING VOLUNTARY RETURN

The decision-making processes of irregular migrants, living outside immigration detention, regarding voluntary return have repeatedly been studied. Such studies involve irregular migrants who either returned to their countries of origin or stayed in their country of destination. These studies have been conducted in several countries of origin and destination. The conclusions are quite similar: it is difficult to draw a general picture of the decision-making process of migrants regarding voluntary return since these processes are personal and time dependent. In addition, it is difficult to identify key factors in the decision-making process regarding return, because it is often a combination of factors which make a migrant decide to stay, leave to a third country and perhaps then residing irregularly or to return to the country of origin. Migrants themselves often do not know which are the most important factors in their decision-making processes regarding return. Therefore, it is difficult for researchers to interpret the multiple factors of these processes regarding voluntary return and, based on this, to determine which factors are decisive in migrants' decisions to return voluntarily. Nevertheless, quite a number of researchers mapped the factors in the decision-making process of migrants regarding voluntary return.

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<sup>22</sup> See also Baudoïn et al: 2002 and Corduwener: 2011.

<sup>23</sup> See also Custodial Institutions Agency: 2011.

### 2.1.1 Factors in the decision-making process regarding voluntary return

Migrants' voluntary return decisions are generally complex: such a decision is often made on the basis of multiple factors that are hard to disentangle, even for the person making the decision. A return decision has far-reaching consequences because of its enormous impact on the migrants' and the migrants' families' lives. Therefore, it is impossible to predict accurately whether a migrant will return voluntarily to his country of origin. According to Black et al such a decision is typically made after comparing information about conditions and prospects in both the host and the destination country, as well as information about policy interventions in the form of extra incentives or disincentives to staying or returning. Black et al state that nobody is a perfectly 'rational' decision-maker and, therefore, different people come to different conclusions even on the basis of similar evidence.<sup>24</sup>

Even though it is not possible to generalize the kinds of factors that have a decisive influence on the decision-making processes of migrants regarding voluntary return, different researchers came up with different models to understand these processes.<sup>25</sup> The factors within the decision-making process may be defined as factors on a micro and a macro level, respectively. Among others, Van Wijk made such a distinction in his study for IOM on the decision-making process on voluntary return of irregular migrants and rejected asylum seekers. He stresses that it is not always possible to separate these conditions because the micro and macro levels might be related or even merged. However, he defines conditions on a micro level as those conditions within the private domain of the migrant. The situation of the individual migrant is the starting point for the identification of conditions at this level. This includes the personal, social, and physical well-being of a migrant and the interplay between the individual migrant and his partner, family (members) and social networks. Conditions at a macro level are characterised by features in the public domain of a migrant. This includes the effects and impact of local, (supra) national or international policy, economic and security issues, among others.<sup>26</sup> Black et al make a similar distinction, but these authors use different terminology. They divide these factors into structural and individual factors. Factors at the structural (or contextual) level are broadly divided into political, economic and social factors in both the country of origin and destination. Factors at an individual level are characterized by individual or family-related factors like age, gender and family circumstances.<sup>27</sup> However, regardless of the terminology used, it is widely acknowledged that strictly discerning the two levels is not always possible. According to Van Wijk the distinction between the conditions at those levels is made merely for the sake of the argument.<sup>28</sup>

These factors within the decision-making process may also be divided in so-called push, pull, stay and deter factors on both micro and macro levels. The push and pull factors at the micro and macro level have been used for quite some time to interpret return.<sup>29</sup> Stay and deter factors are a relatively new distinction within the decision-making process of migrants regarding return. Van Wijk introduced these because he observed these factors make migrants either willing or unwilling to return. Therefore, these influence the decision-making process of migrants regarding voluntary return as well. These factors can be described as follows:

- 1 Push factors make migrants wish to leave the destination country.
- 2 Pull factors make migrants want to return to their countries of origin.
- 3 Stay factors make a person wish to stay in the destination country.
- 4 Deter factors withhold a person from returning to his country of origin.

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<sup>24</sup> Black et al: 2004.

<sup>25</sup> See for example Black et al: 2004, Van Wijk: 2008 and Leerkes et al: 2010.

<sup>26</sup> Van Wijk: 2008.

<sup>27</sup> Black et al: 2004.

<sup>28</sup> Van Wijk: 2008.

<sup>29</sup> See for example Black et al: 2004, Advisory Committee on Migration Affairs: 2004 and IOM: 2006.

These factors may differ among irregular migrants with different backgrounds, such as: rejected asylum seekers, migrant workers, family migrants and migrants with other backgrounds. In general, migrants hover between a variety of push, pull, stay and deter factors when it comes to voluntary return.<sup>30</sup>

### **2.1.1.1 Push factors**

Push factors at both the micro and macro levels can be defined as those factors that make migrants wish or even requiring to leave the destination country. Several push factors can be distinguished in the decision-making processes of migrants regarding return.

National policies of a destination country are, for example, considered a push factor at the macro level. These policies may push migrants to return to their countries of origin. For example, rejected asylum seekers may decide to leave their destination country because they do not like the conditions under which they have to wait for their asylum procedure or because they lose all provisions once their asylum claim has been rejected. Irregular migrants in general may decide to return or to move to another country because they are not able to earn money legally due to restrictions on the labour market and the inspection of the labour market. And, finally, the difficulties in gaining access to the housing market, the labour market, health care and other facilities, whenever someone is irregular in a country, may result in the decision to leave that country. In short, (harsh) policies concerning (irregular) migrants may act as a push factor. If (irregular) migrants are not willing to live in such conditions anymore and if they do not see enough chances to build a desired life in the destination country, they might wish to leave this country of destination.<sup>31</sup>

European policies may also be regarded a push factor. Policies regarding the labour market, return, admission as well as the housing market may result in the decision of a migrant to leave the destination country. For example, when Polish migrant workers got access to the European labour market, it was less attractive for Ukrainian migrant workers to come to or to stay in the Netherlands since their jobs were taken by the Polish migrant workers which meant they could no longer work as much as they used to. That was the reason they came to the Netherlands in the first place. Since their mission had failed, they decided to return to Ukraine. This example shows that European policies may act as a push factor in the decision-making process of migrants regarding return. This concerns not only policies regarding the labour market but also European policies regarding admission, return and the rights of migrants.<sup>32</sup>

The health of migrants is also a factor that might make migrants decide to return to their countries of origin. This includes both physical and mental health. When a migrant is physically sick, he might decide to return because he wants his family, loved ones or doctors in his country of origin to take care of him—or even to die amongst them. In addition, the required health care or provisions may not be available in the destination country, which hampers remaining there. Therefore, a migrant's health may also be seen a push factor for return.<sup>33</sup>

In addition, tiredness or frustration of a migrant due to his situation in the destination country may result in his wish to return. For example, when a migrant is frustrated by or tired of his situation in the destination country, he might decide to return if he is not longer willing or capable of to living such conditions. Such tiredness or frustration might be caused, for example, by false promises of 'Golden European mountains' or similar stories told by human smugglers. It could also be caused by financial problems, the lack of work or social network in the destination country, by high rent, someone's marginalization, unhappiness, homelessness, and so on.

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<sup>30</sup> It should be noted that many studies on migrants' decision-making processes have been published. Due to time restrictions, it was not possible to examine all those studies. Therefore, it is not guaranteed that the overview of the factors is exhaustive in the description of the decision-making processes of migrants regarding return.

<sup>31</sup> Van Wijk: 2008, Black et al: 2004, Leerkes et al: 2010, Advisory Committee on Migration Affairs: 2004, Advisory Committee on Migration Affairs: 2005 and IOM: 2006.

<sup>32</sup> Van Wijk: 2008 and Black et al: 2004.

<sup>33</sup> Engelhard: 2004, Van Wijk: 2008 and Leerkes et al: 2010.

Each of these factors may be a push factor for return in itself, but it may also result in tiredness or frustration which are also considered push factors for return.<sup>34</sup>

Migrants may also wish to return to their countries of origin if their migration mission is accomplished or their target is earned. For example, when someone decides to earn a specified amount of money in another country to create better living conditions in his country of origin, he might wish to return when the amount is earned and the better living conditions are realised. The accomplishment of a migration mission is therefore a push factor for return. However, the failure of a migration mission is regarded a push factor too. If it is clear the mission of the migration will not be accomplished, the migrant may wish to return. To illustrate, if a migrant has come to the Netherlands for temporary economical migration, he might be willing to return home if he finds out he cannot earn this money and his migration mission failed.<sup>35</sup>

The awareness of the lack of chances to get a residence permit in the destination country might also be a push factor for return. Migrants often have the hope they will get a residence permit and their stay will be legalized. If they realize this is not likely going to happen, they might choose to return to their countries of origin instead of staying irregular in the country of destination.<sup>36</sup>

Finally, some other push factors are mentioned, like (gambling) debts in the country of destination, the repatriation of other family members and incomplete or incorrect rumours on regularizations.<sup>37</sup> These push factors do not seem to influence many decisions to return of migrants as they are not often mentioned in literature regarding return of migrants.

### **2.1.1.2 Pull factors**

Pull factors on both the micro and macro levels are those factors that make migrants willing to return to their countries of origin. It should be noted that some factors are push factors for the one migrant whilst being pull factors for another. Therefore, some factors which are already discussed in the previous section will be described in this paragraph as well.

The security situation in the country of origin is considered a pull factor on both a macro and a micro level. When the security situation has improved or when it is presumed to be safe in a migrant's country of origin, he might be willing to return. This security situation applies to the political situation, the religious situation, wars, other acts of violence and other aspects that influence the migrant's security in his country of origin. This applies especially to (rejected) asylum seekers who migrated because of the security in the country of origin.<sup>38</sup>

The economic situation in a country of origin is also regarded a pull factor that might make migrants willing to return. If a migrant sees opportunities in the country of origin to get a job, to earn a good salary, to educate his children and/or to have a good life, he might decide to return. Therefore, a good or an improving economical situation in the country of origin, in relation to the life opportunities in this country, may be seen as a pull factor for return.<sup>39</sup> In addition, return assistance is considered a pull factor. Migrants might be willing to return if return assistance is offered since it provides new opportunities regarding life in the country of origin.<sup>40</sup>

A migrant may also be willing to return to his country of origin because he misses this country and/or he feels homesick. Missing one's country and the homesickness are often dependent of the ties a migrant has with his country of origin. It will more often occur if a migrant had a (good) education in his country of origin, if he has been working in his country of origin, if he has social relationships back in the country of origin and if he has an emotional tie with the country of

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<sup>34</sup> Van Wijk: 2008.

<sup>35</sup> Van Wijk: 2008 and Constant and Massey: 2002.

<sup>36</sup> Van Aniel: 1999 and Van Wijk: 2008.

<sup>37</sup> Van Wijk: 2008.

<sup>38</sup> Van Wijk: 2008, Leerkes et al: 2010, Bloch and Atfield: 2002, King: 2000, IOM: 2006 and European Migration Network: 2009.

<sup>39</sup> Van Wijk: 2008, Leerkes et al: 2010, Rodenburg et al: 2005 and European Migration Network: 2009.

<sup>40</sup> Van Wijk: 2008 and Advisory Committee on Migration Affairs: 2004.

origin. The missing of the country and/or the homesickness may then be seen as a pull factor for return to that country.<sup>41</sup>

Relatives or social relations in the country of origin may also function as a pull factor: a migrant might be willing to return to his country of origin if he has relatives or other loved ones left behind in the country of origin. The closer the relationship, the bigger the chance it functions as a pull factor since the migrant will be more willing to be reunited with his relatives or loved ones. If these relatives or loved ones are facing health problems or on occasions when they pass away, migrants will be more likely to return as well.<sup>42</sup>

Most of the described pull factors influence the life opportunities of a migrant in his country of origin. The assumed life opportunities in the country of origin are, therefore, likely to influence the willingness of migrants to return to their countries of origin.<sup>43</sup>

### **2.1.1.3 Stay factors**

Stay factors may be defined as the opposite of push factors. Stay factors on both the micro and macro levels make migrants want to stay in the destination country.

A stricter entrance regime and the lack of possibilities for circular migration within the European Union are considered a stay factor for irregular migrants. They may decide to stay in Europe when they know it is hard to come back to Europe once they returned to their countries of origin. After all, they had to take risks, making the effort and probably pay money to get to Europe the first time. They may not be able or willing to do it all again. Therefore, the possibilities to come back to Europe after a return, and thus the lack of possibilities for circular migrants, coupled with a stricter entrance regime within the European Union (or a specific European country) function as a stay factor in the decision-making process of migrants regarding voluntary return.<sup>44</sup>

The policies regarding irregular stay of migrants within Europe and within European countries might function as a push factor for irregular migrants. However, these policies are considered a stay factor for migrants too. For example, the availability of emergency shelters, health care, education and other provisions may make migrants wishing to stay in the destination country since these facilitate life in the destination country. These might make life in the destination country even better than in the country of origin. Therefore, policies regarding irregular stay may be either a push or a stay factor.<sup>45</sup> In addition, better living conditions in the country of destination in relation to the country of origin are considered a stay factor for migrants too. These better living conditions may be caused by policies of the government regarding irregular stay. But it is not always due to these policies. The conditions in a destination country may, even with harsh policies, be better than in the country of origin. Better living conditions in the destination country are therefore also seen a stay factor for migrants.<sup>46</sup>

The hope of migrants to obtain a residence permit for a European country is also regarded a stay factor. This hope might make migrants want to stay and await a permit, since a permit seems to create an opportunity to succeed in Europe. Even if their hope of a residency permit is not at all realistic, this hope might make migrants willing to stay. Therefore debates on regularisation schemes, rumours of regularisation schemes, categorical protection policies, departure moratoria and other routes to a residence permit are considered stay factors for migrants.<sup>47</sup>

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<sup>41</sup> Leerkes et al: 2010, Black et al: 2004, Advisory Committee on Migration Affairs: 2004, Constant. and Massey: 2002, IOM: 2006, Etlink: 1999 and Al-Rasheed: 1994.

<sup>42</sup> Black et al: 2004, Van Wijk: 2008, and European Migration Network: 2009.

<sup>43</sup> See also Black et al: 2004 and Leerkes et al: 2010.

<sup>44</sup> Van Wijk: 2008.

<sup>45</sup> Leerkes et al: 2010, Etlink: 1999 and Advisory Committee on Migration Affairs: 2004.

<sup>46</sup> Bloch and Atfield: 2002, Black et al: 2004 and Leerkes et al: 2010.

<sup>47</sup> Van Andel: 1999, Leerkes et al: 2010, Van Wijk: 2008, Advisory Committee on Migration Affairs: 2004 and Advisory Committee on Migration Affairs: 2005.

Children in the destination country are considered a stay factor for migrants, especially if the children have been growing up or if they have better life opportunities in the destination country. This might make migrants wish to stay in the destination country, as it is considered better for the children. In addition, falling in love and (new) relationships in the destination country may make migrants decide to stay, even if they do have a family in the country of origin.<sup>48</sup>

A social network or a migrant community in the destination country could make migrants willing to stay in this country too. Such a network or community gives not only emotional support, it also helps migrants to survive in the destination country. Often they receive material support from such a social network or migrant community. This makes it easier to find housing, jobs, help, etc. If migrants do not have such a social network or migrant community in the destination country, they are less likely to stay. They will probably have less emotional ties with and less life opportunities in the destination country.<sup>49</sup>

Health problems are considered both a push and a stay factor within the decision-making process of migrants regarding voluntary return. This concerns health problems of both the migrant and his family. Migrants may be willing to stay in the destination country because the health care, and/or social reactions to the disease are better than in the country of origin. This prevents relatives in the country of origin from having to take physical and financial care of the returning migrant. In addition, health problems function as a stay factor because, due to health problems, migrants are less capable of collecting information and required travel documents for return. Thus, health (problems) functions a stay factor for multiple reasons.<sup>50</sup>

The stay factors described above almost all relate to a migrant's opportunities and his perspective on his life opportunities in the destination country as compared to his country of origin. If the chances regarding security, regularisation, housing, jobs, social relations, health, etc. are better in the destination country than in the country of origin, and if migrants are more tied to the country of destination than the country of origin, they are more likely to stay in the destination country. That is, if there are no other factors that might make them to return. Especially when they took risks, made efforts and/or paid money to come to Europe that they cannot do once again. Therefore, the above described factors can all be considered stay factors within the decision-making process of migrants regarding return.<sup>51</sup>

#### **2.1.1.4 Deter factors**

Deter factors are the opposite of pull factors. These factors hold a migrant back from returning to his country of origin. They may also be distinguished into factors on the micro and macro levels.

A declining or a bad security situation in the country of origin is considered a deter factor within the decision-making processes of migrants regarding return. If he once migrated due to the security situation, he is not likely to want to return if the security situation there has not changed. The reason(s) for migration still stands, which holds a migrant back from returning to his country of origin. This also applies to asylum seekers, whose asylum applications have been rejected.<sup>52</sup>

A declining or bad political situation in the country of origin is also regarded a deter factor to voluntary return. If someone migrated due to the political situation in a country, and if this political situation has not changed, he is less likely to return. Also if the political situation is uncertain or about to change, it might form an obstacle to returning and therefore hold migrants back from returning.

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<sup>48</sup> Black et al: 2004 and Van Wijk: 2008.

<sup>49</sup> Black et al: 2004, Van Wijk: 2008 and Engelhard: 2004.

<sup>50</sup> Engelhard: 2004, Black et al: 2004, Van Wijk: 2008 and Leerkes et al: 2010.

<sup>51</sup> See also Black et al: 2004 and Leerkes et al: 2010.

<sup>52</sup> Van Wijk: 2008, Black et al: 2004, Bloch and Atfielt: 2002, European Migration Network: 2009 and European Council on Refugees and Exiles: 2005.

This applies both to migrants who migrated due to political reasons and to migrants who migrated due to other reasons.<sup>53</sup>

A declining or bad economic situation in the country of origin is also regarded a deter factor. If a migrant left his country due to the economic situation and if this economic situation remained the same or declined, his return is less likely. Even when the economy in the country of origin has recuperated, a migrant may decide to stay in his country of destination due to negative side effects in his country such as high prices or too few good houses. Also, if he did not migrate because of economic reasons but the situation and the conditions in the country of origin are not that good as in the country of destination, he might choose to stay. The adverse economic conditions hold him back from returning. Therefore, the economic situation in the country of origin might be a deter factor for migrants.<sup>54</sup>

Social debt in the country of origin is also a deter factor to returning. If a migrant was the so-called 'chosen one' to migrate, he feels he has to meet the expectations of those who stayed at home. These expectations may consist of sending remittances, saving money or other elements. If the migrant cannot send remittances or if he cannot save money, he cannot meet these expectations. Therefore, migrants may feel ashamed, disgraced, embarrassed, failed, stressed, etc. This social debt in relation to those feelings holds a migrant back from returning to his country of origin. The extent of deterrence may be increased by other migrants from the same area who, unlike the migrant himself, did succeed in the destination country and/or met the expectations of those left behind. Therefore, this so-called social debt is regarded as a deter factor in the decision-making process regarding return.<sup>55</sup>

Financial debts might also withhold migrants from returning to their countries of origin. If they are not able to pay their debts in their countries of origin, they are less likely to return voluntarily. Therefore, financial debts are regarded as another deter factor.<sup>56</sup>

Emotional debt is also seen as a deter factor for migrants: if migrants feel that they are to blame for not keeping in touch with their family members or their social network in the country of origin or if they feel that they failed their migration mission, they are more likely to stay because of this so-called emotional debt to these relatives or social network. The emotional debt makes it so that migrants do not want to face these relatives and social network. This debt, therefore, withholds them from returning and is considered a deter factor for return.<sup>57</sup>

The lack of social relations or changed social relations, may also deter migrants from returning. If a migrant got divorced, or started a new family in the destination country (perhaps without first getting divorced) or if his social relationships changed in any other way, he might be reluctant to return. Therefore, changed social relations can be seen as a deter factor in the decision-making process of migrants. In addition, the death of relatives might make migrants decide not to return to their countries of origin. If they do not have relatives to return to, then they have less to return to. Besides, these relatives are not anymore able to provide help for the return. They cannot help to arrange travel documents and they cannot provide other help once a migrant has returned. This makes it more difficult for a migrant to return to his country of origin. Therefore, he might decide to stay in his destination country.<sup>58</sup>

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<sup>53</sup> Bloch and Atfield: 2002 and Black et al: 2004.

<sup>54</sup> Black et al: 2004, European Council on Refugees and Exiles: 2005, Rodenburg et al: 2005, Van Wijk: 2008 and European Migration Network: 2009.

<sup>55</sup> Van Wijk: 2008.

<sup>56</sup> Leerkes et al: 2010 and Van Wijk: 2008.

<sup>57</sup> European Council on Refugees and Exiles: 2005 and Van Wijk: 2008.

<sup>58</sup> Van Wijk: 2008, Engelhard: 2004, European Council on Refugees and Exiles: 2005 and European Migration Network: 2009.



A migrant's health is also considered a deter factor. If a migrant will not be able to receive health care in the country of origin or if he is incapable of earning a living because of health problems, he is less likely to return. Health is therefore not only a stay and a push factor, but also a deter factor.<sup>59</sup>

Consequences upon return to his country of origin may also withhold a migrant from voluntary return. These consequences may consist of being prosecuted, imprisoned, fined, required to pay alimony, etc. It is not always certain that these consequences will actually occur, but the assumed consequences of a return are regarded a deter factor.<sup>60</sup>

Finally, a migrant is less likely to return to his country of origin the fewer ties he has with that country. If he does not feel at home anymore in his country of origin, or if he does not have a social network or if he lost contact because of the length of his migration, then he may not wish to return. The lack of ties are therefore also a deter factor in the decision-making process of migrants regarding return.<sup>61</sup>

Just like the stay factors, deter factors almost all relate to the life opportunities in the country of origin in relation the country of destination. If the chances regarding security, housing, jobs, social relations, health, etcetera are better in the country of origin than in the country of destination and if migrants are more tied to their countries of origin than their country of destination, they are more likely to return if there are no other factors that might make them stay. Therefore, the factors described above should all be regarded as deter factors within the decision-making process of migrants regarding return since these withhold them from returning to their countries of origin.<sup>62</sup>

### **2.1.1.5 Mingling factors in individual decision-making processes**

All the factors described above may influence the decision-making process of migrants regarding voluntary return. It has been shown that generally it is not one single condition, but a vast variety of conditions affect the decision-making process about voluntary return. Migrants hover between a variety of push, pull, stay and deter factors, both on micro and macro level, or on structural and individual levels. These factors cannot be seen separately. They are almost all related to each other and they often merge. They are dynamic due to changing conditions and values. Yet, there are some general rules. For instance, when push factors in the country of destination and pull factors in the country of origin are absent, it is likely that relatively few migrants will return. And also, when stay factors in the country of destination and deter factors in the country of origin are absent, it is likely that many migrants will return. However, it is not so simple to interpret whether a factor is a push, pull, stay or deter factor, since the effect of a factor may differ and its valuation differs from migrant to migrant.

The dynamic character of voluntary return decisions, in combination with the complexity of voluntary return decisions, makes it difficult to interpret or label the (decisive) effect of the factors in a migrant's decision-making process. The effect of a particular condition on the decision-making process can and does differ between migrants. Nonetheless, various researchers have attempted to rank the different factors in order of importance. King comes to the conclusion that non-economic factors generally weigh more heavily than economic factors and that pull factors in the country of origin are more important than push factors in the country of destination.<sup>63</sup> Black et al also conclude that peace and security in the countries of origin are considered key factors that influence the decision to return voluntarily. These are followed in importance by social and family factors and, more particularly, the location, needs or attitudes of these social relations. Economic conditions or policy incentives were less frequently mentioned or actively discussed by

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<sup>59</sup> European Council on Refugees and Exiles: 2005 and Engelhard: 2004.

<sup>60</sup> European Council on Refugees and Exiles: 2005 and Leerkes et al: 2010.

<sup>61</sup> Black et al: 2004 and European Council on Refugees and Exiles: 2005.

<sup>62</sup> See also Leerkes et al: 2010 and Black et al: 2004.

<sup>63</sup> King: 2000 and Black et al: 2004.

the research group of Black and his colleagues.<sup>64</sup> Leerkes et al also write that the concerns of rejected asylum seekers on their security in their countries of origin are the main factor that withholds them from voluntary return. According to these authors, the differences in security between countries of origin and the Netherlands is of much more importance in their decision-making process on return than differences in the economic situation. However, these rejected asylum seekers might consider voluntary return due to the poor prospects regarding health care, income, housing, security, etc. during an irregular stay in the Netherlands. If the opinion of the migrants on their prospects worsens and if the risk of immigration detention and repatriation increases, rejected asylum seekers are more willing to consider voluntary return or to actually return voluntarily.<sup>65</sup> Finally, there does seem to be a positive link between the health of migrants and their voluntary return intentions. When a migrant is healthy, he is more positive about voluntary return. When migrants are not healthy or when they face mental problems, they are both more and less likely to return voluntarily. The influence of health on the voluntary return decisions of migrants is therefore not unambiguous, especially since health is, in turn, influenced by living irregularly in a country.<sup>66</sup> These diverse findings make it rather difficult to determine which factors are most compelling within the decisions making processes of irregular migrants about whether to return voluntarily.

#### **2.1.1.6 The role of the risk of being arrested, detained and repatriated in migrants' decision-making processes**

The above shows that a multitude of relevant factors can be distinguished within the decision-making processes of migrants regarding voluntary return. This also raises the question of whether the risk of being arrested, detained and possibly repatriated influences the decision-making process of migrants regarding voluntary return.

So far, the conclusion is drawn by Van Wijk that those risks constitute first and foremost a push effect for migrants. Migrants fear being detained and possibly repatriated. Therefore they consider voluntary return to prevent a stay in immigration detention. This is in line with the study of Leerkes et al on return of rejected asylum seekers. These authors state that the threat of arrest, immigration detention and possible repatriation makes rejected asylum seekers consider returning voluntarily to their countries of origin. Although, it does not mean that they do actually return.<sup>67</sup> Finally, the Dutch Advisory Committee on Migration Affairs [*Adviescommissie voor Vreemdelingenzaken*] stated that voluntary return may be only slightly enforced by repressive measures and, thus, by immigration detention.<sup>68</sup>

It is not certain whether those risks have other effects on the migrants' decision-making processes. This, as such, has not yet been studied. On basis of this information the conclusion may be drawn that the role the risk of being arrested, detained and possibly repatriated plays in migrants' decision-making processes regarding return seems modest. Consequently, the general deterrence effect of immigration detention seems modest as well. Irregular migrants do not seem more likely to return voluntarily to their countries of origin due to the threat of being arrested, detained and possibly repatriated.

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<sup>64</sup> Black et al: 2004.

<sup>65</sup> Leerkes et al: 2010.

<sup>66</sup> Leerkes et al: 2010, European Council on Refugees and Exiles: 2005 and Engelhard: 2004.

<sup>67</sup> Leerkes et al: 2010.

<sup>68</sup> Advisory Committee on Migration Affairs: 2004.

## 2.2 IMMIGRATION DETENTION AS A MEANS TO REALIZE RETURN FROM THE NETHERLANDS

Immigration detention is used as a means to realize the return of irregular migrants from the Netherlands. This section discusses the use of immigration detention under Dutch law and in practice.

### 2.2.1 Immigration detention under Dutch law

Immigration detention is part of the return policy of the Dutch government. Its legal basis is laid down in the Aliens Act 2000 and elaborated in the Aliens Decree 2000 and the Aliens Circular 2000. These regulations came into force on 1 April 2001.

This new Aliens Act provides four legal grounds for deprivation of liberty of irregular migrants. Firstly, the liberty of migrants can be deprived on the basis of Section 6 of the Aliens Act 2000. This is a formal means to prevent migrants from entering Dutch territory. It is meant for those persons whose entry is refused because they do not have identity documents or do not fulfil the visa criteria as well as for asylum seekers whose application for asylum is not likely to be granted. To prevent these migrants from accessing the state, they may be detained. This type of detention is called 'border detention'. Border detention is implemented in (units of) detention centres in which the so-called Regulation on Border Accommodation [*Reglement regime grenslogies*] is in force. Currently, there is no agreement on the maximum duration of border detention. It might either last indefinitely or for eighteen months.<sup>69</sup>

Secondly, irregular migrants can be detained under Section 50 of the Aliens Act 2000. This section provides the opportunity to arrest persons in the Netherlands to determine their identity, nationality and residence status. This arrest is permissible either on the basis of factors and circumstances that raise a reasonable suspicion of irregular residency according to objective criteria, or in order to prevent irregular residency. It should be noted that irregular residency is not yet a criminal offence, even though irregular migrants may be arrested under immigration legislation.<sup>70</sup> After their arrest, they can be deprived of their liberty for interrogation for up to six hours, excluding the time between midnight and 9:00 am. This deprivation of liberty may be extended by 48 hours.

Thirdly, irregular migrants may be deprived of their liberty under Section 58 of the Aliens Act 2000. This section is meant for the detention of rejected asylum seekers, but it is hardly used since Section 6 and Section 59 of the Aliens Act offer the same powers.

Finally, the Minister is entitled to deprive the liberty of migrants under the aforementioned Section 59 of the Aliens Act 2000. This measure is meant for migrants who stay in the Netherlands irregularly and who have been given notice to leave the country. This group consists of, among others, rejected asylum seekers, migrants who have crossed the border irregularly, migrants who lost their residence permits and migrants who have overstayed their visa. These migrants are detained after arrest if they are considered a threat for public order or national security, if there is

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<sup>69</sup> There was no time restriction for border detention before December 24<sup>th</sup>, 2010. Then, Directive 2008/115/EC of the European Parliament and the act of the Council of December, 16<sup>th</sup>, 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (the return directive), which came into force. It sets a maximum length of 6 months for immigration detention with an opportunity for a prolongation of twelve months. It is not yet certain whether this directive may also apply to border detention. This is currently being discussed. Therefore, there is not yet agreement on the maximum length for border detention. Currently, legislation is being developed in which the Minister of Immigration and Asylum will not be required to set a maximum length of border detention. However, in practice the detention never lasts more than eighteen months.

<sup>70</sup> The Minister of Immigration and Asylum presented a proposal to criminalize irregular residence in the Netherlands. This proposal has not yet been discussed or approved by the Dutch Parliament. These will probably take place in the autumn of 2011.

prospect for removal and if the deprivation of liberty is justified.<sup>71</sup> These so-called irregular migrants are detained in detention centres in which the Penitentiary Principle Act [*Penitentiare beginselenwet*] is in force. If travel documents are available or if some specific criteria are fulfilled, the detention may last for four weeks according to Section 59, paragraph 4 of the Aliens Act 2000. Otherwise, the detention may last for 6 months and be prolonged with 12 months under directive 2008/115/EC of the European Parliament and the European Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (the Return Directive) as long as there is any prospect for removal, and repatriation is expeditiously dealt with. In the end, the detention should result in the repatriation of the irregular migrant. Since Section 59 of the Aliens Act 2000 is the most common legal ground for immigration detention, this study focuses only on those migrants who are detained under Section 59 of the Alien Act 2000.

### 2.2.2 Immigration detention in practice

Both the current Dutch Minister of Immigration and Asylum and his predecessors consider immigration detention an indispensable tool for the effectuation of the Dutch return policy for migrants. This resulted in an extension of the number of available cells until 2007. By then the number of irregular migrants in immigration detention decreased and the cell capacity for immigration detention diminished accordingly. However, the number of available calls for immigration detention has remained approximately 15% of the total cell capacity in the Netherlands since 2005.<sup>72</sup> Table 2.1 shows the detention capacity over the last five years.

**Table 2.1: Average capacity for immigration detention 2006-2010.**<sup>73</sup>

	2006		2007		2008		2009		2010	
	Number	%	Number	%	Number	%	Number	%	Number	%
Section 59	2.190	66	2.833	75	1.937	70	1.750	72	1.763	78
Section 6	240	7	218	6	223	8	96	4		
Removal centre	880	27	744	20	599	22	596	24	486	22
<b>Total</b>	<b>3.310</b>	<b>100</b>	<b>3.795</b>	<b>100<sup>74</sup></b>	<b>2.759</b>	<b>100</b>	<b>2.442</b>	<b>100</b>	<b>2.249</b>	<b>100</b>

#### 2.2.2.1 The detention population

As stated in the previous section, the influx in the number of irregular migrants in immigration detention has decreased since 2006. This is shown in table 2.2.

<sup>71</sup> The deprivation of the liberty of irregular migrants under Section 59 of the Aliens Act 2000 has been firmly criticized by different kinds of institutions and organizations. According to the critics, too many irregular migrants are detained and hardly any alternatives for detention are used. It is very easy to meet the criteria of Section 59 of the Dutch Aliens Act 2000 in practise. As an example, if an irregular migrant does not have a permanent place of residence, and if he did not leave the country before the expiration of the set time, he is already considered a threat to public order. See, for example Council of Europe: 2008, Hammerberg: 2010, Council for the Administration of Criminal Justice and Protection of Juveniles: 2008 and Amnesty International: 2008.

<sup>72</sup> See, for example [http://www.rijksbegroting.nl/2011/voorbereiding/begroting\\_kst148608\\_19.html](http://www.rijksbegroting.nl/2011/voorbereiding/begroting_kst148608_19.html) (consulted at 27-07-2011); and Council for the Administration of Criminal Justice and Protection of Juveniles: 2008.

<sup>73</sup> Custodial Institutions Agency: 2011.

<sup>74</sup> It should be noted that the percentages in the table are rounded. As a result, the sum of the percentages is not always exactly 100. This applies to all tables in this report.

**Table 2.2: Influx in immigration detention 2006-2010.<sup>75</sup>**

	2006		2007		2008		2009		2010	
	Number	%	Number	%	Number	%	Number	%	Number	%
Section 59	11.080	89	8.487	88	7.743	90	7.260	92	7.547	97
Section 6	1.400	11	1.108	12	842	1012	607	8	265	3
<b>Total</b>	12.480	100	9.595	100	8.585	100	7.867	100	7.812	100

The tables above show that the influx in immigration detention in 2010 consisted of 7.812 migrants. In total 8.460 irregular migrants were detained in immigration detention under Section 59 of the Aliens Act this year.<sup>76</sup> The Custodial Institutions Agency [*Dienst Justitiële Inrichtingen*] wanted to know more about these migrants in immigration detention and started an explorative study on this population. This resulted in an internal report with a profile of the irregular migrants who were detained in immigration detention under Section 59 of the Aliens Act 2000 in 2008.<sup>77</sup> Such a profile is currently being drafted for the immigration detention population of 2010. In addition, the Custodial Institutions Agency published two external reports on the figures of immigration detention in general.<sup>78</sup>

In 2010, 88% of the migrants detained under Section 59 of the Aliens Act 2000 was male, 12% of this group was female. In 2010, the average age was 33 years old. In general, it concerned persons in their twenties or thirties, as is shown in the table below.

**Table 2.3: Detention population by age in 2010.<sup>79</sup>**

Age	Number	Percentage
Under 18 <sup>80</sup>	41	1
18-19 years	353	4
20-29 years	3.523	42
30-39 years	2.725	32
40-49 years	1.300	15
50-59 years	346	4
60 years and older	82	1
Unknown	90	1
<b>Total</b>	<b>8.460</b>	<b>100</b>

Most detained irregular migrants came from Africa and Asia, according to the information of the Custodial Institutions Service. The top 15 of nationalities of the irregular migrants detained under Section 59 of the Aliens Act 2000 are shown in the table below.

<sup>75</sup> Ibid.

<sup>76</sup> Information of the Custodial Institutions Agency, which it will publish in an internal report.

<sup>77</sup> Custodial Institutions Agency: 2009. This is an internal report of the Custodial Institutions Agency. Currently, the profile of the irregular migrants in immigration detention in 2010 is drafted and will be internally published in 2010.

<sup>78</sup> Custodial Institutions Agency: 2011 and Custodial Institutions Agency: 2010.

<sup>79</sup> Information of the Custodial Institutions Agency, which it will publish in an internal report.

<sup>80</sup> It concerns minors who were detained in Detention Centre Rotterdam or Removal Centre Rotterdam, because their forced return could be effectuated within 2 days. This number does not include the unaccompanied minor asylum seekers in immigration detention. In 2010, 219 unaccompanied minor asylum seekers were detained in special juvenile penitentiary institutions. See Custodial Institutions Agency: 2011a.

**Table 2.4: Top 15 nationalities in immigration detention in 2010.<sup>81</sup>**

Nationality	Number	Percentage
Somalia	802	9
Iraq	750	9
Morocco	588	7
Turkey	347	4
Algeria	339	4
Georgia	315	4
China	303	4
Afghanistan	271	3
Nigeria	268	3
India	258	3
Suriname	257	3
Ghana	188	2
Iran	167	2
Sierra Leone	163	2
Eritrea	145	2
Top 15 total	5.161	61
Other nationalities	3.040	36
Nationality unknown	259	3
<b>Total</b>	<b>8.460</b>	<b>100</b>

In 2010, 27% of the detention population previously had been in immigration detention. These migrants have been detained twice or even three, four or even more times. These figures are categorised in the table below.<sup>82</sup>

**Table 2.5: Number of stays in immigration detention of the detention population under Section 59 of the Dutch Aliens Act 2000 in 2010.<sup>83</sup>**

Number of previous stays	Number	Percentage
None	6.205	73
1	1.381	16
2 or 3	661	8
4 or more	213	3
<b>Total</b>	<b>8.460</b>	<b>100</b>

<sup>81</sup> Information of the Custodial Institutions Agency, which it will publish in an internal report.

<sup>82</sup> Custodial Institutions Agency: 2009. This is an internal report of the Custodial Institutions Agency.

<sup>83</sup> Information of the Custodial Institutions Agency, which it will publish in an internal report.

On average, the irregular migrants spent 74 days in immigration detention in 2010, varying from less than a week to up to eighteen months. Women often stay for relatively less time in immigration detention than men.<sup>84</sup> The table below shows the length of immigration detention on basis of the outflow in 2010.

**Table 2.6: The length of immigration detention on basis of outflow in 2010.<sup>85</sup>**

Length	Number	Percentage
< 1 week	511	7
1 - < 2 weeks	1.877	27
2 - < 3 weeks	746	11
3 weeks - < 1 month	709	10
1 - < 2 months	1.036	15
2 - < 3 months	368	5
3 - < 4 months	279	4
4 - < 5 months	213	3
5 - < 6 months	183	3
6 - < 9 months	629	9
9 months - < 1 year	395	6
1 year - < 18 months	98	1
<b>Total</b>	<b>7.044</b>	<b>100</b>

In 2010, the Custodial Institutions Agency also made a distinction in the residence history of the irregular migrants in detention. However, only the most recent applications of the migrants in immigration detention are taken into account. This means an asylum application will not be registered if a migrant applied for a non-asylum residence permit after his asylum request. And, vice versa, a migrant's non-asylum application is not registered if he has applied for asylum afterwards. The table below tallies the most recent application for residence permits of the migrants in immigration detention in 2010.

**Table 2.7: Most recent known residence permits applications of the detention population in 2010.<sup>86</sup>**

Residence permit applications	Number	Percentage
Asylum application	3.254	39
Other residence permit application	649	8
No application history (over-stayers, so-called "bare" irregular migrants)	4.455	53
<b>Total</b>	<b>8.358</b>	<b>100</b>

<sup>84</sup> Custodial Institutions Agency: 2011.

<sup>85</sup> It should be noted that the Custodial Institutions Agency has calculated the average length of immigration detention on the basis of the outflow of migrants from immigration detention. This table shows the length of the detention at a reference date, which clarifies the differences in the figures.

<sup>86</sup> Information of the Custodial Institutions Agency, which it will publish in an internal report. This information is based on the data systems of the Custodial Institutions Agency and the Immigration and Naturalisation Service. Both data systems are linked to each other, which results in the information presented in the table. This link is not possible for 102 migrants who were detained in immigration detention in 2010.

Finally, 14% of the irregular migrants in immigration detention in 2010 were declared a so-called undesirable alien.<sup>87</sup>

### 2.2.2.2 Detention centres

Irregular migrants are detained in detention centres which are specifically intended for immigration detention with the purpose of removal. Irregular migrants used to be detained together with criminal detainees in penitentiary institutions. However, in 2003 a decision was made to create special institutions for the detention of irregular migrants with the purpose of removal. This was due to a shortage of cells and the specialisation of the institutions for the deprivation of liberty of irregular migrants. This is partly why the Temporary Directorate for Special Detention Facilities of the Custodial Institutions Agency [*Tijdelijke Dienst Bijzondere Voorzieningen van de Dienst Justitiële Inrichtingen*] was established in 2003. This Directorate had to find a flexible solution for the shortage of cells for irregular migrants. This search resulted in both the opening of new removal centres at airports for irregular migrants who could be repatriated at short notice and the use of boats for the detention of irregular migrants with the purpose of removal. Later on the Directorate, whose temporary nature was eliminated in 2007, created plans for new detention centres. In 2007, a new detention centre in Alphen aan de Rijn was opened, but this centre was closed in 2010 due to construction defects and leakages. It is not yet known when this centre will reopen. In 2010, a new detention centre in Rotterdam was opened. And, currently, there are plans to build a new detention centre in Schiphol. Eventually, all old detention centres should be replaced by new centres with better facilities according to governmental plans.

Currently, three detention centres are used for immigration detention under Section 59 of the Aliens Act 2000. As already stated, Detention Centre Rotterdam, which opened in 2010, is the most recent. This centre is meant for migrants who are detained under Section 6 and Section 59 of the Aliens Act 2000. It consists of one building situated near Rotterdam–The Hague Airport in Rotterdam. Its capacity is 608 migrants, divided among ten units: seven for men, one for women, one for families, and one for migrants who need special care. All rooms in these units have dual occupancy cells, except the unit for migrants who need special care, who have their own cells. In the family unit, the rooms are connected with each other, which allows families to stay within the same (connected) cell. All cells are equipped with a shower, toilet, sink, telephone, fridge, television and microwave. And, finally, every unit has a recreation room, including cooking facilities, a web shop to order groceries and an open air area. In addition, the detention centre is equipped with a library, sporting facilities, rooms for creative activities, silence centres for religious practices and visitor rooms.<sup>88</sup>

Detention Centre North Holland consists of two locations: the Detention Centre Schiphol and Detention Centre Zaandam. Schiphol is used for migrants who are arrested at the border and detained under Section 6 of the Aliens Act 2000, and also for migrants who are detained under Section 59 of the act, but who will be forcibly returned at a short notice. The migrants in this centre are, therefore, excluded from this study. The centre in Zaandam is used for immigration detention under Section 59 of the Aliens Act 2000 and is, therefore, part of this study. It can house 544 migrants. These are all persons who have never have asked the Dutch government for asylum. This detention centre consists of two anchored boats; the Australia and the Borealis which were opened in 2007 and 2008 respectively. These boats are situated in an industrial area, in a branch of the North Sea Canal. Both platforms are identical, consisting of three floors. The ground floor is offices of the employees and activity rooms, like the fitness room and the room for creative

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<sup>87</sup> Irregular or regular migrants can be declared an ‘undesirable alien’ under Section 197 of the Criminal Act if they, for example, violate the Aliens Act 2000 twice, or after the conviction of an unconditional prison sentence for a crime carrying a sentence of three years or more. These migrants will lose their residence permit and are punishable for being in the Netherlands while they are declared an undesirable alien. This number is provided by the Custodial Institutions Agency. It will be published in an internal report of the agency.

<sup>88</sup> This information was provided by the communication department of Detention Centre Rotterdam.



activities. In addition, the cells for solitary confinement are located on the ground floor. Migrants are detained on the second and the third floors of the boats. All cells in these units are doubles with bunk beds. Each unit has 68 beds. The boats are each equipped with an open air area, a sports area, a library, cooking facilities, recreation rooms, a prayer room, a rooms for creative activities, and a fitness room. Finally, it should be noted that these anchored boats are temporarily used. They will be replaced by new detention centres in 2013.<sup>89</sup>

Detention Centre Zeist is the oldest detention centre. It is on a former army base, where two buildings have been converted for immigration detention since 2002 and 2003, respectively. Building 4 of this detention centre consists of one floor with three double and one single unit. It offers cells for 350 irregular migrants who are detained under Section 59 of the Dutch Aliens Act 2000. Due to the temporary nature of this building, it consists of 'container constructions'. The units in this building are 24 doubles, each with bunk beds. The cells and the recreation room in these units are smaller than both the cells and recreation rooms in building 52. Every double unit is equipped with one open air area. There are separate units for females, males and for migrants who just arrived in immigration detention. Building 52 consists of three levels and six units. Its capacity is 264 detainees. Four levels are meant for irregular migrants in the criminal justice system [*Vreemdelingen in de Strafrechtsketen*]. These migrants are excluded from this study. Two units of this building are so-called extra care units for irregular migrants (male and female) who are psychologically vulnerable. These migrants do not have to share their cell. Building 52 features nine cells for solitary confinement and two open air area. Both buildings are equipped with a room for creative activities, library, fitness room and an outdoors sports facility. Visits take place in the visitor room of building 52, to which migrants of building 4 are transported by bus if they receive visitors.<sup>90</sup>

### 2.2.2.3 Regime

The regime in the detention centres for irregular migrants who are detained under Section 59 of the Aliens Act 2000 is governed by the Custodial Institution Act [*Penitentiaire beginselenwet*], which was initially developed for criminal detention purposes. The act distinguishes two regimes: one of general community and another of restricted community. The former applies to detainees who are convicted for a criminal offense. The latter applies to detainees who are awaiting trial *and* for irregular migrants who stay in detention for the purpose of removal.

This regime of limited community is characterized by restrictiveness: detainees stay in their cells unless there is a scheduled programme. In practice, this means that the detainees can leave their cells from 8:00 am until 12:00 noon and from 1:00 pm until 17:00 pm. They have their lunch and their evening meal in their cells. When the detainees are not in their cells, they spend their time in a long corridor with a recreation room, television, board games, table tennis, cooking facilities, etc. Apart from this, a programme of at least 18 hours a week is offered to the detainees. This consists of sports (2 x 45 minutes a week), outdoor exercise (1 hour a day), library visits (once a week), recreational activities (6 hours a week), spiritual or religious meetings (once a week) and visits (2 hours a week). There are no rehabilitation opportunities like work, education or vocational trainings offered to the irregular migrants in immigration detention. The detainees do have the right to consult a nurse/doctor, dentist, psychologist, lawyer and other social workers. They spend 16 hours a day in their shared cells in the detention centre.

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<sup>89</sup> Inspectie voor Sanctietoepassing: 2010; and [www.dji.nl/Images/DetentieplatformZaandam-nov07\\_tcm93-141303.pdf](http://www.dji.nl/Images/DetentieplatformZaandam-nov07_tcm93-141303.pdf) (consulted on 23<sup>rd</sup> August, 2011).

<sup>90</sup> Inspectie voor Sanctietoepassing: 2010a; and information provided by employees of detention centre Zeist.

Finally, it should be noted that both the detention centres and the regime have been repeatedly criticized in recent since the centres did not offer sufficient facilities. The regime is also said to be too restrictive.<sup>91</sup> The new detention centres are characterized by better and cleaner facilities and they provide more opportunities for detainees. In the new centre in Rotterdam, detained irregular migrants have a telephone in their cell, they can use internet (read-only) under supervision and they can open their own cell door during recreation time. Overall, these new centres are considered to be an improvement for irregular migrants in immigration detention. However, the legal framework for the regime did not change: that of limited community of the Custodial Institution Act is still in force in the detention centres.

#### **2.2.2.4 Alternatives to immigration detention**

Immigration detention is a last resort to realise the removal of irregular migrants from the Netherlands, when other means have failed, but, as shown above, the means of detention is repeatedly criticised. Immigration detention is also an expensive way to realize return of irregular migrants. A day in immigration detention costs 197 euros per person.<sup>92</sup> In 2010, a stay in immigration detention lasted an average 74 days. Therefore, the costs of immigration detention for one person amount on average to 14.578 euros. However, the variations in costs and the price of repatriation are not included in this amount. The actual costs for the repatriation of one migrant from immigration detention are not published, but these are therefore much more than 14,578 euros.

The criticism of the detention centres and the daily regime in immigration detention resulted in a search for alternatives to immigration detention by the Minister of Immigration and Asylum. This search was requested due to the effects of immigration detention and its high costs, but it also has to do with humanitarian reasons. This made the opposition to the current government to urge the present Minister to examine alternatives to immigration detention.<sup>93</sup> As a result, the Minister will start small-scale pilot programmes with alternatives for immigration detention. It is however not yet certain what these alternatives will be.<sup>94</sup>

### **2.3 POSSIBILITIES FOR RETURN FOR IRREGULAR MIGRANTS IN IMMIGRATION DETENTION**

The number of irregular migrants in immigration detention increased until 2006 and the capacity for immigration detention followed likewise increasing until 2007. However, there still was no certainty whether immigration detention was productive or counterproductive for the removal of irregular migrants from the Netherlands. This had not been examined until 2002. Professor Van Kalmthout, Professor in Restriction of Liberty and Deprivation of Liberty in Criminal Law and Immigration Law at Tilburg University and some colleagues noticed this omission in the research field. Therefore, these scholars started to examine the return possibilities of irregular migrants from immigration detention. They studied the factors that hinder, hamper or stimulate return of irregular migrants in immigration detention to their countries of origin. This resulted in an overview of these factors as well as numerous recommendations regarding return from and the effects of immigration detention which was published in 2004.<sup>95</sup>

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<sup>91</sup> See for example Council of Europe: 2008, Hammerberg: 2010, Council for the Administration of Criminal Justice and Protection of Juveniles: 2008, Amnesty International: 2008, Committee on Civil Liberties, Justice and Home Affairs from the European Parliament: 2007, Inspectie voor Sanctietoepassing: 2010, Inspectie voor Sanctietoepassing: 2010a, and Van Kalmthout: 2007.

<sup>92</sup> [http://www.rijksbegroting.nl/2011/voorbereiding/begroting\\_kst148608\\_19.html](http://www.rijksbegroting.nl/2011/voorbereiding/begroting_kst148608_19.html) (consulted at 28-07-2011).

<sup>93</sup> Parliamentary Documents 2010/11, 32 500 VI, no. 49; and Parliamentary Documents 2010/11, 19 637 no. 1396.

<sup>94</sup> Minister of Immigration and Asylum, *Letter on return policies*, July 1st, 2011.

<sup>95</sup> Van Kalmthout: 2004.

So far, this is the only known academic study on return possibilities of irregular migrants from immigration detention in the Netherlands. The study focuses both on characteristics of irregular migrants in immigration detention and factors that influence the return of these irregular migrants from detention. It is conducted in two detention centres, namely, the penitentiary institutions at Tilburg and Ter Apel.<sup>96</sup> In these institutions a downward trend was seen regarding the number of realized repatriations. Less than 35% of the migrants in immigration detention was repatriated from immigration detention in 2003. Simultaneously, an upward trend was identified in the length of the immigration detention, which in 2004 consisted of an average of 80 days. Therefore, Van Kalmthout et al wanted to explore the return possibilities of irregular migrants in immigration detention. This study, which was conducted between 2002 and 2004, consisted of the following three parts:

- 1 an exploratory part in which mainly administrative legal data were collected of 400 irregular migrants, from a sample of all 2,500 irregular migrants in immigration detention in Tilburg and Ter Apel. These data came from six different databases.<sup>97</sup>
- 2 in-depth interviews with a number of migrants in immigration detention.<sup>98</sup>
- 3 an evaluation of experimental return programmes that had recently been started in the above-mentioned penitentiary institutions.<sup>99</sup>

The study resulted in an enormous amount of information that was used to analyse the factors that hinder, frustrate, and stimulate the return of irregular migrants in immigration detention, and to draw some conclusions on the return possibilities of migrants in immigration detention.

### **2.3.1 Factors influencing possibilities for return of migrants in immigration detention**

Prior to the study it was assumed that four kinds of factors would influence the return possibilities of irregular migrants from immigration detention. These were factors related to: personal matters, the country of origin, the treatment of migrants in immigration detention during the repatriation process, and finally the operationalisation of the repatriation process. This assumption proved to be correct.

#### **2.3.1.1 Personal factors**

Personal factors are the main ones that hinder return of irregular migrants from immigration detention, according to Van Kalmthout et al. These authors stated that the (lack of) willingness of migrants in immigration detention to cooperate on their return is the main bottleneck to realize repatriation of irregular migrants from immigration detention. This lack of willingness to return hampers the ability to determine the identity and nationality of migrants and, therefore, the obtainment of travel documents which are required for repatriation of migrants from detention.

This lack of willingness to return was caused by different factors. For many reasons the migrants in the research group faced difficulties in summarizing these factors, but eventually stressed the following reasons for their reluctance to return:

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<sup>96</sup> These institutions have been replaced by other detention centres, and are not used for immigration detention anymore.

<sup>97</sup> This concerned information from: 1) the residence lists; 2) the it-system in the detention centres; 3) the police reports of the aliens police; 4) the files of the aliens registration department; 5) the penitentiary archive; 6) the detention centres; 7) the files from the Immigration and Naturalisation Service [IND]; 8) the unit facilitation return of the immigration and naturalisation service; and 9) the Royal Netherlands Marechaussee.

<sup>98</sup> 276 irregular migrants in immigration detention were interviewed. These migrants were questioned on the basis of a (semi-) structured questionnaire on their background, migration motives, family, residency history, and position towards return. Later on, 61 migrants were interviewed in-depth. This concerned migrants who were still in immigration detention at that time. These additional interviews were meant to gain more insight in the background of the respondents, the causes and context of the migration, their stay in the Netherlands, their arrest, their experiences in detention, their plans for the future and their return possibilities.

<sup>99</sup> Return programmes were evaluated and some interviews with stakeholders in the repatriation process were conducted during this part.

- economic reasons, like enhanced opportunities for jobs and a better future in the Netherlands (mostly mentioned by migrants who never applied for asylum).
- temporary migration or visits which they want to complete (mostly mentioned by migrants who never applied for asylum).
- political or religious reasons (mainly mentioned by rejected asylum seekers).
- family and personal problems (mentioned equally by both groups).
- ethnic conflicts (mainly mentioned by rejected asylum seekers).
- fear and anxiety (mainly mentioned by rejected asylum seekers).
- the fear of not being able to come back to Europe, once repatriated.

The first three reasons were most often mentioned by the migrants, the last four reasons were mentioned less frequently.

It is noteworthy that almost half of the research group stated that they had left their countries of origin permanently, although some were willing to return if the conditions in their countries of origin would improve. In general, rejected asylum seekers were less willing to return than those irregular migrants who never applied for asylum. Irregular migrants without an asylum history had, in general, a more or even too optimistic view of their chances of regular residency in the Netherlands. Therefore, they were not willing to return to their countries of origin. And if these migrants were willing to leave the Netherlands, they wanted to migrate (irregularly) to another country in Europe instead of returning to their countries of origin.

It should be noted that another personal factor hampers the return of migrants from immigration detention, namely the resistance and physical or verbal abuse of migrants during their transport to the airport before their repatriation. Their repatriation failed, therefore, and it was not uncommon that migrants were released after a failed repatriation. Even if migrants are repatriated, this does not mean that they have left the Netherlands permanently. 12% of the migrants who were repatriated by the Royal Netherlands Marechaussee had been repatriated before. This means that a not insignificant number of migrants returns to the Netherlands after repatriation.

Van Kalmthout et al concluded that the stay in immigration detention did not seem to influence the position of those irregular migrants towards return. Only a few migrants changed their position towards return during their stay in detention, according to information of the penitentiary institutions. The scholars were not surprised by this result, since not much was done in the institutions to stimulate the willingness of the migrants to return, that is, except for the experimental courses on construction skills and office automation skills in the institution at Tilburg.

### **2.3.1.2 Factors related to the treatment of migrants in immigration detention**

In addition, factors related to the treatment of migrants in immigration detention influence migrants' return possibilities, according to Van Kalmthout et al. The scholars conclude that not much is done to stimulate migrants' willingness to return through the treatment in detention. This hampers the repatriation process since the willingness of migrants is the main factor that hinders the return of migrants.

This applies to the so-called return officer [*terugkeerfunctionaris*], but also to others in immigration detention. This return officer is supposed to be an intermediate between migrants in immigration detention and the institutions involved in the repatriation process. However, this role is not entirely clear both to the migrants and the institutions involved. The information of the return officers is, therefore, not used by the officers of these institutions, who in turn do not provide their information to the return officer. Apart from this, migrants in immigration detention do not trust return officers, whom they consider to be part of the repatriation process. Return officers do not have many tools to stimulate the willingness of migrants to return. As a result, return officers are insufficiently capable of facilitating return from immigration detention and are therefore unable to stimulate the willingness of migrants to return. This is all according to Van Kalmthout et al.

The same applies to legal aid in immigration detention. In general, migrants in immigration detention were not satisfied with their legal aid. They would hardly get any aid and they were not satisfied with the quality of the aid they received. The longer migrants stayed in immigration detention, the less legal aid they received. As a result, migrants did not know their legal position. According to Van Kalmthout et al this vagueness hampered their willingness to return and thus their repatriation.

Furthermore, hardly any activities were taken to stimulate migrants' willingness to return from immigration detention. In the institution at Tilburg some experimental courses were initiated but there was no clear relation between the courses and the efforts regarding return. The effect of the courses on the willingness of migrants to return was therefore limited. However, no other actions were taken to stimulate migrants' willingness to return to their countries of origin during his stay in immigration detention which eventually hampered their repatriation.<sup>100</sup>

### **2.3.1.3 Factors related to the country of origin**

Also factors related to migrants' countries of origin influenced their possibilities of return from immigration detention. One example: migrants' travel documents are provided by embassies of their countries of origin. The success of a repatriation process is therefore also dependent on the willingness of ambassadors and/or consuls of embassies to provide these documents. Not all officials are equally willing to provide these documents or they are only willing to provide these documents if a migrant wishes to return himself or can present proper proof of their identity. This obviously hinders the return of irregular migrants from immigration detention.

The attainment of travel documents can be a lengthy procedure. Even if an ambassador or a counsellor is willing to provide travel documents, it might take some time before this decision is made and before the travel documents are sent. This time varies from several days to several months or even a year. These procedures may be facilitated by readmission agreements between the Netherlands and a migrant's country of origin, but not all countries are willing to sign such an agreement. As a result, the repatriation processes of migrants from immigration detention are hampered by the difficulties to obtain required travel documents.

Finally, the researchers state the attainment of required documents should be improved regarding presentations of migrants before the embassy, task interpretation by both embassies and institutions within the return process, communication between the stakeholders, execution of presentations and transport to the embassy. These aspects related to the country of origin hinder the attainment of travel documents and therefore repatriation of migrants from immigration detention as well.<sup>101</sup>

### **2.3.1.4 Factors related to the repatriation process**

Finally, Van Kalmthout et al distinguish factors related to the operationalization of the repatriation process as hindering factors for return of irregular migrants from immigration detention.

This concerns, for example, the cooperation with IOM. Not all institutions involved in the repatriation process are willing to cooperate with IOM and, therefore, migrants are not always able to return voluntarily from immigration detention.

In addition, the length of immigration detention is a hindering factor for return. The longer detention lasts the less likely repatriation becomes. During the study of Van Kalmthout et al, 40% of the research group was repatriated during the first three months of the detention. Only 19% of the respondents, who were detained for more than three months, were repatriated. This willingness

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<sup>100</sup> Van Kalmthout et al also describe other factors related to the treatment of the migrants in detention. These refer to the Transport and Support Service of the Ministry of Security and Justice and the Immigration and Naturalization Service. These are not relevant for supporting the study and therefore not discussed here.

<sup>101</sup> Van Kalmthout et al describe more factors that relate to the migrants' countries of origin, which hamper the repatriation process. These will not be described here, since they are not that relevant or they have change since the publication of the study. For more information on these factors refer to the study itself.

was neither influenced by the length of the detention nor by repeated detention. On the contrary, the chance of repatriation got smaller if a migrant was repeatedly detained. Therefore, the conclusion was drawn that lengthy or repeated detention are a hindering factor for return.

Being declared as a so-called 'undesirable alien' was also considered a hindering factor for return from immigration detention. Migrants were less willing to cooperate in their return if their travel document mentioned that they were an undesirable alien. Since it is common procedure to use this term on travel documents, migrants who were declared an undesirable alien were less likely to return. This is also considered a hindering factor for return by Van Kalmthout et al.<sup>102</sup>

## **2.4 RECOMMENDATIONS TO INCREASE THE EFFECTIVENESS OF IMMIGRATION DETENTION**

Until 2004, the possibilities for return of migrants in immigration detention were influenced by these four factors. Van Kalmthout et al conclude that a lot could be done regarding these factors to improve the repatriation process of migrants in immigration detention and to increase the effectiveness of immigration detention. Therefore, they came up with several recommendations. These were addressed to the Dutch government, institutions involved in the repatriation process, and to penitentiary institutions for immigration detention. In this section, the most relevant recommendations will be put forward.

First of all, the willingness of migrants to return should be stimulated, since the lack of willingness is the most hindering factor within the repatriation process. Therefore, motivational techniques and efforts at positive support should be used in which special attention ought to be paid to those personal factors that hinder return. First of all, the role of the so-called return officer should be clarified and better explained to both migrants and institutions involved in the repatriation process. Second, migrants in immigration detention should be informed about their situation in their countries of origin, since the (assumed) situation in the country of origin may prevent them from returning. This information should be provided through the internet and by return officers, spiritual counsellors and ambassadors. Migrants should also be able to use their own mobile phone during their stay in detention to collect such information. In addition, (the quality of) legal aid should be improved so that migrants are aware of their rights. Additionally, different types of penitentiary institutions for immigration detention should be created, since migrants with different backgrounds require different kinds of treatment. Within this differentiation and within the various sorts of treatment, the legal status of a migrant, the reason for his custody and his crime record should be taken into account. Finally, return programmes with a clear link between their activities and return should be offered to migrants in immigration detention. According to Van Kalmthout et al, all these improvements should be made to influence a migrant's willingness to return and, therefore, his return possibilities.

In addition, Van Kalmthout et al state migrants in immigration detention should be offered the opportunity to return voluntarily with assistance of IOM. The study shows migrants might be willing to return voluntarily from immigration detention, but they are not aware they have this opportunity and that IOM can help them. Therefore, the possibilities to return from detention with assistance of IOM should be known to and available for all migrants who wish to return.

Furthermore, the researchers came up with some recommendations regarding the determination of migrants' identities and nationalities on behalf of the attainment of travel documents. They advise to improve the hearings of migrants. They also recommend not mentioning

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<sup>102</sup> Van Kalmthout et al describe more factors related to the operationalization of the repatriation process that influence the return of migrants from immigration detention. These factors concerned the communication between the different institutions involved in the repatriation process, the availability and the accessibility of information, the reliability of the information, and so on. These are left out of consideration, since these are less relevant for underlying study.

the reason for the attainment of travel documents on the attainment itself. The term ‘undesired alien’ should also be avoided on travel documents. This might hold migrants back from returning. Besides, they advise the government to finalize bilateral agreements, which deal with more than just return. They may, for example, facilitate the attainment of travel documents. Furthermore, aliens’ legislation should be translated into different languages, to make it accessible for ambassadors and counsellors. Finally, migrants should be presented in person at the embassy, and differences in tasks interpretation should be clarified. This might help to obtain travel documents and thus to realise a repatriation.

The researchers advise the government to execute the repatriation process as soon as possible; long-term processes reduce the willingness of migrants to return. Therefore the repatriation process should be improved. Information should be shared, all involved institutions should cooperate, lawyers should only start potentially successful procedures, all databases should be accessible for all involved institutions, and so on. Last but not least, detention should only be used as a last resort if no alternatives are available. If there is no other prospect for removal, a migrant should be released. And the result of detention should be registered in such a way that it is possible to measure the effectiveness of immigration detention.

Finally, the researchers come up with recommendations regarding finger prints, liaison officers, counselling after release, prioritising the repatriation of migrants with certain backgrounds, irregular employment, the files of migrants, the booking of flights, and many more. These recommendations are less relevant for this study and will therefore not be taken into consideration.

## **2.5 DEVELOPMENTS REGARDING THE POSSIBILITIES FOR RETURN OF MIGRANTS FROM IMMIGRATION DETENTION**

These recommendations were made in 2005, when the results of Van Kalmthout’s study were published. Since this publication some recommendations have been followed, other relevant developments have taken place and measures have been taken to improve the return possibilities of irregular migrants in general and migrants in immigration detention in particular. The most relevant developments and measures regarding the return possibilities of migrants in immigration detention are discussed in this section.

First, it should be noted that policies regarding irregular migrants have been sharpened with more restrictive measures to enforce and prevent irregular stays in the Netherlands. This development began in the early 1990s and has not ended yet. Even more restrictive measures have been taken to enforce and prevent irregular stay in the Netherlands. This concerns policies regarding return, irregular employment, immigration control, irregular housing, extended compulsory identification, and so on. These measures all have multiple objectives, including the enforcement and prevention of irregular migration and irregular stays in the Netherlands. This should eventually result in a decrease of the number of irregular migrants in the Netherlands.<sup>103</sup>

In addition, a special service was established for the repatriation of irregular migrants from the Netherlands. This so-called ‘Repatriation and Departure Service’ started in 2007. This Service is composed of officers from the Immigration and Naturalisation Service, the Aliens Registration Department [*Vreemdelingenpolitie*] and the Royal Netherlands Marechaussee. These institutions were chosen because they used to take care of the repatriation process and had, therefore, useful experiences with this process. The Repatriation and Departure Service tries to effect the repatriation of migrants both inside and outside detention. Therefore this service appoints a case manager for each migrant who talks with the migrant about return, tries to establish the

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<sup>103</sup> An overview of these measures and its objectives can be found in Kox: 2010.

migrant's identity and nationality, prepares the presentations at the embassy, arranges the required travel documents, and undertakes other actions to effectuate the repatriation.

Eventually, the effectiveness of repatriation processes should be increased by bringing all the necessary actions within these processes together in one service, and by appointing no more than one case manager to a case.<sup>104</sup>

Furthermore, IOM started its project Assisted Voluntary Return from Detention (AVRD) in November 2007. The purpose of this project is to assist those migrants in immigration detention who decide to return voluntarily to their countries of origin. The study of Van Kalmthout et al showed that some migrants in immigration detention were willing to return voluntarily but did not know about the assistance IOM offers towards this objective. Within the AVRD project, Project Officers inform newly arrived migrants in immigration detention of the opportunities to return voluntarily with assistance of IOM. A migrant can then decide whether to use this assistance to return to his country of origin. If a migrant would like to use this assistance, he can contact the IOM Project Officer. The officer will assist the migrant, if voluntary return is possible and the criteria for return are met. This means travel documents will be arranged, transport will be organised and, whenever possible and necessary, inland fees or financial contributions will be offered. The return is mostly arranged within four weeks from the time a migrant expresses his wish to return voluntarily to his country of origin to a Project Officer of IOM. Migrants will not be handcuffed during this transport and they will not get a stamp 'deportee' in their travel documents if they return voluntary with IOM. These are the advantages of a return with IOM, which is, however, only available if a migrant wishes to return himself.<sup>105</sup>

Additionally, a return directive of the European Union (EU) came into force in December 2010. This directive instructs countries within the EU on the return of irregular migrants.<sup>106</sup> It stresses inter alia criteria for the imposition of immigration detention, a maximum length for immigration detention of eighteen months, conditions in detention centres and sensitivities to vulnerable groups of migrants in detention. The exact impact of this directive remains to be seen since there is still no agreement on these aspects yet within case law in the Netherlands.

Furthermore, the role of the return officer in immigration detention has been changed. The name of the function is now 'immigration affairs employee' [*Medewerker vreemdelingenzaken*]. More importantly, a new national job description has been developed for these immigration affairs employees. This should clarify their role in order to optimize the potential of these employees and to facilitate the return process.<sup>107</sup> Eventually, it should result in more willingness and more possibilities of migrants in immigration detention to return to their countries of origin.

Moreover, the imposition and the execution of immigration detention in the Netherlands have changed in several ways since 2004. Children may for example only be detained for a maximum of two weeks, and minors are now detained to a lesser extent.<sup>108</sup> Adults are still detained, but the number of irregular migrants in immigration detention has decreased since 2006 and a small-scale experiment has been started with alternatives for the use of immigration detention for a small group of migrants.<sup>109</sup> As stated above, the detention centres have improved. The detention boats, which

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<sup>104</sup> More information on the Repatriation and Departure Service and its methods can be found at <http://english.dienstterugkeerenvertrek.nl/> consulted at August 22nd, 2011.

<sup>105</sup> More information on IOM and the projects of IOM in the Netherlands can be consulted at [www.iom-Nederland.nl](http://www.iom-Nederland.nl) (last consulted at August, 22nd 2011). In Appendix 3 an info sheet on the AVRD Programme is reproduced.

<sup>106</sup> Directive 2008/115/EC of the European Parliament and of the Council of December 16th, 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

<sup>107</sup> This development can be considered an improvement. However, the Inspectie voor Sanctietoepassing concluded, after an examination of the different detention centres for immigration detention, that the role and the tasks of these immigration affairs employees are still not entirely clear. Therefore, this inspection service recommended specifying the job description even more in an information brochure for irregular migrants and staff in immigration detention. See Inspectie voor Sanctietoepassing: 2010b.

<sup>108</sup> Minister of Immigration and Asylum, *Letter on the limitation of immigration detention for unaccompanied minors*, March 10th 2011.

<sup>109</sup> Minister of Immigration and Asylum, *Letter on return policies*, July 1st, 2011.



were often criticised, have been decommissioned and new detention centres have been build or are planned to be built. Finally, there is currently more differentiation between detainees within the detention centres. These detention centres have, for example, special units for migrants who just arrive in immigration detention. This facilitates informing these migrants about their stay in immigration detention, the purpose of this stay and about their rights. This information should help migrants to come to a decision regarding return. In addition, special units were created for migrants in need of extra care. When indicated, migrants are placed in such a unit where extra care and individual cells are offered. And migrants may be placed in special so-called lee units [*luwte afdelingen*], if they do not have a necessity for a placement in an extra care unit but also cannot be placed in regular units with shared cells. This differentiation should result in more humane conditions in immigration detention, in which migrants have more opportunity to consider return.

Finally, it should be noted that the much criticised regime in immigration detention has not changed. However, some positive changes have been made in the detention centres. These changes apply for example to the treatment of the detained migrants but also to changes in the facilities offered to the detained migrants. The treatment of the detained irregular migrants has, for example, changed due to the training of the guards both in intercultural communication and de-escalating intervention, which have been offered since June 2010. This training is partly offered by IOM and results in a better understanding of the detention population and a more respectful approach by the guards. In addition, more facilities were or will be created in the detention centres, such as the establishment of a consulting hour at the Legal Aid Office [*Het Juridisch Loket*], as well as the establishment of service desks arrival units and units for detainees who need extra care. Additionally, provisions are being made for at least four extra hours for activities for the detainees, more foreign newspapers in the library, a pilot programme for the internet (read-only), a policy for volunteers in immigration detention and more attractive decoration of the visiting room with better facilities for children. There are also plans for the provision of medication for two weeks and an International Classification of Primary Care Codes for irregular migrants after release from detention.<sup>110</sup> Part of these improvements has been partially or fully implemented, others still need to be implemented or improved. These are considered an improvement of the detention conditions for irregular migrants. Nevertheless, the legal framework for the regime in immigration detention should change to make an actual difference regarding the conditions for migrants in immigration detention.<sup>111</sup>

## 2.6 THE INFLUENCE OF GOVERNMENTAL POLICIES ON THE DECISION-MAKING PROCESSES

The question arises whether these measures actually influence the willingness of migrants in immigration detention to return since the influence of governmental policies on migrants' return intentions seems to be modest. The policies in the Netherlands regarding admission and irregular stay in the Netherlands have been tightened, numerous further actions have been taken, and supervision has enormously increased since the early 1990s.<sup>112</sup>

However, Van Wijk has drawn the conclusion that policy makers should be modest about the possibilities to manage voluntary return migration since the impact that policy changes have on the actual decision-making process of an individual migrant is modest.<sup>113</sup> Also the European Migration Network states governmental voluntary return policies only fulfil an additional role in

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<sup>110</sup> Parliamentary Documents 2009/10, 19 637, no. 1353.

<sup>111</sup> *Inspectie voor de Sanctietoepassing* examined the different detention centres for immigration detention. This inspection service concluded that the situation in immigration detention has improved, but that some aspects still need improvements to meet the standards of this Inspectorate. See *Inspectie voor Sanctietoepassing*: 2010b.

<sup>112</sup> For more information, see: Kox: 2010.

<sup>113</sup> Van Wijk: 2008.

migrants' decision-making processes regarding voluntary return, since the factors in these processes are out of the reach of governments.<sup>114</sup> Black et al draw a similar conclusion. These authors suggest a level of realism about the extent to which policy interventions in general can facilitate voluntary return in the absence of political and economic improvements in countries of origin. He concludes that excluding people from employment does not necessarily encourage them to return home. He did not find a clear correlation between employment in the country of destination and inclination to return home. Second, granting permanent status does not necessarily preclude return for the recipients. Their study did not yield a clear correlation between legal status in the country of asylum and inclination to return home.<sup>115</sup> This is in line with other studies on the return of migrants to their countries of origin.<sup>116</sup> Leerkes et al raise the question of how much more ground can be won – in terms of numbers of individuals returning – through a more restrictive policy on illegal immigrants. They stress that numerous measures have been taken to make staying as an irregular migrant in the Netherlands unattractive. Such measures do not seem to have effect on return intentions, since most respondents of their study believe that staying as an irregular migrant is a better option than returning.<sup>117</sup>

Also, different kinds of return programmes do not seem to convince migrants to return to their countries of origin. Return programmes are not considered central in making a decision of whether to return, since this decision is mainly based on other factors. Nevertheless, these return programmes are viewed by migrants as useful and worthwhile once a return decision has been made and a migrant is willing to return. According to Black et al, at that moment, return programmes and assistance definitely help. In particular, assistance with employment, training and financial grants were seen by returnees and potential returnees as the most useful types of return assistance. Return programmes and assistance should therefore be known to migrants.<sup>118</sup>

However, the modest influence of governmental policies on migrants' voluntary return decisions does not mean that nothing should be done to stimulate and facilitate return of migrants and to fight irregular migration. Van Wijk notes that the modest impact of government policy does not imply that policy does not at all influence return migration. His analysis proves that – among many other factors – policy changes can (in)directly affect the decision-making process on return.<sup>119</sup>

## 2.7 TO CONCLUDE

In this section the return possibilities of irregular migrants from immigration detention were discussed. First, it has been shown that such a decision-making process consists of push, pull, stay and deter factors on both the micro and macro levels. It is not entirely clear yet whether the risk of being arrested, detained and possibly repatriated is part of this decision-making process and whether it is a push, pull, stay or deter factor. According to the literature it would be expected to be foremost a push factor, but it might also be another factor. However, the risk of being arrested, detained and possibly repatriated seems to play a modest role in the migrants' decision-making processes about whether to return voluntarily. Consequently, the general deterrence of immigration detention also seems modest.

The Dutch government considers immigration detention an indispensable tool to realise the removal of irregular migrants from the Netherlands. The only study on the return possibilities of migrants in immigration detention shows, however, that return from immigration detention is hindered by several factors. The lack of willingness of migrants in immigration detention to return

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<sup>114</sup> European Migration Network: 2009.

<sup>115</sup> Black et al: 2004.

<sup>116</sup> See for example Kromhout et al: 2006, Olde Monnikenhof and Den Vreede: 2004 and IOM: 2006.

<sup>117</sup> Leerkes et al: 2010.

<sup>118</sup> Black et al: 2004.

<sup>119</sup> Van Wijk: 2008.

to their countries of origin is supposed to be the main hindering factor within the repatriation process from detention. The stay in immigration detention hardly seems to influence the willingness of detained migrants since little was done to stimulate their willingness. Van Kalmthout et al therefore gave a number of recommendations.

Part of these recommendations has been followed. Since the publication of that study several developments have taken place and measures have been taken to stimulate return from immigration detention and to increase the effectiveness of immigration detention. Some of these developments and measures are already finished or implemented; others are still in an experimental phase. Eventually, all these developments and measures should increase the return possibilities of irregular migrants from immigration detention and especially the willingness of migrants in immigration detention to return.

However, the governmental influence on the migrants' decision-making processes about whether to return is modest. The factors within a migrant's decision-making process are generally out of the governmental sphere of influence and authority. Since the lack of willingness of migrants to return is considered the main hindering factor for return from immigration detention, questions arise whether staying in immigration detention does influence the decision-making process of irregular migrants in detention regarding return; and, subsequently, to what extent migrants in immigration detention consider immigration detention a specific deterrence to return.

### 3. COMING TO THE NETHERLANDS, ENDING UP IN IMMIGRATION DETENTION

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The question of whether immigration detention influences the decision-making processes regarding return of irregular migrants *in* immigration detention has not been sufficiently asked to and answered by irregular migrants in immigration detention. Consequently, the question to what extent immigration detention is considered a specific deterrence to return by migrants in immigration detention is still unanswered. This is an omission in the research field. IOM therefore commissioned a study on the influence of migration detention on the decision-making process regarding return of migrants from individual migrants' perspectives.

The empirical results of this study are partly discussed in this chapter which addresses the research group. First, characteristics of the research group are put forward. Then, their situations in the country of origin and during their (irregular) stay in the Netherlands are discussed separately. Thereafter, the migrants' stay in immigration detention is described before some conclusions are drawn regarding developments from their situation in their countries of origin up to their stay in immigration detention.

#### 3.1 RESPONDENTS' CHARACTERISTICS

81 migrants in immigration detention have been interviewed during this study. These respondents were staying in detention centre Rotterdam (27), detention centre Zaandam (27) and detention centre Zeist (27). A supermajority, 90%, of the respondents was male, 10% was female. This is almost exactly the gender proportions found in the entire immigration detention population in 2010. It consisted of 88% male and 12% female.

The age of the respondents varied between 18 and 67 years old. The average age of respondents was 34 years old. This is two years older than the average age of the total immigration detention population in 2010. The table below shows the ages of the respondents.

**Table 3.1: Respondents' ages.**

Age	Number	Percentage
Under 18	0	0
18-19 years	3	4
20-29 years	27	33
30-39 years	24	30
40-49 years	20	25
50-59 years	4	5
60 years and older	3	4
<b>Total</b>	<b>81</b>	<b>100</b>

The respondents came from 36 different countries, namely Morocco (10), China (8), Surinam (8), Iran (5), Afghanistan (4), Ethiopia (3), India (3), Iraq (3), Nigeria (3), Nepal (2), Pakistan (2), Sierra Leone (2), Sudan (2), Turkey (2), Albania (1), Algeria (1), Armenia (1), Azerbaijan (1), Belarus (1), Benin (1), Bosnia (1), Burkina Faso (1), Cameroon (1), Congo (1), Ecuador (1), Egypt (1), Gambia (1), Georgia (1), Ivory Coast (1), Lebanon (1), Liberia (1), Niger (1), Russia (1), Syria (1), Tunisia (1) and Uganda (1). These nationalities are categorised in the table below.

**Table 3.2: Respondents' nationalities.<sup>120</sup>**

Nationality	Number	Percentage
North Africa	13	16
West Africa	13	16
South and Southwest Asia	11	14
Middle East	10	12
Americas	9	11
East and Southeast Asia	8	10
East Africa	6	7
Europe	6	7
Caucasus	3	4
Unknown	2	2
<b>Total</b>	<b>81</b>	<b>100</b>

The most represented countries within this study also occur in the top 15 list of the total immigration detention population in 2010.<sup>121</sup> Respondents from Somalia, Georgia, Algeria, Ghana and Eritrea are either not present or have relatively few participants in the research group. This may be partly explained by the repatriation moratorium of Somalia, which was introduced on 18 March 2011.<sup>122</sup> It is not known why there are less Georgians, Algerians, Ghanaians and Eritreans in the research group compared to the total immigration detention population. But somehow, fewer migrants of these countries were selected for participation in this research and the selected migrants from these nationalities were less willing to be interviewed. However, most respondents come from Africa and Asia just as the total immigration detention population in 2010.

### 3.1.1 Respondents' legal status

Almost all interviewed migrants in immigration detention were staying irregularly in the Netherlands. 94% of these migrants were supposed to leave the Netherlands due to the lack of a residence permit according to their personal files from the Immigration and Naturalisation Service. Four respondents were still awaiting an application for a residence permit. They started this application procedure during their stay in immigration detention and did not have a decision on this application by the close date of the data collection. One respondent was still regular in the Netherlands. Some doubts had arisen about his identity and therefore his residence permit was about to be withdrawn. So he was staying in immigration detention as well.

<sup>120</sup> The countries are divided into regions according to IOM's division of countries.

<sup>121</sup> See table 2.4.

<sup>122</sup> Parliamentary documents 2010/11, 19637 no. 1405.

The files of the Immigration and Naturalisation Service showed that a majority of the respondents had applied for a residence permit in the past. However, 28% of the respondents had never made such an application. The table below shows the types of residence permits the respondents applied for.

**Table 3.3: Respondents' applications for a residence permit.**

Type of residence permits applications	Number	Percentage
Only asylum applications <sup>123</sup>	39	48
Asylum and other applications	3	4
Non-asylum applications	16	20
None	23	28
<b>Total</b>	<b>81</b>	<b>100</b>

In 2010, 39% of the entire detention population had most recently applied for asylum and 8% of the population had most recently applied for another residency permit. 53% of the total immigration detention population had never applied for a residence permit. However, it is not possible to compare both data since these are registered differently: the Correctional Institution Service has only registered the most recent applications of the detained migrants while in this study all applications of the interviewed migrants have been taken into account.<sup>124</sup>

Finally, it should be noted that 16% of the research group had a residence permit in the past. These permits were expired or were withdrawn due to governmental policy changes and/or criminal records. Therefore, these respondents were staying irregularly in the Netherlands as well.

### 3.1.2 Respondents' stay in immigration detention

The length of detention of the research group compared to that of the total immigration detention population seems to differ. The length of detention of the research group varies from some days to 15 months, as shown in the table below:

**Table 3.4: Respondents' length of detention.**

Length	Number	Percentage
< 3 months	25	31
3 – < 6 months	32	40
6 – < 9 months	18	22
9 months - < 1 year	4	5
> 1 year	2	2
<b>Total</b>	<b>81</b>	<b>100</b>

70% of the research group had stayed less than half a year in immigration detention at the time of the interview. 84% of the total immigration detention population had stayed less than half a year in immigration detention in 2010.<sup>125</sup> It is not possible to compare the average length of immigration detention of the research group with the total immigration detention population in 2010 accurately since the start of immigration detention of the research group is not exactly known.

<sup>123</sup> Until the introduction of the new Aliens Act 2000, it was quite common for asylum seekers to apply for asylum and another residence permit at the same time. This is registered in their personal files as such. These applications are considered an asylum application and, therefore, included in this number.

<sup>124</sup> See table 2.7.

<sup>125</sup> See table 2.6.

However, it seems that the research group has spent more time in immigration detention than the total immigration detention population in 2010.

The research group has also been detained in immigration detention more often than the total immigration detention population of 2010. A small majority of the respondents had never stayed in immigration detention before: 56 % of the research group was being detained for the first time while 44 % of the population had been in immigration detention before. Their number stays in immigration detention varied from 2 to 8 times. These numbers are shown in the table below. It should be noted that these figures are obtained from the personal files of the respondents held by the Immigration and Naturalisation Service.

**Table 3.5: Respondents' number of stays in immigration detention.**

Number of stays	Number	Percentage
1	45	56
2	15	19
3	12	15
4	4	5
5	2	2
6	1	1
7	1	1
8	1	1
<b>Total</b>	<b>81</b>	<b>100</b>

In 2010, 27% of the total immigration detention population had been in immigration detention before.<sup>126</sup> Therefore, migrants who have been repeatedly detained in immigration detention are overrepresented in the research group when compared to the total immigration detention population in 2010.

All respondents who had been detained five or more times had been declared undesirable aliens. This does not apply to those interviewees who have been detained more than once but less than five times. Only one third of this latter group has been declared undesirable aliens or might be declared so due to an open governmental request, whereas, two third of this group has not been declared undesirable aliens according to their personal files from the Immigration and Naturalisation Service. Overall, 21% of the entire research group is declared undesirable aliens and for 6% of the respondents a request has been made for a declaration of such a status. These numbers are higher than in 2010 when 14% of the total immigration detention population was declared undesirable aliens according to the internal profile of the Custodial Institutions Agency. The number of undesirable aliens seems therefore to be overrepresented in the research group if compared to the immigration detention population in 2010.

### **3.1.3 Respondents' (irregular) stay in the Netherlands**

Finally, an attempt was made to compare figures regarding the (irregular) stay in the Netherlands of both the research group and the total immigration detention population. However, this appeared not to be possible since there were no figures available on the lengths of the stay in the Netherlands of the total immigration detention population. Nevertheless, the figures regarding the research group are presented to illustrate the respondents' situation in the Netherlands.

<sup>126</sup> See table 2.5.

The respondents' length of the stay in the Netherlands varies from a couple of days to 32 years. The average length is approximately 8 years.<sup>127</sup> The figures are presented in the table below.

**Table 3.6: Respondents' length of stay in the Netherlands.**

Length	Number	Percentage
< 1 year	6	7
1 – < 2 years	7	9
2 - < 4 years	19	23
5 - < 9 years	16	20
10 -< 14 years	13	16
15 - < 19 years	5	6
> 20 years	8	10
Unknown	7	9
<b>Total</b>	<b>81</b>	<b>100</b>

The respondents' length of their irregular stay in the Netherlands is different since many respondents had, at times, also been staying regularly in the Netherlands, due to their (application for a) residence permit and/or visa. The length of the irregular stay of the research group varied from a day to 24 years, with an average length of approximately 3.5 years.<sup>128</sup> This is shown in the table below.

**Table 3.7: Respondents' length of irregular stay in the Netherlands.**

Length	Number	Percentage
< 1 year	10	12
1 – < 2 years	14	17
2 - < 4 years	22	27
5 - < 9 years	18	22
10 -< 14 years	8	10
15 - < 19 years	3	4
> 20 years	3	4
Unknown	3	4
<b>Total</b>	<b>81</b>	<b>100</b>

Some respondents have left the Netherlands during their irregular stay in the Netherlands. They went to other countries to try to get a residence permit, to start a life or just to visit. Eventually, all these interviewees came back to the Netherlands—some because they wanted to be in the Netherlands again, others because they were repatriated from another country to the Netherlands. It should be noted that these stays abroad are not included in the figures. The start date of the

<sup>127</sup> It is not possible to give an exact average length of the respondents' stays in the Netherlands due to the rounding of the respondents' lengths of stays. It was hard for them to remember the exact date on which they arrived in the Netherlands, but they did count the years of their stay. Therefore, this is an approximate average.

<sup>128</sup> It is also not possible to give an exact average length of the respondents' irregular stays in the Netherlands due to the rounding of the respondents' lengths of irregular stays in the Netherlands. In addition, they did not always know when their irregular stay had begun. Therefore, this is an approximate average of the length of their irregular stay in the Netherlands.



irregular stay in the Netherlands is used to calculate the length of the respondents' irregular stay in this country.

### 3.1.4 Consequences for the representativeness of the research group

The above shows several difficulties when comparing the characteristics of the research group to the immigration detention population in 2010 since there are no data available on the length of (irregular) stay in the Netherlands of the total immigration detention population in 2010 and the date regarding the legal status and the length of detention of both groups cannot be compared. It also shows that gender and age of both groups seem reasonably in accordance. This does not apply to the nationalities of both groups. There are for example no or less respondents from Somalia, Georgia, Algeria, Ghana and Eritrea within the research group compared to the immigration detention population in 2010. Besides, the respondents seem to have been more often in immigration detention and the length of their detention seems to be longer compared to the immigration detention population. Furthermore, more migrants in the research group were declared an undesirable alien compared to migrants in immigration detention in 2010.

These differences between both groups may have consequences for the representativeness of the research group. However, it is not yet sure what these consequences are because some characteristics of the research group and because the immigration detention population in 2010 cannot be compared. This affirms the explorative character of this study which should be regarded an indication of to what extent immigration detention is considered a specific deterrence by at least some migrants in immigration detention

## 3.2 LEAVING THE COUNTRY OF ORIGIN, COMING TO THE NETHERLANDS

Intentionally or unintentionally, almost all migrants interviewed found themselves staying irregularly in the Netherlands. But why did they leave their countries of origin in the first place? What kind of life did these interviewees have in their countries of origin? And why did they choose to come to the Netherlands instead of migrating to another country. These questions have been put to the 81 migrants interviewed. Their answers are discussed in this section.

### 3.2.1 Motives for leaving the country of origin

It appeared that the interviewed migrants had different motives for leaving their countries of origin. These motives are categorised in the table below:

**Table 3.8: Respondents' motives for leaving their countries of origin.**

Motive	Number	Percentage
Security	37	46
Economic	30	37
Social	11	14
Under compulsion	1	1
Unknown	2	2
<b>Total</b>	<b>81</b>	<b>100</b>

The main reason given for leaving the country of origin is related to the migrants' or the migrants' families' security in the country of origin. 46% of the respondents reported that they felt unsafe in their countries of origin due to political or religious difficulties, or war and other acts of violence in this country. Therefore, they decided to leave. Sometimes it concerned a well thought

out decision, which is shown in the story of a young Asian man, who said, *“I left my country because of political problems. There was an imminent danger for my life because I was involved in political activities. (10)<sup>129</sup>”* Sometimes this decision had to be made under pressure, as the story of an African shows: *“I wanted to leave because of the tensions in my country. It didn’t matter where I would go. It could be any Arabic or European country. It is a coincidence I have come to the Netherlands. There was someone with a cargo ship who was going to the Netherlands. I paid my passage with some cows and departed. (18)”* The effect was the same: these migrants decided to flee their countries of origin. These migrants originated from West Africa (27%) the Middle East (24%), South and Southwest Asia (19%), East Africa (11%), the Caucasus (8%), Europe (8%) and East and Southeast Asia (3%). Most of these countries are or were affected by war or other acts of violence, although this does not apply to all countries.

Economic motives were also frequently mentioned as reasons for leaving the country of origin. Migrants decided to leave because they did not see sufficient life opportunities there. These life opportunities consisted in general of housing, work, healthcare, retirement provisions, etc. A man from North Africa said, *“I was focused to make something out of my life. In my neighbourhood, I saw relatives, friends and others who had many degrees, but who did not have a job. For example, a very good doctor was selling cigarettes on the corner of the street. This made me unhappy. You can try, but there are no opportunities. (23)”* Sometimes the life opportunities of migrants in the country of origin were not that bad, but it was thought that the life opportunities in another country would be better. Therefore, these migrants decided to leave their countries of origin. All these migrants were hoping for a better life for themselves and/or their families. They came from North Africa (30%), East and Southeast Asia (20%), the Americas (13%), West Africa (10%), Europe (10%), East Africa (7%), South and Southwest Asia (7%) and unknown countries (3%). These countries were usually not plagued by security issues. But the economic conditions in these countries generally offered few opportunities.

Social motives were also mentioned as a migration motive for some respondents. These migrants decided to leave their countries of origin to be with their families, partners and/or friends in another country, or they had to leave their countries of origin together with their relatives because they were minors. This is illustrated in the story of a Latin American man: *“My whole family lives in the Netherlands: my mother, my six brothers and my five sisters. My eldest sister was the first who went to the Netherlands. Back then, I was eight years old. In 2001, I came to the Netherlands. The other members of my family migrated in the meantime to the Netherlands. I did not want to be left alone in my country when my marriage broke down and I had love pangs. (3)”* This made the man the decision to come to the Netherlands too. These interviewed migrants originated from the Americas (46%), North Africa (36%), Middle East (9%) and South and Southwest Asia (9%). These countries are, in general, known for their migrant communities in the Netherlands.

Regarding these migration motives, it should be noted that six respondents did apply for asylum even though they did not leave their countries of origin because of security motives. It is not surprising that this group was not granted asylum, since such permits are meant for those migrants who left their country because of security reasons and cannot get protection in that country.<sup>130</sup> This raises questions on these respondents’ motives in applying for asylum.

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<sup>129</sup> It should be noted that the quotes of the interviewed migrants were not always recorded, and these were not always made in English. It might be that the exact words of the respondents changed due to the lack of records and the translation: however, the gist of the quotes of the interviewed migrants remained the same.

<sup>130</sup> Asylum seekers need to meet different criteria to obtain asylum under the 1951 Geneva Convention relating to the status of refugees (The Refugee Convention) and its 1967 Protocol. According to this convention, asylum may be granted to asylum seekers who are unable or unwilling to return to their countries of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. These (cumulative) criteria are further defined in the Refugee Convention, in case law, and in national law. For more information see Bennekom and Van den Winden: 2011.

On the other hand, there were also two interviewees who left their country due to the lack of security, but they did not apply for asylum in the Netherlands. These respondents were on their way to another country where they wanted to apply for asylum but they were arrested in the Netherlands while en route. Therefore, they ended up in immigration detention just like the other respondents.

Finally, it is remarkable that 48% of the interviewed migrants said that they did not have a plan when they migrated. They just wanted to leave their countries of origin without knowing where they were going to stay, what they were going to do and how long they were going to be away. Like an Eastern European man said: *“I did not really think about it. I wanted to leave. A better life. I thought, ‘I’ll go and see what is going to happen and how it is going to work out. (16)”*

25% of the interviewees planned a temporary migration. They wanted to migrate for some time to achieve their migration missions consisting of earning a set amount of money to realise better living conditions in their countries of origin. These migrants planned to return to their countries of origin once their migration mission was accomplished. An Asian man said for example, *“I wanted to stay in Europe for several years and then return to China. But the Dutch government never stops arresting me. Every time I have saved some money, they put me in detention. I lost everything I had. Every time my life is on track, I get arrested. Now I have to stay in the Netherlands. My planning was really not to stay here, but now I have to. (33)”*

And 21% of the research group never intended to return to their countries of origin. They wanted to migrate and stay away permanently. This also applies to an African man: *“I knew I would never return. There is no future for me in my country. The country will never change. And the problem is also inside the people in my country. There is so much hate and racism. (55)”* For 6% of the research group it is not known whether they had a plan at the start of their migration.

### **3.2.2 The situation in the country of origin**

Like the respondents’ migration motives, the respondents’ situations in their countries of origin varied. Some interviewed migrants stated that they were living under good conditions before they decided to migrate. Other respondents were less satisfied with their living conditions in their countries of origin, such as health, housing and income.

85% of the interviewed migrants said they were in good health during their stay in the countries of origin. Although some interviewees mentioned problems regarding their well-being. Like a man from North Africa said during the interview, *‘I was healthy, but not happy. (2)’* 14% of the interviewed migrants were less positive about their health in their countries of origin. The stories of these migrants show their health varied from reasonable to poor. It is noteworthy that the majority of this group migrated due to security reasons. The health of 1% of the research group is unknown.

In general, the interviews show that the respondents were satisfied with their housing in their countries of origin. 73% of the interviewed migrants stressed they had a good place to live. These places differed from a luxury villa to a small family home. An African man said, *“At first, I was living with my family. Later on, I lived alone in a villa. I had a good job, so my house had to look good as well. (6)”* 14% of the respondents considered their housing in their countries of origin moderate. These migrants were not satisfied with their housing situation. An African man stated, for example: *“I lived with my mother, my four brothers and my three sisters in a small house. In Europe, you have wonderful houses. I was jealous. (63)”* And 6% of the research group said their housing in their countries of origin was poor. These respondents did not have a permanent residence and so they had to sleep in huts or in the streets, as the story of an older Asian man shows: *“I was sleeping in a tent. There was water in the streets and we got electricity from upstairs. (25).”* The housing of 7% of the research population is unknown. Finally, it is noteworthy that a small majority of those migrants who migrated for economic reasons reported being satisfied with their housing situation in their countries of origin. The other respondents who migrated due to economical reasons stated to be displeased with their housing situation.

Respondents who migrated due to economic reasons generally had more difficulties

earning a living in their countries of origin, compared to interviewees who migrated because of other reasons. These respondents stated they had no or insufficient wages. They decided to leave their countries of origin because they saw little opportunity for change. This may be seen in the following story of a man from North Africa: *“It was difficult to find a job without qualifications. Then you only earn 5 euros a day, which is not sufficient. I have been going to school for six years. Then, I went to my father in the mountains. I worked as a farmer for between one and two years. Hereafter, I went back to the city to live with my mother again. There, I could not find a job. (2)”* Interviewees with other motives for migration had, on the contrary, less problems supporting their living. They stressed being satisfied with their standards of living in their countries of origin. As an Asian woman stated: *“I was not willing to leave my country, but it I had to leave because of the situation. Why would I flee if my life was fine? I had a good job, a good income and a nice house. My life was fine. I had no reason to come to the Netherlands. (81)”* In general, 35% of the respondents said they could easily support themselves, 32% said they earned just sufficient money to support themselves and 29% said they earned too little to support themselves. 4% of the research group was not clear about their living conditions in their countries of origin.

The above shows that the interviewed migrants who migrated because of security reasons were in general living under good conditions in their countries of origin. However security issues and the impact of these issues on their well-being allegedly made them decide to leave their countries of origin. Respondents who were leaving their countries of origin because of economic reasons were less satisfied with their living conditions. These respondents were in good health, but they had difficulties supporting themselves. The living conditions vary of those respondents who decided to leave their countries of origin because of social motives. Their stories do not show an ambiguous view on their situation in their countries of origin. The living conditions of some of these interviewed migrants were considered fine by them; whereas the living conditions of others were less satisfactory according to these migrants.

### 3.2.3 Reasons for coming to the Netherlands

All the migrants interviewed within these three groups came to the Netherlands even though they could have decided to migrate to another country as well. The table below shows why these migrants have chosen the Netherlands as a destination country.

**Table 3.9: Respondents’ reasons for choosing the Netherlands as destination country.**

Reasons	Number	Percentage
Unintended (including travel agent)	39	48
Family/partner/friends in the Netherlands	21	26
Positive stories	19	23
Unknown	2	2
<b>Total</b>	<b>81</b>	<b>100</b>

The table shows that almost half of the research group did not intend to come to the Netherlands. The reasons of these respondents for ending up in the Netherlands differ. Some interviewees just wanted to flee their countries of origin and took the first opportunity to leave without it mattering where they would go. Sooner or later they found themselves in the Netherlands, just like one African man who said: *“I got help to leave my country. I had to go and it did not matter where I would go. Only during my journey, I heard something about the Netherlands. (6)”* Other respondents intended to go to another country than the Netherlands, but unintentionally found themselves in the Netherlands due to a transit during their journey. They had to stay (against their will) in this country because they were not able to continue their journey. This is evident in the

story of an Asian man: *“I had a plane transit when I was flying to England. Then, I was told to apply for asylum in the Netherlands. That was not my intention. I did not want to be here, since I do not know anyone or anything in this country. (49)”* And some respondents ended up in the Netherlands unintentionally because of a human traffickers. These migrants wanted to leave their countries of origin and arranged this through a trafficker who choose the destination country and arranged the journey and the documents. These migrants did not intend to come to this specific country; they just wanted to leave their countries of origin and found themselves in the Netherlands because of the travel agent. Like an older Asian man said, *“I just wanted to leave to a foreign country. Smugglers brought me to this country. (30)”* This applied mostly to those interviewed migrants who left their country because of security issues and, to a lesser extent, to respondents who left their country because of economic reasons.

26% of the research group planned to come to the Netherlands. These interviewees decided to migrate to this country because of the presence of family, partners and/or friends in the country. For half of this group this presence of loved ones was their motive to migrate. The other half of these migrants just wanted to migrate to another country and chose to come to the Netherlands, since their acquaintance(s) would be able to help them during their stay in the country. Therefore, they preferred to migrate to the Netherlands over other countries. This applies to a North African man as well: *“My brother already worked in the Netherlands. His boss could arrange a job for me in the same country. That was the only reason to come to the Netherlands. This boss arranged everything for me: papers, social security number, permits. (35)”* Generally, this concerns migrants who migrated because of social and economical motives.

23% of the respondents decided to come to the Netherlands due to the positive stories they heard about the country. These stories concerned both positive chances to obtain a residence permit and positive life opportunities in the Netherlands regarding jobs, wages and housing. This made these migrants decide to come to the Netherlands as is shown in the story of an African man: *“I had a neighbour. He was called ‘the Dutchman’. This man migrated to the Netherlands when he was young and eventually came back. He told me positive stories about the Netherlands. He was very enthusiastic. (...) Since this neighbour was telling me these positive stories, I wanted to try to make my life in the Netherlands too. (23)”* Mostly, interviewees who left their country for economic motives decided to come to the Netherlands for this reason, but also migrants who left their country for security issues wanted to migrate to the Netherlands because of such positive stories.

### **3.3 STAYING (IRREGULARLY) IN THE NETHERLANDS**

Eventually, almost all respondents ended up staying irregularly in the Netherlands because they never applied for a residence permit, applied but never obtained a residence permit or their residence permit expired or was withdrawn. It should be noted that 5% of the respondents only stayed a couple of days in the Netherlands before they were arrested. 15% of the interviewed migrants did not actually stay irregularly in the Netherlands: as soon as their regular residence had ended, they were arrested and detained in immigration detention. Until this time, they were living in governmental reception or departure centres and receiving weekly allowances. One respondent was still regular in the Netherlands. All other interviewed migrants, 80% of the research group, were staying for a short or longer term irregularly in the Netherlands. In this section, the living conditions of all respondents during their (irregular) stay in the Netherlands are discussed to illustrate the developments that these migrants have gone through. In succession, the respondents' health, housing, income, security, social network during their stay in the Netherlands will be addressed, as well as information on their countries of origin.

52% of the research group stated their health did not change during their stay in the Netherlands. They regarded it as good (48%) or acceptable (4%) as in their countries of origin. 35% of the interviewed migrants stressed their health had deteriorated during their stay in the Netherlands.

They stated they were facing more (mental) health issues in the Netherlands. This concerned migrants in good health (27%), acceptable health (4%), poor health (1%) and unknown health (2%). Their deteriorating health was not confirmed by medical professionals, but these respondents had the notion that their health was deteriorated due to stress, age and tough living conditions. This is shown in the story of an African, who mentioned that these complaints were caused by his troubled life in the Netherlands: *“My stomach complaints worsened in the Netherlands. And I had a lot of migraine, a painful pulse and pain on my chest here. I’ve been to a general practitioner and I had medical examinations in the hospital. I got medication. (...) I’ve had mental therapy for two years and I got medication for my psychological problems as well. (6)”* 7% of the respondents said their health had improved during their stay in the Netherlands. This involved migrants in good (2%), acceptable (2%) and poor health (2%). Their health had mainly improved due to a safe environment, better living conditions, and (better) healthcare. An African man stated that *“It is better now because I had free treatment at the hospital. (13)”* Developments in the health of 6% of the research group remained unknown. Finally, it should be noted that the developments in the migrants’ health do not seem to be related to their motives to migrate.

The developments of the migrants interviewed regarding housing in the Netherlands neither seem to be related with their migration motive. 73% of the research group said they were satisfied with their housing in the country of origin. In the Netherlands, 49% of the respondents were content with their housing. These migrants were living in reception or departure centres, renting a house or a room, living together with a partner or relative or staying in another stable place. This is, for example, displayed by the story of a woman from the Middle East: *“First, I lived three years in an Asylum Reception Centre. Afterwards, I have slept at my mother’s place for two years. Then, I went to Ter Apel but I got negative again. I’ve slept there until I was thrown into the streets. I went to my mother again, but I also slept at the places of friends and acquaintances. They all helped me very well. (65)”* 25% of the research group said that their housing in the Netherlands was acceptable since they were not constantly able to arrange their own housing. Therefore, these respondents had to ask friends, shelters or organizations for a place to sleep. Otherwise, they would be sleeping in the streets. This applies to an older Asian man, who said: *“If I have money, I’ll rent a place. If I don’t have money, I’ll either stay at friends’ places or at the train station. (30)”* 18% of the respondents reported having poor housing. These migrants were dependent on others for a place to sleep and slept several times in the streets because they did not have any other place to go to. *“I was living with friends or on the streets. (10)”* was for example said by an Asian man. What the housing situation of 2% of the research population was, is not known. A comparison between the interviewed migrants’ housing situation in their countries of origin and the Netherlands shows the housing of 48% of the research population has not changed. According to their own reports, their housing conditions remained similar. The housing of 33% of the respondents worsened, while the housing of 6% of the research group improved. For 12% of the research group the difference is not known.

The ability of most interviewed migrants to earn their living did change during their stays in the Netherlands. Nevertheless, 37% of the research group could still afford their living costs or they were still not able to earn an acceptable living. However, 31% of the interviewed migrants said that their position had improved during their stay in the Netherlands. Contrary to their time in their countries of origin they were able to support their living standard or they could afford a better lifestyle during their stay in the Netherlands. This does not apply to 20% of the research group. According to their stories, their position had worsened and they were not able to afford their standard of living during their stay in the Netherlands. One Asian man said, *“Most of the times, I could buy my food. Sometimes not. Then I went to De Regenboog or the Army of Salvation. Or I ate at my friends’ places. (5)”* It is noteworthy that in general the position of those interviewed migrants who migrated due to economic motives improved during their stay in the Netherlands, whilst the position of respondents who migrated for other reasons worsened. This is not surprising, since the original position of those migrants who migrated because of economic reasons was

generally not that good contrary to those migrants who migrated for other reasons, and especially for those migrants who migrated because of security reasons.

The security of 48% of the research group had improved since they were in the Netherlands: *“Of course I’m safe here. (3)”* It is remarkable that not only interviewees who migrated for security reasons (33%), but also respondents who migrated for economic (10%) or social reasons (5%) felt more secure in the Netherlands than in their countries of origin. The feelings of security of 31% of the research group remained the same. This is true for interviewed migrants with all different motives for migration, who felt either safe or unsafe in their countries of origin. Finally, 12% of the interviewed migrants felt less safe in the Netherlands than in their countries of origin. These concerned interviewees who migrated because of economic motives. They were anxious about the risk of imprisonment because of their irregular stay. Also, an older Asian man said *“I felt safe. But now, everybody is telling me I have to return while I don’t want to return. However, they do what they want to do. Therefore, I feel less safe. (25)”* The feelings of security of 9% of the research population during their stay in the Netherlands are not known.

The social network of the respondents was also addressed in the interviews since this provides information on the social ties of the interviewees in the Netherlands. 54% of the interviewed migrants claimed to have a strong social network during their stay. These migrants had partners, family and/or friends in the Netherlands to fall back on, if necessary. This does not apply to all respondents: 35% of the migrants did not have a solid social network in the Netherlands. These migrants had only a limited number of social relations or their social relations were not that strong. As a result, these migrants had fewer opportunities to ask for help when they needed it. Not much is known about the social network of 11% of the research population). These results show that a majority of interviewees did have a (strong) social network in the Netherlands. This applies especially to those respondents who migrated due to social motives, since these migrants often have a solid social network in the Netherlands to fall back on.

A social network demonstrates the interviewed migrants’ ties with the Netherlands. An attempt was made to obtain more information on the respondents’ ties with their countries of origin. The respondents were asked whether they assembled information about the situation in their countries of origin during their stay in the Netherlands. A majority of the respondents did collect information on their countries of origin. 53% of the interviewed migrants informed themselves through friends, internet and media. These migrants wanted to know what was going on in their countries of origin like this Latin American man: *“Through the news on Dutch television and radio, or through the internet. (...) provides a lot of information. I keep myself posted since I want to know what is going on. In my country, but also in the Netherlands and in the rest of the world. And through my network and through organisations, I get a lot of information. That is nice, since it creates a feeling of home. That is why I also look at programmes on the television, which gives people in the Netherlands and my country the opportunity to call the studio. (3)”* 33% of the interviewed migrants did not get any information on the situation in the country of origin sometimes they watched the news or they heard something on the radio, but they were not consciously looking for this information since they did not really feel connected to their countries of origin anymore. A respondent stated for example, *“I’m totally not concerned with my country. I live for myself and I do not feel connected to my country. My country is where I’m living. (7)”* There is a cohort of 14% of the research population about whom it is not known whether they collected information about the situation in their countries of origin during their stay in the Netherlands. Their motives for migration do not seem to relate to the extent in which respondents inform themselves on their countries of origin and to what extent they have ties with their countries of origin.

### 3.4 ENDING UP IN IMMIGRATION DETENTION

Eventually, all interviewed migrants found themselves in immigration detention with the purpose of removal. They were arrested on different occasions.

26% of the interviewed migrants were arrested by the regular police because of a suspicion of a criminal offence. These criminal offences concerned on the one hand crimes for which respondents were imprisoned in criminal detention prior to their custody in immigration detention, like the Eastern European man who said, *“I was arrested because I sold drugs. I was doing this for three or four months. Probably they were already after me a while before they arrested. (...) I was wrong. I was doing something which wasn’t allowed. But now, my punishment is over. 7 months ago it was already over. Now, I’m still detained because they want to repatriate me. (16)”* On the other hand, it applied to offences like riding a bicycle without a light or using public transport without a ticket. These migrants (sometimes) got fined for these offences. They ended up in immigration detention because legally they were supposed to leave the Netherlands. This also applies to a man from West Africa: *“I rode my bike without light. Then the police stopped me. They asked me to show them my identity papers, but I had nothing because I’m illegal in the Netherlands. (28)”*

15% of the research group said they had been arrested after they received a negative decision on their asylum application. They were then arrested in a reception or departure centre and subsequently detained in immigration detention with the purpose of removal. A young Asian man said, *“After my asylum request was rejected by the IND and the court, I was given 28 days to leave the Netherlands. I was told that I was illegal. When I was in the Asylum Reception Centre, I was arrested. I was brought to a police station; I do not know whether it was in Almelo or Venlo. After two days I was brought to detention centre in Rotterdam. Even though I did not commit any crime.” (53)*

14% of the respondents were arrested in the streets. These migrants claim not to understand why they were stopped by the police since other people in the street were not stopped. Nevertheless, they were arrested and detained because of their irregular stay in the country. This is shown in the story of an Asian man: *“I was walking home when I got arrested. I do not know why. Maybe because it was late. It was after midnight when the police asked me for my ID, which I don’t have. That’s why they arrested me. (33)”*

7% of the interviewees were arrested during an inspection of the Labour Inspectorate [*Arbeidsinspectie*]. These migrants were working, although they were not allowed to work. They got caught and arrested. Since they were not allowed to stay in the Netherlands, they soon found themselves in immigration detention. A Eastern European man said, *“I was arrested during my work. Everybody was checked: 15 or 20 people. I got arrested since I did not have papers; the others were not. (4)”*

Other interviewed migrants were arrested during border patrols, because of so-called Dublin Claims from other European countries on the Netherlands and during stamping for their reporting requirement. Finally, 28% said that they were arrested because they did not lawfully reside in the Netherlands. Due to the lack of additional information, the exact reason for and the location of their arrests remained unclear.

#### 3.4.1 The detention conditions

The interviewed migrants were detained in three detention centres, namely in Rotterdam, Zaandam and Zeist. Some migrants have also been in several (other) detention centres due to transfers or previous detention in immigration detention.

A substantial majority of the research group, 74%, considered the detention conditions in these centres to be poor, due to the restrictive programme in detention, the lack of sufficient day activities, the sober cells, the food, the lack of fresh air, etc. A Latin American man stated: *“It’s really bizarre. I’m here while I didn’t commit a crime. I did not get a release date while the biggest criminals do get a release date. They call us residents, but we are not because we don’t have a key. We’re just prisoners. I’ll handle myself because I speak Dutch, but the others do not because they do not know*



*what they are up to. It's like a sheltered workshop: staff can only open doors, that's all. The way staff acts upon us isn't normal. I can handle it because I can talk myself out of it, but others cannot. Then, the fat is in fire. There is a fight, there will be swearing, people fly off the handle and people will be isolated. In the isolation cell, they are treated like criminals. (3)*" These respondents stated that restrictive detention conditions made their stay in immigration detention unnecessarily hard.

12% of the respondents had the opinion that the detention conditions were neither good nor poor. A man from the Middle East stated for example: *"It's a prison. And a prison is a prison. You have no freedom. No freedom and you cannot do what you want. But locked up is locked up. Then, conditions do not matter anymore. (66)"* These migrants did not face any particular problems because of the detention conditions during their stay in immigration detention and were, given the situation they were in, satisfied with the situation in the detention centres.

12% of the interviewees considered the conditions in the detention centres to be fine. These respondents stated, without being asked, the conditions in the detention centres were better than the detention conditions in their countries of origin and/or the conditions during their irregular stay in the Netherlands. This is evident in the story of a young man from North Africa: *"The detention conditions are good. I receive medication. That is very important for me. If you are outside, you don't have a doctor and you don't have the right to have the medicaments. (...) Here, my health is now better since I receive the medicaments for Hepatitis C. (60)"* Finally, it should be noted that the opinion of one of the respondents on detention conditions is not known.

Many interviewees wanted to talk about the detention conditions for hours. But since it is already addressed in several reports, it was decided to limit the focus on this subject.<sup>131</sup> However, some aspects of the detention conditions were taken into account, since these might influence migrants' decisions regarding return according to the literature on return.

It should for example be noted that 60% of the research group stated their (mental) health had deteriorated during their stay in immigration detention, compared to their stay in the Netherlands. According to these interviewees, this deterioration was mainly due to the uncertainty of their future, the restrictiveness of the regiment and the lack of sufficient fresh air. This comes to light in the story of a man from the Middle East: *"Every day is the same. That's bad. The food is the same, everything is the same. The weeks keep on going. There are no possibilities. Many people say a criminal prison is better than this. But it is improved. Last time on the boat in Dordrecht was really bad. Now it is okay. But the system is not correct (...) My health is not good. Physically and mentally. I have more pain compared to my detention because I do not exercise that much. This all causes stress. That is no good. (41)"* Similar things concerned relatively many interviewees who had migrated for security reasons.

In addition, 52% of the research group said that their ties with their social network were influenced by their stays in immigration detention. These migrants had less contact with their children, partners, families and/or friends or their contacts were not that good anymore. This was usually because of immigration detention's security and privacy restrictions. An African man stated: *"I haven't accepted visitors here. I'm ashamed. If people visit me, they'll cry and then I'll start to cry. I don't want that. I don't want them to see me like this. Calling is nice, but I rather don't have visits. I don't want to bother them, because it is far and expensive to come here. (6)"* The detainment had its impact on respondents' social networks in both countries of origin and destination. This applies similarly to interviewees who had different motives for migration.

Besides, it is noteworthy that 65% of the respondents stated they still had similar information on their countries of origin, meaning the amount of information was not substantially influenced by their stay in immigration detention. This concerned on the one hand migrants who

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<sup>131</sup> See for example, Council of Europe: 2008, Hammerberg: 2010, Council for the Administration of Criminal Justice and Protection of Juveniles: 2008, Amnesty International: 2010, Amnesty International: 2008, Justitia et Pax: 2010, Van Kalmthout: 2010, Committee on Civil Liberties, Justice and Home Affairs from the European Parliament: 2007, Inspectie voor Sanctietoepassing: 2010, Inspectie voor Sanctietoepassing: 2010a, Van Kalmthout: 2007 and Custodial Institutions Service: 2008.

had collected information on their countries of origin during their stay in the Netherlands, like a Latin American man, who said: *“I don’t have news here about my country. I don’t have a radio and I don’t have internet. Only TV, but no channels of my country. I only have information of the news. (3)”* On the other hand it concerned migrants who hardly informed themselves on their countries of origin during their stay in the Netherlands.

### 3.4.2 Justification

Furthermore, respondents were asked whether they thought their detainment in immigration detention was justified and whether they considered the detention conditions to be appropriate given the reason for their detention.

83% of the research group had the opinion their stay in immigration detention was not justified. An African man described his thoughts as follows: *“Absolutely not. Criminals are less punished in the Netherlands than we are. Murderers are sometimes released after a year. Even in my country we have a more justified system. There, the sanctions are in proportion to the crime. It is not normal that you are in prison for almost a year for nothing? (...) They say the Netherlands is a democracy. Why are journalists not allowed in the prison to show them what is going on? (71)”* Part of these respondents did not understand why they were detained in immigration detention since they thought they could not be repatriated due to the security situation in their countries of origin, or the lack of (possibilities to obtain) travel documents. Many interviewees within this group did understand their detainment with the purpose of removal, although they did not consider it to be justified. But they did not understand the conditions in the detention centres, their repetitive detainments or the length of their stay in immigration detention. An African man explained it as follows: *“The conditions are tough. The most difficult of all is that I did not do anything wrong and that I’m detained like a criminal. I also see it by others. You cannot understand that you’re detained for months in a row and that you are treated like a criminal. If I would have done something wrong, I could accept it. But now it is impossible. There are guys who totally go crazy here. They come out of their rooms naked or do other weird things. They are losing it. Fortunately, I’m pretty strong, but often I cry deep down inside because of the situation here. Especially if I think about my mum. (18)”* These respondents did not understand why their return was not realised with another means. An African man stated for example: *“They’ve never asked me if I wanted to return prior to my imprisonment. (70)”* All these interviewed migrants, who relatively often migrated for security or social motives, faced difficulties in accepting their detainment with the purpose of removal. They thought their detainment under such conditions was not justified.

12% of the respondents did understand their custody. They accepted the Dutch policies regarding return and immigration detention. They were, in general, not content with their situation but they accepted the consequences of their irregular stay in the Netherlands. These migrants thought their detainment was justified. Or like a man from the Caucasus said: *“I actually think it is justified. The Immigration and Naturalisation Service has reason to send me back and I do understand these reasons. I don’t like it, but I do understand it. (32)”* Most of these respondents migrated because of economic reasons. However, they did not all agree on the way detention was imposed and executed. A Eastern European explained it as follows: *“I think it is justified if people are detained once. But people should not be detained for a second or a third time if they cannot be repatriated. You damage people this way. And it doesn’t work anyway. Why would you try again? The Netherlands should try something else if it doesn’t work out. They cannot repatriate people, but they do damage people like this. Life is too short. And you get old very fast if you keep on coming here over and over and if you keep on being detained. (16)”* Finally, it should be noted that almost half of this group had criminal records which is relatively much compared to the group that did not legally their stay in immigration detention.

For 5% of the research group is not known whether they thought the detainment and the detention conditions were justified.

### 3.4.3 Well-being

The respondents' opinions on the detention conditions and the justification of the detainment had an effect on the respondents' well-being during their stay in immigration detention. It appeared that the well-being of many interviewed migrants generally decreased due to the detainment. The extent of decrease varied. Some respondents stated their well-being decreased dramatically due to the detainment: their physical and mental health decreased due to the detainment and they felt harmed by their stay in immigration detention. It is hardly possible to describe this in the words of the respondents, but an Asian man explained it as follows: *"My health is not good. Since my detainment, I got several diseases. I've a lot of stomach aches: I'll wake up in the middle of the night. Then, I want to see a doctor but it takes one or two months before the right one comes. And I've headaches and pain in my shoulder now. For my shoulder, I get medication. I took it two times, but further not. It is not paracetamol, but something like that. It didn't help: my complaints remain the same. I'm waiting for the doctor. I'm not happy in the prison. I think my situation is pretty sad: my life was in danger in my country and that's why I came here. And then I come in prison: it is really surprising and it makes my heart bleeding. (67)"*

Other respondents' stories showed their well-being decreased to a lesser extent: their health was (largely) not deteriorated, but their well-being was. This is, for example, shown in the story of a man from the Middle East who tells as follows: *"You're locked up. You don't know when you will be free again. You cannot sleep, eat. You're together with others in a cell, you shower together. It's disgusting. Just disgusting. I don't get it. I don't come for money or anything, I come for security. Now, I'm here. In my country I never had problems with the police and in Europe I'm detained. (22)"* A Latin American man told the following: *"I'm just a bit stressed about what is going to happen. I talk in my sleep and I struggle in my sleep. Therefore, I visited a psychologist. My cellmates were facing problems because of me. That's why they gave me my own room. Due to my struggle, I was waking other people up. (26)"* And a man from the Middle East stated the following: *"I've a lot of stress because I don't see my daughter. I'm very afraid they're going to repatriate me. I really do not want to return, because I'll be imprisoned for eight years because of I fled my country without a stamp. I'll commit suicide if they force me to return. (40)"* Also the story of another Asian man shows a sharp decline in his well-being. He said: *"My health is fine. I have headaches sometimes because of the stress, but I'm never sick. I think a lot about what is going to happen, but there is no one to talk to. I don't want to discuss my problems with the people over here. I rather stay in my cell and think. (...) This makes me think a lot and that my head is full. As a result, I can hardly sleep. I try to sleep during the day, but that is difficult because of the noise and because of my cellmate. (1)"*

And finally, some respondents hardly show any decrease of their well-being, like a young man who said: *"I'm fine, but it is really nasty to be locked up. (7)"* And also another Asian man stated his well-being did not deteriorate, although he was having difficulties with his situation: *"I don't have any problems with my health. As for my well-being, I'm just coping with the situation. What can I do? There's no freedom in here, but whether I like it or not, I cannot do a thing about it. Of course I don't like it, I miss my freedom. Nobody would like to be detained for more than 9 months. (14)"*

It seemed the impact of the detainment on the respondents' well-being was relatively less when a respondent thought the detainment was justified and/or considered the detention conditions good. These migrants did not appreciate their stay in immigration detention, but they generally faced fewer problems in accepting their situation. However, this does not apply to interviewees who migrated for security reasons and/or those who applied for asylum. Their well-being decreased relatively greatly and they often felt harmed by the stay in immigration detention. This raises

questions on the harmful effects of immigration detention to migrants' health.<sup>132</sup>

A group of the respondents was incapable of considering their future anymore due to their detention. This applies, for example, to Asian man who stated it as follows: *"I don't see a future. I'm still in detention. How can I see a future? In order to think about the future, I have to have some basic living conditions. As long as I'm here, I don't have basic living conditions. (...). I have thought about maybe save some money and start something of my own, whether it is in my country or in the Netherlands. But now, I'm really numb and cannot think about the future anymore. (33)"* This was mainly caused by respondents' deteriorated well-being due to the detention.

Finally, it should be noted that those respondents who spend relatively much time in immigration detention were less positive about their well-being.

### 3.5 TO CONCLUDE

In this chapter the living conditions of the migrants in their countries of origin up to their stay in immigration detention have been described in order to show the changes they have undergone since the start of their migration. As was shown, the interviewed migrants stated that they left their countries of origin for several reasons before they came intentionally or unintentionally to the Netherlands. The situation in their countries of origin differed according to the interviewees. Some migrants had good living conditions before they left, others were facing difficulties. Also their situations in the Netherlands varied. Some had been capable of building a good life here, others were struggling to survive. Eventually they were all arrested and ended up in immigration detention.

The information in this chapter creates the opportunity to distinguish migrants with different characteristics within the research group. This distinction is based on the respondents' motives for migration and their developments as from their lives in their countries of origin up to their stay in immigration detention.

The first group consists of interviewed migrants who reportedly left their countries for security reasons. These migrants generally came from countries which are, or were, affected by war or other acts of violence. In general these migrants were satisfied with their life in their countries of origin. However, they thought their life was in danger and decided to flee their countries of origin to ask for asylum in another country. Some of these asylum applications were granted; others were rejected. Eventually all these migrants ended up irregularly in the Netherlands for a shorter or a longer time. In general, their living conditions remained the same or worsened compared to their conditions in their countries of origin. And they did not have solid social networks. However, they felt more secure, which was really important to this group. This changed when these migrants were imprisoned. Their feelings of security decreased and other aspects of their well-being reportedly deteriorated due to their custody and fear of being repatriated. The impact of their detention on the well-being of these migrants was relatively high according to their personal responses to interviewers.

The second group consists of respondents who migrated for economic reasons. These respondents came from countries which were generally not plagued by security issues, but which offered little opportunities due to the economic situation. The respondents within this group were in general not satisfied with their living conditions in their countries of origin and decided to migrate to realise a better standard of living. Part of this group succeeded, part did not. Their living conditions remained similar or declined compared to the conditions in their countries of origin.

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<sup>132</sup> There are indications of harmful effects of immigration detention on migrants' well-being. See, for example Jesuit Refugee Service-Europe: 2010 and Justitia et Pax: 2010. In Australia, several studies have been conducted on this theme: these studies do show a harmful effect of immigration detention. See, for example Steel et al: 2006, Coffey et al: 2010 and Newman et al: 2008. However, it should be noted the Australian situation differs from the Dutch situation.

After a shorter or longer (irregular) stay in the Netherlands these migrants ended up in immigration detention as well. These migrants allegedly faced difficulties regarding the detention conditions and stated that their health deteriorated as well. However, their stories show their well-being was not harmed to a same extent as those respondents who migrated for security reasons since they did not fear a possible repatriation as much.

The third group of migrants that can be distinguished within the research group concerns respondents who migrated for social reasons. These migrants generally came from countries which are known for their migrant communities in the Netherlands. These respondents decided to come to the Netherlands because of a partner, family and/or friends in the Netherlands. In general, they considered their living conditions in their countries of origin fine. This changed in the Netherlands where their living conditions differed from a strong improvement down to deterioration. But they always had their relatively strong social network to fall back on in case they needed any help. The impact of the arrest and custody in immigration detention varied among the interviewees within this group. Some respondents stated their well-being was strongly harmed; others did not mention such a decrease in well-being during their stay in immigration detention.

## 4. THE INFLUENCE OF IMMIGRATION DETENTION ON MIGRANTS' INTENTIONS TO LEAVE

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It is possible to distinguish migrants with different characteristics within the research group, namely, those who migrated for reasons of security, economic motives or social motives. This tripartite distinction is mainly based on the respondents' migration motive, but also relates to the respondents' developments from their time in their countries of origin up to their stay in immigration detention. This distinction is relevant in this chapter on the influence of immigration detention on migrants' intentions to leave since it will be determined whether the influence of immigration detention on the leaving intentions is different for migrants with different characteristics.

First, the respondents' intentions to leave prior to and during their stay in immigration detention are put forward. Then, the influence of immigration detention on the respondents' intentions to leave is clarified. Thereafter, the respondents' decision-making processes are described in which the different factors within these processes and the different effects of immigration detention on migrants with different characteristics are taken into account. Finally, the role of immigration detention plays within these decision-making processes is explained. Some conclusions regarding the influence of immigration detention on intentions to leave of migrants with different characteristics are drawn.

Prior to reading this chapter, it should be noted that it addresses the migrants' intentions to leave instead of intentions to return. The respondents were asked whether they were willing to leave the Netherlands to make sure that no answers would be excluded. This appeared to be necessary since some interviewees were not willing to return to their countries of origin but they were not willing to stay in the Netherlands either.

### 4.1 THOUGHTS ON LEAVING THE COUNTRY PRIOR TO IMMIGRATION DETENTION

All respondents eventually ended up in immigration detention in the Netherlands. Prior to their detainment, they might have considered leaving the Netherlands. Therefore the respondents were asked whether they were willing to leave the Netherlands during their (irregular) stay in the Netherlands.<sup>133</sup> The table below shows the respondents' answers to this question.

**Table 4.1: Respondents' willingness to leave the Netherlands prior to their stay in immigration detention.**

Willingness	Number	Percentage
No willingness to leave the Netherlands	64	79
Willingness to leave the Netherlands without returning to country of origin	8	10
Willingness to return to country of origin	5	6
Doubtful about leaving the Netherlands	3	4
Not applicable	1	1
<b>Total</b>	<b>81</b>	<b>100</b>

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<sup>133</sup> In Chapter 1 it is put forward that the respondents' memories of their intentions to return might be influenced by their stay in immigration detention. Therefore, the respondents were also asked on the role of immigration detention in their decision-making processes and whether they thought their stay in immigration detention influenced their willingness to return. The latter is discussed in Chapter 4.3.

The table shows 79% of the interviewees said that they were not willing to leave the Netherlands prior to their arrest. Some of them considered leaving, but they eventually decided to stay in the Netherlands. An African man told an interviewer, for example: *“Before I was arrested, I already considered return. I wanted to marry my girlfriend, but I first had to go to my country for a language test and a visa. (2)”* Other respondents have never even considered leaving the Netherlands. As an Asian man stated: *“I only thought about returning when I was detained. (5)”* Return was no option to these migrants. This is manifested in the story of a man from the Middle East: *“I request you not to talk about return. That is a waste of time. If I was able to return, I would. But I’m only human. I cannot return due to my problems. These problems are caused by my conversion to Christianity, by issues with the Secret Service and by the report of my uncle because I converted his daughter. (66)”*

10% of the interviewed migrants were willing to leave the Netherlands, although they were not willing to return to their countries of origin. For several reasons, these respondents wanted to migrate irregularly to another European or Western country. Due to their arrest, these respondents could not execute their plans to leave the Netherlands. Some of them were arrested at the border when they were actually migrating irregularly to another country. This applies to an Asian man who said the following: *“When my asylum request was rejected, I decided to leave the Netherlands. I was underway to Germany when I was arrested. (52)”* Others were arrested prior to the realization of their plans.

6% of the interviewed migrants were willing to return to their countries of origin prior to their arrest, but these migrants had not been able to realize their return plans before they were arrested. These migrants had different return motives. Some include: they could not deal with their irregular stays in the Netherlands anymore, they did not have any more opportunities in the Netherlands, they had strong ties with their countries of origin or they had relatives who wanted them to return. Since it took these interviewees some time to obtain their required travel documents and/or to realize their return, they were arrested prior to the realization of their plans. This is shown by the story of an Asian man: *“I want to return to because I heard my country has developed very much. I saw it on the television that it has become a very developed country. It’s just that I don’t have documents. (30)”*

Finally, 4% of the research group was having doubts regarding leaving the Netherlands: prior to their arrest they had not decided yet whether to stay or to leave. Like an Asian man said: *“Even before I was detained I was already considering leaving the Netherlands. (14)”*

#### **4.2 THOUGHTS ON LEAVING THE COUNTRY DURING IMMIGRATION DETENTION**

Regardless the respondents’ leaving intentions prior to their detainment, they all found themselves eventually in immigration detention with the purpose of removal since they were no longer permitted to stay in the Netherlands. The respondents were asked about their willingness to leave the Netherlands during their stay in immigration detention. Their answers are shown in the table below.

**Table 4.2: Respondents' willingness to leave the Netherlands during their stay in immigration detention.**

Willingness	Number	Percentage
No willingness to leave the Netherlands	45	56
Willingness to leave the Netherlands without willingness to return to country of origin	15	19
Willingness to return to the country of origin	12	15
Doubtful about leaving the Netherlands	9	11
<b>Total</b>	<b>81</b>	<b>100</b>

It is perhaps not surprising more respondents considered return once they were detained. This had to do with their detainment in itself and with the focus on return during their stay in immigration detention, including interviews with officers of the Repatriation and Departure Service and the attitude of the security officers in detention which was aimed at the respondents' return. Therefore, the detainment made many respondents realize they were not permitted to stay in the Netherlands. Mostly this was already known by the interviewed migrants, but their arrest and their detainment made them more aware of a possible forced return. This also applied to an interviewed woman: *"In detention, in the prison, I am every day confronted with the message I have to return. Every day people come to tell us we have to return because the government does not want us. (...) In the detention centre I'm over and over confronted with the return message. That's why I've started to considerer return more. (65)"* And since the interviewed migrants spent a lot of time in their cells and since they did not have many activities during the day, they had a lot of time to consider whether to leave the Netherlands.

However, considerations alone do not make people leave. This is evident also from the table above which shows that a majority of the research group is not willing to leave the Netherlands. In fact, 56% of the interviewed migrants had no intention to leave the country during their stay in immigration detention. 19% of the respondents were willing to leave the Netherlands, but they were not willing to return to their countries of origin: these migrants wanted to migrate (irregularly) to another European or Western country. 15% of the research group was willing to return to their countries of origin during their stay in immigration detention. And 11% of the research group did not know yet whether they were willing to leave the Netherlands. They had not made a decision so far.

### 4.3 THE INFLUENCE OF IMMIGRATION DETENTION ON DECISION-MAKING PROCESSES

If the figures regarding the respondents' willingness to leave the Netherlands *prior* to their stay in immigration detention and those from *during* their stay in immigration detention are compared, it appears that more interviewed migrants were willing to leave the Netherlands once they found themselves in immigration detention, more respondents were willing to return to their countries of origin and more respondents had become doubtful about whether to leave the country. However, the respondents' increased willingness to leave the country is not necessarily caused by their stay in immigration detention since their leaving intentions may be changed by other factors as well. For this reason, the respondents were asked whether their intentions to leave the Netherlands were influenced by their detainment with the purpose of removal:<sup>134</sup>

<sup>134</sup> Due to constraints regarding the representativeness of the research group, it was decided not to use percentages to clarify effects or influences. This should prevent the suggestion of attempted representativeness.



It appeared the leaving intentions of a firm majority of the research group were not influenced by their stay in immigration detention. These interviewees had made a decision whether or not to leave the Netherlands and this decision remained the same once they were detained with the purpose of removal.

Half of this group had no intention to leave the Netherlands prior to their detention and they still did not have any intention to leave the country during their detention. These interviewees were waiting for their release to continue their irregular stay. They hoped they would not be repatriated from detention. Therefore, they were generally not cooperating towards their return during their stay in immigration detention. A Latin American man stated, for example: *"I'm not going to cooperate on my return because I want to do things myself. Staying in detention cannot change this. My view remains the same. (64)"* However, due to the detainment some of these migrants did realise the importance of legalization. An interviewed woman stated for example: *"The deprivation of my liberty does make me realise the importance of papers. Actually, it is my own fault. My boyfriend often started to talk about my papers, but I did not want to discuss it. I thought about work and other stuff. I thought: 'Let it be.' Only now I'm here in detention, I realize the importance of papers. That's why I want to arrange it now so that I can be free. (64)"*

Both prior to and during their stays in detention part of these interviewees had the intention to leave the Netherlands. These migrants were still not willing to return to their countries of origin but they did not want to stay in the Netherlands either. Therefore, they decided to leave the Netherlands and to migrate to another European or Western country. Part of the interviewees was arrested during the execution of these irregular migration plans. Staying in immigration detention did not change these migrants' intentions. They were only waiting for their release to execute their plans to leave the Netherlands. This is shown by the story of a young Asian man: *"After my asylum request was rejected by the Immigration and Naturalisation Service and the court, I was given 28 days to leave the Netherlands. I decided to leave the Netherlands to go to Germany. On my way to Germany, on the Dutch-German boarder I was arrested, because I did not have a legal document. (...) Detention did not change my intentions to leave the country. Before I was arrested, I decided to leave this country. And I will leave the Netherlands if the Dutch authority releases me from the detention centre. However, I will not return to my country because of the reasons that I mentioned there before. (52)"*

A small part of the interviewees was still willing to return to the country of origin. These migrants were, in fact, already willing to return prior to their detention and they were still willing to return during their detention. For various reasons, the return of these migrants was not yet realised at the moment of the interviews. This is, for example, shown in the story of an elderly Asian man: *"My intention to return to my country is the same. I cannot speak Dutch. When I see the doctor, he doesn't understand what I say. I don't understand what he says. It's no use. It will be much better in my country. (...) I cannot return. How am I supposed to get an identity card? I don't have any documents. I tried to find it, but I failed. I want to return. It's a very big disadvantage for me that I cannot speak Dutch. I cannot live in the Netherlands. Besides I heard that my country is very well developed now, if I could get a travel document I was already back in my country long time ago. (30)"*

Finally, a small part of the research group still did not know whether to leave the Netherlands or not. These migrants had not made up their mind prior to their stay in immigration detention and they still had not made a decision of whether to leave during their stays in immigration detention. Up to that point, their stays in immigration detention had not resulted in such decisions. Or, like an Asian man stated: *"Now I'm in detention, I don't think about my future. I'm numb. I just want my freedom. (14)"*

Immigration detention did increase the willingness of a part of the research group to leave the Netherlands. These migrants changed their minds. They were now more willing to leave the Netherlands or they started to consider whether to leave the country.

Some of these migrants did not want to stay in immigration detention any longer and were therefore willing to return to their countries of origin. An Asian woman stated for example: *“I’m exhausted. I don’t have any energy left. (...) Not willing to be in detention any longer is the main reason for my willingness to return. I’ll see what happens in my country. If it doesn’t work out, I’ll try to find a Dutch man. I’m single anyway. (76)”* These migrants decided to leave voluntarily with the assistance of IOM or they cooperated with the Repatriation and Departure Service to make sure they could realise their repatriation.

Other interviewed migrants were not willing to return to their countries of origin. However, these migrants were willing to leave the Netherlands because of their stay in immigration detention and/or the risk to be detained again after their respective releases. They were planning to leave the Netherlands once they would be released from immigration detention. Therefore, they were not willing to leave voluntarily with assistance of IOM and not all of them were cooperating with the Repatriation and Departure Service. These migrants hoped to be released since this would give them the opportunity to migrate irregularly to another European or Western country. An African man told the interviewer for example: *“I absolutely don’t want to go back to my country, but I don’t want to stay in the Netherlands either. Two times immigration detention is too much. I want to migrate to another European country with my wife, probably to Hungary. It is easy to live and work without papers over there. (17)”*

Finally, a part of these respondents was considering leaving the Netherlands due to their stay in immigration detention. These migrants were not willing to return to their countries of origin prior their arrest, but they began considering whether to leave the country because of their detainment. When interviewed, they had not yet made a decision of whether to leave. The story of an older Asian man shows this: *“I do not really know. I’m not allowed to stay, but I’ve been here for 28 or 29 years. Longer than I’ve been in my country of origin. I’ve been at the Embassy, but I don’t get a thing. So I don’t know what they are going to do. (25)”*

Finally, it should be noted that immigration detention decreased the willingness to return to the country of origin or to leave the Netherlands of a small part of the research group. These migrants were planning to leave the Netherlands or they were willing to return to their countries of origin prior to their detention, but their detainment made them change their minds. They were not willing to leave the Netherlands anymore, since they: wanted to take all their stuff with them to their countries of origin; wanted to say goodbye to their loved ones in the Netherlands; or preferred to stay in immigration detention over staying irregularly in the Netherlands or preferred detention to returning to the country of origin due to better living conditions inside. Therefore, these migrants decided not to return voluntarily from immigration detention and not to cooperate on their repatriation, even though they were willing to return or to leave the Netherlands prior to their stay in immigration detention. By their own accounts, immigration detention decreased their willingness to leave the country.

#### **4.4 DECISION-MAKING PROCESSES REGARDING LEAVING THE NETHERLANDS**

What has been said above shows that staying in immigration detention does influence the intentions to leave of part of the research group, whilst it does not influence the intentions of a firm majority of this group. This raises questions on the decision-makings processes of the interviewed migrants regarding leaving the Netherlands. Why does immigration detention affect the intentions to leave of only a minority of the research group? Why not the majority? Which factors have a role in this decision-making process? And does immigration detention differently influence the intentions of migrants with different characteristics?

These questions are answered in this section in which the respondents' decision-making processes are put forward. Below there are descriptions of the decision-making processes of interviewees whose intentions to leave were not influenced by their stay in immigration detention, whose willingness to leave the country increased due to their stay in immigration detention and whose willingness to leave the country decreased during their detention will be explained.

#### **4.4.1 No influence of immigration detention on intentions to leave**

The decision of whether to leave the Netherlands of a majority of the research group was not influenced by their stay in immigration detention. This concerns respondents who variously were still not willing to leave the Netherlands, willing to leave the Netherlands without returning to their countries of origin, willing to return to their countries of origin and were doubtful about whether to leave the country.

##### **4.4.1.1 Still not willing to leave the Netherlands**

A majority of the research group was still not willing to leave the Netherlands. Detention with the purpose of removal did not influence their intentions to leave. For many of these respondents the intentions to leave were fixed and detention did not have any influence on their decision-making processes. However, part of these respondents had more thoughts about their return during their stay in immigration detention. A very small part considered spending either less or more time in the Netherlands than they initially had planned. The latter is shown in the story of an African man: *"When I got papers, I saw a future in the Netherlands more and more. I was fine in terms of work, housing, and friends. I was able to help my family by sending money. I went to school to learn Dutch and I thought I was getting married here. It changed when I became illegal. It became obvious to me that I couldn't spend the rest of my life in the illegality in the Netherlands. Since then, I decided to return, but I cannot return without money. I've been living here for 10 years and I cannot return empty handed. (...) Since I'm here, it is obvious I don't have a future in the Netherlands. I see guys who are released and who come back here after a couple of months. I don't want to experience that. If I'm released, I first want to earn money to pay my debts. (18)"*

This concerned relatively many interviewees who migrated due to security motives and/or who applied for asylum. Most of these asylum claims were rejected, but it is noteworthy that almost all respondents who had had a residence permit in the past were part of the group of respondents who were still not willing to leave the Netherlands. On the contrary, interviewees who migrated for economic or social motives were less represented within this group.

The age of these migrants differed from 19 to 67 years old. They spent between one and 27 years as regular migrants in the Netherlands. The length of their irregular stays varied from a number of days to 24 years. This group included both men and women, in a similar ratio to the entire research group. This also applied to the percentage of undesirable aliens within this group. This is similar to the percentage of undesirable aliens within the entire research group.

These respondents spent relatively more time in immigration detention, although the length of their detentions differed from some weeks to a year. Some of these migrants were detained in criminal detention prior to their stay in immigration detention. The interviewed migrants were detained less often in immigration detention compared to the entire research group. However, they often considered the (execution of their) detention unjustified. They regarded the detention conditions to be poor and thought the impact of their detention on their well-being was high.

Even though these respondents encountered difficulties due to the imposition and execution of immigration detention, they were still expressed the desire to stay in the Netherlands while in immigration detention. The factors which made them willing to stay in the Netherlands and/or the factors which withheld them from returning to their countries of origin were more compelling than the factor of detention itself.

The decision-making processes of these respondents were characterized by few pull and push factors. And due to the relatively many stay factors in their decision-making processes, these interviewed migrants were remarkably certain that they were willing to stay in the Netherlands even though their stays in the country were no longer permitted. The story of an Asian man shows this: *“The first time I was detained, I wanted to return. But now, I don’t want to return anymore. Just detain me whenever you want, release me whenever you want. I’m numb for this now. (33)”*

It appeared that the perceived lack of security in the country of origin was the main factor which withheld them from returning. It has not been possible to determine how realistic the respondents’ feelings of insecurity are, but this anxiety made them afraid to return to their countries of origin. This generally concerned respondents who came from countries which were, or still are, plagued by war and violence. Additionally, some interviewees were afraid to return to their countries of origin due to the political and/or religious situations there. They feared being prosecuted or to be in danger because of their political or religious beliefs or status. This occurs, for example, in the story of a man from the Middle East: *“I have thought about it, sometimes. I have children over there and I miss them really much. I hear their voices and I see their faces. I want nothing more than being with them. But return is not possible. I cannot return home due to the problems with my husband. And there is no other safe place to go to. Besides, I’m a Christian now. It is not safe to live in a country of Muslims if you’re a Christian. Therefore, return is no option even though I miss my children enormously. I fear too much for my security (65)”* These migrants considered themselves to be held back from returning to their countries of origin.

The lack of opportunities in the country of origin or better opportunities in the Netherlands were also important factors within the decision-making processes of those respondents who were still not willing to return. These migrants had nobody or nothing waiting for them in the country of origin and they saw no life opportunities either in their countries of origin or in other countries. This can be seen in the story of a Eastern European man who said, *“It’s good for me in the Netherlands. I don’t want to return. In my country, I cannot work and I cannot earn money. I want to stay in the Netherlands to work. Not in another country and not in my own country. I know the Netherlands and I have my family, my sisters and my friends here. I want to work here. (4)”* The opportunities in the Netherlands were considered better. These migrants were still hoping for a residence permit. They saw more life opportunities in the Netherlands and they thought their financial position would be better in this country. An Asian explained it as follows: *“If I could be paid more in my country, I would love to go back. At least I will be near my family. But now, I can take care of my parents with the money I earn. Before, I couldn’t. So I have to stay, don’t you agree? (...) I can make at least 700 euro a month here. I save a couple of hundred for my parents, I don’t use much money. 100 euro is already lots of money in my country. (58)”* The lack of opportunities in the country of origin held respondents back from returning, and the opportunities in the Netherlands made them willing to stay. As a result, these migrants preferred to stay in the Netherlands over returning or migrating to another country despite their detainment with the purpose of removal.

Social factors were also important in the decision-making process of those respondents still willing to stay in the Netherlands. These respondents had a partner, children, other relatives, friends or a social network in the Netherlands which they did not want to leave behind. And since these loved ones could not or would not want to leave the Netherlands, these respondents preferred to stay here. A Latin American man described it as follows: *“Everyone at a certain age thinks about return. That might be because the cold weather, because the family or because of other reasons. I’ve never returned. If I reached the point that it has been enough, then I’ll return. But only when this point has been reached. That will be if my little girl will be old enough to determine whether she wants to return. If she wants to return herself, then I’ll return. I have been here for so long. I’ve here my own spot and I built social relations over here. I cannot ramble on returning. That’s only possible if we’re all ready for that, because over there, we have to adapt again. Also my little girl. My wife and daughter are here. I want my daughter to choose when she’s old enough so*

*that she can decided where to live and where to be. (3)*” These migrants often stated they were facing a hard time in immigration detention since they were divorced from their loved ones. They wished to be released from immigration detention to be able to be with their loved ones and to continue their irregular stay, or to legalise their stay in the Netherlands.

Cultural factors were also relevant for some of the interviewed migrants still willing to stay in the Netherlands. These migrants got familiar with the Dutch culture and mentality. And since they appreciated (aspects) of it, they were not willing to leave. An Asian man told for example: *“I’m not considering leaving the Netherlands. I’ve been here for more than 5 years and I know the culture and the rules. It is easy here. I committed no crime and have therefore no reason to leave the Netherlands. (20)”*

Other factors were mentioned to a lesser extent by those interviewees still not willing to leave the Netherlands. This concerned deter factors, such as social aspects, shame, cultural factors, health and the lack of possibilities to return to the Netherlands. This was manifested in the story of an African man: *“No, I will not go back without money. (...) I came to work and to earn money before I would go back home. (...) I spent a lot of money to come here, so what do you think? I cannot return empty handed, just like that. (79)”*

In addition, other stay factors were mentioned by some respondents, namely health issues and the migration mission. A man from the Caucasus stated for example: *“I’m sick. I want to be treated and healed before making another decision. (29)”* Furthermore, some factors made the respondents willing to leave the Netherlands, such as the lack of opportunity in this country of health issues, being an undesirable alien and old age. Finally, some factors made migrants willing to return to the country of origin like social factors, cultural aspects and new opportunities. An Asian man said, for example: *“I do feel homesick. Luckily I had to work and didn’t have much time to think about it. Sometimes, I cry in my bed, but it’s the same for many others. It was worse when I just came to the Netherlands. (58)”* These push and pull factors were not that strong that they made these interviewed migrants willing to leave the Netherlands. Also the detainment with the purpose of removal did not make these respondents change their mind. Regardless of the difficulties that these respondents faced during their stay in immigration detention, they were still willing to stay either irregularly or regularly in the Netherlands.

#### **4.4.1.2 Still willing to leave the Netherlands without returning to the country of origin**

A second group within those respondents whose leaving intentions were not influenced by their stay in immigration detention was still willing to leave the Netherlands. These interviewees were not willing to return to their countries of origin, but they wanted to migrate irregular to another European or Western country. It concerned all men who migrated for security, economic and social motives. They were between the ages of 19 and 42 and spent relatively little time in the Netherlands. The length of their stay varied from a number of days to three years. Relatively many of these respondents were declared undesirable aliens. All were detained in immigration detention for the first time. The length of their detention ranged from 1,5 to 7 months. They all thought their detainment was not justified and that the detention conditions were poor. But they stated that the impact of the detainment on their well-being varied from a moderate to high negative impact.

The decision-making processes of these interviewed migrants were characterized by relatively many deter factors and limited pull factors. This clarifies why these migrants were not willing to return to their countries of origin. They mentioned more push factors than stay factors, which explains why these migrants were not willing to stay in the Netherlands either. As a result, these respondents were willing to migrate (irregularly) to another country. The plans of these migrants were not changed because of their detainment. They were still more willing to migrate to another country than their countries of origin. A man said for example: *“Give me 48 hours to leave the Netherlands and I’m off. (82)”* It should be noted that it is not certain if they would be able to execute their plans since these migrants were detained with the purpose of removal.

The lack of opportunities in their countries of origin was the main reason why these interviewees were not willing to return. They had nothing waiting for them and, thus, they saw no reason to return. A man from North Africa said for example: *“I’ve been living here for so long. What do I have left in my country? My family and friends are living here. (71)”* In addition, they were withheld from returning due to security issues. Part of these migrants was afraid their lives would be in danger in their countries. This is shown through the story of an Asian man: *“If the security and political situation in my country are not improved and if my personal problem is not solved, I will never return there. Wherever I stay, in the Netherlands or in a third country, legal or illegal I will never return to Afghanistan. (52)”* Finally, cultural aspects, shame and social aspects made these migrants not willing to return to their countries of origin.

These interviewees were not willing to stay in the Netherlands either. The willingness to leave this country was caused by several push factors. The lack of opportunities in the Netherlands was the main push factor: this implied the lack of legalization, opportunities for jobs and housing and the increased surveillance by the police. This made these respondents realize they did not have many life opportunities here. A man from the Middle East explained it as follows: *“I cannot do anything here. I’m not allowed to be here. I’m married to my wife, I have an address. I have everything except for a legal status. What can I do? The Netherlands is destroying me. (...) The Netherlands is no good for me. I cannot do here anything. In Belgium, I will get asylum. (22)”* Also, the Dutch mentality made some interviewees not willing to stay in the Netherlands. They felt discriminated, which made them feel unwelcome. Or, like an African man told the interviewer: *“I want to go to Belgium again when I’m released. Here, is no life for me. The Netherlands is very racist and they hate Arabic in particular. I feel treated like a rotten fish. That’s different in Belgium: there is much more respect. (71)”* For these reasons, these migrants decided to leave the Netherlands.

Social factors, cultural factors and increased opportunities were regarded as pull factors for returning to their countries of origin and so were cultural aspects. Opportunities and social aspects were considered stay factors by these respondents. However, these aspects were less compelling than the aforementioned deter and stay factors. Therefore, these migrants were waiting for their release to be able to execute the plan to migrate irregularly to another country. An African man described it as follows: *“I’ll go back quickly to Italy (...) Let me work for 10 years in Europe and I’ll return to my country to have a normal life like others. (63)”* The detainment with the purpose of removal did not change the plans of these respondents since the deter factors were more compelling than the stay in immigration detention. However, repatriation from immigration detention may disturb the irregular migration plans of these migrants.

#### **4.4.1.3 Still willing to return to the country of origin**

A small group of the interviewees whose intentions to leave were not influenced by their stays in immigration detention was still willing to return to their countries of origin. This concerned migrants who were already willing to return to their countries of origin prior to their detainment, but who could not return since they could not obtain the required travel documents. Eventually, these migrants were arrested and detained in immigration detention.

These people migrated for economic or security motives. Their ages varied from 23 to 60. The length of their irregular stay differed from 2 to 6 years old. None of these respondents ever had a Dutch residence permit and none of them was declared an undesirable alien. All these respondents had been in immigration detention before; they were now detained for a second or third time and had spent between 1,5 to 7 months in immigration detention at the moment of the interviews. The thoughts of these migrants on the detention conditions and the impact of their detainment on their well-being varied. It is not known whether the migrants considered their detainment justified.

These interviewed migrants did not mention any stay factors during the interviews. They saw no reason to stay in this country. The decision-making processes of these interviewees were characterized by many push factors compared to the number of pull and deter factors. For all these interviewed migrants the lack of opportunities in the Netherlands was the main reason to

leave this country. They no longer saw life opportunities in the Netherlands. This was related to their previous detainments and the lack of opportunities for jobs and housing in the Netherlands. Or, like an Asian man stated: *“I’ve been living here for 7 years and I tried out many different things. This didn’t work out. So I’ll go back. (...) I already decided to leave before being put in immigration detention. I did not have documents to be able to leave, but the Repatriation and Departure Service helped me getting these documents. (73)”* Health issues and communication problems were also considered push factors by these migrants. These factors made these interviewees willing to leave the Netherlands.

It might be surprising that these migrants mentioned several deter factors as well, but these aspects were less compelling than those aspects which made them willing to leave the Netherlands. Or, like an Asian man said, *“For me it doesn’t matter where I live if I have to beg for my food. (30)”* It concerned deter factors such as the lack of opportunities in their countries of origin and social aspects. This appeared for example in the story of the same Asian man: *“You cannot just send me to the airport and not taking care of me at all, can you? When I’m in my country, I have to renovate my house, I’ve to eat and I’ve to buy stuff. I don’t even have a blanket! I’m just all by myself. If I had family, it would be a different matter. (30)”*

These migrants also had several factors which made them willing to return. This concerned an improved economic climate and cultural factors. Therefore, prior to their detainment, these migrants were already willing to return to their countries of origin. An Asian man explained why: *“Because everything is easier in my country. I will understand everyone, everywhere! I will not have any communication problems. Here in the Netherlands, I really don’t understand what the people say. (...) I want to return too because I heard that my country has developed very much. I saw it on the television that it has become a very developed country. It’s just that I don’t have documents. (30)”* These migrants were not able to execute their return plans prior to their detainment due to the lack of travel documents and the lack of possibilities to obtain these documents. During their stay in immigration detention they were still willing to return to their countries of origin and the detainments did not make them change their minds.

#### **4.4.1.4 Still doubts whether or not to leave the Netherlands**

The smallest group of the interviewed migrants whose leaving intentions were not influenced by their stay in immigration detention was still having doubts about whether to leave the Netherlands. The detainment had not forced them to make a decision whether or not to leave. This concerned migrants who migrated for economic motives. These men were between the ages of 25 and 35. They spent between 1 and 10 years in the Netherlands. They never applied for a residence permit and they never had regular residence in this country. None of these respondents were declared an undesirable alien. They were detained for the first time and were had stayed between the eight and nine months in immigration detention at the time of their interviews. The thoughts of these respondents on the justification of the detainment varied, but all considered the detention conditions were poor. According to these interviewees, the negative impact of the detainment on their well-being differed from high to moderate.

These interviewees were confronted with a dilemma. The lack of opportunities in the Netherlands made them willing to leave the Netherlands, but the lack of opportunities in the countries of origin withheld them from returning. They were willing to return because they missed (the culture of) their countries, but they were willing to stay in the Netherlands since they thought they had more opportunities here. Or, like an Asian man said: *“I do miss home, but I cannot go home without money. (15)”* As a result, these respondents did not know what to do. They had not made the decision of whether to leave the Netherlands and their stay in immigration detention had not been able to force them to make such decisions. An Asian man expressed it as follows: *“I do think about returning. I haven’t decided anything yet. (15)”* These migrants were still struggling with this dilemma of whether to leave the Netherlands and, additionally, whether to cooperate with authorities concerning their return.

#### 4.4.2 Increased willingness to leave due to the stay in immigration detention

The willingness to leave the Netherlands of part of the research group increased due to the detainment: this concerned a smaller part of the research group than the part of interviewees whose intentions to leave the Netherlands were not influenced by immigration detention. This group can be divided into three categories. The first consists of migrants willing to leave the Netherlands: these migrants were not willing to return to the country of origin, but they wanted to migrate irregularly to another European or Western country while they were not willing to leave the country prior to their stay in immigration detention. The second category consists of migrants willing to return to the country of origin due to the detainment. The third category consists of migrants who acquired doubts about whether to leave, while they were not willing to leave the Netherlands prior to their stay in detention. These doubts were caused by their detainment.

##### 4.4.2.1 Willing to leave the Netherlands without willingness to return to country of origin

The first category thus consists of migrants who were willing to leave the Netherlands due to the detainment, but who were not willing to return to the country of origin. These migrants hoped to be released to be able to migrate (irregularly) to another European or Western country. This concerned migrants who migrated for various reasons. It concerned all men between the ages of 23 and 48. A quarter of them applied for a residence permit but none of them obtained it. Therefore, they were all staying irregularly in the country. The length of these respondents' irregular stay was similar to the length of their regular stay in the country: it varied from a number of days to almost 10 years. One of them was declared an undesirable alien. Most of these migrants were detained in immigration detention for the first time, but some of them were detained for between the second and the fifth time. At the moment of the interviews, they spent between 2 and 15 months in immigration detention. None of these respondents thought their detainment was justified. One respondent said they all considered the detention conditions poor. The well-being of 75% of this group was strongly harmed due to the detainment. The well-being of 25% of these respondents was moderately harmed by their stay in immigration detention, according to these interviewees.

The decision-making processes of these respondents were characterized by relatively many push factors, which made these migrants willing to leave the Netherlands. The main push factor was the detainment in combination with the lack of opportunities in the Netherlands. The lack of legalization, life opportunities and financial security were reasons for all these migrants to leave this country. Besides, cultural aspects made some migrants willing to leave the Netherlands. These migrants were either facing communication problems or they did not feel comfortable in this country because of the Dutch mentality. Therefore, these migrants were willing to leave.

However, they were not willing to return to their countries of origin due to several deter factors. The lack of security in the countries of origin was the main deter factor: *"The problems in my country are unsolved. That's why I don't want to return. (34)"* But also the lack of opportunities in the country of origin had an important role in the decision-making process of half of these respondents. In addition, they were withheld from returning by cultural factors. An Arabic man explained it as follows: *"Due to my stay in detention, I know I don't want to stay in the Netherlands. It's too difficult to live here irregularly. I don't want to get arrested for a third time, but I never want to return. I don't want to leave my wife. I've chosen her and you know what Arabic men are like. They take their obligations to their wife and to marriage very serious. The most important thing for me is to be with her. She does not want to go to my country because of its culture: she is used to her freedom. My country is therefore no option for her. (17)"*

Finally, it should be noted that some of these migrants mentioned pull factors as well. It concerned social and economic aspects, as the story of an Asian man partly showed: *"I really want to see my child. I've been away for so many years. My marriage is nothing, but I really want to see my child. But I don't want him to see me in this condition. I'm stressed and easily angry. (34)"*



And some other stay factors were mentioned like social and cultural aspects. However, these factors were less compelling within their decision-making process compared to the push and deter factors. As a result, these eight respondents were willing to leave the Netherlands due to their detention, although they were not willing to return to their countries of origin. They would execute these plans if they would be released, instead of being repatriated from immigration detention.

#### 4.4.2.2 Willing to return to country of origin

The second category of respondents, whose leaving intentions were influenced by their stay in immigration detention, consists of migrants willing to return to the country of origin due to their stay in immigration detention. It had been a stimulus for return, since they were not willing to return to the country of origin prior to their detainment and their willingness to return was caused by their detainment. This concerned both men and women between 22 and 45 years old who mainly migrated due to economic motives. It is remarkable that half of this group did apply for a residence permit, either asylum or non-asylum. Only one respondent did obtain a residence permit; the others had spent most of their time irregular in the country. The length of their stays in the Netherlands varied from a day to 23 years. A substantial percentage of migrants within this group had a criminal record and/or was (requested to be) declared an undesirable alien.

Some of these interviewed migrants were detained for the first time, but others were repeatedly detained in immigration detention. The number of stays in immigration detention was between 2 and 7. They spent from 1,5 to 6 months in immigration detention. One migrant had served a prison sentence prior to his stay in immigration detention. Some others had served prison sentences as well during their stay in the Netherlands, but not prior to this detainment. It is noteworthy that these respondents relatively often considered their detainment justified and the detention conditions fine in comparison to the entire research group. Although, a majority still thought their detainment was not justified and the detention conditions were poor. The reported negative impact of the detainment on these respondents' well-being varied from none to high. But generally these migrants' well-being seemed less harmed by the detainment compared to the entire research group.

The decision-making processes of these interviewees were characterized by many push factors. The stay in immigration detention was the main push factor. These migrants did not want to spend more time in immigration detention and they did not want to take the risk to be detained again after a potential release in the Netherlands. Like an African man stated: *"I have stress in detention. (...) I'll return because I don't want to become crazy. (13)"* In addition, the lack of opportunities in the Netherlands and health issues made these migrants willing to leave the Netherlands. A Latin American man expressed it as follows: *"When they arrest you, it is over. I've tried it in the Netherlands, but it hasn't worked out so far. (42)"*

These respondents had relatively many pull factors compared to the entire research group. These include social factors, (renewed) opportunities in the country of origin, cultural factors and the possibility to start over again. A young man from the Caucasus said, for example: *"I want a new start. I don't want to be detained for nothing, but I want a new start. I'm fed up with my lifestyle over here. I want a new start. I want it in my country because I miss my country. I'm going back to my city of birth. Then, I'll see what happens. I hope to find a wife and to start a family. I'm getting older so it is about to be time for a more quiet life with a family. (32)"* Such factors made these migrants willing to return to their countries of origin.

However, this was not an easy decision for all these interviewees. Some of them were confronted with a dilemma, since they had several reasons to stay in the Netherlands as well. They thought, for example, they would have more and better (financial) opportunities in this country, and some had loved ones here which they did not want to leave. Furthermore, interviewees felt at home in this country, due to the length of their stay. A Eastern European man described it as such: *"I was used to life in the Netherlands. I've got to know a lot of people and I made a lot of*

*friends. And I have a girlfriend for 7,5 years. I know the Netherlands better than my country because I've been here so long. If I wouldn't have been arrested and if I was living in freedom, I probably stayed because it is better here. But now I'm detained and I cannot stand it anymore. (16)*" In addition, the security in the Netherlands and the possibilities to achieve the migration missions were stay factors, especially since half of these migrants had few opportunities in their countries of origin.

Regardless of these reasons to stay in the Netherlands, these respondents were willing to return to their countries of origin. This was mainly due to the stay in immigration detention, which was considered the main push factor and which was more compelling than the stay factors. A man from the Caucasus explained it as follows: *"It is because of the detention. If I wouldn't have been detained, I perhaps wouldn't have thought about return. (32)"*

Finally, it should be mentioned that the sustainability of the return may be questioned, since some of these migrants already stated they would migrate to Europe again. This is for example shown in the story of a Eastern European man: *"I think I'll return to [Western] Europe. I won't come to the Netherlands then. I have no idea which country I'll go to, but probably I'm back in Europe within a couple of months. (16)"*

#### **4.4.2.3 Doubts about whether to leave the Netherlands**

The third category of respondents whose leaving intentions were influenced by their stay in immigration detention consists of migrants having doubts about whether to leave the Netherlands. These migrants were not willing to leave the Netherlands prior to their detention, but they were considering leaving the country during their stay in immigration detention. The doubts of these respondents were caused by their detainment.

This concerned migrants with different migration motives. These respondents were between 20 and 51 years old. They almost all applied for a residence permit, but only one respondent got one. The length of their stay in the Netherlands varied from 3 to 29 years, while they spent between the 3 and 20 years irregularly in the country. One of them was declared an undesirable alien, the others were not.

These migrants had been detained relatively often. However, one respondent was for the first time in a detention centre. For others, it varied from being their second to eighth time in immigration detention. At the times of the interviews, the length of their stays varied from 1,5 to 7 months. One respondent had been in criminal detention prior to his stay in immigration detention. A majority of these respondents understood why they were detained, and a majority also thought the detention conditions were poor. The interviews discovered that the negative impact of detainment on these respondents' well-being was limited compared to the entire research group.

The decision-making processes of these interviewed migrants may be defined as an unsolved dilemma. They still did not know whether they were willing to leave the Netherlands. These migrants did not want to stay in the Netherlands due to the (repeated) detainment and the lack of opportunities in this country. This is shown in the story of a young woman: *"I have been considering return, but only for a brief moment. (...) Here, I think different about it. I'm pushed to think about it. The Repatriation and Departure Service constantly asks me to return. I know it is their job, but I do not know what I want myself. At the moment, I do think about my future. I want to get married and have children. If I stay in the Netherlands, that won't be possible. That's why I consider return. I'm very confused at the moment about what I exactly want. I know the Dutch government cannot detain me forever. I'm (...) now and I have to think what I really want. I do not know what to do if I'm released either. It cannot be like that they will arrest me after I'm a couple of days released. My life cannot look like that, can it? I hope I'll get a residence permit somehow. I do not want to stay without documents in the Netherlands. That's for sure. If I cannot get documents, I have to return. I have to maintain myself. I cannot be without a job. I have to earn my living, but I do not want to be detained again. (80)"*

However, these migrants did not want to return either due to the lack of opportunities in their countries of origin. Like an Asian man stated: *"I started to consider return when I was detained for the first time. But I did not know what to do: I have nothing over there and that's why I didn't want to return. (5)"* But now, during his third stay in immigration detention, he might be willing to return. The same man continued: *"I'm afraid this keeps on going. I do not want to end up in the carousel. Then, your life passes away without being able to do something and to build something. I do not feel like that. (5)"* Not only the lack of opportunities in the country of origin, also other factors withheld these migrants from returning, such as shame, the lack of security, debts and social aspects.

Social aspects were, on a contrary, also mentioned as a pull factor by some respondents. A woman explained it as follows: *"In television shows are the (...) men way more handsome. That's why I thought about return. The clothing is more beautiful and the men are prettier. (80)"* Social factors were the only pull factor mentioned by the respondents.

Finally, these interviewees also saw reasons to stay in the Netherlands such as social factors, cultural aspects and the hope for a residence permit. An elderly man stated: *"Here, I have acquaintances and friends. Here, it is easier to get a job. And if that doesn't work out, I can get help of my friends. And I have my girlfriend here. I like it here. (25)"*

All these push, deter, pull and stay factors caused the dilemma of whether to leave the Netherlands, which was then not yet solved. Some of these migrants were cooperating on their repatriation; others were not. But all these respondents' intentions to leave were not fixed. They did not know whether they were willing to leave and were awaiting their repatriation process. The detainment made these migrants question whether to return, but it did not force them to make a decision.

#### **4.4.3 Decreased willingness to leave due to the stay in immigration detention**

Finally, the willingness to leave the Netherlands of a small group of respondents decreased due to their detainment. These migrants were willing to leave the Netherlands prior to their stay in immigration detention, but they were not willing to leave the country anymore during their detention. This was caused by several aspects of the stay in detention.

It concerned men who migrated either because of economic or security motives. They were all over 30 but under 55 years old. Some of them had had residence permits; of others their asylum applications were rejected. These migrants spent between 6 and 32 years regularly in the Netherlands and between 1 and 14 years irregularly. All had criminal records and requests against them to be declared undesirable aliens. These migrants had been in immigration detention before. At the times of the interviews, the length of their detention was between 2 and 3 months. Their thoughts on the justification of the detainment and the detention conditions varied. The reported negative impact of immigration detention on these respondents' well-being was limited compared to the entire research group.

Prior to their stay in immigration detention these migrants were willing to leave the Netherlands due to the lack of opportunities within this country. Some of them already sent some of their possessions to their countries of origin in preparation of their return. One of them was willing to leave the country but had not been able to prepare his leave, due to his marginalised position. Eventually, all these migrants found themselves in immigration detention. During their detainment, they did not want to leave the Netherlands anymore.

The reasons of the decreased willingness to leave the country differed. Some of these respondents did not want to leave the country anymore since they wanted to take all belongings with them. Some wanted to say goodbye to their loved ones and their acquaintances in the Netherlands. A Latin American man stated for example: *"Look, it's like this. I wanted to return in October. My girlfriend wanted to go to my country and I'll join her. She drags me along, so to speak. I already sent a container to go there. But I'm not going back from detention. They want to send me back without my stuff. Then, I'll stand there on the airport with only two plastic bags of*

*Albert Heijn [supermarket good]. My mom sees me coming. I have been away for more than 30 years and I'll come back like that? No, that is not possible. Who is going to send my stuff? I cannot take it with me from here. I've my furniture. I've three couches, laptops, et cetera which I have to leave here. (9)*" These aspects were hindered by their detainment and therefore these respondents did not want to return from immigration detention.

One respondent was satisfied with his stay in immigration detention. It was considered better than life in the country of origin and better than staying irregularly in the Netherlands. He did not want to return to his country of origin. He left the Netherlands but was sent back and was therefore not willing to leave the Netherlands anymore. Or, like he said: *"I went already to France, but the authority brought me back to the Netherlands because it was the first country where I asked asylum. (...) I already tried it, but they brought me back. (60)"* This migrant hoped to be able to spend some more time in immigration detention and he was not willing to leave the country anymore.

The decision-making processes of these migrants show several differences. However, the result was the same: the willingness to leave the Netherlands was decreased by their stay in immigration detention.

#### **4.5 THE ROLE OF IMMIGRATION DETENTION IN THE DECISION-MAKING PROCESS**

The previous section described several factors regarding the respondents' decision-making processes about leaving the Netherlands during their stay in immigration detention. These factors are in agreement with literature on the decision-making processes of migrants outside detention. Some factors discussed in this literature are not mentioned by the interviewed migrants. However, most of the literature's push, pull, stay and deter factors also occurred within the research group.

Detainment with the purpose of removal did have a role in the decision-making process about whether to leave the Netherlands although the intentions to leave by a firm majority of the research group were not influenced by their stay in immigration detention. It shows that detention plays a different role in the decision-making processes of respondents with different characteristics. It does influence the intentions to leave of interviewees with some characteristics whilst it does not play a compelling role in the decision-making process of respondents with other characteristics. As a result, the intentions to leave by a majority of the interviewees were not influenced by their detainment while the willingness to leave by a minority of the interviewed migrants increased due to their stay in immigration detention.

It may be concluded that the effect of immigration detention on migrants' intentions to leave depends on their motives for migration. The influence of immigration detention is modest on the intentions to leave of those interviewed who migrated for security motives and/or who applied for asylum. These respondents were overrepresented in the group whose intentions to leave were not influenced by their stay in immigration detention. In general, these interviewees still feared returning to their countries of origin due to the perceived insecurity in their home countries. They therefore preferred to stay in the Netherlands. Even though their reported well-being was highly harmed by detainment and their reported living conditions in the Netherlands worsened compared to their living conditions in the country of origin, the stay in immigration detention did not change their intentions to leave. These respondents were less likely to be influenced by their stay in immigration detention and they were less likely to be willing to leave the Netherlands in spite of their detainment.

The intentions to leave of interviewees who migrated for economic or social motives were on the other hand more often influenced by their stay in immigration detention. These migrants were generally more willing to return to their countries of origin or to migrate (irregularly) to

another European or Western country than those who migrated for security reasons. However, certainly not all respondents who migrated for these reasons were willing to leave the country during their detainment. The influence of immigration detention on these respondents' intentions to leave seemed to be dependent on their life opportunities in both the country of origin and in the Netherlands. These life opportunities were related to the developments they had experienced from their time in their countries of origin up to their stay in immigration detention. In Chapter 3 it was shown that the living conditions of these respondents differed from good to poor. In this chapter it became clear that respondents were more likely to be willing to stay in the Netherlands if the life opportunities in this country were considered better than the life opportunities in their country of origin. Yet respondents were more likely to be willing to leave the Netherlands if their life opportunities in their country of origin were considered better than in the Netherlands. The respondents' life opportunities shifted due to the detainment. Opportunities in the Netherlands decreased compared to those in their country of origin, since they lost their homes, jobs, social networks, anonymity and their chances of legalization. The life opportunities in the Netherlands decreased even more if a respondent was repeatedly detained or if he was declared an undesirable alien. As a result, the effect of immigration detention on respondents' intentions to leave increased as well: these interviewees were more likely either to migrate irregularly to another country or to return to the country of origin.

The effect of immigration detention on the interviewed migrants' intentions to leave seems not only to be dependent on their motives for migration and their life opportunities and security in both the country of origin and in the Netherlands. Other factors also play a role in the respondents' decision-making processes. For instance, social factors seem to play a compelling role. The intentions of respondents with children and/or partners or other loved ones to leave were less likely to be influenced by their stay in immigration detention and they were less likely to be willing to leave the country unless their loved ones could and would join them. So, having loved ones in the Netherlands decreases the effect of immigration detention on respondents' willingness to leave the country. Loved ones in the country of origin seem to stimulate respondents' willingness to return to their countries of origin as well, but such a decision is often influenced by many other factors as well: social factors in the country of origin seem to play a less compelling role in the respondents' decision-making processes than social factors in the Netherlands.

Furthermore, health was considered an important factor in the decision-making processes of the interviewed migrants. Respondents with a deteriorated health were less likely to leave the Netherlands compared to respondents without reported health issues. Health issues made respondents generally willing to stay in the Netherlands or it withheld them from returning to their country of origin. This also applies to respondents who mentioned their well-being was to a great extent harmed due to detainment. They were occupied with their mental health and could, therefore, not consider returning anymore.

Additionally, other push, pull, stay and deter factors were mentioned by the interviewed migrants such as cultural aspects, shame, debts, age and the respondents' migration mission. These factors did play a role in their decision-making processes about whether to leave the country. Nevertheless, according to the interviews these seem to be less compelling than the aforementioned factors.

Finally, it is noteworthy that there were no significant differences found between the intentions to leave of respondents in different detention centres. It does not seem to influence of immigration detention on the respondents' willingness to leave the Netherlands.

## 4.6 TO CONCLUDE

In this chapter the focus was on the influence of immigration detention on respondents' intentions to leave. It was shown that the decision-making processes about whether to leave the Netherlands were similar to those of migrants outside detention. They come to a decision about whether to leave on basis of comparable push, pull, stay and deter factors. Detainment with the purpose of removal is just one of the factors in the respondents' decision-making processes. However, this factor was not compelling for a firm majority of the research group. The intentions to leave of these migrants were not influenced by their stay in immigration detention.

It appeared that immigration detention is most likely to influence the decision-making processes of those migrants who migrated for economic or social reasons and whose life opportunities in the Netherlands have become worse than their life opportunities in the countries of origin. The influence of immigration detention increases even more if a migrant is repeatedly detained and/or if he is declared an undesirable alien. These migrants will be more likely to leave the Netherlands. A migrant will probably return to this country of origin if the life opportunities there are satisfying. He is more likely to migrate (irregularly) to another country if the life opportunities in the country of origin are not satisfying. However, if a migrant has loved ones in the Netherlands and/or if he faces health issues, the effect of immigration detention on his intentions to leave will decrease since these factors make migrants generally willing to stay in the Netherlands.

Immigration detention is not likely to influence the intentions to leave of migrants who migrated for security reasons, who applied for asylum, whose life opportunities are considered better in the Netherlands, who have loved ones in the Netherlands and/or who face health issues. The role of immigration detention plays in the respondents' decision-making processes about whether to leave is less compelling than these factors according to the interviews. As a result, these migrants will be less likely to leave the Netherlands due to their detainment with the purpose of removal.

The most compelling factors in the respondents' decision-making processes, such as security in the country of origin, life opportunities in both the country of origin and the Netherlands, social aspects and health issues, are hard to influence with governmental policies. These are out of the governmental sphere of influence and authority. And even the influence of the last resort immigration detention on the respondents is modest. The intentions to leave of a firm majority of the research group were not influenced by their detainment with the purpose of removal even though many interviewees were facing a hard time during their detention and considered their well-being harmed by their stay in immigration detention. Nevertheless, a majority was not willing to leave the Netherlands.



## 5. INTENTIONS TO RETURN VERSUS POSSIBILITIES TO RETURN

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The previous chapter showed that a firm majority of the interviewed migrants had no intention to leave the Netherlands during their stay in immigration detention. The migrants' lack of willingness to return to the country of origin is the main factor that hinders return from immigration detention according to the only known study on the return possibilities of migrants from immigration detention.<sup>135</sup> This means the respondents' lack of willingness to leave the Netherlands might influence their possibilities for return from immigration detention.

The respondents' possibilities for return are therefore central in this chapter. Firstly, the effects of immigration detention in general are put forward. Then, the return conditions, procedures and challenges of the Repatriation and Departure Service are clarified. Subsequently, the role of the International Organization for Migration (IOM) is discussed. Thereafter, the current status of the respondents is described: it is shared whether respondents left the Netherlands (voluntarily), whether they have been released in the Netherlands or whether they still remain in immigration detention. Subsequently, the conditions to return of the interviewed migrants are stressed.<sup>136</sup> Finally, some conclusions are drawn regarding the respondents' intentions to and possibilities for return from immigration detention.

### 5.1 THE EFFECTS OF IMMIGRATION DETENTION

The effects of immigration detention are determined on the basis of the caseload of the Repatriation and Departure Service. The effects are presented in two categories: migrants who are returned from immigration detention under supervision and migrants who left immigration detention unsupervised. The latter means that these migrants are released within the Netherlands with a notice to leave the country. These migrants will either continue their (irregular) stay or leave the country by themselves.

On the basis of this definition, the Minister of Immigration and Asylum presented the following effects of immigration detention in recent years:

**Table 5.1: Effects of immigration detention on the basis of the caseload of the Repatriation and Departure Service in percentages.**<sup>137</sup>

Effects	2008	2009	2010
Supervised departure from the Netherlands	55	63	65
Unsupervised departure	45	37	35
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

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<sup>135</sup> Van Kalmthout et al: 2004.

<sup>136</sup> It should be noted that this chapter addresses only the respondents conditions for return; thus, not their conditions for leaving, since migrants in immigration detention should return to their countries of origin from detention. They may only be forcibly returned to another country if legal residency is guaranteed or if another country is responsible for the migrant.

<sup>137</sup> Parliamentary Documents 2010/11, 19 637 no. 1395.



Questions may be asked when using this definition to determine the effects of immigration detention. The above mentioned definition applies, for example, only to the caseload of the Repatriation and Departure Service. Those migrants in immigration detention who are not part of this caseload (anymore) and who may therefore not forcibly be returned by the Repatriation and Departure Service are not included in this definition.<sup>138</sup> Besides, those migrants who leave the Netherlands voluntarily from immigration detention with assistance of IOM are not separately registered. It is also not published whether migrants are repatriated to their countries of origin or forcibly returned within the European Union.<sup>139</sup>

These distinctions are relevant for this study since the respondents leaving detention are distinguished into corresponding categories: those who are willing to return to their countries of origin either with IOM or with the Repatriation and Departure Service; those who are willing to leave the Netherlands without returning to their countries of origin; those who want to stay in the Netherlands and those who have doubts about whether to return. Therefore, an alternative definition of the effects of immigration detention is used within this study. It includes all migrants in immigration detention and registers, to the extent possible, the different forms of departures.

Different effects of immigration detention can be presented on the basis of this alternative definition. The Repatriation and Departure Service provided figures of the effects of immigration detention for the years 2008-2010 on 26 October 2011: these figures do not include all the abovementioned different forms of departures, but these do give an indication of the effects of immigration detention using the alternative definition. These figures provided are shown in table 5.2:

**Table 5.2: Effects of immigration detention between 2008-2010 on the basis of the alternative definition using figures provided by the Repatriation and Departure Service on 26 October 2011.**

Effects		2008		2009		2010	
		N	%	N	%	N	%
Released within the Netherlands	Not removable	600	7	920	13	1.240	15
	Unsupervised departure	3.200	39	2.350	32	2.370	29
Forced return		3.970	49	3.550	49	3.970	49
Independent return		350	4	430	6	480	6
<b>Total</b>		<b>8.120</b>	<b>100</b>	<b>7.250</b>	<b>100</b>	<b>8.060</b>	<b>100</b>

In addition, it should be noted that the Semester Reports of IOM show 393 migrants in immigration detention returned voluntarily with assistance of IOM in 2008, 393 migrants returned voluntarily from immigration detention with assistance of IOM in 2009 and 455 migrants returned voluntarily from immigration detention with assistance of IOM in 2010. The number of voluntary returns from immigration detention with assistance of IOM is regarded as 'independent return' by the Repatriation and Departure Service, but not (all) figures of IOM and the Repatriation and Departure have been matched according to this Service. Consequently, the position of the return figures of IOM within the return figures of the Repatriation and Departure Service is not entirely clear.

<sup>138</sup> This concerns in principle migrants who are detained under Section 6 Aliens Act 2000 and migrants who are (temporarily) not removable due to, among other things, a new application for a residence permit or the grant of an interim measure at the European Court for Human Rights according to the Minister of Immigration and Asylum. See Parliamentary Documents 2010/11, 19 637 no. 1395.

<sup>139</sup> Migrants might be forcibly returned within the European Union due to legal residency in another European country or having entered Europe through another country that was, therefore, responsible for this migrant under the so-called Dublin Convention (the European Convention determining the State responsible for examining applications for asylum, lodged in one of the Member States of the European Communities).

On the basis of the proposed alternative definition and the figures provided by the Repatriation and Departure Service the conclusions may be drawn that 49% of the migrants who were detained in immigration detention were forcibly returned from immigration detention in 2010 and that 6% of the migrants in immigration detention returned independently, either assisted by IOM or directly by the Repatriation and Departure Service. Migrants in immigration detention were either repatriated to the country of origin or forcibly returned within the European Union since the Repatriation and Departure Service does not make this distinction within the figures provided. Thus the 49% of returned migrants consists of those who are repatriated to the country of origin and of migrants who are forcibly returned within the European Union.

## 5.2 REPATRIATION FROM IMMIGRATION DETENTION

The above raises questions on the conditions, procedures and challenges for repatriation from immigration detention. Since its establishment in 2007, the Repatriation and Departure Service has been responsible for the repatriation of migrants from immigration detention. This Service coordinates the actual departure of foreign nationals who are not entitled to stay in the Netherlands. It is bound by several conditions of repatriation from immigration detention, which means the organisation may only repatriate migrants under certain conditions. These have together with some challenges the organisation faces impact on the effects of immigration detention.<sup>140</sup>

The first condition concerns the legal status of migrants in immigration detention. Migrants in immigration detention have to be removable. In other words, they may not have pending procedures for admission in the Netherlands which they may await in the Netherlands. In principle, all migrants who are detained in immigration detention are part of the caseload of the Repatriation and Departure Service. However, migrants may not belong to the caseload if they are awaiting a decision on a new application for a residence permit or if they are waiting for an interim measure from the European Court of Human Rights to be granted. These migrants may (temporarily) not be repatriated from immigration detention. They are not removable and may therefore (temporarily) be not part of the caseload of the Repatriation and Departure Service anymore.<sup>141</sup>

Furthermore, the Repatriation and Departure Service can only forcibly return migrants from immigration detention if they have valid travel documents or if (re)admission of the migrant is guaranteed. Repatriation is not an option without these documents or without this guarantee. In addition, special conditions may have to be met before the Repatriation and Departure Service can repatriate migrants from immigration detention. This concerns, for example, medical conditions, a so-called fit-to-fly statement or other individual conditions.

If a migrant belongs to the caseload of the Repatriation and Departure Service and if he is removable, an officer of the Repatriation and Departure Service takes several steps to meet the conditions of return for the particular migrants and to realise the migrants' repatriation from immigration detention. He will have several departure interviews with migrants to determine the migrants' nationality and identity, obtain travel documents and subsequently to arrange flights in order to realise repatriation. If all conditions are met such as the attainment of travel documents and (potential) additional requirements (e.g. medical healthcare), the migrant will be transferred to a removal centre near the airport. On the day of departure the migrant is transferred from this removal centre to a special office [*Bureau Verwijderingen*] of the Royal Netherlands Marechaussee behind the border. From there, an officer of the Royal Netherlands Marechaussee will check the luggage and subsequently guide the migrant until he clears customs and enters the plane. On arrival at the airport in the country of origin, the migrants' passport might be marked 'deportee'.

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<sup>140</sup> The information in this paragraph is provided by the Repatriation and Departure Service.

<sup>141</sup> Parliamentary Documents 2010/11, 19 637 no. 1395.

This repatriation process can be complicated due to several challenges. The main challenge concerns the need to know a migrant's nationality and identity to obtain the travel documents which are required for repatriation. Without these travel documents or if the admission of a migrant is not guaranteed, the Repatriation and Departure Service may be unable to return a migrant to his country of origin. The Repatriation and Departure Service is dependent on a migrant in immigration detention's willingness to cooperate as well as that of the country of either origin or (re)admission. If they do not cooperate with the repatriation, if the required travel documents cannot be obtained or if the migrants' admission is not guaranteed, it may be complicated to repatriate a migrant from immigration detention. Legal remedies such as the application for a Dutch residence permit from immigration detention, the reopening of an application procedure or appeal against their removal, may also frustrate their return. Those with pending procedures for admission may, in principle, not be repatriated.<sup>142</sup> These are the main challenges for the Repatriation and Departure Service when conducting a forced return from immigration detention.

Eventually, a migrant may be released in the Netherlands with a notice to leave the country independently, if there is no longer a prospect for return or if the maximum length of immigration detention has been reached. In such a case the migrant will either continue his (irregular) stay in the Netherlands or decide to leave the country by himself. These conditions and challenges which the Repatriation and Departure Service faces impact the effectiveness of immigration detention.

### 5.3 VOLUNTARY RETURN FROM IMMIGRATION DETENTION

Migrants in immigration detention are also offered the opportunity to return voluntarily with assistance of IOM. IOM is not part of the governmental immigration chain, but it is a neutral intergovernmental organization.<sup>143</sup> IOM was founded in 1951 to assist in meeting the growing operational challenges of migration management, to advance understanding of migration issues, to encourage social and economic development through migration and to uphold the human dignity and well-being of migrants and especially vulnerable migrants. Back then, the organization was named 'Intergovernmental Committee on European Migration.' This changed in 1989 when a new constitution was signed and the name of the organization was changed into 'International Organization for Migration'. This constitution is still in force.<sup>144</sup>

In 1990 an agreement was signed between the Dutch government and IOM. One year later, IOM initiated its first activities in the Netherlands.<sup>145</sup> In 2007, IOM started the project Assisted Voluntary Return from Detention (AVRD) at the request of the Dutch government. IOM responded positively to this request because it had received requests for assistance on voluntary return from migrants in immigration detention before and the organization noticed a need for voluntary return assistance among migrants in immigration detention. This need was already observed in the study of Van Kalmthout et al on the return possibilities of migrants from immigration detention: IOM

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<sup>142</sup> In some of these cases, migrants may still be repatriated. This is the case when a migrant is not allowed to wait for the decision of his procedure.

<sup>143</sup> Such an organization is characterized by a partnership between two or more states, but has its own legal personality and is therefore recognized as a party which may act independent of member states. The governmental immigration chain consists on a contrary of governmental organizations who are involved in executing or implementing the governmental immigration policies in the Netherlands.

<sup>144</sup> The Constitution was consulted on September 1<sup>st</sup>, 2011 at [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about\\_iom/iom\\_constitution\\_eng\\_booklet.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about_iom/iom_constitution_eng_booklet.pdf).

<sup>145</sup> IOM offers several services to migrants in the Netherlands, including advice on voluntary return to their countries of origin, support and guidance to return their countries of origin, assistance with reintegration their countries of origin (cash or in-kind services), deployment of knowledge and experience of migrants for reconstruction and development, preparation, transit, reception and support for resettled refugees and family members, organization of resettlement in a third-country (if the entry requirements are met) and guidance at airports. More information on IOM the Netherlands can be found at <http://www.iom-nederland.nl/english> or at <http://www.iom.int/jahia/Jahia/activities/europe/western-europe/netherlands>. Last consulted at September 1<sup>st</sup>, 2011.

provided assistance to migrants who wanted to return voluntarily from immigration detention and who had requested for return assistance before, but only on an individual level. This assistance was formalised in 2007. Project Officers of IOM were allocated to immigration detention centres to inform migrants on the possibilities to return with assistance of IOM as soon as the migrants arrived in a detention centre. IOM only assists those migrants in immigration detention who decide to return voluntarily: such a decision has to be made voluntarily and on a well informed basis, otherwise IOM will not assist.

However, not all migrants in immigration detention are eligible for return assistance by IOM. A migrant in immigration detention has to meet the conditions of the Return and Emigration of Aliens from the Netherlands (REAN) Programme of IOM to be eligible for return assistance of IOM. The following return conditions are embedded in the REAN cooperation agreement and internal guidelines for voluntary return with IOM:

- The migrant wants to depart from the Netherlands permanently.
- He cannot pay for the journey himself.
- He has a valid travel document or he can obtain a replacement travel document.
- He has entered the Netherlands to live here for a longer period of time/or with the intention to stay.
- He is not a European Union citizen (except victims of trafficking), he is not a citizen of another Western country and he is not a citizen of a country which is excluded from voluntary return.
- He did not leave the Netherlands with aid from IOM during the previous five years, nor has been deported at the expense of the Dutch government during this period.
- He agrees that any pending procedures shall be terminated by the Immigration and Naturalisation Services, and that – should this be required – his residence permit will be withdrawn.
- The application for assistance from the IOM for voluntary departure is not based on illicit grounds.
- Departure of the person involved can in fact be implemented.

In addition, the Dutch government has to indicate that it has no objections against the voluntary return with IOM. Objections may exist if the voluntary return interferes with the repatriation,<sup>146</sup> a migrant has to be transferred to a European country because of a so-called Dublin claim or if the voluntary return interferes with a criminal prosecution.

If a migrant in immigration detention is eligible for return assistance by IOM, the Project Officer will in close coordination with other Project Officers of IOM determine the assistance that will be offered to the specific migrant. This assistance depends on the particular (legal) status of a migrant and the country he originates from. It may consist of an inland fee, several amounts of financial contributions, reintegration assistance in the country of origin, transport and/or guidance to the address of destination in close coordination with IOM's local missions, extra assistance for unaccompanied minors and victims of trafficking, extra medical assistance and/or transit/arrival assistance. If a migrant agrees to the return assistance and still wants to return to his country of origin, he has to sign an application form for departure from the Netherlands with IOM. Subsequently, the Project Officer in immigration detention will arrange the migrant's travel documents and flight(s). If a Project Officer succeeds, the migrant will be transferred to a removal centre near the airport. On the day of repatriation, the migrant will be brought to a special office [*Bureau Verwijderingen*] of the Royal Netherlands Marechaussee behind the border. His luggage will be checked in at this centre. Subsequently, the migrant will be collected from this office by an employee of IOM who guides the migrant to the gate and who gives the migrant his flight ticket,

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<sup>146</sup> Voluntary return is obviously not aimed at repatriation. Therefore, the repatriation process will not be suspended if a migrant is a client of IOM and in a voluntary return process, since the Dutch government has the legal obligation to work as expeditious as possible on a migrant's repatriation. See also: Van Dokkum: 2010, pp. 125-126.

travel documents and possibly other forms of assistance. The employee will wait at the gate until the migrant has boarded. From then on, the migrant will be a regular traveller and there is no indication the migrant has been in immigration detention before. In general, the process from signing the application form up to the voluntary return of a migrant from immigration detention takes less than four weeks.

However, IOM has its challenges during the realization of voluntary return from immigration detention. This was also shown during this study: 7% of the respondents were registered as IOM clients and were involved in a return procedure with IOM, but some respondents within the research group were rejected for voluntary return with IOM due to challenges IOM faced. This means that not all migrants who were willing to return voluntarily from immigration detention can be assisted. The main challenge concerns the migrants' travel documents. A migrant is in the first place responsible for obtaining a travel document, but IOM does offer assistance. However, it is not always possible to obtain the required travel documents. This means IOM is not capable of assisting the migrant to return voluntarily from immigration detention. In addition, IOM has to reject voluntary return if a migrant does not meet the criteria for voluntary return any longer or if return is not considered responsible by IOM, due the situation of the client. Therefore, IOM is not able to help all migrants in immigration detention even though they are willing to return voluntarily with assistance of IOM to their countries of origin.

Finally, it should be noted that IOM is aware of the dilemma which occurs regarding voluntary return from immigration detention. IOM itself also raised the question whether it is possible for a migrant in immigration detention to make a well-informed and independent decision regarding voluntary return once he is imprisoned with the purpose of removal. Put differently, the extent of the voluntariness of a return decision of a migrant in immigration detention is limited due to his particular situation. And a migrant does not have much time to come to a well-informed decision since there might be time pressure due to a scheduled repatriation. IOM's mandate only provides assistance to migrants based on their well-informed decision to return voluntarily. After careful consideration IOM in the Netherlands decided to offer its assistance to migrants in immigration detention since there was an apparent demand. By not offering this assistance these migrants would not have an alternative for removal. Therefore, IOM is represented in the detention centres to inform detained migrants on the possibilities regarding voluntary return and to assist them if they are willing to return. IOM only assists those migrants who are willing to return. The Project Officers do not provide any assistance if they have doubts about whether a migrant is actually willing to return.

#### **5.4 FORCED RETURN VERSUS VOLUNTARY RETURN**

65% of the interviewed migrants said they were pleased to be able to use the assistance of IOM during their stay in immigration detention, as it was considered a better alternative to forced return. Not all were willing to return to their countries of origin, but if they wished to return they preferred voluntary return with IOM to return by the Repatriation and Departure Service. 14% of the research group stated they did not have a preference for either IOM or the Repatriation and Departure Service: these migrants were not willing to return at all. Of 20% of the research group it is not known whether they preferred voluntary return with IOM or forcible return by the Repatriation and Departure Service. And finally, one respondent claimed to prefer repatriation, since the Repatriation and Departure Service could arrange his return more rapidly.

It is noteworthy that a small number of interviewees' perception was that IOM became part of the governmental repatriation system by its presence in the detention centres and its role regarding voluntary return from detention. These migrants thought IOM should do more for migrants in general instead of assisting the Dutch government to realise return of migrants from the Netherlands.

## 5.5 RESPONDENTS' INTENTIONS TO LEAVE AND POSSIBILITIES FOR RETURN

What does the above mean for the respondents' possibilities of return from immigration detention? To answer this question, the Repatriation and Departure Service has provided information on the status of the interviewed migrants on 22 August 2011. This information is linked to the respondents' intentions to return. It is categorised in the table below to determine whether their intentions to leave influenced their possibilities of return.

**Table 5.3: Respondents' status on 22 August 2011.**

Status	Still in immigration detention		Released within the Netherlands		Returned to country of origin by the Repatriation and Departure Service		Left the Netherlands voluntarily with assistance of IOM		Total	
	N	%	N	%	N	%	N	%	N	%
No willingness to leave	30	67	10	22	5	11	-	-	45	100
Willingness to leave the Netherlands without willingness to return to country of origin	11	73	3	20	1	7	-	-	15	100
Willingness to return to country of origin	2	17	5	42	1	8	4	33	12	100
Doubts whether to leave	4	44	4	44	1	11	-	-	9	100
<b>Total</b>	<b>47</b>	<b>58</b>	<b>22</b>	<b>27</b>	<b>8</b>	<b>10</b>	<b>4</b>	<b>5</b>	<b>81</b>	<b>100</b>

The table shows that a majority of 58% of the research group was still in immigration detention on 22 August 2011. Therefore, it is not possible to draw any conclusions regarding the intentions to leave and the possibilities of return of the interviewed migrants.

It may only be concluded that respondents who were not willing to leave the Netherlands relatively often remained in immigration detention, whilst respondents who were willing to return often either returned to their country of origin or were released within the Netherlands. Generally, more respondents were released in the Netherlands than repatriated to their countries of origin. However, this is only a slight indication that the lack of respondents' willingness to leave the country of origin still seems to influence the possibilities of return of migrants from immigration detention.

## 5.6 RESPONDENTS' CONDITIONS TO RETURN

The respondents were asked under which conditions they would be willing to return to their countries of origin. The table below shows the answers of those 69 interviewed migrants who were not willing to return to their countries of origin.<sup>147</sup>

<sup>147</sup> Some interviewed migrants mentioned more than one return condition. Therefore, the number of return conditions is over 69.

**Table 5.4: Conditions to return of respondents who were not willing to return.**

Conditions	Number	Percentage
None	28	41
Security in country of origin	20	29
Financial or in kind contributions	14	20
Social aspects	7	10
No legalization/opportunities in the Netherlands	4	6
Travel documents	3	4
Health	3	4

41% of the respondents who were not willing to return to their countries of origin did not have any return condition. That is, under no condition they were willing to go back to their countries of origin. Or, like a man of the Caucasus stated, *“Under no conditions. I don’t have a country to go to. Holland is my country. (60)”* This applied to interviewed migrants with different motives for migration. Some of them were willing to leave the Netherlands without returning to their countries of origin, but a majority of this group intended to continue their irregular stay in the Netherlands if they would be released from immigration detention.

29% of the respondents of this group were only willing to return to their countries of origin if their security would be guaranteed and/or if the political or religious problems there would be resolved. This applied mainly to respondents who left their countries of origin for security reasons. As an Asian man stated: *“If the security and political situation in my country is not improved and if my personal problem is not solved, I will never return there. Wherever I stay, in the Netherlands or in a third country, legal or illegal, I will never return to my country. (52)”*

20% of the interviewees without willingness to return would consider return if they would receive a financial or an ‘in kind’ contribution upon their return. This contribution had to be sufficient to make a new start in their countries of origin. Without a contribution or without a sufficient contribution, these migrants were not willing to return. An African man stated for example: *“I’ll return with money. It’s not about 1000 euro, but far more. I have a lot of experience now. I learned to cook very well in the Netherlands since I’ve been working as a cook. And I can make curtains and coat couches too. I would like to start a restaurant or a sewing shop in my country. Therefore, I need a starting capital. (18)”* This concerned mainly migrants who left their country for economic reasons. They only want to return if their life opportunities in their countries of origin are comparable to or better than their life opportunities in the Netherlands. Some of these respondents thought they had a right to such a contribution since they had been paying taxes and pension contributions. This applies for example to an Asian man: *“I’m willing to return now, but I want my taxes and my pension back. I’ve been paying taxes and I’ve been contributing to my pension fund. And now, I get nothing. And I have nothing myself. That’s why I want my saved money. I’ve nothing there, while I’ve saved for 15 years here. I want to have this money. (5)”*

10% of the respondents not willing to return would only consider return under conditions related to social aspects. These migrants were, for example, only willing to return if their partners, children or other loved ones would join them or if their loved ones in their countries of origin would welcome them. Otherwise, these migrants were not willing to return. This applies for example to a man from the Middle East: *“If I wouldn’t have a daughter and if my situation would be okay in my country, I would sign for return. (40)”* This concerned migrants with all different migration motives.

Other conditions for return were also mentioned by respondents who were not willing to return, such as: deteriorated chances of a better life in the Netherlands; better health, which would allow return; and the obtainment of travel documents. A man from Africa stated for example: *“If I would not be disabled, I would search for information. Now, detention is better. My life couldn’t*

*be worse. I have no future in my country: there is no medication and no therapy. Every winter, I have problems and I need to see a doctor for pain management. (...) If there is a solution for me, I will return. I want to have a good life. They want to give me 2000 euro, but what can I do with it? I cannot get married. I cannot live with my mum. I'm a grown up. If there is a solution for me, I'll return. Then, I don't need help from IOM or the Repatriation and Departure Service. Understand that my life is difficult now. I've spent half of my life in detention. That is no life. (56)"* These interviewed migrants were not willing to return if their return conditions would not be fulfilled.

It is noteworthy that those interviewed migrants who were willing to return did have some return conditions as well. 42% of this group needed travel documents to realise their return and 25% of this group expressed their wish for a financial contribution. 42% of this group did not have return conditions anymore. They had abandoned these conditions and were awaiting the realisation of their return.<sup>148</sup>

Finally, it should be noted that it is not surprising that the interviewed migrants' conditions to return relate to the factors in their decision-making processes regarding return, such as security in the countries of origin, life opportunities both in their countries of origin and in the Netherlands (including financial/in kind contributions and legalization), social aspects and health issues. Travel documents were an extra condition for return. These factors are—with the exception of the financial or in kind contributions which nowadays are offered by the Repatriation and Departure Service,<sup>149</sup> IOM and non governmental organizations—difficult to be met by governmental policies. Just as the factors within the respondents' decision-making processes these conditions are out of the governmental sphere of influence and authority.

## 5.7 TO CONCLUDE

The focus in this chapter was on respondents' intentions to leave and possibilities for return. It was shown that two definitions can be used to determine the effects of immigration detention. On the basis of the (alternative) definition, which includes all migrants in immigration detention 49% of the migrants were forcibly returned by the Repatriation and Departure Service either to their countries of origin or within the European Union in 2010, according to figures provided by the Repatriation and Departure Service on 26 October 2011. 6% of the migrants in immigration detention returned independently from immigration detention in 2010, either with assistance of IOM or with the Repatriation and Departure Service.

The effects of immigration detention are influenced by the conditions and challenges of the Repatriation and Departure Service. The service may for example only repatriate those migrants who are part of their caseload and not all migrants in immigration detention are part of this caseload. Besides, migrants may only be repatriated if they have valid travel documents or if their (re)admission is guaranteed. Both travel documents and (re)admission can be complicated to obtain if: a migrant's nationality and identity cannot be determined; he is not willing to return and is failing to cooperate; and/or if the Embassy puts conditions before issuing these documents. These factors hamper repatriation from immigration detention.

Migrants in immigration detention have the opportunity to return voluntarily from immigration detention with assistance of IOM, but IOM assists only those migrants who make a well-informed, voluntarily decision to return and who meet the criteria of the REAN Programme. In addition, no challenges may be present. This means that a migrant needs valid travel documents.

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<sup>148</sup> Some of the interviewed migrants, who were willing to return to their countries of origin, mentioned more than one condition. The number of return conditions is therefore over 12 (the number of respondents who were willing to return to their countries of origin) and the percentage is therefore over 100%.

<sup>149</sup> See, for example, Hermans: 2011. See also <http://www.dienstterugkeerenvertrek.nl/actueel/2011/04/artikelen-in-de-volkskrant.aspx> (consulted on August 25th, 2011).



To meet the criteria, his return needs to be responsible and the government may not have objections against the voluntary return. Due to these challenges, some of the interviewed migrants were rejected while 5% of the respondents returned with assistance of IOM before 22 August 2011.

This chapter provides a slight indication that the return possibilities of the interviewed migrants from immigration detention are influenced on the one hand by their intentions to leave, and on the other hand by the above mentioned conditions and challenges regarding return from immigration detention. The respondents' intentions to leave may be positively influenced if their return conditions are met, but 41% of the respondents without willingness to return to their countries of origin did not have any return conditions. They were, not under any condition, willing to return to their countries of origin. Other interviewees who were not willing to return mentioned some conditions under which they would consider return. Except for the financial or in kind contributions, these conditions cannot or can hardly be met by governmental policies since they are out of the governmental sphere of influence and authority. This means that governmental influence to stimulate respondents' return intentions is limited. This seems to have consequences for the respondents' possibilities for return from immigration detention.

## 6. IMMIGRATION DETENTION: A SPECIFIC DETERRENCE TO RETURN?

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The present Dutch government and its predecessors consider immigration detention an indispensable tool for the effectuation of its return policy. It is a last resort to prevent irregular migrants from avoiding their (forced) return. Immigration detention should result in the realisation of their repatriation from the Netherlands. According to several scholars, immigration detention is also supposed to bring about deterrence. The risk of being arrested, detained and repatriated is supposed to be a general deterrence to irregular immigration. And the detainment in itself is supposed to be a specific deterrence which makes irregular migrants willing to leave the Netherlands from immigration detention.

However, the question is to what extent immigration detention is a deterrence to return. Several studies on the decision-making processes of migrants regarding return show that migrants hover between a variety of push, pull, stay and deter factors on both micro and macro levels or on a structural and individual level. The decision-making processes seem hard to be influenced by governmental policies since the factors within these complex processes are generally out of the sphere of influence of the authority of the governments. This also applies to the risk of being arrested, detained and possibly repatriated. This risk plays a modest role within migrants' decision-making processes regarding return. Consequently, the general deterrence of immigration detention seems to be modest as well.

The specific deterrence of immigration detention has not been central in any study so far. Van Kalmthout et al studied the return possibilities of migrants from immigration detention and concluded that personal factors, and specifically the lack of willingness of the migrants to cooperate on their return, were the main factors hindering the return of migrants from immigration detention. Since the publication of this study, several actions have been taken, and several developments have occurred which are assumed to influence the willingness of migrants in immigration detention to return. Considering that the governmental influence of migrants' willingness to return seems to be modest, the question arises to what extent immigration detention is a specific deterrence to return for migrants in immigration detention. This main question of this study will be answered in this concluding chapter and will be followed by a discussion of the topic.

### 6.1 THE INFLUENCE OF IMMIGRATION DETENTION ON RESPONDENTS' DECISION-MAKING PROCESSES

Several sub-questions have been used to find an answer to the main question of this study. The first addressed the influence of the stay in immigration detention on the respondents' willingness to leave the Netherlands. It was shown that the willingness of a minority of the research group to leave the Netherlands increased due to the stay in immigration detention and the willingness to leave the Netherlands of a small group decreased due to the detainment. The intentions to leave of a firm majority of the interviewed migrants were however not influenced by their stay in immigration detention. As a result, a majority of the interviewed migrants were still not willing to leave the Netherlands although part of the research group wanted to migrate to another European or Western country, were still willing to return to the country of origin or still doubted whether to leave the Netherlands. It is noteworthy that many respondents were facing a hard time since they thought the detainment was not justified, they considered the detention conditions poor and that they felt their well-being was harmed by their detainment. Nevertheless, a majority of the interviewed migrants did not want to leave the Netherlands in spite of their detainment.

This raises questions of the role of immigration detention within the respondents' decision-making processes. This role was addressed in the second sub-question. It may be concluded the decision-making processes of the interviewed migrants show many similarities with the processes of migrants outside detention. Similar push, pull, stay and deter factors play a role in the decision-making processes about whether to leave the Netherlands. Detainment is just an extra factor in the decision-making process of the interviewed migrants. The stay in immigration detention and the risk of repeated immigration detention was considered a push factor by a minority of the interviewed migrants which was so compelling that it made them either willing to leave the Netherlands or doubt whether to stay in this country. The stay in immigration detention decreased the willingness to leave of some interviewed migrants. The stay in immigration detention functioned as a stay factor for these migrants and they were therefore no longer willing to leave the country. However, the detainment did not affect the leaving intentions of a majority of the research group. Immigration detention might have had a role in their decision-making processes about whether to leave the Netherlands, but this role was less compelling than the role played by other factors. Therefore, the outcome of their decision-making processes regarding return did not change during their stay in immigration detention although some migrants did consider spending more or less time in the Netherlands due to the detainment.

The role of immigration detention in the decision-making processes seemed to differ between interviewed migrants with different characteristics. These possible differences were addressed in the third sub-question of the research. It appeared that the role of immigration detention was less compelling for respondents who: migrated due to security motives and/or applied for asylum, whose life opportunities in the Netherlands were still considered good/better than in their countries of origin, who had children and/or partners in the Netherlands and who had health problems. As a result, immigration detention does play a compelling role within the decision-making processes of some interviewed migrants, whilst it does not have (such a compelling) role for those interviewed migrants who possess these characteristics.

## **6.2 RETURN FROM IMMIGRATION DETENTION**

The willingness of migrants in immigration detention is supposed to influence the migrants' possibilities for return from immigration detention. This was shown in the only study on the topic. It is not certain whether this conclusion is still valid. However, questions easily arise on the conditions for return from immigration detention, which were addressed in the fourth sub-question.

The conclusions might be that return from immigration detention is hindered by several return conditions the Repatriation and Departure Service is faced with. This service cannot repatriate those who are (temporarily) not removable, who do not have valid travel documents, whose admission is not guaranteed, and whose special requirements cannot be met. Besides, IOM may only assist those migrants who make a well-informed, voluntary decision to return from immigration detention, who meet the criteria of the REAN Programme, who have valid travel documents, whose return is considered justifiable and whose voluntary return is not objected to by the Dutch government. Finally, the interviewed migrants mentioned return conditions such as security in their countries of origin, a substantial financial or in kind contribution, social aspects, lack of legalization or opportunities in the Netherlands, travel documents and health issues. Except for the financial or in kind contributions, the respondents' return conditions cannot, or can hardly, be met by governmental return policies since such powers are out of the sphere of governmental influence and authority.

These return conditions seem to have an impact on the effects of immigration detention. These effects were addressed in the final sub-question of the research. The Minister for Immigration and Asylum determines the effects of immigration detention on the basis of the caseload of the

Repatriation and Departure Service. Using this definition, in 2010 65% of the caseload of the Repatriation and Departure Service was forcibly returned from immigration detention and 35% of this caseload left immigration detention unsupervised. However, using an alternative definition, which includes all migrants in immigration detention, 49% of the migrants in immigration detention were forcibly returned in 2010 according to figures provided by the Repatriation and Departure Service. These migrants were either repatriated to their countries of origin or forcibly returned within the European Union. Immigration detention in 2010 returned independently either with assistance of IOM or with the Repatriation and Departure Service.

In this study, it was not determined whether the lack of willingness of migrants in immigration detention to return still may be considered the main hindering factor for return from detention. However, the study does show that the return possibilities of migrants still seem to be influenced by the lack of willingness of migrants in immigration detention to return, the need of travel documents, the right to await legal procedures in the Netherlands and the position of embassies towards return. This seems to have an impact on the effects of immigration detention.

### **6.3 IMMIGRATION DETENTION: A MODEST SPECIFIC DETERRENCE TO RETURN**

Finally, it may be concluded that immigration detention was not a specific deterrence to return for a majority of the interviewed migrants. The willingness of these migrants to return was not stimulated by their stay in immigration detention, even though many of them thought their detentions was not justified, the detention conditions were poor and harmful to their well-being. The detainment in itself and the focus on return during the stay in immigration detention made many respondents to a greater extent consider either return or leaving the Netherlands. However, other factors in their decision-making processes regarding return were more compelling than the detainment. The intentions to return of these migrants were therefore not influenced by their stay in immigration detention.

Immigration detention did make some interviewed migrants willing to leave the Netherlands. These migrants were still not willing to return to their countries of origin, but neither did they want to stay in the Netherlands. Due to their detainment, these migrants wanted to migrate (irregularly) to another European or Western country.

However, apparently immigration detention hardly influenced the willingness to return to the country of origin of those interviewed migrants who migrated for security motives and/or applied for asylum, who had good/better life opportunities in the Netherlands than in the country of origin, who had children and/or a partner in the Netherlands and/or who had health issues. Immigration detention did not seem to be a specific deterrence to return for respondents with these characteristics. On the contrary, immigration detention did seem to be a specific deterrence for migrants who migrated for other reasons than security, who did not apply for asylum, who had good or better life opportunities in their country of origin, who did not have children and/or a partner in the Netherlands and who were healthy. The intentions of respondents with these characteristics to leave were relatively often influenced by their detainment with the purpose of removal. It made this minority of the research group willing either to return to their countries of origin or to migrate (irregularly) to another European or Western country.

This leads to the conclusion that immigration detention is a modest deterrence to return for this particular research group. It only deters a specific small group of migrants in immigration detention to return to the country of origin. A majority of the research group is not deterred by the detainment. They said that the stay in immigration detention was hard, the conditions were poor and it had a negative impact on their well-being, but it did not result in a willingness to return to their countries of origin although a group of them was either willing to leave the Netherlands to migrate irregularly to another European or Western country or doubted whether to leave the Netherlands.

The lack of willingness of the interviewed migrants in immigration detention to return does not mean they will not be forcibly returned from immigration detention. The Repatriation and Departure Service will, whenever possible, also forcibly return those migrants who are not willing to return their countries of origin. However, the respondents' lack of willingness to return does seem to have an effect on their possibilities for return. If this applies to all migrants in immigration detention, the lack of willingness to return still hinders return from immigration detention. Since the decision-making processes of the interviewed migrants seem hard to influence and many return conditions of the interviewed migrants can hardly be met by governmental policies, the question rises whether it is possible to influence the willingness of irregular migrants to return by governmental policies. Even the last resort of immigration detention under restrictive conditions proved only a modest specific deterrence for the interviewed migrants to return.

## **6.4 DISCUSSION**

Immigration detention is considered an indispensable tool for the effectuation of the governmental return policy. The lack of willingness of migrants in immigration detention to return was considered the main factor which hindered the successful return from immigration detention. The lack of willingness still seems to hinder the return possibilities of migrants in detention. However, it seems difficult to enhance the willingness of irregular migrants to return since the factors within the migrants' decision-making processes regarding return are often out of the governmental sphere of influence or authority. This study shows that even detainment was only a deterrence to return for a minority of the research group. As a result, several points of discussion arise. These are discussed in this concluding paragraph.

### **6.4.1 Theoretical implications**

This study is in line with previous studies on the decision-making processes of irregular migrants regarding return. The factors within migrants decision-making processes, both in and outside immigration detention, are similar. (The risk of) immigration detention does have a role within these decisions, but this role is modest. It is one of the many factors for irregular migrants in their decision-making and often not so compelling that it makes migrants willing to return to their countries of origin.

The compelling factors in the decision-making processes of irregular migrants regarding return are hard to influence with governmental policies, since these factors are out of the governmental sphere of influence and authority. This confirms previous studies of the decision-making processes of irregular migrants. However, this study shows that even the last resort of detainment for the sake of removal does not make a substantial group of migrants willing to return to the country of origin.

Due to doubts regarding the representativeness of the research group these results may not be regarded valid for the entire immigration detention population. The study only provides indications regarding the specific deterrence of immigration detention to return. These indications should be tested during a quantitative study among a more extensive research group to determine whether they are valid for the total immigration detention population. These theoretical implications should therefore be considered a first step to developing theories on the specific deterrence of immigration detention.

### **6.4.2 Policy implications**

This study also carries policy implications since it raises questions on the use of immigration detention. Immigration detention is, as stated, considered an indispensable tool for the government to realise return of irregular migrants and is used in the Netherlands relatively more often compared to other European countries. However, alternatives for immigration detention might be more strongly considered.

It is argued that the general deterrence of immigration detention is modest. The risk of being arrested, detained and possibly repatriated has, as far as it is known, a small role within the migrants' decision-making processes regarding return. This study shows immigration detention was a modest specific deterrence for the interviewed migrants. Only a small group of respondents was willing to return to the country of origin due to the detainment. Except for an financial or an 'in kind' contribution, the factors which do have a compelling role in the decision-making processes of the interviewed migrants about whether to return seem difficult to be influenced by governmental policies since these are out of its sphere of influence and authority. Even detainment with the purpose of removal did not influence a firm majority to return to the country of origin.

The lack of willingness to return seems to influence the possibilities of return of migrants from immigration detention, as do: the difficulties in obtaining the required travel documents, the right to await legal procedures in the Netherlands, the position of embassies towards return and probably many other factors. This seems to have impact on the effects of immigration detention. These effects are currently determined on the basis of the caseload of the Repatriation and Departure Service, which raises questions on the definitions of the effects. Currently, not all migrants who are detained under Section 59 of the Aliens Act 2000 are part of this caseload. The migrants who return voluntarily with assistance of IOM are not reported separately and no distinction is made between those who were forcibly returned back to the country of origin and released within Europe.

This study shows that a group of interviewed migrants was willing to leave the Netherlands due to their detainment with the purpose of removal. However, these migrants were not willing to return to their countries of origin. They wanted to migrate irregularly to another European or Western country. If these migrants execute their plans and indeed migrate, they are no longer irregular in the Netherlands. Nevertheless, this may not be regarded a sustainable solution since these migrants almost definitely continue their irregular stays abroad. The problems which may accompany irregular residence are merely sent to other European or Western countries.

The forced return of irregular migrants from immigration detention within the European Union also raises questions on the sustainability of this kind of return. These migrants are not returned to the country of origin, but they continue their (irregular) stay within Europe. Therefore, it is easy for these migrants to come back irregularly to the Netherlands. The study of Van Kalmthout et al showed that 12% of the migrants in immigration detention had been forcibly returned prior to their detainment.<sup>150</sup> What is not registered is the percentage of migrants who are forcibly returned from immigration detention within the European Union. But it may be doubted whether forcibly returning them to other countries within the European Union may be regarded a sustainable solution.

Furthermore, it should be noted the use of immigration detention is expensive. One day in a detention centre costs 197 euro's per person, excluding the repatriation costs and the variable costs. The average length of immigration detention was 74 days in 2010. This year, 8.480 migrants were detained. This means the costs of immigration detention were much more than 2.8 million euro in 2010. The variable costs and the repatriation costs are not included in this amount. Not only are the material costs high but also the human and social costs may be substantial. A large number of interviewed migrants stated that their well-being decreased due to the detainment and many respondents had the idea that their health deteriorated during their stay under restrictive conditions in immigration detention. From the perspectives of most respondents the detainment brings with it high human costs for the migrants in detention. Additionally, it brings social costs since a substantial number of migrants are released within the Netherlands without housing and jobs which they lost due to their detainment. These migrants are brought to a train station and given (money for) a ticket to travel to the place where they were arrested prior to their detainment. During their detainment they are not prepared for their return to society in either the countries of origin or the Netherlands. This might cause problems for the migrant concerned and bring costs to bear on Dutch society

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<sup>150</sup> Van Kalmthout et al: 2004.

since these migrants do not have a house to go to and do not have an income. Or as a result, they might migrate irregularly to another European or Western country, which will be confronted in his turn with these social costs.

The modest deterrence of immigration detention, the uncertainty of the effects of immigration detention, the doubts regarding the sustainability of the outcomes of detention and the high material, human and social costs of detainment all raise questions about the use of immigration detention. Yet, immigration detention might have some governmental advantages as well: the material, human and social costs of irregular residency in the Netherlands may, for example, be higher than those of detainment, the effects of immigration detention might be higher than the effects of alternatives for immigration detention and the warning signal of immigration detention to potential irregular migrants in the country might be stronger. However, the costs and benefits of immigration detention in relation to other means to fight irregular residency in a sustainable manner have not been examined. Given the abovementioned aspects, the question arises whether alternatives for immigration detention could be as effective and less expensive as the tool of immigration detention. It may therefore be helpful to analyse the costs and benefits of immigration detention in relation to other means to fight irregular residency and/or to start a pilot regarding alternatives for immigration detention in the near future on a larger scale.

### **6.4.3 Research implications**

Finally, this study leaves several implications for further research. First of all, it might be interesting to repeat this study on a more extensive research group, which will be asked prior to and during their detainment whether they are willing to leave. It was not possible to ask the migrants who cooperated on this study prior to their detainment whether they were willing to leave for their countries of origin. Therefore, the influence of immigration detention on their leaving intentions is based only on their memories of their return intentions prior to their detainment and their thoughts on the influence of immigration detention on their intentions to leave. This has provided a lot of information on the influence of immigration detention on the migrants' intentions to leave. Even so it may be considered a methodological weakness of this study. Therefore, a comparable study is recommendable with two points of measurement among a more extensive research group. This would also provide the opportunity to check whether the results of this study are valid for the entire immigration detention population.

In addition, it should be noted that there is no independent study available on the effectiveness of immigration detention in which all migrants in immigration detention are taken into account, as well as the costs and results of detention. The governmental immigration chain does provide figures of the outflow of immigration detention, but these figures do not apply to all migrants in immigration detention. These figures also do not show whether migrants are forcibly returned or whether they return voluntarily from immigration detention. And they do not show whether migrants are forcibly returned to their countries of origin or within Europe. In addition, there is no link between the length of a migrant's detention and the reasons for his release from detention. The costs in relation to the chance of repatriation are also not clear. This lack of information creates a need for an independent study on the effectiveness of immigration detention on basis of a broader definition as this lack of information hampers both policy makers and researchers.

It might also be rewarding to once more study the possibilities for return of migrants from immigration detention. A lot of measures have been taken and there have been many developments since the publication of the only study on this topic which raises the question whether the lack of willingness of migrants to return still may be considered the main hindering factor for return from immigration detention. It is relevant for policy makers to examine whether this study is still valid since it has impact on the effectiveness of immigration detention. In such a study, the role of embassies should be taken into account, especially regarding the provision of required travel documents.

Furthermore, research would be relevant on the effects of immigration detention on the health of migrants in immigration detention in the Netherlands. Such a study has not been conducted in the Netherlands so far. Australian research shows that immigration detention does have harmful effects on migrants' health and well-being, but the Australian situation differs from the Dutch situation.<sup>151</sup> However, there are several indications that immigration detention in the Netherlands also harms the feelings of health and well-being of migrants in immigration detention. This is shown in several studies, including this one.<sup>152</sup> A majority of the interviewed migrants believed that their health had deteriorated due to their detainment. Since human aspects may not be ignored and health issues seem to decrease the migrants' willingness to return, such a study is relevant for policy makers. It gives them the opportunity to take these effects into account in their policies.

And finally, research on irregular migrants' conditions for return might be relevant. Such research should imply financial and 'in kind' contributions for irregular migrants. It might for example be relevant to examine what these contributions should look like to be an incentive for irregular migrants to return to their country of origin and whether such contributions may be considered an effective tool within the governmental return policies. Besides, it is interesting to imply the feelings of security of irregular migrants upon return to the country of origin in such a study since it might be rewarding to provide additional information to irregular migrants on the situation in the country of origin or to bring irregular migrants in contact with organizations in the country of origin as it may lead to alleviation of security concerns. Also other conditions for return of irregular migrants might be taken into account during such a study which could be used for return policies regarding (irregular) migrants.

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<sup>151</sup> See for example Coffey et al: 2010, Newman et al: 2008 and Steel et al: 2006.

<sup>152</sup> See for example Jesuit Refugee Service-Europe: 2010 and Justitia et Pax: 2010.





## EXECUTIVE SUMMARY

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Immigration detention is considered an indispensable instrument for effecting government's return policies. However, the result of this study is that for most migrants a stay in immigration detention does not affect their lack of willingness to return.

Immigration detention is meant to prevent irregular migrants from escaping their forced return and is designed to result in the departure of irregular migrants from the Netherlands. Several scholars argue that immigration detention is also meant to bring deterrence: for migrants outside detention, the risk of being arrested, detained and repatriated should deter them from irregular residence in the Netherlands (general deterrence) and for immigrants in detention, the detention in itself should make them more willing to leave (specific deterrence).

A previous study from 2005 shows that the lack of willingness of migrants in immigration detention is the main impediment for return from immigration detention. Since this study, several governmental actions and developments have taken place including sharpening of policies regarding irregular migrants, establishment of the Repatriation and Departure Service, start of IOM's project Assisted Voluntary Return from Detention, return directive of the European Union coming into force and changes regarding the obligation and implementation of immigration detention in the Netherlands. As a result, questions are arising to what extent a stay in immigration detention influences a migrant's decision-making process regarding return. Subsequently to what extent migrants in immigration detention consider the detainment to be a specific deterrence to return. These are the crucial questions in this study.

Different kinds of data collection were used during this study next to literature research. Interviews with 81 migrants in the detention centres Rotterdam, Zaandam and Zeist were conducted together with an analysis of the respondents' personal files with IOM, the Immigration and Naturalisation Service and the Repatriation and Departure Service. The results of the field research, based on a small sample, may not be regarded as representative for the total immigration detention population. It only gives an indication to what extent immigration detention is an incentive to return for some migrants.

It turned out in this study that the decision-making processes of irregular migrants in immigration detention does not substantially differ from the decision-making processes of irregular migrants outside immigration detention. They come to a decision to leave or not to leave on the basis of similar push, pull, stay and deter factors.

Three categories of migrants may be distinguished amongst the respondents. The first category consists of migrants who migrated for protection with security motives. For most of these migrants their living conditions in the Netherlands deteriorated compared to their living conditions in their country of origin, with exception of their feelings on security. The second category migrants migrated for economical reasons. Their living conditions remained mostly the same or degraded in comparison with the conditions in their country of origin. The third category migrated for social reasons; to them living conditions in the Netherlands covered the whole spectrum from strongly improved to deteriorated living conditions.

The study shows that detention was not likely to influence the decision-making process of the following migrants: those who migrated because of security motives, and/or applied for asylum, those whose life opportunities in the Netherlands were still considered good/better than in their countries of origin, those who had children and/or partners in the Netherlands and those who had

health problems. On the other hand detention was more likely to influence the decision-making process of the following migrants: those who fled for other reasons than security, those who had good or better life opportunities in their country of origin, those who did not have children and/or a partner in the Netherlands and those who were healthy. The detainment made this minority willing either to return to their countries of origin or to migrate to another country. This leads to the conclusion that immigration detention works as a deterrence to return for this particular research group, but for a firm majority of the respondents it does not function as a deterrence.

The lack of willingness to return of the majority of the interviewed migrants in immigration detention does not prevent them to be forcibly returned. The Repatriation and Departure Service will, whenever possible also forcibly return those migrants to their country of origin or to another EU country. In 2010, the Repatriation and Departure Service forcibly returned 65% of its caseload while 35% of its caseload was released within the Netherlands. However, not all migrants who are detained in immigration detention under Section 59 of the Aliens Act 2000 are part of the caseload of the Repatriation and Departure Service. It needs to be noted that migrants who return voluntarily with assistance of IOM are not separately recorded in the government figures. Besides, no distinction is made between migrants who are repatriated to the country of origin and migrants who are forcibly returned within the European Union (Dublin claimants). If these aspects are included in the definition of the effects of immigration detention 49% of the migrants in immigration detention were forcibly returned in 2010 according to figures provided 26 October 2011 by the Repatriation and Departure Service. This includes both migrants who were repatriated to their countries of origin as well as migrants that were forcibly returned within the European Union. Consequently from this source 6% of the migrants in immigration detention returned independently either assisted by IOM or directly by the Repatriation and Departure Service.

To conclude, it is relevant to query to what extent it is possible to apply governmental policies and instruments in influencing the willingness of irregular migrants to return. The respondents mentioned several conditions to return such as security in their countries of origin, a substantial financial or in kind contribution for making a new start back home, social conditions, lack of legal opportunities for stay the Netherlands, absence of travel documents and health concerns. These conditions are difficult to influence through government policies, likewise the factors within the respondents' decision making process regarding return. Immigration detention under restrictive conditions as a last resort proved to be only a modest specific deterrence for the interviewed migrants to return.

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# APPENDIX 1: QUESTIONNAIRE ON RETURN FROM IMMIGRATION DETENTION

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## Introduction by the interviewer before the start of the interview (5 min.)

- Introduce yourself and have a little chat.
- Thank the migrant for his cooperation and explain the reason for the interview once again: IOM wants to conduct a study on the return intentions of migrants in immigration detention. This study aims to examine the influence of immigration detention on the decision-making process of irregular migrants in immigration detention by making an inventory of the push, pull, stay and deter factors about return to the country of origin that affect irregular migrants. Therefore, about 80 migrants like you in immigration detention will be interviewed.
- Stress the confidentiality and anonymity of the interview and the provided information.
- Stress that the research is *not* designed to force people to return.
- Stress that the interview is *not* meant to persuade people to return.
- Stress that the interview and research will *not* have any influence on their position in detention and their return process.
- Stress that you *cannot* help the individual migrant and that you cannot reward the migrant. The interview is meant for irregular migrants in immigration detention in general since the study aims to examine the influence of immigration detention on the decision-making process regarding return. The results of this examination will be anonymously presented in a research report and at a seminar.
- Explain the structure and the duration (approximately two hours) of the interview: the interview will start with some general questions about the migrant, about his situation in the country of origin and in the Netherlands before his stay in immigration detention. These questions will be followed by some more important opening questions about the situation in immigration detention, on the return intentions of the migrant and on the position of IOM in detention. The interview will be completed with some concluding questions.
- Confirm willingness to answer.
- Any questions?

## 0. Interview information

- a Interview number (initials and number):
- b Date:
- c Detention centre:
- d Time (start interview):
- e Time (end interview):
- f IOM client (yes/no):

## 1. Personal information (5 min.)

*At first, I would like to ask you some introduction questions.*

- 1 Year of birth:
- 2 Nationality (if you want to tell me):
- 3 When were you arrested?
- 4 When were you detained in this detention centre? In case there was a lot of time between your arrest and arrival in this detention centre, where have you been in the mean time?

## 2. Coming to the Netherlands (10 min.)

*So far for the introductory questions. I would like to continue with some open questions about your reasons for coming to the Netherlands. Once again, if you do not want to answer a question, just tell me. Then we can move on to the next question.*

- 5 Why did you leave your country of origin?
- 6 What was your situation in your country of origin, in terms of:
  - a Relationships (partner(s), family, friends):
  - b Health and well-being:
  - c Housing:
  - d Labour market position and income:
  - e Security:
  - f View on the Netherlands before you came here:
- 7 Why did you come to the Netherlands?

## 3. Living irregularly in the Netherlands (10 min.)

*Now, I would like to ask you something about living irregularly in the Netherlands, to learn something more about your life before your arrest. I want to emphasize once more that everything you tell me is confidential.*

- 8 What was your situation in the Netherlands during your irregular stay, in terms of:
  - a Relationships (partners(s), family, friends):
  - b Health and well-being (feeling at home/homesickness):
  - c Housing:
  - d Labour market position and income:
  - e Security:
  - f Information of your country of origin in relation to return (sources, reliability, consequences for view on country of origin):

#### **4. Staying in immigration detention (30 min.)**

*Not so long ago you got arrested and were detained in this detention centre. I would like to continue with some questions about your stay in immigration detention.*

- 9 Why were you arrested?
  - a Have you ever before committed a criminal offense? What? And why?
- 10 Could you describe the reasons for your stay in detention in your own words?
- 11 What do you think of the conditions in this detention centre?
  - a Are the conditions in this detention centre different from the conditions in other detention centres? If yes, in what way?
- 12 How is your situation in immigration detention, in terms of:
  - a The aforementioned relationships (contact, way of contact, meaning of these contacts and consequences of immigration detention for these contacts):
  - b Health and well-being (changes since staying in detention, coping with the situation):
  - c Security:
- 13 Have you collected information about your country of origin while being detained in immigration detention?
  - a How?
  - b Why or why not?
  - c What does this information mean to you (sources, reliability, consequences for view on country of origin)?
- 14 Do you think the detention conditions are appropriate, given the reason for your detention? Why or why not?
- 15 Do you think the Dutch government has the right to detain you? Why or why not?

#### **5. Returning home? (30 min.)**

*Next, I would like to ask some questions about your opinion on return, to learn something more about your particular situation and your view on return.*

- 16 How long did you plan to be away from your country of origin at the start of your migration?
- 17 Have you considered leaving the Netherlands since have been in this country? Why or why not? What did you decide regarding return?
- 18 Have you considered leaving the Netherlands since you have been in immigration detention? Why or why not? What did you decide regarding return?
- 19 Have your intentions to return changed during your stay in immigration detention? How? Why or why not?
- 20 Is return being discussed among migrants in immigration detention (why or why not?, prevailing view, meaning)?
- 21 Why do you return or not return?
- 22 Under which conditions would you consider return (for example occurrences that must take place or should not occur in the Netherlands or the country of origin)?
- 23 Do you think that you will be repatriated from immigration detention? Why or why not?
- 24 Do you think that your life in your country of origin will be different from former days after you will be repatriated? Why or why not?
  - a What does this mean for your intentions to return?
- 25 After your release in the Netherlands, do you think that your life here will be different than before your stay in immigration detention? Why or why not?
  - a Do you think that you will be detained again? Why or why not?
  - b What does this mean for your return intentions?

**6. IOM (15 min.)**

- 26 Were you familiar with the possibilities to return with IOM from immigration detention before your participation in this study?
- 27 Now you are familiar with IOM, would you like to return with help of IOM? Why or why not?
- 28 Is it better or worse to return with help of IOM compared to being repatriated? Why?
- 29 If you return with help of IOM, you will not get a stamp 'deportee' in your passport and you will not be cuffed during the transport. What do you think of this?
- 30 Is it a good or a bad thing that detainees in immigration detention are given the option of returning with IOM? Why or why not?
- 31 Do you feel IOM puts pressure on you to return? What do other migrants in immigration detention think about this?
- 32 Do you have any ideas for improving the reach and the assistance of IOM in detention?

**7. Finishing up (10 min.)**

*We are about to finish the interview. Just four questions left.*

- 33 How do you see your future?
- 34 Has this vision of the future been changed by your stay in immigration detention?
- 35 Do you have any suggestions regarding return from immigration detention or return in general?
- 36 Finally, is there anything else you would like to say about return and/or detention that you have not mentioned yet?

**This was the last question. Thank you very much for your help! I appreciate very much that you were willing to share your thoughts regarding return with me.**

**I wish you all the best.**

## APPENDIX 2: INQUIRY ON RETURN FROM IMMIGRATION DETENTION

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### First introduction of the research by the Project Officers

- Introduce yourself and IOM (give the information sheet to the migrant).
- Explain the project and its aims: the Dutch government considers immigration detention an indispensable tool for the effectuation of the return policy. It is used as a means to prevent the withdrawal of irregular migrants from their (forced) return. It should result in the departure of irregular migrants from the Netherlands. However, the effects of immigration detention seems to be limited because a significant number of migrants cannot or will not be repatriated to their countries of origin. Therefore, IOM wants to conduct a study on the intentions to return of migrants in immigration detention. This study aims to examine the decision-making processes of irregular migrants in immigration detention by making an inventory of the push, pull, stay and deter factors regarding return.
- Explain that about 80 migrants will be interviewed for this study.
- Explain why this migrant is selected for an interview: he was picked in a sample on the basis of the residents list.
- Stress the confidentiality and anonymity of the interview and the provided information.
- Stress that the research is *not* designed to force people to return.
- Stress that the interview is *not* meant to persuade people to return.
- Stress that the interview and research will *not* have any influence on their position in detention and their return process.
- Stress that you *cannot* help the individual migrant and that you cannot reward the migrant. The interview is meant for irregular migrants in immigration detention in general, since the study aims to examine the influence of immigration detention on the decision-making process regarding return. The results of this examination will be anonymously presented in a research report and at a seminar.
- Tell the migrant that he interview will be about the reasons for coming to the Netherlands, the irregular stay in the Netherlands, the stay in immigration detentions, as well as their intentions regarding return and their thoughts of IOM. It will take approximately two hours.
- Any questions?
- If the migrant is willing to cooperate, ask in which language the migrant would like to be interviewed.
- Explain that he will be approached for an interview the upcoming weeks by an IOM employee or an assistant professor or a student from the Erasmus University Rotterdam. They will conduct the interview.

## QUESTIONS

**1 Please fill in the number of family members in the box below who:**

	are living with you	are living elsewhere in the Netherlands	are living in another country	remained at home	returned home
Spouse					
Dependent children					
Grown-up children					
Parents					
Other dependent relatives					
Other relatives					

**2 Have you been in immigration detention before?**

- yes  
 no (move on to question 5)

**3 How often have you been in immigration detention before?**

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**4 Please fill in your immigration detention history in the box below:**

Time in immigration detention	Year	Detention centre(s)	Reason for release
1			
2			
3			
4			
5			

**5 Please fill in, in the box below, what actions have been taken for your repatriation since you have been in immigration detention:**

<b>Action</b>	<b>Number of actions</b>	<b>Dates</b>	<b>Result</b>
Interviews DT&V			
Presentations at the embassy			
Nationality determination			
Identity determination			
IOM information			

**Thank you very much!  
We will contact you soon for the interview.**





## APPENDIX 3: INFO SHEET ON ASSISTED VOLUNTARY RETURN FROM DETENTION

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### RETURN

#### Aid when leaving alien detention

You are being held in alien detention because you are in the Netherlands without valid residence papers and the authorities are trying to deport you. Another option is for you to leave the Netherlands independently. With aid from the International Organization for Migration (IOM) you can return to your country of origin. This leaflet provides more information on this subject.

#### **What is the International Organization for Migration?**

IOM is an independent organization which supports migrants worldwide. IOM strives for humane and orderly migration in the interest of migrants and that of society. IOM has representatives in over 120 countries and cooperates with many organizations. IOM in the Netherlands helps migrants to independently depart from the country.

IOM Internationale Organisatie voor Migratie

**IOM Project AVR**  
Postbus 10796  
2501 HT Den Haag

T 0900 ☐ 746 44 66 (€ 0,05 p.m.)

I [www.iom-nederland.nl](http://www.iom-nederland.nl)

Infosheet Ondersteuning bij zelfstandig vertrek uit  
vreemdelingenbewaring  
Engels

Ned 0/1/449 T 2008

**Leaving detention with aid from IOM**

If you decide to leave the Netherlands independently, IOM will support you.

- If you do not have travel documents, you will have to contact your country of origin's consulate to obtain a replacement travel document (laissez-passer). IOM can support you obtaining the travel document;
- IOM arranges and pays for your ticket to your final destination. You travel independently, i.e. are not accompanied by the authorities when leaving from Schiphol;
- If IOM has an office in your country of origin, it can also help you upon your arrival at the airport in your country;
- If you have any problems concerning departure, IOM may help you find a solution. For example, IOM can offer medical support during and for a brief time after your return;
- If you meet the requirements, you may be eligible for a financial contribution.

**Who is eligible for return from detention with IOM?**

You can return with aid from IOM if you meet the following requirements:

- You want to depart from the Netherlands permanently;
- You cannot pay for the journey yourself;
- You have a valid travel document, or you can obtain a replacement travel document;
- You have entered the Netherlands to live here for a longer period of time;
- You are not a European Union citizen (except victims of trafficking), and you are not a citizen of another Western country;
- You did not leave the Netherlands with aid from IOM during the previous five years, nor have you been deported at the expense of the Dutch government during this period;
- The Dutch authorities have not booked a ticket for you yet.

**Preconditions for financial contribution**

- You will receive a financial contribution of € 200 if you applied for asylum or a residence permit in the Netherlands;
- If you have always been in the Netherlands illegally, you will not receive a financial contribution;
- If you have been declared an Undesirable Alien, or the authorities have started a 1F-procedure against you, you will not receive a financial contribution.

**How to contact IOM**

You can call IOM at 0900-746 44 66 (€ 0,05 per minute). You can also ask the Return Officer to contact IOM for you. On some locations, you can also fill in a speakers note.

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No rights may be derived from the content of this information sheet.



IOM International Organization for Migration

**IOM**  
P.O. Box 10796  
2501 HT The Hague  
The Netherlands



Return: not necessarily a step backward