

ANNEX I - Overview of the main changes in asylum law and practice with effect from 1 January 2014

Theme	Situation before 1 January 2014	Situation after 1 January 2014	Additional Comments
Categorical protection policy (Article 29 (1)(d) AA).	Despite the legal basis in the Aliens Act 2000 (“Vreemdelingenwet”), the categorical protection policy has not been applied for years.	The legal basis of the categorical protection policy has lapsed per January 1st 2014 .	In May 2009 the subsidiary protection policy with regard to Somalia has ended. Only a small group of asylum seekers possesses a residence permit on the basis of the categorical protection policy.
Trauma policy (Article 29 (1)(c) AA) ¹	On the basis of the trauma policy asylum seekers could qualify for a residence permit applying the 'c-ground'.	The former trauma policy is a result of the implementation of motion “Strik” of the Senate, which is to be found in Article 29 (1)(b) AA. Asylum seekers who fulfill these conditions could qualify for a residence permit on the basis of Article 29 (1)(b) AA.	The trauma policy as set out in paragraph C2/4.1 of the Aliens Act implementation guide (“Vreemdelingencirculaire”) has lapsed on January 1st 2014 . Now the policy is set out in Cv 2/3, sub: <i>Previous confrontation with atrocities (“Eerdere confrontatie met wandaden”)</i>
Specific groups (Article 29 (1)(c) AA)	Specific groups which qualified for a residence permit by applying the 'c-ground': – Unaccompanied Afghan women	The basis (c-ground) for the policy for specific groups has lapsed on January 1st 2014 . According to the	1. Note: (limited) requirement of individualization. 2. With regard to the specific groups the motion, of the Senate member

	– Homosexuals, bisexuals en transsexuals from Iran.	government, asylum seekers who previously qualified as a specific group may be eligible for international protection (Article 29 (1)(a) (b) AA). Hence, unaccompanied Afghan women and LHBT's from Iran may be eligible for international protection.	“Strik”, still has to be implemented. In this motion the government is requested to retain the de facto policy.
Compelling humanitarian reasons (Article 29 (1) (c) AA)	Westernized Afghan girls were eligible for the attainment of an asylum residence permit on grounds of “compelling humanitarian reasons”.	Westernized Afghan minor girls are going to be eligible for attainment of a regular residence permit on humanitarian grounds from January 1st 2014	The persons concerned will attain a regular residence permit. They will be exempted from the long stay visa or passport requirement, nor will they have to pay fees.
Family reunification policy (Article 29 (1)(e) and (f) AA)	Family members with a long stay visa received a derivative asylum permit after they applied for asylum in The Netherlands.	Family members with a long stay visa will receive per January 1st 2014 automatically a derivative permit and will not enter the asylum procedure. Possibly they could apply for a permit themselves (when there are personal and independent reasons for application).	1. A family member can apply independently for asylum. 2. See: Vluchtweb checklist “Familyreunification”. 3. Per January 1st 2014 family members can be eligible for a residence permit on the basis of Article 29 (2) (a) or (b) AA. Article 29 (2) AA includes the c-ground : Parents of a single minor who were granted an asylum permit (due to personal and independent reasons) can be eligible for a residence permit.

<p>First asylum procedure</p>	<p>During the first asylum procedure there will be an automatic review whether Article 64 AA can be applied. (postponement of departure due to medical conditions), "B9"² and the trauma policy.</p>	<p>During the first asylum procedure the following aspects will be automatically reviewed: Article 8 ECHR, "B9", no-fault, discretionary power and Article 64 AA. (see last page of this survey for more details).</p>	<p>The policies with regard to the aforementioned humanitarian grounds have not been altered. Asylum seekers will be exempted from the long stay visa and passport requirements. No fees will have to be paid when the application is granted, though there is a passport requirement.</p>
<p>First humanitarian procedure</p>	<p>1. An alien who wants to submit a regular (humanitarian) application and does not possess a long stay visa can do this at the M50-desk of the INS.</p> <p>2. The application is subject to review only with regard to the requested purpose of stay.</p>	<p>1. All regular humanitarian applications will be subjected to a one-day review.</p> <p>2. If the other requirements with regard to the purpose of stay are fulfilled one shall be exempted from the long stay visa requirement.</p> <p>3. The first regular humanitarian application will contain an automatic review of the following aspects; Article 8 ECHR, "B9", No-fault policy, 'discretionary power', medical treatment and Article 64 AA.</p>	<p>M50-desk of the INS will be lifted .</p> <p>2. This measure will be implemented in the second quarter of 2014.</p>
<p>Subsequent procedure asylum (and regular)</p>	<p>A subsequent application will be assessed in the regular asylum</p>	<p>Within the subsequent asylum applications</p>	<p>1. The asylum seeker will have to make a written notification at the INS and deliver all relevant</p>

	<p>procedure (without rest and preparation period).</p>	<p>there will be an assessment within one day to review whether there are new facts or circumstances (the one-day review). The subsequent asylum application will commence with a written notice (through a M35-0 form) which will have to be send to the INS. AC- Schiphol is exempted from this one-day review.</p>	<p>documents before the commencement of the one-day review.</p> <p>2. The one-day review also applies to the subsequent regular applications and the first humanitarian regular applications. The measure will be implemented in the second quarter of 2014.</p>
<p>Medical procedures (Article 64 AA, a regular medical application on the basis of Article 3.46 Alien Decree 2000)</p>	<p>The alien claims that there are medical reasons due to which he cannot be deported. (e.g. Article 64 AA or a regular medical application). The INS collects the medical data and the BMA will review this.</p>	<p>The alien will deliver all relevant medical documents in case of a (extended-) application in which medical circumstances should be assessed (in accordance with the motion "Spekman"). Subsequently, the BMA will assess the medical data.</p>	<p>1. The onus will be shifted to the alien.</p> <p>2. The government assumes that this method will shorten the timeframe with at least 6 weeks.</p> <p>3. This measure will be implemented in the second quarter of 2014.</p>
<p>Legal aid ('No cure, less fee') asylum and regular.</p>	<p>Regardless the outcome of the subsequent application, the lawyers will receive a complete compensation on the basis of a governmental decree "Besluit rechtsbijstand- en toevoegingscriteria (Brt)".</p>	<p>Lawyers will receive a lower compensation at subsequent applications when the appeal has been declared inadmissible. (instead of four "points" they will receive two "points"). This</p>	<p>Regarding the second and subsequent applications, the measure "no cure less fee" will be implemented in the second quarter of 2014.</p>

		measure entered into force January 1st 2014	
Dublin-procedure	<p>1. Not all Dublin-cases will be settled in the regular asylum procedure (distinction is made between a Eurodac match category 1 (asylum applicatoin in another Member State) and category 2 (illegal entry in another Member State)).</p> <p>2. Dublin-cases will be assessed in the regular asylum procedure. The first hearing will take place on day 1 and the second hearing on day 3.</p>	<p>1. Dublin-cases will be settled to the greatest degree in the regular asylum procedure.</p> <p>2. In Dublin-cases the first and second hearing will be combined.</p>	
Presentation of the intended decision	The intended decision was presented to the asylum seeker.	From January 1st 2014 the intended decision will not be presented to the asylum seekers at the application centers (except for AC Schiphol). The intended decision will be faxed to their lawyers directly. The lawyer will discuss the intended decision with the asylum seeker.	
Fees for the replacement of a residence permit	Currently there are no fees charged for the replacement of an asylum residence permit. However fees	From January 1st 2014 fees will be charged for the replacement of	

	are charged for the replacement of a regular residence permit (250 euro).	an asylum residence permit. (152 Euro)	
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1. Article 29 (1)(c) AA distinguishes three categories: 1. Trauma policy 2. Specific groups and 3. Compelling humanitarian reasons.
 2. From April 1st 2013 the policy with regard to witnesses and victims of human trafficking is to be found in paragraph B8/3).

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