Research Paper

The Netherlands

- Putting the Dutch Integration Policy to a Test

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Abstract

In the Netherlands, a certain level of integration is required by immigrants at each of their applications for admission to the country, for a permanent or independent residence permit, and for Dutch citizenship.

A number of requirements have been introduced in the last decade. Their effects at the different stages show a clear relationship and relevant similarities. Migrants value the offer of language and integration education, but the link between passing the test and a certain residence right can become counter-productive.

The applicants who are relatively more often affected by requirements are: elderly and low-educated migrants, immigrants with an asylum-related background and migrants from least-developed or developing countries. While tests serve as a selection on age, education and nationality, these migrants are relatively more often in need of support for their integration.

The government could emphasize that integration is a reciprocal process by offering language and integration courses, while obliging migrants to participate. The shift from a shared responsibility to the sole responsibility of the migrant was already the case in the admission policy, but will now be extended in the integration policy in the Netherlands, due to the amendment of the “Act on Integration”.

By cutting public organisational and financial support of integration courses, the government risks fewer migrants strengthening their positions in the Dutch society. By not taking care of the most positive elements of the Integration Act, the government might fail the test on effective integration policies.
Introduction

In the Netherlands, a certain level of integration is required by immigrants at three stages: at their application for admission to the Netherlands, at their application for a permanent or independent residence permit and, finally, at their application for Dutch citizenship. The required language level in the admission procedure is A1; in the other two procedures, the required level is A2. Furthermore, immigrants are obliged to pass the integration examination at level A2 within 3.5 years after their arrival. If they fail the test, a fine can be imposed or their social security can be cut. From 1 January 2013 onward this timeframe will be 3 years and withdrawal of the residence permit will be added to the possible sanctions for failing the test.

These requirements have all been introduced in the last decade, in order to promote integration of immigrants. This report tries to give an overview of the political development towards these requirements, their content and the way they are applied and, finally, the extent to which they promote integration.

Policy development

In the Netherlands, the discussions regarding a more demanding integration test for naturalisation started in the early 1990s. Since 1985 the immigrant has had to fulfil the requirement of being “sufficiently integrated” to become a Dutch citizen. A “reasonable knowledge” of the Dutch language and a certain level of integration into Dutch society served as indications for this criterion. A civil servant from the municipality of registration of the immigrant assessed the fulfilment of this requirement on the basis of a short conversation with the immigrant on “everyday issues”. Proof of written skills was explicitly excluded. Proof of having social contacts with Dutch citizens also served as an indication of being integrated. The instructions for the civil servants rejected a uniform application and prescribed that, with regard to elderly, low-educated, illiterate and handicapped immigrants, insufficient knowledge of the Dutch language should not be a reason for the rejection of the naturalisation application. According to the instructions, the requirements for

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1 This paper is largely based on Strik, Luiten and Van Oers 2010. The INTEC Project: Country Report the Netherlands. Integration and Naturalisation tests: The new way to European Citizenship. This formed part of a comparative study in nine Member States on the national policies concerning integration and naturalisation tests and their effects on integration, financed by the European Integration Fund and published in December 2010. See for the synthesis report: Strik, Böcker, Luiten & Van Oers 2010.

2 Since 1 April 2007 the tests for permanent residence and naturalisation have been similar. Hence, once someone has passed the integration examination, he/she can apply for either permanent residence or naturalisation. Those exempted from passing the integration examination within the framework of the Integration Act will, however, need to pass the examination when applying for naturalisation.

3 Article 8 (1) sub d Rijkswet op het Nederlandschap 1985.

4 Until 1990 each applicant had an interview with a public prosecutor and a police officer (Groenendijk, 2010).
women could also be less severe. The instructions were based on the basic principle that naturalisation fits into the process of increasing participation in Dutch society. This process, however, did not need to be accomplished at the moment of naturalisation.

This principle was part of the view laid down in the integration policy at that time, the so-called “Minorities’ policy”, that a strong legal position would further immigrant integration. Naturalisation was seen as a means of achieving integration, and as a step towards complete integration. In 1995, the Christian Democrats (CDA) started to oppose this notion. They argued that the demands on future Dutch citizens should be increased, and therefore proposed to add the requirement of written language skills and knowledge of Dutch society. Instead of a means for integration, this party saw naturalisation as the “legal and emotional completion of integration”, thereby deviating from the position the government had so far held. This idea was opposed by the other political parties (i.e., the Liberal Democratic D66, the Green Left and the Social Democratic PvdA). Also, the Christian Democratic Minister of Justice was not in favour of adding the requirement of written language skills. He expressed the wish for Dutch nationality to remain open to “weaker” groups living in the Netherlands.

In 1998, the introduction of the Newcomers Integration Act (Wet Inburgering Nieuwkomers, hereafter WIN) emphasised the immigrant’s own responsibility to integrate. The new act obliged newcomers to attend a civic integration programme (inburgeringsprogramma), which included a test both at the beginning and the end, in order to measure the progress the participant had made. Although the tests were intended simply as a measurement of the level of Dutch language knowledge that had been attained, the first step in subjecting immigrants to formalised integration tests had been taken.

Following the 9/11 terrorist attacks, the rise of Pim Fortuyn’s right wing party (LPF) and his subsequent murder shortly before the 2002 elections, a centre-right government came into power. This government decided to reform the 1998 act, the results of which they referred to as disappointing (Groenendijk, 2010). A parliamentary commission was established to evaluate the results of the integration policies. In its 2004 report, this commission concluded that the integration of many immigrants had been successful, but that it remained questionable to what extent this was due to pursued integration policy. The commission also concluded that only a small percentage of the participants in the integration courses had attained level A2, the level intended by the WIN. The commission, however, did not regard this failure as proof of the immigrants’ unwillingness to integrate, but pointed to failure factors such as the slow development of courses and the existence of long-waiting lists. These balanced conclusions, however, led to the demand in parliament and

government for a radical change in the integration regime by strengthening the responsibility and obligations of the migrant regarding his/her integration. The government announced that, in future, immigrants would be required to first pass a basic examination in the country of origin, as a condition for family reunification. Furthermore, all immigrants who desired to stay in the Netherlands on a permanent basis would have to attend integration courses, for which they would have to pay themselves. Not passing the integration examination at the end of the course would entail financial sanctions and keep the residence right of the migrant on a temporary basis.

At the same time, the government installed a commission which was requested to define the concept of integration and to assess the most appropriate level of integration requirements.11 In September 2005, a proposal for a new WI, which was meant to replace the WI of 1998, was introduced in parliament.12 According to the centre-right government, a more obliging and result-oriented integration policy was required in order to combat the supposedly failed integration of “large groups” of immigrants.13 In the explanatory memorandum to the bill, the government stated that, in order “for immigrants to catch up and to allow them to successfully participate in the social markets”, they would need to have knowledge of the Dutch language and to know and accept Dutch norms and values.14 The new WI emphasised the responsibility of the migrant to meet these criteria. Hence, courses would no longer be organised and financed by the government or municipalities, but left to the market and the immigrants. The WI came into force on 1 January 2007, introducing the integration examination as a condition for permanent or independent residence.15 Since the level of the integration examination was equal to the level of the naturalisation test, it was decided that the integration examination would replace the naturalisation test. Hence, since 1 April 2007, the Netherlands has required newcomers to meet the same standards as future citizens. This development again led to a call by the Christian Democrats, the Christian Union and the Conservative Liberals to raise the language level of the naturalisation test, in order to emphasise the difference between a permanent residence permit and citizenship. So far, this political desire has not been fulfilled.

The Civic Integration Abroad Act (Wet Inburgering Buitenland, hereafter WIB) entered into force on 15 March 2006.16 The act sets an additional condition for obtaining a regular temporary residence permit, namely that people must first have a basic knowledge of the Dutch language (listening and speaking skills) and the Dutch society.17 The WIB was meant to force migrants to start their integration from their country of origin in order to improve their position in the Netherlands. Furthermore, the government intended to make migrants more aware of their responsibilities and to select the motivated ones among them for admission. Since 1 April the integration

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11 Advice regarding the level of the new integration examination by the Franssen Commission, The Hague, June 2004. For the advice, see http://www.degeschiedenisvaninburgering.nl/docs/advies-franssen.
15 WI of 30 November 2006, Staatsblad 625.
16 Staatsblad, 2006, no. 94.
17 Article 16 (1) sub h Vreemdelingenwet jo. Article 3.71a Vreemdelingenwet.
requirement has been strengthened with the rise of the required language level to A1 and the extension with a reading test. Candidates must achieve a higher score in order to pass the test. At the same time, the hardship clause for the integration requirement was extended in cases where a combination of individual circumstances makes it permanently impossible for the applicant to pass the test. In May 2011, the Dutch Ombudsman criticised the government for applying the hardship clause too rigidly: in the past five years, the government had only used this clause in five cases.

This outline of the developments regarding integration requirements in the last 15 years shows that the principal idea that a strong legal position of a migrant promotes his/her integration has been replaced by the conviction that this position serves as a reward for having reached a certain integration level. This shift in thinking illustrates the shift from an equally shared responsibility by the authorities and the migrant to the sole responsibility of the migrant regarding his/her integration.

The integration requirement was first introduced as a condition for citizenship, and secondly as an obligation for admitted migrants. The introduction of a test for migrants (although it did not include an obligation to pass) led to an increase in the required level for naturalisation. The evaluation of the integration courses and tests (and the political conclusion that the integration policy had failed) became the reason for the introduction of integration requirements for admission, as well as for independent and permanent residence rights. Although in 2003 the government warned that language tests should not serve as a selection criteria for new Dutch citizens, nowadays a general political acceptance has emerged that integration tests should function as a selection criteria for admission and for permanent and independent residence rights.

1 Integration test abroad

1.1 Description of the test

The Civic Integration Abroad Act (Wet Inburgering Buitenland, hereafter WIB) entered into force on 15 March 2006. The act sets an additional condition for obtaining a regular temporary residence permit, namely that people must first have a basic knowledge of the Dutch language and the Dutch society. This basic knowledge will be tested in the Basic Civic Integration Examination in the country of residence of the applicant. The proof of having passed this examination must be handed over during the application for admission.

The level of knowledge that is tested in the examination has been laid down in the Vreemdelingenbesluit. Listening, speaking and reading skills in the Dutch language and knowledge of the Dutch society will be tested in the integration examination abroad. The examination consists of two parts: knowledge of Dutch language and knowledge of Dutch society. The knowledge of both parts is tested by an oral

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18 Staatsblad. 2006, no. 94.
19 Article 16 (1) sub h Vreemdelingenwet juncto Article 3.71a Vreemdelingenbesluit.
20 Article 3.102 (1) Vreemdelingenbesluit.
21 Article 3.98a Vreemdelingenbesluit.
examination conducted over the phone from Dutch consulates and embassies abroad, using a voice recognition software, based in the US. This computer programme also decides whether the candidate has passed the examination. If there is no Dutch consulate or embassy in the country of residence, the examination will be held at the nearest Dutch representation in a neighbouring country.

Knowledge of the Dutch language

The required basic level is A1 of the Common European Framework for Modern Languages. The language test consists of repeating sentences (the sentences presented become increasingly more difficult), answering short questions on basic information, responding to words by saying a word with an opposite meaning, retelling a short story and answering questions on a text that the applicant had to read. The topics dealt with are randomly selected from an item bank of 50 items, in order to present a different set of items to each candidate.

Knowledge of Dutch society

The required knowledge of Dutch society consists of “elementary practical knowledge” on the Netherlands, including geography, history, legislation and political science, housing, education, labour market, the system of health care and civic integration. Furthermore the required knowledge covers the rights and duties of migrants and citizens in the Netherlands and the accepted norms in everyday life and in society. The knowledge is tested on a level not higher than A1 minus. This part of the examination includes 30 questions which correspond to images selected from the film “Coming to the Netherlands”. The questions vary between yes/no questions, open questions and closed questions with two options.

Costs and preparation

Applicants are charged €350 each time they take the examination.

Passing the examination is a condition for being granted an authorisation for temporary stay, which is, for certain nationalities, a necessary document for entering the Netherlands. This authorisation is known as “Machtiging Voorlopig Verblijf” (hereafter MVV). The migrant must apply for a MVV within one year after having passed the examination. After this period, the result of the examination becomes invalid and he/she must take a new test in order to be admitted.

The Dutch government does not provide either courses or learning material. It has however compiled a practice pack which can be purchased at €70.40 and which consists of the film “Coming to the Netherlands”, a picture booklet about Dutch society, an exhaustive list of questions that may arise during the society knowledge test, and a set of mock language tests.

22 Article 3.98c Vreemdelingenbesluit.
23 Article 3.98 (6) Vreemdelingenbesluit.
24 Article 16 (1) a juncto h and Article 16a Vreemdelingenwet.
25 Article 3.71a (1) Vreemdelingenbesluit.
1.2 **Who has to take the examination?**

This entry condition applies to those persons aged between 18 and 65, who:

1. apply for admission to the Netherlands with a view to settling permanently,
2. need to have a MVV,\(^{26}\)
3. and are obliged as newcomers, under the terms of the WI, to participate in a civic integration programme after arrival in the Netherlands.\(^{27}\)

In practice, this obligation primarily concerns applicants for family formation or family reunification with a citizen of the Netherlands or with a migrant originating from a non-EU country.\(^{28}\) Furthermore, the WIB applies to religious leaders coming to the Netherlands in order to enter the labour market.\(^{29}\)

**Exemptions**

As persons with certain nationalities are not required to apply for a MVV, they are exempted from taking the test. These are citizens from the Member States of the EU and EEA, Surinam, Australia, Canada, US, Switzerland, New Zealand, Iceland, Japan and North Korea.\(^{30}\) Furthermore, migrants coming to the Netherlands for a temporary reason, such as study, au pair work, exchange or medical treatment, are exempted, as well as persons with a working permit, self-employed persons and highly educated migrants. In addition, migrants who were granted a status on the basis of the Long-term Residence Directive (2003/109/EC) in another Member State and who fulfilled an integration condition for this purpose, are exempted.\(^{31}\) Finally, family members of a migrant with an asylum-related residence permit do not need to take the test, unless the marriage was concluded after the sponsor was granted a residence permit (family formation).\(^{32}\)

**Exemptions for medical reasons**

Migrants belonging to the category to which the act applies are exempted if they have demonstrated (to the satisfaction of the Ministry of Integration) that they are permanently unable to take the examination due to a mental or physical disability.\(^{33}\) The legislation refers to the situations where the applicant is blind or deaf, or has difficulties in hearing, seeing or speaking, and is not in possession of audio-visual

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26 Article 17 (1) *Vreemdelingenwet* mentions the exemptions for the requirement of a MVV.
27 Detailed information on this act is to be found in paragraph 3.
28 Family reunification means that the marriage was concluded before the applicant was admitted to the Netherlands; in other cases (including marriages to Dutch nationals) the definition “family formation” is used.
29 Article 3.71 (3) *Vreemdelingenbesluit*.
30 Article 17(1) a and b *Vreemdelingenwet*.
31 Article 3.71a (2b) *Vreemdelingenbesluit*.
32 Artikel 3.71a (2a) *Vreemdelingenbesluit*.
33 Article 3.71a (2c).
aids.34 Proof of this disability consists of a declaration by a doctor or an expert appointed by the head of the embassy or consulate. This medical assessment takes place at the expense of the applicant.35

Being functionally illiterate does not constitute a ground for exemption. During the legislative process, the Minister of Immigration Affairs and Integration pointed out that the test is taken orally, which should therefore be possible for illiterates to pass.36 The administrative law section of the Council of State (Afdeling Bestuursrechtspraak Raad van State), the highest court in this regard, did not consider this assumption unreasonable, and therefore confirmed that being illiterate was no reason for exemption.37

Consequences of failing the test

If the immigrant fails, he/she will not be granted a MVV, and will thus not be admitted to the Netherlands. There is no legal remedy for the outcome of the examination.38 The applicant is allowed to take the test as many times as necessary, as long as he/she pays €350 for each examination.

1.3 Case law

One year after the coming into force of the Integration Abroad Act, the District Court of Middelburg judged that the government was allowed to make the migrant fully responsible for the preparation of the examination. According to the judge, the legislator had deliberately chosen to make the migrant responsible for meeting the integration requirements, thereby taking the possible obstacles into account. In this case, the judgment implied that the Eritrean applicant first had to learn the English language, in order to be able to use the preparation package, as this was only developed in a limited number of languages. Also the claim by some applicants that the requirement is only applied to certain nationalities, which constitutes discrimination on the basis of nationality, was rejected by the courts.39 At the end of 2008, the Legal Division of the Council of State judged that illiteracy is not a ground for exemption from the integration requirement, since, according to the government, the examination should be eligible for illiterates as well.40 Although, since then, the integration requirement has been raised by the introduction of an additional reading test (1 April 2011), this judgment has not been questioned afterwards.

In the same month when the integration requirement was raised, the European Commission took the position that denying family reunification for the sole reason that the applicant had not passed the integration examination, is not in compliance with article 7 (2) of the Family Reunification Directive. The Commission took this

34 Article B1/4.7.2 Vreemdelingencirculaire.
35 Article 3.10 Voorschrift Vreemdelingen.
37 ABRS, 200806121/1, 9 February 2009, JV 2009/151.
38 Article 3.98d Vreemdelingenbesluit.
position in the Imran case, in which the Dutch District Court of Zwolle requested the EU Court of Justice to give a preliminary ruling.\textsuperscript{41} The underlying case of this request concerned an Afghan illiterate mother who took the test at the Embassy of Pakistan several times, but failed to pass it. Her husband and her eight children resided in the Netherlands. A week after the Commission had sent its position to the Dutch government, the mother was granted permission to reunite with her family. With this decision, the Dutch government succeeded in avoiding a judgment of the EU Court of Justice on the compatibility of the Dutch integration requirement with the Directive on the Right to Family Reunification. Interestingly, the Commission emphasized that its position applies to all applications for family reunification. Thus, factors like education level, small children or closed embassies are not relevant: in all cases, failure to pass an integration test cannot be the sole reason for denying family reunification. As a matter of principle, the Commission made clear that Article 7 (2) of the Directive and the effectiveness principle do not allow excluding people from family reunification on the sole ground that the test abroad has not been passed. Article 7 (2) aims to promote integration, but cannot be used to undermine the objective of the Directive, i.e., promoting family reunification.\textsuperscript{42} In November 2012, the Dutch District Court of Den Bosch fully endorsed the position of the Commission taken in Imran, concluding that applying failing the test abroad as a refusal ground for family reunification is in violation of the Directive.\textsuperscript{43} The Minister has appealed in this case at the Council of State. This appeal is still pending.

2 Integration test in the country

2.1 Description of the test

The Civil Integration Act (\textit{Wet Inburgering}, hereafter WI)\textsuperscript{44} came into force on 1 January 2007. This act replaces the Civil Integration Newcomers Act (\textit{Wet Inburgering Nieuwkomers}, hereafter WIN) and extends the obligation to integrate to migrants already living in the Netherlands for a long time (including holders of a permanent residence permit). On 1 April 2010, the integration examination, introduced by this Act, replaced the naturalisation test. This means that, since that date, passing the integration test has been a condition for naturalisation. Since 1 January 2010, passing the test has been a condition for permanent residence. The integration examination consists of two parts, a central part and a practice part. The examination has to be passed within a time frame of 3.5 years.\textsuperscript{45}

The first contact point for information on migration courses in the Netherlands is the municipality. All migrants who are bound by a civic integration requirement under the WI receive a letter from the local authorities of their place of residence. This

\textsuperscript{42} European Commission, “Schriftelijke opmerkingen aan het Hof van Justitie in de zaak C-155/11 PPU”.
\textsuperscript{43} Rechtbank Den Haag, nevenzittingsplaats Den Bosch, 23 November 2012, AWB 12/9408, LJN:BY4171.
\textsuperscript{44} Staatsblad. 2006, 625, entry into force \textit{Staatsblad}. 2006, 645.
\textsuperscript{45} See Article 7(1) WI.
letter informs the migrant about this obligation and it also contains an invitation to
make an appointment at the local government offices, the local civic integration
units. If an appointment has been made, the officer at the local civic integration unit
explains the procedure. Subsequently, an interview on admission is conducted and a
screening is done. This results in a programme for the migrant, including a timetable
for the course offered and the concluding test.

The test consists of two parts: a practice part, assessing the language skills, and a
central part, assessing certain knowledge of the Dutch society. Below, both parts are
described.

2.2 The practice part of the examination

In the practice part, candidates will have to use the Dutch language in a situation
based on practice in daily life. According to the Minister for Integration and
Immigration Affairs Verdonk, this part of the examination would be “more suitable
for testing lower educated persons than standardised tests, which generally appeal to
someone’s general cognitive capacities rather than his skills to apply his
knowledge”. In the practice examinations, a distinction is made between those who
will perform paid labour and those who will primarily focus on raising children.
There are some domains which can be distinguished: “citizenship”, “work”,
“education and healthcare”, “entrepreneurship” and “social participation”.
Candidates can pass the practice part of the integration examination by submitting a
portfolio, taking part in an assessment, or choosing a combination of both.

In the assessment route, candidates will have to re-enact four different situations
which might occur in practice (initially six situations had to be re-enacted). Each
assessment consists of a number of assignments in which attention is paid to reading,
writing and speaking. The speaking exercises are carried out in a role-play.

A portfolio consists of 20 proofs (initially 30 proofs were required), collected by the
candidate, of written and oral language skills obtained in practice. Candidates can
choose from four different portfolios: “work”, “education, healthcare and
upbringing”, “entrepreneurship” and “social participation”. Model portfolios for each
domain can be found on www.inburgeren.nl. The model portfolios contain lists of
proofs that need to be gathered in order to confirm that the immigrants have spoken
Dutch or written something down in Dutch. Proofs can be gathered only for
situations mentioned in the model portfolios. To collect proofs of oral language
skills, the conversation partner will need to complete and sign a form that can be

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46 See Article 3.7 and 3.8 Integratie besluit on the content of the practice part of the examination.
48 It is not specified how many proofs of either written language skills or oral language skills a
portfolio must contain. But a portfolio containing only proofs of written or oral language skills
will be rejected (answers obtained from the Servicecentrum Inburgering [Service Centre
Integration] of DUO [the Service Implementation Education] to author’s questions). For each
portfolio, different proofs need to be gathered. But there are also similarities. Every portfolio
requires 12 proofs regarding “citizenship” that need to be gathered. Furthermore, each portfolio
requires proofs that the candidate knows how to look for work. The model portfolio “social
participation” requires six proofs that the candidate knows how to look for voluntary work.
found in the model portfolio, which also contains a letter of explanation. Situations where proofs can be gathered are: registering a child’s birth at a municipality (citizenship), looking for vacancies (looking for work), talking to a client about work that needs to be conducted (having a job), talking to a parent of a schoolmate of one’s child to make an appointment for the children to play together (education, healthcare, raising children), talking to other participants in an activity in the neighborhood (social participation), completing an intake form for voluntary work (looking for voluntary work), and talking to an advisor from the Chamber of Commerce (entrepreneurship). Once the portfolio has been completed, it can be sent to the Service Implementation Education (DUO) or a designated private examination agency, where it will be judged. If a portfolio contains sufficient proofs which are of high enough quality, the candidate will need to take a final test consisting of a conversation with an examiner and a written language test.

Lastly, the candidate can pass the practice part of the examination by following a combination route of submitting a portfolio containing ten proofs and taking part in two assessments.

2.3 The central part of the examination

The central part can be taken in seven different locations. It consists of three parts: an electronic practice examination, a spoken test in Dutch, and an examination on knowledge of the Dutch society. The level of the examination is A2. The exact content of the examination is not publicly available and there is no possibility of getting access to it.

The electronic practice examination operates as a check on the level of language skills, as assessed in the practice part of the examination. As in the practice part of the examination, a candidate needs to show he/she has sufficient language skills to cope with situations with which everyone in the Netherlands has to deal with (domain for “citizenship”), and in situations which are important for him/her (domain for “work” or “education and healthcare”). Examples of electronic practice examinations can be found on the Internet.

In the spoken test in Dutch, a candidate’s oral language skills are assessed. This examination is taken via a telephonic connection with a computer equipped with programmes for speech recognition and automatic result calculation.

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49 On the form, the conversation partner has to fill out his/her name, telephone number, function (e.g. “neighbour”, “employer”, “municipal official” etc.), conversation date, conversation place, and answer the following questions: did the person who is integrating (de inburgeraar) speak Dutch? Yes/No; Did the person who is integrating understand what you were saying? Yes/No; Did you understand the person who is integrating? Yes/No. There is room for clarifications.

50 Examination centres can be found in Amsterdam, Eindhoven, Nijmegen, Rotterdam, Rijswijk, Utrecht and Zwolle.

51 See Article 3.9 Integratie besluit for the content of the central part of the examination.

52 See Article 2.9 Integratie besluit. Settled migrants (so-called oldcomers, see footnote 122) have to pass speaking and listening at level A2 and writing and reading at level A1.

In the test “Kennis van de Nederlandse Samenleving” (“Knowledge of Dutch Society” examination, hereafter KNS examination), a candidate’s knowledge of the Dutch society is tested in about 43 questions. This part of the examination is taken on a computer. In the test, three main subjects can be retrieved: factual knowledge, norms and values (how are citizens supposed to behave in the Netherlands) and functional knowledge (how not to “be off target” in contacts with Dutch citizens and the Dutch society). In the curriculum for the examination (final achievement levels), mentioned in Article 2.10 of the Vreemdelingenbesluit, the following topics are listed: work and income; manners, norms and values; housing; health and healthcare; history and geography; authorities; polity and the constitutional state; and education and upbringing. For each topic, so-called “crucial acts” have been determined. Each crucial act concerns behaviour which the person who is integrating is required to be able to show. Subsequently, for each crucial act, crucial knowledge and norms indicating when the act can be considered to be successful, so-called indicators have been formulated. Not only is knowledge of social norms expected, test candidates are also required to indicate which behaviour deals with differences in norms, manners and values in a socially accepted way (Klaver & Odé 2009: 68). The KNS examination, hence, also aims at testing actual behaviour, rather than merely factual knowledge.

### 2.4 Who has to do the test?

All immigrants with a residence permit (hence, the Act is not applicable to asylum-seekers) from outside the EU and EER, between the ages of 18 to 65, who are here for a non-temporary purpose of stay (hence, most labour migrants fall outside the scope of the Act), have to pass an integration examination. The integration obligation applies to “newcomers” as well as to “oldcomers”. The integration obligation also applies to religious ministers.

The possibility exists to pass the integration test voluntarily. The municipality may offer an integration facility to the volunteer. The possibility of voluntary

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54 Each question starts with a short film in which a situation is addressed. After the film, question and answer possibilities, among which the candidate has to choose the correct answer, are shown. Depending on the length of the films, some examinations consist of less than 43 questions.


56 See Article 2.10 Integratie besluit.

57 For each topic, four crucial acts have been determined, except for the topic “health and healthcare”, for which nine crucial acts have been formulated.

58 These are migrants who came to the Netherlands after 1 January 2007.

59 Oldcomers are immigrants who already resided in the Netherlands before the entry into force of the Act, but not during the eight years of school age and who do not possess any diploma proving a sufficient knowledge of the Dutch language (Odé et al 2010: 21).

60 See Article 3(1)(b) WI.

61 A volunteer is a Dutch national or a migrant within the meaning of Article 5(2) who is: older than 15 years, has resided for less than eight years during his/her school age in the Netherlands; has no diploma, certificate or other document; has no education duty or qualification duty or follows an education which will eventually lead to a diploma, certificate or other document. See Article 1(q) WI.
integration came into existence after the Council of State stated that an integration obligation for Dutch naturalised persons would violate the principle of equality. The target groups for voluntary integration were hence Dutch naturalised, EU citizens or EER nationals and persons from the Netherlands Antilles and Aruba (Odé et al 2010: 25).

2.5 Immigrants who are exempted from taking the test

Migrants can be exempted from taking the test because they are incapable of taking it or because they have attained a sufficient level of integration.

Article 6 of the WI exempts immigrants who have an integration obligation from taking the examination if he/she has proved that he/she is mentally or physically disabled and hence is permanently unable to pass the integration examination. Migrants can also apply for release from the obligation if they are not capable of passing the test. In order to ensure that they have made a serious effort to reach the required level, the application for exemption can be made no earlier than six months before the time frame for passing the examination has passed. A release can also be decided upon by the Minister without an application by the migrant (ambtshalve). An “oldcomer” aged 60 years or older is also exempted from the WI.

Immigrants who are already obviously integrated into the Dutch society – i.e., having sufficient Dutch language skills and knowledge of the Dutch society – and who can prove this with a diploma or a certificate are exempt. Only diplomas at secondary school or higher educational level qualify for exemption. It is possible to be exempted from a part of the examination, either for the language test or for the KNS part. Since 1 April 2007, immigrants with a Flemish or Surinamese diploma (high school or higher) have not had to pass an integration examination in order to become a Dutch national, if the education followed was in the Dutch language and the subject “Dutch language” was passed with a sufficient grade. Persons from the Netherlands Antilles and Aruba are exempted from the integration obligation (Odé et al 2010: 21).

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62 See paragraph 3 of chapter 5 of the WI. In the first half of 2010, 27 per cent of the facilities were given to volunteers.
63 Advice of the State Council of 3 August 2006.
64 Despite the fact that the integration will be voluntary, the municipalities will have the opportunity to use sanctions and instruments to obligate immigrants to follow a language course (Odé et al 2010: 26).
65 Article 2.8(4) of the decree speaks of a period of five years after application for exemption.
66 Article 5.5 Integratie besluit.
67 According to Article 63 of the WI.
68 See Articles 2.3 and 2.4 of the Integratie besluit. The two articles list the possible diplomas and certificates. For example, a diploma for the State Examination in the Dutch Language at Programme I or II.
69 See Article 2.4 of the Integratie besluit. For example, a certificate within the meaning of Article 13(2) of the Integration Act Newcomers.
70 Article 2.3 paragraph 1 sub d and e Integratie besluit. Exemption is only provided if the subject “Dutch” was passed.
71 See, for the discussion concerning this group, also paragraph 3.2.
According to recent case law, Turkish nationals are exempted from passing the integration examination. The court ruled on 12 August 2010\(^{72}\) that putting an integration obligation on Turkish nationals is contrary to the non-discrimination provisions in Articles 9 and 10 of the Association Agreement EEC-Turkey because according to Article 5(2)(a) of the WI, citizens of the EU are exempted from the integration obligation. Furthermore, according to the judgment, the requirement to pass the integration examination is contrary to Article 13 of Decision 1/80 because it is dated after 1 December 1980 and restricts entry into the labour market.\(^{73}\) Despite this judgment, the integration obligation is still applied on Turkish citizens: the government has lodged an appeal against this decision at the Council of State.

**Short exemption test**

Immigrants who are “evidently” integrated, but who do not possess the required diploma or certificate necessary for an exemption, can prove their level of integration by passing the so-called “short exemption test”. Passing this test releases the immigrant from the obligation of taking the integration examination. The possibility of passing the short exemption test has been introduced along with the possibility of passing the State Examination in the Dutch language. The short exemption test consists of an electronic practical test and knowledge of Dutch society test. The level of the short exemption test is higher than that of the integration examination, B1 instead of A2, and can only be taken once. The Minister explicitly chose the possibility to exempt persons after they successfully passed a test, instead of giving the municipalities the possibility to exempt evidently integrated persons, with the argument that it would limit the administrative burden for the municipalities.\(^{74}\)

In a judgment of 16 September 2009, the Central Council of Appeal (*Centrale Raad van Beroep*) declared Article 2.7 paragraph 1 of the Integration decree, which provides that the level of the short exemption test be higher than that of the integration examination, non-binding, for its incompatibility with the principle of equality.\(^{75}\) The Council judged the short exemption test to be unreasonably onerous since it demanded language skills at level B1, instead of level A2, which is the level of the integration examination. The Council based its judgment *inter alia* on the explanatory memorandum of the WI, which stated that level B1 would form an unreasonable barrier for many immigrants with an obligation to integrate.\(^{76}\) Until now, the government has not reacted to this judgment, nor has it changed the required level of the short exemption test.

\(^{72}\) Court of First Instance, Rotterdam, 12 August 2010, AWB08/4934 LJN BN3934 and AWB 09/3814 LJN BN3935.

\(^{73}\) The Court refers to case of 29 April 2010, C-92/07, European Commission v Kingdom of the Netherlands, ECR 2010, p. 0000.

\(^{74}\) TK 2005-2006, 30 308, no. 73, p. 4.

\(^{75}\) *Centrale Raad van Beroep* 16 september 2009, LJN BJ9330.

2.6 Consequences of not participating in or failing the test

Failing the test has consequences for the residence rights of the immigrant. Since 1 January 2010, the first application for a permanent residence permit and the application for an independent residence permit can be refused if the candidate has not passed the examination. This implies that immigrants remain in the Netherlands on a temporary basis, which is a less secure position relative to a permanent residence status, because the grounds for withdrawal are less restrictive. For holders of a residence permit on asylum grounds, it means that they can be expelled the moment the government declares their country of origin to be safe. If they have a permanent residence permit, the situation in their country is no longer a ground for withdrawal of their permit. The more insecure position of immigrants can have consequences for their attitude towards the Dutch society and the need to integrate. Also the practical consequences of a permit for temporary stay can hinder integration: most of the immigrants are not able to buy a house, as banks do not grant them a mortgage. Furthermore, the temporary character of their residence permit makes employers more hesitant to offer an employment contract.

There can also be financial sanctions for the immigrant for not passing the integration examination within the given timeframe. He/she will receive an administrative fine. However, the WI contains a few exemptions: (1) the immigrant is not to blame for not passing the integration examination, (2) the immigrant can prove that he/she follows/followed a literacy course and therefore the given timeframe was prolonged, and (3) the immigrant can prove that he/she is reasonably not capable of passing the examination. Together with the fine a new deadline for passing the examination is set, with a maximum timeframe of two years. This system of fines and new time frames can be repeated every two years. Another possible sanction is a lowering of the level of social assistance.

2.7 Costs

According to the principle of the WI, the migrant is responsible for financing the preparatory course and the examination. At the entry into force of the WI, the government only offered migrants a loan for a maximum period of three years. The loan could be requested both for the preparatory course and the examination itself. This money would be paid directly to the examination institute or course institute where the immigrant follows the integration course or will do the examination. If

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77 See Article 21(1)(k) Vreemdelingenwet.
78 Article 31(1) WI. For most migrants with an integration obligation, the timeframe for passing the examination has not yet expired, so municipalities did not have much reason to impose a fine. The few fines imposed were given because a migrant did not show up at his/her interview for admission. Approximately 18 per cent of the municipalities have imposed fines. In most situations the local government official first tries to find out why the migrant did not show up or explains the reason for the call. See Evaluation report Integration in the Netherlands, Ministry of Housing, Spatial Planning and the Environment (VROM), June 2010, p. 31.
79 Article 32 WI.
80 Article 33 WI.
81 Article 37 WI.
82 This option is not available for volunteers.
83 See Article 16 WI and chapter 4, section 1 of the Integratie besluit.
the migrant pass the integration examination within the given timeframe, the costs will be partly refunded. This financial burden (the loan could amount to €6000), combined with the insecurity of reimbursement, appeared to be a hurdle for immigrants to subscribe for an integration course: the classes remained empty. Since 2007, the municipalities are funded to organise the integration courses. Migrants are offered a course and one examination. If they fail, they have to pay themselves for the retake.

2.8 Future

In September 2012, the Act on Integration has been amended, which implies that since 1 January 2013, migrants have to finance and organize their participation in a course themselves. If they lack the sources to finance a course, they can contract a loan. Refugees, however, still get an offer to follow a course for free. The education itself has been left to the initiative of the market. Under the new Act, the obligation to make a portfolio with practices about daily life situations is no longer part of the examination.

From 1 January 2013 onwards, the temporary residence permit of migrants who do not pass the integration examination within three years, can be withdrawn or not-renewed. However, in the parliamentary debate on this act, the Minister admitted that, for family members, this ground for withdrawal or non-renewal can hardly be applied because of the obligations of article 8 ECHR and the EU Family Reunification Directive. Family members of highly skilled workers are exempted from the integration obligations.

2.9 Case law

On 8 June 2011, the District Court ’s-Gravenhage decided that the integration requirement for a permanent residence permit does not apply to Turkish nationals and their family members, because the costs for the exam would violate the Association Agreement between the European Union and Turkey. According to the District Court, the obligation for Turkish nationals to pass the integration exam violates the discrimination clause of Article 9 of the Association Agreement and Article 10 (1) of the Decision 1/80, because Union citizens do not have to pass the

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84 Article 18(1) WI and 4.17 Integration Decree (Integratie besluit). Every candidate who passes the examination will automatically receive a minimum of €650. Sometimes a higher amount will be reimbursed, depending on the costs the immigrant had to bear. This will be 70 per cent of the total costs of the course and the examination with a maximum of €3,000. For this extra compensation, the immigrant has to make an application.
85 Staatsblad 2012, nr. 430.
86 Staatsblad 2012, nr. 430.
87 Handelingen Eerste Kamer 11 September 2012, 2012-2013, no. 38 item 7, p. 36.
89 Rb ’s-Gravenhage, 8 June 2011, LJN: BQ7656.
integration exam either. The District Court also referred to the CJEU judgment of April 2010 mentioned above.\textsuperscript{90}

In August 2011, the Dutch Central Appeals Tribunal (\textit{Centrale Raad van Beroep}), referring to the “Sahin” case, judged that the integration requirement for admitted Turkish nationals and their family members negatively affects their legal position in the Netherlands, and is not in compliance with EU-Turkey association law.\textsuperscript{91} As a result of this decision, the integration requirement for Turkish nationals has been abolished. This means that having passed the integration examination is no longer a condition for obtaining a permanent residence permit and those municipalities may no longer oblige Turkish nationals to participate in integration courses or impose penalties on those who do not participate. As the Integration Act Abroad is only applicable to migrants who are obliged to fulfil integration requirements after admission, the Minister for Integration announced, in September 2011, that Turkish nationals were also exempted from the integration requirement abroad.\textsuperscript{92} This means that the integration test abroad cannot be applied anymore to one of the largest target groups of this Act.

\section*{3 Effects\textsuperscript{93}}

\subsection*{3.1 Integration test abroad}

It is too early to draw conclusions on the effect of the WIB on the integration of migrants in the Netherlands. As Regioplan, which conducted the evaluation for the government, already pointed out, the success of their integration depends on many other factors as well. Nevertheless, it could be concluded that the efforts and stress involved in passing the test are not in proportion to the positive effect of the test. The interviews of the Intec research confirmed the outcome of two other studies, which showed that the integration test abroad (combined with the income requirement) negatively affects the social and economic health of spouses.\textsuperscript{94} It causes stress, but it also delays family reunification, which results in long-term separation. Some applicants for family reunification dropped out of higher education or accepted a job with fewer long-term prospects in order to earn sufficient income to bring over their family. Both consequences affect integration chances. Respondents from the Dutch Refugee Council pointed to the fact that family members living in (post) war countries face difficulties with the preparation of the test, as they lack the Internet

\textsuperscript{90} CJEU, 29 April 2010, C-92/07, European Commission vs. The Netherlands.

\textsuperscript{91} CRvB, 16 August 2011, case nos. 10/5248, 10/5249, 10/6123, 10/6124 INBURG, JV 2011/416 nrt K.M. de Vries [LJN: BR4959].

\textsuperscript{92} Kamerstukken II, 2011-2012, 31 143, no. 89.

\textsuperscript{93} In the framework of the Intec research in 2010, 56 interviews were conducted with migrants, language teachers, NGOs and officials, in order to find out the (perceived) effects of the tests.

and sometimes even electricity, and have to travel twice through unsafe areas (once for the test, once for the visa).

The respondents in the Intec research confirmed that learning the Dutch language abroad does not seem to substantially contribute to their knowledge of the language. The official evaluation of the WIB for the government showed that the Dutch language skills at the beginning of their integration course in the Netherlands were only marginally higher than for a control group of immigrants who were not required to take the test abroad. According to the researchers, the higher level of education of the former group may account for part of the difference. The impact of learning the Dutch language in the Netherlands is much greater and is, therefore, more effective. The proportionality of the test is particularly problematic with regard to the lower educated (including illiterate persons) and elderly persons, who face the most problems in meeting the requirements. The chance to pass diminishes each time the examination is repeated. However, there is no information on the situation of the person who, finally, does not succeed. The number of applications has declined by one-third. Taking into account that the population of the applicants has become younger and more highly educated, one can conclude that the elderly and lower educated migrants are over-represented in the group, which no longer applies for family reunification. The researchers used the term “self-selection” (Odé 2009: pp. 288-292). The restraining effect on family migration seems to have hit family reunification the hardest, although the measure targeted family formation. Some respondents pleaded for a general exemption for migrants aged 55 years or older.

On the basis of interviews conducted by the Centre for Migration Law, it can be concluded that migrants are positive on learning about the Dutch society as a preparation for their movement to the Netherlands. A number of respondents, however, stressed that they would also have prepared for Dutch society without a test. All respondents emphasised that preparation for the test would have been impossible, or at least much more difficult, without having attended a course. Participating in a course also offers the possibility of getting into contact with other future inhabitants of the Netherlands, and getting more realistic expectations of living there. Female candidates especially seem to benefit from this. These respondents were in the fortunate position of being able to attend a course. Immigrants lacking this opportunity also lack these advantages, and they will face more problems with passing the test. In general, elderly and low-educated migrants as well as migrants living in unstable regions have the most difficulty in meeting the criteria, and are thus confronted with a delay in their (re)unification. Failing the test results in living separately, entering the Netherlands and residing there irregularly, or moving to another EU Member State, in order to benefit from the liberal EU family reunification rules. No research has been conducted so far on the choices spouses make when the test turns out to be a permanent obstacle to family reunification. What is evident is reduction in the number of applications, especially from lower educated and elderly migrants. The act serves as a selection based on education and age, instead of the intended selection based on motivation. One part of the decreasing number of applications for family formation can be ascribed to the drop in the number of marriages Turkish and Moroccan migrants conclude with someone residing in their country of origin. With regard to the other part, further research is
needed on the causes and consequences of the decrease in the number of applications for family reunification.

Raising the level to A1 and introducing a reading test without offering further support to prepare for the test has increased the problems in meeting the requirement, and thus increased the risk of exclusion from family reunification. It should be closely monitored to what extent the more stringent requirements form an obstacle. The political choice to raise the level, unless this carries the risk of exclusion, reveals two intentions of the government: to reduce the number of family migrants and to make immigrants solely responsible for their integration into the Dutch society.

3.2 Integration tests in the country

The courses

It is too early to draw any conclusion on the effects of the integration tests in the country with regard to the integration of migrants. What has already become clear is that the Civic Integration Act (WI) has led to a substantial increase in the number of participants on the integration courses and, thus, to an improvement in the language level of migrants. A majority of the respondents are in favour of the obligation to participate in courses because of the improved language skills of migrants and because it helps to prevent an isolated situation in particular groups of migrants (women, oldcomers and migrants of Chinese origin). At the same time, oldcomers are the most difficult group to motivate. Some of them think it is unjust to oblige them to take a test after many years’ residence in the Netherlands, during which they were not supported in their integration process. According to them, they were motivated to learn the language 20 years earlier. Participants in the courses offered on the basis of the WIN complained that the certificates they had achieved appeared not to be sufficient for an exemption within the framework of the (higher requirements of the) new act. This policy of changing requirements towards the same target group caused frustration among oldcomers.

There are three categories of migrants who would perhaps not participate in a course if they were not obliged to do so. Regarding two of these groups, there are practical reasons: mothers and migrants with a full-time job have difficulty combining their activities with attending a course, especially when flexibility in the course is absent. The third group involves women who are not supported by their husbands to integrate; they would probably have been kept at home had participation been voluntary.

Young migrants are, in general, more positive about the obligation to attend the course. Some respondents, however, think that the obligation is not necessary to motivate them to learn Dutch. A significant proportion of respondents think that participation is hard to combine with having a full-time job or taking care of children. More flexible organisation would help them to fulfil all their different tasks at the same time.

Most teachers, civil servants and migrants think that the requirements for exemption on the basis of sufficient language skills are too rigid. Migrants clearly demonstrating
sufficient knowledge of the language are still forced to pass the short exemption test. Although most of the respondents were of the opinion that the level of the course was insufficient to increase the possibility of finding a job, they thought it helped migrants to live in the Dutch society and to improve their (number of) contacts with others.

Despite the notion of individual responsibility of the migrants, the courses are free of charge in most cases. The respondents consider this as a vital element which counterbalances the personal investments required from the migrant. It proves that the government recognises a shared responsibility for the integration of migrants.

The tests

A large number of respondents acknowledge that the level of the test is too low for creating access to the labour market, but too high for certain groups with learning difficulties (illiterates, oldcomers). They regret that passing the test does not seem to be of much value for migrants seeking a job. Therefore, some of them suggested organising a follow-up course in order to qualify migrants for the labour market or to award a certificate to the successful migrants, which would be recognised by employers. With regard to the groups for which the level of the test is too low, several civil servants, teachers and migrants pleaded for an exemption for elderly migrants, for instance those older than 55. They suggested offering them a proper course, based on their needs, but without obliging them to attend it.

The content of the test is not a subject for public or political debate, probably because it is secret. Yet, this secrecy constitutes a lot of (unnecessary) stress for the candidates. This seems to deter certain migrants from taking the test. The practical part of the test is judged very differently: some think it difficult and humiliating (especially because they have to ask for signatures), others are positive because it has helped to strengthen their self-confidence and make contacts. Many respondents, however, had aggravating experiences with the portfolios because it takes a lot of time and organisation. Some teachers and civil servants perceive the portfolios as quite bureaucratic.

Although the test for naturalisation and the test for permanent and independent residence are similar, the consequences for residence rights are more far-reaching if the test is taken for a permanent residence permit. A permanent residence permit offers security of residence, as some withdrawal grounds cannot be applied anymore. It can be expected that family members who know that their future lies in the Netherlands, make more personal investments in the Dutch society. Migrants who fail the test remain in an insecure legal position, which can hamper or slow down their integration process. In particular, refugees will be less receptive towards integration as long as they fear being expelled because of a change in circumstances in their country of origin. The possession of a temporary permit also affects the daily life of the migrants, for instance, because they are not able to buy a house and because employers are more hesitant to employ them. Despite the women’s liberation policy, women who are deprived of an independent status because they fail
the test, remain dependent on their husbands. This could prevent them from participating in society in the way they wish.

These consequences lead to the paradoxical result that the test, which was introduced to promote integration, hampers the integration of the most vulnerable migrants (illiterates, the low-educated, elderly migrants, refugees, and women). The data on pass rates and the background of migrants who fail the test most often, show that these groups are actually affected the most by the integration requirement. Since the introduction of the integration requirement, the number of applications for a permanent residence permit has been halved. Since 1 January 2013 the temporary residence permit can be withdrawn if the migrants do not fulfil the integration requirement within 3 years. Although, in most cases, Article 8 ECHR and the EU Family Reunification Directive will prevent the government from doing so, this national policy will create more insecurity and stress, especially for migrants who face difficulties meeting the criteria. Applying this policy will therefore be counter-productive for the aims of the integration policy.

3.3 Conclusions

The effects of the integration requirements at the different stages show a clear relationship and relevant similarities. Migrants appreciate the offer of language and integration education, which they think is effective. However, the connection of passing the test with a certain residence right can turn out to be counter-productive for the integration aims. After all, migrants who fail the test will not acquire residence rights which could promote their integration. On the contrary: being unable to live with their family, or living permanently in the Netherlands on a temporary or dependent basis, are circumstances hampering their integration. Immigrants relatively more often affected by the integration requirements are elderly and low-educated migrants, immigrants with an asylum-related background and migrants from least-developed or developing countries. Therefore, tests serve as a selection on age, education and nationality. Yet, these migrants are relatively often more in need of support for their integration.

The government could emphasize that integration is a reciprocal process by offering language and integration courses on the one hand, and obliging migrants to participate in it, on the other hand. Migrants could be pressed to make an effort to integrate, which is different from forcing them to achieve certain results. The latter happens by connecting a certain knowledge level to residence rights. The shift from a shared responsibility to the sole responsibility of the migrant was already the case in the admission policy, but will now be extended in the integration policy in the country with the amendment of the “Act on Integration”. By withdrawing the organisational and financial support of integration courses by authorities, the government risks fewer migrants managing to strengthen their position in the Dutch society. By not taking care of the most positive elements of the Integration Act, which are closely related to the high quality of education, the government might fail the test on effective integration policies.
Bibliography

Literature


Law
Dutch law
Civil Integration Newcomers Act (Wet Inburgering Nieuwkomers)
Newcomers Integration Act (Wet Inburgering Nieuwkomers)
The Civic Integration Abroad Act (Wet Inburgering Buitenland)
The Civil Integration Act (Wet Inburgering)

European law
Integration decree

Case law
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