PRESS RELEASE

Subject: "Asielnoodmaatregelenwet" and Related Legislative Amendments

1. Introduction:

Justice Square Foundation (SJS) is a civil society organization founded by Turkish jurists living in the Netherlands to raise awareness of fundamental human rights and to fight against violations of these rights. Acting with the slogan "We stand for justice," SJS completed its official establishment in May 2023 and has been operating in Amsterdam since July 2023. We share our work and projects at www.justicesquare.org and on X and Instagram at @JJusticesquare.

In addition to human-rights advocacy, with our volunteers and experts, and adhering to the Netherlands' democratic values and human rights, we provide legal, social and humanitarian support especially to refugees in vulnerable situations; we contribute to their building a dignified life in their new country.

Why we speak today.

In the coming days, the Dutch Senate will consider two critical legislative proposals that will directly affect the country's domestic legal order and its international human-rights obligations—Asielnoodmaatregelenwet (36 704) and Wet versterking regie volkshuisvesting (36 51). This package not only narrows the rights of refugees but also carries the risk of weakening the rule of law, democratic values and social peace.

As Stichting Justice Square, we are following these developments with great concern and, in line with our mission, we make a strong call on the Senate to reject the proposals.

2. Content of the Bills and the Restrictions They Introduce

"Asielnoodmaatregelenwet" and related amendments foresee serious restrictions particularly in the following areas:

Distinguishing between refugee status and subsidiary protection status: This raises discrimination based on a two-tier system.

Limiting family reunification to the nuclear family only: Excluding children over 18 from family reunification and ignoring the extended family.

Abolishing the permanent residence permit: Reducing residence periods from 5 years to 3 years and removing long-term security.

Curtailing the right of defence: Introducing a "guilt test" in subsequent applications.

Criminalising irregular stay: De facto criminalisation of persons who cannot be returned.

Placing humanitarian assistance under criminal risk: The relief efforts of municipalities, churches and civil society organizations are being criminalised.

Removing municipalities' obligation to allocate housing to refugees: Excluding status holders from social housing policies.

3. Family Reunification and the Nuclear Family Limitation

3.1. Current Legal Framework

To date, the Netherlands has interpreted the concept of the nuclear family in family reunification not narrowly but broadly. The basis for this includes:

European Convention on Human Rights (ECHR) Article 8: The right to respect for private and family life does not confine the concept of family unity to minor children only.

EU Family Reunification Directive (2003/86/EC): The Directive primarily grants rights for spouses and minor children; however, pursuant to Article 10(2), dependent adult children and persons "de facto dependent" on the family may also be included. This provision enables particularly vulnerable adult children (for example those in education, with health problems, or whose economic dependency continues) to benefit from family reunification.

3.2. Restriction Introduced by the New Bill

With the "Asielnoodmaatregelenwet," family reunification is intended to be limited only to the nuclear family (spouse + children under 18). This means:

Children who have turned 18 are automatically excluded from the right to family reunification even if they in fact live within the family unit.

This restriction will seriously curtail the possibility of ending years-long separations of refugee families.

3.3. Legal and Human Consequences

a) Legal Incompatibilities

ECHR Article 8 (Respect for private and family life): The ECtHR has repeatedly emphasised that family unity must be protected independently of a biological age limit (Sen v. Netherlands, 2001; Berrehab v. Netherlands, 1988).

EU Family Reunification Directive Article 10(2): Provides that adult children whose dependency on their parents continues may be included within family reunification. Closing off this route directly conflicts with the Directive.

EU Charter of Fundamental Rights Article 7: Safeguards the right to respect for family life. Separating children from their parents purely on the basis of age removes the essence of this right.

b) Human Consequences

Long-term separations: Denying family reunification for parents who fled their country by irregular means to escape persecution and their children over 18 leads to prolonged separation, deepens trauma, and harms family unity and, consequently, integration.

Violation of the best interests of the child: Under Article 3 of the UN Convention on the Rights of the Child, "the best interests of the child" must be a primary consideration in all legal regulations. Separating young people just over 18 from their families despite an ongoing factual family bond disregards this principle.

Psychological trauma: Young people separated from their parents experience prolonged uncertainty and trauma. This also undermines the integration process.

Inequality and arbitrariness: Two children in the same situation can face completely different legal outcomes due to only a few months' difference. For example, a child of 17 years and 11 months may benefit from family reunification while a sibling who just turned 18 is deprived of this right.

VWN also, in its statement dated 3 July 2025, notes that limiting to the nuclear family conflicts with the protection of ECHR Art. 8; it draws attention in particular to unmarried/only religiously married partners and dependent youths who have just turned 18 being de facto cut off from their families. In its assessment after the parliamentary vote, the organisation warned that "this package separates families."

3.4. Conclusion

Limiting family reunification solely to the "nuclear family" is incompatible with both the ECHR and EU law, and is also unsustainable from a humanitarian perspective. The more flexible approach the Netherlands has applied to date was correct in terms of both legal and human values. The new restriction will:

be unlawful,

break up families,

harm the mental health of children and young people,

delay integration as an outcome.

4. Abolishing Permanent Residence: A Step that Threatens Integration and Legal Certainty

One of the most critical changes envisaged by the "Asielnoodmaatregelenwet" is the complete abolition of the permanent residence right granted to refugees.

4.1. Current System

Until now, refugees in the Netherlands had the right to obtain a permanent residence permit (verblijfsvergunning asiel voor onbepaalde tijd) after residing legally for at least 5 consecutive years with asylum status. This status:

Without an income requirement,

Could be revoked only in cases of serious crime or security threat,

Was a strong and lasting protection mechanism that accelerated refugees' integration.

4.2. Change Introduced by the Bill

If the new law is adopted:

National permanent residence will be completely abolished,

Refugees will be forced to live only with temporary residence permits that must be renewed every 3 years,

The only alternative will be the EU long-term residence status. However, this status is subject to:

Sufficient and regular income,

Health insurance,

Integration exam conditions.

These conditions are, in practice, unattainable particularly for refugees who have spent long periods in camps and have not been able to access work and education opportunities.

4.3. Legal Incompatibilities

Dutch Constitution and the Principle of Legal Certainty: People lodged their applications with the expectation that they could obtain permanent residence in the future. Removing this safeguard destroys trust in the law and its foreseeability.

European Convention on Human Rights Article 8: Permanent residence is necessary for the stability of family life and long-term life planning. In Jeunesse v. Netherlands (2014), the ECtHR emphasised that protecting the family ties of people who have lived in the Netherlands for a long time outweighs migration control.

EU Long-Term Residence Directive (2003/109/EC): The Directive obliges Member States to grant long-term status to those who have resided for 5 years. Abolishing national permanent residence runs counter to the spirit of this obligation.

Court of Justice of the EU – Singh (C-502/10): The Court clearly stated that long-term residence status is "the key to integration," and that Member States may not adopt interpretations that impede it.

4.4. Social and Human Consequences

Undermining integration: People who see no permanent future cannot be motivated to learn the language, pursue education, or participate in the labour market.

Constant uncertainty: Individuals who must renew their residence every 3 years will live in continual fear of losing their status.

Family reunification becomes more difficult: Without permanent residence, family reunification will face more obstacles.

Increased judicial burden: Continuous renewal applications and lawsuits will overload the judicial system.

Social unrest: As the number of people without a future increases, social exclusion and unrest will grow.

Loss of international reputation: While the Netherlands is known for valuing human rights and integration, this regulation will cause the country to be associated with populist deterrence policies.

VWN also, in its statement dated 25 June 2025, states that abolishing permanent guarantees and moving to fragile 3-year permits is a structural rupture that will push refugees into a "second-class" position; it will create lasting negative effects on integration, employment and health, and will clog the system by producing more objections/cases.

4.5. Conclusion

Permanent residence is not a privilege for refugees; it is a cornerstone of integration and social stability. Abolishing this right will destabilise not only individuals but also the future of Dutch society.

It is of vital importance that the Senate reject this bill in order to protect the rule of law and to secure social peace and integration.

5. Curtailing the Right of Defence: Weakening Effective Legal Protection

The "Asielnoodmaatregelenwet" contains various provisions that curtail refugees' rights of defence. These provisions both undermine individuals' fundamental rights and conflict with the Netherlands' national and international obligations.

5.1. Restrictions Introduced

"Guilt test" (schuldtoets) in subsequent applications: An asylum seeker presenting new evidence will be forced to prove why this information was not presented in the first

application. This is particularly punitive for those who have experienced trauma, are survivors of violence, or have not yet developed a sense of trust.

Removal of suspensive effect: Subsequent applications will no longer automatically have suspensive effect; that is, removal may be carried out before the application is examined.

Restricting free legal aid: State-funded legal aid for subsequent applications is being narrowed, thereby making the right of defence de facto limited to those who can pay.

5.2. Legal Incompatibilities

Dutch Constitution Article 17: "No one may be deprived of the judge." Implementing removal without suspensive effect renders the judicial path meaningless.

ECHR Articles 6 and 13: In Jabari v. Turkey (2000) and M.S.S. v. Belgium and Greece (2011), the ECtHR held that where persons subject to removal do not have an effective right of appeal, there is a violation of the ECHR.

EU Asylum Procedures Directive (2013/32/EU), Article 46: Ensures access to an "effective remedy" in asylum applications. In the CJEU's Gnandi v. Belgium (C-181/16), it was also clearly emphasised that removal may not be executed before the application is concluded.

5.3. Adverse Consequences

Effective judicial review disappears: For a person removed while the application is pending, the court decision becomes practically meaningless.

Disproportionate burden: The requirement to "prove why you did not present your new evidence earlier" penalises trauma survivors a second time.

Inequality in the right of defence: Restricting free legal aid means that only those with financial means can benefit from robust legal support.

Increased court workload: Ambiguous provisions will lead to thousands of additional cases, increasing the judiciary's workload.

Loss of international reputation: While the Netherlands is known for fair and effective asylum procedures, this regulation will leave the country open to adverse judgments before the ECtHR and CJEU.

5.4. Conclusion

Curtailing the right of defence in this way will lead not only to individual rights violations, but also to serious risks for the Netherlands in terms of the rule of law and international obligations. Adoption of this provision would constitute a clear violation of both ECHR Article 13 and the EU Asylum Procedures Directive.

6. Criminalising Irregular Stay and Humanitarian Assistance: A Regulation Contrary to Law and Humanitarian Values

The “Asielnoodmaatregelenwet” contains extremely dangerous provisions that directly target not only refugees but also the activities of municipalities, churches and civil society organizations. These provisions converge on two fundamental points:

6.1. Criminalising irregular stay:

Persons who cannot be returned for various reasons (for example because the country of origin does not accept them back) will henceforth be declared “criminals” outright.

These persons will be deprived of the most basic rights such as shelter and health care, forced to live on the streets, and simultaneously subjected to prosecution.

6.2.Criminalising humanitarian assistance:

Municipalities, churches and civil society organizations have for many years provided shelter and basic humanitarian assistance to these persons.

With the new law, such assistance can be interpreted as “complicity” or “facilitating irregular stay” and will carry direct criminal risk.

Thus, society’s conscientious and humanitarian reflexes will be punished, and both those who provide help and those in need will be targeted at the same time.

6.3. Legal Incompatibilities

Dutch Constitution Article 1 (Principle of Equality): Depriving persons present in the country of basic rights and criminalising them solely because of their status is contrary to the principle of equality.

European Convention on Human Rights (ECHR):

Article 3 – Prohibition of torture and inhuman or degrading treatment: Persons left on the street and deprived of basic assistance are subjected to inhuman treatment (M.S.S. v. Belgium and Greece, 2011).

Article 8 – Protection of private life: Housing and basic living conditions directly affect family life.

EU Charter of Fundamental Rights:

Article 1 – Human dignity is inviolable.

Article 34 – Right to social assistance and housing.

Opinions of the Raad van State: The Council of State has clearly stated that these provisions would place municipalities in an impossible legal dilemma (being obliged by court decisions to provide shelter while treating such assistance as if it were a crime).

VNG's letter of 4 July 2025: It is impossible for municipalities to both fulfil their legal obligations and avoid criminal sanctions at the same time; therefore the regulation is "inapplicable" and "contradictory"

6.4. Adverse Consequences

Humanitarian disasters: Persons who cannot be returned will be left on the streets, deprived of shelter and basic needs. This poses direct safety and health risks, particularly for women and children.

Social schism: Municipalities, churches and NGOs will find themselves criminalised when fulfilling their humanitarian mission; a deep conflict will arise between society's conscience and the legal order.

Judicial and fiscal burden: When municipalities become unable to provide assistance despite court decisions, new lawsuits and compensation claims will arise, increasing the burden on both the judiciary and the public budget.

Loss of international reputation: The Netherlands has historically been known for humanitarian aid and solidarity. Criminalising humanitarian assistance means openly rejecting these values.

Public safety risk: People left on the streets, desperate and excluded, may become targets for criminal networks or exploitation; this undermines overall public safety.

VWN also, in its statement dated 2 July 2025, states that punishing persons who cannot be returned and exposing municipalities/churches/NGOs that reach out to them to the risk of "complicity" means "criminalising humanity," and it calls for these provisions to be completely withdrawn. It is emphasised that even partial amendments will create a chilling effect and legal uncertainty.

6.5. Conclusion

Bringing irregular stay and humanitarian assistance within the scope of criminal law is unlawful, violates human dignity, and is practically inapplicable. This provision places the Netherlands in direct conflict with both its own constitutional principles and its international obligations.

For the protection not only of refugees but also of the humanitarian values of Dutch society and the rule of law, it is of vital importance that the Senate reject this provision.

7. Housing Rights and Social Cohesion: Warnings from the Raad van State, VNG and COA

One of the most controversial issues arising in connection with the "Asielnoodmaatregelenwet" is the removal of priority in social housing for statushouders (persons who have obtained a residence permit as a result of asylum). This regulation directly

affects not only refugees' right to housing, but also municipalities' legal duties and the Netherlands' constitutional principle of equality.

7.1. Opinion of the Raad van State (17 September 2025)

The Raad van State, the country's highest advisory body, criticised this regulation in its opinion dated 17 September 2025 for the following reasons:

Disadvantaged starting position: It was emphasised that status holders already occupy a disadvantaged position in the housing market. Removing priority will further worsen their situation.

Violation of the principle of equality: Status holders are not in the same situation as other housing seekers; on the contrary, they have special needs. Therefore, removing priority may violate the principle of equal treatment.

Restricting local government autonomy: Municipalities' ability to develop housing policy according to their own demographic and economic conditions is being eliminated. This amounts to imposing a "one-size-fits-all" solution.

Uncertainty in timing and impact: Although the government claims it will take measures to place status holders on an equal footing, the Raad van State emphasised that there is no guarantee these measures will be timely and effective.

Negative advice: For all these reasons, the Raad van State did not give a positive opinion on the bill and explicitly stated that it should not be presented in its current form.

7.2. VNG's View (4 July 2025)

In its letter to the Senate, the Vereniging van Nederlandse Gemeenten (VNG) drew attention to the following points:

Municipalities will become unable to perform their tasks: If status holders do not have priority in social housing, municipalities will be unable to fulfil their statutory duty of resettlement.

AZCs will become overcrowded: When municipalities cannot resettle people, refugees will be forced to stay longer in asielzoekerscentra (AZC); this will in turn necessitate more and more expensive temporary camps.

Integration (inburgering) will be disrupted: Integration policies are directly linked to housing. Without housing, transition to education and the labour market is not possible.

Risk of unequal treatment: Forcing municipalities to deny services based on residence status may be regarded by the courts as unequal treatment

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7.3. COA's Perspective

COA (Centraal Orgaan opvang Asielzoekers) has repeatedly issued warnings in recent years:

The system is under excessive load: The existing shelter capacity is already operating at its limit.

The housing chain is blocked: The inability of status holders to move to municipalities prevents newly arrived refugees from finding places in AZCs.

Vicious cycle: When the transition to social housing is blocked, a "bottleneck" forms in the camps and the entire asylum system becomes gridlocked.

7.4. VWN's View

VWN also, in its statement dated 1 September 2025, states that removing priority for status holders in social housing will not solve the housing crisis; on the contrary, it will create blockages in AZCs; it notes that local priority tools must be preserved for municipalities to be able to perform their resettlement duties, and that RvS–VNG–COA warnings converge in this direction.

7.5. Legal Incompatibilities

Dutch Constitution Article 1 (principle of equality): Placing status holders on the same footing as other housing seekers does not ensure equality; it further disadvantages an already disadvantaged group.

ECHR Article 8 (Respect for private and family life): The right to housing is directly connected to the protection of family life. Keeping people in camps for years under uncertainty harms family life.

EU Charter of Fundamental Rights Article 34 (Right to social assistance and housing): The right to housing is a fundamental element of social justice, especially for disadvantaged groups. Completely excluding status holders is incompatible with this article.

Opinions of the Raad van State and VNG: It has been confirmed that this regulation is inapplicable, contradictory, and carries constitutional risks.

7.6. Adverse Consequences

Blocking integration: Without housing, language learning, education, and participation in working life will be disrupted.

Increased camp load: AZCs will become even more crowded, and temporary solutions will become permanent.

An impossible dilemma for municipalities: If they try to fulfil their legal obligations, they will face the threat of penalties; if they do not, constitutional equality violations will arise.

Social unrest: Individuals who cannot find housing and are stuck in camp conditions for long periods will be unable to participate in social life, increasing security and public order risks.

Loss of international reputation: While the Netherlands is known for its humanitarian values and social justice, this regulation will damage the country's image.

7.7. Conclusion

This change concerning the right to housing will create a chain reaction that negatively affects not only refugees, but also municipalities, the judiciary and Dutch society as a whole. The warnings of the Raad van State, VNG and COA must be heeded; by rejecting this regulation, the Senate should protect both the rule of law and social peace.

8. Conclusion and Call

The strength of the Netherlands derives from respect for human dignity, the rule of law, the practical wisdom of local governments and a culture of social solidarity. The "Asielnoodmaatregelenwet" and related regulations risk weakening precisely these pillars: a nuclear-family limitation that separates families; the abolition of permanent residence that stifles integration; procedural changes that weaken effective appeal and the right of defence; provisions that criminalise persons who cannot be returned and the institutions that reach out to them; housing regulations that lock municipalities by excluding status holders from social housing… Taken together, these measures erode not only individual lives but also the country's nature as a state governed by the rule of law and its social peace.

As Stichting Justice Square, we respectfully yet resolutely make the following call to the Senate:

By taking seriously the warnings of VNG, COA, VWN and the Raad van State;

Reject the bills. Provisions that are inconsistent with the ECHR, the EU Charter of Fundamental Rights and the EU acquis, and that will cause irreparable harm in practice, cannot be accepted in their current form.

Protect fundamental safeguards.

In family reunification, the flexible framework that protects family unity, including dependent adult children, must be maintained; the best interests of the child must be the touchstone of decisions.

Efforts to abolish permanent residence should be abandoned; the permanent status that forms the backbone of integration should be preserved, and access to EU long-term residence status should be facilitated.

The right of defence and effective judicial review (suspensief effect, accessible legal aid) must be guaranteed.

Protection instead of criminalisation. Rather than penalising persons who cannot be returned and the municipalities, churches and NGOs that provide them with humanitarian assistance, rational solutions that safeguard human dignity and public order should be developed.

Realism in housing policy. Local priority tools for status holders should be preserved, and central restrictions that prevent municipalities from performing their duties should be withdrawn.

Impact assessment and consultation. Every change must be grounded in an independent impact assessment that recognises practical effects and legal risks in the field, and in broad stakeholder consultation.

Historically, the Netherlands has been strongest when it has chosen a path based on law and human rights. Today, the issue is not merely "refugee policy"; it concerns the country's identity and future. We reiterate our call for the Senate to reject these bills by taking into account constitutional values,

international obligations and the realities of local governance; and instead to establish a viable and fair framework centred on human dignity, family unity and integration.

Stichting Justice Square