

NEWSLETTER, year 2 no. 13

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‘EENS ILLEGAAL – ALTIJD ILLEGAAL’ (ONCE ILLEGAL - ALWAYS ILLEGAL) ACT IN FORCE

As from 7 July, 2012, a former illegal stay is a reason for rejecting an application for a residence permit. The ground for rejection will continue to hold for two years.

There are some exceptions to this act, for instance, in the cases of children, people with an illness and people to whom the European Family Reunification Directive or the Association Treaty apply.

Other exception groups are:

- a. family members who have been left behind
- b. victims of domestic violence
- c. victims of honour-related violence
- d. people who are unable to return through no fault of their own
- e. cases in which the minister uses his discretionary powers

(Bulletin of Acts and Decrees 308, 6.7.12)

1. BASIC RIGHTS

Minister: no fines for work placements children without residence permits

Minister Kamp has decided not to impose fines to pupils who have work placements while they lack residence permits. He will, however, appeal against the judgment of the court that work placements are part of 'education'.

Various court decisions regarding child benefit

Last year, the Central Appeals Tribunal decided that the Social Insurance Bank (SVB) had to pay child benefit to a parents without a residence permit who'd lived in the Netherlands for a long period, of which a large part was legal residence. After this decision had been made, more court had to rule about child benefit entitlement. Many applications are rejected, as the tie with the Netherlands cannot be ascertained. The Procurator General of the Supreme Court has asked the Central Appeals Tribunal for clarification of the criteria for awarding child benefit (P-G Supreme Court 11/03891, 16.5.12)

Council of State: pardon permit holder may marry without single status declaration

The Council of State has ruled that it is by now standard practice that pardon permit holders do not need to submit a single status declaration if they wish to marry (RvS 201110227/1/V1 21.6.12).

2. ADMISSION POLICY

Court: administrative charges for residence with Dutch child to be € 40,-

The Utrecht court has ruled that a residence permit for residence with a Dutch child counts as an application for admission under EU-law, and that the administrative charges must therefore amount to 40 Euros. (Utrecht Court, AWB 11/33403 21.6.12)

European Court asks NL questions about circumcision risk upon sending back Guinean woman

The European Court has asked the Netherlands which risk of circumcision an Guinean woman with daughter runs when they are sent back. The Netherlands is not allowed to send them back until the questions have been answered (ECHR, 404/11, 14.6.12)

Court: request for asylum Nigerian Christian from Jos must be assessed

The Court rules that a Nigerian Christian from Jos may run risks upon his return. Therefore, his second request for asylum must be assessed carefully (Amsterdam Court, 12/14627, 12/14626, 1.6.12)

Minister: conditions to settlement Antilleans

The Minister wants to lay down conditions to the settlement of Dutch citizens from Aruba, Curacao and St Maarten in the Netherlands. If they wish to stay for more than six months, they are to register with the municipality. To registration the following conditions apply: speaking Dutch, having a basic vocational qualification and an income, having no former contact with the criminal justice system and not being a danger to public order. Moreover, they need to have a certificate of deregistration from the municipality of origin. (Parliamentary paper 33325 no. 3, 3.7.12)

The LOS foundation is the supporting organization for the assistance of migrants without residence permits. By means of this newsletter we inform you of current developments. If you have any questions about this newsletter or about the rights of migrants without residence permits, please contact LOS..

Minister: new au pair policy

The arrangement for au pairs has been revised. Now it states more clearly which activities are allowed, how many hours an au pair is allowed to work and that an au pair may receive a maximum of 340,- per month from the host family. The registration costs at the au pair bureau may amount to a maximum of 10% of that amount, namely € 34,- (Government Gazette Nr. 13325, 29.6.12)

Council of State: 6 months' cohabitation is prerequisite for admission unmarried partner EU citizen

In various judgments, the Council of State has decided that an unmarried partner of an EU citizen may only be admitted in cases of permanent relationships. These must be proven by 6 months cohabitation (ao RvS 201105665/1/V4 10.5.12)

Minister: Pilot prospectless reports human trafficking to start in September

During the parliamentary debate about victims of human trafficking, Minister Leers indicated that the pilot for prospectless reports starts per 1 September 2012 and will last one whole year (debate 12.6.12).

3. CHECK AND DEPARTURE

Ombudsman: lawyer must be warned in time in case of deportation risk

The National Ombudsman finds it improper if the Repatriation and Departure Service (DT&V) informs the lawyer about the deportation date at too late a stage. After all, the lawyer must have the chance to proceed against the impending deportation. The DT&V have promised to inform in time in the future (NO 2012/81, 14.5.12)

4. WHAT CAN BE DONE?

Photos from Ter Apel refugee camp

In the Kaffa café and on the website wijzinhier.org, photos of inhabitants of Ter Apel refugee camp can be viewed. Part of the photos were made by the inhabitants, others were made by professional photographers, such as Harry Cock, Rob Huibers, Kees van de Veen, Ingrid de Groot, Karel Zwaneveld and Karoly Effenberger. They can be view in Kaffa, Czaar Peterstraat 130 Amsterdam web: <http://m2m.streamtime.org>; <http://wijzinhier.org>

Seguro, new reception organisation in Utrecht

In Utrecht, Seguro has been founded, a reception facility for Utrecht migrant without residence permits. Seguro is specifically meant for the reception of migrants who used to stay in the Utrecht homeless shelter, but are bound to be refused there due to the new homeless policy. The shelter home Fanga Musow, for women and children without residence permits, is to be integrated in the new foundation. For the time being, Seguro can only be contacted through info@seguro-opvang.nl. At Seguro, there is an 8 hrs/week vacancy for a socio-legal staff member who will assess the legalization chances of the migrants in reception. Applications before 15 July (NB: extended to 20 aug). Email Seguro for further information.

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