

NEWSLETTER, YEAR 3 NO. 13

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YOUTH CARE ACT: NO RIGHTS FOR YOUNG PEOPLE WITHOUT RESIDENCE PERMITS!

Recently, the minister presented a new bill for access to youth care.

The minister argues that, in principle, no services should be provided to young people who have no residence permits, since granting access might be an incentive to stay and would give them a 'semblance of legality'.

Legally staying youth who have no permanent residence rights only get limited access.

By separate regulation order exceptions to these rules can still be made.

The bill is yet to be passed by the Lower House and the Upper House.

1. BASIC RIGHTS

UK: undocumented migrants to pay for medical care; landlords to verify status tenants

The UK government has [announced](#) this week a proposal for a new immigration bill aimed at making it more difficult for undocumented migrants to live in the country, and at addressing the perceived problem of 'health tourism' by charging migrants for the use of primary health care services. Furthermore, under the proposals, private landlords will be required to verify the immigration status of their tenants, with fines applicable to landlords for renting property to undocumented migrants. ECRE 5.7.13

Answer COA: no reception guideline for special cases

The Secretary of State has answered, also on behalf of COA, that there is no guideline for assessing special cases in which COA is to provide reception extra-legally. In practice, this occurs in cases of medical problems, by order of the court. Some courts had postponed rulings about reception, pending this answer.

2. ADMISSION POLICY

MVV applications are assessed by the Ministry of Justice

The Ministry of Foreign Affairs assesses visa applications. However, applications for authorization for temporary stay are more to do with the admission policy than with visa policy. Therefore, the handling of these cases has been delegated. (Government Gazette (no. 16492), 20.6.13)

Council of state: no general risk upon return Copts to Egypt

The Council of State does not think that Copts generally run too great a risk upon enforced deportation. Risks may vary individually
<http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:31>

European Court of Human Rights: Iraqi Christians and victims of honour crimes have internal flight alternative

The European Court of Human Rights assessed eight applications by Iraqi nationals simultaneously. According to this court, Christians and victims of honour crimes generally do not run a great risk upon enforced deportation. Obviously, risks may vary individually.
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-121568>

Courts postpone judgments concerning Tamils

The new 'official country report' does not clearly state what risks Tamils run upon deportation. Recently, Tamils deported from the United Kingdom were assaulted. Therefore, all European countries are unresponsive with respect to asylum applications by Tamils. Firstly, the courts want the Dutch government to shed light on the risks run by deported Tamils.

Undocumented mothers of Dutch children

In two judgments regarding undocumented mothers of Dutch children, where the father kept in touch, but did not care for the children, the Council of State thought it was appropriate that the mothers

were not granted right of residence. In one case, the child was as old as 13 years, yet the mother was not granted a right to a family life.

<http://deelink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:110>;

<http://deelink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:131>

Council of State: right to work during procedure residence with Dutch child

Residence on the basis of EU legislation is 'declaratory', i.e. the one who meets the conditions has a right of residence, even if a decision by IND is pending. Residence on the basis of EU legislation also includes a right to work. The Council of State thinks that a residence permit in case of a Dutch child falls within the scope of EU legislation and thus, that the applicant has a right to work during the procedure.

ABRvS 201304527/2/V4, JV 2013/268, 3.6.13

3. CHECK AND DEPARTURE

Court: police are to state the reason for entry

In this case the police asked if they could enter, but failed to explain why they wanted to. Therefore, the court judged that entry was illegal. All information the police had gathered and that pointed to a marriage of convenience may not be used in judging about revoking the permit.

<http://deelink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2013:6566>

4. WHAT CAN BE DONE?

ACVZ: Where there's a will, but no way

A no-fault residence permit may be granted if someone cannot return through no fault of his or her own. Annually, hundreds of applications are made and a few dozens are granted (70 per year).

The Advisory Committee on Migration Affairs (ACVZ) makes various recommendations, including:

- Clarity about the criterion: a coherent whole of facts and circumstances making no-fault plausible.
- Granting a no-fault permit if national authorities in the country of origin have failed to respond to an application for a (replacement) travel document one year after the application was made, and if the alien cannot be held responsible for this.

Summary: <http://www.acvz.org/publicaties/Advies38-ACVZwebSUM.pdf>

PICUM: Using Legal Strategies to Enforce Undocumented Migrants' Human Rights

This report outlines ways for advocates of undocumented migrants to engage with legal systems on both national and international levels. The report is a practical guide to mechanisms within the European Union, the Council of Europe and the United Nations that advocates can use to enforce undocumented migrants' fundamental rights and to fight impunity.

By building cases, the report gives concrete examples of how to take action at national and at EU level, including the collection of evidence of exploitation, how to lodge a complaint and training within NGOs to proceed with court cases.

Since 2003, the LOS Foundation (Dutch acronym for 'Landelijk Ongedocumenteerden Steunpunt') has been the knowledge centre for people and organizations providing assistance to undocumented migrants. LOS Foundation devotes itself to the basic rights of these migrants and their children.