

NEWS LETTER, VOLUME 3 NR 20

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HEALTH CARE UNDOCUMENTED MIGRANTS

During the past few weeks some publications have been issued about medical care. PICUM, the Platform for International Cooperation on Undocumented **Migrants**, has advocated a larger role for local authorities when guaranteeing the provision of critical health care to migrants. The rights of undocumented migrants should be clarified. You can read PICUM's report (in English) [here](#). The Dutch National Ombudsman has published a report about the accessibility of health care for asylum seekers, aliens in detention and undocumented migrants. He has concluded that the accessibility of health care for undocumented migrants does meet with difficulties. These groups of aliens have little scope to take their own responsibility. You can read the National Ombudsman's report [here](#).

The National Ombudsman has also demanded attention for the Spekman route: the possibility that asylum seekers who have exhausted all legal remedies will be provided shelter if they apply for 'article 64' (deferment of eviction for health reasons). Unfortunately this route is rarely used. You can read the ombudsman's questions about the Spekman route [here](#).

1. BASIC RIGHTS

Secretary of State: no problem with shelter for health reasons

Due to the move of the inhabitants of the 'vluchtflat' (refuge flat) the Secretary of State has given a statement about providing shelter by NGO's. He does not anticipate any problems where shelter for ill people is concerned, 'but there has to be a genuine health problem in these cases', according to him (Parool 3.10.13).

Secretaries of State: Child and Youth Welfare will remain available for children without residence rights

During the debate about the new Child and Youth Welfare Act, the Secretary of State has announced that Child and Youth Welfare will remain accessible for children without residence rights. He only wants to exclude foster care, for fear of new cases similar to Mauro's: <https://zoek.officielebekendmakingen.nl/kst-33684-10.html>.

2. ADMISSION POLICY

Court of Appeal: revocation asylum status on return should be judged individually

This case concerned a Sudanese migrant who returned to Sudan illegally. The Court of Appeal is of the opinion that this does not mean that he no longer requires protection in the Netherlands. The IND should provide more appropriate motivation as to why he is no longer threatened in Sudan. Court of Appeal Roermond, 12/39535, 21.8.13.

Council of State: if tribal origin of Sierra Leonean woman is unclear, the risk of female genital mutilation cannot be assessed

This woman is believed to have come from Sierra Leone but she has not provided a definitive answer as to her identity and tribal background. The risk of genital mutilation depends on the tribe. Therefore the Council of State has agreed with the IND that the risk of genital mutilation cannot be assessed:

<http://deelink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:1318>.

Court of Justice EU: no residence with European child if the income requirements have not been met

A parent without a right of residence can be granted residence with an EU child, providing that the child's income is guaranteed and the income will provide for the parent as well. This is due to the free movement of EU citizens. A parent without legal residence can be granted right of residence with a Dutch child and will be entitled to social security as well, if the parent is the sole caretaker. This has come into effect since the Zambrano arrest. The Court of Justice has made it clear that the right of residence with the EU child will only be granted if there is sufficient income. HvJEU, C-86/12 (Alopa et al), 10.10.13.

Children's ombudsman: child's pardon also for non-asylum children and for children with 'criminal parent' as well

The Children's ombudsman advocates that the child's pardon is also applicable to children whose parents have not applied for asylum, due to the non-discrimination principle. Moreover, he is of the opinion that children should not be punished for their parents' actions. The Secretary of State does not agree with this:

<https://zoek.officielebekendmakingen.nl/blg-253178.html>.

Court of Appeal: registration in municipal register [GBA, gemeentelijke basisadministratie] counts for child's pardon if the NATIONAL government know the child

One of the requirements for the child's pardon is that the national government know the child. According to the Court of Appeal the municipal register is a state register and therefore registration in the municipal register means the national government know the child. Court of Appeal Haarlem, 13/15377, 18.9.13.

3. CHECK AND DEPORTATION

Court of Appeal: check occupants of former au pair house is allowed

The judge has approved the action of the police, who are investigating houses where au pairs have lived. The objective is to check whether the au pair has left. If during such investigations people are found who have no right of residence, the police are allowed to detain these people.

<http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2013:4565>.

Secretary of State: an entry ban should be issued in cases of voluntary departure after the term of departure has expired

The Secretary of State has made a policy change by which he now obliges the military police to issue an entry ban if people are leaving after the free term has expired. WBV 2013/22, 27.9.13.

Secretary of State: forced departure to Somalia is possible again

After an eviction to Somalia on 16 September the evictions that were planned after this date have been deferred. The eviction had to be evaluated. In a letter dated 9 October the Secretary of State has announced to resume the evictions. vluchtweb 10.10.13.

4. WHAT CAN BE DONE?

Film: Feifei, wie niet weg is, is gezien, 22 October Cinekid, 10 November Z@pp NL3

Feifei is an eight-year-old Chinese boy who has no official existence. He is here illegally, together with his mother. But he is also an ordinary child, just like his friend Mees, who thinks it's rather peculiar that Feifei does not have a passport. The film about Feifei who is asking for a pardon will have its premiere on 22 October. Afterwards there will be a debate with politicians about the current developments concerning the Child's pardon

<http://www.cinekid.nl/festivalprogram/entry/7006..>

Symposium: the intersection of migration, family life and children's rights 8 November 13.30-17.00u Utrecht

Speakers will be prof. Sarah van Walsum (VU) about the meaning of care in migration law and Tomas Weterings (lawyer Amsterdam) about Zambrano and beyond: Children's rights, family life, migration law'. The debate will be led by Stans Goudsmit from the Council of Human Rights.

Location Raadzaal, Achter St Pieter 200, Utrecht. Admission free, registration through J.H.M.Wijnans@uu.nl

Report 'Invisible children in Utrecht' 10 December 15-17u, Utrecht

The research project INVISIBLE CHILDREN IN UTRECHT has investigated the living conditions of children without residence permits and the way these circumstances affect the development of these children. On 10 December we want to present the results of our study and we will present recommendations for (municipal) policy concerning this vulnerable group of children.

Further information is to follow: Organisation Stichting LOS.

Since 2003, the LOS Foundation (the 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.