

NEWSLETTER, VOLUME 3 NO. 21

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COURT: RIGHT TO MARRY

People without a residence permits discover two obstacles if they want to get married: the documentation requirement on the one hand and the marriage of convenience check on the other.

In July, the court of justice ruled that marrying must also be allowed if the identity of one of the partners is not sufficiently certainly, due to the fact that (s)he has no identity documents; see the decision [here](#) (in Dutch). Incidentally, the identity had been ascertained in this case, since the person concerned had been registered at the municipality before, when he was an asylum seeker.

The marriage of convenience check is performed by the aliens police by means of the M46 form. This requirement continues to stand.

By the way, a marriage is not conditional to applying for a residence permit to stay with one's partner.

1. BASIC RIGHTS

Youth act: youth care for undocumented children must be implemented separately

The bill for the new Youth act has been passed by the Lower House and is now being considered in the Upper House. The bill still states that youth care for children without a residence permit must be implemented by ordinance order. See the bill [here](#) (Dutch only).

2. ADMISSION POLICY

Court: visa for entry Moroccan mother of Dutch child

According to the decision of the European Court of Justice, a single parent of a Dutch child must be issued an entry permit. This case affects a Moroccan mother of a Dutch child, whose father was in prison. He has since been released, but cannot be found. The court rules that the Netherlands is to provide the mother with a visa for entry into the Netherlands in order to give herself and her child the chance to reside here ([decision](#), Dutch only).

Furthermore, the court decided that for a permit in the case of a Dutch child the lower EU fees should obtain and that a permit should be issued for a five-year period ([decision](#), Dutch only).

Council of State: asylum request to be handled in the Netherlands if refugee partner lives here

This case affects a woman whose partner is living in the Netherlands and has a normal permit. He was an asylum seeker before. Due to the Dublin Regulation, which states that the country a person first arrives in is responsible, the woman risks being referred to another country to have her asylum request dealt with. The Council of State decides that the Netherlands is responsible after all, if the relationship is proven. This is not actually the case ([decision](#), Dutch only).

UNHCR: Somalia nationals without networks in Mogadishu cannot return

In a letter to a Danish lawyer, the UN High Commissioner for Refugees has written that Somalia nationals can only reside in Mogadishu if it can be expected that their family and/or clans will support them. Moreover, the question whether they can safely reside in Mogadishu will need to be judged individually. In any case, politicians, journalists, businessmen and clan elders run an increased risk in Mogadishu. Read the complete [UNHCR letter](#), 25.9.13.

Council of State on residence with dependent Dutch partner

This case affects a Dutch man who is dependent on his undocumented partner. The case resembles the Zambrano case, in which the European Court of Justice ruled that an undocumented parent of a Dutch child should be given a permit. The Council of State now finds that the Immigration and Naturalisation Service (IND) should substantiate why the same arguments do not hold for an application for a permit to reside with a dependent partner. (ABRvS, 201112816/1/V2, 26.8.13)

Children's pardon: applying criteria 'in sight of national government' and 'asylum history'

By now we receive the first court decisions regarding the implementation of the criteria for the children's pardon. In one decision, the court wonders what is meant by the requirement that someone should not be out of sight of the national government for more than three months: is it sufficient to

have started a procedure? And is someone allowed to have been repeatedly out of sight for brief periods? ([Decision](#), Dutch only)

In another decision the judge wonders why the pardon only obtains for children of parents with an asylum history. This might be in breach of the ban on discrimination. The judge refers the case (Amsterdam court 13/20728, 3.10.13)

3. CHECK AND DEPARTURE

Lower House: adopted motion regarding 'illegal quota'

MP Voordewind of the Christian Union moved a motion about abolishing the 'illegal quota', commissioning the police to track down 4,000 undocumented migrants a year. The motion was adopted ([motion](#), Dutch only).

4. WHAT CAN BE DONE?

LOWER HOUSE: meeting on human trafficking and prostitution, 31 October 15:00 -19:00 hrs

Among other things, the ninth report of the Dutch National Rapporteur on Trafficking in Human Beings, reception problems and the deployment of the Royal Marines will be dealt with during this meeting.

Rally domestic workers in the Netherlands, 2 November 12:00 in Museumplein, Amsterdam.

The purpose of the rally is to demand for the ratification of ILO Convention - 189 by the Dutch government. In the light of this, we would like to invite you to support and join us in this historic event of domestic workers' struggle for recognition of their rights in the Netherlands.

There will be a free transportation bus provided by the FNV for people of Den Haag who will come to this rally. Just kindly inform us until Tuesday (October 29) through: bagumbayan_1896@yahoo.com.

REMINDER: Workshop refugees Council of Churches, 2 November 10-15.30 hrs, Amersfoort

The workshop is dedicated to topical developments in the aliens policy and the activities by the churches. Themes such as aliens detention assistance and (alternative) reception options, as well as the basic principles of the Dutch government will come up for discussion.

Admission is free, please apply through tel no. 033- 4633844 or rvk@raadvankerken.nl

CANCELED: Presentation study Invisible children in Utrecht' 10 Dec 15-17hrs, Utrecht

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.