



## NEWSLETTER, volume 6 no. 24

21 November 2016

### CONTENTS

1. BASIC RIGHTS .....	2
2. ADMISSION POLICY .....	Fout! Bladwijzer niet gedefinieerd.
3. CHECK .....	3
4. ACTIVITIES .....	3

## NO BED BATH BREAD AGREEMENT

On Monday 21 November, the state secretary conferred with various municipalities on a joint agreement regarding the reception of asylum seekers who have exhausted all legal remedies. They failed to reach an agreement. According to the state, asylum seekers who have exhausted all legal remedies will not participate in returning as long as bed-bath-bread facilities are being provided. However, the municipalities concerned think there will always be asylum seekers who do not participate. If they end up in the streets, municipalities will have to provide reception on humanitarian grounds. Currently, a judicial decision allows municipalities to conduct their own reception policy. The state secretary intends to ban this possibility in future, but the Dutch Labour Party will not support such a ban. See the state secretary's letter [here](#) (Dutch only) and the statement of Stichting LOS [here](#)

## 1. BASIC RIGHTS

### Current account for aliens who cannot be evicted

The EU current account directive states that aliens without residence permits who cannot be evicted for actual or policy reasons are entitled to a basic current account. On inquiry, the Dutch Payment Association (Betaalvereniging Nederland) acknowledged that individual assessments must be made. The alien must be able to prove that he needs an account. See [here](#) (Dutch only).

We'd like to hear about your experiences regarding account applications and are happy to start proceedings if a bank wrongfully rejects an application.

## 2. ADMISSION POLICY

### Court: no admission without entry visa (mvv) for Yemeni mother of 4 Dutch children

According to the judge this mother has to apply for a residence permit to stay with her Dutch family members in a neighbouring country of the Yemen. In case of a regular family life application, asylum pleas do not count. Also, no proof was given that she cannot await the permit decision in a neighbouring country. (Amsterdam court, AWB 16/14209, 1.11.16)

### Council of State: consent biological father need for arrival child

The Council of State does not accept that this child can come to her mother. There is no evidence that the father cannot be contacted to give his consent. Without his consent, no visa will be issued. See [here](#) (Dutch only).

### Council of State: naturalisation reversed due to silence about a child with another woman than partner

The Council of State agrees with the state secretary's decision to revoke the Dutch nationality of this alien. He'd been in a relationship with a Dutch woman for five years, but had failed to mention that during this period, he's had a child with another woman. He should have mentioned this, as it was relevant to assessing the genuineness of the relationship. The residence permit is not revoked (ABRvS, 201601761/1/V6, 9.11.16)

### Court: no long-term EU citizen as residence and income unclear in years past

EU citizens are legal if they work or manage to provide for themselves in another way. After five years' legal residence, they can apply for 'long-term EU citizen' permits. In the case, the Frenchman has proof that he worked in NL in 2008, but lacks proof of his residence and income following that year. Therefore, the judge rejects his application for long-term stay. See [here](#) (Dutch only).

### Council of State: HIV patient can return to Zimbabwe

This female HIV patient depends on medication for her survival. In spite of poor healthcare in Zimbabwe, the Council of State finds there are enough guarantees that the necessary medication is available there or can be ordered. See [here](#) (Dutch only).

### 3. CHECK

#### Supreme Court: punishment for residence as undesirable alien

This case concerns a Somali who'd been pronounced undesirable due to a criminal record. Undesirable aliens are punishable if they are found in the Netherlands. Earlier, the court had not imposed any punishment, as the Somali had participated in his eviction to Somalia but had not been admitted there through no fault of his own. Subsequently, the Dutch government had made no effort to evict him. The Supreme Court does not agree with the court's decision, as it should have taken into account that the Somali hadn't made any effort to leave. See [here](#) (Dutch only).

### 4. ACTIVITIES

#### Lecture Carla van Os: 'Pastrami sandwich: parenting in times of crisis', 24 Nov 14.30 hrs Leiden

How do parents offer protection to their children in the midst of violence? Which qualities and behaviours of their parents' help children to develop as well as possible under such harsh social circumstances? And what does that mean for the reception of refugee families? [You are welcome to register for the Dutch-language lecture.](#)

#### PICUM: collection of testimonies Irregular Children

The increasing barriers to access protection will push more children, young people and families into precarious and irregular residence. Their rights as a child and best interests are very rarely considered, and they are not heard in immigration and asylum proceedings. If children are irregular or undocumented migrants, they can be prevented from accessing essential services. They also face arrest, detention and deportation.

These testimonies highlight the challenges faced by children and young people considered irregular or undocumented migrants and the strength it takes to overcome them day by day.

#### EU Law Analysis : Human & humanitarian smugglers: Europe's scapegoat in the 'refugee crisis'

This document discusses the differences between human smuggling and humanitarian acts of the facilitation of irregular entry. In the EU-Facilitation Directive, human smuggling is criminalised. If the European Commission intends to avoid criminalising humanitarian assistance to irregular migrants, it will first need to more narrowly and clearly define acts of the facilitation of irregular entry worthy of criminalisation. The EC's challenge lies with the fact that the primary purpose of the Facilitation Directive is to deter irregular migration and a narrower directive would ultimately undermine this objective.

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.