

## NEWSLETTER, volume 7 no. 6

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### COUNCIL OF STATE: QUESTIONS ABOUT ADMISSION TO VBL FOR ASYLUM SEEKERS WHO HAVE EXHAUSTED ALL LEGAL REMEDIES

Asylum seekers who have exhausted all legal remedies must leave the AZC (Reception Centre) and will only be admitted to the VBL (Freedom-restriction centre) in Ter Apel if they collaborate on their return. Asylum seekers who have exhausted all legal remedies and who have already left the AZC are hardly ever admitted to the VBL, even if they yet agree to collaborate. It looks as if this particularly applies to asylum seekers from specific countries. That might have to do with the fact that their embassy does not issue laissez-passers.

The Council of State has asked the secretary of state critical questions about the application of the collaboration criterion in relation to asylum seekers who have exhausted all legal remedies and apply for admission to the VBL. It also wants to know how this relates to the no-fault status (for people who cannot return through no fault of their own). Lastly, it has asked how medical aspects are weighed into the decision.

The state secretary has to answer before 28 March.

## 1. BASIC RIGHTS

### PICUM: Guidelines for filing a complaint in case of labour exploitation

The complaints mechanism is an essential safeguard to prevent exploitation or abuse in the framework of the employment of all workers, regardless of nationality, migration or residence status.

[http://picum.org/picum.org/uploads/publication/WorkerComplaintMechanismLeaflet\\_NL.pdf](http://picum.org/picum.org/uploads/publication/WorkerComplaintMechanismLeaflet_NL.pdf) (NL)

[http://picum.org/picum.org/uploads/publication/WorkerComplaintMechanism\\_Leaflet\\_EN.pdf](http://picum.org/picum.org/uploads/publication/WorkerComplaintMechanism_Leaflet_EN.pdf) (ENG)

## 2. ADMISSION POLICY

### Council of State: withdraw Dutch citizenship for Somali who also had Yemenite passport

The Council of State has decided that this Somali, who came to the Netherlands as a minor and has had Dutch citizenship for almost 12 years, is to drop it. He also had a Yemenite passport, but failed to mention this when he applied for asylum. Since he has had Dutch citizenship for just less than 12 years, it can still be withdrawn. Withdrawing Dutch citizenship is not the same as losing the right of residence, about which a separate decision must be taken. See [here](#) (Dutch only).

### European Commission: Dublin transfers to Greece to resume after 15 March

According to the Dublin Regulation, asylum seekers must apply for asylum in the first country through which they enter the EU. If they travel on, they will be sent back to that first country. However, until recently asylum seekers could not be sent back to Greece, because its asylum facilities were overcrowded.

The European Commission has advised the EU countries to resume sending back asylum seekers to Greece from 15 March. In each case an individual guarantee of reception must be issued. See [here](#)

### Council of State acknowledges that India and Algeria may be regarded as safe countries of origin

Asylum seekers from safe countries of origin are given a short procedure and are rejected sooner.

For Algeria, see [here](#) For India, see [here](#) (both in Dutch only)

### Court: Guinean government does not always protect from domestic violence and other crimes

According to the Haarlem court, Guinean authorities cannot always offer protection in cases of domestic violence and other crimes. There is no adequate legal system for identifying, pursuing and punishing. NGOs do not fill this gap in the legal system.

The court rules that the Immigration and Naturalisation Service (IND) must reconsider its decision. (Rb Haarlem, 17/2575, 2.3.17)

### Court: Nigerian government does not offer illiterate woman from Edo State protection from FGM -state

According to Groningen court, women in Nigeria need help from relatives if they are sent back. That specifically goes for this woman, as she is 18, has never worked independently and is illiterate. She cannot ask her family for help, nor are there NGOs who can offer help. Therefore, she cannot defend her daughter against FGM.

The court rules that the IND must reconsider its decision. (Rb Groningen, 17/1128, 13.2.17)

Court: when continued residence of human trafficking victim is rejected take the effects of trauma into account

This case concerns continued residence of a human trafficking victim. She has not been able to tell much about the perpetrators. The Rotterdam court rules that the IND must not draw the conclusion that the story is not true is. Due to trauma, the victim cannot tell much, the court thinks. Her scar also point in that direction. The IND should have considered this vulnerable woman's background more carefully. The court rules that the IND must reconsider its decision. (Rb Rotterdam, 16/16296, 1.3.17)

### 3. CHECKS

European Commission : recommendations to improve return process

The European Commission calls on the Member States to take the necessary measures to remove legal and practical obstacles to return. For instance, Member States should:

- a) use detention as needed and appropriate , in particular where there is a risk of absconding
- b) provide in national legislation for a maximum initial period of detention of six months that can be prolonged until 18 months in the cases;
- c) bring detention capacity in line with actual needs

In relation to illegally staying third-country nationals who intentionally obstruct the return processes, Member States should consider using sanctions in accordance with national law. These sanctions should be effective, proportionate and dissuasive and should not impair the return-process.

[Commission Recommendation \(EU\) 2017/432 \(352.96 ko\), 7.3.17](#)  
[Making return procedures more effective](#)

### 4. ACTIVITIES

Referral afternoon, 19 April 15.30 uur - 18.00 uur, Equator Amsterdam

During this afternoon, brengt Equator, treatment centre for people with mental health problems, brings regerrers up to speed about the latest developments. One of the topics will be 'Undocumented people and psychological trauma'. You can apply before 12 April 2017 at [V.Alkemade@Arq.org](mailto:V.Alkemade@Arq.org)

Geneva : regularization of 590 undocumented migrant workers

On Feb 21, the canton of Geneva approved "operation Papyrus" which will regularize at least 590 undocumented migrant workers, among them many domestic workers. 200 cases are still pending and they are continuing the process. It is due to a new application of existing law and the applicants have to meet certain criteria. However, because of the strong movement, Geneva is in the forefront of Switzerland to apply it in favour of the undocumented migrant workers.

More: <http://www.sit-syndicat.ch/>