Stichting Landelijk Ongedocumenteerden Steunpunt

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CONTENTS

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

COUNCIL OF STATE: RIGHT TO SHELTER AFTER NOTIFICATION OF ASYLUM APPLICATION

In case of repeated asylum applications, asylum seekers must submit an asylum application. It will take some months before they are invited to come and explain their application.

On the basis of the European Asylum Procedures Directive, asylum applications are considered to have been submitted after an official form has been received by the Immigration Service. The Council of State considers asylum seekers as such from the time the notification has been submitted. From that date, therefore, the right to shelter also applies.
Click here for more information.

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1. BASIC RIGHTS

District Court: Right to shelter in relation to medical procedures
A migrant lodged a request for postponement of deportation, on medical grounds (Article 64). The IND in such cases currently often issues a 'temporary Art.64 status'. An Article 64 status comes with the right to COA shelter. In this case of a *temporary* status, the COA would not grant the right to shelter. The judge, however, decided that this distinction was not appropriate and that the right to COA shelter also applies to a temporary Article 64 status. For more information, click here.

In another case, the COA wanted to refuse shelter to a mother and her sick child, who earlier had the Article 64 status and subsequently lodged an application on the grounds of a medical emergency. Their application was rejected after which the mother filed an objection. According to the COA, the right to shelter no longer applied. From a previous ruling by the Court of Justice of the European Union, the district court derived that basic facilities had to be offered at all times, to undocumented migrants who were ill. Therefore, the right to COA shelter did apply. (District Court of Haarlem, 18/1398, 29.6.18)

2. ADMISSION POLICY

State Secretary for Justice and Security: amendments to admission policy on religious converts and sexual orientation
The State Secretary will amend the admission policy with respect to religious converts and LGBT asylum seekers.
For the assessment of religious converts, the internal information notice will be replaced with an official Work Instruction. This will provide more room for people's personal story.
With respect to the assessment of sexual orientation, the questions about awareness and self-acceptance of sexual orientation will be removed. The focus, instead, will be on the authentic story.
Third-party declarations will be included particularly if they contain new information.
(Parliamentary document 19637: 2414, 4.7.18)

State Secretary for Justice and Security: amendments to admission policy on unattached women from Iraq, Somalia and Afghanistan
In principle, unattached women from these countries will be awarded asylum in cases where the individual story does not show that they would be taken care of on return to their country. For more information, click here.

State Secretary for Justice and Security: permits in relation to Dutch child
In May 2017, the Court of Justice of the European Union decided that the custodial parent of a European child has the right to asylum. Since that year, around 2000 residence permits have been issued in the Netherlands involving a Dutch child. The most common nationalities are Moroccan, Surinamese, Turkish, Nigerian and Ghanaian. (response Parliamentary question 2684, 6.7.18)

District Court: problems at the dissolution of Filipino marriage is not a case for the Netherlands
In this case, the woman applied for a residence permit, on the basis of her right to a family life (article 8 of the European Convention on Human Rights), to stay with her Dutch husband and three children, aged

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5 to 10. She argued that she was unable to apply for an 'mvv' entry visa in the country of origin, because her husband was working on an oil platform and would be away from home for weeks at a time, and thus be unable to care for the children. In addition, the man was still married to another Filipina and the Philippines were refusing to dissolve that marriage.
The District Court ruled that it was the responsibility of the family itself to organise child care, and that the dissolution of the Filipino marriage was not a problem for the Netherlands to solve. For more information, click here.

3. MONITORING AND DETENTION

European Parliament and French Constitutional Council about the criminalisation of humanitarian assistance to undocumented migrants
On 5 July of this year, the European Parliament adopted a resolution that calls for guidelines to prevent humanitarian assistance to undocumented migrants from being criminalised. For more information, click here.

On 6 July, the French Constitutional Council ruled that humanitarian assistance to undocumented migrants is not punishable, unless this concerns assistance in illegal border crossing. The Council is of the opinion that considerations need to be made between, on the one hand, the moral obligation of solidarity and brotherhood, and the rule of law, on the other. For more information, click here.

4. ACTIVITIES

IOM: recommencement of return support for groups that were excluded earlier
On 8 June of this year, the State Secretary for Justice and Security decided that certain categories of migrants who had been excluded from receiving support, once again were entitled to the support under the REAN programme in case of their voluntary return via the International Organization for Migration (IOM). This applies, for example and under certain preconditions, to migrants from the Western Balkans, the countries bordering Europe, and other visa-free countries.
For more information: www.iom-nederland.nl.

Factsheet: shelter by private citizens
The Dutch Council for Refugees eastern Netherlands has developed a factsheet for private citizens who are considering to provide shelter to people without a residence permit. For the factsheet, click here.

Petition for a humane European Admission Policy
As Christians and as citizens, we call on the governments of the EU not to further jeopardize the protection of refugees. We expect our churches in Europe to defend human dignity, independently and without political ambivalence.
https://www.change.org/p/refugee-policy-in-europe-when-justice-dies-people-follow