

NEWSLETTER, volume 10 no. 08
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MINISTER OF SOCIAL AFFAIRS & EMPLOYMENT: PENALTY FOR EMPLOYER OF UNDOCUMENTED PERSONS NO LONGER TO BE INCREASED

The 2017 policy rules on penalties stated that the penalty for employers of an undocumented employee is to be increased by 50 percent in relation to the standard amount. In October 2018, the Council of State had ruled there is no reason for this increase, since the fact that the employee cannot produce a residence permit does not make the employer 'persistently fraudulent'. See [here](#) (Dutch only). That is why the Minister has adjusted the penalty principles for employers.

Please to find below the list of standard penalty amounts:

Offender	Standard penalty
Private individual having a personal or domestic service performed	€ 2.000
Private individual, acting from office, profession or business	€ 4.000
General benefit providing foundation or association involving non-commercial labour	€ 4.000
Actual manager who managed prohibited conduct	€ 6.000
Other legal entities or their equivalents	€ 8.000

<https://zoek.officielebekendmakingen.nl/stcrt-2020-18106.html>, 30.3.20

1. BASIC RIGHTS

CRvB: temporary right to social benefits for Spanish mother of NL child during appeal procedure

This Spanish mother had received social benefits before, when she applied for a residence permit to remain in NL with her NL child. The application was refused, and the social benefits were discontinued. The procedure for her residence permit continued, and she is now waiting for the appeal verdict. The Preliminary Relief Judge of the Dutch Administrative High Court (CRvB) finds that the mother cannot currently travel to Spain due to the corona pandemic and that her financial distress is enormous. That is why the mother will temporarily be entitled to social benefits once again. See [here](#) (Dutch only).

Council of State: no care allowance if EU-spouse failed to take insurance

The wife of a Dutchman is an EU citizen, but her application for a residence permit has been refused. While her application was being processed, she had lawful residence and should have taken insurance, the judge finds. The man stated that, on hindsight, his wife did not have lawful residence throughout the duration of the procedure. Moreover, the insurance company refused her application. However, he has not kept any proof of this. The Council of State finds that the man has justifiably not received care allowance. See [here](#) (Dutch only).

Council of State: Dominican birth certificate acknowledged by other father than husband is not valid in NL

This child was born in the Dominican Republic when the mother was still married. That is why her husband is automatically the child's legal father. According to Dominican law, another father can still acknowledge the child. However, according to Dutch law, this is not feasible, rendering the acknowledgement invalid, the Council of State has decided. See [here](#) (Dutch only).

2. ADMISSION POLICY

Jurisdiction in times of corona

In the field of migration and asylum, the following cases will be restarted:

- a. provision rulings;
- b. cases related to the coronavirus or to corona measures taken;
- c. asylum cases (including Dublin cases), cases related to an authorisation of provisional residence permit and requests for extension of a residence permit in case of a residence gap;
- d. rescissions of residence rights involving serious public order issues;
- e. cases where accelerated processing was requested and granted.

In an earlier instance, provision rulings with 'super urgency' and alien detention cases had been prioritised. See [here](#) (Dutch only).

State Secretary Justice & Security: start tele-hearings in asylum cases

The Immigration and Naturalisation Service (IND) has made a tentative start with tele-hearings in current asylum cases. It aims to scale them up in the weeks to come. The purpose is to bring the number of hearings that take place this way to the same level in a few weeks' time as before the corona crisis. See [here](#) (Dutch only).

Court: residence father with child to be reconsidered on the basis of Child Report Groningen
Groningen University has compiled a report on the child revealing that it is important for the child's development for the father to be present as an educator. The judge finds that the IND should weigh that in better when deciding on the father's residence rights. See [here](#) (Dutch only).

3. RETURN

State Secretary Justice & Security: in spite of travel restrictions due to corona, alien detention is still feasible

The state secretary states that alien detention may still be imposed, even though deportation is not possible. In many cases, the identity must first be established, and a Laissez-Passer be obtained. These preparations can still be made. See [here](#) (Dutch only).

4. ACTIVITIES

GREVIO database

GREVIO is the independent expert body responsible for monitoring the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence ([Istanbul Convention](#)) by the Parties. The convention is based on the understanding that violence against women is a form of gender-based violence that is committed against women because they are women. It is the obligation of the state to fully address it in all its forms and to take measures to prevent violence against women, protect its victims and prosecute the perpetrators.

The HUDOC-Grevio database gives you access to all baseline evaluation reports, Government comments and Recommendations of the Committee of the Parties.

<https://hudoc.grevio.coe.int/>, 3.3.20