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## CONTENTS

BASIC RIGHTS.....	2
ADMISSION POLICIES.....	2
CHECK .....	3
ACTIVITIES.....	3

## COURT: NEW GUIDELINES FOR ASSESSING RESUBMITTED ASYLUM CLAIM

For a resubmitted asylum claim, an asylum seeker must show new information ('nova'). In the Dutch policy, only nova that 'could not have been known earlier' is considered. The truthfulness of the nova must also be established.

The European Court recently [decided](#) that this Dutch policy is far too strict. According to the Court, all nova must be taken seriously and, in principle, the asylum seeker must be given the benefit of the doubt.

In a new judgement, the Den Bosch Court enshrined this new policy. This means that some rejected asylum seekers can submit a new request, if their nova was unjustly not taken into consideration. See [here](#).

## BASIC RIGHTS

### European Court of Justice: language test cannot play a role in essential welfare payments

For a case in Austria, the Court of Justice of the EU declared that essential payments (such as a living costs payment) for migrants who are long-term residents may not be dependent on passing a language test. See [here](#).

### Court: municipality has to independently assess if father of Dutch child has residency right

On the basis of the Chavez judgement, a care-giving parent of a Dutch child has a residency right. This right is determined by law: it exists as a result of the situation, even if the IND has not yet given its assessment.

In this case, the father asked to be registered in the Personal Records Database (BRP). In such a situation, the municipality has to make its own assessment about whether the father has residency rights. That was acknowledged by the judge in this case.

But as the IND had already decided in this case that the father did not provide sufficient care for his child and so had no residency right, the judge found that the municipality was correct to refuse to register the father. The father does not have any residency right. See [here](#).

## ADMISSION POLICIES

### Secretary of State for J&S: reaction to critical book

The secretary of state reacted to a [book](#) by immigration lawyers that described how there was a lack of 'human dimension' in immigration decisions. She promised to investigate room for manoeuvre in immigration policy, and the opportunities to use this room better. She will also discuss this with the lawyers. A fuller reaction will follow. See [here](#).

### Secretary of State for J&S: naturalisation of people with Pardon permit

It was previously announced that people who were under 18 when they received a Pardon permit in 2007 could be naturalised, even without original documents from their country of origin. The secretary of state has now decided to extend this ruling to everyone with a Pardon permit. See [here](#).

### Decision and departure moratorium for aliens who lived in Tigray before they left Ethiopia and for Tigrayans from other regions of Ethiopia.

Through this moratorium, rejected asylum seekers are also given accommodation. See [here](#).

### Asylum policy for Nigeria

The policy for women (also under the age of 18) who are at risk of (sexual) violence or genital mutilation has been changed: in principle, it is considered that they cannot find protection in another part of the country. See [here](#).

Court: long-term relationship with EU citizen not only proven by living together

This case is about a partner who had a relationship with an EU citizen. This partner applied for residency rights because they had a 'long-term relationship'. In the Dutch policy that is defined as: living together for 6 months, or having a child together. In this case, the judge made it clear that the Dutch criteria are not correct according to EU law. A long-term relationship can also be a long-distance relationship. This relationship must be well established, however. (Amsterdam Court, AWB 20/7840, 23.6.21)

Council of State: sick Nigerian cannot be deported, as he cannot organise his medical care independently

This Nigerian is sick: among other things, he has he PTSD, depression, diabetes, sickle cell disease, and lung problems. According to the Medical Advice Agency (BMA / Bureau Medische Advisering), it is possible to get treatment for these illnesses in Nigeria. But the man would have to go to a number of institutions to get this treatment. The Council of State believes that this is unrealistic, as he is unable to organise care himself, so a deportation would put him in danger. See [here](#).

## CHECK

Number of departed aliens

The secretary of state announced that in 2020, 27% fewer aliens departed than in 2019 (18,780 vs. 25,660). More than half of the departures were 'To an Unknown Destination'. Over 5,000 aliens departed independently. The number of enforced deportations dropped 41% to 3,880. See [here](#).

Secretary of State for J&S: deportations often impossible because of refusal to take coronatest

In the first half of 2020, 550 deportation flights were cancelled, because the alien refused to take a Covid-19 test. As a consequence, 120 aliens were released from alien detention. See [here](#).

Afghan Ministry: do not send people back to Afghanistan

See [here](#)

## ACTIVITIES

IND Work instruction: Human trafficking in asylum cases

This work instruction is about the assessment of indications of human trafficking during the asylum hearing, and in asylum decisions. See [here](#).

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.