

NEWSLETTER, volume 13 no. 6  
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### COURT: CHAVEZ PERMIT ALSO FOR BY NOW ADULT CHILDREN

Caring parents of a Dutch child have derivative right of residence if their stay is necessary for the child's stay in the EU. This is based on the Chavez ruling. The right is declaratory: it exists even before the IND has granted the permit. In two recent cases this factor played a role.

One case involves a mother of Dutch children who by now are adults. Her right of residence as a partner of EU national was retroactively revoked because it was found that her partner was not resident in the EU. The question is whether in the past, she had a right of residence as a mother of Dutch children. This would be the case even before the Zambrano and Chavez judgements established this right. The court assumes that this right of residence applied even then, and finds that the IND must make a new decision on the effective date of her right of residence. See [here](#)

Another case concerns a Chinese mother who has a right of residence in the Netherlands as the caring parent of German children. She has been living in NL for 5 years, but has only had proof of her right of residence for 3 years. She asks for an EU long-term residence status, but for that she must have had 5 years legal residency. In this case too, the court finds that the IND must determine the actual commencement date of her right of residence. See [here](#).

## 1. ADMISSIONS POLICY

CoS: [Chavez-permit for mother of Dutch child, other name than on child's birth certificate](#)

The Dutch child's birth certificate shows an Iraqi name, but the Moroccan biological mother has proved with a DNA test and passport that she is the real mother. She is also the child's carer. Because the birth certificate lists a different mother, she does not have custody. She asks for recognition of her residence as a caretaker parent of NL's child.

The Council of State finds that actual caregiving is paramount. The IND must take a new decision.

## 2. WHAT'S ON

Kick-off event of the Refugee-led Network Netherlands (RLN): 15 March 16:00-18:30, The Hague

During the kick-off event, we will invite prominent refugee advocates, refugee-led initiatives and stakeholders to support us in building and co-creating this network together.

Please register via the following link before 5 March: <https://forms.gle/Y9jELvrtUgxM7gwB7>

Amnesty and iMMO: [Sexual violence: blind spot in asylum procedure?](#)

People seeking asylum in the Netherlands who declare that they have been victims of sexual violence are at risk of being re-traumatised in the asylum procedure. Signs of sexual trauma are insufficiently recognised and gender is not a separate ground for asylum protection. The analysis shows that knowledge is lacking throughout the asylum process and gender-sensitive approaches are not always taken into account.

DCI: Solution needed for children rooted here.

With our 'hey are already at home' campaign, we draw attention to children who have been in the Netherlands for years, but do not yet have a residence permit. After a five-year stay, these children are rooted here: they go to school, attend sports clubs and have their friends here. They should then be given a residence permit. Sign the [petition 'They are already at home'!](#)

Internet consultation: Modernising the criminalisation of human trafficking

The main purpose of this bill is to prosecute offenders sooner and to better protect victims. This extension takes place mainly with regard to serious labour abuses. Profiting from human trafficking will also be criminalised sooner. [Open consultation](#)

Since 2003, the LOS Foundation (National Undocumented Migrants Support Centre Foundation) has been the knowledge centre for people and organisations who provide assistance to migrants without residence permits ('undocumented migrants'). The LOS Foundation is committed to the basic rights of these migrants and their children.