

NEWS LETTER, volume 13, nr 10  
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## EUROPEAN COURT OF JUSTICE: NO ENTRY BAN FOR DEPENDENT FAMILY DUTCH PERSON

In the case Chavez, the EU Court ruled that caring parents of a Dutch child who do not have a residence permit themselves must obtain a permit so that the child does not have to leave the Netherlands and the EU.

In a new case the EU Court has ruled that the Chavez juris prudence also applies to other family members who are dependent on a Dutch person. These family members should not receive a return decision or an entry ban. The extent to which family members are dependent has to be taken into consideration in each individual case. In these cases, the health condition, and, if applicable, family life and the interests of minor children must be taken into account.

European Court of Justice C-528/21, (M.D.), 27.4.23  
<https://curia.europa.eu/juris/liste.jsf?num=C-528/21>

## 1. ADMISSION POLICY

Advocate General European Court of Justice: [domestic violence as a ground for asylum](#)

The European Court of Justice has given an interpretation of the European asylum rules. If a national Court poses questions the Advocate General will first write an advice followed by a ruling provided by the European Court of Justice. This case concerned a Turkish woman who fled to Bulgaria because of domestic violence and there she married another man. She fears honour violence if she were to be sent back to Turkey.

In this case the Bulgarian Court questioned whether women have to be considered a 'social group', so that violence against women can be recognised as a legitimate reason to flee. In addition to this it is relevant whether the authorities offer protection in case of violence committed by private persons such as relatives.

The Advocate General has argued that women should be recognised as a 'social group' and is of the opinion that Bulgaria should investigate whether Turkey can offer her sufficient protection if she were to return.

Informational Message 2023/36: [in case of family formation in unmarried partner relationship exclusivity of the relationship is not imperative; it is required that it is an enduring relationship](#)

This Informational Message provides instructions to the IND about assessing family migration. It is essential that the relationship is similar to a marriage and is of long duration. The relationship does not need to be exclusive. Nor is it imperative to have a joint household or to live in the same house.

Council of State: [minor age at the date of application counts when applying for family reunification with the mother](#)

This case concerned a boy who wanted to join his mother in the Netherlands. The application had been submitted four days before his eighteenth birthday but the relevant documentation had only been handed in after his eighteenth. Still the Council of State has ruled that the boy should be considered as a minor in this case of family reunification.

## 2. CHECK AND DETENTION

European Court of Human Rights: [nine days detention of aliens mother and baby not allowed](#)

This case concerned a mother with a seven-months-old baby who had been placed in detention of aliens in France for transfer to Spain. Initially the detention was to last for two days but eventually it lasted for nine days. The European Court of Human Rights are of the opinion that this is too long for the baby as well as the mother in view of the circumstances in the detention centre and the young age. Alternatives should have been investigated more thoroughly.

## 3. ACTIVITIES

[Actions for Migrating Perspectives in European Media](#), 12 May 19:30u de Zwijger Amsterdam

Mainstream media's reporting on migration does not do justice to the lived reality of migrants in Europe.

Therefore, migrant communities and individuals across Europe started their own media initiatives, reclaiming their rights to self-representation. During the event journalists and media makers share experiences and initiatives and launch the magazine '*SHIFT! Actions for Migrating Perspectives*'.

[SAMAH and Lifegoals Nederland: training for rejected former unaccompanied minors, 16 May - 11 July Amsterdam](#)

SAMAH is organising a training programme for rejected unaccompanied minors. The training offers space to 'grieve' and we will work towards the development a perspective for the future. The training is a combination of sporting activities and intellectual assignments.

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.