

NEWSLETTER, Year 1 no.17

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RIGHT TO SHELTER FOR A PERSON WHO HAS BEEN DECLARED AS AN UNDESIRABLE ALIEN

Last week, a stateless person living in Utrecht who has been declared as an undesirable alien, won the court case regarding his request for shelter on the basis of the Social Support Act (WMO). The person is seriously ill and had proven his condition by means of various letters written by medical specialists.

The court found that the man forms part of the 'vulnerable groups' and that denying him reception does not constitute a fair balance between the public interests of the Netherlands and the individual interests of the man himself, at least as long as it remains unclear whether he cannot leave the country through no fault of his own.

(Utrecht Court house SBR 11/116, 7.10.11).

1. BASIC RIGHTS



Stoutfonds is giving subsidies to pay the financial penalty given for the internship of students who does not have a permit to stay(undocumented)

Students are allowed to complete school or finish the current school year until they become 18 yrs old, *however*, the minister denies them the right to have their traineeship. Schools and employers who will provide traineeship to undocumented students will risk to get a financial penalty of 8000 Euros. [Startfoundation](#), has set up a subsidy called 'Stoutfonds' (which might mean 'naughty fund' as well as 'bold fund') to pay these fines.

2. ADMISSION POLICY

New asylum policy for Somalia

From the 7th of April, a moratorium(vertrekmoratorium) for departure came into force for Central and Southern Somalia. With this decision, all asylum seekers from Central and Southern Somalia that were not acknowledged as refugees and had received a court decision to leave the Netherlands were entitled to have shelter.

Following the decision by the European Court on 28 June 2011, the minister has determined a new policy with respect to Somalia. On the basis of that policy, asylum seekers from Mogadishu are given a status. Safe return for asylum seekers from Central and Southern Somalia are assessed. Asylum seekers who need to travel to or through an area controlled by the Al Shabaab can only return safely if they can comply with their demands. The moratorium(vertrekmoratorium) for departure ended on the 7th of October.

Courts decided positive with regard to 'Zambrano' cases with known Dutch partner

On the 8th of March the European Court of Justice decided positive on the 'Ruiz Zambrano' case. Within this case a Colombian parents who did not have a residence permit took this matter to the European Court. The European Court ruled that the Colombian parents should be able to take care of their two Belgian children and given residence permits in Belgium.

In the Netherlands, this decision is often used as an argument to apply for residence permits for parents of Dutch children. So far, these applications were rejected if the Dutch partner was still present. However, in the beginning of September three courts decided that a mother without a residence permit should be given a permit in order to take care of her Dutch child. Even if the Dutch father is still around and takes part in caring for the child. Even if the mother has been declared as an undesirable alien.

3. CHECK AND RETURN

Developments regards criminalization of illegal residence

Making illegal residence punishable is symbolic legislation. That is what the chairperson of the Advisory Committee on Alien Affairs (ACVZ) said in an interview on the occasion of its 10th anniversary last week. On that same day, the expression symbol legislation was used by the opposition in a debate of the Parliamentary Committee for Immigration and Asylum.

In the course of that very debate, the minister agreed to the opposition's request to outline the costs of the legislation. According to the minister, the additional costs are negligible. According to the Coalition against Criminalization of Illegal Residence, the bill might actually cost 180 million Euros. Earlier on, the minister had told the Association of Netherlands Municipalities (VNG) that victims of human trafficking who report this will not be fined for their previous illegal residence.

On 25-27 October, debates have been planned in parliament on two bills that constitute the beginning of making illegal residence punishable:

1. The bill 'once illegal once – always illegal', on the basis of which a former illegal residence can be a reason to deny a residence permit
2. The bill 'Implementation Return Directive', states if the application for a residence permit is turned down, they will receive a removal order. With that order the migrants is by law obliged to leave the Netherlands within 30 days. If the person decides to stay after this 30 days they will be violating the law and an entry ban will be applied.

The objections to both bills can be found (in Dutch) on: www.geenstrafbaarstelling.nl

4. WHAT CAN BE DONE?



IND: statistics on regular migration in NL and EU countries

The Immigration and Naturalisation Service (IND) outlined the numbers of immigrants coming to the Netherlands and other EU countries for various purposes (family, study, work). Each year, approximately 43,000 immigrants come to the Netherlands for these purposes. This amounts to 2.5% of the immigrants entering the entire EU for these purposes.

Download the report (Dutch only): [Reguliere Migratietrend 2008-2010](#)

Council of Europe advocates rights of children without residence permits

The Council of Europe has written a report on the rights of children without residence permits. The report pursues the rights to healthcare, education, shelter, freedom and protection from exploitation. The motivation of the authors were: The right of the child should be guaranteed as stated in the UN Convention of the Rights of the Child. For children without residence permits their status as a child outweighs their migration status.

The Committee on Migration, Refugees and Population describes the barriers in realizing the rights of children without residence permits and present proposals to member states and the Council of Ministers is to improve legislation and practice.

[For the report please click: Undocumented migrant children in an irregular situation: a real cause for concern](#)



Healthcare for migrants without residence permits

The EU Fundamental Rights Agency (FRA) did a research on the accessibility of healthcare for persons without residence permits in 10 member states. The FRA looked specifically into healthcare for mothers and children (in particular immunisations), Psychological healthcare and care for chronic diseases.

The report is due to be represented on 11 October. See: [FRA](#)



The LOS foundation is the supporting organization for the assistance of migrants without residence permits. By means of this newsletter we inform you of current developments. If you have any questions about this newsletter or about the rights of migrants without residence permits, please feel free to contact LOS.