

NEWSLETTER, Year 1 no. 18

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THE DUTCH LOWER HOUSE DEBATED THE PENALIZATION ON THE 25TH OF OCTOBER.

At 20.00 hours on the 25th of October two legislative proposals was discussed to rule the greater part of the penalization of 'illegal' residence. These were the following proposals:

- 'Visa Act', which rules that 'illegal' residence can be a reason to refuse somebody a residence permit; and
- 'Implementation Act Return Directive' which makes it punishable for migrants if they stay in The Netherlands after a Return Order and an entry ban.

The real legislative proposal for the penalization of illegal residence has not been published yet. But this only involves a very small number of migrants; most of them will be affected by the Acts above.

2. ADMISSION POLICY

Court of Appeal: during asylum application IND should also take the right to family life and private life into consideration

Officially a passport is required for an application for a residence permit as a partner or a parent. In this case the father of three legal children did not have a passport and his identity was a matter of doubt as well. The Court of Appeal was of the opinion that in this application for asylum (which was denied) the IND should have considered his right to a family life and a private life (Rb Groningen Awb 11/27706 en Awb 11/27705, 27.9.11).

Court of Appeal: for the 'Belgium route' the Dutch partner needs to be economically active

This case concerns a Dutch woman who had registered in Spain together with her foreign partner, but had never worked there. Both were given Spanish EU residence cards. But when they wanted to establish themselves together in The Netherlands, the IND and the Court of Appeal ruled that the Dutch partner was not a genuine 'resident of the union'.

For this reason the foreign partner was not issued a residence permit (Rb 's-Gravenhage, AWB 10/3025, 9.12.10).

Association Treaty for Turkish migrants

During recent years the Association Treaty between the EU and Turkey has been used a lot. According to this treaty from 1980 (1973, respectively) Turkish migrants are not allowed to be subject to new restrictions. For this reason for them the old (favourable!) criteria still apply for example in the following cases:

- visa requirement Turkish employees for a stay under 3 months (is not allowed)
- three-year policy (if after 3 years no decision has been taken about an application, a residence permit will follow automatically)
- assessing 'essential Dutch interest' by companies (point system does not apply, it suffices if a Turkish entrepreneur meets a certain need, provides a positive contribution towards the economy and does not pose a risk to social security).
- Integration Act in The Netherlands (cannot be enforced)
- extending residence permit (is not to be extended annually but every five years).
- in case of divorce within 3 years, the dependent partner must be given a year to seek employment.
- withdrawal residence permit with retroactive effect (was not possible in 1980)
- sliding scale when residence permits are withdrawn after judgement (previous scale applies)
- criteria for pronouncement of undesirability (previous criteria apply)
- retirement rights on return to Turkey (cannot be curtailed).

The Association Treaty also applies to people with two nationalities.

Visa registrations North Africa

In future the EU will register all visa applications centrally in combination with fingerprints and photographs. As of October of this year visa applications from North Africa will be the first to be registered. Then other countries will follow: the Middle East and the Gulf region.

3. CHECK AND RETURN

Court of Appeal: Family Location is restriction of liberty

This case concerns a family for which an application for a residence permit is still pending. From the COA they had to go to the Family Location. The Court of Appeal is of the opinion that the Family Location constitutes a restriction of liberty and that there have to be good reasons to send people there. In this case there were no such reasons (Rb Den Haag 11/32332, 13.10.11).

4. WHAT CAN BE DONE?



Farewell BLinN, hello Fairwork

Since oktober 2011 BLinN decide to pursue its work independent. BlinN was an initiative of Humanitas and Oxfam Novib. With this independence they change their name to Fairwork. Fairwork will pursue the work of BlinN in giving support to victims of human trafficking. Their new website: www.fairwork.nu and new e-mail addresses. Tel: 020 – 7600809; fax: 020 - 5219099. Address: PO box 15539; 1001 NA Amsterdam.

Women's food pub 29 October 18.00 hours Amsterdam

Every last Saturday of the month the women's food pub (vrouwen eetcafe) is being held. Women with and without a residence permit eat together. The doors of the cafe opens at 18.00 hours, at around 19.00 the meal is served, which will be followed by the informative part of the evening at 20.00 hour. On the 29th of October a vegan meal will be served. For those who are interested, a yoga lesson will be given afterwards.



Location: 'de Peper', restaurant of the former film academy, Overtoom 301 Amsterdam.
Contact through Steungroep Vrouwen Zonder Verblijfsvergunning: www.svzv.nl.



Symposium for displaced persons by UNHCR, 3 November, Tilburg

During the symposium several initiatives will be shown in order to give more visibility to the situation of displaced persons. The main speaker will be Greg Constantine, award-winning photographer, well known from his series of photographs of displaced persons entitled 'Nowhere People'.

Information and registration: Statelessness.Programme@uvt.nl / tel. +31 13 466 8386.

Stichting LOS (Landelijk Ongedocumenteerden Steunpunt) was set up in 2003. Stichting LOS is an expert and service centre for persons and organisations providing support to the undocumented persons. Stichting LOS is committed to defend the basic rights of migrants and their children.