



Stichting Landelijk Ongedocumenteerden Steunpunt

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Please note: naturalization requirements abroad are to become more difficult!

As of the 1st of April 2011 the Dutch language and integration exams abroad will become more difficult. If your partner wants to come to the Netherlands and his/her command of the Dutch language is not that good, than he or she might consider enrolling for the integration exam before the 1st of April.

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 contact LOS.

1. Right to provisions

Minister Leers sets up special camp for families awaiting forced return

Minister Leers (Immigration and Asylum) does not agree with the decision of the Court of The Hague that prevents him from deporting families with children without further legal remedies. Therefore he will appeal to the court of cassation against this verdict of the Court.

Of course the families will have to be housed until the time they are deported. For this purpose Leers will set up a dedicated deportation centre where the parents have to prepare their forced return from the Netherlands. The provisions in the centre will be austere, and the freedom of movement will be restrained.

2. Residence permits

Minister Leers will appeal against the court decision in the case of Sahar

Sahar is an Afghan girl who has been living in the Netherlands since the age of four - at present she is fourteen years old. The court has decided that she has become 'westernized' and therefore was entitled to a residence permit. The Minister for Immigration and Asylum Leers will submit an appeal against this decision at the Council of State. He wants the judge to clarify whether Sahar herself is culpable for her 'westernization'. According to the minister she could have returned earlier. The decision of the Higher Appeal Court is important for all the Afghan women who have been living in the Netherlands for a long time.

Utrecht Court: risk on return of a single Burundese woman of mixed ethnicity

The decision of the Court is based on reports by Amnesty International, ACAT Burundi, and OMCT. All these reports agree that sexual violence against women and girls in Burundi is frequent. The court is of the opinion that this woman's risk of sexual violence in Burundi is increased, because of her mixed ethnicity and because of her status of a single woman and mother

Council of State: no risk on return of single women from Iraq

Although the Council of State is of the opinion that the position of single women is a cause for concern, they also think that the police offer protection, that women's organisations have been founded, that initiatives are being taken to improve the position of women in Iraq and that the Iraqi government contains two women. Therefore single Iraqi women will not be given residence permits based on their female gender alone.

UNHCR do not want to deport refugees to Iraq and Ivory Coast

UNHCR, the refugee organisation of the UN, believe that the situation in Iraq and Ivory Coast is too dangerous for refugees to be suitable countries to be deported to. At the moment, the Netherlands sends Iraqi people back on individual flights. Decisions concerning the application for asylum of refugees from Ivory Coast will be deferred.

Minister Leers will not deport people to South and Central Somalia

Because of rulings of the European Court for Human Rights minister Leers has decided not to deport Somalis for the time being. Meanwhile, however, they will not receive official status and they are not entitled to shelter and support services either. According to the Aliens' Act this should not be possible, so presumably it will be decided shortly to offer Somalians temporary homeless accommodation.

The Council of State, the Court of Higher Appeal, are of the opinion that Mogadishu is too dangerous and that Somalis from Mogadishu must be given a residence permit.

3. Police and detention of aliens

Council of State: border controls are prohibited within the EU

The Council of State, the Court of Higher Appeal, have decided that controls at the internal European borders for example in trains or during border crossings, are not allowed to resemble border controls. Controls within the EU are only allowed on the condition that they are completely random or providing that everybody is checked. As long as this cannot be guaranteed checks are prohibited.

Minister Leers is investigating alternatives for detention of aliens

Amnesty International has presented a letter to minister Leers about the circumstances in institutes for the detention of aliens. The minister has promised to aim at improving the situation in institutes for the detention of aliens. He will also ask other countries if they can provide ideas about alternatives for the detention of aliens.

Guidelines on forced return

The Return Directive is a European 'Act', which stipulates common rules about forced return and the detention of aliens. The Directive automatically came into effect on the 24th of December 2010, but the Dutch application act (implementation act) has not yet been completed.

One of the elements of the Directive on forced return is the duration of the detention of aliens: 6 months, with a possible extension to 18 months. Some courts are of the opinion that 6 months is the maximum as long as the Dutch implementation act has not been completed.

An obligatory part of the Directive on forced return is the investigation into the option of a 'less drastic measure' than detention of aliens. Some people without residence permits live for example with relatives, or in asylum seeker residence centres and will not go into hiding. Some courts are of the opinion that the Return Directive prohibits the detention of aliens in those situations.

In many cases the Aliens police are of the opinion that it is allowed to detain illegal aliens in case they have criminal records. Most courts are of the opinion that the Directive on forced return does not allow placing people with criminal records in detention of aliens.

Because of these substantial differences among different courts it is necessary that the Council of State in Higher Appeal determine which is the correct decision.

Council of State: deportation to China and to Guinea is possible

Because the Council of State has decided that forced return to China and to Guinea is possible, people from these countries without residence permits can still be placed in detention of aliens.

4. What can be done?

Book : Health Care in NowHereland

This book is the result of an investigation into the accessibility of health care for people without residence permits in all European countries. Almost everywhere the access to this fundamental right hinges on charitable organizations (volunteer groups). This is an undesirable situation: accessibility of medical care should be organised in a structured manner and should not be dependent on the goodwill of volunteers.

www.nowhereland.info

Book Human Right Watch: Rights on the Line, Abuses against Migrants in 2010

This book deals with migrants' rights across the world: Africa, Asia, Europe, the Middle East and the United States. In many countries illegal workers are employed in low-paid, dangerous and flexible jobs. Human Right Watch reports about exploitation and the inaccessibility of labour rights in many of the countries they visited.

Download the report: <http://www.hrw.org/en/reports/2010/12/12/rights-line-0>