



Stichting Landelijk  
Ongedocumenteerden  
Steunpunt

## NEWSLETTER, year 2 no. 15

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### BRINGING LEGAL ACTION AGAINST ENTRY BAN

As from 1 January, the Immigration and Naturalisation Service (IND) may issue entry bans to migrants without residence permits who were given a 'return order' at an earlier stage. A return order is always issued following a negative decision. In principle, a return order comes with a time period for voluntary return. However, if someone is found to be staying illegally, this period may amount to 0 days.

If anyone without a residence permit remains in the Netherlands after his or her return period has expired, the IND may issue an entry ban. An entry ban has a standard duration of 2 years, but in case of criminal offences, the duration may be longer. The duration of any entry ban must be decided upon individually. All entry bans are registered in the European SIS database. Someone who has been issued an entry ban will not be allowed into the EU for the duration of that ban and, for instance, may not apply for a visa. That is why it is important to bring legal action against an entry ban.

In a letter, the IND has written that an entry ban will be cancelled if someone meets the requirements for an authorization for temporary stay (mvv), which is an entry visa for a residence permit.

## 1. BASIC RIGHTS

People without residence permits in distressing situations no right to WWB/ WMO, COa responsible  
Repeatedly over the past years, proceedings have been brought over the right to welfare provisions for people without residence permits in distressing situations, who for example are ill, old or invalided. In the past, applications for WWB or WMO were occasionally granted. Lately, the Central Appeals Tribunal refers to the Agency for the Reception of Asylum Seekers, COa (for instance CRvB 12/3649 WMO-VV and 12/3466 WMO, 18.7.12). And the COa holds the view that is not obliged to grant provisions outside the scope of the law (for instance RvS 201113399/1/V1, 4.7.12). As a result, it is becoming harder to implement provisions.

## 2. ADMISSION POLICY

GBA certificate no longer needed to apply for permits, grants etcetera

As the Immigration and Naturalisation Service (IND) has access to the municipal personal records database, IND forms no longer need to be supplemented by certificates (NVVB, 10.7.12)

Court: Copts in Egypt can move to safer area and therefore are not granted asylum  
(Rotterdam court 12/20231 and 12/20229, 13.7.12)

Court: conversion to Christianity no reason to grant asylum to Moroccan man  
(Utrecht court 12/17436 and 12/17435, 21.6.12)

Court: minister needs to study risks for Ahmadis in Pakistan better  
(The Hague court AWB 12/1814, 24.7.12)

Court: Tamils at risk after return

The court refers to a judgment by the British High Court that stopped the deportation of Tamils. The Dutch judge ruled that the case must be studied once more.  
(The Hague court AWB 21/ 17918 and AWB 12/17917, 22.6.12)

Council of State: westernization of Somali must weigh upon decision about asylum request

The Council of State refers to a judgment by the European Court that decided that after a prolonged stay in Europe, Somalis can no longer adapt to life in Somalia, especially in areas where the Ash-Shabaab is in power. The Council of State holds that the Immigration and Naturalisation Service (IND) should add something about westernization in its decision on the asylum request.  
(Council of State 201200969/1/V2, 31.7.12)

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...

#### Minister: asylum requests Syrians are being processed again

On 6 July, the 'decision moratorium' for Syrian asylum seekers ended. Therefore, the minister must decide upon asylum requests by Syrians once again. In principle, the minister will grant Syrians an asylum status (letter by the minister 2.8.12)

#### Status of human trafficking victim does not continue upon complaint

If the Public Prosecution Service decides not to bring criminal proceedings against a victim of human trafficking, the victim status is cancelled. Until recently, the permit could continue if the victim filed a complaint against stopping the proceedings. This is being abolished (WBV 2012/16, 20.7.12)

### 3. CHECK AND DEPORTATION

#### Return order and entry ban following voluntary return of Filipina lacking residence permit

This case is about a Filipina without a residence permit who returned voluntarily. In Schiphol, she was issued a return order on account of her illegal residence. Along with a return order, an entry ban may be issued, especially if a 'withdrawal from supervision' is involved. However, this woman wished to return voluntarily. For that reason, the judge rules that she was not to be issued an entry ban (Zwolle court, AWB 12/5793, 14.6.12)

### 4. WHAT CAN BE DONE?

#### Leaflet on autonomous return:

The Repatriation and Departure Service has produced leaflet (Dutch-language only) containing information on autonomous return. You can download it through: [Information leaflet autonomous return](#)

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