

NEWS LETTER, VOLUME 3 NR 18

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LETTER FROM TEEVEN ABOUT IMMIGRATION POLICY: NOT A LOT OF NEWS

Last Friday Secretary of State Teeven published a letter concerning various aspects of the immigration policy. Subjects he addressed include:

- a less stringent regime with respect to the detention of aliens who do not inconvenience anyone. It is unclear how this will work out.
- in some cases visits will no longer be restricted to 2 hours per week and visits by relatives without identity papers will be made possible. As yet it is unclear which conditions apply in this case.
- fewer aliens will be placed in detention because more alternatives will be applied such as the obligation to report, judicial deposits or help from NGOs. This is in fact a continuation of existing alternatives.
- in some cases Dublin claimants (who are being sent to another European country) can await their transfer outside of detention. This is a new proposal.
- fewer families with children will be placed in detention of aliens, even if they arrived through Schiphol. This has been possible for some time.
- locations where residents have restricted liberties will also be used for migrants who have no asylum background, as long as they cooperate in their return. In these cases courses will be offered as well. This is a new proposal.
- adjustment of the policy concerning migrants without culpability: contact with IOM is no longer required, a list will be drawn up with documents per country that can be used to prove the identity providing there was no doubt as to the country of origin during a previous procedure; no proof of nationality needs to be provided and a solution will be sought if the embassy does not reply.

2. ADMISSION POLICY

News report IND: reduction of legal dues as of October 1st 2013

As of October 1st 2013 the legal fees for applications for humanitarian permits will be reduced in the following cases: after family formation, after residence as an adopted child and in case these applications need to be extended. The legal fees will be reduced from € 950 to € 225. The reduction has retrospective effect until October 9th 2012; in current procedures; and dues that have been paid in excess will be refunded. Nieuws IND, 5.9.13.

Council of State: revoke the Dutch nationality due to parallel marriage in Egypt

This case concerns an Egyptian who had been granted a permit as well as the Dutch nationality because of a marriage with a Dutch woman. Prior to his application he had concluded a traditional marriage in Egypt where he had three children. When he officially married his Egyptian wife and wanted her to come to the Netherlands the IND decided to annul his naturalisation with retrospective effect.

<http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:1116>

Council of State: reversal procedure can be a reason for fleeing

The Court of Appeal wonders why performing a reversal procedure (after female genital mutilation) and providing information about female genital mutilation cannot be considered a political act. This concerns a woman from Ivory Coast.

Court of Appeal Roermond 12/8135, 7.8.13.

European Court of Human Rights: risk Chechen with scars on return in Russia

The European Court state that returning Chechens are interrogated by the Russian security service. In itself this is not a safety risk, but it does pose risks for Chechens who carry torture scars.

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-126025>, 5.9.13.

European Court of Human Rights: In some cases Mogadishu is safe

The European Court have concluded that the situation in Mogadishu is still bad, but has improved. For individual asylum seekers returning may pose risks, this should be investigated for each individual case.

<http://www.refworld.org/pd/5229af714.pdf>, 5.9.13.

Council of State: father is allowed to stay with Dutch child because Dutch mother cannot bring up the child

In the Zambrano case the Court of Justice of the EU has decided that a child is entitled to stay in the country of its nationality and that a parent who cares for the child and who has no right of residence can therefore be granted right of residence. However, in the Dereci case the Court has decided that one legal parent is sufficient and that the other parent is not entitled to residence in such cases, which is why in the majority of these cases the Council of State rule that the Dutch parent can bring up the child

<http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:1147>, 2.9.13.

Council of State: right of residence for Turkish father at German child of school age in the Netherlands

Because Europeans are allowed to live everywhere in Europe, a German child is entitled to attend primary school in the Netherlands. A condition for this is that there is enough money to provide for the child. The Council of State are of the opinion that the donations from the Mosque are sufficient for this. The Turkish father will be granted a residence permit because he has to take care of his son. According to the Council of State the fact that the German mother might be able to care for the child is irrelevant.

<http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:1068>, 3.9.13

3. CHECK AND DEPORTATION

Council of State: entering subtenant's living accommodation is not allowed without permission of the actual occupant

At the front door the police had asked whether they would be allowed to enter the house to perform an investigation into illegal residence. The main tenant had given his permission. Subsequently the police also entered the subtenant's living accommodation. According to the Council of State this is not allowed without the occupant's permission.

<http://deelink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:1126>, 4.9.13.

4. WHAT CAN BE DONE?

Network day European Migration Network: conference human trafficking in cooperation with the MIG, 22nd of October The Hague

The European Migration Network have organised this conference in cooperation with MIG: Mensenhandel en -smokkel Informatiegroep. Its theme is: 'Fighting modern slavery in the Netherlands: The impact of international and EU law on the national fight against human trafficking by the IND and its partners'.

In the morning lectures will be given by Nicolas le Coz, chair of GRETA (Group of Experts on Action against Trafficking in Human Beings) of the European Council, Conny Rijken (associate professor Tilburg Law School) and by a representative of the European Committee. In addition a panel consisting of representatives of the European Migration Network from several European countries will discuss the efforts to combat human trafficking in each of these countries. In the afternoon workshops will be organised, dealing with such subjects as human trafficking and minors, co-operation and the identification of victims of human trafficking.

Information: www.emnnetherlands.nl.

Reports human trafficking:

[Negade Rapportage Nationaal Rapporteur Mensenhandel](#)

[INTERVICT: Mensenhandel, het slachtofferperspectief](#)

[WODC: Eerste meting slachtoffermonitor](#)

[WODC: Verblijfsregeling slachtoffers mensenhandel in het VK, Italië, België](#)

UN: Migration and human rights. Improving human rights-based governance of international migration.

The UN Human Rights Office is promoting a human rights-based approach to migration, arguing that the framework provides practical and concrete solutions to the complex challenges of international migration including irregular migration. Download the [report](#)

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.