

NEWS LETTER, VOLUME 4 NR 10

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GERMAN COURT OF LAW: SENDING BACK MIGRANTS WHO HAVE EXHAUSTED ALL LEGAL REMEDIES TO THE NETHERLANDS IS INHUMAN

On 8 May 2014 the Court of Appeal in Darmstadt decided that a Somali asylum seeker who has exhausted all legal remedies cannot be sent back to the Netherlands because there he would end up on the street without any means of support. This would mean a violation of the German constitution, which states that the protection of human dignity is a primary obligation of the state.

In Germany all asylum seekers who have exhausted all legal remedies are granted shelter and support and they are allowed to work until they can be evicted.

Verwaltungsgericht [Administrative Court] Darmstadt, 4L 597/14.DA.A, 8.5.14.

1. BASIC RIGHTS

Applications for facilities are currently to be submitted through the Secretary of State

In February the Council of State decided that it is not the COA but the Secretary of State who is responsible for decisions concerning applications for housing and basic facilities for undocumented migrants. Support organisations have made an appeal to submit these applications concerning migrants who cannot be evicted; these appeals should obviously be substantiated appropriately. More information can be obtained through Stichting LOS.

2. ADMISSION POLICY

Secretary of State: many Eritrean asylum seekers

In the month of April 1,000 asylum seekers from Eritrea came to the Netherlands; this amounts to 40% of the total number of asylum seekers during that month. In the Netherlands it is thought that this number has risen because of the activities of human traffickers and an investigation will be started. Most of the Eritrean asylum seekers are granted a status. You can read the letter [here](#).

Council of State: risk on return of Eritrean asylum seekers

In three cases the Council of State have decided that Eritrean asylum seekers who had legally left Eritrea but who stayed abroad for a longer period of time are at risk on their return. Earlier it had been established that it is not allowed to send back Eritreans who left the country illegally because they are at risk on their return. Recently the Council of State have decided that Eritreans who stayed in Europe for longer than their visa allowed cannot be sent back. You can read the judgment [here](#).

Court of Appeal: unclear whether the authorities in Mongolia protect against domestic violence

In this case the Court of Appeal are of the opinion that the IND should have taken into consideration whether the authorities in Mongolia in general offer protection against domestic violence. The police are obliged to help but it turns out that they fail to do so in actual cases. There are women's organisations but it is unclear whether these are able to offer actual protection.

The Court of Appeal are of the opinion that the IND should offer more appropriate motivation for their decision. You can read the judgment [here](#).

Court of Appeal: benefit of the doubt for Nigerian homosexual man

In a preliminary decision the Court of Appeal have asked to reconsider the decision concerning a Nigerian homosexual man. The man had arrived without documents and was unable to give a clear report about his homosexual experiences; however, the Court of Appeal were of the opinion that the repression of homosexuals in Nigeria should be a consideration in these cases Court of Appeal the Hague, 14/8051, 22.4.14.

EU Court of Justice: advice integration requirement foreign countries

The attorney general of the European Court of Justice have advised in a German case about family formation. The attorney general advised that it is not allowed to require migrants to take an integration exam abroad or that it should at least be possible to make an individual consideration of interests. The European judge will rule following this advice. You can read the advice [here](#).

Council of State: income requirement for self-employed migrants who want their partners to come to the Netherlands

For the admission of a foreign partner their Dutch partner must have sufficient income. In accordance with this rule self-employed people should have earned at least the minimum income during the last year and a half. This case concerns a painter who had a bad year during 2012. During the previous years he had earned enough money. The Council of State are of the opinion that it is allowed to take other years into account when the sustainability of the income is to be assessed. You can read the judgment [here](#).

Council of State: it is allowed to revoke the Dutch nationality because Egyptian had not made mention of his Egyptian marriage

The Council of State approved the revocation of the Dutch nationality of an Egyptian man who had a residence permit with a partner in the Netherlands while he was still married in Egypt. You can read the judgment [here](#).

3. CHECK AND DEPORTATION

Court of Appeal: unaccompanied minor asylum seekers cannot be placed in centre of detention in the company of minor offenders

The Court of Appeal have decided that minors who have been placed in detention of aliens must be detained separate from minor offenders. During recreation this unaccompanied minor asylum seeker was together with minor offenders and therefore his detention and he had to be released.

ABRvS, 201402057/1/V3, 22.4.14.

4. WHAT CAN BE DONE?

Stichting LOS, Hogeschool Utrecht: undocumented children

Children without a residence status grow up in low-income families, often live in bad housing accommodation and many of them suffer from considerable psychological pressure. They live with a secret and they do not know whom they can trust. At school some of these children do not dare to tell they have no residence permit and they fear they will be arrested by the police when they are in the street. They also have severe worries about the future.

This became apparent from a [study](#) by Stichting LOS in co-operation with the Hogeschool Utrecht.

Sign for fair Child's Pardon! En come to the manifestation on 25 June

Approximately 600 children do not meet the requirements for the Child's Pardon. Please visit the campaign website www.eerlijkkinderpardon.nu and sign the petition for a Fair Child's Pardon! Many mayors have made an appeal for a fair Child's Pardon as well. Over 200 mayors have asked Teeven, Secretary of State, to reconsider the rejected applications for the Child's Pardon. [Here](#) you can see whether the mayor of your municipality has signed the petition.

You can follow the progress of the campaign through www.eerlijkkinderpardon.nl.