

NEWSLETTER, VOLUME 4 NO. 17

18 August 2014

Contents	page
2. ADMISSION POLICY.....	2
3. CHECK AND DEPARTURE.....	2
4. WHAT CAN BE DONE?	3

CRIMINALISATION RESIDENCE WITH ENTRY BAN TO BE ADJUSTED

As a result of a study by the Research and Documentation Centre (WODC) of the Ministry of Justice, the state secretary has announced to reconsider the criminalisation of residence in case an entry ban has been imposed.

At the moment, an entry ban of at least two years is imposed on anyone found without a residence permit. The entry ban applies to the entire European Union. Once an entry ban has been imposed, residence in the Netherlands is punishable. In practice, punishment hardly ever takes place, since a fine cannot be paid and a prison sentence is not allowed, as departure must take precedence.

The state secretary will develop new guidelines for imposing a entry ban, departing from the alien's intentions. If an alien is willing to depart and proves cooperative, (s)he will not be issued with an entry ban. If someone is unwilling to depart and has illegally resided in the Netherlands for a longer period, (s)he will be issued a longer-term entry ban.

This new policy is to be presented this autumn. (Dutch only)
Read the full text [here](#) (Dutch only).

2. ADMISSION POLICY

CBS: 76 thousand Immigrants, 64 thousand emigrants in first half 2014

According to the Dutch Central Bureau of Statistics (CBS), 76 thousand immigrants entered the Netherlands in the first half of 2014, including 12 thousand Poles and 12 thousand asylum seekers. Of the asylum seekers, 30 per cent was Syrian and 30 per cent Eritrean. However, migrants are departing as well: in this period, 64 thousand people left the Netherlands.

You can read more on the [CBS](#) website (PDF file, Dutch only)

State secretary S&J: new policy Eritrea

The policy for asylum seekers from Eritrea has been adjusted. Formerly, an asylum application was rejected if the applicant had travelled from Eritrea legally. This will change. The policy is adjusted for homosexual asylum seekers as well: it will be assumed that the Eritrean government does not provide protection. You can read the full text [here](#) (Dutch only).

State secretary S&J: new policy Russian homosexuals

Regarding Russia the asylum policy for homosexuals has been adjusted as well. As from now it is assumed that the government does not provide protection. You can read the full text [here](#) (Dutch only).

Court: Proof of relationship needed for residence with EU partner, not necessarily 6 months' cohabitation

According to the European Directive, EU citizens settling in another EU country are allowed to bring their families, even if they didn't have right of residence yet ('Belgian route'). In the Netherlands, the EU citizen may bring his unmarried partner too. The Netherlands will then ask for proof that both partners have been living together for six months.

The court concludes from the text of the European Directive that the Netherlands is not allowed to demand that the partners have been living together for six months. However, the relationship must be proven. Read the verdict [here](#) (Dutch only).

3. CHECK AND DEPARTURE

Court: BOA not authorised to issue return decision

This verdict concerns a BOA, the acronym for 'Buitengewoon OpsporingsAmbtenaar' (Special Investigating Officer) in the police force. A BOA does have certain powers, but they are constricted to his or her specific sphere of activity. A BOA does not have powers in the framework of the Aliens Act. Therefore, (s)he is not qualified to issue return decisions to aliens or to place them in alien detention. The court decides that this alien is to be released. You can read the verdict [here](#) (Dutch only).

State secretary S&J: aliens detention policy to be adjusted

The state secretary has promised to make some changes regarding the detention of aliens. The state secretary will publish the guidelines that are used to establish whether someone is 'fit to be detained'. Since this is a medical term, it should always be decided by a doctor. To this end, the Ministry of Justice has its own medical team, the Individual Medical Advice section. They decide

whether the medical care in detention is sufficient for the alien in question. As a result of publication of the guidelines, the decisions made by the medical team become testable.

In future, the freedom of movement for aliens in alien detention will be adjusted to their behaviour. Basic alien detention then starts with a severe regime, which can be loosened if the alien behaves well. However, aliens in border detention, including asylum seekers who report at the border, will initially be given a light regime. This policy will be published in the autumn.

You can read the state secretary's letter [here](#) (in Dutch only).

Ombudsman about invitations Repatriation and Departure Service

As a result of questions by a lawyer, the Ombudsman decides that the Repatriation and Departure Service needs to weigh more carefully who is to be invited for a repatriation consultation and how this invitation is to be worded. In certain cases, departure is not yet in order, since there is an ongoing procedure. In some cases such a consultation is therefore not useful. Moreover, the letter needs to state that attendance is not obligatory. You can read the Ombudsman's decision [here](#) (in Dutch only).

4. WHAT CAN BE DONE?

Platform Migrants without residence permits, 4 Sept 10.15 tot 13.00 hrs, Utrecht (Dutch only)

Subjects to be discussed during this meeting of the 'Platform Migranten zonder Verblijfsvergunning':

- Right of shelter, the complaints made by CEC (Protestants Church) and FEANTSA (homeless shelter) at the European Committee for Social Rights, featuring lawyer Pim Fischer and Geesje Werkman from PKN.
- Undocumented victims of domestic violence at the Women's shelter, featuring Liesbeth van Bommel and Steffie van Waardenburg
- Moreover, there will be time to discuss topical matters and exchange experiences

Location: Antoniuskerk parsonage, Kanaalstraat 200 in Utrecht. Info: Rian.Ederveen@stichtinglos.nl

Client stop STIL to end

As from 1 October, STIL in Utrecht will take in new clients. The first surgery is on 2 October, 9-13 hrs. After that on every other Thursday morning. Info: www.stil-utrecht.nl

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.