

## NEWS LETTER, VOLUME 5 NR 4

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### Victim Directive and safe reporting of crimes

The Victim Directive is a European directive to warrant the rights of all victims of crime including those without residence rights. For example they will be entitled to access to the police, to information concerning the criminal trial, to an individual assessment of their need for protection and to special care and support if required. The Victim Directive should take effect as of 16 November 2015 in all the EU countries. The Dutch Act ruling this was sent to the Council of State on 27 February. You will find the information [here](#).

Once the Victim Directive has been implemented ‘safe reporting of crime’ will need to become accessible for undocumented migrants as well. A few of the larger cities have already taken steps with respect to the implementation of this directive, notably Amsterdam, Utrecht, Eindhoven and The Hague.

## 1. BASIC RIGHTS

### Council of State: gifts to undocumented partner are no reason to cut back on assistance benefit legal partner

This case concerns the level of the assistance benefit of a couple one of whom has no residence rights. The municipality had decided that it was allowed to cut back on the legally residing partner's assistance benefit. The Council of State did not agree with this. You will find more information [here](#).

### Regulatory Council for the Quality of Care: remuneration health care for undocumented partner if the legally residing partner has debts

The Dutch Regulatory for the Quality of Care remunerates caregivers who provide health care to migrants without residence rights who are unable to pay their bills. Although in principle a legally residing partner should pay his undocumented partner's medical costs the Regulatory for the Quality of Care accepts the bills if the legally residing partner has debts.

## 2. ADMISSION POLICY

### Council of State: having one's name removed from the municipal register (GBA) is insufficient evidence for withdrawal of the permit

This case concerned a man who runs the risk of losing his residence rights because he was no longer registered in the GBA. He has collected a lot of evidence showing that he has not left the Netherlands. For a long time he has had problems with addiction. The Council of State are of the opinion that the GBA registration is not conclusive and therefore accept the evidence. It is not allowed to withdraw the residence permit. You will find more information [here](#).

### Court of Justice EU: policy dealing with asylum request conscientious objectors

An American conscientious objector had applied for asylum in Germany because he did not want to fulfil his military obligations in Iraq. The German Court of Appeal sought advice from the EU Court of Justice. This Court has presently provided guidelines concerning the treatment of asylum applications made by conscientious objectors. [CJEU - Sheperd - Press release](#).

### Court of Appeal and IND: decisions concerning asylum application Somalis postponed until further notice

In December 2014 the Netherlands published an official Country Report with a description of the situation in Somalia. In accordance with this report the Secretary of State will adjust his policy. The IND has agreed and will postpone decisions concerning asylum requests made by Somalis. (Court of Appeal Haarlem, 14/28639, 19.2.15)

### Council of State: return after immigration trajectory through another EU-state

The immigration trajectory through another EU-state is used by Dutch people with foreign partners. By staying in a different EU country for a while in they will come under EU law, which renders invalid such requirements as the integration requirement, the income requirement and the requirement concerning the authorisation for temporary stay [mvv]. In two rulings the Council of State has made it clear that that an actual stay in the EU country is decisive and that only a formal residence is insufficient. You will find more information [here](#) and [here](#).

Council of State: residence right with child of EU citizen in the Netherlands

A long-term relationship is assumed to exist for example when such relationships have produced a child. The mother in this case has exacted the legitimation of her child by the father through a DNA-test. The father is an EU citizen. This has proved that the mother had a long-term relationship with an EU citizen, which automatically gives her residence rights. She cannot be issued an entry ban. The consequences of her criminal record for her residence rights have to be considered anew. You will find more information [here](#).

### 3. CHECK AND RETURN

Afghanistan: no more deportations

Hussain Alami Balkhi, the new Afghan Minister, no longer accepts deportations from EU countries. During the past week he sent back two Afghans who were evicted by the Netherlands to the Netherlands. He wants to conclude a new agreement concerning this. You will find more information [here](#).

Professor Liza Schuster is in Afghanistan and wants to hear about deportations.

[Liza.Schuster.1@city.ac.uk](mailto:Liza.Schuster.1@city.ac.uk).

Council of State: no prospect of deportation to Sierra Leone

In spite of the efforts made by the Secretary of State it is still not possible to evict migrants to Sierra Leone. The Council of State are of the opinion that there is no prospect of deportation and that Sierra Leoneans should therefore no longer be placed in detention of aliens. You will find more information [here](#).

### 4. ACTIVITIES

UNICEF: Report on Undocumented Children's Rights in Return Policy and Practice in Europe

Between 2011-2013 over 12,000 unaccompanied and separated children each year entered the EU seeking asylum, a large amount originating from Afghanistan. UNICEF highlights in this report that Best Interests Determinations are not undertaken systematically when dealing with unaccompanied minors. UNICEF provides recommendations to States when returning unaccompanied children, notably that an assessment of the security situation specifically with regards to the child must be undertaken thoroughly. You will find more information [here](#).

PICUM, Brussel: vacature Health Care and Womens Project Officer (zwangerschapsverlof)

The Programme Officer will be responsible for research, developing policy documents and organising related events as well as promoting PICUM's work to different audiences. Responsibilities include:

1. Producing high-quality and accessible policy documents on health inequalities, access to sexual and reproductive healthcare, and access to justice for undocumented migrants in Europe;
2. Producing a handbook on undocumented migrants' rights under the EU Victims' Directive containing key information and good practices for use by authorities, professionals, civil society organisations and undocumented migrants themselves; Info: <http://picum.org/en/news/picum-news/46282/>