

NEWS LETTER, volume 9 nr 7
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TABLE OF CONTENT

1. BASIC RIGHTS.....	2
2. ADMISSION POLICY.....	2
3. CHECK AND DETENTION	Fout! Bladwijzer niet gedefinieerd.
4. ACTIVITIES.....	Fout! Bladwijzer niet gedefinieerd.

ADVICE: ADJUST SOCIAL ASSISTANCE BENEFIT IN THE CASE OF A CO-RESIDING UNDOCUMENTED SON

Stimulansz advises municipalities with respect to practical questions in the workplace. In their newsletter they described a case of a mother with an undocumented co-residing son who is losing her entitlement to additional allowances. Stimulansz has advised the Social Service [Sociale Dienst] to adjust the additional allowances, at least for the duration of the proceedings concerning the residence permit of the son.

You can opt for a temporary increase of the allowance under article 18 Participation Act so that the mother can pay her fixed charges (heating/water/electricity) and can pay for groceries. You supplement the burden-sharing norm up to the amount that she needs for herself and her two daughters each month. Try not to exceed the single persons norm because this is a temporary supplementation on due to special circumstances.

It can be deemed reasonable to increase the allowance for the duration of the proceedings against the IND; this also applies to appeal proceedings. This should be made explicitly clear in advance. As soon as the procedure has ended and the son is not granted a residence permit the situation should be assessed again. If he is granted a residence permit he is able to work and he can actually contribute towards the costs for family subsistence.

<https://www.stimulansz.nl/medebewoner-zonder-verblijfsvergunning-toch-kostendelersnorm/>

1. BASIC RIGHTS

Council of State: Secretary of State is responsible for shelter and support medical patient who has brought proceedings concerning permit on medical grounds

During proceedings for a residence permit because the required medical care is not available in the country of origin migrants are not entitled to support from the COA unless the person concerned had applied for asylum before and submitted the application in the correct manner.

The Council of State has made it clear that the Secretary of State can be called on to grant their right to shelter and support. You will find more information [here](#).

Central Court of Appeal: entitlement to provisions during appeal phase procedure for alteration right of residence

This woman has brought a case for a new residence permit. The application had been denied by the IND as well as in appeal but the judge has assigned 'nullifying effect' to the appeal phase. The Central Court of Appeal has made it clear that the woman is entitled to provisions until the decision on appeal. You will find more information [here](#).

Court of Appeal: if no passport can be obtained the birth certificate and the W-document for the recognition of a child suffices

This father from Sierra Leone wanted to recognise his child. He has no passport. In order to obtain a passport he would have had to go to Sierra Leone and this is impossible. He has a birth certificate and an expired W-document from his asylum procedure. The judge deemed this sufficient for the recognition of his child (Court of Appeal Midden-Nederland zp Lelystad (mk), C/16/461068 / FL RK 18-1128, 22.2.19).

2. ADMISSION POLICY

Procedures about westernised women

A few months ago the Council of State made it clear that a westernised woman can be granted refugee status if the westernisation is a consequence of an inner conviction. In two cases it has been ruled that the IND should assess these cases in further detail as well.

This concerns a case at the Council of State of an Afghan woman with a daughter of school age. The woman had been active in Afghanistan for women's rights (ABRvS, 201805606/1, 13.3.19).

In another case concerning a Somali woman the judge ruled that the IND should assess the extent of her westernisation by four factors: 'the behaviour of the migrant in the country of origin, her age at the time of her departure, her development during her stay in The Netherlands and the duration of her stay in The Netherlands' (Rb Haarlem, NL18.24368, 25.3.19).

Court of Justice EU: adoption in accordance with Islamic 'Kafala system' does not create parent-child relationship

This case concerns an Algerian couple who were granted guardianship of a child on the basis of the Kafala system. They want to have this child live with them in Europe. The European Court of Justice is of the opinion that this child does not need to be deemed equivalent to a biological or legal child. There is, however, a family tie. You will find more information [here](#).

3. CHECK AND DETENTION

Secretary of State Justice and Security: new policy in cases of entry ban and pronouncement of undesirability

Because of new rulings by the European Court of Justice the Secretary of State has adjusted her policy:

- People with a long-term entry ban can now be granted 'delay of departure on medical grounds' (article 64) if there is no adequate medical care available in their country of origin.
- Unwanted-declarations can only be imposed if there is 'actual and severe threat to public order'.

You will find more information [here](#).

4. ACTIVITIES

Presentation: discussing human trafficking with asylum seekers, Nieuwspoort 4 April 9:30-12:45
COA, CoMensha, Nidos, Rode Kruis and VluchtelingenWerk present the tool kit 'Discussing human trafficking/exploitation with (former) asylum seekers'. [You can register through this link](#).

Reopening and celebration of lustrum Villa Vrede: "Eye Am – Villa Vrede", Utrecht 6 April 14.00

In Utrecht Villa Vrede is the meeting place per excellence for migrants without residence permit. During the past months the building has been renovated extensively.

Come and see how beautiful it has become! You will find more information [here](#).

Migration debate during Africa day, Tropeninstituut Amsterdam 13 April 11:30-12:45

This edition of the Africa day will focus on migration. Cordaid and the Max van der Stoep Foundation (FMS) organise a plenary debate about migration and development strategy. Speakers include Judith Sargentini (European Parliament, GroenLinks) and Philip Bob Jusu (African Union).

Registration only at <https://www.afrikadag.nl/tickets>.

Information evening Wereldvrouwenhuis, Nijmegen 15 April 20-22

The Wereldvrouwenhuis Nijmegen offers homeless women without residence permit temporary shelter and activities with the intention to increase their independence. We would like to show what we do and why our work is important. You will find more information [here](#).

Report Joëlle Milquet: "Strengthening victims' rights: from compensation to reparation"

Joëlle Milquet is the Special Adviser of the EU for the Victims Directive. A quote from her report: *Recommendation n°35*: 'Access to redress mechanisms for all victims of crime must be guaranteed in practice as it is in law. It is widely recognised that undocumented migrants, and those awaiting a decision regarding their residence status, are discouraged to report a crime due to beliefs that their information will be shared with immigration authorities, or due to negative experience with law enforcement agencies in the past.' Read the [Press Release](#) or the [entire report](#).

ASKV and ENS: Guides about Statelessness in The Netherlands

Together with the Institute on Statelessness the ASKV has developed step-by-step [guides](#) for stateless people and care providers who are in contact with stateless people in The Netherlands.

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.