

NEWSLETTER, volume 11 no.12
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CONTENT

BASIC RIGHTS.....	2
ADMISSIONS POLICY.....	2
INSPECTION AND DETENTION	3
WHAT'S ON?	3

CAMPAIGN FOR A HUMANER MIGRATION POLICY

As the formation for a new cabinet gets underway, it is important to let the forming parties know that the current migration policy is wrong. Addressing the bottlenecks cannot wait any longer. With your help, we can remind the political parties that they should also opt for a more humane migration policy during the formation.

On the website <https://kiesvoorongedocumenteerden.nl> we, in cooperation with other organisations, display a number of bottlenecks that we think really need to be solved during this cabinet formation. We believe that everyone has the right to a dignified existence in which everyone is assured of shelter, food, clothing and proper access to medical care. That includes people who are undocumented!

Help us urge the political parties to choose for a policy where even undocumented people can count on a dignified existence in the Netherlands by sending an [action mail](#).

BASIC RIGHTS

Checklist foreign recognition and Dutch citizenship

This check list contains the test for the question whether an acknowledgement made abroad by a Dutch citizen of a minor child leads to the acquisition of the Dutch nationality.

https://ind.nl/Documents/Checklist_buitenlandse_erkenning_en_Nederlanderschap.pdf

ADMISSIONS POLICY

Court: careless judgement Ghana as a safe country of origin

The Council of State has previously ruled that the NL must conduct more frequent, and more careful, investigations when it designates a country as a 'safe country of origin'. This Court found that important documents were not included in the decision that Ghana is a 'safe country of origin'. The IND should therefore not assume Ghana to be a 'safe country of origin'.

Asylum seekers from 'safe countries of origin' get a shorter procedure with fewer guarantees and, for instance, no medical check. This Ghanaian asylum seeker had an interest in a careful procedure because she is also a victim of human trafficking. The Court found that she still had to undergo a medical check to assess whether she could be heard. (Rb Roermond, NL20.19488, 20.5.21)

Court: Return to Work (Partially Disabled Persons) Regulations (WGA) benefit is not sufficient for family formation

One of the requirements for family formation is that the partner in the NL has an independent income. There are exceptions, for example if the Dutch partner is permanently unable to work. According to the IND, a Work and Income (Capacity for Work) Act (WIA) benefit on the basis of the WGA is not sufficient for this, in contrast to a WIA benefit on the basis of the Fully Disabled Persons Income Scheme (IVA). The Court agrees. If the partner in the NL thinks that he should receive another type of WIA benefit to be eligible for family formation, he will have to take this matter to the UWV. See [here](#).

Court: two cases on whether a personal care budget (PGB) income is sustainable

For family formation, the partner in the NL must not only earn enough, the income must also be sustainable. In these two cases, the partner in the NL earned income because of caring for a family member, through the PGB scheme. In both cases, the PGB scheme had recently started.

In the first case, the Court found that it is sufficiently clear that the PGB income is sustainable. The woman had been caring for her son for some time and would continue to do so. (Rb Amsterdam AWB 20/1539 AND AWB 20/1540, 9.11.20)

In the second case, the Dutch partner had a PGB because of care for his father. The Court found that the PGB scheme should be considered as 'self-employment'. For this, the income has to have been available for at least 1.5 years, but the Dutch partner did not meet this requirement. The Court therefore found his income not to be sustainable. See [here](#).

These different Court decisions show that it is important to demonstrate why the PGB income is stable and sustainable.

CoS: IND does not have to give a starting date for 'residence with Dutch child'

A residence permit with a Dutch child (Chavez status) is 'declaratory', meaning that the status takes effect as soon as the parent meets the conditions. If a parent of a Dutch child requests confirmation of the Chavez status, the IND will give it without an effective date. It could be important, however, to know the commencement date, for example for the right to social assistance or the right to benefits. The IND argues that it is too much work to find out the commencement date every time, and that it often has no added value. If necessary, aliens can always litigate about their entitlement to other schemes, such as social assistance. The Council of State agrees. Only when the law prescribes it, does the IND have to determine the effective date. See [here](#).

INSPECTION AND DETENTION

Council of State: return decision must mention country of return

The Council of State is of the opinion that the IND should mention the country of return when imposing a return decision. The person involved should be able to respond to the return decision, and it is important to know where he will be sent if he were forcibly removed. See [here](#).

This ruling is important because at times, deportation is threatened to a country of origin that was disputed in the asylum procedure.

WHAT'S ON?

Research: Experiences of Filipino au pairs in the Netherlands

Mitchie Boncodin-Isip spoke with 20 au pairs and found that cases of exploitation and abuse continue to occur. Covid-19 created additional challenges for many of them. Read the summary of the study (English): [Research Summary Filipino Au Pairs](#).

Webinar PICUM: Growing Up Undocumented in Europe, 11 June, 10:00 – 12:00 am

Across Europe, undocumented children face legal and practical barriers to pursuing an education, getting the health care they need, and having a decent and stable home. Cases of violence and abuse against children cannot be reported to the police without the family risking arrest or family separation.

In this webinar, PICUM and Save the Children Spain discuss how an irregular residence status affects children. Register [here](#) by Tuesday 8 June 2021 midday.

Webinar 10jr ILO-conventie 189 Household Duties, 16 June 07:00-09:00 pm

Migrant Domestic Workers in the Netherlands have long organised for recognition of their work as real work and of themselves as workers, with full rights. This year, on 16 June, the ILO Convention 189 will be celebrating its tenth anniversary. It puts domestic work on an equal footing with other work, with corresponding protection, social security and more. The Netherlands have not yet ratified C189.

<https://www.fnv.nl/nieuwsbericht/algemeen-nieuws/2021/05/webinar-huishoudelijk-werk>

Since 2003, the LOS Foundation (National Undocumented Migrants Support Centre Foundation) has been the knowledge centre for people and organisations who provide assistance to migrants without residence permits ('undocumented migrants'). The LOS Foundation is committed to the basic rights of these migrants and their children.