



Stichting Landelijk  
Ongedocumenteerden  
Steunpunt

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### NEW PROCEDURE FOR REPEATED ASYLUM APPLICATIONS

Starting from 1 January 2014, repeated asylum applications must first be announced in writing.

During a one-day procedure, it will be decided whether new facts or circumstances ('nova') have been brought forward. If this is the case, an application can be dealt with in a fast-track procedure of six days or in a longer-term procedure.

This is stated in the new policy rules [WBV 2013/24](#) (text in Dutch only).

## 1. BASIC RIGHTS

### Council of State: Answering questions by state secretary regarding the Immediate Measure taken by the ECSR

In October, the European Committee of Social Rights decided on an Immediate Measure. The Dutch government was told to prevent serious predicaments for undocumented migrants who have no right to provisions, through cooperation between national and local government.

The state secretary asked the Council of State for advice regarding the implications of the Immediate Measure. The Council of State has answered that the Immediate Measure does not attribute individually compelling rights and is not legally binding, but that it is authoritative.

It now remains to be seen how Dutch judges interpret the pronouncement.

[http://www.raadvanstate.nl/adviezen/zoeken-in-adviezen/tekst-advies.html?id=11081&summary\\_only=&](http://www.raadvanstate.nl/adviezen/zoeken-in-adviezen/tekst-advies.html?id=11081&summary_only=&) (in Dutch only).

### REFUGE in Utrecht

Under protest, the Protestant Church in Utrecht has started a night shelter for men without residence permits. Dozens of volunteers assist in getting thirty men a place to sleep every night. The selection is made by OMDUW, an ecclesiastical initiative for homeless people.

For further information, e-mail to [intaketoevlucht@gmail.com](mailto:intaketoevlucht@gmail.com).

## 2. ADMISSION POLICY

### Council of State: criteria for assessment asylum applications homosexuals

After the EU Court of Justice answered the question how the asylum applications of homosexuals are to be assessed, the Council of State has adopted these guidelines. In three decisions about homosexuals from Sierra Leone, Senegal and Uganda the Council of State has ruled that the Immigration and Naturalisation Service (IND) must base its decisions on the treatment of homosexuals in these countries. The IND may not expect applicants to hide their identities. See for instance: ABRvS 201012342/1, 18.12.13 (Sierra Leone):

<http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:2423> (in Dutch only).

### Advice EU Court of Justice about the rights of EU citizens and their relatives

The Advocate-General had advised the European Court of Justice that EU citizens who return to the member state of nationality must not receive worse treatment than during their stay in another EU country. Relatives may join them. There is no compulsory duration of residence in the EU country in question. Following this advice, the European Court is to make a definitive decision.

[http://csdle.lex.unict.it/Archive/LW/EU%20social%20law/EU%20case-law/Opinions/20131213-105950\\_Conc\\_C\\_456-457\\_12enpdf.pdf](http://csdle.lex.unict.it/Archive/LW/EU%20social%20law/EU%20case-law/Opinions/20131213-105950_Conc_C_456-457_12enpdf.pdf)

### IND: no nursing home in Ghana

From the supplementary BMA note regarding the medical situation of the person involved, dated 27 September 2013, it appears that he or she cannot be transferred to a nursing home in Ghana, since the nursing homes there have been closed down due to malfunctioning. Since it becomes clear from the

BMA note that reception and treatment in nursing homes needs to be arranged and a physical transfer needs to take place, ... is taken as the starting date.

IND Rijswijk 17.10.13, case no. Z1-3967549564, lawyer Wegelin

#### Pronouncements children's pardon:

For the transition arrangement the judgments have decided that for the time being the children's pardon may not be refused to the children who lied during the asylum procedure, or to children who did not apply for asylum, but who did have legal residence, as they were victims of human trafficking. For the definitive arrangement, judges have decided that for the time being children may not be turned down because their parents did not willingly return.

One application was turned down, because the children in question have a criminal record.

### 3. CHECK AND DEPARTURE

#### Proposal for improvements in alien detention

In future, aliens in alien detention may move freely within the detention centre from 8 a.m. to 10 p.m.. Also, they become entitled to at least forty hours daytime activities and they make 'phone calls on their own mobiles phones (provided these phones have no camera and no internet connection).

This is included in the bill for the new Return and aliens detention Act ('Wet terugkeer en vreemdelingenbewaring') that state secretary Teeven has put online for an Internet consultation. To react: [www.internetconsultatie.nl/vreemdelingenbewaring](http://www.internetconsultatie.nl/vreemdelingenbewaring) (in Dutch only).

### 4. WHAT CAN BE DONE?

#### Call: report children without nationality at Fischer Advocaten re statelessness procedure

Lawyer Jelle Klaas is looking for cases involving children who were born in the Netherlands and who have been registered at the Municipal personal records database (GBA) with the note 'nationality unknown', preferably for a period of five years or so. He intends to start a statelessness procedure for them, and subsequently apply for the Dutch nationality. Please react through:

[Jelle.Klaas@fischeradvocaten.nl](mailto:Jelle.Klaas@fischeradvocaten.nl); or 023 – 542 6688