

NEWS LETTER, VOLUME 5 NR 6

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COUNCIL OF STATE: INDIVIDUAL ASSESSMENT REQUIRED FOR INCOME REQUIREMENT PARTNER

This case concerns an application for residence with partner. The Dutch partner's income was just below the income requirement. The partner was unable to work more hours or to take on an additional job.

In the Chakroun case the European Court of Justice had decided earlier that the income requirement should not be applied too strictly. If the family can get by on a smaller income the income requirement is not allowed to stand in the way of family reunification.

In this situation this principle has been applied by the Council of State. The IND should have taken into account that this was a case of family life and therefore the residence permit should not have been rejected on the basis of the fact that the income requirement was not met. You will find more information [here](#).

1. BASIC RIGHTS

Central Appeals Tribunal: assistance benefit for undocumented Moroccan mother of Dutch child whose father was behind bars

The mother in this case had applied for assistance benefit for herself and her child. The father's assistance benefit had been terminated when he was detained and there is a risk that she will no longer be able to pay the rent. According to the Central Appeals Tribunal the child would have to leave the Netherlands if the mother has no money to support herself. Therefore the municipality has to provide assistance benefit for her and her child. You will find more information [here](#).

Central Appeals Tribunal: questions to European Court of Justice about right of residence with Dutch child

The Central Appeals Tribunal has submitted to the Court of Justice a series of 8 cases in which undocumented mothers had applied for assistance benefit for themselves and their Dutch children. The Central Appeals Tribunal want to know in which cases the mothers had a right of residence, which would entitle them to assistance benefit as well. In accordance with EU law the permit is declaratory and therefore these mothers would immediately have to be granted right of residence, irrespective of what the IND would have decided. Therefore they are automatically entitled to assistance benefit, which was the deciding factor for the Central Appeals Tribunal. You can read the judgment [here](#).

Council of State: no child-related budget because undocumented partner lives in with the child

According to the Council of State the child-related budget is additional and is not a part of the primary necessities of life. According to the law people cannot be granted additional allowances in case an undocumented person lives at the same address. The child-related budget was reclaimed because an undocumented partner was registered at the same address. You will find more information [here](#).

2. ADMISSION POLICY

Solicitor General of the European Court of Justice provides advice about the integration examination abroad

The Dutch Court has applied to the European Court of Justice for advice as to whether the integration examination abroad is permitted under European Justice. The integration examination is permitted, providing it does not form an obstacle to the purpose of family life.

In special situations it should be possible to make exceptions and costs cannot be an impediment. The Court has yet to decide but will give this advice ample consideration. You will find more information [here](#).

European Court of Human Rights: Nigerian HIV patient with three children will be granted status in Belgium, no further judgment

This case concerns a Nigerian HIV patient who had exhausted all legal remedies in Belgium. Her lawyer had asked for a judgment from the European Court of Human Rights. In anticipation of this judgment Belgium has granted her a permit. Therefore the European Court no longer needs to decide in this case. You will find more information [here](#).

3. CHECK AND RETURN

Minister of Security and Justice: Removal and Deportation Service [DT&V] allowed to decide on detention by themselves in all family locations

By way of a trial in specific locations the Removal and Deportation Service are authorized to decide themselves to place in aliensdetention asylum seekers who have exhausted all legal remedies and who can be deported. Usually only the Aliens Police have the authority to decide this. As part of the trial one Family Location had been designated but the substitute Minister Blok has decided to extend the experiment to all Family Locations. Allegedly only a few children would be placed in detention and the experiment was said to have no value if this would not provide sufficient practical experience. You will find more information [here](#).

IND: return to Afghanistan still possible

Last month saw a collective deportation to Afghanistan and two individual evictions. One eviction to Afghanistan has failed. According to the IND it is still possible to deport people to Afghanistan in spite of a letter written by the remigration minister of Afghanistan (VW Update 12).

4. ACTIVITIES

Symposium Right to Existence, Jacobikerk, Utrecht, 13 April 19.30-22.00

During this symposium a number of new initiatives will be introduced that are committed to helping on their way undocumented migrants in the Netherlands. Speakers include Ilkam Awees (We Are here), Pim Fischer (lawyer), Annemarie Jorritsma (VNG), Jan van Zanen (mayor Utrecht), a spokesperson of the Ministry of Justice as well as politicians of PvdA, SP, GL and other parties. Registration and information info@xminy.nl.

Training Human trafficking and Religion, 23 April 9.30-16.30, FairWork Amsterdam

Leaders of African churches regard human trafficking mainly as a spiritual problem. According to them it involves powers that have got a hold on people, a dark practice of voodoo, a lack of spiritual power in order to make better choices in life as well as problems concerning the temptations of money and wealth. During the training we will address these perceptions and how to take them into account as professional caregivers. Cost € 200.-. Registration academie@fairwork.nu.

PICUM: 'Protecting undocumented children: Promising policies and practices from governments'

Undocumented children are subject to daily and systematic rights violations. Nevertheless, there are numerous examples of local, regional and national governments developing legislation and implementing measures to guarantee access of undocumented children to education, health, rule of law, justice, development, social inclusion and social cohesion. By highlighting these promising practices, this report seeks to promote the well being of every child residing in the EU.

[New book "Migratierecht in de praktijk"](#)

This book is especially suited for students in the bachelor stage of the discipline of Social-Legal services of institutes for higher professional education [hbo, hoger beroepsonderwijs]. The book not only contains references to legislation but to other legal sources as well, such as Parliamentary Documents, policy documents and annual reports.