

NEWS LETTER, VOLUME 5 NR 20

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PROPOSED LAW DETENTION OF ALIENS PUBLISHED

Finally on September 30th the proposed law was presented whereby the detention of aliens is regulated. Two regimens will be introduced - a harsh and a light regime. Everyone will begin in the harsh regiment but can be transferred to the light regime after a week of good behaviour. There will be more options for communication, such as per mail and telephone. An additional check has been built in for vulnerable groups before they are taken into detention.

The proposed law has yet to be debated in Parliament. You can find more information [here](#).

1. BASIC RIGHTS

Court of Appeal: right to shelter for undocumented Algerian with criminal record who cannot be evicted; he has lived in The Netherlands for 19 years

In accordance with the Dutch Social Support Act 2015 every request for shelter needs to be assessed individually. The concept of 'conditional provision' has been abolished. In this case the freedom-restriction centre is no suitable location because eviction is not possible. In spite of the fact that the Social Support Act 2015 excludes undocumented migrants, the municipality is obliged to provide shelter (Court of Appeal Groningen AWB 15/2610, 1.10.15).

Questions about safe reporting of criminal offences in written address victim directive

In the written consideration of the victim directive the PvdA (Dutch Labour Party) as well as the SP (Dutch Radical Socialist Party) have posed [questions](#) to the Minister about the possibility to safely report criminal offences. GroenLinks (Dutch Green Party) has submitted an [amendment](#).

Council of State: legalised Iraqi birth certificate yet assessed as forged by The Netherlands

In spite of supporting letters the municipal authorities have not accepted a legalised Iraqi birth certificate because it had not been printed correctly. The Council of State are of the opinion that The Netherlands have their own responsibility to authenticate documents (ABRvS, 201410191/1/A3, 23.9.15).

In another case a legalised birth certificate was not accepted because it was not clear how this was obtained. According to the asylum statement the father, who was alleged to have collected the certificate, had already died (ABRvS, 201410191/1/A3, 23.9.15).

2. ADMISSION POLICY

Council of State: in spite of strict entry ban asylum seeker is allowed to await assessment homosexuality

On an earlier occasion the Council of State has asked the State Secretary to decide on a uniform procedure for the assessment of homosexuality. Awaiting this assessment asylum applications of homosexual asylum seekers will be suspended. This even applies to an asylum seeker with a strict entry ban. You will find more information [here](#).

For the same reason the Court of Appeal Haarlem has decided to have brought back a homosexual asylum seeker to The Netherlands. You will find more information [here](#).

State Secretary of Security and Justice: extension decision moratorium Somalia

The decision and deportation moratorium will be extended by six years until April 2016, awaiting an official country report that is to be expected this autumn. You will find more information [here](#).

Court of Appeal: China does provide protection from domestic violence

This female asylum seeker has been the victim of domestic violence and repeatedly reported this offence to the police in China. The court has decided that the Chinese authorities do offer protection, although it is not clear how effective this is. The woman can be sent back to China (Court of Appeal The Hague, 15/17018, 30.9.15).

Court of Appeal: Somali migrant without a passport is not granted permit with naturalized woman and 4 children

The Court of Appeal Middelburg has approved the refusal of the IND for an application for residence with the Dutch partner of a Somali without identity documents. His wife had asylum status before she was naturalized, but not on individual grounds. And the children are still small, according to the judge. You will find more information [here](#).

State Secretary of Security and Justice: pilot for assessment victims human trafficking who are afraid to testify

The State Secretary will try whether it is possible to grant residence permits to victims of human trafficking who are afraid to testify. Investigators have advised to appoint a flexible assessment committee for this purpose. You will find more information [here](#).

State Secretary of Security and Justice: costs medical treatments in country of origin not taken into account when assessing accessibility

The State Secretary has commissioned an investigation into the possibility to take into consideration the costs of medical treatment in the country of origin when assessing the accessibility of the treatment. This is the case in Belgium and Germany. But it is difficult to assess the patient's financial resources. Therefore The Netherlands will not adjust the assessment of ill migrants. You will find more information [here](#).

3. CHECK AND DETENTION

Council of State: penalty for illegal labour has to be assessed individually

In 2012 the penalty for employers who employ undocumented migrants was increased from 8,000 to 12,000.-. This was necessary to punish employers who repeatedly employ undocumented migrants. The Council of State are of the opinion that is not allowed to impose the increase if employers are caught for the first time. For them the maximum penalty is 8,000.-. You will find more information [here](#).

Court of Justice EU: entry of alien with entry ban is allowed to be punished

According to the European Court an alien who has entered Europe while he still has an entry ban can be punished in accordance with national legislation, including imprisonment. You will find more information [here](#).

State Secretary of Security and Justice: extension pilot detention by Dutch Office for Return and Departure

Some civil servants of the Dutch Office for Return and Departure have been given the authority to detain migrants who have exhausted all legal remedies. In these cases they replace the public prosecutor. This is mainly applied in Family Locations. The pilot will be extended to Asylum Seekers' Centres. You will find more information [here](#).

4. ACTIVITIES

Sign the petition against closed family location Zeist

Early in 2016 a new, permanent Closed Family Location has to be brought into use within the walls of the Detention centre Zeist. The authorities present this as 'child-friendly', but it concerns a prison, enclosed by fences within walls with a height of five meters, which in turn will be surrounded by penitentiary fencing with electric wire and camera surveillance. We, the undersigned, campaign against the construction of the family prison. You can sign the petition here: <http://aagu.nl/2015/Verklaring-tegen-bouw-Gesloten-Gezinsvoorziening.html>.

Fairwork has submitted petition about abuse domestic workers at diplomats' homes

Domestic workers with diplomats are in a vulnerable position because they live in their employers' homes and because they depend on their bosses for their residence permits. In case of abuse the victims cannot exercise their rights because diplomats enjoy immunity. Supported by various organizations including Fairwork victims have drawn up a [petition](#) that was submitted to Parliament last week.