

NEWS LETTER, volume 7 nr 7

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ENTRY BAN

Migrants without residence permits who are discovered in The Netherlands may be issued an entry ban. An entry ban will be accompanied by a departure deadline, which is the period of time granted for voluntary return. In most cases people who have had no previous contact with the migration service will be issued a departure period of 28 days. Entry bans can only be issued in those cases in which the departure deadline has been ignored. Migrants who have been issued an entry ban and reside in The Netherlands commit a criminal offence.

The Secretary of State has altered the policy with respect to the issue of entry bans. As of now migrants who actively violate the immigration law, for example by working while this is not permitted, by overstaying their visa or by staying in The Netherlands without sufficient financial means can be issued a departure deadline that takes effect immediately. These people will immediately be issued an entry ban. You will find more information [here](#).

Although residence while having an entry ban is a criminal offence, it is hardly ever punished. Even though a great number of people have been issued entry bans, during the past few years fewer than 20 fines have been imposed annually. In addition some people were issued a punitive order by the Dutch Prosecution Service or the Court. You will find more information [here](#).

1. BASIC RIGHTS

Court of Appeal: halving social assistance benefit on account of unemployed Bulgarian partner

This case concerns a Dutch man with a Bulgarian partner and two children. The family depend on social assistance benefit. Social Services have decided that the Bulgarian partner has no legal residence because she is unemployed and therefore is not entitled to social assistance benefit. For this reason the man will be granted 50% of the norm for married couples. In spite of the fact that the man is not a single parent, a raise of 20% will be granted for the children in order to prevent them from becoming victims of the situation. You will find more information [here](#).

Council of State: recovery of allowances because partner's permit had been revoked with retroactive effect

People who live together with a migrant without a residence permit are not entitled to extra allowances such as housing benefit or health care allowance. In this case the partner's permit had been revoked with retroactive effect and therefore the migrant is no longer entitled to allowances. The Dutch partner could not have anticipated this. Still the Council of State are of the opinion that the allowances be recovered. You will find more information [here](#).

Council of State: no allowances in proceedings against long-term entry ban

Immigrants who have been issued a long-term entry ban cannot have legal residence. Therefore they are not entitled to allowances during proceedings concerning the revocation of their entry ban, thus ruled the Council of State. You will find more information [here](#).

Council of State: questions to EU Court about rightful residence during Appeal Proceedings asylum

The Council of State have asked questions to the European Court of Justice concerning the legal status of asylum seekers who have lodged an appeal. If the migrant's Higher Appeal Stage results in rightful residence, he will be entitled to allowances over this stage. It can take quite some time to respond to these so-called Preliminary Questions. You will find more information [here](#).

2. ADMISSION POLICY

Council of State: revocation of the permit after 26 years due to criminal antecedents

The Council of State are of the opinion that the IND was right in revoking the residence permit of this Moroccan man. He arrived when he was 17 years of age and has a long criminal record. He claims to have turned over a new leaf but this does not make up for his past. You will find more information [here](#).

Council of State: revocation asylum permit after 8 years because of identity fraud

The IND have discovered that this woman had based her asylum application on false documents. She claimed that she and her husband cannot return to their country of origin because this would place her husband in danger. However, the Council of State have claimed that it is not clear to which country she should return as long as she does not provide her true identity and that therefore this argument does not hold true. You will find more information [here](#).

Secretary of State Security and Justice: extension decision moratorium Burundi

The decision and departure moratorium for Burundi has been extended again; this time for a period of six months until 1 July 2017. You will find more information [here](#).

Court of Appeal: right to family life in The Netherlands for a couple with children from Sierra Leone, risk of genital mutilation

The Court of Appeal are of the opinion that this couple, who belong to tribes where female genital mutilation is normal, cannot prevent that their daughters will undergo genital mutilation upon their return. Therefore they should be granted a permit for family life (Court of Appeal Haarlem, Awb 16/26754, 9.3.17).

Minister of Social Affairs and Employment: EU citizens' unemployment is involuntary only in those cases where unemployment is for 100% imputable

In cases of imputable unemployment EU citizens lose the status of employee or self-employed person. As long as the unemployment of EU citizens is involuntary, they will remain entitled to social security providing they have been in employment for at least a year. Currently the Minister has decided that someone's unemployment is only imputable if his social assistance benefit has been decreased by 100%. You will find more information [here](#).

3. CHECK

Court of Appeal: prospect of expulsion to Algeria

The Court of Appeal have ruled that the Algerian embassy does issue substitute travel documents and that migrants have been expelled with these documents. Because there is a prospect of expulsion, this Algerian migrant has to remain in detention of aliens (Court of Appeal Rotterdam, 17/4831, 23.3.17).

Court of Appeal: no prospect of expulsion to Libya

The Court are of the opinion that the Libyan embassy has not issued substitute travel documents lately and that there is therefore no prospect of expulsion for this Libyan man. He should be released from detention (Court of Appeal the Hague, 17/5161, 21.3.17).

4. ACTIVITIES

CoE: Thematic Report on migrant and refugee children (mrt17)

The Special Representative of the Secretary General on Migration and Refugees (SRSG) calls for urgent measures to find alternatives to detention of children and guarantee minimum living conditions in camps, such as gender-separate sanitary facilities, better lighting and child-friendly spaces in order to eliminate risks of sexual abuse.