



NEWS LETTER, volume 7 nr 10

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TABLE OF CONTENTS

1. BASIC RIGHTS	2
2. ADMISSION POLICY	2
3. ACTIVITIES	3

RESIDENCE WITH DUTCH CHILD

in 2011 the European Court ruled in the Zambrano case that a Dutch child is entitled to stay in The Netherlands. The child needs at least one caring parent who is entitled to a residence permit for this purpose to see to it that the child is not forced to leave The Netherlands.

As early as 2015 the European Court had been asked how to deal with situations in which in actual practice the non-Dutch parent cares for the Dutch child and the Dutch parent hardly takes on any of his responsibilities. Can the Dutch parent in such cases be put under legal obligation to take care of the child?

On 10 May 2017 the Court ruled that it should be established which of the parents actually takes care of the child and to what extent the child is dependent on the non-Dutch parent. In such cases important considerations are the right to family life and the interests of the child. In this assessment factors should be taken into account such as the age of the child, its physical and emotional development, its relationship with either parent and the developmental risk for the child if it were to be separated from the non-Dutch parent. The Netherlands should investigate where the Dutch parent lives and whether this parent is in fact able and willing to bear the daily burden of caring for the child. In addition it should be determined whether the dependence relationship between the child and the non-Dutch parent is of such a nature that the child in actual fact would have to leave if this parent should not be granted right of residence.

You will find more information [here](#).

1. BASIC RIGHTS

Central Court of Appeal: social assistance benefit married people not granted with retroactive effect in case the permit was granted with retroactive effect

The Dutch partner had been granted social assistance benefit in accordance with the norm of a single person once the permit of the foreign partner had been revoked. At a later date the permit was granted as yet, with retroactive effect. Not until months later did the couple again apply for social assistance benefit in accordance with the family norm.

The Central Court of Appeal have ruled that in most cases social assistance benefit is not granted with retroactive effect, unless people have incurred debts in order to pay for their living expenses. In this case the health care insurance and the rent had not been paid. According to the Central Court of Appeal these are not debts but arrears of payment. The social assistance benefit according to the family norm will only be paid as from the date of application. You will find more information [here](#).

2. ADMISSION POLICY

Court of Appeal: legal dues for the application of a residence permit for employment are too high

This man complained that the legal dues of € 861.- for a residence permit for employment are too high. According to the Court of Appeal the Ministry has not shown that this amount covers the costs of processing the application. Therefore the Court of Appeal have ruled that the legal dues should be reimbursed (VK Court of Appeal Rotterdam, AWB 16/16632, 6.4.17).

Court of Appeal: risk of honour violence in Kurdish Iraq

This case concerned a woman who fled from being forced into marriage. She feared becoming the victim of honour crimes.

According to this official country report the Kurdish authorities cannot protect to a sufficient extent individual citizens from honour related crimes. Therefore it is not allowed to send this woman back to Kurdish Iraq (Court of Appeal Groningen, NL16.1780, 17.2.17).

Court of Appeal: asylum applications should be given thorough consideration with respect to aspects pertaining to family life

When dealing with asylum applications other reasons to grant a residence permit should be taken into account; so for example aspects pertaining to family life should be considered as well. The Court of Appeal are of the opinion that the IND have not taken into account to a sufficient extent the Dutch partner of this Ukrainian man. It should be assessed whether this is a situation of a 'certain degree of hardship' for all family members if their family life were to be continued outside of The Netherlands. The IND have not made this consideration (Court of Appeal Amsterdam 16/22520, 21.4.17).

Secretary of State Security of Justice: No Dublin transfers to Hungary

The Secretary of State has stated that The Netherlands will not transfer asylum seekers to Hungary because a thorough asylum procedure is not possible in the said country. You will find more information [here](#).

Court of Appeal: residence with partner for 20-year-old Chilean girl who has lived in The Netherlands since she was 5 years old

This case concerned a Chilean girl, 20 years of age, who has lived in The Netherlands since she was five years of age, together with her parents and sister. None of her family members has a residence permit. She is living with her aunt who has a residence permit and so do the aunt's family. Earlier procedures, including residence with this aunt have been denied.

This procedure concerned her entitlement to stay with her partner with whom she has had a relationship since four years and with whom she stays during the weekends. The friend is following a course in The Netherlands and therefore cannot join her to Chile. The Court are of the opinion that 'a certain degree of hardship' should be taken into consideration when examining whether she has the right to a private life in The Netherlands. The IND has to assess her application again, in view of her special social bonds, her medical situation, the long duration of her stay, her strong bonds with The Netherlands and her lack of bonds with Chile, and the risks she would run if her family members would take up residence in Chile. The appeal was ruled legitimate. You will find more information [here](#).

Council of State: preliminary questions about civic integration requirement when applying for continued residence

The Council of State have asked the European Court whether migrants can be obliged to take the civic integration exam if they have applied for a residence permit for continued residence. Because of these questions no ruling will be provided in comparable proceedings. You will find more information [here](#).

3. ACTIVITIES

Spectacles for undocumented migrants in Rotterdam (17 + 24 May), 10-15hrs

In co-operation with 'Dokters van de Wereld' [physicians of the World], Eyes for the World offer free eye measurements in Rotterdam (Pauluskerk), in a project that is non-recurrent for the time being. If people turn out to need spectacles the strength of the lenses required will be determined at the same time.

There is a choice from various fashionable glasses frames in strengths ranging from -6 to +5. Migrants will be given the spectacles free of charge.

On 24 May free transport will be arranged from the Hague to Rotterdam; for further appointments mail to zorgrecht@doktersvandewereld.org.

Human rights and refugees - what does this mean at a local level, the Hague 18 May 10-12

In what way do activities for and with refugees contribute to the enhancement of human rights? Which role can we play with respect to this question? Join in for an in-depth discussion, sharing experiences and to network. Venue: Stadsklooster - Korte Vleerstraat 230 - Den Haag.

Registration through Welkomhier@justiceandpeace.nl. Please indicate whether you want to take part in the ensuing lunch and whether you have dietary wishes.

Eritrean refugee Luel stabbed to death in front of Villa Vrede Utrecht

Last week the 18-year-old Eritrean refugee Luel Ymesgen Lebasi was stabbed to death in Utrecht. This young refugee was a regular visitor of Villa Vrede, a meeting place for asylum seekers who have exhausted all legal remedies. Presumably he got involved in an argument and was [stabbed in front of the door](#) whereupon he died from his wounds. You will find more information [here](#).