

NEWS LETTER, volume 7 nr 16

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CENTRAL APPEALS TRIBUNAL: ASSISTANCE BENEFIT WITH IMMEDIATE EFFECT FOR UNDOCUMENTED MOTHERS OF DUTCH CHILDREN

The Central Appeals Tribunal anticipate the judgment of the IND concerning the status of this mother of Dutch children. For quite a while this family has had to exist on an income below the minimum and this is detrimental to the development of children.

The Central Appeals Tribunal assume that the new criteria for admission as the parent of a Dutch child will apply to this mother. These criteria had to be adjusted because of the Chavez-Vilchez ruling. Refusal of the right of residence of the parent is no longer allowed if this would mean that the Dutch children would have to be expelled as well.

The Central Appeals Tribunal has already ordered the municipal authorities to pay the assistance benefit in full and has ordered to grant the child-related budget with immediate effect. Unfortunately the Central Appeals Tribunal cannot order the tax authorities to issue the additional allowances. You will find more information [here](#).

1. BASIC RIGHTS

Municipal authorities The Hague acknowledge the necessity of sheltered accommodation for undocumented migrant

The municipal authorities of The Hague have acknowledged that this undocumented migrant is too vulnerable and has promised that he is yet allowed to make use of the programme for sheltered accommodation. After a year the situation will be reassessed (unpublished letter, 24/7/2017).

2. ADMISSION POLICY

Court of Appeal: Afghan woman can get a divorce in spite of the fact that the IND was not convinced the marriage was genuine

This Afghan woman filed for divorce at the Dutch court; in the meantime the divorce has been pronounced. The IND was not convinced the marriage was genuine, but she was recently divorced and, being a single woman, she cannot be sent back to Afghanistan (Court of Appeal Arnhem, NL17.3870, 3.8.17).

Court of Appeal: Kurdish-Iraqi woman's fear of genital mutilation on return justified

The Court of Appeal are of the opinion that this Kurdish-Iraqi woman's fear that her daughter will undergo genital mutilation on return is justified. Although genital mutilation is illegal in practice it is not combated and girls who fear genital mutilation are not protected by the authorities (Court of Appeal Groningen, NL17.3369, NL17.3370, 17.7.17).

Council of State: Nigerian woman can return because NAPTIP provides assistance in establishing an existence outside of tribal area

This Nigerian woman fears that her daughter will undergo genital mutilation on her return to Nigeria. Outside of her family she has no social network, but she does not want to return to them because they threaten to force her daughter to undergo genital mutilation. The Council of State are of the opinion that she is able to return because the organisation NAPTIP can help her getting re-established outside of her family and tribal area. You will find more information [here](#).

Court of Appeal: no permanent residence because incapacity insurance for the young disabled does not count for the income requirement - the insurance contribution had not been paid

This case concerned the residence of a Dutch citizen in another EU country while retaining the right to incapacity insurance for the young disabled. According to the Court of Appeal the stay in the other EU country was not justified because assistance benefit based on the incapacity insurance for the young disabled is not considered to be an autonomous income. Therefore the residence of the partner was not legally justified either and the partner will not become legal on return of the family to The Netherlands. You will find more information [here](#).

3. CHECK AND DETENTION

Secretary of State Security and Justice: assistance possible on return to Afghanistan

In response to Parliamentary Questions about the forced return of minors to Afghanistan the Secretary of State has declared that migrants can get support in kind on their return through ERIN (European Reintegration Network), a project of IOM. Examples mentioned by the Secretary of State were housing, help with finding a job or starting a small business. This would also be possible in cases of forced return. You will find more information [here](#).

4. ACTIVITIES

Pim Fischer: Update jurisprudence entitlement to shelter and accommodation, Wereldhuis Amsterdam, 1 September 16 hr

The Council of State has made a statement concerning the admission criteria for people who report at the VBL (Freedom Restricted Location) in Ter Apel for shelter. During this afternoon the lawyer Pim Fischer will explain the consequences of these statements. Everyone is welcome. The official language will be Dutch.