

NEWSLETTER, volume 7 no. 24

27 November 2017

CONTENTS

1. BASIC RIGHTS	2
2. ADMISSION POLICY	Fout! Bladwijzer niet gedefinieerd.
3. CHECK AND DETENTION	3
4. ACTIVITIES	3

EU COURT OF JUSTICE: ENTRY BAN ONLY EFFECTIVE FOLLOWING EXIT

On 26 July 2017, the EU Court of Justice decided that an entry ban only takes effect following departure from the EU. If someone chooses to remain in the EU, only the return decision applies.

Migrants without residence permits in the Netherlands are also given an entry ban when they have not left, for instance, if they remain here in spite of a return decision. Migrants with a criminal record can even be given a long-term entry ban. Under the Dutch Alien Act, residence in the Netherlands following an entry ban is an offence.

This decision by the EU Court of Justice makes clear that the Netherlands is no longer allowed to punish residence following an entry ban. This has been affirmed by court (Middelburg Court MK, NL17.8473, 9.11.17)

1. BASIC RIGHTS

State Secretary S&J: right to reception during assessment access to medical care in country of origin

In December 2016, the EU Court of Justice's Paphosvili arrest made clear that access to medical care in the country of origin must be assessed before people who are ill can be sent back. Since then, the Repatriation and Departure Service (DT&V) is to ensure medical care prior to departure. Pending this arrangement, the right to reception applies, not only for former asylum seekers, but also for others. Therefore, the COA regulation has been amended. See [here](#) (Dutch only).

Dutch Admin. High Court: no single's assistance for couple, consequences for permit to be judged by IND

This welfare claimant has married a Canadian subject. For his partner the use of social welfare may affect the right of residence. That is why the claimant has applied for welfare for a single person. The Dutch Administrative High Court has decided that under the act, members of a family cannot apply for single's benefits. The municipality cannot weigh in the consequences of social assistance for the right of residence, that is a task for the secretary of state. See [here](#) (Dutch only).

Court: legitimate paternity and NL nationality through later acknowledgement and care duty children in Kenya

The mother of the children has died in Kenya. The biological father has only acknowledged the children after she died. Since then, the father has also patently cared for the children, including financially. The acknowledgement is legitimate under Kenyan law.

Until 1 April 2014, acknowledgements by a man who is still married to someone else did not result in Dutch nationality for the children under Dutch law. This acknowledgement only took place in September 2015. That is why the acknowledgement is also valid in the Netherlands and the children have been given the Dutch nationality. See [here](#) (Dutch only).

2. ADMISSION POLICY

Court: medical permit for Ethiopian woman with HIV, no treatment feasible in country of origin

The judge has decided that HIV is not a reason for asylum, but that a medical permit will be granted. See [here](#) (Dutch only)

Court: right to private life in NL for Ghanaian woman living in NL for 21 years, with known address and BSN-nr

This Ghanaian woman has lived in the Netherlands for 21 years and has always been visible to government due to registration into the BRP. Nevertheless, the government has never made an effort to deport her. Moreover, she was issued a Citizen service number (BSN) in 2009.

Her partner suffered a stroke in 2015 and as a result has physical and cognitive disabilities. He is no longer undergoing treatment, but is using medication. Due to his disabilities, he sometimes depends on help from his wife, however, that is possible in Ghana as well.

The judge decides that the IND has insufficiently examined the consequences of a return to Ghana. The age of both partners and the male partner's physical disabilities must be considered. See [here](#) (Dutch only).

3. CHECK AND DETENTION

State Secretary S&J: country policy regarding return

Forced return to Algeria, Guinea (Conakry) and Sierra Leone has become easier.

However, Egypt, Ethiopia, Iraq including the KAR, Iran and Somalia including Somaliland are still hardly collaborating on forced return. See [here](#) (Question 73; Dutch only).

4. ACTIVITIES

Fanga Musica & Danza, 1Dec from 7 p.m. Utrecht

The women of Fanga Musow woman's shelter in Utrecht have indicated they want to do something for the shelter. They are inviting you for a Music and Dance Night. Thus, you can taste and experience the Fanga atmosphere from close up. Entry: from € 10,-. Location: Huis van Vrede, Trumanlaan 70-72 Utrecht

Migrant Children's Rights in the context of Repatriation, 14 December 9:30 - 12:00 a.m., Groningen

Daniëlle Zevulun will defend her thesis on return and the interests of the child. Prior to this, the Study Centre for Children, Migration and Law will organise the symposium 'Migrant Children's Rights in the context of Repatriation'.

Free entry, but please register through l.van.der.weerd@rug.nl

National Rapporteur on Trafficking in Human Beings - Tenth Report

This report makes clear, among other things, that the protection of foreign victims of human trafficking is insufficient. In practice, no time to reflect is granted in case of 'slightest indications'. Moreover, the various agencies use the criteria differently. Inequality of justice is a real risk.

<https://www.nationaalrapporteur.nl/Publicaties/Tiende-Rapportage-Mensenhandel/tiende-rapportage-mensenhandel.aspx> (9.11.17) (Dutch only).

IRR: Humanitarianism: the unacceptable face of solidarity

Drawing on the work of advocacy organisations across Europe, the report provides a sample of twenty-six case studies involving prosecutions of 45 individual humanitarian actors since September 2015.

The report charts the ways in which member states have used criminal law to punish and deter those seeking to uphold standards of decency, in conflict with international human rights obligations such as the duty to rescue those in distress at sea, and the preservation of human dignity and physical integrity, and calls on the EC to provide a mandatory exemption from criminalisation for humanitarian aid, to bring the legal framework into line with international instruments.