



Stichting Landelijk  
Ongedocumenteerden  
Steunpunt

## NEWSLETTER, volume 8 nr 9

23 April 2018

### TABLE OF CONTENTS

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

## PROFESSOR THOMAS SPIJKERBOER ABOUT THE RIGHTS OF UNDOCUMENTED MIGRANTS

In a plan that comprises seven points Thomas Spijkerboer has described his dreams about the contact with refugees and migrants.

His statements include:

Until the early nineties it was self-evident that migrants without residence permits could be expelled but in the interim they would enjoy a minimum of social security or shelter and support. We used to deem social security more important than migration - this was a matter of course....

The municipality needs to do everything possible to enable people who are here anyway to function in the best possible way. Not only is this a matter of humanity but also of simple self-interest. To be more specific:

- Migrants without a residence permit can register - officially or unofficially - in the municipal register and can obtain a stads-paspoort [city passport].
- Everyone with a city passport can lay claim to the shelter and support in the municipality concerned.
- The municipality does everything allowed to enhance the well-being and the civic integration of all its residents.
- The mayor does everything possible to release everyone who had been in detention of aliens for a period of over three weeks for example (and who therefore probably cannot be deported).

<https://www.trouw.nl/samenleving/maak-je-grens-potdicht-en-je-krijgt-juist-meer-migranten~ab51ef25/>, 21.4.18.

## 1. BASIC RIGHTS

### Lawyer Pim Fischer about the entitlement to suitable shelter and support

The ruling of the Council of State ([ECLI:NL:RVS:2018:1025](#)) shows that municipalities have to substantiate why certain care and service options are suitable for undocumented migrants. In this way the professional standards that exist for people who have rightful residence would also apply to undocumented migrants. This is especially important for the provision of residential care.

<http://www.amsterdamcityrights.org/wp-content/uploads/2018/04/lezing-Pim-Fischer-de-rechtspraak-na-26-november-2015.pdf>, 17.4.18

## 2. ADMISSION POLICY

Council of State: on revocation of a permit because the break-up of the relationship had not been disclosed, reconsideration should take place as to whether there is an entitlement to extended stay  
This woman had been given a Dutch passport. Later on it came to light that the couple did no longer live together. Therefore the Dutch authorities want to undo the naturalisation.

The Council of State have decided that the IND, on the revocation of the Dutch nationality, should ascertain whether this woman would have been entitled to a permit for extended stay if she had reported that she no longer lived with her partner. If this is the case she can keep her Dutch passport. You will find more information [here](#).

### Court of Appeal: income has to be assessed individually for stay with partner

This case concerns an application for stay with Dutch partner. In fact this partner should have an annual contract with a salary that is sufficiently high. Self-employed persons need to have earned a sufficient amount in the past year and have prospects to have a sufficient income for another six months. In this case the Dutch partner had been earning amply enough to meet the income requirement with several short-term contracts during the last 20 years. In addition the couple will be eligible for tax reduction. Therefore the court are of the opinion that the IND should consider the individual situation more thoroughly.

VK Rb Arnhem, AWB 17/6674, 4.4.18

### Court of Appeal: criteria for admission marriage partner should be different from those for admission in case of cohabitation

In this case the relationship had previously been assessed as a sham relationship and at the time the Court agreed with this. In the meantime the couple got married. The court has decided that the European legislation applies at present. This means that the permit can be denied because of a sham marriage, but this requires an individual investigation. Reference to an earlier assessment that this was a sham relationship is insufficient. You will find more information [here](#).

### Council of State: family life with grandchild does not need to be 'more than usual'

This ruling shows that the IND should always consider the relationship between grandparents and grandchildren as a family relationship. For the question whether a grandparent should be granted

residence rights with the grandchildren it should be investigated whether close personal ties exist that outweigh the Dutch interest of a restrictive admission policy. You will find more information [here](#).

### 3. CHECK AND DETENTION

Court of Appeal: wrongful detention of aliens, because there was no reason to check the driver's papers  
In this case a driver was checked because his car was registered in a woman's name. The man had been placed in detention of aliens but should be released. You will find more information [here](#).

### 4. ACTIVITIES

Demonstration: Solidarity with Refugees: We Are Here! 28 April 14-17 u. James Wattstraat 56, Amsterdam

Refugees of *We Are Here* squat in premises to make visible the inhuman situation in which they live and to expose the situation of refugees in the Netherlands who had been rejected but who cannot be expelled. Time and time again *We Are Here* is evicted, turned out into the street and once more thrown into insecurity without any prospect of permanent shelter. Other Amsterdam inhabitants are looking for housing accommodation as well. Social rental housing premises are being sold and the waiting lists for people who seek housing accommodation keep growing. The same right-wing parties who are responsible for this retrograde policy subsequently point at the refugees in order to divert the attention from the actual problem.

Therefore on Saturday 28 April we demand the right to housing, healthcare, education and work for everyone!