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CONTENTS

1. BASIC RIGHTS.....2
2. ADMISSION POLICY..... **Fout! Bladwijzer niet gedefinieerd.**
3. ACTIVITIES..... **Fout! Bladwijzer niet gedefinieerd.**

DISTRICT COURT: STATUS FOR CAREGIVING FATHER OF DUTCH CHILD WITHOUT LEGAL TIES

Caregiving parents of a Dutch child obtain their status because the child needs the parent in order to be able to stay in the Netherlands. This has become clear since the Chavez case.

This case was about a man who wanted to come to the Netherlands because he was caring for a Dutch child. He was not the legal custodian nor was he the child's biological father.

The judge ordered the IND to thoroughly investigate the caregiving relationship. The criterion, according to the Chavez judgement, is that the father has a caregiving relationship that would cause the child to have to leave the EU with the father, if the father does not receive a residence permit. Biological parenthood or legal custody may be of importance here, but it is not the determining factor. (see the [judgement \(in Dutch\)](#)).

1. BASIC RIGHTS

Central Appeals Court (CRvB): after leaving the Netherlands, the right to child benefits gradually reduces
There is a right to child benefits if the person in question is either working or residing in the Netherlands. This mother has left the Netherlands after the Child Care and Protection Board (Kinderbescherming) threatened to place her children into care. Her husband stayed in the Netherlands with other children. The question here is when child benefit payments will stop. The Central Appeals Court decided that an important factor here is whether the departure is permanent. The longer the person in question remains outside the Netherlands, the more this will be regarded as permanent. In the first year following the departure, the SVB needs to show that the departure is intended to be permanent. After someone has been out of the country for over a year, it is up to this person to show that there are special circumstances by which he or she should still be considered a Dutch resident. In this case, the SVB has not been sufficiently convincing about the fact that the departure of the mother and her children was intended to be definitive from the start. The reason for leaving the Netherlands does not indicate a planned long-term departure; a large part of the family remained within the Netherlands, where the mother and her family have an income and a home. Therefore, the mother must be considered entitled to child benefits in the first year following her departure. After that year, this will cease to be the case. See [judgement \(in Dutch\)](#)

Dutch Council of State (RvS): reclaiming benefit and subsidy payments in case the withdrawal of status is justified, because the rules that apply to the residence permit have been violated
If someone does not have a residence permit, the entire household has no right to benefit payments or subsidies. During the procedure of appeal against permit withdrawal, however, this right will continue. Even if a permit is withdrawn retrospectively and the procedure to appeal this decision cannot be started until later, the right to benefits and subsidies over the interim period will continue to exist. This however is not the case if the permit is withdrawn because of a violation of the rules of the residence permit, according to the Dutch Council of State. The person in question in this case had received a permit for self-employment. When he subsequently started working in paid employment, this meant his permit was no longer valid. The tax department is justified in seeking recovery of the subsidies paid during the period in which the permit has been retrospectively withdrawn. See the [judgement \(in Dutch\)](#).

2. ADMISSION POLICY

District Court: no independent residence permit following the termination of personal relationship of 3.5 years, due to domestic violence
This woman from Suriname came to the Netherlands together with her children because her partner was in the Netherlands. The relationship ended after 3.5 years because of domestic violence. The woman has now started legal proceedings to obtain an independent residence permit. However, she is not entitled to such a permit, according to the IND and the court. She can return safely to Suriname with her children. She grew up in that country and is able to raise her own children there. See the [judgement \(in Dutch\)](#).

District Court: no independent residence permit after 5 years living with partner in the Netherlands, because of failing the citizenship course exam

The residence permit of this woman to live here with her partner is being withdrawn, retrospectively. She has stayed here legally for over 5 years. However, she will not be granted an independent residence permit because she failed the exam of her citizenship course and because, at the time of her application, she no longer had an independent residence permit. See the [judgement \(in Dutch\)](#).

Dutch Council of State: no status for children with legal parents, because of the lack of a passport, and no dispensation

These children, who were born in the Netherlands from legal parents, are applying for a permit to stay with their parents. They require a passport in order to do so. The Armenian embassy is refusing to issue such a passport, but is not prepared to confirm this fact in writing. The Council of State agrees with the IND that such a letter by the embassy is required, in order to issue a permit for these children without them having a passport. See the [judgement \(in Dutch\)](#).

Dutch Council of State: permit for mother of French child, new partner will vouch for her cost of living

A French child is entitled to a residence permit in the Netherlands when its cost of living can be guaranteed. Family members, such as the child's mother, will also be awarded a permit if their cost of living can be guaranteed. In this case, the new partner of the mother is vouching for both mother and child, who will therefore both be issued with a residence permit. See the [judgement \(in Dutch\)](#).

Amendment to the Aliens Act (WV) 2018/10: permanent status for victims of human trafficking at the start of prosecution

In the past, victims of human trafficking were not issued permanent status until after the offender was convicted. This has changed. From 1 October 2018 onwards, victims will obtain permanent status as soon as the Netherlands Public Prosecution Service starts to prosecute the offender. This means the victims are in a stronger position during the trial. See the [judgement \(in Dutch\)](#).

3. ACTIVITIES

Thematic meeting maternal health care for (undocumented) migrants, 6 Dec., 17:00–21:00 hrs, Utrecht

The aim of this meeting is twofold:

1. Strengthening the network of stakeholders involved in maternity care for refugees.
2. Concrete recommendations and action plan to improve readiness for a next influx.

[Register](#).

Dokters van de Wereld: Barriers for undocumented migrants to obtain access to contraception and abortion

The document '[Barrières voor ongedocumenteerden in toegang tot anticonceptie en abortus](#)' by the *Dokters van de Wereld* (Dutch service of the *Doctors of the World*) provides insight into the barriers to obtaining contraception and abortion for women without a residence permit.

[Sign the petition](#) for access to contraception for everyone.

Website Information for refugees in the Netherlands

On this website [for refugees](#), information is provided in seven languages about asylum procedure, family reunification, health care, housing and return.

Since 2003, the LOS Foundation (National Undocumented Migrants Support Centre Foundation) has been the knowledge centre for people and organizations who provide assistance to migrants without residence permits ('undocumented migrants'). The LOS Foundation is committed to the basic rights of these migrants and their children.