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CONTENT:

COS: CONSIDERATION OF ADMINISTRATIVE CHARGES IN CASE OF APPLICATION FOR CONTINUED RESIDENCE	1
BASIC RIGHTS.....	2
ADMISSIONS POLICY.....	2
INSPECTION AND DETENTION	3

CoS: CONSIDERATION OF ADMINISTRATIVE CHARGES IN CASE OF APPLICATION FOR CONTINUED RESIDENCE

When applying for continued residence administrative charges of possibly more than €1,000 must be paid. The applicant in this case argued that he was unable to pay these and that the Court had to decide whether this application should be dealt with all the same.

There have been earlier cases regarding the high administrative charges. European courts decided at the time that the administrative charges for permits granted based on EU legislation may not be unreasonably high. Since then, the administrative charges for many residence permit applications have been considerably reduced. But the State Secretary considered that 'continued residence' in this case was not a permit granted on EU legislation and that in this case, the high administrative charges are permissible. The Council of State does not agree and finds that a careful consideration is to be made in all cases.

The Secretary of State therefore must decide again on the level of the administrative charges for continued residence. See [here](#).

1. BASIC RIGHTS

Court: State Secretary to decide on the relief offered by Asylum Seekers Residence Centres (AZCs) outside the scope of the Asylum Seekers and Other Categories of Aliens (Provisions) Regulations 2005 (Rva)

The Rva determines who is entitled to shelter in an AZC. The Central Agency for the Reception of Asylum Seekers (COA) manages the AZCs and must carry out the Rva. According to the rules, the COA had to turn out a woman who was ill.

The woman's lawyer argued that, based on the human rights convention, the COA was to continue to give shelter to the woman. But the Court finds that only the State Secretary can make such an exception, not the COA. See [here](#).

2. ADMISSIONS POLICY

SSS&J: Country policy Venezuela

Many Venezuelan asylum seekers are currently arriving in the EU. The State Secretary has therefore prepared the first country policy for Venezuela. Transsexuals, prominent dissidents, and journalists are considered groups with an increased risk. An individual assessment must be made for all other asylum seekers. That the government protects, or that people can find protection in other parts of the country, is not assumed. There is no shelter for unaccompanied minor foreign nationals (AMVs). See [here](#).

Court: Judgement on intention is decisive in case of revocation of residence permit dependent on partner

The IND intends to revoke this woman's residence permit because she is believed to be in a sham relationship. An anonymous notification to this effect had been received.

The Court first found that an anonymous notification formed insufficient grounds to revoke a residence permit. In addition, the Court stated that a residence permit dependent on a partner can only be revoked if this was entered into with the sole purpose to obtain residence. That had not been proven in this case. The IND must take a new decision. (Court Amsterdam AWB 19/9767, 06/08/2020)

Court: Right of residence for carer parent of EU-citizen's child of school-going age

An EU-citizen's child of school-going age has right of residence as 'services recipient', on condition that the EU-citizen him- or herself had legal residence, for instance because of working here. The child has the right of residence as long as it attends school, and the parent will also have the right of residence as carer parent. In this case, the judge considered a short 12-week period of work by the Polish mother sufficient to grant mother and child rights to residence as long as the child attends school. See [here](#).

CoS: Compulsory balancing of interests in case of impending revocation of permit as child of an EU-citizen

This child and its Russian mother and Greek stepfather arrived in the Netherlands in 2012 and obtained a permit as a family member of an EU-citizen. The stepfather left the Netherlands after 2 years. The IND

now wants to revoke the child's right of residence. The CoS finds that the stepfather's departure is insufficient reason for that. The child's interests must be considered as well. See [here](#).

3. INSPECTION AND DETENTION

Court: No immigration detention if country of origin does not give Laissez-Passer.

In two cases, the courts decided that immigration detention was not permitted because there is no prospect of deportation. In both cases the embassy of the country of origin had to provide a replacement travel document, a Laissez-Passer, because the foreign national did not have a passport. In both cases it was clear that the embassy would not provide one. That is why, according to the Court, there is no prospect of deportation and the foreign national may not be placed in immigration detention.

One case concerned a Surinam citizen, for whom a Laissez-Passer application had been with the embassy for three years already. The Repatriation and Departure Service has reminded the embassy of the application 61 times, but still had not received a reply. See [here](#).

The other case concerned a Congolese who has lived in the Netherlands for 33 years since he was 7 and has a mother and children here. The embassy has replied in writing that it will not provide a Laissez-Passer because the man no longer has any ties with the Republic Congo (Dordrecht Court, NL20.14781, 13.8.20).

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