

NEWS LETTER, VOLUME 3 NR 22

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RIGHT TO FOOD, CLOTHING AND SHELTER

In January 2013 the Protestant Churches lodged a complaint with the European Committee for Social Rights concerning the right to food, clothing and shelter for migrants without residence permits. On the 25th of October the Committee agreed on an [Immediate Measure](#) which ordered the Netherlands to see to it that access to food, clothing and shelter will be extended to migrants who have no right to residence. By means of this decision the European Committee want to prevent migrants from suffering irreparable damage while awaiting a definitive decision.

In his [response](#) Secretary of State Teeven wrote that he already offered shelter in the VBL (Freedom Restricted Location) to migrants who want to return and that medical care is available. He is not of the opinion that the Immediate Measure would oblige him to do anything else.

However, municipalities including the G4 are of the opinion that the state is now obliged to provide facilities.

Local organisations can now ask their municipalities what they are doing to implement the Immediate Measure.

In case migrants are at risk of losing their facilities they can refer to the Immediate Measure. Stichting LOS advises them to contact the lawyer of the complaint, [Pim Fischer](#), for this purpose.

1. BASIC RIGHTS

Court of Appeal: make enquiries at the IND first in the case of an application for social benefit single mother of Dutch child

The Court of Appeal Amsterdam (12/4099, 19.9.13) have decided that an undocumented single mother of a Dutch child may be in possession of a residence permit, which will entitle her to social benefit. This means that the municipal social services have to ask the IND to determine whether there is a permit before they can decide.

2. ADMISSION POLICY

Court of Justice EU: asylum for homosexuals

The Court of Justice decided that legislation and its implementation in the country of origin have to be investigated in the case of asylum applications. If homosexual activities are forbidden by law homosexuals are considered to be at risk of prosecution. But the practical implementation will determine whether there is evidence of prosecution. Homosexuals cannot be forced to hide their identity ([uitspraak](#)).

It took a long time before this verdict was given. Now that this verdict is known, these cases will be resumed.

Court of Appeal: three female Afghan teenagers who were in the Netherlands with their ill father are considered to be westernized

The Court of Appeal Roermond (oa 11/41298, 18.3.13) have decided that the decision that migrants have become westernized does not only depend on the duration of the stay but also on behaviour. Normally girls are supposed to have become westernized after eight years, but these girls have gone to school in the Netherlands for four years. The father suffers from PTSS and cannot protect his teenage daughters. The IND have issued a permit.

Court of Appeal: women from Ivory Coast can avoid female genital mutilation

In this verdict the Court of Appeal have decided that in some parts of the country there is no risk of female genital mutilation. For example women can move to towns where they are not at risk. Therefore this woman does not need to be granted asylum in the Netherlands (Court of Appeal Zwolle, 13/16157, 7. 10.13).

Court of Justice EU: no obligation of authorisation for temporary stay for Turkish immigrant workers due to stand still clause

Due to the Turkish Association Treaty with the EU it is forbidden to make residence rights of Turkish migrants any more rigorous. The Court has now ruled that this does not only apply to the right to residence, but also to the right to entry and therefore to the obligation to authorisation for temporary stay as well. The obligation of authorisation for temporary stay was in existence before the date of the Association Treaty but it was not applied. Therefore it is not to be applied as of now ([uitspraak](#)).

The verdict concerns an immigration worker but is of importance for all Turkish migrants who have applied for regular residence permits.

Advice Court of Justice EU: admit dependent children older than 21 as well

This is the advice given by the Solicitor General of the Court of Justice in a Swedish case. The European directive family reunion obliges EU countries to allow children up to the age of 21 years to live with their parents if these parents are migrants themselves. The Solicitor General has advised the Court to extend this right to children older than 21 who are found to be dependent of their parents ([uitspraak](#)).

The Directive Family Reunion only applies to parents with a residence permit, not Dutch parents.

Again: Court of Appeal asks why the Child's Pardon only applies to asylum children

The Court of Appeal Haarlem (13/19199, 18.10.13) are of the opinion that the Child's pardon does not apply to children who have no asylum background. The court have asked the IND to provide a better explanation for this.

3. CHECK AND DEPORTATION

Removal and Deportation Service: no laissez-passers for Ethiopia

The Removal and Deportation Service wrote that applications have been submitted for 79 laissez-passers for Ethiopia and that none have been granted. Of these applications 49 have been denied (WOB-application 11.10.13).

4. WHAT CAN BE DONE?

UN Report by the UN Secretary General on violence against female migrant workers

The report 'Violence Against Women Migrant Workers' focuses on the issue of violence against women migrant workers, specifically with regards to their access to justice. It highlights the impact of legislation, policies and programmes implemented by member states on women migrant workers, and it concludes with recommendations for future action.

[The full report is available here.](#)

Advice PvdA [Dutch Labour Party] about penalizing illegal residence

A working group of the PvdA led by Hans Spekmann have written an advice for the parliamentary faction of the Dutch labour party about the legislative proposal Penalization Illegal Residence. The working group have remained within the boundaries of the coalition agreement but has asked for additional attention for vulnerable groups, for exemption of penalization for caregivers and for measures for extra protection for victims of human trafficking. The advice is available here: [Advies werkgroep illegaliteit en mensenhandel \(pdf\) >](#)

Publication Paspoort van Wageningen, 20 November as of 19.30 Wageningen library

The Paspoort van Wageningen [Wageningen passport] describes the rights of migrants without residence permits and the way in which they can realize these rights in Wageningen. More information is available from Jan Harm Roseboom, board Vluchteling Onder Dak (06-51777001).

The IS Academy: Migration and Development, 'A World in Motion', 25-26nov den Haag

The Migration and Development project has focused on the relationship between migration and development. Research was conducted in the Netherlands as a migrant-destination country, and Afghanistan, Burundi, Ethiopia, and Morocco as migrant-sending countries.

The Civil Society Days that will take place on November 25 and 26 are organized to disseminate our research results to representatives from NGOs, international organizations, academia, and others who are interested. Please register before November 1st via the [online registraton form](#).

Since 2003, the LOS Foundation (the Dutch acronym for 'Landelijk Ongedocumenteerden Steunpunt') has been the knowledge centre for people and organizations providing assistance to undocumented migrants. LOS Foundation devotes itself to the basic rights of these migrants and their children.