



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

UNHCR

Case postale 2500
CH-1211 Genève 2

The Office of the United Nations High Commissioner for Refugees presents its compliments to the Permanent Mission of the Kingdom of the Netherlands to the United Nations Office at Geneva and has the honour to request the Permanent Mission to transmit the enclosed letter to His Excellency, Mr. Maxime Verhagen, Minister for Foreign Affairs of the Kingdom of the Netherlands. A copy of this letter is also enclosed for the files of the Permanent Mission.



18 November 2009



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United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

ASSISTANT HIGH COMMISSIONER - PROTECTION

UNHCR

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17 November 2009

Notre/Our code:

Sir,

I have the honour to refer to your concerns about UNHCR's May 2008 "Note on the Structure and Operation of the KhAD/WAD in Afghanistan 1978-1992", set out in your letter of 2 October 2009, addressed to the President of the Second Chamber of the Dutch Parliament and copied to UNHCR. I hereby wish to share with you a number of observations in this regard.

UNHCR has been appreciative of the various opportunities provided to it since June 2008 for exchanging views with Dutch officials on the issue of KhAD/WAD asylum-linked claims. It is, though, of concern that there is a perception that UNHCR's 2008 Note was "more the result of collecting available information than of any targeted investigation". The purpose of the Note was, as stated in its opening paragraph, to provide information "in the context of the need to assess the eligibility for international protection for Afghan asylum-seekers who were members of KhAD/WAD". One issue which the research behind the Note addressed in particular was the alleged existence of rotation and promotion policies within the KhAD/WAD. In preparing the Note, on this point as on others, UNHCR staff in Afghanistan and elsewhere consulted a variety of sources on the basis of targeted questions. In addition, the Note benefited from more general information on the KhAD/WAD, collected by our office in Kabul over the course of several years. Then, following the issuance of the Note, as well as during discussions with staff of your Ministry, additional efforts were made by our offices in Kabul and Brussels to verify in particular the existence of a rotation system within the KhAD/WAD. In spite of all these investigations, it was not possible to confirm the existence of a rotation policy.

Points were also raised about UNHCR "Resettlement Registration Forms" which became one basis for querying the Office's knowledge about the KhAD/WAD. It is important to clarify here that submissions for resettlement are preceded by a separate Refugee Status Determination (RSD) procedure, in which the asylum-seeker's eligibility for international protection under UNHCR's mandate is thoroughly assessed. It is during this RSD procedure that issues of exclusion from refugee status are examined and documented in the file of the person concerned. The complete file for this RSD examination is not normally included in the resettlement submission, although it forms the basis for, and, in summary terms is reflected in the Resettlement Registration Form that is submitted to the potential resettlement country. In other words, the Form itself should not be understood as containing in and of itself the totality of information available to and taken into account by UNHCR in finalising the resettlement submission.

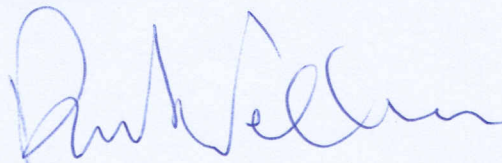
His Excellency
Mr. Maxime Verhagen
Minister for Foreign Affairs
of the Kingdom of the Netherlands

In addition, neither the number of UNHCR exclusion decisions, nor the presence, absence or level of detail of an exclusion discussion in a resettlement submission, should be taken as indicative of the available knowledge within UNHCR concerning country-of-origin conditions. To note here is that the RSD process requires UNHCR to assess a person's risk of serious harm (in the form of persecution, violence or other kind of harm), as well as to consider his or her possible exclusion from refugee status under Article 1F of the 1951 Refugee Convention. As a result, it is possible that persons who would be excluded from refugee status in the Dutch asylum practice in fact do not pass the inclusion test of the UNHCR RSD procedure. Such persons will therefore never be the subject of a resettlement submission. Where exclusion issues have arisen, but the person has nevertheless been recognized as a refugee under UNHCR's mandate, these will be reflected in their resettlement submission.

In summary and as I hope I have been able to clarify, UNHCR's May 2008 Note has been carefully documented and sourced. We were concerned to learn that your Government's impression was that the Note "lacks any concrete foundation on crucial points." The Office's sources have been accumulated over a period of years, in different locations both inside and outside Afghanistan. Reviewing them, we have not been able to confirm either through public or confidential sources the existence of a personnel rotation policy within the KhAD/WAD during the period 1971-1992.

Perhaps it might be possible, in the light of this review, to re-visit the relevant paragraphs and conclusions of the report by your Ministry, "Security Services in Communist Afghanistan (1978-1992). AGSA, KAM, KhAD and WAD" dated 29 February 2000. UNHCR counts on the Netherlands as one of its strongest supporters and most respected partners. We are open to discussing any aspect of the issues raised above further with your staff, should you deem this useful.

Please accept, Sir, the assurances of my highest consideration.



Erika Feller