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[Redacted address]

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Datum 12 april 2012
Betreft beslissing op uw Wob-verzoek 1F-beleid, Afghanistan

Kenmerk
2012-0000029769

Bijlagen
2

Geachte [Redacted name]

Bij brief van 9 januari 2012 heeft u bij mijn ministerie een verzoek ingediend als bedoeld in artikel 3, eerste lid, van de Wet openbaarheid van bestuur (hierna: Wob). Uw verzoek heeft betrekking op:

Het schrijven van de ambassadeur van de Islamitische Republiek Afghanistan van 21 december 2011.

Bij brief van 7 februari 2012 is de termijn om op uw verzoek te beslissen met vier weken verlengd.

Met betrekking tot uw verzoek om informatie bericht ik u als volgt.

Uw verzoek om openbaarmaking van de brief van 21 december 2011 van de ambassade van de Islamitische Republiek Afghanistan wordt ingewilligd. Als bijlage bij deze brief treft u aan een kopie van het gevraagde document. Tevens stuur ik u ter informatie een kopie van de reactie op de brief van de ambassade.

Ik vertrouw erop u hiermee voldoende te hebben geïnformeerd.

Hoogachtend,
De minister Immigratie, Integratie en Asiel,
namens/deze,

R.M. van Epp-Bruinsma
Secretaris-generaal

Belanghebbenden kunnen binnen zes weken na bekendmaking van dit besluit daartegen per brief bezwaar maken bij de minister van Binnenlandse Zaken en Koninkrijksrelaties, DGYZ/DMB, Postbus 20011, 2500 EA Den Haag. Het bezwaarschrift moet zijn ondertekend, voorzien zijn van een datum alsmede de naam en het adres van de indiener en dient vergezeld te gaan van de gronden waarop het bezwaar berust en, zo mogelijk, een afschrift van het besluit waartegen het bezwaar is gericht.

سفارت جمهوری
اسلامی
افغانستان - لاهه



د افغانستان اسلامي
جمهوريت
سفارت - لاهه

Embassy of the Islamic Republic
of Afghanistan - The Hague

No: 1512
Date: 2011-12-21

cc → JND
DMB
DFOU
22/12
L → [redacted] 2/1

NOTE VERBALE

The Embassy of the Islamic Republic of Afghanistan in The Hague presents its compliments to the Ministry of Interior and Kingdom Relationships of The Netherlands and has the honour to kindly request the attention of the Minister to the following:

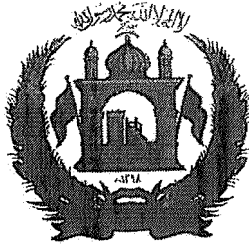
- His Excellency J.Anwari, Minister of Refugees and Repatriation of the Islamic Republic of Afghanistan, during his meeting last week with His Excellency Minister G.B.M. Leers, the Minister for Immigration and Asylum of the Kingdom of The Netherlands, informed His Excellency Mr. Leers

that the information on persons whose applications for asylum have been rejected based on the exclusion ground of Article 1F of the 1955 United Nations Convention Relating to the Status of Refugee, is biased and is based on sources such as intelligence agencies of neighboring countries;

also the idea of rotation of officials who served in security departments of Afghanistan is incorrect,

and His Excellency requested that before returning those applicants to Afghanistan their cases should be reviewed in the light of new realities, support documents provided by the present Afghan government authorities and based on their decent life record during their stay in The Netherlands;

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**Embassy of the Islamic Republic
of Afghanistan - The Hague**

No:

Date: 2011-12-21

- Unfortunately, as late as today our Embassy has been receiving calls from Afghans that the Repatriation Department (DT&V) has informed them that they will be separated from their families and will be returned to Afghanistan.

We kindly request you to take into consideration the request of His Excellency Minister Anwari to once again review their case to see for ways to not separate them from their families.

The Embassy of the Islamic Republic of Afghanistan in The Hague avails itself of this opportunity to renew to the Ministry of Interior and Kingdom Relationships of the Kingdom of The Netherlands the assurances of its highest consideration.

To the Ministry of Interior and Kingdom Relationships
c/o HE Minister G.B.M Leers
The Hague





Ministerie van Binnenlandse Zaken en
Koninkrijksrelaties

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Ambassador H.E. dr. Enayatullah
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Information

[REDACTED]

Our reference
2012-0000020096

Your reference

[REDACTED]

Date March 29, 2012
Subject Note Verbale no 1512

Excellency,

Please allow me to express my appreciation for our constructive and pleasant meeting of December, which I view as a token of our good relations and cooperation. During the meeting His Excellency the Minister of Refugees and Repatriation, dr. Anwari, requested me to reconsider the information which forms the basis of the Netherlands policy concerning Article 1F of the Convention on refugees towards Afghan nationals.

Article 1F of the Convention on Refugees is an important provision. The protection afforded by the Convention on Refugees is intended for those who are the victims of treatment that constitutes a violation of their dignity, not those who are guilty of such treatment. Article 1F of the Convention on Refugees stipulates that individuals belonging to the latter group are not eligible for protection.

The Dutch Government is convinced that the Netherlands should not form a safe haven for persons against whom there are serious reasons for considering that they have committed one or more of the international crimes as stated in Article 1F. It is in the interest of Dutch society and international rule of law that the Netherlands does not grant such people residence permits. The position of the victims of these individuals who have found refuge in the Netherlands must also be taken into consideration.

With regard to the application of Article 1F of the Convention on Refugees in Dutch policy in respect of foreign nationals, it must be stated that all cases in which this article is invoked are assessed on a case-by-case basis. The Dutch authority must be able to demonstrate that there are 'serious reasons' to consider that the person in question falls within the criteria of Article 1F of the Convention on Refugees. If a foreign national was aware, or ought to have been aware, of having been involved in committing the offence/offences in question ('knowing participation') and he or she personally is liable for these offences ('personal participation'), it is possible to invoke Article 1F of the Convention on Refugees. It is argued that under certain circumstances and with regard to certain categories of foreign nationals, 'knowing and personal participation' can be assumed on the basis of general information on individuals who were employed in a particular role within a specific organisation - partly due to the structure and the aims of that organisation. This does not signify a

departure from the individual character of the assessment, but does constitute a prima facie reverse allocation of the burden of proof.

Date
March 29, 2012

With reference to our Country of Origin information report of 29 February 2000 I would like to state that the conclusions within the report are still valid and based on reliable sources consulted by our ministry of Foreign Affairs. The Council of State, the supreme administrative court in the Netherlands, confirmed this judgement in a verdict of 30 November 2004.

Our reference
2012-0000020096


With regard to the departure from the Netherlands of foreign nationals in respect of whom Article 1F of the Convention on Refugees has been invoked, I would like to refer first and foremost to the statutory obligation to leave the country that applies to any foreign national in respect of whom it has been established at law that he or she is not eligible for a residence permit. In cases where Article 3 of the ECHR does not form (or no longer forms) an obstacle, active steps should be taken to return the foreign national to his or her country of origin (or to a third country).

Under existing policy, those foreign nationals who cannot be repatriated to their country of origin (or to a third country) pursuant to Article 3 of the ECHR, passage of time (at least ten years) and additional individual circumstances can form a ground to grant a residence permit, despite a previous refusal on 1F-grounds. The aim of this policy is, that a foreign national in respect of whom Article 1F of the Convention on Refugees has been invoked (or who for reasons relating to public order is not eligible for an asylum residence permit) and who cannot be repatriated due to Article 3 of the ECHR, will not be put under exceptional humanitarian circumstances.

Finally, in general the Netherlands pursues the policy that families are not returned separately. This however does not apply in situations in which one of the family members has been convicted of a criminal offence or is deemed to pose a threat to national security. This includes foreign nationals that are subject to Article 1F of the Geneva Convention. Therefore, it is very well possible that persons who have been subjected to the principles of Article 1F have to leave the Netherlands, while their family members are (temporarily) allowed to reside in the Netherlands.

Please allow me to avail myself of this opportunity to renew to the Afghan Government the assurances of my highest consideration.

The minister for Immigration, Integration & Asylum,



G.B.M. Leers