

**Question for written answer E-008587/2015
to the Commission**

Rule 130

**Sophia in 't Veld (ALDE), Maite Pagazaurtundúa Ruiz (ALDE), Filiz Hyusmenova (ALDE) and
Cecilia Wikström (ALDE)**

Subject: Implementation of Article 12 of Directive 2004/83/EC, and Article 1F of the Convention on Refugees, by the Dutch government

The Dutch Government currently implements Article 12 of Directive 2004/83/EC, and Article 1F of the Convention on Refugees, on Afghan refugees who have served in the Afghan secret service, though without conducting individual assessments.¹

This is contrary to the decision of the Court of Justice of the European Union (Bundesrepublik Deutschland v B (C-57/09) and D (C-101/09)), and deprives many Afghan refugees of the opportunity to qualify as asylum seekers. While Articles 47-50 of the Charter of Fundamental Rights and Article 12 of Directive 2004/83/EC require Member States to provide for specific safeguards in litigations, also for refugees, and stipulate the presumption of innocence, the latter principle is not applied with regard to the above-mentioned category of Afghan refugees.

These refugees are considered war criminals, but are subject to administrative court proceedings rather than criminal ones. As a consequence, they have to carry the burden of proof in court proceedings in which, in practice, it is not possible for them to disprove the presumption that they are guilty of war crimes.

1. Is the Commission aware of the way the Dutch Government applies Article 12 of Directive 2004/83/EC and Article 1F of the Convention on Refugees to cases involving Afghan refugees?
2. Does the Commission consider the policy of the Dutch Government with regard to how it implements Article 1F of the Convention on Refugees – providing for collective exclusion and not individual assessment of each applicant – as contrary to European law and the jurisprudence of the Court of Justice?
3. If so, will the Commission consider launching an infringement procedure against Netherlands?

¹ <http://www.tekenvoorrechtvaardigheidin nederland.nl/uploads/20000229-aab-veiligheidsdiensten-afghanistan.pdf>.