



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee
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Case Summary

Country of Decision/Jurisdiction	Netherlands
Case Name/Title	
Court Name <i>(Both in English and in the original language)</i>	Administrative Jurisdiction Division of the Council of State (Afdeling Bestuursrechtspraak van de Raad van State)
Neutral Citation Number	201005185/1/V2
Other Citation Number	LJN BR5421
Date Decision Delivered	18 August 2011
Country of Applicant/Claimant	Uganda
Keywords	Credibility, medical report
Head Note (Summary of Summary)	Statements about suffered ill-treatment were substantiated by medical evidence. The conclusion that those statements were not credible was, therefore, not sufficiently founded.
Case Summary (150-500)	
<i>Facts</i>	This concerns the further appeal of the applicant against the decision of the district court of Maastricht (28 April 2010, 09/24389). The applicant had stated that she was held in detention and ill-treated. She had shown the scars that were the result of the ill-treatment. The state secretary held that the asylum account was not credible. In further appeal the applicant submitted a medical report drafted Amnesty International.
<i>Decision & Reasoning</i>	<p>The Council of State declared that the further appeal was well-founded because the district court had failed to take account of what the asylum seeker had brought forward at the hearing before the district court. The asylum seeker had stated that she had scars which substantiate her asylum account.</p> <p>On those merits the Council of State declared the following:</p> <p>"now that the statements of the asylum seeker, regarding the ill-treatment she suffered, are sustained by medical evidence, the Minister, in view of the case law of the ECtHR [the RC v. Sweden, added by Dutch Council for Refugees] wrongfully concluded, without any further reasoning, that those statements were not credible. In view of the fact that those statements were partly the reason for concluding that the asylum account of the applicant is not positively convincing, and therefore not credible, that point of view can also not be deemed as sufficiently reasoned"</p> <p><i>"Nu de verklaringen van de vreemdeling over de door haar ondergane folteringen worden ondersteund door medisch bewijs,</i></p>



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	<p><i>heeft de minister zich, in het licht van de onder 2.5.3. weergegeven jurisprudentie van het EHRM, in dit geval ten onrechte zonder nadere motivering op het standpunt gesteld dat de verklaringen van de vreemdeling over genoemde folteringen ongeloofwaardig zijn. Aangezien dat standpunt mede dragend is geweest voor het standpunt van de minister dat ook de overige verklaringen van de vreemdeling geen positieve overtuigingskracht hebben en derhalve ongeloofwaardig zijn, kan dat standpunt evenmin deugdelijk gemotiveerd worden geacht"</i></p>
<p><i>Outcome</i></p>	<p>Further appeal of the applicant was well-founded. Decision on asylum application annulled.</p>