



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	200805962/1
Other Citation Number	LJN BJ3621
Date Decision Delivered	21-07-2009
Country of Applicant/Claimant	Sierra Leone
Keywords	Credibility, Assessment of facts and circumstances
Head Note (Summary of Summary)	The Council of State ruled that the state secretary has a margin of appreciation when assessing the credibility of the asylum story, this means that the judge must examine this assessment in a reserved manner.
Case Summary (150-500)	The applicant was taken by rebels in Sierra Leone and held in a rebel camp from 25 May 1998 until 2 July 2001. He was forced to carry stolen goods and participate in fighting.
<i>Facts</i>	The applicant applied for a permanent asylum permit. This application was rejected on the basis that the applicant's asylum story was found not credible due to the fact that the applicants suspicions that if expelled he fears revenge from the authorities or the local population for having stayed in a rebel camp, are not realistic. The appeal against this decision before the district court was well-founded (Groningen, AWB 07/34730, 20-06-2008).
<i>Decision & Reasoning</i>	<p>The facts submitted by the applicant were found credible by the state secretary, the fear the applicant derives from those facts were, however, found to not be realistic. The state secretary argued that the district court, in assessing whether the stated fear of the applicant for the authorities and population of Sierra Leone was realistic, wrongfully did not assess the state secretary's view in a reserved manner.</p> <p>Regarding the manner in which the state secretary must assess the facts and circumstances, and the role of the courts in this matter, the Council of State held:</p> <p>„As the Council of State has previously held (as in the judgment of 27 February 2003 in case nr. 200206297/1), the state secretary has a margin of appreciation when applying the mentioned policy in an actual case. (...) This manner of assessing the credibility of the asylum story by the state secretary means that the court must examine this assessment in a reserved manner.”</p>



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	<p>The Council of State continued: “(…)the abovementioned also applies to the assessment by the state secretary of the level of reality of the suspicions that have not been substantiated. The Council of State held that the applicant’s suspicions that are part of the events that have taken place according to his asylum story are to be differentiated from the applicant’s suspicions that are based on those events regarding what will happen if returned to his country of origin. The court has to assess, in the aforementioned reserved manner, whether the state secretary could reasonably have considered that the asylum seeker’s suspicions, which are part of the events that have taken place according to his asylum story, are not to be deemed plausible and, therefore, cannot be found credible. In the assessment by the court of the position of the state secretary regarding the level of reality of the applicant’s suspicions, as based on facts and circumstances that have been found credible as to what he can expect on return to his country of origin, there is, however, room for such a reserved manner of examination.”</p> <p><i>“(…)geldt het vorenstaande ook voor de beoordeling door de staatssecretaris van het realiteitsgehalte van de niet gestaafde vermoedens. De Afdeling is evenwel thans van oordeel dat in dat opzicht van de vermoedens van de vreemdeling die deel uitmaken van de gebeurtenissen die volgens zijn asielrelaas hebben plaatsgevonden, dienen te worden onderscheiden de door de vreemdeling aan die gebeurtenissen ontleende vermoedens over wat hem bij terugkeer naar het land van herkomst te wachten staat. De rechter dient met de terughoudendheid als hiervoor omschreven te toetsen of de staatssecretaris zich in redelijkheid op het standpunt heeft kunnen stellen dat de vermoedens van de vreemdeling die deel uitmaken van de gebeurtenissen die volgens zijn asielrelaas hebben plaatsgevonden, niet plausibel te achten zijn en dientengevolge niet als geloofwaardig kunnen worden aangenomen. Bij de toetsing door de rechter van het standpunt van de staatssecretaris omtrent het realiteitsgehalte van de door de vreemdeling aan de niet ongeloofwaardig geachte feiten en omstandigheden ontleende vermoedens over wat hem bij terugkeer naar het land van herkomst te wachten staat, is voor evenbedoelde terughoudendheid evenwel geen plaats.”</i></p> <p>The Council of State concluded that the district court rightfully did not assess the applicant’s suspicions of what he could expect if returned to Sierra Leone in a reserved manner.</p>
<p><i>Outcome</i></p>	<p>The further appeal was well-founded and the underlying judgment was confirmed.</p>