

Kafka revisited: the Netherlands government and administrative courts and unjust group accusations of crimes against humanity against former Afghan security staff

Appendix: Annotated list of articles of international laws and treaties and national laws ignored in the drafting, use, and upholding of the KhAD-WAD report, 2000-present.

Dr. Joost Brouwer, May 2026

The refutation refers to:

J. Brouwer 2016, *Justice or Politics? Rebuttal of the official report by the Netherlands Ministry of Foreign Affairs concerning the Afghan secret services KhAD and WAD dated 29 February 2000. Proof of selective use of evidence, biased choice of sources, misrepresentation of facts and possible fraud, based on the same sources as used by the compilers of the report* (in English, with Dutch summaries). abc1f.nl , document 2 (retrieved 26 February 2026).

The first NJB article refers to:

J. Brouwer & P. Bogaers, Why the country report by the Netherlands Ministry of Foreign Affairs of 29 February 2000 on the Afghan secret service KhAD and overarching ministry WAD is unreliable and incorrect, English translation of *Nederlands Juristen Blad [Netherlands Law Review]* 2018/750, vol. 16, pp. 1104-1111. Original article and English translation both available at abc1f.nl, at top of page (retrieved 26 February 2026).

The second NJB article refers to:

J. Brouwer, 'The KhAD-WAD country report - part 2. Politicians continue to violate to the rule of law where this official report is concerned', English translation of *Nederlands Juristen Blad [Netherlands Law Review]* 2020/1052, vol. 17, pp. 1232-1238. Original article and English translation both available at abc1f.nl, at top of page (retrieved 26 February 2026).

Note that all documents referred to in the footnotes are in Dutch, unless otherwise indicated.

If former KhAD and WAD employees are accused and/or suspected of crimes against humanity or war crimes, those accusations and/or suspicions may not be based (in whole or in part) on the KhAD-WAD report of February 29, 2000. In the drafting, using and upholding of 'the accusatory conclusions of the KhAD-WAD report of February 29, 2000' (hereinafter: the report), the following treaty articles, articles of law and regulations have been ignored:

- **the requirements of the Vice-minister of Justice and Security himself for a reliable document** (paragraph 1)
- **Articles 45(2), 10(3) and 46(3) of the Procedures Directive 2013 of the European Union (and corresponding articles of the Procedures Directive 2005)** (paragraphs 2-4)
- **Articles 6 and 13 of the European Convention on Human Rights (ECvHR)** (paragraphs 5-6)
- **Articles 2:4, 3:2, 3:8, 3:9, 3:46, 3:49, 8:34, and 8:42 of the Netherlands General Administrative Law Act (Awb)** (paragraphs 7-14)
- **Art. 225 of the Netherlands Penal Code** (paragraph 15)
- **Articles 18, 41 and 47 of the Charter of Fundamental Rights of the European Union** (paragraphs 16-18)

- **Articles 7, 8, 10, 12, and 14 of the Universal Declaration of Human Rights** (paragraphs 19-23)
- **many articles of the Code of Conduct for Experts in Civil and Administrative Law Proceedings and the Code of Conduct for Experts of the Council of State itself** (paragraphs 24-25)
- **Article 4(1) of the Qualification Directive 2011 of the European Union**(paragraph 26)
- **Article 267(3) of the Treaty on the Functioning of the European Union of 2009** (paragraph 27)

1. The requirements of the Vice-minister for Justice and Security himself for a document to be taken into account in decisions on residence procedures are as indicated in italics (see Rb Arnhem NL23.13346, November 15, 23, paragraph 3.1):¹

- all information from a source must be dated and recorded accurately;

This did not happen for the KhAD-WAD report: there is only a summary by the Embassy employee of what his fixer/interpreter allegedly said that his confidential sources allegedly said that informants unknown to the Ministry of Foreign Affairs and the Ministry of Justice allegedly said (see the letters to and from the Ministry of Foreign Affairs dated 20 September and 28 November 2018², respectively, and also the memorandum of 14 April 2000, from the Embassy in Islamabad to the Ministry of Foreign Affairs in The Hague³).

- reporting must not be minimal and information flows must be transparent;

Neither of these conditions has been met in relation to the alleged information from unknown sources that the sweeping accusations in the KhAD-WAD report are entirely dependent on, see above.

- the reliability of the persons mentioned in the report must be verifiable, especially where oral statements are concerned;

The reliability of the (alleged) informants of the confidential sources cannot be verified because even the Ministry of Foreign Affairs and the Ministry of Justice do not know who they are (see the general description of these informants in the memorandum of April 14, 2000, which does not mention any sources or other verifiable information).

Where information comes from a third party, it must be objectively verifiable.

In the case of the KhAD-WAD report, this verification did not take place; and where the accusatory information was verified, for example by the UNHCR, the opinion was invariably that the accusations in the KhAD-WAD report against all KhAD and WAD officers and NCOs were incorrect; see also paragraph 2 below.

- The relationships between the parties involved in a statement must be clear.

If, as in the case of the KhAD-WAD report, it is not clear who the informants are, then the relationships between those informants and the other parties involved are also unclear; see also Olivier's comments on the Council of State's key ruling of November 30, 2004.⁴

- It must be clear whether a source was able to provide the information that it provided.

If, as in the case of the KhAD-WAD report, it is not clear who the informants are, then it is also unclear whether they were able to provide the alleged information.

¹ Court of The Hague (location Arnhem) 15 November 2023, ECLI:NL:RBDHA:2023:18504, final ruling, section 3.1 second part. And also the associated provisional ruling of the Court of The Hague (location Arnhem) 15 November 2023, ECLI:NL:RBDHA:2023:18503. abc1f.nl, document 26 (retrieved 26 February 2026).

² For the letters of by the Ministry of Foreign Affairs of 20 September and 28 November 2018, see appendices 3a and 3b to the second NJB article; abc1f.nl documents 9a and 9b, retrieved 26 February 2026).

³ Memorandum of 14 April 2000 from the Embassy in Islamabad to the Ministry of Foreign Affairs in The Hague, p. 2, paragraph 1: appendix 3b to the first NJB article, abc1f.nl document 3b (retrieved 26 February 2026).

⁴ B.K. Olivier, critical annotations to ABRS (Council of State) 30 November 2004, ECLI:NL:RVS:2004:AR736, *Justitiële Verkenningen* 2005/49, end of paragraph 2.. abc1f.bl, document 12-2 (retrieved 26 February 2026).

- It must be clear what interest a source has or does not have in a case in order to determine whether that source is objective.

If, as in the case of the KhAD-WAD report, it is not clear who the informants are, then it is also unclear whether they have an interest (positive or negative) in KhAD-WAD residence cases in the Netherlands, and whether they are and were objective.

Nevertheless, the Vice-minister continues to use the KhAD-WAD report to reject applications. This alone indicates the State Secretary's bias in KhAD-WAD residence-related cases, contrary to Article 2:4 of the General Administrative Law Act.

2. Article 45 (2) of the Procedures Directive 2013 of the European Union, on the withdrawal of international protection (the same as Article 38(1) of the Procedures Directive 2005):

2. In addition, Member States shall ensure that within the framework of the procedure set out in paragraph 1:

(a) the competent authority is able to obtain precise and up-to-date information from various sources, such as, where appropriate, from EASO and UNHCR

The allegations in the KhAD-WAD report have not been verified by the Ministry of Foreign Affairs or the Ministry of Justice with anyone. Where this has been done by lawyers, the opinion has invariably been that the allegations in the KhAD-WAD report against all KhAD and WAD officers and non-commissioned officers are incorrect. According to the sixteen court rulings that the KhAD-WAD official report is incorrect, all of which have been overturned by the Council of State,⁵, the allegations against ALL KhAD and WAD officers and non-commissioned officers

⁵ The sixteen district court rulings in which it was concluded that the accusatory conclusions in the KhAD-WAD report were insufficiently reliable, and that were overturned by the Council of State, are as follows. The three key overturnings by the Council of State that are discussed in detail in this review are indicated in **bold**. All these rulings, to the extent that have been published, are available at abc1f.nl, under documents 12-1 to 12-16 (all documents retrieved 26 February 2026).

1. District Court of **Arnhem** AWB 02/5292, 23 January 2004, ECLI:NL:RBSGR:2004:AO3020; overturned in Council of State ABRvS 200401637/1, 2 August 2004, ECLI:NL:RVS:2004:AQ7417.

2. District Court of **Rotterdam** AWB 02/14814, 8 April 2004, ECLI:NL:RBSGR:2004:AP1289; overturned in Council of State **ABRvS 200404008/1, 30 November 2004, ECLI:NL:RVS:2004:AR736**.

3. District Court of **Haarlem** AWB 07/39347, 18 February 2009 (unpublished but available at abc1f.nl, under document 12-3); overturned in Council of State **ABRvS 200901907/1/V1, 24 September 2009, ECLI:NL:RVS:2009:BJ8654**.

4. District Court of **Haarlem** AWB 07/24799, 18 February 2009, ECLI:NL:RBSGR:2009:BH3701; overturned in Council of State ABRvS 200901921/1/V1, 29 October 2009, ECLI:NL:RVS:2009:BK3024.

5. District Court of **Rotterdam** AWB 08/11368, 25 February 2009, ECLI:NL:RBSGR:2009:BH4068; overturned in Council of State ABRvS 200902119/1/V1, 29 October 2009, ECLI:NL:RVS:2009:BK3028.

6. District Court of **Breda** Awb 08/27194, 08/27196, 08/29596, 08/29598 and 08/29600, 29 April 2009; attached to and overturned in Council of State ABRvS 2009/04028/1/V1, 7 December 2009, ECLI:NL:RVS:2009:385.

7. District Court of **Zwolle** AWB 09/11468 and 09/11470, 24 April 2009; attached to and overturned in Council of State ABRvS 200903220/1/V2, 22 December 2009, ECLI:NL:RVS:2009:168.

8. District Court of **Almelo** AWB 08/39686, 28 April 2009, ECLI:NL:RBSGR:2009:BI8212; overturned in Council of State ABRvS 200904159/1/V1, 22 January 2010, ECLI:NL:RVS:2010:BL1649.

9. District Court of **Haarlem** AWB 08/34931 and 08/34930, 17 April 2009, ECLI:NL:RBSGR:2009:BI2755; overturned in Council of State ABRvS 200903436/1/V2, 23 February 2010, ECLI:NL:RVS:2010:BL7612.

10. District Court of **Haarlem** AWB 10/17614, 27 May 2011, ECLI:NL:RBSGR:2011:BQ6757;

have been (and are being) refuted by the following sources [the relevant court rulings in note 5 are referred to by the numbers in square brackets]:

- Amnesty International 2004 [2,12], 2010 [14];
 - UNHCR 2007 [3,4,5,8,9,11,12,13,14] 2008 [3,4,5,6,7,8,9,10,11,12,13,14,15,16] 2009 [7,11,13,14] 2010 [10,12,14,15,16] 2011 [16];⁶
 - internationally recognised Afghanistan expert Dr. A. Giustozzi (London School of Economics (LSE) 2003 [2,3,4,8,9,11], 2005 [3,4,9] 2006 [3,4,5,8,9,12,13])⁷
 - internationally recognised Afghanistan expert Dr. B.R. Rubin (Center on International Cooperation New York University) 2007 [3,4,8,11,12];⁸
 - Former KGB archivist Vasilij Mitrokhin 2002 [3,4,5,8];⁹
 - Professor of International Relations Fred Halliday (LSE)¹⁰
 - and journalist in Kabul until 1992, researcher at the LSE and permanent representative of Afghanistan to the UN Zahir Tanin 1998 [3,4,5,8];¹¹
 - documents from before February 2000 from the UN Special Rapporteur [see UNHCR 2010]
 - documents from before February 2000 from Human Rights Watch [see UNHCR 2010]
 - documents from before February 2000 from Amnesty International [see UNHCR 2010];
 - Afghanistan experts in Australia, the US, and Sudan [see UNHCR 2010];
 - a former assistant to the UN Special Rapporteur [see UNHCR 2010];
 - a former employee of Human Rights Watch [see UNHCR 2010];
- The sweeping allegations in the KhAD-WAD report have also been questioned by the [Dutch] Advisory Committee on Aliens Affairs 2008, p.2 paragraph 2 [6,14].¹²
- The accusatory conclusions have been contradicted as well by the following Afghan sources:
- Speakers of the Afghan Parliament 2007 [3,5,8,11] 2008 [7,8,14] 2009 [7,13,14];¹³
 - members of the Afghan Parliament 2009 [7,13,14];
 - the secretary of the [Afghan] Commission for International Affairs 2009 [7];

overturned in Council of State **ABRvS 201106991/1/V1, 13 April 2012, ECLI:NL:RVS:2012:BW4347.**

11. District Court of **Haarlem** AWB 09/2422, 17 December 2010; attached to and overturned in Council of State ABRvS 201100658/1/V1, 13 April 2012, ECLI:NL:RVS:2012:BW4286.

12. District Court of **Haarlem** AWB 08/45025, 24 June 2011 (unpublished); overturned in Council of State ABRvS 201107836/1/V4, 11 September 2012, ECLI:NL:RVS:2012:373.

13. District Court of **Haarlem** AWB 09/6940, 17 December 2010 (unpublished); overturned in Council of State ABRvS 201100646/1/V1, 2 October 2012, ECLI:NL:RVS:2012:328.

14. District Court of **Haarlem** AWB 10/14431, 22 November 2011 (unpublished); overturned in ABRvS 201112917/1/V1, 27 February 2013, ECLI:NL:RVS:2013:3441 .

15. District Court of **Haarlem** AWB 11/19418, 17 February 2012, ECLI:NL:RBSGR:2012:2932 (unpublished); overturned in Council of State ABRvS 2012024436/1/V3, 26 July 2013, ECLI:NL:RVS:2013:522.

16. District Court of **Rotterdam** AWB 10/38857, 28 June 2012 (unpublished); overturned in Council of State ABRvS 201207458/1/V4, 29 July 2013, ECLI:NL:RVS:2013:632.

⁶ UNHCR 2008, Notes on the structure and operation of the KhAD-WAD in Afghanistan 1978-1992 (in English). abc1f.nl, document 28. (retrieved 29 December 2025).

⁷ Letter by Afghanistan expert Dr. A. Giustozzi, 2003 (in English). abc1f.nl, document 17 (retrieved 29 December 2025).

⁸ Letter by Afghanistan expert Dr. B. Rubin, 2007 (in English). abc1f.nl, document 16 (retrieved 29 December 2025)

⁹ See mention in paragraph 3 of letter by Dr. A. Giustozzi, full reference in note 44.

¹⁰ See mention in paragraph 3 of letter by Dr. A. Giustozzi, full reference in note 44.

¹¹ See mention in paragraph 3 of letter by Dr. A. Giustozzi, full reference in note 44.

¹² ACVZ 2008, [Article 1F of the Refugee Convention in Dutch asylum policy, advisory report of the Advisory Committee on Alien Matters] *Artikel 1F Vluchtelingenverdrag in het Nederlands vreemdelingenbeleid*, advies van de Adviescommissie voor Vreemdelingenzaken, The Hague: ACVZ 2008, p.8 item 20 (in Dutch).

¹³ Letters by Speakers of the House of Representatives of Afghanistan (in English). abc1f.nl, documents 5a and 5b (retrieved 26 February 2026).

- Afghan legislation on entry rank and promotion policy in the armed forces [see UNHCR 2008];
- a large number of former KHAD/WAD employees of various ranks (3rd lieutenant to general) [see UNHCR 2010];
- senior security officials in the Afghan government in 2008-2010 [see UNHCR 2010];
- the Afghan Ministry of Foreign Affairs (2007) [11];
- the Afghan Consulate General 2007 [3, 11, 13], 2008 2x [7, 13];
- and the Afghan Organization of Human Rights and Environmental Protection (2009, 2010) [14].

Note that at the very least the international organisations and experts on this list would have no conceivable reason to give false statements about the functioning of the KhAD and WAD.

3. Art. 10(3) of the Procedures Directive 2013 of the European Union, on the examination of applications for international protection (the same as Art. 8(2) of the Procedures Directive 2005).

3. Member States shall ensure that decisions by the determining authority on applications for international protection are taken after proper examination. To that end, Member States shall ensure that:

- a) applications are examined and decisions are taken individually, objectively, and impartially;*
- (b) precise and up-to-date information is gathered from various sources, such as EASO and UNHCR and relevant international human rights organisations, as to the general situation prevailing in the countries of origin of applicants and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions;*
- c) the personnel examining applications and taking decisions know the relevant standards applicable in the field of asylum and refugee law;*
- d) the personnel examining applications and taking decisions have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, child-related or gender issues.*

In the case of the KhAD-WAD report, none of this appears to have happened, or the results have been withheld. Where verification has been carried out by lawyers, the opinion has consistently been that the accusations in the KhAD-WAD report against all KhAD and WAD officers and non-commissioned officers are incorrect; see paragraph 2 above.

4. Art. 46(3) of the Procedures Directive 2013 of the European Union, with regard to appeal procedures (Art. 39(1) of the Procedures Directive 2005 is similar, although it does not refer to a 'full and ex nunc examination' as such).

In order to comply with paragraph 1, Member States shall ensure that an effective remedy includes a full and ex nunc examination of both facts and points of law ...

By adhering to the conclusions of the -demonstrably incorrect- KhAD-WAD report from 2000, and by dismissing counter-information without investigation and without refuting it, the immigration service IND and its Unit 1F, as well as the district courts involved since 2017, fail in their duty to conduct a full and *ex nunc* examination of facts and points of law. In addition, the Council of State fails in its duty to hold the IND and the Unit 1F to their legal obligations.

See also the conclusion of the Advocate General of the Court of Justice of the European Union of 19 March 2026, cases C-7/25 Ramodi and C-8/24 Karkik, par. 74. The AG concluded that "a national court of first instance, called upon to review the lawfulness of a decision rejecting an application for international protection as unfounded, [is required] to carry out of its own motion if necessary, a full and *ex nunc* examination of both the factual and legal grounds for that decision, on the basis of the elements of the file brought to its attention, as supplemented or clarified following adversarial proceedings, regardless of whether all of those elements were included in the grounds of appeal by which the judicial review was initiated. Such an examination of its own motion must include an assessment of both the need for international protection in accordance with the applicable EU law and respect for the principle of non-refoulement about to obligation for courts of first instance." The summary dismissal of counter-evidence by the lower courts, without investigating it and without disproving it, as happened in al

the KhAD and WAD 1F cases since 2017, runs counter to this conclusion of the Advocate General.

5. **Art. 6 ECvHR, *Right to a fair trial ... by an independent and impartial tribunal***
When information presented in the proceedings that contradicts the correctness of a government decision is not refuted by the court, but ignored or dismissed without substantive justification, whether or not with reference to older court rulings in which that counter-information has also not been refuted, as has been the case since 2017 and continues to be the case in KhAD-WAD 1F cases,¹⁴ then that court is not independent and impartial and the trial is not fair.
6. **Art. 13 ECvHR, *Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.***
If the Council of State (and the district court) refuses to discuss the substance of information submitted that contradicts the correctness of a government decision, but ignore that information or dismiss it without substantive justification, whether or not with reference to older court rulings in which that counter-information has also not been refuted, as has been the case since 2017 and continues to be the case in KhAD-WAD 1F cases,¹⁵ then there is no effective remedy.
7. **Art. 2:4 Awb, *The administrative body shall perform its duties without bias.***
The rest of this list of infractions shows that such bias did and does exist at the Ministry of Foreign Affairs and the Ministry of Justice (and also at the Council of State).
8. **Art. 3:2 Awb, *In preparing a decision, the administrative body shall gather the necessary knowledge about the relevant facts and the interests to be weighed.***
The expression 'shall gather' can only mean 'shall gather and shall show that is has gathered'. Facts that contradict the final conclusion or decision are of course also relevant. The KhAD-WAD report and the underlying documents only contain information that is alleged to support the report's conclusions, even though contradicting information was already widely available at

¹⁴ Information proving in the incorrectness and unreliability of the sweeping accusations in the KhAD-WAD report, as presented in the refutation and the two NJB [Netherlands Law Review] articles (see the references at the beginning of this document), was swept aside in the following district court rulings, without *any* substantial counterargument and without disproving any of the facts presented (all documents on abc1f.nl retrieved 26 February 2026):
Court of The Hague (location Zwolle) AWB 17/308, 4 July 2017, ECLI:NL:RBDHA:2017:12437; on appeal standard rejection of two paragraphs, ABRS (Council of State) 201706160/1/V2, 22 December 2017 (unpublished). abc1f.nl, document 18
District Court of Den Bosch AWB 17/8404, 29 January 2018, ECLI:NL:RBOBR:2018:424 unpublished; on appeal standard rejection of two sentences, ABRS (Council of State) 201801227/1/V2 (unpublished). abc1f.nl, document 19.
District Court of Den Bosch AWB 17/9050, 11 December 2018, ECLI:NL:RBDHA:2018:15049; according to the lawyer, on appeal standard rejection of two sentences, unpublished. abc1f.nl, document 20.
District Court of Arnhem, 17 June 2021, ECLI:NL:RBDHA:2021:7706; according to the lawyer, on appeal standard rejection of two sentences, unpublished. abc1f.nl, document 21.
Utrecht District Court, 14 March, 2022, NL21.13114; on appeal standard rejection of two sentences, ECLI:NL:RVS:2022:1268, 2 May 2022. abc1f.nl, document 22.
District Court of Den Bosch, 16 June, 2023, NL22.14007 (unpublished); in appeal a preliminary ruling has been asked of the European Court of Justice by the Council of State on 25 August 2025, ECLI:NL:RVS:2025:4046. abc1f.nl, document 23.

District Court of Middelburg, 17 april 2024, NL24.2704, ECLI:NL:RBDHA:2024:5906. Interim measure granted by the Council of State 11 September 2025 ECLI:NL:RVS:2025:4362, because of the preliminary ruling requested of the European Court of Justice as mentioned under the preceding ruling. abc1f.nl, document 24.

¹⁵ See the rulings in the preceding note.

the time of publication of the report: see the translations of especially the first NJB article.. Even now, the Unit 1F of the IND, in violation of Art. 2.4 and 3.2 Awb, never comes up with information that contradicts the accusations, such as **counter-information from the Ministry of Foreign Affairs and the Ministry of Justice themselves** and from experts, as described in for instance the second NJB article. Not a single fact of these two articles has ever been refuted by the Ministry of Foreign Affairs, the Ministry of Justice, the courts, or the Council of State. **If that counter-information is incorrect, then surely the Ministry of Foreign Affairs, the Ministry of Justice, the courts, and the Council of State would have refuted it in the past eight and six years respectively?**

9. Art. 3:8 Awb, *The decision shall mention the advisor who has given advice.*

No advisor is mentioned in the KhAD-WAD report, which means that it cannot be verified whether that advisor is competent, impartial, and unbiased. If the fourth-hand rumours on which the accusations against ALL KhAD and WAD officers and NCOs can even be called advice. The advisors on which the KhAD-WAD report is based, the alleged informants of the confidential sources of the fixer/translator of the Embassy employee, are unknown even to the Ministry of Foreign Affairs and the Ministry of Justice. Well-known advisors, such as Amnesty International and UNHCR, all contradict the conclusions of the KhAD-WAD report (see paragraph 2 above).

10. Art. 3:9 Awb, *If a decision is based on an investigation into facts and conduct carried out by an advisor, the administrative body must ensure that this investigation has been conducted with due care.*

As demonstrated in the second NJB article,¹⁶ the Ministry of Justice has never fulfilled its duty to ascertain the thoroughness of the investigation on which the KhAD-WAD report's decision was based. The Council of State is not the legislator and cannot make an exception to a section of the law with a ruling; only the legislator can do so by amending that section.

11. Art. 3:46 Awb, *A decision must be based properly justified.*

If a decision is based on a false document, which the KhAD-WAD report is, demonstrably and unrefuted, then that decision is by definition not properly justified. The arguments of experts regarding the falsity of the KhAD-WAD report, as listed in the two NJB articles and under point 2 above, have never been refuted by anyone, not even by the Ministry of Foreign Affairs, the Ministry of Justice, the courts, or the Council of State.

If information presented in a court ruling is not refuted, but is ignored or dismissed without substantive justification, whether or not with reference to older court rulings in which that counter-information has also not been refuted, then that new ruling is by definition also not properly justified.

12. Art. 3:49 Awb, *To justify a decision or a part of a decision, it can be sufficient to refer to an [expert] opinion issued for that purpose, if the opinion itself contains the justification and if the opinion has been or will be made known.*

If that underlying opinion is a false document, which the KhAD-WAD report is, demonstrably and unrefuted, , then reference to that KhAD-WAD report is not sufficient grounds for a decision to reject a residence-related application.

13. Art. 8:34 Awb, *The expert who has accepted his appointment is obliged to perform his duties impartially and to the best of his knowledge.*

In the case of the KhAD-WAD official report, the compilers of the official report did not perform their duties impartially. For example, they never verified the allegations against all KhAD and WAD officers and NCOs with international organisations. And the assertion in the memorandum of April 14, 2000, that the accusations did not in fact differ from what international sources said about them, 'just check those sources and search for KhAD', was in fact fraudulent: see the

¹⁶ Second NJB article, p.7-8 of the translation, section 'The Ministry of Justice interfered ...', abc1f.nl, top of page . Plus the appendices from the Ministry of Justice itself mentioned therein, abc1f.nl, documents 10a, 10b and 10c (all documents retrieved 26 February 2026)

letters to and from the Ministry of Foreign Affairs (appendices to the second NJB article, abc1f.nl, documents 8a through 8d) as well as the first NJB article, p. 1109 left column (abc1f.nl, at top of page). (all documents retrieved 26 February 2026).

- 14. Art. 8:42 Awb,** *Within four weeks of the date of dispatch of the grounds for the appeal to the administrative body, the latter shall send the documents relating to the case to the administrative court ...*

Sending 'the documents relating to the case' to the administrative court means all documents relating to that case, including, on its own initiative, documents that contradict the IND's decision. In my experience, Unit 1F of the IND never sends information to the court on its own initiative that could undermine its decision, such as the NJB articles and the information mentioned therein, including information from the Ministry of Foreign Affairs and the Ministry of Justice itself. The Unit 1F certainly hasn't done so in KhAD-WAD 1F cases.

- 15. Art. 225 of the Netherlands Penal Code,**

1. *Anyone who falsely draws up or falsifies a document intended to serve as evidence of any fact, with the intention of using it or having it used by others as authentic and genuine, shall be punished as guilty of forgery, with a maximum prison sentence of six years or a fifth category fine.*

2. *The same penalty shall be imposed on anyone who deliberately uses the false or forged document as if it were authentic and genuine, or who deliberately delivers or possesses such a document, while knowing or reasonably suspecting that this document is intended for such use.* That the KhAD-WAD official report of February 29, 2000, is a false document has been conclusively proven in, among other things, the two NJB articles. The fact that the Embassy employee in Islamabad did not tell the truth in the memorandum of April 14, 2000, about the alleged international support for the conclusions of the official report has also been demonstrated in both NJB articles. By continuing to uphold the official report, and by continuing to use it to reject residence-related applications from former KhAD and WAD officers and non-commissioned officers, the Ministry of Foreign Affairs and the Ministry of Justice and Security—including Unit 1F of the IND—are in violation of Article 225 of the Netherlands Penal Code.

- 16. Article 18 of the Charter of Fundamental Rights of the European Union:** *The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred to as 'the Treaties').*

See the conclusion of the Advocate General of the Court of Justice of the European Union of 19 March 2026, in the Cases C-7/25 Ramodi and C-8/25 Karkik, par. 74.

- 17. Article 41 of the Charter of Fundamental Rights of the European Union:** *Everyone has the right to have their affairs handled impartially, fairly and within a reasonable time by the institutions, bodies offices and agencies of the Union.*

The preceding Article 40 in the same chapter of the Charter concerns municipal elections. This Article 41 must therefore also apply to national institutions and bodies. In view of the above, including violations of international laws and treaty articles and of national laws, there is no question of impartial and fair, and therefore proper, administration in the KhAD-WAD 1F affair.

- 18. Article 47 of the Charter of Fundamental Rights of the European Union:** *Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.*

See the discussion in point 5 above, on systematic violation in the KhAD-WAD 1F affair of Art. 6 ECvHR, which corresponds to this Art. 47 of the European Charter.

See also the conclusion of the Advocate General of the Court of Justice of the European Union of 19 March 2026, cases C-7/25 Ramodi and C-8/24 Karkik, par. 74.

- 19. Art. 7 of the Universal Declaration of Human Rights:** *All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal*

protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Given the violations described above of the EU Procedures Directive 2013, the European Convention on Human Rights, the Netherlands General Administrative Law Act, the Netherlands Penal Code, the Charter of Fundamental Rights of the European Union and (below) the EU Qualification Directive 2011, by the government and the judiciary in the KhAD-WAD 1F affair, there is no question of equal protection under the law in this affair.

- 20. Article 8 of the Universal Declaration of Human Rights:** *Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.*

In view of the above, a number of judges in courts and in the Council of State, by steadfastly and blindly upholding the unfounded sweeping accusations in the KhAD-WAD report, have also failed to comply with this article in the KhAD-WAD 1F affair, .

- 21. Art. 10 of the Universal Declaration of Human Rights:** *Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.*
This article should, of course, also apply in administrative law proceedings. See point 5 above regarding the lack of independence and impartiality of a number of judges in courts and the Council of State in the KhAD-WAD 1F affair.

- 22. Art. 12 of the Universal Declaration of Human Rights:** *No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.*

The false accusations based on the incorrect and unreliable KhAD-WAD official report are a clear and unjustified attack on the honour and reputation of those unjustly accused.

- 23. Art. 14 of the Universal Declaration of Human Rights:** *1. Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.*

Because the accusations against the former KhAD and WAD officers and NCOs are false, their right to asylum as mentioned in the first sentence of this article has been violated.

- 24. Many articles of the Code of Conduct for Judicial Experts in Civil and Administrative Law Cases** have also been violated in the KhAD-WAD 1F affair: compare the above with that code of conduct.¹⁷

- 25. Similarly, many articles of the Code of Conduct for Experts of the Council of State itself** have been violated in the KhAD-WAD 1F affair: compare the above with that code of conduct.¹⁸

- 26. Art. 4 (1) of the Qualification Directive 2011 of the European Union:** *1. Member State may consider it the duty of the applicant to submit as soon as possible all the elements needed to substantiate the application for international protection. In cooperation with the applicant, it is the duty of the Member State to assess the relevant elements of the application.*

Because former KhAD and WAD employees were explicitly not involved in drafting the KhAD-WAD report (memorandum from the Embassy in Islamabad to the Ministry of Foreign Affairs in The Hague dated April 14, 2000, p. 2, last paragraph; abc1f.nl, documents 3a and 3b), this requirement of cooperation with the applicant has not been met. See also the annotation by R. Fernhout to the KhAD-WAD 1F key ruling by the Council of State of 24 September, 2009. abc1f.nl, under document 12-3. (all documents retrieved 26 February 2026).

¹⁷ <https://www.rechtspraak.nl/SiteCollectionDocuments/Gedragscode-voor-gerechtigde-deskundigen-in-civielrechtelijke-en-bestuursrechtelijke-zaken.pdf>. (retrieved 26 February 2026).

¹⁸ <https://www.raadvanstate.nl/publicaties/regelingen/gedragscode/> (retrieved 26 February 2026).

27. Article 267(3) of the Treaty on the Functioning of the European Union of 2009, concerning the referral of questions regarding EU law to the Court of Justice of the European Union:

The Grand Chamber of the Court of Justice of the European Union, in response to a request for a preliminary ruling from the Netherlands Council of State, ruled on 24 March 2026 that the Council of State's summary way of dismissing appeals is contrary to Article 267 of the Treaty on the Functioning of the European Union of 2009, if one of the parties to the proceedings has raised a question concerning the interpretation or validity of a provision of Union law. Such a summary dismissal would only be allowed when one of the three exceptions set out in the Cilfit judgment applies.¹⁹

Article 267 TFEU concerns the referral of questions regarding EU law to the Court of Justice of the European Union. The expression 'summary dismissal by the Council of State' refers to the dismissal of an appeal in a single paragraph and without any specific assessment of arguments raised in the appeal, as has been done in all dismissals of KhAD-WAD 1F appeals since 2017. According to the Cilfit judgment, the highest court in a country – such as the Council of State in the Netherlands in matters of immigration law — is not required to refer a matter to the Court of Justice of the EU if it has established that the question raised is not relevant, or that the relevant provision of Union law has already been interpreted by the Court, or that the correct application of Union law is so obvious that there can reasonably be no room for doubt.²⁰ In KhAD-WAD 1F cases, none of these three conditions apply.

The rebuttal and the two Netherlands Law Review (NJB) articles do not explicitly invoke provisions of EU law. However, by stating that the KhAD-WAD report is a fraudulent report -insofar as it concerns the sweeping accusations against all KhAD and WAD officers and non-commissioned officers-, an implicit reference was made to, amongst other things, Article 41 (right to an impartial administration) and Article 47 (right to an effective remedy and to a fair trial) of the Charter of Fundamental Rights of the European Union of 2000.

In addition, the Council of State never addressed the observation by commentator Fernhout in 2009 that the KhAD-WAD report was drawn up in breach of Article 4(1) and (3) of the Definitions Directive and Article 8(2) of the Procedures Directive (see paragraph 4 above).

In the KhAD-WAD 1F affair, the Council of State has thus apparently disregarded Article 267(3) TFEU, at least since 2009 .

¹⁹ CJEU, 24 March 2026, C-767/23 (Remling), Netherlands, Morocco.

²⁰ CJEU 6 October 1982, C-283/81 (Cilfit), Italy.