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**UNHCR**  
United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

Facsimile Message

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To/A: **Rechtbank Amsterdam**  
**Tax de heer L. Fernández Ferrolro**

From/De: René Bruin

Date: 4 oktober 2010

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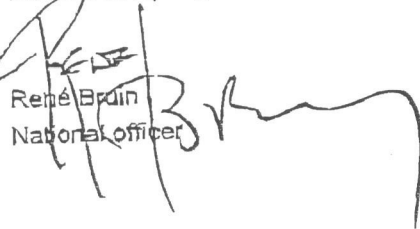
Subject: **Rechtbank procedure 06/24277**

Geachte heer/mevrouw,

Bij deze treft u aan het antwoord van UNHCR op de vragen zoals die zijn gesteld op 13 juli 2010.

Per reguliere post zal de brief, verzonden vanuit Genève, u eveneens bereiken.

Met vriendelijke groet

  
René Bruin  
National officer



04 October 2010

Dear Mr. Fernández Ferreiro,

The Office of the United Nations High Commissioner for Refugees (UNHCR) has noted with particular interest the questions raised by the Court in its letter dated 13 July addressed to UNHCR Afghanistan. UNHCR appreciates the cooperation with the District Court of Amsterdam. Below we reiterate/summarize your questions and provide you with our responses. These responses are offered without prejudice to UNHCR's position under the Convention on the Privileges and Immunities of the United Nations.

**1. Which sources were consulted?**

Below is an overview of sources that were consulted.

	KhAD/WAD Directorate / Section	Military Rank
1. KhAD/WAD Professional and Permanent Staff	Political Directorate	Lieutenant-Colonel (officer)
	Anti-rebellion Directorate	Colonel (officer)
	Anti-rebellion Directorate	Lieutenant Colonel (officer)
	Economy and Anti-Corruption Directorate	Colonel (officer)
	Directorate for Foreign Diplomatic Missions in AFG and AFG Missions abroad	Lieutenant Colonel (officer)
	Directorate for Foreign Diplomatic Missions in AFG and AFG Missions abroad	Brigadier General (officer)
	Finance Directorate (Head of Finance Directorate)	General (officer)

Mr L. Fernández Ferreiro  
 Legal Assistant, Regional Court of Amsterdam  
 P.O. Box 75399  
 1070 AJ Amsterdam  
 The Netherlands

2. Military Service within the Security Structures of the Government, including KhAD/WAD (Presidential Directive 041/Najibullah Regime)  These officers conducted their military service with the KhAD/WAD, according to the respective assignments. These officers were also known as the "041 Afzar" or the "Officers 041," as their services were regulated by the Presidential Directive 041, under the rule of President Najibullah.	Directorate of Press and Education	3 <sup>rd</sup> Lieutenant (reserve officer)
	Political Directorate	3 <sup>rd</sup> Lieutenant (reserve officer)
	Prosecutor's Office (Seconded to KhAD/WAD from the General Office of the Prosecutor during military service)	3 <sup>rd</sup> Lieutenant (reserve officer)

**2. In which period did UNHCR conduct its research? Did UNHCR conduct research before the 29 February 2000?**

In April 2008, during his visit to the Netherlands, the High Commissioner for Refugees offered to provide the Minister of Justice Hirsch Ballin with a background paper on the KhAD/WAD.

As stated in the "Note on the Structure and Operation of the KhAD/WAD in Afghanistan 1978-1992" the Note was prepared by UNHCR using information gathered from its research into the KhAD/WAD over the previous seven years (2001-2008), including recent interviews with knowledgeable sources. These include persons who had been associated with KhAD/WAD at the time. The Note clarifies that discussions had taken place with one leading academic expert on Afghanistan and sources within the KhAD/WAD.

UNHCR searched the documents issued by Mr. F. Ermacora, the UN Special Rapporteur for Afghanistan from 1984 onwards, in order to find out if these contained any allusions to a rotation policy within KhAD/WAD. Documents issued by Human Rights Watch and Amnesty International before February 2000 were also studied.

**3. Were interviews documented? Under which conditions would you consent to allow the Court access to the referred documents?**

Notes were made by UNHCR during the interviews. These notes are internal and subject to confidentiality assurances made at the time of the interviews. Sharing the results of these interviews would call into question such assurances. Summaries of the interviews can be made available. The interviews were not recorded on tape.

4. What kind of more general information has been collected over the years? Under which conditions would you consent to allow the Court access to these documents?

As referred to in the response to question 2 above, UNHCR gathered all kinds of available human rights information on Afghanistan. These documents are all in the public domain.

5. What kind of additional efforts have been undertaken?

In the summer of 2008 (and thereafter) UNHCR contacted the following experts on Afghanistan: Prof. Amin Saikal, Australia; Antonio Donino, Tufts University (former UNDP Afghanistan); Farid Zarif (UN Sudan); Darka Topali, UN Centre for Human Rights (previously assistant of Professor Felix Ermacora); Patricia Gossman (previously Human Rights Watch). None of them was able to confirm that KhAD/WAD used a rotation policy.

Subsequent to the May 2008 report, UNHCR established contact in the summer of 2010 with a former KhAD/WAD officer now working as a senior official in the Government of Afghanistan's National Security Council (NSC). The officer had joined the International Relations Department of KhAD/WAD immediately after his graduation in 1985. He categorically refuted - as have all our other KhAD/WAD sources - the Dutch Government's allegations of a rotation policy. He gave many concrete examples, his own career within the service being one. He also drew attention to the large number of former KhAD/WAD personnel working in the KhAD/WAD's successor organization, the National Directorate for Security (NDS), including a number of senior officials who held the same positions as they did during the KhAD/WAD period.

Two further high-level sources within the Presidential Security Service and the National Security Council (NSC), were also consulted. These sources had introduced UNHCR to the former KhAD/WAD officer referred to above. During these meetings, an offer was made to negotiate UNHCR access to current NDS personnel who also served during the KhAD/WAD period to demonstrate the absence of any rotation policy. UNHCR is following up on the issue with NDS in order to generate additional documented evidence and to establish new ex-KhAD/WAD sources within the NDS. UNHCR would be willing to share the results of this research and additional interviews once they have been completed.

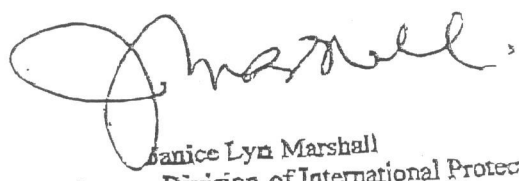
6. Would it be possible, after receiving the answers to the above questions, to call upon someone from your organization to testify about the conception of the aforementioned Note?

UNHCR hopes that the information provided in this letter and previous documents, which may be complemented by further research, will be considered sufficient. In UNHCR's view an oral testimony will not add new elements and may have repercussions for the security and safety of our sources, staff and operations.

As UNHCR understands that this letter will be shared with the parties involved in this case, we have refrained from mentioning the names of our sources in Afghanistan or from including any other information that may identify them. UNHCR may be able to share such information with the court provided assurances of confidentiality are provided to UNHCR by the Court.

UNHCR remains available to submit written replies to any future supplementary questions that may emerge.

Yours sincerely,



Janice Lyn Marshall  
Deputy Director, Division of International Protection