

13 April 2016

More intensive review of asylum decision by administrative courts

The Administrative Jurisdiction Division of the Council of State is intensifying the judicial review of administrative decisions in asylum cases.

This is apparent from a number of rulings by the Administrative Jurisdiction Division today (13 April 2016).

The Administrative Jurisdiction Division provides its interpretation of a rule in the European Asylum Procedures Directive about the manner in which the administrative courts should review the assessment of the State Secretary of the credibility of an asylum claim.

Review of credibility assessment

In certain parts of the credibility assessment, on the basis of the decision, the administrative court is just as capable as the State Secretary to assess whether an asylum claim is credible.

In those cases the administrative court reviews intensively. However, if the asylum seeker does not provide proof for his claims, but only gives his own account of what happened to him, then the State Secretary has a 'margin of discretion' to assess whether the asylum seeker should be believed or not. In such cases the administrative courts may not dismiss the credibility assessment of the State Secretary and substitute it for its own assessment of the credibility.

As a result of the Asylum Procedures Directive, the judicial review of the credibility assessment of an asylum claim will be more intensive than was common practice until now.

What doesn't change is that the administrative courts never assess an asylum claim independently, but that the starting point for their review is the State Secretary's decision on it.

Rulings

The two rulings with case numbers 201507952/1 and 201506502/1 in which the review procedure for the administrative courts is explained are published on the website of the Council of State.

The new review procedure has been applied in the rulings with case numbers 201601482/1, 201600227/1 and 201601595/1.