



ASSEDEL, L'Association européenne pour la défense des droits et des libertés
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Communications of ASSEDEL on the Right to Education of Migrants in the Netherlands

ASSEDEL (L'Association européenne pour la défense des droits et des libertés) is a non-profit organisation, governed by its statutes. Our objective is to disseminate, promote and defend human rights and fundamental freedoms in the spirit of the European Convention on Human Rights, within the Council of Europe and UN systems, at the local, national, and international levels.

We would like to bring to the attention of the Special Rapporteur the right-to-education information we have received concerning the continued violations of the education rights of asylum seekers, refugees, and migrants in the Netherlands.

In this contribution, we would like to call attention to the right to an education that has been enshrined in Article 13 (2) (b) of The International Covenant on Economic, Social and Cultural Rights (ICESCR) in the Netherlands. More precisely right to education of asylum seekers and migrants coming outside of the Netherlands aged 12 to 18 at the time this contribution is written 9 January 2023.

In the Netherlands for migrant children, there is a system in place to accommodate the transition of non-Dutch speaking children to the Dutch schooling system. For a maximum of two years, students can enrol in the International Transition Class, Internationale Schakelklas (ISK).¹ In ISK students can learn the Dutch language as quickly as possible. Students also receive citizenship education, which introduces them to Dutch society. Students are taught subjects

¹<https://www.uaf.nl/ondersteuning/ik-wil-studeren/studievoorbereiding/van-internationale-schakelklas-naar-mbo/>

such as math, English, sports, art, and drama. ISK helps students to transition to further education. ISK is a useful system to accommodate the transition period of refugee children and children coming from abroad. With intense language education, the students are prepared to continue their education and integrate into Dutch society. Refugee children aged 12 to 18 are defacto referred to ISK.

However, with the increasing number of refugees, ISKs are no longer able to accommodate new incoming refugees. There are no reports or news on this particular issue. However, from the individual complaints that we receive, we observe a systemic problem with facilitating refugees to the ISK system. As has been experienced with the childcare allowance (kinderopvang) crisis, there could be mistakes or negligence even in the functioning democracies of Europe. As an NGO we raise our concerns before Special Rapporteur on the right to education.

There are two instances where the systematic problem of secondary education becomes visible. First, when the migrants first arrive, there is a waiting period of 3(three) months for ISK before migrant students can start their education. However, the arrival of the refugees does not often coincide with the beginning of academic semesters. It has been reported that a student, who was 16 arrived in the Netherlands in April, and only started to Emmacollege ISK² in June and the education lasted a couple of weeks before the start of the summer vacation. Notice that the student is only allowed to secondary education until he is 18. Missing a semester means missing a year and if he is delayed another year he might not able to complete his secondary education in the Dutch school system.

The second instance has been observed when refugees were transferred to other asylum centres in the Netherlands. These transfers among asylum centres (AZC) occur without any former notification. The reason might vary, lack of space, faster procedures, transfer to the responsible municipality, and opening of a new asylum centre are all potential reasons. COA (Centraal Orgaan opvang asielzoekers) almost provides no reasons to refugees about their transfer or asks them whether they would like to be transferred. This is particularly problematic with the right to education. A student who might have waited a couple of months and started to ISK might

² <https://emma-lvo.nl/isk/>

wait another couple of months to enter the ISK of the newly transferred asylum centrum. Refugees can get transferred up to 5(five) times before they are settled. A refugee consulted us on 27 October 2022 about herself and her two children's transfer from Maastricht AZC to Breda AZC. After their transfer to Breda, they will have to be transferred to Eindhoven which was their designated municipality of residence. She was concerned for her son's education. Luckily she was able to convince Maastricht COA to cancel her transfer. This is not always the case.

Another problem is that the parents of the refugees are not informed whether the closest ISK is available or not, or even if there is one. With this information at hand, refugees should be able to object to their transfer. If there is no available schooling for their children and if their children are already going to ISK they should have the option to stay in their former asylum centre.

On a complaint on 15 September 2022, the student was supposed to enrol in Decapo College³ and was told that there was a waiting list of students that took him 3(three) months, and he could start his education at the end of November 2022. There is a chance that the students will not be able to complete their language education before the new academic year to attend in secondary-education when they are not enrolled in their first arrival. Because after 18, the Dutch schooling system does not allow students to continue in secondary education.

There are different alternatives such as following a transition year program (Schakeljaar)⁴ where they can study for higher education. However, this program is not as efficient or preferable for the refugees as it requires them to learn what they were supposed to in secondary education in one year.

Another relatively minor problem we observe is that because ISKs around the Netherlands do not use a common grading system, in cases of transfers the students may start from a lower class as they are seen as newcomers. A decentralized system of grading causes problems in the event of the transfer of refugees from one asylum centre to another one, or sometimes the

³<https://dacapokijktnaarmij.nl/>

⁴<https://www.uaf.nl/ondersteuning/ik-wil-studeren/schakeljaar/#:~:text=Met%20een%20schakeljaar%20bereid%20je,voor%20jouw%20studiekeuze%20belangrijk%20zijn.>

student transfers before he or she was graded, and lack of evaluation affects the student's referral to Dutch secondary education. In a complaint we received, the student was transferred to Den Bosch with his family on May 10th, 2021. ISK Bosche Vakschool⁵ had no available spots for the student for the rest of the academic year. For the next academic year, Bosche Vakschool referred the student to a lower secondary education school (MAVO) without taking into account the student's level of education. The student is only able to transfer after 3(three) years to a higher secondary school (HAVO) which will take another 3(three) years. The student, as a result, lost one year of his education and is now schooled among students who are not at the same level as him. The student asked for transition but it was rejected as such a request is accepted 'only in very exceptional cases.'

To solve this emerging and growing problem of the right to secondary education of asylum seekers and migrants, the Dutch authorities first determine the scope of the problem and make observations. ISKs should be available for newcomers. The refugees should have the right to object to a transfer if schooling will not be accessible. The Dutch authorities should make sure the capacity of ISK's able to meet the growing demand.

We kindly request the Special Rapporteur to collect information for the following matters by demanding answers or comments from the Dutch authorities:

1. Please provide information or comments in relation to all the above-mentioned cases and allegations.
2. Please provide clarifications on how the current situation of refugees and migrants is compatible with the obligations of the Netherlands under Article 13(2)(b) ICESCR, namely the availability and accessibility of secondary education, and if not how the Dutch authorities plan to remediate any inconsistencies with the international human rights standards.
3. In particular, please provide more information on the accessibility, and availability of education to refugees. Whether functioning educational institutions and programs are available and sufficient in quantity to reach the demand with the increasing migration and asylum? Whether refugees have access to secondary education without

⁵ <https://www.boschevakschool.nl/ISK>



discrimination? Are the secondary schools, in particular ISK's physically accessible from the asylum centres? How far are the schools from asylum centres? How are students expected to reach the facilities, and how is commuting provided?

4. Please provide clarifications on how your Excellency's Government is upholding the international standards stemming from Article 26 of the Universal Declaration of Human Rights, Article 13-14 International Covenant on Civil and Political Rights, and General Comment No:13 The Right to Education regarding the right to education, and Article 22(2) 1951 Geneva Convention which protects the right to education and regarding access to studies.
5. Please provide clarifications on how the Dutch government is ensuring the protection of the rights to education of refugees staying in the asylum centres.
6. Please provide clarifications on whether the frequency of the transfers of refugees from one asylum centre to another is in line with the Dutch authority's obligations with the above-mentioned standards.
7. Please provide clarifications on whether interrupting an ongoing education process with the transfer of the refugee from one centre to another without the will of the guardians of the refugee is in line with the above-mentioned standards.

We would appreciate your inquiries to address the possible human rights issues.

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