

**TRANSLATION OF THE CRUCIAL PROVISIONS**  
**OF THE DIRECTIVE TEMPORARY PROTECTION 2001/55/EC**

by  
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**Article 5, §1:** The existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council.

**Translation:**

*Article 3.1a (1) Aliens Decree 2000 (opening words):*

*Article 3.1a*

*1) An alien who applies for a residence permit in the sense of article 28 Aliens Act 2000 will not be removed from the country as long as the decision pursuant to article 5 (3) of the Temporary Protection Directive will be in force, if that alien:*

- a) belongs to the specific group of aliens designated in the Council Decision referred to in article 5 (3) of the Temporary Protection Directive;*
- b) ...*

**Article 5, §3:** The Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions of this Directive. The Decision shall include at least:

- (a) a description of the specific groups of persons to whom the temporary protection applies;
- (b) the date on which the temporary protection will take effect;
- (c) information received from Member States on their reception capacity;
- (d) information from the Commission, UNHCR and other relevant international organisations.

**Translation:**

*Article 3.1a (1) Aliens Decree 2000 (opening words):*

*Article 3.1a*

*1) An alien who applies for a residence permit in the sense of article 28 Aliens Act 2000 will not be removed from the country as long as the decision pursuant to article 5 (3) of the Temporary Protection Directive will be in force, if that alien:*

- a) *belongs to the specific group of aliens designated in the Council Decision referred to in article 5 (3) of the Temporary Protection Directive;*
- b) ...

**Article 8, §1:** The Member States shall adopt the necessary measures to provide persons enjoying temporary protection with residence permits for the entire duration of the protection. Documents or other equivalent evidence shall be issued for that purpose.

**Translation:**

Article 4.21 (1) (c) Aliens Decree 2000

*Article 4.21*

*1) Documents as referred to in Article 50 (1), last sentence, of the Aliens Act 2000 are the following:*

*c) for aliens who have applied for an asylum residence permit in the sense of Article 28 Aliens Act 2000: a document which is provided for by the authorities and which makes clear that the alien has applied for an asylum residence permit and of which the model has to be laid down in a ministerial regulation.*

Article 3.3 (1) (a) and 2 Aliens Regulation 2000

*Article 3.3*

*1) Documents showing the lawful residence as referred to in article 8 (f) – (h) of the Aliens Act 2000 are the following:*

*a) for aliens who are awaiting a (judicial) decision on an application for the issue of a residence permit in the sense of Article 28 or 33 Aliens Act 2000: document W of which the model can be found in Annex 7f to this Regulation*

*2) The documents, referred to in the first paragraph under a, b and c, are also designated as valid documents to evidence the alien's identity, nationality and legal residence.*

C12/3.4 Aliens Circular

*Issuing of the W document*

*Asylum seekers aged 12 and over whose asylum request is not rejected within the accelerated AC-procedure and who are sent to a (public) reception centre run by COA will be provided with a W document by the chief of the local police. Unaccompanied minors who are under the age of 12 will also receive a W document.*

*The nature of this document is twofold: on the one hand it is a valid identity document (article 4.21 (1) (c) Aliens Decree 2000 in conjunction with article 3.3 Aliens Regulation 2000), on the other hand it serves as a tool to register and control the asylum seeker's duty to report (this concerns both the duty to report pursuant to article 54 (1) (f) Aliens Act 2000 in conjunction with article 4.51 (1) (b) Aliens Decree 2000 and the obligations pursuant to articles 55 and 57 Aliens Act 2000).*

*The (electronic) W document is no valid travel document.*

*(...)*

**Article 8, §3:** The Member States shall, if necessary, provide persons to be admitted to their territory for the purposes of temporary protection with every facility for obtaining the necessary visas, including transit visas. Formalities must be reduced to a minimum because of the urgency of the situation. Visas should be free of charge or their cost reduced to a minimum.

**Translation:**

Article 3(3) Aliens Act 2000 in conjunction with article 6 Aliens Act 2000

Article 3

3. *The border control officers shall not, save in accordance with a special direction issued by Our Minister, refuse entry into the Netherlands to an alien indicating that he wishes to have asylum.*

Article 6

1. *An alien who has been refused entry into the Netherlands may be required to stay in a space or place designated by a border control officer.*
2. *A space or place as referred to in subsection 1 may be secured against unauthorised departure.*
3. *Rules relating to the regime applicable to the secure space or place referred to in subsection 1, including the requisite administrative measures, may be laid down by Order in Council.*
4. *An Order in Council adopted pursuant to subsection 3 shall be laid before both Houses of the States General. It shall enter into effect on a date to be fixed by royal decree, being more than four weeks after it is laid before the States General, unless at least a fifth of the constitutional number of members of one of the Houses expresses a wish within such period that the subject be regulated by statute. In such a case a bill to this effect shall be introduced as soon as possible. If the Bill is withdrawn or is defeated in either of the two Houses of the States General, the Order in Council shall be withdrawn.*

Article 3(1)(a) Aliens Act 2000 in conjunction with article 2.3(3) Aliens Decree 2000 in conjunction with article 2.3 Aliens Regulation 2000

Article 3 Aliens Act 2000

1. *Entry into the Netherlands shall be refused to an alien who:*
  - a. *is not in possession of a valid travel document or is in possession of a valid travel document in which the requisite visa is missing;*

Article 2.3 Aliens Decree 2000

3. *Notwithstanding the first paragraph under c, entry into the Netherlands will not be refused to an alien who comes to the Netherlands for a period exceeding three months and who is in possession of a valid travel document in which the necessary long-term residence visa is missing, provided that the alien:*
  - b. *has the nationality of one of the countries indicated in a ministerial regulation;*
  - c. *belongs to a category as indicated by a ministerial regulation.*

Article 2.3 Aliens Regulation 2000

*The categories of aliens referred to in article 2.3 (3)(b) Aliens Decree 2000 are the categories of aliens as indicated in annex 3 to this regulation, provided that the alien:*

- a. *meets the requirements put before him;*

- b. *comes to the Netherlands for a period of time or an aim as indicated for that category.*

**Article 9:** The Member States shall provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection and which are relevant to them are clearly set out.

**Translation:**

*Not transposed.*

**Article 17, §1:**

1. Persons enjoying temporary protection must be able to lodge an application for asylum at any time.

**Translation:**

Article 43a (1) Aliens Act 2000

*Article 43a*

*1) Notwithstanding article 42 (1) Aliens Act 2000 and without prejudice to article 4:5 General Administrative Law Act, the decision on the application for the issue of a residence permit in the sense of Article 28 Aliens Act 2000 regarding temporary protection beneficiaries has to be taken somewhere between the date of the application and six months after temporary protection has ended.*

Article 3.1a (2) (a) Aliens Decree 2000

*Article 3.1a*

*2) As a departure from the first paragraph, the Minister can decide that an alien will be removed from the country, if:*

*a) the application will be denied on the ground of article 30 (1) (a) Aliens Act 2000 (if according to the Dublin Regulation another Member State is responsible for examining the asylum application - KF).*

**Article 17, §2:**

2. The examination of any asylum application not processed before the end of the period of temporary protection shall be completed after the end of that period.

**Translation:**

Article 43a in conjunction with article 42 (4) and article 43 Aliens Act 2000

*Article 43a*

*1) Notwithstanding article 42 (1) Aliens Act 2000 and without prejudice to article 4:5 General Administrative Law Act, the decision on the application for the issue of a*

*residence permit in the sense of Article 28 Aliens Act 2000 regarding temporary protection beneficiaries has to be taken somewhere between the date of the application and six months after temporary protection has ended.*

2) *Articles 42 (4) and 43 shall apply mutatis mutandis.*

*Article 42*

4) *The time limit for giving a decision as referred to in paragraph 1 may be extended for not more than six months if advice or screening by third parties or the Public Prosecutor Service is necessary, in the opinion of the Minister, in order to assess the application.*

*Article 43*

*Without prejudice to article 42 (4) and to article 4:5 of the General Administrative Law Act, the time limit referred to in article 42 may be extended by Order of Our Minister for a maximum period of one year for certain categories of aliens who have submitted an application for a residence permit for a fixed period as referred to in article 28 if :*

- a. *uncertainty about the situation in the country of origin is expected to exist for a short period and it would therefore not be reasonable to take a decision on whether the application can be granted on one of the grounds referred to in article 29 ;*
- b. *the situation in the country of origin on the grounds of which the application could be granted under article 29 will be of short duration ;*
- c. *the number of applicants from one country or one region is so great that Our Minister cannot reasonably be expected to give a decision on them in good time.*

*Article 8 (f) Aliens Act 2000*

*Article 8*

*An alien is lawfully resident in the Netherlands only:*

- f) *pending a decision on an application for the issue of a residence permit in circumstances where, by virtue of this Act or on the ground of a judicial decision, expulsion of the applicant should not take place until the decision on the application has been given.*

*Articles 5 (1)(a) and (1)(b) of the Regulation on the provisions for asylum seekers and other categories of aliens 2005*

*Article 5*

1. *The right to reception conditions of an asylum seeker ends if the asylum application that has given rise to the right to reception conditions has been denied, unless :*
  - a. *the expulsion should not take place by virtue of the Aliens Act 2000 or on the ground of a judicial decision, or*
  - b. *the alien is awaiting a judicial decision on a request for a preliminary injunction, filed within the time limit prescribed in article 62 Aliens Act 2000, in order to be able to await the consideration of his further appeal, insofar expulsion does not take place during the consideration of the request.*