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REVISED EUROPEAN SOCIAL CHARTER

Observations of the Dutch Government on the
NGO Shadow Report
on the
4th National Report on the implementation of
the European Social Charter (revised)

submitted by

THE GOVERNMENT OF THE NETHERLANDS

(Articles 17 and 31
for the period 01/01/2005 – 31/12/2009)

Report registered by the Secretariat on 4 July 2011

CYCLE 2011



Ministerie van Binnenlandse Zaken en
Koninkrijksrelaties

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Datum 1 juli 2011

Onderwerp Reaction of the Dutch Government to NGO-report on the
implementation of the Revised European Social Charter

Ons kenmerk
5701067/11

*Bij beantwoording de datum
en ons kenmerk vermelden.
Wilt u slechts één zaak in uw
brief behandelen.*

In reaction to the comments of several Dutch NGO's regarding compliance of the Dutch Government with the decision on the merits (47/2008) of the European Committee of Social Rights (hereafter: the Committee) I would like to bring forward the reaction of the Dutch government regarding the various categories of families with children, which are, according to the NGO's, not eligible for shelter.

Categories as described by NGO's

- a. Families whose asylum claim has been rejected and who have not left the country after rejection of their claim and after the elapse of the time limits available for arranging their departure;
- b. Families whose temporary asylum permit is not renewed or will be revoked due to the termination of existing policy for specific population groups;
- c. Families who stay in the Netherlands during an immigration (not being an asylum) procedure.

Reaction of the Dutch government

Ad a) Due to a judicial ruling of the Hague Court of Appeal (on 11 January 2011) that confirmed the former interim judgment on 27 July 2010, families with children whose asylum claim has been rejected have a right to shelter. There is no time-limit for the duration of the shelter. The Dutch government has filed for cassation and in the mean time, follows the decision of the court.

Ad b) The policy for families whose temporary asylum permit is not renewed or will be revoked due to the termination of existing policy for special groups (Dutch translation: categoriaal beschermingsbeleid) is a national policy for which there is no obligation due to international obligations. In the case of a termination of this policy for certain groups, every individual case is being reassessed before the permit is revoked or a decision is taken that the permit will not be renewed. Shelter will be provided to the category families with children of which the permit is revoked/not renewed.

Ad c) Concerning families who stay in the Netherlands during an immigration procedure, other than an asylum procedure, the international rules do not contain an obligation to give reception.

The reason of the request for a permit (f.i. the right to labour, study or reunification with members of a family) involves the duty to take care of one's own sustenance and that of family-members.

For the specific category of applicants that apply for a permit on medical grounds, the Dutch government provides for shelter, if the applicant submits a full medical file and further investigation of the application is necessary. This prevents homelessness among asylum seekers with a serious medical condition while the authorities are assessing whether the medical condition is such that the alien should be given a residence permit.

**Directoraat-Generaal
Vreemdelingenzaken**
Directie Migratiebeleid

Datum
1 juli 2011

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De Minister voor Immigratie en Asiel
Namens deze



P. Diez *P. Diez*
~~Dv~~ directeur directie Migratiebeleid