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COUNCIL OF EUROPE
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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

22 July 2013

Case Document No. 3

Conference of European Churches (CEC) v. The Netherlands
Complaint No 90/2013

REQUEST FOR IMMEDIATE MEASURES

Registered at the Secretariat on 20 June 2013



Our ref: GENSEC-2013-083

Secretariat of the European Social Charter
Directorate General of Human Rights – DG II
Council of Europe
67075 Strasbourg Cedex
France

Geneva, 14 June 2013

Ref: Complaint No. 90/2013

CEC v. The Netherlands

Request for Immediate Measure in accordance with Rule 36§1.

Procedure

On 17th of January 2013 CEC lodged a collective complaint v. The Netherlands. The complaint was registered on that same date.

Should the Committee declare the complaint admissible, on the basis of the admissibility decision and in accordance with Rule 36 §1 of the Rules, CEC asks the Committee to provide for an immediate measure to avoid the risk of serious and irreparable injury and to ensure the effective respect for the rights recognised in the European Social Charter.

To this effect CEC asks the Committee to ensure that The Netherlands complies with its obligations to respect and safeguard human dignity and health by suspending the operation of the Linkage Act with regard to access to shelter, food and clothing.

Reasons for requesting immediate measure and consequences if not granted (Rule 36§2)

The right to shelter, food, and clothing is closely and irrefutably connected to the right to life and the right to health. It is obvious that the impossibility of obtaining shelter, food and clothing increases the risk of serious and irreparable injury to health.

Nature of immediate measure requested (Rule 36§2)

In 1998 the Linkage Act entered into force. This Act creates a link between, on the one hand, an alien's right of residence, on the other hand, his or her access to public services. This is also known as the Linkage Principle. There are three exceptions to the Linkage Principle: education for minors, legal assistance and access to necessary medical care.¹

In general, there is no objection to making access to social services and facilities dependent upon (types of) residence permit. The exclusion by law of shelter, food and clothing, however, is detrimental to the health and right to life for all persons. Not having access to these rights violates their right to human dignity.

The solution can be found in adding three exceptions to the Linkage Principle: shelter, food and clothing. For this measure to have immediate effect the operation of the Linkage Act should be suspended in relation to these rights.

Principally CEC asks the Committee to invite the Dutch authorities to suspend the operation of the Linkage Act with regard to shelter, food and clothing for all persons currently excluded through the Linkage Act, so as to prevent further harm and safeguard health and life.

Alternatively, as the exclusion of shelter, food and clothing is mostly felt on the municipal level where shelter, food and clothing are provided through the Employment and Social Assistance Act (*Wet Werk en Bijstand, WWB*) and the Social Support Act (*Wet maatschappelijke ondersteuning, Wmo*), CEC asks the Committee to invite the Dutch authorities to suspend the operation of article 16§2 of the Employment and Social Assistance Act (*WWB*) and article 8§1 of the Social Support Act (*Wmo*) to such an extent that undocumented migrants have access to shelter, food and clothing in order to safeguard their human dignity and prevent further harm.

Sincerely,



Rev. Dr Guy Liagre
General Secretary

¹ Article 10 para 2 Aliens Act 2000