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EUROPEAN SOCIAL CHARTER

12th National Report on the implementation of
the European Social Charter
submitted by

THE GOVERNMENT OF THE NETHERLANDS

Follow-up to collective complaints No. 86/2012 and
90/2013

Report registered by the Secretariat on
30 October 2018

CYCLE 2019

THE EUROPEAN SOCIAL CHARTER

The Netherlands' Thirty-first Report

Simplified report 2018

Report

made by the Government of the Netherlands in accordance with Article C of the Revised European Social Charter, on the measures taken to give effect to the accepted provisions of the European Social Charter.

This report does not cover the application of such provisions in the non-metropolitan territories to which, in conformity with Article L they have been declared applicable.

In accordance with Article C of the revised European Social Charter, copies of this report have been communicated to:

- Netherlands Trade Union Confederation FNV
- National Federation of Christian Trade Unions in the Netherlands CNV
- Trade union federation for Professionals (VCP)
- Confederation of Netherlands Industry and Employers (VNO-NCW) and MKB Nederland

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Information on the follow-up given to the decisions of the European Committee Social Rights relating to the collective complaints:

1 Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 01/07/2014, violation of Articles 13§4 and 31§2

The Dutch government reiterates its arguments put forward in its report submitted in October 2016 (the 29th report), referring to the resolution by the Committee of Ministers of 15 April 2015 on the CEC-Complaint, the case-law of the Administrative Jurisdiction Division and the Central Appeals Court as well as the decision of the European Court of Human Rights in *Hunde v. the Netherlands*. The Dutch government believes the resolution and the case-law supports the view that it acts in conformity with its human rights obligations.

Furthermore, in the report submitted by the Netherlands in October 2015 (28th report) the Government provided an English translation of the letter sent to the House of Representatives on 22 April 2015. The system of providing shelter to migrants with and without legal stay described in this letter is for the most part still accurate today. This system ensures that no migrant is forced to live on the street.

The Committee states in her reaction to both the 28th and 29th report that some of the proposals mentioned in this letter may improve the situation, such as the decision not to apply the 12-week deadline too strictly, and the establishment of pre-VBL facilities. However it is unclear to the Committee whether such proposals have in fact been implemented.

With regards to the proposal in the letter of 22 April 2015 not to apply the 12-week deadline for reception in a VBL-facility too strictly, the Government can clarify that this proposed flexibility is applied in practice. In principle, access to a VBL is granted to migrants who are willing to work towards their departure for a period of 12 weeks, but if departure within this period is not possible shelter is provided for a longer period depending on the individual circumstances of the case.

With regards to the proposed establishment of pre-VBL facilities the following developments can be mentioned. The Government informed the House of Representatives by letter of 29 November 2016 that the negotiations between the central government and the municipalities did not lead to an agreement on reception facilities for unlawfully residing migrants, due to different interpretations between the parties on how the agreement would be shaped in practice. The difference in interpretation of the agreement mainly concerned the question whether the opening of pre-VBL facilities would have to be accompanied by the closing of the emergency reception facilities for migrants in an irregular situation that several municipalities were providing.

However, the coalition agreement presented by the new Dutch government on 10 October 2017 includes plans for the establishment of eight reception facilities strongly comparable in aim and set-up with the pre-VBL facilities. The central government and municipalities are currently negotiating an administrative agreement on these facilities, where unlawfully residing migrants will be guided towards a sustainable solution and receive shelter during this process.

Conclusion

In light of the above and given the existing reception options which are available to unlawfully residing aliens, the Government believes that it acts in conformity with its human rights obligations.

2 European Federation of National Organisations Working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 02/07/2014, violation of Articles 31§2, 13§§1 and 4, 19§4(c) and 30

In 2015 a special commission formulated an advice (“From supported housing in an institution to a supported home”) on how the protective housing and community shelter services could best be organized. The municipalities and other parties have subscribed to this advice and have been working on regional action plans. In these plans municipalities describe how homelessness can be prevented and – when homelessness still occurs – how they will provide good community shelter services. Special attention is given to regional problems of homelessness and the actions that need to be taken to ensure people can live on their own again or in a specific home care institution.

Research in 2017 showed that every region was working on a plan, or already had a plan. Municipalities realize that there are still some topics that need further development. Municipalities want to work together on some of these topics and learn from each other. Those topics have been gathered in a special program (the so called Strategic Agenda for supported housing and community shelter). Four national ministries and eleven national organizations (like the Association of Netherlands Municipalities and the Federation of Shelters) have committed themselves to the program, and over 400 professionals and clients have contributed to the realization of this program. It contains topics like debts, housing, and access to and quality of the community shelter. The program supports regional organizations with the (accelerated) implementation of the advice of the special commission and the regional action plans.

The last few months special attention has been given to the access to community shelters. This was a result of the negative outcome of the assessment of the Netherlands Institute of Mental Health and Addiction (Trimbos Institute) in 2017 which showed that the access didn’t improve enough since the last assessment in 2015. Concrete measures have been initiated. For example: a special commission has been established for dealing with conflicts between municipalities about the location of shelter, there have been several regional sessions with professionals about the access to shelter. On top of that, the State Secretary has spoken to 10 aldermen about the access to shelter in their municipalities and the improvements that are needed. In 2018 a new assessment to the access to shelter will take place.

In this way the organizations in the Netherlands work on prevention of homelessness and – when homelessness still occurs – providing good community shelter services.