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EUROPEAN SOCIAL CHARTER

REPLY TO SUPPLEMENTARY QUESTION

5th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF THE NETHERLANDS

(Article 24
for the period 01/01/2007 – 31/12/2010)

Report registered by the Secretariat on 19 April 2012

CYCLE 2012

From: Terwan, K. [mailto:KTerwan@MINSZW.NL]
Sent: Thursday 19 April 2012 11:54
To: Social Charter
Cc: Raquet, M.F.L.; Barbas, F.W.; Verbeek, J.
Subject: Article 24 European Social Charter-Question ECSR

Dear Colleagues,

By Letter sent 30 March 2012 (enclosed) the ECSR asked the Netherlands the following question:

How are the employees protected against retaliatory dismissal in cases other than on the ground of discrimination?

The answer to this question is the following:

If an employer wants to terminate an employment contract with a worker as a retaliation for something the worker has or hasn't done, it will be up to the Court ('Kantonrechter') or the Employee Insurance Agency's public employment service ('UWV WERKbedrijf') to decide whether the behaviour of the worker is improper and a sufficient reason to terminate the contract by an employer.

In case there is no sufficient reason to terminate the contract the contract with the worker can't be terminated by the employer.

However if the Court finds that it has become impossible to continue the existing labour relationship between parties, it will end the contract by a judicial dissolution. If the Court finds that the impossibility to continue the labour relationship between parties is mainly due to the employer, it will grant a substantial compensation to the worker.

Please email or call me if this answer leads to any further questions.

Best regards,

Kees Terwan

Senior Policy advisor
Directorate of International Affairs
Ministry of Social Affairs and Employment
The Netherlands
tel. 00 31 70 333 6649

APPENDIX

SECRETARIAT GENERAL

DIRECTORATE GENERAL
HUMAN RIGHTS AND RULE OF LAW

DIRECTORATE OF HUMAN RIGHTS

*HEAD OF THE DEPARTMENT
OF THE EUROPEAN SOCIAL CHARTER
AND THE EUROPEAN CODE OF SOCIAL SECURITY,
EXECUTIVE SECRETARY
OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS*

ESC 122
NCH/SF



European
Social
Charter

Charte
Sociale
Européenne



Mr Kees Terwan
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Ministry of Social Affairs and Employment,
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NL - 2509 LV THE HAGUE

Strasbourg, 30 March 2012

Dear Mr Terwan,

The European Committee of Social Rights is currently examining the fifth report from the Government of the Netherlands on the European Social Charter and has instructed me to forward to you the enclosed question concerning Article 24.

The Committee would be grateful if you could reply to this question before 11 May 2012 in order to allow the information to be taken into account in Conclusions 2012.

Yours sincerely,

Régis Brillat

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX



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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

30 March 2012

Question in respect of the 5th report of The Netherlands

Article 24

How are the employees protected against retaliatory dismissal in cases other than on the ground of discrimination?