

ECLI:NL:RBGEL:2025:9423

| | |
|------------------------------|---|
| Agency | Gelderland Court |
| Date of pronouncement | 06-11-2025 |
| Date of publication | 12-11-2025 |
| Case number | ARN 24/8975 |
| Areas of law | Social security law |
| Special features | First instance - single |
| Content indication | <p>This ruling concerns the plaintiff's appeal against the award of social assistance under the Participation Act (Pw). The assistance was reduced due to the lack of housing costs. The municipal executive also withheld a personal contribution for social shelter stays. The plaintiff disagrees with the remaining social assistance amount.</p> <p>The board correctly determined the claimants' social assistance. The board also carefully prepared the contested decision and provided sufficient reasons. There is no conflict with the hardship clause or the principle of proportionality. The appeal is dismissed.</p> |
| Locations | Rechtspraak.nl |



Enriched pronunciation

Pronunciation

GELDERLAND COURT

Seat Arnhem

Administrative law

case number: ARN 24/8975

decision of the single-judge chamber of

in the case between

[plaintiff] , from [place] , plaintiff

(authorized representative: Mr. MP Harten),

and

the board of mayor and aldermen of the municipality of Ede, the board

(representatives: Mr. A. Klok and GC Ten Westenend).

Summary

1. This ruling concerns the plaintiff's appeal against the award of social assistance under the Participation Act (Pw). The assistance was reduced due to the lack of housing costs. The municipal executive also withheld a personal contribution for social shelter accommodation. The plaintiff disagrees with the remaining social assistance amount. He raises several grounds for appeal. Based on these grounds, the court will assess the determination of the social assistance amount.

1.1. In this ruling, the court finds that the board made the correct decision. The board correctly determined the claimant's social assistance. The board also carefully prepared the contested decision and provided sufficient reasons. There is no conflict with the hardship clause and the principle of proportionality. Therefore, the claimant is unsuccessful, and the appeal is dismissed. The court explains below how it reached this conclusion and what its consequences are.

1.2. The statutory rules and policies relevant to this case are set out in the appendix to this ruling.

Process flow

2. The claimant submitted an application for social assistance on July 8, 2024. The municipal executive board, in its decision of August 5, 2024, granted the claimant assistance for living expenses effective June 21, 2024, with a reduction due to the lack of housing costs and withholding of the personal contribution due to residency in social shelters. In its contested decision of October 30, 2024, on the claimant's objection, the municipal executive board upheld this decision.

2.1. The claimant filed an appeal against the contested decision. The board responded to the appeal with a statement of defense.

2.2. The court heard the appeal on September 24, 2025. The plaintiff, the plaintiff's representative, and the representatives of the municipal executive board participated.

2.3. During the hearing, the council's representative submitted a document showing how the claimant's social assistance benefit was calculated. This document has been added to the file.

Assessment by the court

Preliminary note

3. One day before the hearing, the plaintiff's representative referred in his supplementary grounds for appeal (entitled "speaking notes") to a series of (alleged) rulings of the Central Appeals Tribunal (CRvB) to support his position, citing a (alleged) ECLI number. The court found two of the cited rulings, which concern the Participation Act, on [website]. For the other rulings, the combination of the date of the ruling and the ECLI number does not match, or the rulings appear not to exist. The ECLI numbers the court was able to find (with the exception of the two aforementioned rulings) turned out to concern irrelevant topics. During the hearing, the plaintiff's representative was unable to further clarify the existence, location, and relevance of this (alleged) case law. Therefore, the court cannot escape the impression that ChatGPT or another AI tool was used. Be that as it may, since some (alleged) statements do not exist and the relevance of other cited statements is unclear, the court will reject the appeal to this (alleged) case law.

The formation of the contested decision

4. The court considers the following facts. On July 8, 2024, the plaintiff applied for social assistance. At that time, he was unemployed and staying at a Salvation Army shelter in [location].

5. By decision of August 5, 2024, the claimant was granted social assistance, effective June 21, 2024, based on the standard for a single person, up to an amount of €1,282.83 **per** month. The council reduced the claimant's social assistance by 20% of the standard for married couples, namely €366.81, because he has no housing costs. The council also withheld the claimant's personal contribution to the costs of shelter provided by the Salvation Army, amounting to €468.51. The amount of social assistance to be paid is €448.51.

5.1. With the contested decision, the council upheld the decision of 5 August 2024.

6. From 18 December 2024, the claimant will rent a home and receive social assistance according to the standard for a single person.

The assessment framework

7. Pursuant to Article 27 of the Pw, the council may set a lower standard referred to in Articles 20 and 21 of the Pw if the person concerned has lower generally necessary living expenses than those provided for in the standard as a result of his or her living situation, including not maintaining a home.

7.1. Article 4 of the Housing Costs Policy Rules for the Ede Participation Act 2016 (the Policy Rules) stipulates that the social assistance standard is reduced by 20% of the married couple's standard if a) the person concerned owes no or only very little housing costs, or b) the person concerned does not maintain a home. Article 5 of the Policy Rules includes a hardship clause.

7.2. Article 28 of the Bylaw of the Municipal Council of the Municipality of Ede containing rules regarding social support 2020 (the Bylaw) stipulates that the amount of the contribution for accommodation in 24-hour shelter is equal to the cost of the shelter. If income from the Pw is available, the contribution is collected by the municipal executive by deducting it from the subsistence allowance. The personal contribution is reduced in such a way that, after payment of the contribution, the person concerned has a monthly disposable amount equal to the pocket and clothing allowance referred to in Article 23, paragraph 1, of the Pw. A hardship clause is included in Article 28 of the Bylaw.

The assessment period

8. It is not disputed that the period to be assessed runs from 21 June 2024 to 17 December 2024.

Should the council reduce social assistance by 20% of the married couple standard?

9. The claimant argues that, although he did not own a home during the period under review, the municipal executive wrongly failed to recognize that his personal contribution to the Salvation Army primarily covered housing costs. The municipal executive therefore incorrectly asserts that there are no or only minimal housing costs. Furthermore, the municipal executive wrongly failed to break down the personal contribution amount into its various components. This constitutes careless and unmotivated decision-making.

9.1. The court notes that the municipal executive explained during the hearing that the shelter provided by the Salvation Army to the plaintiff cannot be equated to a stay in an institution, as referred to in Article 1, introductory sentence and under f, of the Pw. The requirement that assistance or guidance be available for more than half of each day is not met. Because the plaintiff's situation (in fact) corresponds to that of a person to whom Article 23 of the Pw applies, the municipal executive reduced the assistance pursuant to Article 27 of the Pw and Article 4 of the Policy Rules. In such cases, the personal contribution referred to in Article 28 of the Regulation is (subsequently) reduced in such a way that the remaining amount corresponds to the amount received by a person residing in an institution.

9.2. The court finds that it is undisputed that the claimant did not own a home during the period under review, nor did he incur any costs for maintaining one. Residing in social shelters cannot be considered as such. **2** This means that, as a result of his living situation, the claimant had lower general necessary living expenses than provided for by the standard. Therefore, the council was, in principle, authorized to reduce the claimant's social assistance standard by 20% (of the married couple's standard) pursuant to Article 27 of the Pw and Article 4, paragraph 1, introductory sentence and under b, of the Policy Rules. For this reason alone, the claimant's argument fails.

9.3. The council was also authorized, pursuant to Article 27 of the Pw and Article 4, paragraph 1, introductory sentence and under a, of the Policy Rules, to reduce the claimant's social assistance standard by 20% of the married person standard. During the hearing, both the claimant and the council explained that the shelter provided by the Salvation Army did not merely provide shelter. The claimant was also entitled to

meals, a shower, laundry, (counseling) sessions with staff, internet, computer use, and a grocery shopping card. Therefore, the personal contribution the claimant paid for these services cannot be fully equated with housing costs. 3 Therefore, the council was also authorized to lower the claimant's social assistance standard on this basis. This means that the council was not required to refrain from reducing the benefit because of this personal contribution.

- 9.4. In his supplementary grounds for appeal, the claimant argued that during the objection hearing, he requested the municipal executive to break down the personal contribution. However, the court finds that the minutes of the hearing show that the claimant was not present at the hearing on October 4, 2024, so this request could not have been made at that time. The court further finds that, contrary to the claimant's assertion, neither case law nor law requires the municipal executive to break down the personal contribution into different components (insofar as this were even possible, especially given the municipal executive's undisputed position that the personal contribution covers only a portion of the actual costs of staying in the shelter). The court also considers it important that both the calculation underlying the (primary) decision of August 5, 2024, and the calculation underlying the contested decision are sufficiently clear. Therefore, there is no evidence of careless and unmotivated decision-making. The ground for appeal is unsuccessful.

Should the council have applied the hardship clause?

10. The claimant argues that the council should have applied the hardship clause because he could not provide for his subsistence (basic needs) with the social assistance granted.

- 10.1. The court finds that, with the reduction in social assistance benefits and after paying the personal contribution, the claimant retained a disposable amount equal to the monthly social assistance benefit for a single person residing in an institution under Article 23 of the Pw (Association of Single Persons). This latter standard aims to cover essential living expenses, insofar as these are not covered by shelter in that institution. In terms of the facilities provided, such shelter in an institution resembles the shelter offered by the Salvation Army. As discussed in 9.3, the shelter offered by the Salvation Army provided much more than just shelter. The court further finds that the claimant has insufficiently substantiated his claim that he could not provide for himself. The mere statement during the hearing that he could not buy clothes or go to the optician is insufficient to assume that he could not provide for essential living expenses. The court fails to see why the claimant could not buy clothes or go to the optician with the amount of social assistance awarded. This leads to the conclusion that there are no exceptional circumstances on the basis of which the council should have applied the hardship clause of Article 38 of the Regulation or Article 5 of the Policy Rules, or deviated from the application of the Policy Rules pursuant to Article 4:84 of the General Administrative Law Act (Awb) and lowered the standard by less than 20%, or refrained from collecting the personal contribution for accommodation at the Salvation Army. This ground for appeal is unsuccessful.

Did the council act contrary to the principle of proportionality?

11. The claimant argues that the council acted disproportionately by both withholding a personal contribution and reducing the social assistance standard by 20% of the married couple's standard due to the lack of housing costs. This double withholding results in a disproportionate financial burden, preventing him from meeting his basic needs. Consequently, the claimant was unable to meet his essential living expenses.

- 11.1. *Article 27* of the Pw concerns discretionary authority. The council has discretionary power to set the social assistance standard lower due to the lack of housing costs. This discretionary authority is further defined in the Policy Rules.
- 11.2. Because the Policy Rules are based on the aforementioned provision of the Pw, this constitutes policy within the law. The ruling of the CRvB (Central Administrative Jurisdiction Division) of May 15, 2025, 4 the ruling of the Administrative Jurisdiction Division of the Council of State (the Division) of February 2, 2022, 5 and that of the Trade and Industry Appeals Tribunal of March 26, 2024, 6 indicate that assessment of proportionality in such cases involves three levels: suitability, necessity, and balance. The intensity of the exceptional assessment of policy within the law against the proportionality principle depends on various factors, including the discretion available to the determining body, given the nature and content of the power to determine and the interests involved. Furthermore, the assessment is based on the grounds for appeal.
- 11.3. Given the discretion available to the board, the court will review Article 4, paragraph 1, of the Policy Rules with restraint.

11.4. The explanatory notes to the Policy Rules state that – in certain cases – the social assistance standard will be reduced by 20%. This is because the absence of certain housing costs can significantly lower general living expenses. These lower living expenses can be taken into account when providing general social assistance. During the hearing, the council explained that social assistance recipients who have no housing costs, applying Article 4, paragraph one, of the Policy Rules and after paying the personal contribution for shelter costs, ultimately have the same amount left as persons residing in an institution as referred to in Article 23 of the Pw (Association of Persons with Housing Act). According to the council, the situations are factually comparable. The court agrees with the council on this point. The Policy Rules aim to prevent social assistance recipients with lower general living expenses due to their housing situation from receiving disproportionately more social assistance than those who do have such housing costs. Article 4, paragraph one, of the Policy Rules is a suitable, necessary, and balanced means of achieving this goal. The Policy Rules are therefore not in conflict with the principle of proportionality.

11.5. Next, it must be assessed whether the consequence of applying Article 4, paragraph 1, of the Policy Rules in the claimant's case is disproportionate to the objective served by the decision. In particular, it must be assessed whether, in the specific case, the interests involved in the decision have been weighed fairly. As the Division considered in the aforementioned ruling of February 2, 2022, the rationale behind the principle of proportionality is not to counteract adverse consequences of decision-making, but to prevent unnecessary adverse consequences.

11.6. During the hearing, the claimant stated that the unfairness lies in the fact that he could not make ends meet with the amount of social assistance he received during the period under assessment and that he received less than the standard amount for an institution.

11.7. The council explained in its statement of defense and during the hearing that a monthly amount was reserved for holiday allowance (holiday allowance is paid annually) and that the claimant initially received a lower amount of social assistance because he had previously received an advance payment that was offset against the social assistance to be paid. The court considers this explanation sufficient for the difference between the social assistance granted and the amount actually paid out. The court further finds that, as the court ruled in 10.1, the claimant has insufficiently substantiated that he could not make ends meet on the monthly social assistance amount he received. Therefore, the court has not found that the application of Article 4, paragraph 1, of the Policy Rules, in combination with the withholding of the personal contribution for childcare costs pursuant to Article 28 of the Regulation, had consequences for the claimant that, due to special circumstances, were disproportionate to the objectives of the decision. The ground for appeal is therefore unsuccessful.

12. In view of the foregoing, the determination of the amount of assistance in the period under assessment by the council is lawful.

Conclusion and consequences

13. The appeal is dismissed. This means the plaintiff is unsuccessful. Therefore, the plaintiff will not receive a refund of the court fees. He will also not receive reimbursement of his legal costs.

Decision

The court declares the appeal unfounded.

This decision was made by Mr. JM Hollebrandse, judge, in the presence of

Mr. J.M. van Kouwen, clerk.

Spoken in public on

| | |
|-------|-------|
| clerk | right |
|-------|-------|

A copy of this decision was sent to the parties on:

Information about appeal

A party who disagrees with this ruling may submit an appeal to the Central Appeals Tribunal explaining why they disagree. The appeal must be filed within six weeks of the date this ruling is issued.

You can file a digital appeal via "Forms and login" at www.rechtspraak.nl. Alternatively, you can still file an appeal by sending a letter to the Central Appeals Tribunal, P.O. Box 16002, 3500 DA Utrecht.

If the applicant cannot await the hearing of the appeal because the case is urgent, the applicant can ask the interim relief judge of the Central Appeals Tribunal to grant an interim measure.

Appendix: important legislation and regulations for this ruling (effective as of July 1, 2024)

Participation Act (Pw)

Article 23

1. In the case of a stay in an institution, the standard is per calendar month, if it concerns:

- a. a single person or a single parent: €414.31;
- b. (...)

2. The amount of the standard referred to in the first paragraph shall be increased by:

- a. for a single person or a single parent €42.00;
- b. (...)

Article 27

Pursuant to Article 27 of the Pw, the council may set a lower standard referred to in Articles 20 and 21 of the Pw if the person concerned has lower generally necessary living expenses than those provided for in the standard as a result of their living situation, including not maintaining a home.

Housing Costs Policy Rules Participation Act Ede 2016*Article 4*

If the person concerned has lower generally necessary living expenses than provided for in the standard as a result of his or her living situation, as referred to in Article 27 of the Pw:

- a. the standard reduced by 20% of the married couple's standard if the person concerned owes no or only very little housing costs;
- b. the standard reduced by 20% of the married person standard if the person concerned does not maintain a home.

Article 5

In special cases, the board may deviate from the provisions in these policy rules if the application of these rules would lead to significant unfairness.

Regulation of the Municipal Council of the Municipality of Ede containing rules regarding social support 2020*Article 28*

1. The amount of the contribution for staying in the 24-hour shelter is equal to the costs of that shelter.
2. The personal contribution is due per day, with part of a day counting as a full day.
3. The amount of the personal contribution due for social assistance is determined by the council and in the event of:

a. income from the Participation Act, the Income Provision Act for Older and Partially Disabled Unemployed Workers and/or the Income Provision Act for Older and Partially Disabled Former Self-Employed Persons, collected by the municipal executive;

b. other income than that mentioned in subparagraph a, collected by the provider of social assistance.

4. The personal contribution will be charged monthly and, to the extent possible, deducted from a subsistence allowance as referred to in paragraph 3.

5. The personal contribution will, if necessary, be reduced in such a way that after payment of the contribution the client has a monthly disposable amount that corresponds to pocket money and clothing allowance (the amount referred to in Article 23, paragraph 1, of the Participation Act) plus the standard premium referred to in Article 1, paragraph 1, part g, of the Healthcare Allowance Act and adjusted with the healthcare allowance.

Article 38

1. In special cases, the board may deviate from this regulation in favor of the client if its application would lead to an unacceptable situation.
2. A further regulation may stipulate that the board may deviate from one or more articles of that regulation in special cases in favour of the client if their application would lead to an unacceptable situation.

1 Benefit amounts were indexed on July 1, 2024. Therefore, the council adjusted the amount the claimant receives in social assistance, effective July 1, 2024.

2 Judgment of the Central Appeals Tribunal (CRvB) of 4 September 2018, ECLI:NL:CRVB:2018:2715.

3 Cf. CRvB 2 June 2020, ECLI:NL:CRVB:2020:1168.

4 ECLI:NL:CRVB:2025:700.

5 ECLI:NL:RVS:2022:285.

6 ECLI:NL:CBB:2024:190.
