

# Legal space for fire service volunteers under European law?

'A summary of 4 years of uncertainty'

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# The Dutch fire service

- The Netherlands has a total of 959 fire stations, of which 845 (88%) are voluntary stations, 73 professional stations (8%) and 41 combined stations (4%).
- As of December 31, 2020, the fire service in the Netherlands has a total of 23,093 firefighters, 94% male (21,705) and 6% female (1,388). Volunteer firefighters make up 82% of the Dutch firefighting service.
- The education and competence requirements of all operational fire service personnel is laid down in national legislation.
- There is no difference in education requirements and task performance between professional and volunteer firefighters.



# Legal position of fire service volunteers

- In 2018, the Minister of Justice and Security was requested to inform the House of Representatives about the legal position of fire service volunteers. In response to that request the State Advocate assessed the current legal position of the fire service volunteers in the Netherlands.
- The research report outlined a dark perspective for the current legal position of the fire service volunteers. It was concluded that there is a real risk that elements in the legal position of the fire service volunteers conflict with the Working Time Directive and standards of European and international regulations and case law of the European Court of Justice.
- The assignment was to see how the voluntary aspect, so characteristic of the fire service in the Netherlands, can be preserved.



# Legal position of fire service volunteers

- In line with the Matzak ruling, the Dutch government concluded earlier that because no distinction exists between tasks and requirements of volunteer and professional firefighters, they are, in fact, discriminated part-time workers. Within the existing legal framework, voluntarism in the fire service could not be maintained.
- As a result, the Dutch government in 2020 proposed to enlarge the difference between volunteer and professional firefighters. Central in this solution was the differentiating between education and tasks.
- The Minister of Justice and Security asked to further elaborate the consequences of the task differentiation for the fire service in the Netherlands.



# The consequences for the fire service

- All firefighters in the Netherlands were asked online for their opinion regarding task differentiation. 9000 firefighters completed the opinion poll. A significant proportion of the volunteer firefighters stated they want to be real firemen, not glorified helpers wearing a fireman's helmet. If this is no longer possible because of European legislation, they will end their career as volunteer. Such a situation will lead to major understaffing in the Dutch fire service.
- The structural additional costs compared to the current situation were estimated at 75 million euros.



# Looking for another legal solution

- The Dutch Association for Volunteer Firefighters (VBV) challenges
  - a) the proposed solution by the Dutch government and
  - b) the implications of the ruling by the European Court for volunteer firefighters in the Netherlands.
- The Association felt supported by findings of legal experts in this field and proposed that there are serious arguments to defend in court that EU law leaves enough legal space for traditional volunteer firefighters.



# Looking for another legal solution

- In May 2021 both Prof. Dr. Armin Cuyvers (professor of European Law at the Europa Institute of Leiden University) and Prof. Dr. Geerten Boogaard (Professor of decentralized government at the Law Faculty of Leiden University) together with the Dutch Association for Volunteer Firefighters were invited by the Committee for Justice and Security (from the Dutch House of Representatives) to address the concerns and possible solutions.
- Central in the proposition of both professors is that limitation of European ruling is inherently necessary for protecting social goals and interests. Voluntarism is recognized by both European as national and can even be coupled with Dutch constitutional tradition. As such, we propose that voluntarism is an inherent exception, and such professional voluntarism does not conflict with European on labor.



# The legal solution for our problem?

- Based on the report of the legal experts, the Dutch Minister of Justice and Security indicates now that voluntarism in the fire service in the Netherlands is essentially possible within the current European legislation and regulations.
- In July 2021, the House of Representatives unanimously adopted a motion calling on the Dutch government to challenge the strict interpretation of EU legislation in the EU that threatens voluntary participation within organizations such as the fire service and, if necessary, to actively plea and work for an exception, so that voluntarism in the fire service can continue to exist in the future.



# Our final statement:

Let us be proud and happy that there are people who take on important social tasks as volunteers and do so just as well as paid staff. We need more of them, not less, and EU law need not and should not be used to undermine something so indispensable for our society!

Thank you for your attention.

Please feel free to download en read our supporting documentation here:

[Position Paper](#)

