



Court ruling: children can still be cut off from drinking water

In its judgement from the 6th of April 2022, the Court of The Hague ruled that it is not by definition unlawful when families with children are cut off from drinking water when parents can't pay for their water bill. Children's rights organization Defence for Children and the Dutch Section of the International Commission of Jurists (NJCM) summoned the Dutch state and public water companies Dunea and PWN to appear in court because the cutting-off violates human and children's rights. The organizations are disappointed by the ruling and are considering taking further steps.

Vulnerable

According to the UN Children's Rights Convention, children have an independent right to access to clean drinking water. By being cut off, Defence for Children and the NJCM feel this right is at stake. Moreover, children suffer from the cut-off, while they are not the ones responsible for the debt incurred. The Small-scale Consumer Disconnection Policy Regulation prohibits shutting off the water for vulnerable consumers, for whom a cut-off poses serious health risks. Children are not by definition regarded as vulnerable consumers.

Lawyer Jelle Klaas of PILP-NJCM: "We substantially disagree with the court about whether children have an independent right to water or not. It would have been a small step for the judge to forbid to cut off children in general. We are disappointed the judge didn't do that. It now remains possible for vulnerable children to run out of water and suffer the harmful consequences."

Judgement

The court states that children have a right to access to water according to the Convention on the Rights of the Child and the European Convention on Human Rights, but that this right is not absolute. Therefore, despite these treaties, the State and drinking water companies are allowed to shut off households with minors from drinking water for nonpayment. According to the court, with due observance of the Small-scale Consumer Disconnection Policy Regulation, in general this is not unlawful towards children.

This is inexplicable, according to Mariëlle Bahlmann, legal advisor Juvenile Law at Defence for children: "Because of their vulnerability, children in particular should be given extra protection. Governments should therefore always primarily consider the best interests of the child when drafting and implementing legislation and policy. The government failed to do this when drawing up the Small-scale Consumer Disconnection Policy Regulation. It is disappointing the judge does not want to confirm this."

Room for individual cases

It is however positive that the judge, like the plaintiffs, took the UN Children's Rights Convention and other treaties as a starting point. The judge also confirms that water companies are not allowed to cut off families for no reason. The judgement leaves room for families with children that will be cut off in the future, to take it to court themselves and argue that they should have access to water based on international children's and human rights. "But we cannot expect these vulnerable families to know their way to court and start a preliminary relief proceeding once they are shut off", said lawyer Jelle Klaas.

What's next?

Defence for Children and the NJCM are disappointed with the court's decision. The organizations had hoped that it would no longer be possible to cut off families with children from water, taking into consideration their children's and human rights. The organizations are considering filing an appeal against the judgment.