

Burden of proof in Dutch employment law

The subject of the study is the burden of proof in Dutch employment law discussed from both procedural and substantive law viewpoint. Article 150 of WBR states that the burden of proof of facts or rights is on the party that invokes legal consequences resulting from those facts or rights, unless there are special rules or requirements of reasonableness and fairness that involve a different burden of proof. The employer and the employee must behave as befits a reasonable and fair employer and a reasonable and fair employee. The burden of proof may - due to specific provisions - be on the claimant or on the defendant; however it may even be shifted between them during the proceedings as a result of submitted evidence. Courts show a high degree of "social sensitivity" – they are ready to reverse the burden of proof during the proceedings to the employers' side.

Keywords: burden of proof, employment law