



The Netherlands



The Netherlands continued to work to fine tune its legislation and policy framework in different areas including asylum, parenting and legal gender recognition. Another positive development was the introduction of compulsory education on sexual diversity and sexuality education at all primary and secondary schools which also explicitly refers to trans people. Meanwhile, concerns remains regarding the social situation: half of lesbian and gay people adjust their behaviour in public fearing negative reaction and half trans people experienced negative comments and harassment.

Access to goods and services

- In December, whilst visiting McDonalds in Osdorp, a trans woman was humiliated by the staff of the restaurant who laughed at her. The incident was witnessed by a camera crew of a TV programme that was following the woman. COC Netherlands called on McDonalds to investigate the incident and subsequently the establishment contacted COC NL for a discussion of the case.

Asylum

- In June, Immigration Minister Gert Leers announced that he would change asylum rules to ensure that LGBT asylum seekers who are refused asylum are not forced 'back into the closet' upon their return. A new paragraph was therefore added to the relevant regulation in 2012. However, in COC's view, this paragraph represented a deterioration of the original policy, since while the new general rule is indeed that LGBT asylum seekers may not be sent 'back into the closet'; it is followed by several limitations including a possible demand on LGBT asylum seekers to have 'a certain amount of discretion' in their country of origin.
- In July, the government announced that it will open its doors to LGBT Iraqis, after declaring the country unsafe for homosexuals. Minister Leers had previously announced a temporary halt to the deportation of Iraqi asylum seekers, but now went further by declaring that it is impossible for anyone to be openly gay in the country without risking one's safety. LGBT asylum seekers will still have to prove their sexual orientation.
- In August, the Dutch Court of State referred a question to the Court of Justice of the European Union (CJEU) asking for a preliminary ruling on the interpretation of European Union law concerning the requirement of 'living discreetly' often discussed in LGBT asylum cases, and the effect of criminalisation of same-sex sexual activity in the country of origin. The case is pending.
- In September, Minister Leers announced that he would change the regulations, so that LGBT asylum seekers will no longer be refused asylum solely because they raise their sexual orientation or gender identity later

in the asylum procedure. The relevant regulation was changed later in the year.

Bias motivated speech

- In January, European rabbis considered taking action against the Amsterdam Jewish Community had the community upheld their decision to suspend Chief Rabbi Aryeh Rabbag. Rabbag had been suspended due to the fact that he had signed a declaration stating that homosexuality is an incurable disease.
- In March, the Dutch Press Council concluded that Dutch newspaper Spitsnieuws had wrongly used a photo to accompany an article about a same-sex couple that was bullied away from their home. The photo displayed two half-dressed men during the Amsterdam Canal Pride. The Council commented: "The use of the photo under these circumstances contributes to stigmatising and discrimination, and is unacceptable from a journalistic point of view."
- In December, following the comments of the Pope saying that marriage of same-sex partners would pose a threat to justice and peace in the world, there was a surge in the number of Catholics (reaching several thousand) accessing a particular website that provides information on how to de-register from the church. Minister of Foreign Affairs Timmermans condemned the Pope's statement, but did not initiate any further measures addressing the Holy See, as had been requested by the LGBT community.

Bias motivated violence

- In February, the police of Tilburg arrested the alleged perpetrator of a homophobic attack on a group of three young men. One of the victims was severely injured after being pushed down the stairs.
- In April, the Gaykrant reported that five men from the cities of Kampen, Steenwijk and Zwolle had become victims of robbery after meeting partners in a chat room on an internet dating site. The perpetrator first asked the victims for money and then threatened them with violence in the event that they did not comply. In one of the cases the perpetrator physically abused the victim.

The police started a criminal investigation and called upon witnesses to provide evidence.

- In September, a 24-year-old man was beaten, in The Hague, after receiving homophobic abuse from two perpetrators. The victim, who reported the incident to the police, suffered a concussion and broken lip.
- In August, the Amsterdam police stated that participants of a 'Turkish boat' that joined the Amsterdam Canal Parade received serious treats.

Data collection

- According to researcher Marloe Boon of Amsterdam's Free University, 50% of gay men and lesbian women in the Netherlands say they adjust their behaviour when they are in public. They adapt to the heterosexual norm in order to avoid negative reactions such as disapproving looks, hostile remarks or violence. The researcher was commissioned by the Netherlands Institute for Social Research which conducted 20 in-depth interviews with lesbians and gay men. Those interviewed added that they did not believe homosexuality would ever be totally accepted.
- In November, The Netherlands' Institute for Social Research (SCP) published research about the safety of trans people in the health sector and at work. The report concluded that 50% of trans people were subjected to negative comments during the previous year, and many faced physical violence (including threats, attacks, intimidation). Out of fear of negative consequences, 50% of trans people do not disclose their identity at work. In a response to the report, COC called upon the government to develop a master plan for transgender emancipation.
- In December, the government informed the Dutch Parliament that 2011 had seen a slight decrease in registered cases of discrimination against LGB people. The police registered 622 cases in 2011 compared to 659 cases in 2010. Municipal anti-discrimination agencies in 2011 registered another 450 instances of discrimination on the basis of sexual orientation and the Equal Treatment Committee received 16 complaints related to sexual orientation. The Dutch LGBT organisation COC expressed concern about the fact that the police did not

register segregated information about discrimination against trans people and the lack of measures against discrimination targeting trans people and lesbian women. A report that was published by the government in 2012 shows that very few LGBT people report discrimination: 5% in cases where there is no physical violence, 29% in cases where there is physical violence (source: SCP 2012).

Education

- In October and November, the House of Representatives and Senate (two parliamentary chambers) supported a proposal by Dutch Minister for Education, Culture and Science Marja van Bijsterveldt to introduce compulsory education on sexual diversity and sexuality education in all primary and secondary schools. The proposal came into effect in December.
- Minister Van Bijsterveldt commented that the definition of education on sexual diversity and sexuality would remain at the discretion of schools, but that schools have an important task in securing the safety of all students and teachers including LGBT people. The bill explicitly states that sexual diversity includes transgender people.
- In November, following the bullying induced suicide of 20-year-old Tim Ribberink, his parents published a note in a local newspaper which led to a national outcry against bullying. In the period 2010-11 homophobic bullying messages addressed to Tim had been posted online.

Employment

- In January, a Court in Leiden ruled in favour of a gay teacher who had challenged his dismissal from a Christian school following his coming out. The court stated that the simple fact that the man had made his same-sex relationship public was not a legitimate reason to suspend him. Nonetheless, the man decided to leave his position after an agreement was reached between him and the school.
- Wim Pijl took a case to court following his dismissal as a civil servant from the marriage registry by the City of

The Hague. The City of The Hague dismissed Pijl's case because it considered his objections to marrying same-sex couples discriminatory.

- In June, the Council of State, the principal advisory body to the Dutch government, published advice on how the government should deal with civil servants who refuse to marry same-sex couples. In its advice, the Council pleaded that whilst same-sex couples should have access to marriage in each city, it is not necessary to fire existing civil servants.
- In July, the Minister of Home Affairs Liesbeth Spies said that civil servants refusing to marry same-sex couples will not be dismissed from their jobs. She stated that letting civil servants go on these grounds would require an amendment to the law. The Parliament had earlier adopted two motions calling for action to prevent the refusal of civil servants to carry out marriages of same-sex couples.
- In October, Laurien Koster, chairperson of the Netherlands Institute for Human Rights, in an interview with the newspaper *Nederlands Dagblad*, said that she could not guarantee that Christian schools could continue to discriminate on grounds of sexual orientation in their employment policies. She said that schools would need to abide by legal restrictions about non-discrimination on grounds of sexual orientation.
- In October, the Royal Dutch Football Association (KNVB), together with organisations such as COC Netherlands, published a plan to counter homophobia in football. It was accompanied by a viral video campaign urging LGBT footballers to step out of the closet. The video was commissioned by Dutch broadcaster BNN.
- In November, D66, a social liberal party, proposed a law to no longer allow the appointment of civil servants who refuse to marry same-sex couples. The Council of State again advised against the proposal, arguing that it would lead to inequality between civil servants in access to public positions.

Equality and non-discrimination

- In September, Boris van der Ham MP submitted his proposal to Parliament to include 'sexual orientation' in

Article 1 (non-discrimination) of the Constitution. By the end of the year only a round written of questions had taken place in the Second Chamber. The proposal is awaiting further discussion.

- In September, in the framework of the national elections, nine political parties signed the 'Pink Voting Box Agreement' drafted by COC, in which they agreed to cooperate on five LGBT issues, namely: (i) ending the possibility for civil servants to refuse to marry same-sex couples; (ii) obligatory LGBT education in schools; (iii) improving the legal position of lesbian parents and their children; (iv) simple legal gender recognition for trans people; and (v) ending the 'sole fact construction' paragraph in the Equal Treatment Act which allows pupils and teachers to be expelled from schools if they are openly gay.
- In November, when the new government was presented, Jet Bussemaker was appointed Minister for LGBT emancipation. The 'government agreement' (agreement with policy priorities of the new government) of the new government of Liberal VVD and Labour PvdA includes a paragraph on LGBT emancipation, encompassing the complete 'Pink Voting Box Agreement' as well as other priorities such as the fight against anti-LGBT violence.

Family

- In October, the Parliament voted in favour of a law providing that the non-biological co-mother in a lesbian couple will automatically become the legal parent of a child born in wedlock and from an anonymous donor. In other cases the non-biological co-mother will be able to recognise the child. Previously, the co-parenting mother still had to formally adopt the child after birth. The law is expected to come into force in the first half of 2013, after the Senate approves it. During the discussions in parliament about this law, the government agreed to look into studying how co-parenting situations with three or more parents could be recognised.
- In December, a couple living in the Dutch island nation of Saba became the first same-sex couple in the Dutch Caribbean to marry.

Foreign policy

- In July, Dutch Minister for Foreign Affairs Uri Rosenthal answered a parliamentary question asking whether, in the eventuality that Ukraine passes a homosexuality anti-propaganda law, the EU should suspend plans to allow Ukrainian visa-free access to Europe. He argued that such a law would be incompatible with the association agreement.

Health

- In April, the Parliament urged the government to ensure that men who have sex with men (MSM) can donate their blood to blood banks. Health Minister Schippers responded in November stating that she was not yet ready to change the existing policies and asked blood bank Sanquin to research the 'desire to donate' and 'the risk perception' of MSM first.
- In June, the Minister for Health Edith Schippers removed a Christian 'anti-gay therapy' from the health insurance package. She had criticised the fact that health insurance money was being used to pay an orthodox Christian organisation, Different, to ask gays to "repress their sinful urges".
- In December, the Parliament voted against a law proposed to cover costs of treatments for secondary sex characteristics of trans people. Whilst operations changing primary sex characteristics are covered, secondary changes, such as the removal of facial hair, breast augmentation and erection prostheses remain uncovered.

Legal gender recognition

- In August, the government proposed a bill making it easier for transgender people to have their preferred gender legally recognised. The new law would make the recognition possible without the need of any hormonal treatment or surgery, and would repeal the requirement of sterilisation. However, the law stipulates that an expert will need to determine whether the transgender person's conviction is permanent. By the end of the year, there had only been a round of written questions that are

expected to be answered by government in the first half of 2013.

Public opinion

- A survey on sexual health in the Netherlands, published by Rutgers WPF in January, showed that more than half of the respondents want people to be clearly male or female; 57.3% of the respondents said they dislike uncertainty over someone's gender or sex. A further 20% would not want to have contact with trans people, and for 9% someone's trans status might be a reason to break a friendship.
- According to Eurobarometer 2012, 54% of the Dutch believe sexual orientation discrimination is widespread. This is slightly above the EU27 average (46%). 50% believe gender identity discrimination is widespread. This is slightly above the EU27 average (45%). The Dutch scored 8.4 on a scale from 1 ('totally uncomfortable') to 10 ('totally comfortable') when asked how comfortable they would feel with an LGB individual in the highest elected political position in their country. This is slightly above the EU27 average (6.6). The Dutch scored 6.5 on a similar scale when asked about a transgender/transsexual person in the highest elected political position in their country. This is slightly above the EU27 average (5.7).

Member organisations of ILGA-Europe

AOb – Algemene Onderwijsbond (General Union of Education)
www.AOb.nl

Christelijk Nationaal Vakverbond – Onderwijsbond – Homowerkgroep
www.cnv.nl

COC Amsterdam
www.cocamsterdam.nl

COC Haaglanden
www.cochaaglanden.nl

COC Nederland
www.coc.nl

COC Rotterdam
www.cocrotterdam.nl

COC Tilburg
www.coctilburg.nl

Dutch Bisexual Network
www.lnbi.nl

EduDivers
www.edudivers.nl

Embrace Pink Foundation
www.embracepink.nl

Foundation Transman

Global Alliance for LGBT Education – GALE
www.lgbt-education.info

HoMOVISIE
www.movisie.nl

ILGA Support Group Utrecht

Internationaal Homo/Lesbisch Informatiecentrum en
Archief IHLIA-Homodok
www.ihlia.nl

Landelijk Homonetwerk Politie
www.landelijkhomonetwerkpolitie.nl

Meer dan Gewenst
www.meerdangewenst.nl

RozeLinks
www.rozelinks.nl

Schorerstichting
www.schorer.nl

Stichting De Kringen Utrecht
www.dekringenutrecht.nl

Stichting FLL
www.f-l-l.nl

Stichting Homosexualiteit en Krijgsmacht
www.shk.nl

Transgender Netwerk Nederland
www.transgendernetwerk.nl

Transman.nl

Workplace Pride
www.workplacepride.org