

The Equal Treatment of Gays, Lesbians and Bisexuals by the Dutch Government

An estimated one million¹ gay men, lesbian women and bisexuals live in the Netherlands. Fifty years ago, the majority of Dutch society still considered homosexuality to be amoral, perverse or a psychiatric disorder. Today the acceptance of homosexuality is anchored in Dutch culture and society. Ninety-five percent of Dutch people have a tolerant attitude towards homosexuality. This high percentage has remained fairly constant over the past years, but it is no reason for us to devote less attention to this issue.

This fact sheet looks at:

- some statistics;
- equal treatment in a wider context;
- Dutch government policy in practice.

The fact sheet only examines the central government's contribution towards promoting the equal treatment of gays, lesbians and bisexuals and tackling discrimination and homophobia. It is self-evident that civil society, voluntary organisations, social interest groups, municipalities and (semi-) public service organisations have their own tasks.

¹ W.J.H. Mulier Institute, survey involving 24,000 respondents, October 2003; 5.9% have a gay, lesbian or bisexual preference (nearly one million citizens out of the overall Dutch population).



Some Statistics

Geographic Location

The Netherlands depicted on a map of Europe



Population

The Netherlands has about 17 million inhabitants, of which:

- 1 million are gay men, lesbian women and bisexuals.

Breakdown according to:

- age < 25 years old 250,000
- age > 65 years old 130,000
- immigrants/foreigners 200,000
- immigrants < 25 years old 50,000

Number of same-sex married couples in

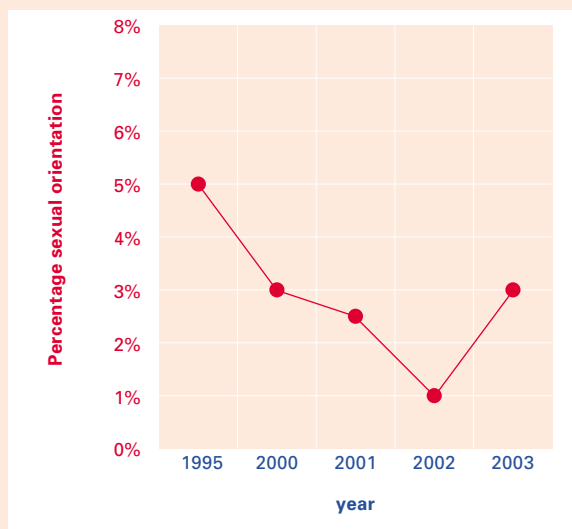
- in 2001 2,400
- in 2002 1,800

Source: CBS

Other indicators

Percentage of opinions from the Equal Treatment Commission (CGB) relating to sexual orientation; reflected as a percentage of all opinions (on all grounds of discrimination)

	Number	Percentage
1995	5	5,0%
2000	3	3,0%
2001	4	2,5%
2002	2	1,0%
2003	6	3,0%



Source: the independent, national Equal Treatment Commission

Percentage of reports about discrimination against gays out of the overall number of reports

	Number	Percentage
2000	65	3,0%
2001	258	7,0%
2002	127	3,0%
2003	121	3,5%



Source: annual reports of independent local Anti-Discrimination Offices

Equal Treatment in a Wider Context

European Policy

Article 13 of the EU Treaty comprises, amongst other things, the equal treatment of citizens based on 'sexual orientation'. Since its inclusion in the *Treaty of Amsterdam* (1997), this European anti-discrimination clause has given rise to various directives on equal treatment. EU member countries turn these directives into national legislation. The anti-discrimination clause is one of the elements of the *acquis communautaire* of the European Union.

www.europa.eu.int

Non-discrimination is imbedded in the *European Constitution*, which was politically agreed upon on 17-18 June 2004. In part II, article 21 in which the *Charter* has been incorporated, discrimination on the grounds of 'sexual orientation' is explicitly forbidden. Other international treaties that refer to non-discrimination on the grounds of sexual preference (less or more explicitly) are those of the United Nations and the *European Treaty on Human Rights* of the Council of Europe.

www.coe.int

Dutch Policy

In the Netherlands, the equal treatment of gay men, lesbian women and bisexuals is laid down by law in Article 1 of the Dutch Constitution and elaborated in the Equal Treatment Act (AWGB). The policy of the Dutch government on the emancipation and equal treatment of gay citizens is recorded in the Policy document on Homosexual Emancipation Policy of April 2001. In August 2004, the Ministry of Health, Welfare and Sport submitted a report to Parliament detailing what it had done during the past years.

www.minvws.nl

Governing principles of Dutch policy

With regard to the equal treatment of gay men and lesbian women, Dutch government policy focuses on promoting homosexual emancipation and combating discrimination against and intimidation of gay men, lesbian women and bisexuals.

Several ministries are involved in the policy on equal treatment of gays. The Ministry of Health, Welfare and Sport coordinates policy, but the Ministries of Defence, the Interior and Kingdom Relations, Foreign Affairs, Social Affairs and Employment, Education, Culture and Science and Justice are all involved too. Each Ministry is responsible for attention towards homosexual emancipation policy in their domain. The various disciplines work together in areas where policy on equal treatment coincides with other grounds of discrimination (such as gender, handicap, ethnicity and age).

Various parties are involved in the practical implementation of the policy on equal treatment of gays and tackling discrimination against them. Given the significant role played by social organisations and other parties in the equal treatment of gays, government policy is primarily geared towards laying down conditions and is modest in terms of deployment.

Sources: Policy Document on Homosexual Emancipation Policy 'Purple about Pink', 2001 and the Progress Report on Homosexual Emancipation Policy, 2004.

Which instruments does the Dutch government use?

The national government employs the following policy instruments: legislation, public services, research from experimental projects, consultation and coordination of cooperation with ministries, documentation, support at national level by NGOs and expertise centres, and supervision and periodic reporting on the state of affairs.

Dutch Government Policy in Practice

Legal protection and safety of gay¹ citizens

During past decades the foundation has been laid for the equal treatment of gay men and lesbian women. Not only because the general principle of equality has been included in *Article 1 of the Constitution*, but also because the *Equal Treatment Act* is an achievement. This act also prohibits distinctions based on heterosexual or homosexual orientation on the area of employment and to goods and services. This legal foundation was expanded further in 2002 with amendments to Dutch Family Law.

A major step for homosexual emancipation was the opening up of civil marriage to gay couples in 2001 and the possibility to adopt children. In 2002 some 1,800 same-sex marriages took place.

¹ and lesbians, bisexuals and transgenders

The legal establishment of equal treatment is a necessary condition for the acceptance of gay men and lesbian women in society. But this acceptance is not spontaneous. As a contribution to the acceptance of homosexuals in the community, in 1974 the Dutch government officially recognised *COC Nederland*, the national advocate organisation for gays, lesbians, bisexuals and transgenders (hereafter: gays).

www.coc.nl

Combating Discrimination

Combating discrimination against homosexuals is one of the priorities of the prosecution and investigation policy of the Public Prosecutions Department. Under the Dutch Penal Code, it is a criminal offence 'to publicly offend', 'incite hatred, discrimination or violence' and 'to discriminate, in a official capacity, profession or business, against people' on the grounds of their sexual orientation or on other grounds. These forms of discrimination relate to crimes and offences against the public order.

www.coc.nl

www.cgb.nl

Police Officers

The personnel and organisational policy of the central government is based on the equal treatment of gays, women and immigrants.

- In 2000 the Ministry of the Interior measured how well-disposed personnel from regional police forces were towards women and gays.
- An internal information campaign ('*The closet*' project) focuses on increasing awareness amongst various police forces. Other countries are interested in this project.
- The national network of gay police officers has been recognised by the Council of Chiefs of Police and the Ministry of the Interior.
- The *National Expertise Centre for Diversity Management* (LECD), provides practical assistance to regional police forces that have questions concerning the practical implementation of equal treatment of gays within the police force.

www.lecd.nl

Social Acceptance

- In 2003 experimental research was carried out on the acceptance of (and the taboo surrounding) homosexuality in large-scale population studies. In

Civil marriage also open to same-sex couples²

Since 1998, same and opposite-sex couples in the Netherlands can enter into a registered partnership. Since 1 April 2001, same-sex couples can also get married. A couple can convert a registered partnership into a marriage (and the other way round too). Together with the opening up of marriage to same-sex couples, the rules for adopting a child in the Netherlands have also changed.

The existing civil marriage has been opened up to people of the same sex. The aforementioned act is not a completely new one, but an amending act that modifies Book 1 of the Dutch Civil Code. In 2002 roughly 1,800 male and female couples got married. A Dutch marriage between two men or two women practically has the same implications as a marriage between a man and a woman. There are two important differences though. A marriage between two women or two men has no consequences in relation to children while a marriage between a man and woman does. And recognition abroad of a marriage between two women or two men can cause problems. Same-sex couples can adopt children in the Netherlands.

In the Netherlands, a church wedding has no significance from a legal perspective. In any case, a church wedding always has to be preceded by a civil marriage.

² The text is an adaptation of the publication entitled 'Nederland kent geen homohuwelijk'/'No gay marriage in The Netherlands' (2002) by Kees Waaldijk and Jan Wolter Wabeke.

that same year, the amount of attention paid by local municipal administrations to local homosexual -emancipation policy was measured. Large cities and university cities in particular scored well. The measurement will be carried out again in 2005.

www.homo-emancipatie.nl

- The development of local policy on the equal treatment of gays received an impulse in 2001 via the project entitled *Knowledge Centre for Homosexual Emancipation and Local Policy*. This project provides municipalities, (semi-) public service organisations and voluntary organisations with practical knowledge.
- The Ministry responsible for coordinating homosexual emancipation policy regularly consults with municipal representatives from Amsterdam, Rotterdam, The Hague, Utrecht, Nijmegen and Wageningen.

Cultural Differences

The composition of the Dutch population has undergone significant changes in past decades. There are more people with different cultural backgrounds and diverse ideologies. Since homosexuality is not always self-evident in every culture, the government fosters a number of projects aimed at raising awareness and/or providing information.

- The project entitled *The Dialogue* stimulated (further) conciliation between gay citizens and citizens with different religious beliefs and ideologies (such as Islam, Hinduism, Judaism and Christianity). *The Dialogue* project will finish at the end of 2004. Various social organisations are the driving force behind this project, namely *COC Nederland, the Yoesuf Foundation, Humanist Union, and Islam and Citizenship*.
- In 2003 a short film appeared detailing the life stories of six young gay immigrants. *'Behind every colour'* touchingly depicts the themes of respect and conflict between cultures. In view of the vulnerable position of gay immigrants, the film is only being screened in a small circle.
- The hundred most frequently asked questions about homosexuality and Islam have been compiled in an information book that will be published at the end of 2004. This book and the film *'Behind every colour'* should promote the social acceptance of gays and mutual understanding between cultures. The book is also intended for health-care professionals.

www.yoesuf.nl

www.forum.nl

www.schorer.nl

www.coc.nl

Gays after the Second World War

The *International Homosexual and Lesbian Archive, (IHLIA)* preserves and provides further access to documentation about the post-war history of the Dutch gay movement and about the equal treatment of gays.

www.ihlia.nl

Restoration of rights for gays and lesbians after the Second World War

According to rough estimates, several hundred gay men and lesbian women in the Netherlands fell victim to persecution during the Second World War. In 2000 the Dutch government officially acknowledged that the post-war restoration of rights were, in retrospect, carried out in a formalistic, bureaucratic and cold manner. That is why the decision was taken in 2001 to make €1.5 million available in order to fill the gaps in Dutch historiography about the circumstances, effects and consequences of the persecution of gays during the war years (1940-1945). The destroyed Schorer library is being rebuilt to ensure that documentation and knowledge relating to the development of homosexual emancipation in Dutch history is saved and made accessible. Funds have also been provided for the establishment of a permanent exhibition on the social position of gays during and after the Second World War.

Gay Senior Citizens

Homosexuality amongst senior citizens is a difficult topic to discuss. That is why elderly gays often find themselves in a position of social isolation.

- A special guide called *Vrolijke Herfst (Merry Autumn)* has been developed to help them escape this isolation and bolster their self-reliance. It is intended for elderly gays and senior citizen organisations.
- Another project for elderly gays is the experiment called *Rimpels in de Regenboog (Wrinkles in the Rainbow)*. The aim of this project is to make local facilities for the elderly more accessible to similarly aged gays. *Wrinkles in the Rainbow* resulted in a checklist containing preconditions for providing customer-friendly care and service to elderly gays. The checklist is intended for professionals in (semi-) public service organisations, local authorities and senior citizen organisations.

Information on Health

- On the instruction of the Ministry of Health, Welfare and Sport, the *Schorer Foundation*, the national knowledge centre, focuses on combating HIV and sexually transmitted diseases (STDs) among gay men. The *Schorer Foundation* also provides information to organisations and citizens about STD prevention.
www.schorer.nl
- The government provides financial support for prevention and information to the national association of and for HIV-positive people, the *HIV Association*.
www.hivnet.org

Sport

The device: "sport for all" is generally accepted in the Netherlands. Nevertheless, a number of specific groups find regular, organised sport to be less accessible. Earlier studies, which were commissioned by the Ministry of Health, Welfare and Sport, revealed that this held true for gay sportsmen and lesbian sportswomen. For this reason, the Ministry has supported various projects over the past few years that are geared towards advancing the integration of (amongst others) gays in regular sport and curtailing discrimination and homophobia.

- The Ministry has, for example, supported activities carried out by the foundation *Homosport Nederland* in its role as representative and network organisation. In 2002 this organisation was admitted into the Dutch Olympic Committee (NOC*NSF).
www.homosport.info
- In 2002 the Ministry commissioned a major quantitative study on participation in sport amongst gays. The study revealed that gay men, in comparison with heterosexual men, opt less for traditional sports in sport clubs run by volunteers. Gay sportsmen and sportswomen prefer going to commercial fitness centres or sport schools. The differences uncovered amongst women were less striking. Significant differences in participation in sport amongst heterosexuals and homosexuals, do not appear.

Education

Promoting the safety of gay teachers and pupils is a component of the general policy on 'safety in schools' of the Ministry of Education, Culture and Science.

- The Dutch Education Inspectorate monitors tolerance towards gays in schools.
- The Inspectorate also encourages schools to devote attention to homosexuality. In September 2003 the Dutch Education Inspectorate published the guide *'Everyone is different'*. This document was distributed to all primary and secondary schools and all institutions for professional and adult education. The guide must make schools more aware of points that are monitored by the Inspectorate, such as what school management is doing to tackle discrimination. The guide also provides a number of practical tips for stimulating the equal treatment and acceptance of gays.
- *The National Centre for School Improvement (APS)* assists educational institutions with practical issues concerning the equal treatment of gays in schools. This knowledge centre and the national advocate organisation for gays (*COC Nederland*) have coordinated the launch of the pilots 'homosexuality at school'. The pilots are meant to help find a way to increase tolerance levels in schools. Schools must also personally ensure the safety of gay pupils and teachers. Furthermore, they must find their own way to turn homosexual emancipation and sexual diversity into topics that can be discussed.
- In addition, several pilots on 'Homosexuality and Islam' were carried out in 2003/2004 with the aim of instructing teachers how to deal with homosexuality and the various ideologies of pupils and

students in secondary and higher education.

www.yoesuf.nl

- Three conferences scheduled for the autumn of 2004 will involve authors, publishers and administrative organisations and will focus on dealing with homosexuality in educational tools.

www.aps.nl

www.gay-and-school.nl

On the Work Floor

- The Ministry of Social Affairs and Employment does not develop a specific policy on homosexual emancipation, but allows activities to ‘hitch a ride’ with the policy on working conditions and the policy on equal treatment. The equal treatment policy comprises all non-discrimination grounds of the Equal Treatment Act.
- The Ministry also supports projects focussing on tackling discrimination against gays on the work floor. An example is the EQUAL project: ‘*Enabling safety for lesbigay teachers*’.

Armed Forces

- In 1974 the ban on homosexuality in the Dutch armed forces was repealed.
 - In 1992 and 1998 the Ministry of Defence commissioned an extensive study on the position of gay personnel in the Royal Netherlands Navy, Army, Air Force, Military Constabulary, the Central Organisation and the Defence Command Centres. Amongst other things, it emerged that the acceptance of gays in the armed forces has increased.
 - The Ministry has recognised the interest group for gay soldiers: the Foundation for Homosexuality and the Military (SH&K). This national organisation receives financial support for the work it carries out.
- www.shk.nl
- The Ministry is actively pursuing an equal treatment policy in order to safeguard the results that have been achieved.

- Via Dutch embassies in various European cities, the government provides financial support to local projects aimed at strengthening the position of gays. This occurs via *Small Embassy Projects and Social Transformation* (MATRA) projects. In this way, information and construction projects in Warsaw, Bucharest and Budapest have been supported over the years.
 - *COC Nederland* has also received financial assistance in bolstering European networks. This involves local and national organisations for gays. Also the European association for gay sportsmen and sportswomen, the *European Gay & Lesbian Sport Federation* (EGLSF) has been provided financial support
- www.gaysport.info
- The Dutch government participates as an observer in annual meetings of the European association for gay organisations (*ILGA-Europe*) in order to keep a close eye on developments in Europe.
- www.ilga-europe.org
- In 2003 a list of contact addresses of national governments was compiled in order to acquire an insight into policies on homosexual emancipation in other EU member countries and to reinforce the equal treatment of gays in Europe. The list has since been distributed amongst EU member countries.
 - In 2004 the Netherlands hosts two European conferences on the equal treatment of gays. The first one is the *Gay Cop* conference, a get-together of police officers from European member countries. The other conference is the launch of a European network of government officials from EU member countries: *Mainstreaming Sexual Orientation Policies in Europe*.
 - The Dutch government regularly invites non-governmental gay organisations (from the Netherlands as well as the rest of Europe) to participate in various official international meetings.

Cross-Border Support

The Dutch government calls attention to discrimination due to sexual preference in international forums such as the United Nations, Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE), as well as among governments.

Recent Government Publications

- Policy document on homosexual emancipation policy ('*Paars over Roze*'/'*Purple about Pink*': no. 27017, no. 2, April 2001).
- Progress report on homosexual emancipation policy: August 2004 no. 27017, no. 7.

www.minvws.nl

Colophon

This fact sheet was compiled by the Dutch Ministry of Health, Welfare and Sport and with the cooperation of the Ministries of Social Affairs and Employment, the Interior and Kingdom Relations, Justice, Education, Culture and Science, Foreign Affairs and Defence.

Important Addresses in The Netherlands

Ministry of Health, Welfare and Sport
Coordination of the Government's Policy on Sexual Orientation

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Fax +31 (0)70 333 51 12
Email info@minszw.nl
Website www.minszw.nl

Ministry of the Interior and Kingdom Relations
Constitutional Affairs and Legislation Department and Police Department
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Fax +31 (0)70 363 91 53
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Website www.minbzk.nl

Ministry of Health, Welfare and Sport

Ministry of Justice
Section: Monitoring discrimination and integration policy
Postbus 20301, 2500 EH Den Haag, The Netherlands,
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Tel +31 (0)70 318 88 02
Email defensie.voorlichting@co.dnet.mindef.nl
Website www.mindef.nl

COC Nederland
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