



Government of the Netherlands

# LGBTI equality in the Netherlands

Orange is always part of the rainbow







## 1. Introduction

### Dutch LGBTI policy

Following the decriminalization of homosexuality in the Netherlands in 1971, the inclusion of sexual orientation in anti-discrimination legislation in 1994, the establishment of civil partnerships for same-sex couples in 1998 and the introduction of equal marriage and adoption rights in 2001, the focus of Dutch government LGBTI policy today is so-called “mainstreaming”. That is, the consideration of sexual orientation and gender identity (SOGI) issues in all aspects of policy, at all levels, as well as actively promoting greater social acceptance of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. At the forefront of these efforts since 1986 has been the Interdepartmental Working Group on Government Policy and Homosexuality/LGBTI Equality (IWOH), bringing together the ministries of Justice and Security, Education, Culture and Science, the Interior and Kingdom Relations, Defence, Health, Welfare and Sport, Economic Affairs, and Foreign Affairs.

The national government also works closely with so-called “Rainbow Cities” – Dutch local authorities committed to LGBTI inclusivity – and is active on the international stage. At the national level, it maintains strategic partnerships with expert institutions and with advocacy bodies such as the COC,<sup>1</sup> the oldest LGBTI organization in the world.

To track the social acceptance of LGBTI persons, once every two years the Netherlands Institute for Social Research (*Sociaal en Cultureel Planbureau, SCP*) publishes an “LGBT Monitor” (LHBT-monitor). It analyses public attitudes to sexual and gender diversity in the Netherlands and other European countries, and also examines various aspects of the life experience of LGBTI persons: their work situation, workplace experiences, lifestyles, perceived safety, victimization and so on.

## 2. Key figures

### A. Demographics

SCP findings indicate that 4-6 per cent of the Dutch population is LGBT. Out of a total of 17 million, that represents a community of 680,000 to 1 million persons.

### B. Same-sex marriages

Civil marriage in the Netherlands has been open to same-sex couples since 2001. In the first two years after the law was changed, more male than female couples were married. From 2003 onwards, however, that situation reversed. In 2015 there were 748 marriages between two women and 647 between two men.

Year	male-male	female-female	male-female
2013	522	700	62,327
2014	532	727	64,074
2015	647	748	62,912

Of all the formal relationships entered into by same-sex couples, about 30 per cent are registered partnerships.

Year	male-male	female-female
2013	208	199
2014	201	200
2015	199	239

### C. Transgender persons

“Transgender” or sometimes “trans” is the term used for someone whose gender identity (self-identification as male, female, both or neither) or gender expression (e.g. clothing style, appearance, behaviour, voice) is different from that of the registered gender at their birth. Dutch government policy in this area focuses primarily upon the former group, those whose gender identity does not correspond with the recorded gender on their birth certificate.

Since 2014 it has been easier administratively and legally for a person to change their registered gender. As soon as this simplification was introduced, there was a substantial increase in the number of people applying to change their birth certificate.

In all, there have been 1960 such changes since 1995. Given that the Netherlands is home to an estimated 48,000 transgender persons, it is evident that only a small proportion go through the procedure to change their gender officially.

<sup>1</sup> The COC was originally found in 1946 under the cover name “Cultureel Ontspanningscentrum” (Cultural Leisure Centre).

#### D. Intersex persons

The SCP estimates that there are roughly 80,000 intersex persons in the Netherlands, one in 200 of the total population. That includes those unaware that they fall into this category.

#### E. Discrimination

Some 30 per cent of cases of discrimination reported to the police in 2016 related to sexual orientation and gender identity (SOGI) – 1295 incidents in all. An unknown number of these concerned the use of the word “homo” as a general term of abuse.

### 3. Fighting discrimination

Most Dutch people accept homosexuality and gender diversity. Nevertheless, LGBTI persons in the Netherlands do still experience discrimination, harassment, intimidation and violence, or feel unsafe. All of these are unacceptable, and the government is determined to prevent and tackle them.

Policy measures in this field include...

- Local anti-discrimination initiatives centring on law enforcement and public order.
- A national network of local anti-discrimination initiatives to record reports of SOGI-related discrimination.
- Police registration of reported incidents of discrimination.
- The right of the Public Prosecution Service to request that sentences be doubled for hate crimes against LGBTI persons.
- Better public information, to encourage victims and witnesses to report incidents of discrimination and violence.
- Since it is particularly important that young LGBTI persons feel safe, especially when they want to come out, the government actively supports so-called Gay-Straight Alliances or Gender and Sexuality Alliances (GSAs). These are networks of school students of all sexual orientations, set up to make LGBTI youngsters more resilient and to ensure that they feel safe at school.
- The Central Agency for the Reception of Asylum Seekers (*Centraal orgaan opvang asielzoekers*, COA) and advocacy organization COC have signed a covenant to tackle violence and discrimination against LGBTI asylum seekers at reception

centres. Amongst other things, this states that, like other vulnerable persons, LGBTI refugees should have access to a confidential counsellor if and when they need one.

### 4. Legal protection

#### Constitutional protection

Article 1 of the Dutch Constitution states that “all persons in the Netherlands shall be treated equally” and forbids discrimination on any grounds whatsoever.

#### Equal Treatment Act

The General Equal Treatment Act (*Algemene wet gelijke behandeling*, AWGB) entered into force in 1994 to elaborate the basic principle of equality enshrined in Article 1 of the Constitution. It states that all persons shall be treated equally, “irrespective of their religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status”, and prohibits discrimination on these grounds in employment, access to goods and services, professional occupations, membership of a trade union or professional association and entitlement to social protections.

### 5. Transgender Persons Act

#### Change of registered gender

Since the Transgender Persons Act (*Wet erkenning transgenderpersonen*) entered into force in 2014, all a person needs in order to change their registered gender is a declaration by an expert that they are mentally capable and that their desire to make the gender transition is permanent. With this document, the transgender person can require a registrar to change the recorded gender on their birth certificate (to either male or female). They can also change their forenames(s) to reflect their gender identity.

The act also ensures that a person who has undergone this official procedure to change their registered gender from female to male and subsequently bears a child is registered as the mother on the child’s birth certificate.





As of 2017-2018, the effectiveness of the Transgender Persons Act is being evaluated.

## 6. Intersex persons

“Intersex” is a term used to describe persons born with a variety of conditions which result in their physical – sex – characteristics falling outside the standard medical definition of “male” and “female”. The underlying causes of this may be chromosomal, gonadal or anatomical. In the Netherlands, if the gender of a child cannot be determined at birth, that is recorded on their initial birth certificate. After three months, a new certificate is issued. If a definite gender can now be established, it is shown on this second certificate. If not, it is again recorded as indeterminate. This registration then works through into other official records and documents, such as identity cards.

## 7. Same-sex couples

### a. Marriage and registered partnerships

Couples of the same sex have been able to marry in the Netherlands since 2001. This is in addition to the option of entering into a registered partnership, which has been possible since 1998. In principle, all couples have the same rights and obligations.

### b. Adoption

The rules for adoption in the Netherlands are the same for all couples, whether same-sex or different-sex and regardless of whether or not they are married. When applying for an adoption order, they must have been living together for at least three years. They can demonstrate this by, for example, producing a cohabitation agreement or records from the National Population Register (Basisregistratie personen, BRP). They must also have been raising the child they wish to adopt for at least one year.

#### Second-mother adoption

The cohabitation and child raising periods described above do not apply to the female partner of a child’s biological mother. She can adopt, as second legal parent, at birth..

#### Single-parent adoption

Adoption by a single parent, regardless of sexual orientation, has been permitted by law in the Netherlands since 1998.

### c. Legal parentage

The terms “mother” and “father” have the following legal definitions in the Netherlands. A “parent” is either a mother or a father, as per these definitions.

In law, a child’s mother is...

- The woman who gave birth to the child.
- The woman to whom the birth mother is married or with whom she has a registered partnership, if the child is born during that marriage or partnership (in the case of paternity by anonymous donor).
- A woman who has officially acknowledged parentage or adopted the child.
- A woman whose parentage is officially recognized by a court.

In law, a child’s father is...

- The man to whom the birth mother is married or with whom she has a registered partnership, if the child is born during that marriage or partnership.
- A man who has officially acknowledged parentage or adopted the child.
- A man whose parentage is officially recognized by a court.

## 8. Unnecessary gender registration

Departments across the Dutch government are jointly investigating opportunities to limit or abolish unnecessary gender registration, where this is legally possible. For example, the holder’s gender marker will soon no longer be shown on personal public transport chip cards. Similarly, the “male/female” box is to be dropped from many official forms.

## 9. Social acceptance

While legal protections and guarantees are vital for LGBTI equality, so is social acceptance. Fortunately, most people in the Netherlands do accept diversity of sexual orientation and gender identity. In fact, we top the European list in this respect, after Iceland (*see Figure 1*).

Nevertheless, acceptance remains relatively poor in certain sections of society. The government is therefore working actively to counter negative attitudes as well as to keep LGBTI persons safe (*see Table 1*).

Figure 1. Attitudes towards homosexuality in Europe, by country, in 2016 (weighted percentages).

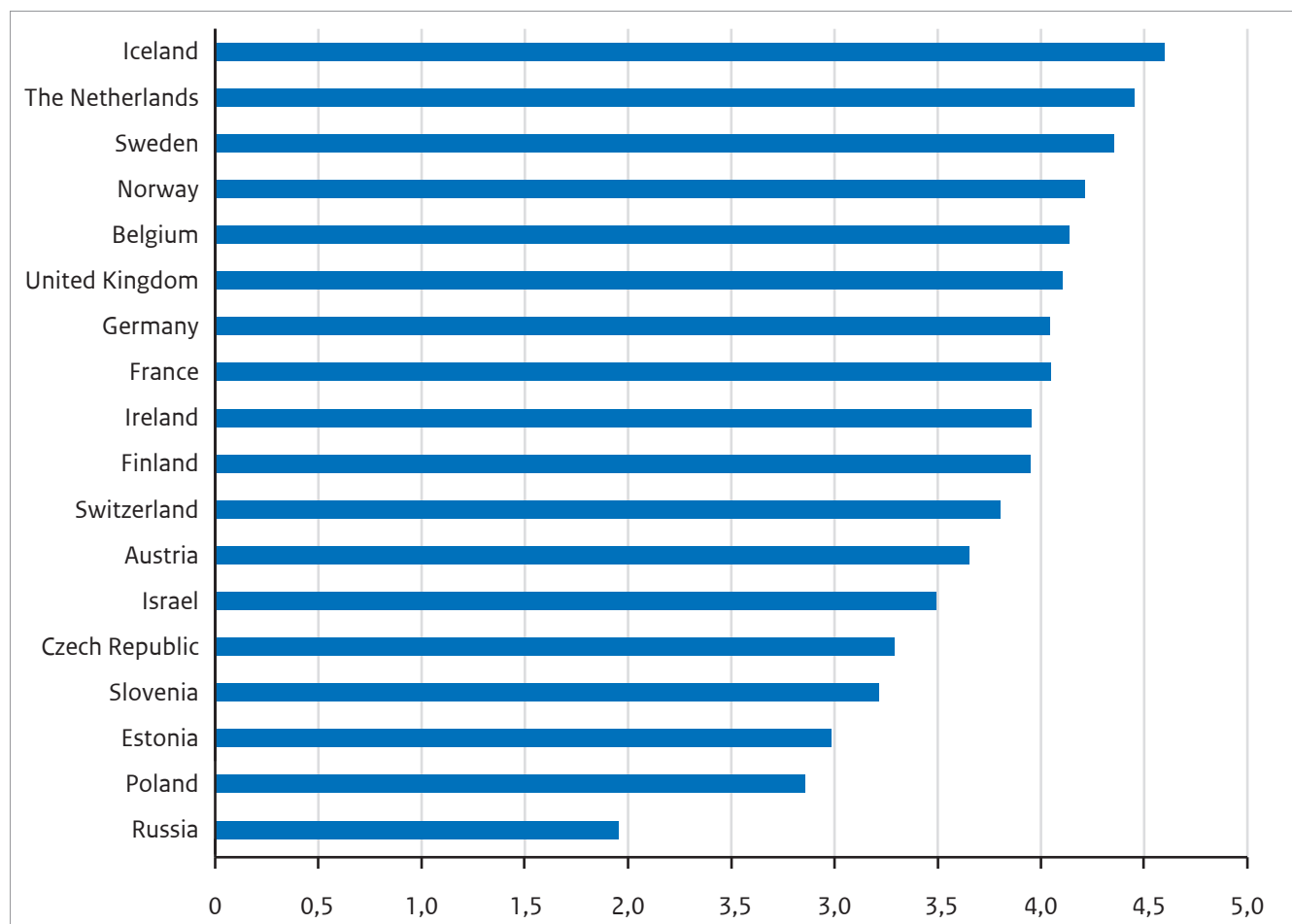


Table 1. Attitudes towards homosexuality in the Netherlands, by national origin, in 2015 (weighted percentages).

	Moroccan	Turkish	Surinamese	Antillean/ Aruban	Polish	Somali	Dutch
Gay men and lesbians should be able to live their lives as they wish. <sup>a</sup>	68	65	85	84	75	57	92
It is a good thing that same-sex couples can marry. <sup>a</sup>	30	35	67	62	44	27	83
I would find it problematic if my child had a partner of the same sex. <sup>b</sup>	78	76	29	29	44	66	11

<sup>a</sup> Answers given on a five-point scale, from (1) "totally agree" to (5) "totally disagree". The table shows the combined percentages for "totally agree" and "agree".

<sup>b</sup> Answers given on a five-point scale, from (1) "very problematic" to (5) "not at all problematic". The table shows the combined percentages for "very problematic" and "problematic".

Source: SCP, Integration of Minorities Survey (SIM), 2015.

### Supporting acceptance initiatives

The Dutch government is supporting a variety of initiatives by national alliances to bolster social acceptance of LGBTI persons in the workplace, education and sport, as well as among certain bicultural and faith groups. Examples include...

- COC classroom activities. Dutch secondary schools have been required to include gender and sexual diversity in their curriculum since 2012. Each year the COC – the world's oldest LGBTI advocacy group – delivers about 1500 classes and guest lessons on LGBTI issues.
- GSA activities. Gay-Straight Alliances or Gender and Sexuality Alliances are networks of school students of all sexual orientations, set up to make LGBTI youngsters more resilient and to ensure that they feel safe at school.
- Shared Pride, Shared Happiness (Gedeelde Trots, Gedeeld Geluk). This alliance, established by the COC, the Transgender Network Netherlands (TNN) and the Netherlands Intersex/DSD Network (NNID), has formed a strategic partnership with the Ministry of Education, Culture and Science to increase social acceptance of LGBTI persons and their safety.
- Community networks. The government actively backs a number of networks of vulnerable LGBTI groups, with a view to capacity enhancement. They include the MARUF Foundation for Queer Muslims in the Netherlands and the European Queer Muslim Network, the Christian LGBTI network made up of ContrariO, LKP, LCC+, FORUM, Holy Females, Mirre and CHJC, and the international networks ILGA Europe, IGLYO Europe and Transgender Europe.

Many Dutch local authorities are also committed to improving the social acceptance and safety of LGBTI persons. The national government supports these so-called “Rainbow Cities”, which in turn work with local LGBTI groups and networks and local institutions such as anti-discrimination bodies and welfare, sports and senior citizens’ organizations.

### Monitoring

As well as through the SCP's dedicated biennial LGBTI Equality Monitor, the government also keeps its finger on the pulse of social acceptance and attitudes by explicitly considering LGBTI issues in its regular public safety, lifestyle and schools monitoring exercises.

### The government and LGBTI

The national government is also committed to greater acceptance within its own organization. The Dutch Government Pride Platform is an alliance of LGBTI personnel networks in the public sector, at both national and local levels.

“Pink in Blue” (Roze in Blauw) is a network in the National Police Service dedicated on the one hand to combating hate crimes against LGBTI persons and to supporting the victims, and on the other to increasing acceptance and visibility within the police force itself.

The Homosexuality and the Forces Foundation (Stichting Homoseksualiteit en Krijgsmacht, SHK) is a network of LGBTI military personnel.

## 10. Beyond our borders

The Netherlands is a cofounder and an active member of the Equal Rights Coalition, a group of 35 nations – at date of mid 2018 – working in collaboration with civil society organizations for equal rights worldwide for LGBTI persons. The Netherlands also cofounded and administers the European Governmental LGBTI Focal Points Network with 31 nations – at date mid of 2018 –, which concentrates upon the exchange of practical and policy experiences.

In addition, the Netherlands actively promotes equal rights for LGBTI persons on a variety of other international stages.

### Europe & worldwide

#### Council of Europe and European Union

The Netherlands has contributed to the EU guidelines to “promote and protect all human rights of LGBTI persons”. These build upon existing legal standards in this area, including those set by the United Nations and the Council of Europe. They aim to provide officials of EU institutions and member states with guidance in respect of those rights, to be used in contacts with third countries and international organizations.

#### Multilateral and bilateral efforts

The Netherlands ensures that equal rights for LGBTI persons are on the agenda of such organizations as the United Nations, the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe.

Dutch embassies throughout the world maintain contacts with local LGBTI organizations and support them in a variety of ways. Each year on 17 May, International Day against Homophobia, Transphobia and Biphobia, many of our diplomatic missions organize activities to highlight the importance of equal rights for LGBTI persons.





Canal Parade, Amsterdam

## Sources

The Netherlands Institute for Social Research (2017), Transgender personen in Nederland [Transgender persons in the Netherlands].

The Netherlands Institute for Social Research (2016), LHBT-monitor [LGBT monitor].

The Netherlands Institute for Social Research (2014), Leven met intersekse/DSD [Living with intersex/DSD].

CBS Statistics Netherlands, 2017 data.

Art. 1/National Police Service (2017), 2016 discrimination statistics.

Orange is always  
part of the rainbow

