

**News and information
about research and developments
in Sexual Orientation Law**

2010 & 2011

by Kees Waaldijk

Leiden Law School

www.law.leidenuniv.nl

March 2011

**New chair at Leiden Law School:
Comparative Sexual Orientation Law**

Leiden University has appointed Kees Waaldijk to its [new chair in Comparative Sexual Orientation Law](#). This endowed chair, unique in Europe, has been made possible by private gifts to the [Leiden University Fund](#). The chair will be based at the Leiden Law School's [Grotius Centre for International Legal Studies](#), at the [Hague campus](#) of Leiden University.

[Kees Waaldijk](#) will start there in May. As of the coming academic year he will be offering a new optional course: *Comparative Sexual Orientation Law*, for students from Leiden and also from elsewhere. One of his current research projects assesses in which situations European countries are recognising a foreign marriage or partnership consisting of two women or two men. In May the [Max Planck Encyclopedia of Public Internationals Law](#) will publish his latest analysis of the protection that international law is providing to same-sex couples.

February 2011

Junior researchers in LGBT law are forming PhD Network

The number of PhD candidates and other junior researchers working on legal aspects of sexual orientation or gender identity is growing. A few of them thought it would be good to start a network of junior researchers in LGBT law. Such a network could become a forum to exchange ideas, share information and build a broader and deeper knowledge of the field of sexual orientation, gender identity and the law. Therefore the group will be

open to PhD candidates, PostDocs and other young researchers working in this field, whether in family law, social security law, labour law, constitutional law, international law or any other relevant area of law, or in sociology of law, legal history, law & economics, etc.

Would you be interested in joining such a network?

If so, please contact [Jose Maria Lorenzo Villaverde](mailto:jose.maria.lorenzo.villaverde@jur.ku.dk), who is doing PhD research at the Faculty of Law of the University of Copenhagen, on same-sex marriage and registered partnership in Spain and Denmark. He can be contacted at: jose.maria.lorenzo.villaverde@jur.ku.dk.

February 2011

Chapters from book by Kees Waaldijk & Matteo Bonini-Baraldi now online

The introductory and concluding chapters, plus the bibliography, of the book [Sexual Orientation Discrimination in the European Union: National Laws and the Employment Equality Directive](#) are now [online](#).

The book, published in 2006 by TMC Asser Press in The Hague, continues to be available via [Springer](#). The book is based on the report [Combating Sexual Orientation Discrimination in Employment](#), which is also [available in French](#). The book has been reviewed by M Jefferson in [The 2007 British Year Book of International Law](#) (Oxford: Clarendon 2008, p. 506-508).

February 2011

Summer School on International and Comparative Sexual Orientation Law

It is not yet too late to register for the [Summer School on International and Comparative Sexual Orientation Law](#), that Whittier Law School is organising together with the Williams Institute (both based in Los Angeles). Previous editions of this successful and unique program took place in Amsterdam. This year the program will take place in **Barcelona from 1 to 29 July 2011**.

Participants in this program can choose up to six courses. The courses on offer include: *Legal Recognition of Same-Sex Relationships Around the World* (by Brad Sears), *Spanish Law & the LGBT Community* (by Cristina Gonzalez), *Transgender Law* (by Shannon Minter), *Social Science and Public Policy on LGBT issues* (by Lee Badgett) and *Same-Sex Privacy, Partnership and Parenting in International and European Law* (by Kees Waaldijk).

To make the program even more international, a limited number of places is being made

available for **non-US students** at a sharply **reduced fee of USD 1,000** (on condition that they will make a presentation during the program about developments in their own jurisdiction). Admission is at the discretion of the organisers.

Please apply before 1 March. Applications received after this date (but before 15 April) will be considered only if space is available. Please note that there is limited program housing, and priority will be given to early applicants.

For more information, see www.law.whittier.edu/index/centers-programs/study-abroad/barcelona-spain.

February 2011

Upcoming conferences (with some content) on sexual orientation law

[2nd AsiaPacific Outgames Human Rights Conference](#), Wellington, 16-18 March 2011.

[Legal Recognition of Same-Sex Relationships in Europe](#), Trier, 11-12 April 2011. Conference organised by ERA - Academy of European Law.

[Equality and Justice - LGBTI Rights in the XXI Century](#), Florence, 12-13 May 2011.

[International Day Against Homophobia Conference](#), Nottingham, 17 May 2011. Conference organised by the University of Nottingham, as part of the research project "Citizens in Diversity: A Four-Nation Study of Homophobia and Fundamental Rights".

Justice in the Balkans - Equality for Sexual Minorities, Belgrade, 27-30 May 2011. Information about this follow up to a similar conference in Monte Negro in 2009 [will become available](#).

[Company Pride Platform Conference](#), Amsterdam, 1 July 2011.

[LGBT/Queer Studies: Toward Trans/national Scholarly and Activist Kinships](#), An International Conference, Madrid, 3-5 July 2011.

[Naming and Framing: The Making of Sexual \(In\)Equality](#), Madrid, 6-9 July 2011. Conference of the International Association for the Study of Sexuality, Culture and Society (IASSCS). The 2011 Conference theme focuses on the multiple ways that equality and inequality are articulated through sexuality.

[North American Outgames Human Rights Conference](#), Vancouver, 26-28 July 2011.

[National LGBT Bar Association Career Fair and Conference \(Lavender Law\)](#), Los Angeles, 8-10 September 2011.

[European Geographies of Sexualities Conference](#), Brussels, 8-10 September 2011.

[ILGA-Europe Annual Conference](#), Torino, 27-30 October 2011.

[Mutual recognition of registered partnerships and same-sex marriages within the territory of the European Union: a restriction on the freedom of movement of EU citizens and members of their family?](#) Strasbourg, 18-19 November 2011. Conference organised by the French organisation of LGBT professionals L'Autre Cercle.

And the biggest of them all: [World Outgames Human Rights Conference](#), Antwerp, August 2013.

January 2011

Legal recognition of same-sex partnerships

As regards the legal recognition of same-sex partnership I think the situation as of 1 January 2011 can be summarised as follows:

- **Civil marriage** has been opened up to same-sex couples in Argentina, Belgium, Canada, Iceland, Netherlands, Norway, Portugal, Spain, South Africa, Sweden, and in parts of Mexico and the United States of America. Legislation is pending or expected in Finland, Luxembourg, Nepal and Slovenia.
- In several other jurisdictions (including Israel, Mexico, the Caribbean parts of the Kingdom of the Netherlands, and parts of the United States of America) a same-sex **marriage contracted outside these jurisdictions** would be recognised for at least some legal purposes. This is also the case in many of the countries that have introduced some form of registered partnership but have not opened up marriage. However, most of the latter countries would not recognise a foreign same-sex marriage as ‘marriage’ but only as registered partnership.
- A form of **registered partnership** for same-sex couples (and sometimes also for different-sex couples) carrying some, most or all legal consequences of marriage, has been introduced (under various names) in Andorra, Austria, Belgium, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greenland, Hungary, Ireland, Luxembourg, Netherlands, New Zealand, Slovenia, South Africa, Switzerland, United Kingdom, Uruguay, and in parts of Argentina, Australia, Brazil, Canada, Mexico, Spain, and the US. Legislation is pending or expected in Chile, Costa Rica and Liechtenstein. In Iceland, Norway and Sweden the possibility of partnership registration was also introduced, but later abolished when marriage was opened up to same-sex couples.
- **Informal cohabitation** of same-sex partners has been recognized—at least for some legal purposes—in most of the jurisdictions mentioned above, and also in several others, including Australia, Brazil, Colombia, Croatia, Israel, Poland, and parts of Italy and the

US. has been recognised (at least for some legal purposes) in most of the jurisdictions mentioned above, and also in several other, including Austria, Brazil, Colombia, Croatia, Hungary, Israel, Portugal, and in parts of Australia, parts of Italy and parts of the United States of America.

*Please correct me (at c.waaldijk@law.leidenuniv.nl) if I am wrong or incomplete in summarising this constantly moving picture in this way! See also my article '[Same-Sex Partnership – International Protection](#)' in the *Max Planck Encyclopedia of Public International Law* and my paper '[Legal Recognition of Homosexual Orientation in the Countries of the World](#)'.*

December 2010

FRA updates legal study on homophobia and transphobia in EU member states

In November 2010 the European Union Agency for Fundamental Rights published the important report [Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity](#). The [previous version](#) of this legal study was published in 2008, and in 2009 a parallel [social study](#) was published. The [country thematic studies](#) containing legal background information on which the 2010 update has drawn (one for each of the 27 member states), are now also online.

The [2010 thematic study on the Netherlands](#) (by Kees Waaldijk, Rick Lawson & Nelleke Koffeman) provides among other things an overview of **recent and proposed changes in Dutch law** and policy on LGBT issues. It notes for example (in paragraph 40) that as of August 2009 discrimination (on grounds such as sex and sexual orientation) is also covered by the law on health and safety at work, which requires every employer to take measures to prevent (or if prevention is impossible, to reduce) 'psycho-social work pressure' and now includes direct and indirect discrimination in the definition of the latter term. The study also mentions (in paragraph 81) the 2009 law prescribing that every local authority must give its citizens access to a local or regional 'anti-discrimination provision'. The law stipulates two tasks for each anti-discrimination provision: independent assistance to persons complaining about discrimination in the sense of several other laws, including the General Equal Treatment Act and the Penal Code, and the registration of all such complaints that they receive. All this is in addition to the role of the (national) Equal Treatment Commission.

November 2010

Numbers of new marriages in the Netherlands

	<i>Two women</i>	<i>Two men</i>	<i>Man + woman</i>	<i>Same-sex total</i>	<i>Grand total</i>
1993	-	-	88273	-	88273
1994	-	-	82982	-	82982
1995	-	-	81469	-	81469
1996	-	-	85140	-	85140
1997	-	-	85059	-	85059
1998	-	-	86956	-	86956
1999	-	-	89428	-	89428
2000	-	-	88074	-	88074
2001	1075	1339	79677	2414	82091
2002	903	935	83970	1838	85808
2003	764	735	78928	1499	80427
2004	631	579	72231	1210	73441
2005	580	570	71113	1150	72263
2006	633	579	71157	1212	72369
2007	708	663	71114	1371	72485
2008	752	656	74030	1408	75438
2009	785	573	72119	1358	73477

Same-sex marriages became possible on 1 April 2001. During the first nine months 1075 female couples and 1339 male couples got married. The numbers of new marriages from 2001 include couples (especially same-sex couples) who converted their registered partnership into a marriage. This has become possible on 1 April 2001, too.

Source: [Statistics Netherlands](#).

November 2010

Numbers of partnership registrations in the Netherlands:

	<i>Two women</i>	<i>Two men</i>	<i>Man + woman</i>	<i>Same-sex total</i>	<i>Grand total</i>
1998	1324	1686	1616	3010	4626
1999	863	894	1500	1757	3257
2000	785	815	1322	1600	2922
2001	245	285	2847	530	3377
2002	278	269	7774	547	8321
2003	280	262	9577	542	10119
2004	322	261	10573	583	11156
2005	329	279	10699	608	11307
2006	324	295	10182	619	10801
2007	336	269	9945	605	10550
2008	313	298	10231	611	10842
2009	274	221	9002	595	9597

Registered partnership was introduced in the Netherlands on 1 January 1998.

The fall of the number of same-sex partnership registrations in 2001 can be attributed to the opening up of marriage for same-sex couples on 1 April 2001. The numbers of partnership registrations from 2001 include couples who converted their marriage into a registered partnership (because they wanted to take advantage of the fact that it is easier and cheaper to dissolve a registered partnership than to dissolve a marriage; for the dissolution of a registered partnership the partners do not have to go to court). These conversions have become possible on 1 April 2001 but were abolished as of 1 March 2009.

If you leave out the registered partnerships that originated in such a conversion from marriage (and were probably soon after dissolved), the numbers are as follows:

	<i>Two women</i>	<i>Two men</i>	<i>Man + woman</i>	<i>Same-sex total</i>	<i>Grand total</i>
1998	1324	1686	1616	3010	4626
1999	863	894	1500	1757	3257
2000	785	815	1322	1600	2922
2001	238	280	1670	513	2183
2002	238	250	3044	488	3532
2003	250	235	4305	485	4790
2004	272	220	5148	492	5640
2005	284	234	5744	518	6262
2006	276	257	6315	533	6848
2007	286	240	6804	526	7330
2008	263	259	7450	522	7972
2009	270	217	8434	487	8921

One can only speculate why registered partnership continues to be increasingly popular with different-sex couples. The popularity of registered partnership among same-sex couples is not increasing.

Source: [Statistics Netherlands](#).

Some other websites with news about sexual orientation law

[European Commission on Sexual Orientation Law](#) (ECSOL, a non-governmental, non-political network of legal experts from more than 40 European countries; its origins lie in EGESO, the European Group of Experts on Combating Sexual Orientation Discrimination that operated from 2002 to 2004)

[International Lesbian, Gay, Bisexual, Transr and Intersex Association](#) (ILGA, a federation of some 700 organisations from more than 100 countries)

[ILGA-Europe](#) (the European region of ILGA is an umbrella organisation with more than 300 member-organisations throughout Europe)

[Internationaal homo/lesbisch informatiecentrum en archief](#) (IHLIA, the international gay/lesbian library, archive, information and documentation centre about homosexuality and sexual diversity in Amsterdam (Homodok) and Leeuwarden (Anna Blaman Huis))