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THE NETHERLANDS APPROVES GAY MARRIAGE RIGHTS

Sept 12, 2000

THE HAGUE, Netherlands (AP) -- The Netherlands lawmakers on Tuesday gave same-sex couples the right to marriage and all the trappings, including adoption and divorce-approving legislation that gives gays rights beyond those offered in any other country.

The new law will bring little change to the daily lives of most gays in a country that has long been at the vanguard of gay rights. But activists say it marks a bold step toward recognizing the equality of gay and heterosexual unions in the Netherlands.

Lawmakers thumped their desks in approval when the vote passed 109-33 in the lower house, and some of the scores of witnesses in the packed public gallery applauded and embraced. The bill still needs approval by the upper house, considered a formality, and is expected to take effect next year.

Opponents warned the legislation will isolate the Netherlands and said it threatens Dutch values.

"We are going in the completely wrong direction," said lawmaker Kees van der Staaij of the Reformed Political Party. "We are ending an age-old tradition anchored in the Bible."

Under the bill, gay couples can convert their current "registered same-sex partnerships" to full-fledged marriages, complete with wider adoption rights and guidelines for divorce. However, they are barred from adopting children overseas because of potential confrontation with countries that don't allow gays to marry.

"We now have a choice," said Mark Wagenbuur who came to The Hague to witness the vote with his partner, Lei Lennaerts, and two other gay friends. Wagenbuur, 34, and Lennaerts, 35, don't plan any adoptions, but said they will formalize their long-standing relationship with a formal marriage.

"Should I ask his father for his hand or should he ask mine?" Wagenbuur asked with a laugh.

The law puts the Dutch at the forefront of the gay rights movement, a position held by Denmark since that country gave official sanction to gay marriages in 1989.

Danish gay couples enjoy the same rights as heterosexuals except for the right to adopt children. In May 1999, they won the right to adopt their partner's children but adoption from outside the marriage remains forbidden. Sweden also allows gays to register as couples with most of the rights of marriage.

Vermont has the closest thing in the United States to gay marriage after approval of a law by the state legislature last spring. The law created civil unions, a legal institution parallel to marriage that provides the same rights, benefits and responsibilities to same-sex couples. Dutch legislators said the bill will not open the Netherlands to so-called "marriage tourism," since marriages are allowed only for citizens or people with residency permits.

"Tourists cannot marry here," said Boris Dittrich, one of the legislators who initiated the bill.

Gay couples who legally wed in the Netherlands also will find few countries recognizing the marriage, he said, citing a survey conducted by the Dutch Foreign Ministry. Only a few Scandinavian and European countries said they would recognize the marriages of Dutch gays who move to their countries. Andrew Fielding, spokesman of the European Union Commission, said recognition of Dutch gay marriages will be "entirely a matter for each member nation" in the 15-member union.

It wasn't until two years ago that the Netherlands allowed same-sex couples to register as partners and to claim pensions, social security and inheritance.

However, the law lagged behind the popular acceptance of gays in the Netherlands, especially in Amsterdam, where the Homo Monument is a popular tourist attraction and where gays annually hold a raucous floating parade on the central canals watched by tens of thousands of people. Van der Staaij, who opposed the bill, warned Dutch gay couples could face problems in other countries where homosexuality remains taboo or illegal.

The Dutch take the lead on other social issues besides gay rights. Officials tolerate the use of small quantities of so-called soft-drugs such as marijuana and hashish, allowing cafes to sell cannabis joints and a cup of coffee.

Prostitution is on open display in well-regulated red-light districts, where scantily clad women sit like merchandise in shop windows. Private television stations often show late-night soft-porn movies.

LAW REFORM IN CROATIA

By Sanja Baric

The penal code of Croatia has been changed from January 1998 so that it includes a new wording "acts equal to sexual acts".

It applies to anything that is not actual heterosexual penetration but has sexual context, such as touching without penetration, homosexual acts, etc.

"Sex and acts equal to it" is now penalized only if it is done to a child (under 14), or with force, or abuse of power, or under certain similar circumstances.

Also, there is another category of "sexual acts that are NOT equal to sex" which are punishable under the same conditions but with lesser penalty. I am mentioning that because masturbation would probably fall under this last category. Better examples would be cunnilingus, anal sex (regardless of partners' sex), or immissio inter femora.

The Code does not speak of homosexual acts as such, and it clearly does not anymore include provisions on UNNATURAL BEHAVIOR (which was penalized before, both for male and female homosexuality in case of minors, i.e. under 18), and there is no other characteristic of sexual acts of any kind (apart from those few I mentioned before) that makes them illegal.

The discussion was mostly focused on definition of rape, which changed a lot, now including any kind of forceful (or with abuse of power, coercion, et al.) sexual acts and with them equal acts. Meaning, that a woman can be a rapist, too, and - what was thought to be the most important - rape can also happen in marriage. Thus, being married cannot prevent a man to be punished for what he does to his wife (and vice versa, but of course the prior case is more frequent) if the act itself has all the characteristics of a rape.

GUERNSEY LOWERED AGE OF CONSENT TO 18

by Helmut GRAUPNER, *Rechtskomitee LAMBDA*, Vienna

On 29th September 1999 the States of Guernsey (the parliament of the island) approved the Sexual Offences (Amendment) (Guernsey) Act 2000 and the Privy Council ratified it on the 19th April 2000. The law was registered on the records of the Island of Guernsey on the 23rd May 2000 and came into force on the following day. This law, which applies in the Islands of Guernsey, Herm and Jethou, reduces the "age of consent" for male homosex-

ual acts from 21 to 18 (the age of consent for heterosexual and lesbians is 16, as in England & Wales and Scotland) and repeals the total ban on homosexual acts between members of the crew of merchant ships.

With this reform Guernsey takes over the amendments which were enacted in the UK by the Criminal Justice and Public Order Act 1994. Just the repeal of the ban on male homosexual acts in the armed forces were not taken over since such a ban did not exist in Guernsey (cf. Sexual Offences (Bailiwick of Guernsey) Law 1983; Sexual Offences (Bailiwick of Guernsey) Law 1983 (Continuation) Ordinance 1986). As in the UK male homosexual acts, where more than two persons are present, and procurement of (legal) male homosexual acts continue to be an offence, while no such offences do exist for heterosexual or lesbian acts.

The other Channel Island jurisdiction "Jersey" did not yet take over these amendments, the ban on homosexual acts between crew-members of a ship even applies to all "ships" registered in Jersey (used for transportation of persons or goods for reward), not just "merchant ships". In Jersey however the higher age of consent for male homosexual acts (21 as opposed to 16) applies to anal intercourse only and there is no ban on procurement of (legal) male homosexual acts. On the other hand, unless as in Guernsey, homosexual acts between members of the armed forces are still criminal (Sexual Offences (Jersey) Law 1990).

In Gibraltar the age of consent has already been set at 18 with the Criminal Offences (Amendment) Ordinance 1993, which repealed the total ban on male homosexual acts. Procurement of (legal) male homosexual acts and homosexual acts between male members of the crew of merchant ships (since 1993) are no offence in Gibraltar. Male homosexual relations between members of the armed forces still is (Art. 116A Criminal Offences Ordinance).