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NEWS REPORT

Country:	The Netherlands
Title:	Court upholds dismissal of marriage registrar for refusal to conclude same-sex marriages
Date:	18 March 2016
Expert:	Rikki Holtmaat
<u>Context</u>	
Issue at stake:	Discrimination and dismissal
Ground of discrimination:	Sexual orientation
Source:	National court decision
Field:	Employment
Applicable law:	Article 1:16 Dutch Civil Code

Content

Since the introduction in the Netherlands of the right of same-sex couples to register a civil partnership (1998) and to conclude a marriage contract (2001), there has been continuous debate about the existence of a right of marriage registrars to refuse to officiate at these ceremonies. Several registrars raised conscientious objections against concluding such partnerships or marriages on the ground of their Christian belief. In 2014, after several Bills and advice from the Council of State, an amendment to Article 1:16 Civil Code which made it impossible to appoint new civil servants who refuse to serve as registrars to same-sex couples was adopted in 2014.¹

Recently, this issue again received attention after a marriage registrar, who on religious grounds refused to marry same-sex couples, lost a final appeal against his dismissal.

Decision of the Court:

The marriage registrar, Mr Wim Pijl, had served as a marriage registrar in The Hague, whilst also being a member of the Hague city council between 2000 and 2010 (on behalf of the Christenunie/SGP). After leaving the city council in 2010, he was again appointed as marriage registrar in January 2011.

In October 2011, Mr Pijl was interviewed by daily newspaper *Trouw*. In the interview, Mr Pijl set out his conscientious objections against same-sex marriage and stated that he would refuse to conclude same-sex marriages. This went against the policy established by the municipality in 2007, about which Mr Pijl was doubtlessly aware. Following the interview, and after two further meetings in which representatives of the municipality and Mr Pijl discussed his stance, Mr Pijl was dismissed in November 2011, as of 1 February 2012.

¹ See Law Gazette (*Staatsblad*) 2014, 260.

Mr Pijl first objected to the dismissal decision, after which he brought a case before the The Hague District Court. This court, in 2013, upheld the dismissal. Following this judgment, an appeal was lodged with the Administrative High Court (*Centrale Raad van Beroep*), which is the final court of appeal for most issues involving civil servants law.

In its judgment, the Administrative High Court dismissed the appeal brought by Mr Pijl. The Court rejected the plea that the dismissal was unlawful because Mr Pijl was already employed as a marriage registrar prior to the adoption of the municipality's policy in 2007. The Court, in reaching this conclusion, also pointed to the amendment to the Civil Code that entered into force in 2014. The Administrative High Court also referred to the judgment of the European Court of Human Rights (ECtHR) in *Eweida and others v United Kingdom*, in which the ECtHR ruled that the dismissal of an English marriage registrar did not violate Article 9 and Article 14 of the Convention.²

Key points of analysis:

Dismissal of marriage registrar for refusal to conclude same-sex marriages upheld in appeal.

Internet link sources:

District Court The Hague, 23 October 2013, ECLI:NL:RBDHA:2013:14133.
<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2013:14133>

Administrative High Court, 29 February 2016, ECLI:NL:CRVB:2016:606.
<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:CRVB:2016:606>

European Court of Human Rights, 15 January 2013, *Eweida and others v United Kingdom*, no. 48420/10, 59842/10, 51671/10 and 36516/10.
<http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-115881&filename=001-115881.pdf>

All last accessed 15/03/2016.

² European Court of Human Rights, 15 January 2013, *Eweida and others v United Kingdom*, no. 48420/10, 59842/10, 51671/10 and 36516/10.