

International Mobility Policies for same sex couples in the Netherlands Armed Forces

In my brief introduction I will discuss the topic "International Mobility Policies for same sex couples in the Netherlands Armed Forces". I will divide my introduction in three parts: first I will sketch the context by giving an overview of the Ministry of Defence's general LGBT policy; after that I will talk about international cooperation and different situations in which personnel is sent abroad; finally I will elaborate on the mobility policy for same sex couples.

Let's start with a general remark: Mobility is the Armed Forces' core business. We operate all over the world and a considerable number of soldiers and civilian employees are deployed or stationed abroad. Therefore mobility policy for us is a key topic.

General LGBT Policy in the Armed Forces

Before I will talk about the policy regarding same sex couples, I will briefly give you a picture of the Ministry of Defence's general lesbian, gay, bi-sexual and transgender policy, in short LGBT policy. Starting point is that we strive for full acceptance of LGBT personnel. Every employee should be able to do his or her work without being harassed or discriminated because of his or her sexual orientation. We do several things: we actively promote acceptance of homosexuality through information and education, and we provide counselling and assistance. On a regular basis we conduct a survey so that we are aware of figures and trends regarding acceptance of homosexuality. We have a 'Code of Conduct', in which among other things leadership, integrity and the prevention of discrimination are addressed.

Besides that there is a network of LGBT personnel, supported by the Ministry: the Foundation for Homosexuals in the Armed Forces. It was founded in 1987. The network is very important for LGBT employees because it can provide assistance, support and advice.

Since 2009 soldiers are allowed to participate – in uniform – in public events like Pink Saturday or the yearly Gay Pride in Amsterdam. This gives visibility and is a message that the Armed Forces welcome homosexuals.

The Ministry of Defence has an active policy. We have achieved a lot, but not everything goes well. There is – as always – a difference between policy and reality. Our latest survey shows that there is a fair level of acceptance of homosexuality in the Armed Forces. On the other hand, at the individual level there can be incidents of bullying or discrimination. However, when things go wrong, there are possibilities to address the problem and there are mechanisms in place to respond.

In the Armed Forces regulations, as in Dutch society, the position of same sex couples, married or having an officially registered partnership, have practically the same rights and obligations as a man and woman, married or with registered partnership.

International cooperation, different situations

International cooperation is crucial for the Armed Forces. As said we operate all over the world. We send troops as part of a mission, a military operation, mostly for a period of 6 to 12 months. During these operations, bringing the families is out of the question.

The Ministry of Defence also sends soldiers and civil servants abroad for a longer period of time. They are stationed abroad as member of a unit, as a course-member at a military school or at an International Headquarters. In most cases these postings are NATO postings. Besides that we have a relatively small number of personnel stationed at embassy's, for example as military attaché. These postings are for a period of 2, 3 or 4 years, and allow soldiers and civil servants to take their family.

Now it becomes relevant what the receiving state's position or policy is towards equal rights for same sex couples.

As we know, nations have divergent perceptions, also within NATO. Some countries pursue an active and open policy with regard to homo-emancipation in their armed forces. They pay specific attention to the position and acceptance of LGBT. A second group of states, although they accept homosexuality, nevertheless do not pursue an active policy. Finally, there are countries that do not accept homosexuality in the Armed Forces. Practically they operate a 'don't ask, don't tell' policy.

Mobility Policy for same sex couples

The general approach is to give maximum support our personnel stationed abroad. At the same time the troops have to respect local rules and regulations.

Host nations' legislation, policies and general perception of homosexuality, especially regarding homosexuality in the armed forces, are crucial. There is a social dimension to this: Is the environment LGBT friendly? This is more important in cases of individual postings or deployment to mission areas. In any case, the individual soldier decides whether or not he or she is willing to be open about his or her sexual orientation. The respective national commander abroad or back in The Netherlands can act as point of contact and trouble shooter in case any problems arise.

General perception and policy is important, but crucial to the formal status, position and facilities of same sex couples is the legal situation.

Operations and stationing abroad are always subject to mandate and international treaties or other agreements. Most of the soldiers who are stationed abroad have a posting in a NATO member state. Therefore the NATO legal framework is most important for us. NATO nations have concluded the NATO Status of Forces Agreement in 1951. This agreement regulates status of foreign troops, jurisdiction, host nation logistic support, use of infrastructure, fiscal regulations and privileges etc. etc. Important in relation to our topic, the position of same sex couples, is that the Status of Forces Agreement also contains provisions on the status of the individual soldier, his or her spouse and other accompanying family members. Based on the agreement, the sending state provides the NATO-Status to the soldier and his or her family members. In this case the definition and interpretation of the concept "spouse" is of particular importance. As said, the NATO Status of Forces Agreement dates back to the early 50's. The different provisions and definitions must be seen in the context of that timeframe. The definition of "spouse" is a rather traditional one: the man-woman marriage. Non-married couples and same sex married couples are officially not recognised.

The conclusion is that the NATO Status of Forces Agreement alone is not enough to have same sex couples enjoying the same rights and privileges as traditional couples. Something more is necessary. A possibility is to incorporate a broader definition of the concept "spouse" in an additional bilateral agreement. The sending state must reach an arrangement with the receiving state.

The same approach could be taken in case soldiers or civilian employees are stationed in non-NATO countries. Postings in non-NATO nations however are rare. The Ministry's approach would be to draft an agreement in a way that status and privileges apply not only to traditional man-woman marriage, but also to other recognised relationships.

Initiative of an informal international working group

Now: looking at the future. What we would like to achieve is to have as few barriers as possible for LGBT personnel to live and work abroad, to be open about their sexual

orientation if they want to, and to enjoy the same rights and privileges as their heterosexual colleagues have.

This can only be achieved through international cooperation. In this respect I would like to mention an initiative taken two years ago by the Dutch Ministry of Defence, together with the Ministries of Defence from Belgium, Denmark, Norway and the United Kingdom. Representatives from these five countries started an informal group, working on LGBT policy issues for the Armed Forces. Primary goals of the working group were to explore existing policies and to collect and share best practices. One of the topics to cover could be the mobility policy for same sex couples.

The working group's challenge is to get more countries involved. We would like to have a broader network of NATO and non-NATO members to strengthen international cooperation on LGBT policy.

Conclusion

I will summarize. The Netherlands Ministry of Defence is responsible for having a considerable number of personnel abroad. A large part is involved in operations, in missions. A smaller part is stationed in a foreign country for a longer period of time. In these cases soldiers and civil servants normally can bring their partners and families. Same rights and privileges for same sex couples can be achieved by reaching bilateral agreements with the receiving state.

We try to enhance international cooperation in the area of LGBT policy through an informal international working group.

I thank you for your attention.