



# Laws Regarding the Refusal to Conduct Same-Sex Marriage Ceremonies in Selected Countries

Argentina • Belgium • Brazil • Canada • Denmark  
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July 2013

LL File No. 2013-009785  
RA-D-PUB-000139

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## Introduction

This report examines the legal consequences for refusing to conduct same-sex marriages in fourteen jurisdictions that have adopted same-sex marriage laws. For each jurisdiction, there is first a citation to the text of the law authorizing same-sex marriage, then a reference to or brief discussion of any relevant court cases on the topic of refusing to conduct such marriages. If no case was found but there is related material that might be of interest available in secondary sources, a brief summary of or relevant quotation from that material is given, along with a citation to the journal article or news item.

Although the list follows a generally uniform format, it may vary somewhat for a given jurisdiction, depending on the quantity and type of information provided. For example, there is such a wealth of information for Canada that the cases and secondary information are just listed with very little descriptive material, whereas in the case of Argentina, a more descriptive format is followed. For France, on the other hand, it was deemed worthwhile to provide a note on relevant sections of the Penal Code.

## Argentina

Ley 26618 MODIFICACIÓN DEL CÓDIGO CIVIL [LAW 26618 AMENDING THE CIVIL CODE], ARTS. 2–3, BOLETIN OFICIAL (July 22, 2010), <http://www.infoleg.gob.ar/infolegInternet/anexos/165000-169999/169608/norma.htm>.

### CASES/SANCTIONS:

Since the adoption of Law 26618 allowing same-sex marriage in Argentina, some judges and officers of the Civil Registry have refused to celebrate such marriages on grounds of conscientious objection. *Marcha Atrás en Córdoba con el Permiso para No Casar Gays*, DIARIO DIGITAL DE SANTA FÉ (Sept. 22, 2010), <http://www.notife.com/noticia/articulo/1011633.html>. A judge in La Pampa Province stated that she would not celebrate same-sex marriages because it is against her religious principles, but that she would delegate such authority to a substitute judge. *Una Jueza se Niega a Celebrar*

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\* This report is based on research conducted by the following foreign law specialists and legal research analysts of the Law Library's Global Legal Research Center: Tariq Ahmad (Canada); Hanibal Goitom (South Africa); Gustavo Guerra (Mexico); Graciela Rodriguez-Ferrand (Argentina & Spain); Edith Palmer (Belgium & France); Eduardo Soares (Brazil & Portugal); and Wendy Zeldin (Denmark, Iceland, Netherlands, Norway & Sweden).

*Bodas Gays*, PRIMERA FUENTE (undated) <http://www.primerafuente.com.ar/noticia/una-jueza-se-niega-a-celebrar-bodas-gay>.

In September 2010, formal claims were made against public officials for committing the crime of noncompliance with the duties of a public official provided for in the Criminal Code. CÓDIGO PENAL [PENAL CODE] arts. 248–249, <http://www.infoleg.gov.ar/infolegInternet/anexos/15000-19999/16546/texact.htm>; see also *Denuncian al Director del Registro Civil por Impedir Casamiento de Parejas Gays*, EL INTRANSIGENTE, Sept. 21, 2010, <http://www.elintransigente.com/notas/2010/9/21/denuncian-director-registro-civil-impedir-casamiento-parejas-56301.asp>. The case involved the head of the Civil Registry in Córdoba province, who allowed five officials under his supervision to refuse to celebrate gay marriages on grounds of conscientious objection. The Minister of Justice of Córdoba, who is the highest authority on Civil Registry matters in the province, ordered the officials to comply with Law 26618 unconditionally and to carry out their duties under the Law and celebrate the marriages in question. DIARIO DIGITAL DE SANTA FÉ, *supra*. In addition, pro-same-sex marriage groups filed a complaint against the head of the Civil Registry and the five officials with the Córdoba Criminal Court for the crime of noncompliance with the duties of a public official. EL INTRANSIGENTE, *supra*. No information on the outcome of that complaint was found.

## Belgium

Loi ouvrant le mariage à des personnes de même sexe et modifiant certaines dispositions du Code civil (1) [Law Opening Up Marriage to Persons of the Same Sex and Modifying Certain Provisions of the Civil Code (1)] of Feb. 13, 2003 (in force June 1, 2003), <http://www.bruxelles.be/dwnld/79953133/wet%20openstelling%20huwelijk%20fr.pdf>.

“Registrars of birth, marriages and deaths are not entitled to refer to their conscience to refuse to register a gay marriage as a civil act. Owners of wedding locations cannot opt out of facilitating gay marriages in their places.” OBSERVATORY ON INTOLERANCE AND DISCRIMINATION AGAINST CHRISTIANS IN EUROPE, REPORT 2012: LEGAL RESTRICTIONS AFFECTING CHRISTIANS 11 (May 21, 2013), [http://www.intoleranceagainstchristians.eu/fileadmin/user\\_upload/reports/Legal\\_Limitations\\_Affecting\\_Christians\\_as\\_well\\_as\\_Cases\\_of\\_2012\\_Webversion\\_of\\_Report\\_by\\_OIDAC.pdf](http://www.intoleranceagainstchristians.eu/fileadmin/user_upload/reports/Legal_Limitations_Affecting_Christians_as_well_as_Cases_of_2012_Webversion_of_Report_by_OIDAC.pdf).

## Brazil

There is no law expressly allowing same-sex marriage in the country.

No cases for Brazil.

On May 14, 2013, the Brazilian National Council of Justice (*Conselho Nacional de Justiça—CNJ*)<sup>1</sup> approved Resolução CNJ No. 175, de 14 de Maio de 2013, <http://www.>

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<sup>1</sup> The National Council of Justice was created in 2004 through Constitutional Amendment No. 45 of December 30, 2004 (Emenda Constitucional No. 45, de 30 de Dezembro de 2004, <http://www.planalto.gov.br/>

[cnj.jus.br/images/imprensa/resolu%C3%A7%C3%A3o\\_n\\_175.pdf](http://cnj.jus.br/images/imprensa/resolu%C3%A7%C3%A3o_n_175.pdf), which prohibits the competent authorities from refusing to license or celebrate the civil marriage of persons of the same sex, or to convert stable unions of persons of the same sex into marriage. If a registrar's office fails to comply with the Resolution, the couple concerned may bring the case to the magistrate judge for the district (*juiz corregedor da comarca*) so that the judge can order the registrar's office to comply with the measure. In addition, administrative proceedings may be initiated against the officer who refused to celebrate the marriage or convert the stable union into marriage. *Resolução que disciplina a atuação dos cartórios no casamento gay entra em vigor nesta quinta-feira*, CNJ (May 15, 2013), <http://www.cnj.jus.br/noticias/cnj/24686-resolucao-que-disciplina-a-atuacao-dos-cartorios-no-casamento-gay-entra-em-vigor-amanha>.

## Canada

Civil Marriage Act S.C. 2005, c. 33, <http://laws-lois.justice.gc.ca/eng/acts/C-31.5/page-1.html> (federal).

The Marriage Act, (1995), S.S. 1995, c M-4.1, <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/M4-1.pdf> (Saskatchewan).

### CASES:

- Marriage Commissioners Appointed Under the Marriage Act (Re), (2011) S.K.C.A. 3, <http://www.canlii.org/en/sk/skca/doc/2011/2011skca3/2011skca3.pdf> (Saskatchewan); *see also The Saskatchewan Marriage Commissioner's Reference*, CENTRE FOR CONSTITUTIONAL STUDIES, [http://www.law.ualberta.ca/centres/ccs/rulings/Saskatchewan\\_Marriage\\_Commissioner\\_Reference.php#\\_edn1](http://www.law.ualberta.ca/centres/ccs/rulings/Saskatchewan_Marriage_Commissioner_Reference.php#_edn1) (last visited July 26, 2013).
- Nichols v. Saskatchewan Human Rights Commission (2009) S.K.Q.B. 299, <http://www.canlii.org/en/sk/skqb/doc/2009/2009skqb299/2009skqb299.pdf> (Saskatchewan).
- Smith and Chymyshyn v. Knights of Columbus and others, (2005) B.C.H.R.T. 544, [http://www.bchrt.bc.ca/decisions/2005/pdf/Smith\\_and\\_Chymyshyn\\_v\\_Knights\\_of\\_Columbus\\_and\\_others\\_2005\\_BCHRT\\_544.pdf](http://www.bchrt.bc.ca/decisions/2005/pdf/Smith_and_Chymyshyn_v_Knights_of_Columbus_and_others_2005_BCHRT_544.pdf) (British Columbia).

### JOURNAL ARTICLES:

- Bruce MacDougall et al., *Conscientious Objection to Creating Same-Sex Unions: An International Analysis*, 1:1 CAN. J. HUM. RTS. (2012), <http://cjhr.ca/wp-content/>

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[civil\\_03/Constituicao/Emendas/Emc/emc45.htm](http://www.planalto.gov.br/ccivil_03/Constituicao/Emendas/Emc/emc45.htm)). It is a judicial agency responsible for the administrative and financial control of the judiciary and the supervision of judges, CONSTITUIÇÃO FEDERAL, art. 103-B(§4), [http://www.planalto.gov.br/ccivil\\_03/Constituicao/Constituicao.htm](http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm).

[uploads/2012/05/MacDougall-et-al-Conscientious-Objections-to-Creating-Same-Sex-Unions.pdf](#).

- Jared Epp, *Justified Coercion: A Case Comment on the Marriage Commissioner Reference*, 75 SASK. L. REV. 97 (2012), available at [http://heinonline.org/HOL/Page?handle=hein.journals/sasklr75&div=8&g\\_sent=1&collection=journals](http://heinonline.org/HOL/Page?handle=hein.journals/sasklr75&div=8&g_sent=1&collection=journals).
- Philip J. Harwood, *Civil Marriage Commissioners in the Province of Saskatchewan: Religious Freedom and Public Service* (M.A. Thesis, June 2009), <http://www.collections.canada.gc.ca/obj/thesescanada/vol2/QMM/TC-QMM-66948.pdf>.
- Bruce MacDougall, *Refusing to Officiate at Same-Sex Civil Marriages*, 69 SASK. L. REV. 351 (2006), available at <https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=69+Sask.+L.+Rev.+351&srctype=smi&srcid=3B15&key=f6afd36bb1af6aa32444a48d2872e828>.

#### NEWS REPORTS:

- A Church of Christ minister, responsible for civic marriage ceremonies at a municipal hall in Cambridge, Ontario, faced dismissal if she would not agree to perform same-sex marriages. Thaddeus Baklinski, *Ontario Christian Minister Forced to Conduct Same-Sex ‘Marriages’ or Get Sacked*, LIFESITENEWS.COM (Sept. 11, 2012), <http://www.lifesitenews.com/news/ontario-christian-minister-forced-to-conduct-same-sex-marriages-or-get-sack/>.
- “Saskatchewan’s highest court has ruled that marriage commissioners who are public servants cannot refuse to marry same-sex couples. The decision by the Saskatchewan Court of Appeal rejects two proposals from the provincial government that would allow some or all marriage commissioners to refuse to perform a service involving gay or lesbian partners if it offended their religious beliefs.” *Marriage Officials Can’t Refuse Gays: Sask. Court*, CBCNEWS (Jan. 10, 2011), <http://www.cbc.ca/news/canada/saskatchewan/story/2011/01/10/sk-marriage-commissioners-1101.html>; *Sask. Looking at Ont. System for Gay Marriages*, CBCNEWS (Jan. 11, 2011), <http://www.cbc.ca/news/canada/saskatchewan/story/2011/01/11/sk-ontario-sask-marriages-1101.html>.
- “A Saskatchewan marriage commissioner refused to marry a same-sex couple and lost his appeal of a human rights ruling.” *Commissioner Who Refused To Marry Same-sex Couple Loses Appeal*, CBCNEWS (July 23, 2009), <http://www.cbc.ca/news/canada/saskatchewan/story/2009/07/23/marriage-ruling.html>.
- A ruling by the British Columbia Human Rights Tribunal partially vindicated two lesbians who accused a Catholic men’s group of discriminating against them by cancelling their wedding hall booking in 2003. *B.C. Lesbians Fight To Hold Wedding Reception in Catholic Hall*, CBCNEWS (Jan. 25, 2005), <http://www.cbc.ca/news/canada/story/2005/01/24/lesbian-wedding-050124.html#skip300x250>; *Lesbian Couple Wins \$2,000 Settlement*, CBCNEWS (Nov. 29, 2005), <http://www.cbc.ca/news/canada/british->

[columbia/story/2005/11/29/bc\\_lesbians-wedding20051129.html](http://columbia/story/2005/11/29/bc_lesbians-wedding20051129.html) (has hyperlink to the Tribunal decision).

## Denmark

Lov om ændring af lov om ægteskabs indgåelse og opløsning, lov om ægteskabets retsvirkninger og retsplejeloven og om ophævelse af lov om registreret partnerskab (Ægteskab mellem to personer af samme køn) [Law Amending the Law on the Conclusion and Dissolution of Marriage, the Law on the Legal Effects of Marriage and the Code of Civil Procedure and Repealing the Act on Registered Partnership) (Marriage between two people of the same sex)], Law No. 532 (June 12, 2012, in force on June 15, 2012), <https://www.retsinformation.dk/Forms/R0710.aspx?id=142282>.

No cases found.

## France

LOI n° 2013-404 du 17 mai 2013 ouvrant le mariage aux couples de personnes de même sexe [Law No. 2013-404 of May 17, 2013, ALLOWING MARRIAGE BETWEEN COUPLES OF PERSONS OF THE SAME SEX], LEGIFRANCE, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027414540&dateTexte=&categorieLien=id> (last visited July 25, 2013).

Note that in France, any mayor who refuses to celebrate a marriage is exposed to different kind of sanctions. Disciplinary sanctions may be imposed under article L 2122-16 of the Code général des collectivités territoriales (General Code on Local Authorities). Thus, a mayor who refuses to perform a gay marriage ceremony could have his position revoked or be temporally suspended by the Minister of Interior. CODE GÉNÉRAL DES COLLECTIVITÉS TERRITORIALES [C.CO.TER] [LOCAL AUTHORITIES CODE] (created by Law 96-142 of Feb. 2, 1996, issued on Feb. 24, 1996), L2122-16, LEGIFRANCE, <http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006389935&cidTexte=LEGITEXT000006070633> *Loi 96-142 1996-02-21 jorf 24 février 1996*.

Two kinds of criminal charges might be filed against a mayor who refuses to officiate at a gay marriage ceremony. Any official who treats a gay couple in a discriminatory manner as opposed to a non-gay couple might be subject to article 432-7 of the Penal Code, which deals with the offense of discrimination committed by someone who represents the State. This offense carries a penalty of up to five years' imprisonment and a €75,000 fine (about US\$99,000). CODE PÉNAL [C. PÉN.] [PENAL CODE], art. 432-7, LEGIFRANCE, <http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006418508&dateTexte=20091207>. A mayor who refuses to officiate at a wedding because of the couple's sexual orientation might be subject to article 432-1 of the Penal Code, applicable to a representative of the state who prevents the law from being executed, which carries the same penalties. *Id.* art. 432-1, LEGIFRANCE,

<http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006070719&idArticle=LEGIARTI000006418494&dateTexte=20>.

CASES: No cases are available because the law was enacted only three months ago.

#### NEWS/LAW JOURNAL ARTICLES:

Some mayors, e.g., Jean-Michel Colo, mayor of Arcangues, a tiny village in the southwest of France, have refused to officiate at same-sex marriages, whereupon Manuel Valls, French Minister of the Interior, reminded all mayors that they had to apply the law. The couple involved sued the mayor for discrimination; in the end, an assistant mayor celebrated the marriage. Sara Gates, *French Mayor Refuses to Marry Gay Couple, Could Face Harsh Penalties*, HUFFINGTON POST (June 6, 2013), [http://www.huffingtonpost.com/2013/06/11/french-mayor-refuses-marry-gay-couple\\_n\\_3422204.html](http://www.huffingtonpost.com/2013/06/11/french-mayor-refuses-marry-gay-couple_n_3422204.html); Frédéric Hastings, *Mariage homosexuel: un rappel à l'ordre de Manuel Valls aux officiers d'état civil* [Same-Sex Marriage: A Call to Order from Manuel Valls to Civil Registry Officers], FAIT RELIGIEUX.COM (June 24, 2013), [http://fait-religieux.com/france/politique/2013/06/24/mariage\\_homosexuel\\_un\\_rappel\\_a\\_l\\_ordre\\_de\\_manuel\\_valls\\_aux\\_officiers\\_d\\_etat\\_civil\\_1](http://fait-religieux.com/france/politique/2013/06/24/mariage_homosexuel_un_rappel_a_l_ordre_de_manuel_valls_aux_officiers_d_etat_civil_1); *Arcangues: le couple gay a enfin pu se marier*, LE PARISIEN (July 22, 2013), <http://www.leparisien.fr/societe/pays-basque-le-couple-gay-d-arcangues-a-enfin-pu-se-marier-22-07-2013-3000031.php>; *Nearly 15,000 French Mayors Will Refuse to Marry Gay Couples*, CATHOLIC NEWS AGENCY (Apr. 19, 2013), <http://www.catholicnewsagency.com/news/nearly-15000-french-mayors-will-refuse-to-marry-gay-couples/>.

## Iceland

Lög um breytingar á hjúskaparlögum og fleiri lögum og um brottfall laga um staðfesta samvist (ein hjúskaparlög) [Act Amending the Marriage Act and Other Laws and Revocation of Registered Partnerships (One Marriage)], Law No. 65 (June 22, 2010), <http://www.althingi.is/altext/stjt/2010.065.html>.

No cases found.

## Mexico

Código Civil para el Distrito Federal [Civil Code for the Federal District] art. 146, GACETA OFICIAL DEL DISTRITO FEDERAL (May 25, 2000, *as amended through 2012*), <http://www.aldf.gob.mx/archivo-aaeff38a8aef2864fbb56ec50f702bef.pdf>.

The Civil Code for the Federal District was amended in 2010 in order to allow same-sex marriage. Decreto por el que Se Reforman Diversas Disposiciones del Código Civil para el Distrito Federal, Publicado en la Gaceta Oficial del Distrito Federal el 29 de Diciembre de 2009 [Decree That Amends Several Provisions of the Federal District Civil Code of December 29, 2009], GAZETTE OF THE FEDERAL DISTRICT (Dec. 29, 2009), [http://www.consejeria.df.gob.mx/portal\\_old/uploads/gacetitas/4bc697685b963.pdf](http://www.consejeria.df.gob.mx/portal_old/uploads/gacetitas/4bc697685b963.pdf). This

amendment was declared constitutional by Mexico's Supreme Court, which determined that same-sex marriages celebrated in the Federal District are valid in all Mexican states. Press Release 186/2010, Mexico's Supreme Court, *Válidas, reformas que permiten en DF matrimonio entre personas del mismo sexo y que éstas adopten menores* [Amendments to DF Law Providing That Same-Sex Marriage and Adoption Are Valid] (Aug. 16, 2010), <http://www2.scjn.gob.mx/red2/comunicados/comunicado.asp?id=1896>.

The domestic relations statutes of most Mexican states still do not specifically allow same-sex marriages. However, a number of same-sex couples have recently applied for marriage licenses in such states. If the license is denied on the grounds that state law does not allow same-sex marriages, the couples often file a claim against the denial in federal courts, which have been ruling in favor of same-sex couples on constitutional grounds, such as antidiscrimination and equality. *See, e.g., Yucatán Federal Court Orders Recognition of Gay Marriage*, MEXICO GULF REPORTER (updated July 17, 2013), <http://www.mexicogulfreporter.com/2013/04/yucatan-federal-court-orders.html>.

## Netherlands

Wet openstelling huwelijk (Dec. 21, 2000, in force Apr. 1, 2001), OVERHEID.NL, [http://wetten.overheid.nl/BWBR0012099/geldigheidsdatum\\_26-07-2013](http://wetten.overheid.nl/BWBR0012099/geldigheidsdatum_26-07-2013).

CASES: None found.

### NEWS REPORTS:

(1) An amendment of the law on public officers was proposed on July 4, 2012, calling for the dismissal of registrars who refuse to perform same-sex marriages on grounds of conscientious objection, if no other suitable tasks could be found for the official. The proposal also sought to establish mandatory training on conducting same-sex marriages for students studying to be registrars. *Netherlands: Legislative Proposal Seeks to Limit Conscientious Objection for Registrars*, in OBSERVATORY ON INTOLERANCE AND DISCRIMINATION AGAINST CHRISTIANS IN EUROPE, LEGAL RESTRICTIONS AFFECTING CHRISTIANS: REPORT 2012 at 51 (May 21, 2013), [http://www.intoleranceagainstchristians.eu/fileadmin/user\\_upload/reports/Legal\\_Limitations\\_Affecting\\_Christians\\_as\\_well\\_as\\_Cases\\_of\\_2012\\_Webversion\\_of\\_Report\\_by\\_OIDAC.pdf](http://www.intoleranceagainstchristians.eu/fileadmin/user_upload/reports/Legal_Limitations_Affecting_Christians_as_well_as_Cases_of_2012_Webversion_of_Report_by_OIDAC.pdf). It is unclear whether such an amendment has in fact been adopted.

In November 2011, on the same date that the Dutch Parliament voted to amend the law to compel civil servants to conduct same-sex marriages, civil servant Wim Pijl was fired by the city of The Hague, his employer, for stating his desire not to perform such marriages. A Dutch politician was quoted as stating that Pijl, who had officiated at a same-sex wedding, was dismissed not “because he concretely refused to preside over a gay marriage, but because he expressed his views on same-sex marriage.” *Consequences of Same-Sex Marriage: The International Experience*, MAKE A STAND, [http://www.makeastand.org.au/campaign/more\\_information.php?campaign\\_id=48](http://www.makeastand.org.au/campaign/more_information.php?campaign_id=48) (last visited July 25, 2013) (also includes information on Saskatchewan, Canada ruling).

The Netherlands Equal Treatment Commission reportedly ruled on April 16, 2008, that local officials are not violating the law on equal treatment if they refuse to appoint marriage registrars who “[do] not wish to marry persons of the same sex on grounds of religion.” The ruling came in the aftermath of Langedijk municipality placing advertisements for two marriage registrars in which it “demanded that applicants be prepared to conduct wedding ceremonies for natural couples and for same-sex partners.” Hilary White, *Dutch Gov’t to Marriage Commissioners: Won’t do Gay “Marriages”? Then No Natural Marriages Either*, LIFESITENEWS (Apr. 17, 2008), <http://www.lifesitenews.com/news/archive/ldn/2008/apr/08041705>.<sup>2</sup>

However, in some Dutch cities a registrar reportedly may refuse to marry same-sex couples without being in violation of the law. *Reflecting on 12 Years of Gay Marriage in the Netherlands*, EURONEWS (Apr. 1, 2013), <http://www.euronews.com/2013/04/01/reflecting-on-12-years-of-gay-marriage-in-the-netherlands/>.

(2) Marriage commissioners in Amsterdam are required to undergo annual evaluations to ensure that they support same-sex marriage. This action was taken after two marriage commissioners refused to officiate at same-sex marriage ceremonies. In addition, public agencies will have to break a contract if a violation of the principle of nondiscrimination is established. “A communal administration will therefore not be allowed to maintain a rental contract with a private house, used for civil marriages, if the owner of the house is found to object to an actual request for a same-sex marriage.” OBSERVATORY ON INTOLERANCE AND DISCRIMINATION AGAINST CHRISTIANS IN EUROPE, LEGAL RESTRICTIONS AFFECTING CHRISTIANS: REPORT 2012 28 (May 21, 2013), [http://www.intoleranceagainstchristians.eu/fileadmin/user\\_upload/reports/Legal Limitations Affecting Christians as well as Cases of 2012 Webversion of Report by OIDAC.pdf](http://www.intoleranceagainstchristians.eu/fileadmin/user_upload/reports/Legal_Limitations_Affecting_Christians_as_well_as_Cases_of_2012_Webversion_of_Report_by_OIDAC.pdf); see also Patrick B. Craine, *Amsterdam Marriage Commissioners to Undergo Annual Reviews Ensuring Support for Gay ‘Marriage’*, LIFESITENEWS (June 2, 2011), <http://www.lifesitenews.com/news/amsterdam-marriage-commissioners-to-undergo-annual-reviews-ensuring-support>.

### Norway

Lov om endringer i ekteskapsloven, barnelova, adopsjonsloven, bioteknologiloven mv. (felles ekteskapslov for heterofile og homofile par) [Law Amending the Marriage Law, The Law on Children, the Adoption Law, the Biotechnology Law, etc. (Common Marriage Law for Heterosexual and Homosexual Couples)], Law No. 53 (issued June 27, 2008, in force Jan. 1, 2009), <http://www.lovdato.no/ltavd1/filer/nl-20080627-053.html>.

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<sup>2</sup> The Equal Treatment Commission was officially replaced by the Netherlands Institute for Human Rights (College voor Rechten van de Mens) on October 2, 2012. *New Human Rights Institute Replaces Equal Treatment Commission*, EUROPEAN NETWORK OF LEGAL EXPERTS IN THE NON-DISCRIMINATION FIELD (Oct. 9, 2012), <http://www.non-discrimination.net/content/media/NL-68-Flash%20Report%20NL%202012-11%20Establishment%20of%20new%20Human%20Rights%20Institute.pdf>.

No cases found.

## Portugal

Lei No. 9/2010, de 31 de Maio, permite o casamento civil entre pessoas do mesmo sexo [Law No. 9/2010, of May 31, Allowing Civil Marriage Between the Same Sex], DIÁRIO DA REPÚBLICA, <http://dre.pt/pdfs/2010/05/10500/0185301853.pdf>.

No cases found.

## South Africa

Civil Union Act 17 of 2006, 4(2) STATUTES OF THE REPUBLIC OF SOUTH AFRICA (rev. ed. 2012), <http://www.info.gov.za/view/DownloadFileAction?id=67843>. Section 6 of the Act includes a “conscience clause” to allow marriage officers other than religious marriage officers to opt out of officiating civil unions between persons of the same sex on the ground of “conscience, religion and belief.” Under section 5 of the Act, religious denominations or organizations can become organizations that solemnize civil unions between persons of the same sex if they opt in and request in writing to be designated as such.

### NEWS REPORTS:

An incident was reported in May 2013 in which farm owners in Western Cape refused permission to a gay couple who wanted to get married on their property. The couple is reportedly mulling legal action against the farm owners before the Equality Court under the Equality Act. The Act provides that “[n]either the state nor any person may unfairly discriminate against any person.” *Gay Couple May Take on Farm Owners*, NEWS24 (July 25, 2012), <http://www.news24.com/SouthAfrica/News/Gay-couple-may-take-on-farm-owners-20130504>; Promotion of Equality and of Unfair Discrimination act 4 of 2000, § 6, <http://www.westerncape.gov.za/Text/2004/8/a4-00.pdf>.

## Spain

Ley 13/2005 Modifica el Código Civil en Materia de Derecho a Contraer Matrimonio [Law 13/2005 Amending the Civil Code Related to the Right to Enter into Marriage], BOLETÍN OFICIAL DEL ESTADO [B.O.E.] (July 2, 2005), <http://www.boe.es/buscar/doc.php?id=BOE-A-2005-11364>.

### CASES/SANCTIONS:

Since the adoption of Law 13/2005, which allows same-sex marriage, few judges and officials of the Civil Registry have objected to their participation in the celebration of gay marriages.

The Tribunal Supremo (TS) (Supreme Court) decided on May 11, 2009, that judges cannot refuse to celebrate same-sex marriages on grounds of conscientious objection, because they are required to perform their official duties according to the law, regardless of their religious beliefs. *El Supremo Establece que no cabe la Objeción a las Bodas Homosexuales*, EL PAÍS (May 30, 2009), [http://elpais.com/diario/2009/05/30/sociedad/1243634403\\_850215.html](http://elpais.com/diario/2009/05/30/sociedad/1243634403_850215.html). The decision reaffirms a prior TS decision that only allows for conscientious objection in cases of refusal to comply with mandatory military service or to perform abortions. Tribunal Supremo Sala de lo Contencioso Administrativa Sección Octava, Sentencia May 11, 2009, <http://estaticos.elmundo.es/documentos/2009/05/29/sentencia.pdf>.

A Valencia judge was sanctioned in 2007 with a fine of €305 (about US\$405) for refusing to celebrate gay marriages. The fine was finally pardoned after the judge appealed the administrative penalty before the Consejo General del Poder Judicial (General Council on the Judicial Power). *El Consejo General del Poder Judicial se Despide Perdonando a la Jueza que se Niega a Celebrar Bodas de Parejas Homosexuales*, PÚBLICO (Sept. 18, 2008), <http://www.publico.es/espana/152416/el-cgpj-se-despide-perdonando-a-la-jueza-que-se-niega-a-celebrar-bodas-de-parejas-homosexuales>.

## Sweden

Lag om ändring i äktenskapsbalken [Law Amending the Marriage Laws], SFS 2009:253 (issued Apr. 2, 2009, in force on May 1, 2009), <http://www.lagboken.se/files/SFS/2009/090253.PDF>.

No cases found.