

# Is sexuality a private matter? Not for LGBTQI+ asylum seekers

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Imagine you're seeking asylum in the Netherlands due to your sexual orientation or gender identity. The immigration authorities might question you about your sexuality. Ph.D. candidate Elias Tissandier-Nasom, who is researching asylum applications submitted by LGBTQI+ children, explains that the process is often degrading and confrontational.

## **The strictest ever asylum admission system**

The new Dutch government isn't sugarcoating it: The Netherlands will have "the strictest ever asylum admission system." The Outline Agreement [link in Dutch] reflects the intention of the political parties PVV, VVD, NSC and BBB to limit legal aid to [asylum seekers](#) "as much as possible" and increase the burden of proof for asylum applications. This tough stance may compromise the Netherlands' obligations towards LGBTQI+ people, warns the young French researcher.

"Over the past few decades, a lot of progress has been made across the globe in recognizing the human rights of LGBTQI+ people. But that legal protection could come under pressure again due to migration, which is an issue that [individual countries](#) are allowed to make their own decisions on.

"That means countries are free to decide to admit fewer migrants. However, they're also required to continue protecting [vulnerable people](#)—including LGBTQI+ people who apply for asylum. That results in a complex mix of conflicting priorities."

## **LGBTQI+ children and asylum**

The strict new measures are likely to have an added sting for children seeking asylum due to their sexual orientation or gender identity. Elias

focuses specifically on this group of asylum seekers: "This is an underrepresented group of migrants—there's still too little focus on this group, both within the academic arena and within legal organizations."

Elias doesn't have specific numbers about the size of this group. He explains, "For privacy reasons, the number of people applying for asylum on the grounds of sexual orientation and gender identity isn't being monitored. It could be dangerous for LGBTQI+ people if that information were to end up in the wrong hands."

And yet, Elias says that the group does exist. Through his activism work and a previous job at an NGO that supports LGBTQI+ people, he helped them with their asylum applications.

Elias says it's a vulnerable group. "The migration journey is extremely difficult for anyone. Definitely for children—and especially if they're part of the LGBTQI+ community. Like other asylum seekers, they have to deal with smugglers and extreme violence in those journeys."

But, he continues, the most difficult part is yet to come, when they arrive at the border of whatever country and are 'questioned by the immigration authorities."

## **Proof of sexual orientation or transgender identity: Questioning that crosses a line**

In principle, people whose lives are in danger in their home country because of their sexual orientation are granted asylum in the Netherlands, just like anyone who is denied access to medical care that would enable them to transition—if that care is even available.

The immigration authorities are permitted to verify the credibility of a

person's grounds for seeking asylum as specified on their application. But the big question is this: what kind of evidence do the immigration authorities need in cases like this in order to establish whether someone's telling the truth?

Elias says, "The fact that someone identifies as LGBTQI+ should be enough. To assess the credibility of what someone's saying, the immigration employee might ask the person about when they became aware of their [sexual orientation](#), for example.

"What isn't meant to happen—but definitely does—is that people are questioned about which sexual acts they have participated in. It's degrading to assume that someone else can be a judge of that, as it's an extremely private matter."

## **The Western idea of a 'social coming out'**

Another example that Elias gives is that when it comes to identity, LGBTQI+ people are asked which steps they have taken so far. "Often, there's an underlying Western idea of a 'social coming out,' where you tell people your preferred pronouns—he, she, they. That might be acceptable here, but some cultures take a very different approach to that."

## **Children face even greater challenges**

Assessing the credibility of asylum claims submitted by LGBTQI+ children is even more difficult. How can children express their sexual preference or [gender identity](#)? Elias explains, "The problem is that the asylum procedure was not created with children in mind.

"Take transgender persons, for example. Besides the 'social coming out,'

transgender persons are also expected to have attempted to access medical care that would enable their transition. But at the same time, children living in countries where transgender persons are accepted cannot even begin the transition process until they're at least 16 to 18 years old.

"So, what can we really expect? Children are essentially already being treated as adults, while their stories are not always believed because the adult questioning them thinks children cannot know these things for sure yet."

## **So what's the way forward?**

For the purposes of his research, Elias will conduct interviews with staff from the Dutch Immigration and Naturalization Service (IND) and its equivalent in France, his home country. He then plans to produce a guidebook for practitioners in the field of immigration, such as IND staff, asylum lawyers who assist people with asylum applications and NGOs that advocate for children's rights.

"People aren't aware of the problems that migrant LGBTQI+ [children](#) face—including the people responsible for assessing asylum applications. I don't think it's a case of ill will—it really comes from a lack of knowledge. With the right information and guidance aimed at protecting people rather than excluding them, I think asylum procedures would be better tailored to this vulnerable group."

Provided by Leiden University

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