

CASE LAW COVER PAGE TEMPLATE

Name of the court ¹ (English name in brackets if the court's language is not English): Afdeling bestuursprechtspraak Raad van State “ Council of State”	
Date of the decision:	2012/ 1/13
Case number: ²	201000243/1/V3, LJN BV1584
Parties to the case: State Secretary of Security and Justice vs A.	
Decision available on the internet? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, please provide the link: file:///C:/Users/UNHCRuser/Downloads/201000243_1_V3.pdf , see www.raadvanstate.nl (If no, please attach the decision as a Word or PDF file):	
Language(s) in which the decision is written: Dutch	
Official court translation available in any other languages? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If so, which):	
Countr(y)(ies) of origin of the applicant(s): Iran	
Country of asylum (or for cases with statelessness aspects, country of habitual residence) of the applicant(s):	
Any third country of relevance to the case: ³	
Is the country of asylum or habitual residence party to:	
The 1951 Convention relating to the Status of Refugees <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Relevant articles of the Convention on which the decision is based:
(Only for cases with statelessness aspects) The 1954 Convention relating to the Status of Stateless Persons <input type="checkbox"/> Yes <input type="checkbox"/> No	Relevant articles of the Convention on which the decision is based:
(Only for cases with statelessness aspects) The 1961 Convention on the Reduction of Statelessness <input type="checkbox"/> Yes <input type="checkbox"/> No	Relevant articles of the Convention on which the decision is based:
(For AU member states): The 1969 OAU Convention governing the specific aspects of refugee problems in Africa <input type="checkbox"/> Yes <input type="checkbox"/> No	Relevant articles of the Convention on which the decision is based:
For EU member states: please indicate which EU instruments are referred to in the decision	Relevant articles of the EU instruments referred to in the decision:

Topics / Key terms: (see attached 'Topics' annex):
sexual orientation, LGBTI, medico-legal reports, standard of proof, late disclosure , repeated asylum claim, administrative law, social group

Key facts (as reflected in the decision): [No more than 200 words]

The applicant for the first time applied for asylum September 19 2006. His claim was rejected September 25 2006.

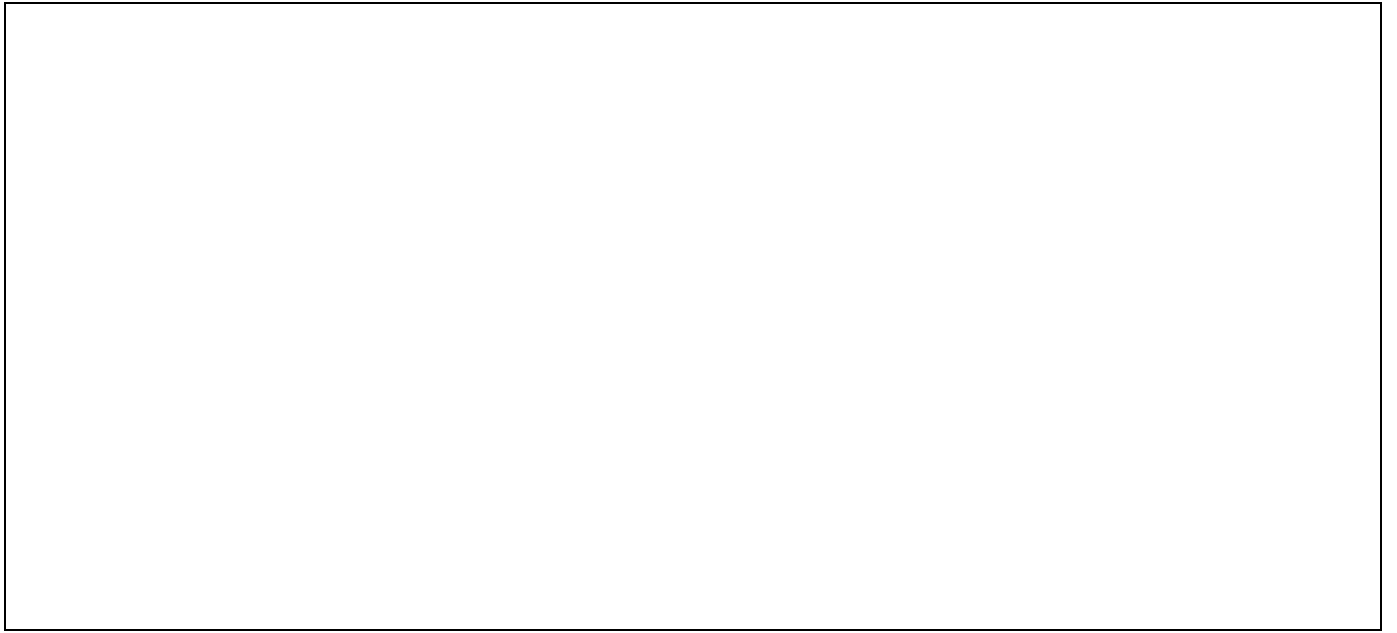
The applicant files a second application April 22 2008. In addition to the problems he brought forward in his first application he bases his asylum claim on his homosexual orientation. Out of shame he did not mention his homosexual orientation in the first procedure. His claim was rejected November 13 2008. Applicant appealed the decision. Court of Haarlem dealt with the case.

Applicant had asked for an expert to give her opinion during the court hearing. Expert states that she cannot for 100 % state to be sure, but expresses her opinion that the man suffers from an internalized homophobia. This resulted in a situation that it was difficult for the applicant to acknowledge him being gay.

The Court of Haarlem taking into account the expert advice declared the appeal grounded. State Secretary of Security and Justice appealed the decision of the Court.

Council of State declared the appeal grounded.

According to the Council of State the expert advice does not give reasons why the applicant could not in 2006 at least summarily refer to his homosexual orientation. The expert opinion does not give insight in the psychological situation of the applicant in 2006.



Key considerations of the court (translate key considerations (containing relevant legal reasoning) of the decision; include numbers of relevant paragraphs; do not summarize key considerations) [max. 1 page]

Disclaimer: This is an unofficial translation, prepared by UNHCR. UNHCR shall not be held responsible or liable for any misuse of the unofficial translation. Users are advised to consult the original language version or obtain an official translation when formally referencing the case or quoting from it in a language other than the original

Other comments or references (for example, links to other cases, does this decision replace a previous decision?)

EXPLANATORY NOTE

1. Decisions submitted with this form may be court decisions, or decisions of other judicial, quasi-judicial and administrative bodies.
2. Where applicable, please follow the court's official case reference system.
3. For example in situations where the country of return would be different from the applicant's country of origin.

For any questions relating to this form, please contact the RefWorld team at the address below.

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