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## Threat to religious liberty

The European Union is proposing a directive to outlaw discrimination on grounds including sexual orientation and religion in the provision of goods or services.

Similar laws in the UK and other nations have caused serious erosion of religious liberty and the exclusion of Christianity from public places (see inside this leaflet for examples).

This Directive will mean that 'homosexual rights' and secular values will govern how Christian organisations provide goods and services to the public.

The Directive could mean that a Christian-owned guest house would be forced to provide double rooms to homosexual couples.

Or a town council could cease to fund a Christian



community project because it may be viewed as favouring one religion over another.

A 'harassment' provision within the Directive may also affect how Christians communicate their religious beliefs while providing a good or service.

Although the UK already has 'goods and services' discrimination laws, this Directive could make the British situation even worse.

This leaflet will help you understand the issues and what you can do to help preserve your religious liberty.

## The current status of the EU Directive

The Directive is currently in draft form. Its official title is "Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation" (COM (2008) 426).<sup>1</sup> It was published in July by the European Commission.

The scope of the proposal was influenced by the European Parliament, which passed a resolution in May "reminding" the Commission of its "commitment to put forward a comprehensive directive covering disability, age, religion or belief and sexual orientation".<sup>2</sup>

The Directive can only become law if all member states agree to it at a meeting of the Council of the EU. Although the power to enact

or dismiss the proposal lies with the Council, it must consult the European Parliament and "have regard for its opinion" before voting on the Commission proposal.

The proposed Directive is currently under consideration by the Parliament's Civil Liberties, Justice and Home Affairs Committee. When it reports back with an analysis and any suggested amendments, MEPs will vote on its conclusions and the Council can begin to consider whether to adopt, amend or reject the Directive. This is expected to take place early in 2009.

<sup>1</sup> Free to download at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:DKEY=473800:EN:NOT>

<sup>2</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0212+0+DOC+XML+V0//EN&language=EN>

# Harassment provision threatens free speech

The EU Directive includes a harassment provision across the four areas of religion or belief, disability, age and sexual orientation. Harassment is one of the most alarming features of the proposed legislation.

Under the Directive, harassment is defined as taking place when someone violates another person's dignity *and* creates an intimidating, hostile, degrading, humiliating or offensive environment for them.

This definition can be a major threat to freedom of speech and religious liberty.

The Directive lays down minimum requirements, so that individual governments are free to go beyond the wording of the Directive if they choose.

The UK Government



The perception of the 'victim' can be crucial to proving harassment

went well beyond what was required when implementing another directive containing harassment.

The Government implemented the 2000 Employment Directive by stipulating an even looser definition of harassment. It changed a key "and" to an "or". It also required particular emphasis to be placed on the opinion of the

alleged victim. This is a subjective part of the test which is not present in the Employment Directive.

The result is that if a person shows that he perceived that an 'offensive' environment had been created for him then that can be sufficient to establish harassment – regardless of the intention of the alleged culprit.

When someone can claim that they have been harassed simply because they feel offended, free speech and freedom of religion are under serious threat.

If the new Directive is introduced as currently drafted, this danger of over-zealous implementation will apply to all EU countries.

## UK Parliament warns against harassment law

When rules prohibiting sexual orientation discrimination in the provision of goods, facilities and services were introduced in Northern Ireland by the UK Government, harassment was included in the legislation.

The definition of harassment was considered by a UK Parliamentary committee with responsibility for human rights, and it expressed concern that it was too wide and too vague. The committee said that there was a

risk of incompatibility with both freedom of speech in Article 10 of the European Convention on Human Rights and freedom of thought, conscience and religion in Article 9:

"The potential interference with freedom of speech arises because people may feel inhibited from saying something if they fear that a person may perceive it is a violation of their dignity or is creating an offensive environment. The potential

interference with freedom of religion and belief arises because explanations of sincerely held doctrinal beliefs might be perceived as violating a person's dignity or creating an offensive environment."

The laws were challenged in the UK High Court, and the harassment provisions were struck down by the judge for reasons which included concerns about free speech and religious liberty.

## Christian holiday camp sued by gays



Laws similar to the Directive in Victoria, Australia, recently led to the Christian owners of a holiday resort facing legal action after they refused to allow a homosexual youth group to run a camp on the site. The owners said that to do so would go against their beliefs.

## Christian foster parents forced to sign gay pledge



UK laws similar to the Directive made it possible for a local council to force a Christian foster couple to sign a pledge saying they would promote gay rights. Mr and Mrs Matherick had been fostering children for six years.

# Roman Catholic Church forced out of adoptions

Similar laws in the UK have forced five faith-based adoption agencies to break all links with the Roman Catholic Church and one has shut down altogether.

These agencies have historically provided an important branch of adoption services, often dealing with difficult cases where homes are needed for older children.

When the UK laws were being considered, the Roman Catholic agencies asked for an exemption to protect the religious ethos of their work. However, the Government refused to grant one. Instead, the agencies were given until the end of 2008 to comply with the new rules.

At least one is preparing to stand up against the UK laws by continuing to place children with married heterosexual couples

only, and risks facing legal action for doing so.

The Commission's explanatory memorandum says that the Directive will not "require any Member State to amend its present laws and practices in relation to" issues such as adoption. However, this memorandum is not binding. What counts is the interpretation of the European Court of Justice (ECJ). It is not clear what this will be because the Directive does not mention adoption. A classic example of what the ECJ can do when it gets hold of a directive was recently given in the *Maruko* case. Here the court used overarching principles to extend a Directive in a way which directly contradicts the original intention.<sup>1</sup>

<sup>1</sup> *Maruko v Versorgungsanstalt der Deutschen Bühnen* [2008] 2 C.M.L.R. 32

## Photographer sued for failing to cover lesbian 'marriage'

A Christian photographer in New Mexico, USA, was asked by a lesbian couple to take photographs of their 'commitment ceremony'.

She declined to do so because of her religious beliefs about homosexuality. She was sued by the two women under laws similar to the proposed EU Directive.

Elaine Huguenin was told that she had discriminated wrongly under sexual orientation legislation, and was fined more than \$6,000. This happened even though same-sex 'marriages' and civil unions are not legal in New Mexico.



Elaine Huguenin

When similar legislation was proposed in the UK, Christians warned that situations like this would result. The same dangers apply to Christians across Europe under the proposed Directive.

# Religious 'equality' laws can often be used against Christians

## Local councils



Local councils and public authorities have used religious non-discrimination laws as a pretext for removing any public reference to Christianity, replacing it with more 'politically correct' themes.

Religious 'equality' laws led to councils in Bideford and Worcester being urged to end over a hundred years of tradition by cancelling morning prayer meetings.

In June 2005, Torbay Council removed a wooden cross from the wall of a crematorium chapel, and renamed the building a 'ceremony hall'.

## Churches



A Hindu group has threatened to launch legal action against two churches that refused to allow yoga classes to take place on their premises.

The clergy involved explained that they believe yoga to be un-Christian, and contrary to their religious beliefs. However, the Hindu group have labelled the churches "bigoted". They say that the actions of the two clergy are in breach of so-called equality legislation (similar to the proposed Directive), and have ordered their lawyers to investigate the case.

## Christmas



Christmas celebrations have also been affected by religious equality rules similar to the proposed Directive. Local councils have told employees that they must not send Christmas cards to one another, and churches have been banned from advertising their Christmas services, in case members of other religions are offended.

The term "Christmas lights" has been replaced by "festive decorations", and some councils have even tried to re-name Christmas with non-Christian titles, such as "Winterval".

## Charities



One hostel for homeless people run by Christians was told that it risked losing a substantial amount of public funding because it was "too Christian".

The local council ordered it stop giving thanks to God before meals and said that Bibles should be removed from tables in case non-Christians coming to the shelter felt offended.

The Christians running the shelter said they would have to abandon the work if they could not run it with a Christian ethos.

## Keep informed, keep in touch

It is vital that Christians keep up-to-date with the latest news about the Directive. The Christian Institute is actively working to defend religious liberty. There will be crucial moments when Christians need to act. Please contact us and we will keep you informed about the campaign and how you can help.



**Web**

[christian.org.uk](http://christian.org.uk)



**Email**

[info@christian.org.uk](mailto:info@christian.org.uk)



**Tel (from UK)** 0191 281 5664



**Tel (from EU)** +44 191 281 5664

