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By Keith Porteous Wood, Executive Director, National Secular Society.

As previously reported, the European Court of Human Rights gave leave to the NSS to intervene in four cases as an *amicus curiae* (friend of the court). In all four cases, applicants to the Court cited the dismissal of four UK employment cases as evidence that the UK had failed to enforce the European Convention on Human Rights. Our Intervention is now published.

We felt that if the four employees were successful as applicants, Human Rights law would be seriously undermined with religion being a trump card or the top of a hierarchy which should not exist. The applicants are being assisted by the Christian Legal Centre.

We were motivated to intervene because we were convinced that the outcome of the case was likely to have a profound effect on the future of Human Rights in theUK, and probably also in Europe. Another intervener, coming from a rather different perspective, the (American) Alliance Defense Fund goes even further. It considers it is “stand[ing] in defense of religious freedom in the United Kingdom in cases that — if they are decided the wrong way — could have a negative impact on your religious liberty here in the United States”.

A measure of our concern was that we asked leading Human Rights lawyer Lord Lester of Herne Hill, QC to lead our Intervention. He kindly agreed to act *pro bono* as did those who assisted him, Dr Ronan McCrea and Max Schaefer. We are very grateful indeed to them all.

Our intervention drew attention to UK legislation being “more comprehensive in scope and remedies than any elsewhere in Europeor the common-law world. It reflects and goes beyond the minimum protections laid down by the European Union.”

We assert that UK equality law is “fully compatible with Article 9 of the Convention, as Article 9 [freedom of thought, conscience and religion] has been consistently interpreted by the Court. Indeed,UK law gives greater protection to religion than is required by Article 9 (or, in the NSS’s view, greater than is appropriate or necessary).” We remind the Court of the well-established case law that “Article 9 does not protect every act motivated or inspired by a religion or belief. Moreover, in exercising his freedom to manifest his religion, an individual may need to take his specific situation into account.”

The judgment in another case we cited included the following passage: “‘Article 9 lists a number of forms which manifestation of one’s religion or belief may take, namely worship, teaching, practice and observance … [it] does not always guarantee the right to behave in public in a manner governed by that belief. The word “practice” used in Article 9 §1 does not denote each and every act or form of behaviour motivated or inspired by a religion or a belief.”‘

One of the cases the applicants rely on concerns Lillian Ladele, the registrar for the London Borough of Islington who refused to officiate at civil partnerships for same sex couples. We stated that employers “are entitled to require that those who voluntarily undertake to provide services to the public must do so in a non-discriminatory fashion, even if they believe it is morally wrong to do so”.” We noted that the European Court: “have not been at all ready to find an interference with the right to manifest religious belief in practice or observance where a person has voluntarily accepted an employment or role which does not accommodate that practice or observance and there are other means open to the person to practise or observe his or her religion without undue hardship or inconvenience.”

Another of the cases complained of by the applicants concerned a Relate councillor who said he would refuse to provide some services for same sex couples.

In respect of these two cases, we pointed out that “the harm done by invidious and unfair discrimination goes far beyond the deprivation of a service. An individual’s dignity, sense of worth and full membership of the community is significantly affected by acts of discrimination even if he or she can obtain access to the relevant service elsewhere. One would not say that Rosa Parks would have suffered no significant harm if there had been available to her an alternative bus service in Montgomery, Alabama which did not impose discriminatory seating arrangements.”

In respect of two of the cases that relate to the wearing of crosses at work, we argued that restrictions in the workplace could be justified “in the interests of health and safety and for the protection of the rights and interests of fellow employees, users of public services, and private customers. In the context of private employment, the rights and freedoms at stake are not only those of other employees and citizens, but the employer’s reputation and commercial rights.”

States are given some leeway in their interpretation of the Convention, called a “margin of appreciation”. Our Intervention concludes that this should be “accorded particular respect where all three branches of its government have carefully and recently considered, and given full weight to, the relevant Convention rights and obligations and the Court’s jurisprudence.”

Read the intervention in full.