

# Forstater v CGD Europe and others - Case summary

An Employment Tribunal has found that Maya Forstater's claims of direct discrimination and victimisation against CGD, relating to her gender-critical beliefs, were well founded. This decision follows the EAT's decision in June 2021 (discussion of which can be found in my previous blog post [here](#)), that gender-critical belief, i.e. the belief that biological sex is immutable and not to be conflated with gender identity, is a philosophical belief protected under the Equality Act 2010.

## Facts

Maya Forstater's claims of direct discrimination related to the decision taken by CGD not to renew her engagement as a Visiting Fellow at the think tank, and not to offer her full time employment, which the company had previously suggested was on the cards.

CGD attempted to argue that it was the objectively unreasonable and inappropriate manifestation of Ms Forstater's beliefs, in particular, by way of her Twitter activity that led to their decision, and not the belief itself.

Case law confirms that where an employer can demonstrate that the conduct motivating an employer's decision was the manifestation of someone's belief (e.g. the unnecessarily inflammatory or offensive way in which they have expressed their belief), and not the holding of the belief itself, this can be a successful argument against claims of discrimination.

## Decision

The Tribunal was not convinced by the manifestation argument in this case. The Tribunal considered Ms Forstater's tweets generally to be a basic expression of her belief and therefore not objectively unreasonable or inappropriate. While some of her tweets were considered likely to cause offence, none were found to be so egregious as to warrant the treatment Ms Forstater received. The Tribunal set a high bar for when the manifestation of someone's belief crosses the line, and therefore warrants employer action.

When coming to this decision, the Tribunal took into consideration the steps Ms Forstater agreed to take in light of CGD's objections, which included:

- not discussing her beliefs in the office;
- reducing the amount she tweets on the topic; and
- including a disclaimer on her Twitter profile that her views were personal and not an expression of CGD's views.

Since Ms Forstater had made such concessions, the Tribunal was persuaded that it was the fact of her beliefs and not the manifestation or impact of them that drove the decision not to renew her contract and not to offer her employment.

Ms Forstater also brought a successful victimisation claim related to the decision to remove her from the think tank's website after she gave an interview to the Sunday Times about losing her job because of her beliefs.

Remedy will be dealt with at a further hearing.



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