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Seeking Protection as a Sexual Minority under European Union Law

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International migration has expanded in both complexity and volume. The European Union has responded to increased asylum flows by attempting to streamline policy. One such effort is Council Directive 2004/83/EC. The Directive sets out minimum standards for qualification as a refugee. The Directive both narrows and widens the scope of eligibility for protection within the European Union. Deriving from the 1951 Convention Related to the Status of Refugees, those considered members of a particular social group are eligible for protection where the individual meets the criteria articulated in the convention. The Council Directive assigns those seeking protection based on their sexual orientation as belonging to a group. This article details the historical exclusion of sexual minorities from international refugee law and analyses the differing attitudes regarding sexuality. Secondly, the article looks at the ways in which Council Directive 2 004/83/EC has been interpreted and implemented across the EU. Thirdly, the article identifies issues that arise during the application process in determining entitlement to refugee status as a sexual minority under existing legal structures and instruments. Finally, the article assesses the adequacy of implementation across the EU and offers best practice recommendations for the further inclusion of sexual minorities in refugee law.

I have completed a BA in Spanish and Hispanic Studies at Hobart and William Smith Colleges in New York and a MA in International Relations at Dublin City University. I am presently in my first year of studies at University College Cork working toward the degree of LLM by research. My thesis is titled: "Seeking Protection as a Sexual Minority under European Union Law: An analysis of the Qualification Directive". I am also working as the Separated Children's Officer at the Irish Refugee Council where I am conducting research on guardianship as part of a wider European project entitled 'Closing a Protection Gap: Core standards for guardians of separated children' This project is funded by the European Commission's Daphne Programme.