

**Letter to President Barroso about subversion of the UN Human Rights Council,
and reply**

1 April 2008

Dear Mr. President

UN Human Rights Council

Having in mind that we shall meet again on 16 April when you address the European Humanist Federation colloquium to mark the 60th anniversary of the Universal Declaration of Human Rights, I am writing to you with reference to events at the UN Human Rights Council (HRC) last Friday, 28 March, which inflicted a severe blow to human rights and, in particular, freedom of speech.

At the Council's meeting on that day, a resolution to continue the mandate of the Special Rapporteur on Freedom of Speech was moved by Canada. The special rapporteur, Ambeyi Ligabo, recently submitted to the HRC a report on violations of press freedom which included a statement that the limitations to freedom in existing human rights instruments were designed in order to protect individuals against direct violations of their rights. These limitations are not intended to suppress the expression of critical views, controversial opinions or politically incorrect statements. Finally, they are not designed to protect belief systems from... criticism. (emphasis added)

However, an amendment was moved and, despite protests by the EU representative and others, carried by an alliance of Islamic governments and allies including China, Russia and Cuba, to change his terms of reference so as to oblige him in future:

to report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination ...

In diplomatic language, this warns the Special Rapporteur off defending the freedom of speech of anyone critical of Islam. In the debate it was even suggested that limiting freedom of speech was a way of avoiding violence by Islamic extremists.

It is clear that, as with its predecessor body the UN Human Rights Commission, the Human Rights Council has now been subverted by Islamic interests, with a religiously motivated group using its control to suppress by outrageous abuse of the rules of procedure the voicing of any criticism of Islamist violation of human rights. Such tactics have been repeatedly used to prevent the representative of the International Humanist and Ethical Union from delivering such criticism. Just five months before he and more than 20 of his colleagues were killed by a terrorist bomb in Baghdad, the then High Commissioner for Human Rights, Sergio Vieira de Mello, wrote:

Membership of the Commission on Human Rights must carry responsibilities. I therefore wonder whether the time has not come for the Commission itself to develop a code of guidelines for access to membership of the Commission and a code of conduct for members while they serve on the Commission. After all the Commission on Human Rights has a duty to humanity and the members of the Commission must themselves set the example of adherence to the international human rights norms – in practice as well as in law...

I am writing to ask whether the European Union will now consult its member states and allies with a view to withdrawing from the Human Rights Council until reforms on these lines can be agreed? They should include that all member states represented on the Council and those offering themselves for election agree to expel any member state which, having been put on notice regarding its human rights record, fails to put its house in order within a reasonable timescale.

A Human Rights Council without the support of any of the democracies or of the European Union would be a laughing stock and able to do less damage than it can at present. It would carry even less credibility than now with relevant NGOs and observers even in Islamic countries: you will have noticed that of the thirty-one civil society organisations from around the world that issued a last-minute plea to the Council to reject the amendment the majority were from member states of the Organisation of the Islamic Conference.

A withdrawal might sensibly be coupled with setting up an independent interim non-UN international human rights body to carry on the HRC's proper function. Would the EU consider such a course of action? If not, what alternative does it propose in the present impasse?

Yours sincerely
David Pollock
President

Copies to:
Mr Janez Janša President EU Council of Ministers
Mr Nicolas Sarkozy President-elect EU Council of Ministers
Mr Hans-Gert Pöttering President of the European Parliament

The following reply was received, dated 30 May 2008:

Dear Mr Pollock,

President Barroso has asked me to thank you for your letter of 1 April and to reply on his behalf. Firstly, I wish to apologise for the delay in answering your correspondence.

In your letter you express concern about the functioning of the Human Rights Council and its Special Procedures, an issue that was not specifically addressed during the Colloquium of the European Humanist Federation.

In relation to the negotiation of the draft resolution on the mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the European Union considered that the amendment introduced in the text on behalf of the African Group, the Organisation of the Islamic Conference and the Arab Group, was formulated in such a way that the focus of the mandate was shifted from protection of freedom of expression to limitations to this freedom. This assessment led the European Union to publicly express deep regret about the attack against the mandate and, as a result, to withdraw its co-sponsorship of the resolution and to abstain during the vote.

Concerning your recommendation for the European Union to withdraw from the Human Rights Council, you will note that the European Community has observer status at the United Nations as a regional international organisation, whereas only seven European Union Member States are full members of the Human Rights Council; therefore, the European Union's direct influence on the Council's proceedings is limited. However, the Commission is closely cooperating with European Union Member States to promote common European Union positions.

That having been said, the European Union has explicitly supported the establishment of the Council and its institution-building process and values its crucial mandate, with particular reference to the development of human rights as well as to the capacity of promptly addressing the relevant thematic and country-specific situations. In light of this position and in spite of a persistently difficult negotiation environment, the European Union recently confirmed that it will continue to cooperate with all interested states and other stakeholders in order to improve the authority and the effectiveness of the Council.

Yours sincerely

Fernando ANDRESEN GUIMARAES
Member of Cabinet of President J M Barroso