



European Humanist Federation

international non-profit association under Belgian law

Fédération Humaniste Européenne

association internationale sans but lucratif de droit belge

Campus de la Plaine ULB-CP 237
Avenue Arnaud Fraiteur
B-1050 Brussels - Bruxelles
Belgium - Belgique

Tel: +32 (0)2 627 68 90
Fax: +32 (0)2 627 68 01
E-mail: fhe@ulb.ac.be
www.humanistfederation.eu

Mr Vladimir Spidla
European Commission
B1049
Brussels
Belgium

27 March 2009

Dear Mr Spidla –

I have been looking at the European Handbook on Equality Data, which you published (and wrote a foreword to) in 2007. I have no doubt this is a valuable publication but I am disturbed at the short section on pages 54-55 about ‘Religion’.

The text is entirely in terms of religion, and the classification recommended shows no recognition of non-religious beliefs, only of lack of religion. There is a footnote that recognises that

... the EU Employment Equality Directive prohibits discrimination not just on the grounds of ‘religion’ but also on the grounds of ‘belief’. The exact scope of the latter term is currently somewhat unclear, inter alia because the European Court of Justice has not yet had a chance to elaborate upon it through its case law, but it is likely that the term covers, for example [sic], deeply held philosophical beliefs.

It fails to recognise that there have been several cases in the European Court of Human Rights that give clear indications that non-religious beliefs of several kinds are covered by the phrase ‘religion or belief’. For example,

As enshrined in Article 9, freedom of thought conscience and religion is one of the foundations of a ‘democratic society’ within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, sceptics and the unconcerned. - *Kokkinakis v Greece: (1994) 17 EHRR 397, para 31*

I attach quotations from other cases.

If the EU is to recommend recognising in surveys as many as seven varieties of Islam, which is represented in Europe by a tiny percentage of the population, then the 1 in 3 or thereabouts of the population who have no religion deserve to have their positive beliefs recognised at least to some extent.

Categories such as

atheist
agnostic
freethinker
rationalist
secularist/laiques
humanist

certainly deserve to be included. These may not be mutually exclusive but they cover a wide range, from atheists who simply reject religion to secularists who emphasise the need for public institutions to be neutral in terms of religion or belief and to humanists who promote positive ethical beliefs, etc. Most people have a preferred 'label' to use for themselves.

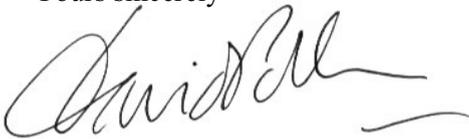
This is not merely a methodological quibble. Statistics have real life effects. Merely offering an option of 'None' or 'no religion' demeans the non-religious. It suggests that we are lacking something, that we have not addressed this serious realm of religion or belief, that we are indifferent to it and have no views.

It therefore invites policy makers to ignore us - and they consistently do so.

Given that the purpose of the handbook was to aid the cause of equality, this is gravely disappointing. I recognise that the book has now been published but if it is reissued I hope that some revision can be made.

Meantime, maybe you would draw these points to the attention of your own statisticians, who might have their own channels for communicating them.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Pollock', with a long horizontal flourish extending to the right.

David Pollock
President

European Court of Human Rights Cases on Religion or Belief

“[F]reedom of thought, conscience and religion is one of the foundations of a ‘democratic society’ within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, skeptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.” - *Erbakan v. Turkey*, 6 July 2006, Application No. 59405/00. para. 17

“The right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate.” - *Manoussakis v Greece*: (1996), EHRR 387, para 47

Belief means “more than just ‘mere opinions or deeply held feelings’; there must be a holding of spiritual or philosophical convictions which have an identifiable formal content.” - *McFeeley v UK*: (1981), 3 EHRR 161

“In its ordinary meaning the word ‘convictions’, taken on its own, is not synonymous with the words ‘opinions’ and ‘ideas’, such as are utilised in Article 10 (art. 10) of the Convention, which guarantees freedom of expression; it is more akin to the term ‘beliefs’ (in the French text: ‘convictions’) appearing in Article 9 (art. 9) - which guarantees freedom of thought, conscience and religion - and denotes views that attain a certain level of cogency, seriousness, cohesion and importance.” . . . [philosophical convictions] "denotes, in the Court's opinion, such convictions as are worthy of respect in a 'democratic society' and are not incompatible with human dignity." - *Campbell and Cosans v. UK*: (1982), 4 EHRR 293 p304, para 36 and p305, para 36)

[NB: This case was concerned with the meaning of "philosophical convictions" in article 2 of the First Protocol, not with the meaning of 'religion' or 'belief' under Article 9, but:

“The European Court in Campbell v Cosans v United Kingdom (1982) 4 EHRR 293, 303, para 36, equated the parental convictions which were worthy of respect under the first Protocol with the beliefs protected under Article 9: they must attain a certain level of cogency, seriousness, cohesion and importance; be worthy of respect in a democratic society; and not incompatible with human dignity. No distinction was drawn between religious and other beliefs.” - R v Secretary of State for Education ex parte Williamson [2005] UKHL 15 Per Baroness Hale of Richmond at paragraph 73.

In *Arrowsmith v United Kingdom* (1981) 3 EHRR 218, a case under Article 9 concerning manifestation of a pacifist belief, ‘convictions’ were defined as “those ideas based on human knowledge and reasoning concerning the world, life society etc, which a person adopts and professes according to the dictates of his or her conscience. These ideas can more briefly be characterised as a person’s outlook on life including, in particular, a concept of human behaviour in society”.

The following commentaries are also relevant:

- from the UN Human Rights Committee on Article 18 of the International Covenant on Civil and Political Rights (which is essentially similar to Article 9 of the European Convention):

“Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.” - Human Rights Committee, 1993 (General

Comment no 22(48) (Art. 18) adopted on July 20th 1993, CCPR/C/21/Rev.1/Add.4, September 27th 1993, p1.)

● from the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE):

The “belief” aspect typically pertains to deeply held conscientious beliefs that are fundamental about the human condition and the world. Thus, atheism and agnosticism, for example, are generally held to be entitled to the same protection as religious beliefs. - Guidelines for Review to Legislation Pertaining to Religion or Belief (2004) Section A, Paragraph 3.