



Council of the
European Union

Brussels, 3 June 2015
(OR. en)

9512/15

FREMP 129
COHOM 53
JAI 413
DROIPEN 60

NOTE

From: EEAS
To: Working Party on Fundamental Rights, Citizens' Rights and Free
Movement of Persons (FREMP) / COHOM delegates
Subject: External dimension of the fight against racism and xenophobia

Delegations will find in the Annex the paper prepared by the EEAS for the meeting of FREMP in the presence of COHOM delegates on 8 June 2015.

Overall policy framework

The fight against discrimination on any grounds including racism and xenophobia is a fundamental objective of the EU and as such is promoted and integrated in all areas of EU external action without exception. This is reflected the 2012 EU Strategic Framework and Action Plan on Human Rights and Democracy and its successor for 2015-2019 which will be adopted in July 2015.

The EU gives considerable weight to the UN's International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) when engaging in the fight against racism in cooperation with partner countries and regional and international organizations such as, inter alia, the OSCE, Council of Europe, the African Union and the United Nations.

EU Engagement at the United Nations

The EU engages actively in the racism file within the UN, both in the Human Rights Council (HRC) in Geneva and in the UN General Assembly (GA) in New York.

This includes active participation in the three HRC mechanisms established to follow-up to the 2001 World Conference against Racism in Durban:

- *Intergovernmental Working Group on the effective Implementation of the Durban Declaration and Programme of Action (DDPA);*
- *Working Group of Experts on People of African Descent;* and
- *Ad Hoc Committee on Complementary Standards*

These mechanisms meet for a total of 6 working weeks per year in Geneva (often further extended through informal consultations). The EU has so far not been successful in its endeavours to streamline these mechanisms. Thus it remains highly questionable whether the resources spent on these follow-up mechanisms constitute the most effective way to address and to combat racism.

A fourth mechanism the *Independent Eminent Experts' Group* which had been dormant for several years was revitalized and reactivated by the 2013 GA Durban resolution 68/151. Revitalizing the group again demonstrates the tendency to focus on processes instead of action.

The EU is also faced with a number of challenges within these working groups, for instance in the Ad Hoc Group on Complementary Standards, where the EU is constantly met with the request by notably South Africa on behalf of the African Group, but also many other countries within the so-called "Like-Minded Group" to **develop complementary legal standards to the ICERD** (International Convention on the Elimination of Racial Discrimination) in order to address xenophobia and other contemporary forms of racism (i.e. Islamophobia, hate speech, religious intolerance). The EU is of the view that there is no need for new legal instruments and that focus should instead be on the implementation of the existing standards. Last March (HRC28, 2015), the African Group recalled its determination to elaborate complementary standards to the ICERD and announced that it will seek directives from the UNGA at its 70th Session in Autumn 2015 empowering the Chairperson-Rapporteur to table a draft instrument in this regard.

This past year's work on racism has otherwise been dominated by the negotiations on the Program of Activities for the **International Decade for People of African Descent**, which will run from 2015-2024. As expected, negotiations on the Decade were both long and challenging on a number of issues such as the question on reparations for slavery as well as the various proposals for a new UN Declaration on the Rights of People of African Descent, the establishment of a new Forum, adoption of Special Measures, new complementary standards to the ICERD, etc. While it is fair to say that the EU did not see the need for the Decade, the EU nevertheless engaged actively and constructively in the negotiations, including by presenting a non-paper with concrete proposals on both process and substance. After long months of negotiations both in Geneva and New York, the program of Activities for the Decade was finally adopted by consensus in the General Assembly last Autumn, eleven months after the proclamation of the decade in December 2013.

As the International Decade is expected to be the dominating event and topic of the racism file within the UN in the coming years, the EU may consider some concrete activities to support the implementation of the Decade within areas of priority to us (e.g. activities to further promote the ICERD) - in addition to all the measures and activities already in place to support the fight against racism in general. Individual EUMS may also wish to launch certain activities to mark the Decade.

Similarly to the EU's active work within the various Durban-related mechanisms of the HRC, the EU has engaged constructively in the negotiations both in Geneva and NY of the many **racism-resolutions** presented by South Africa on behalf of the African Group in Geneva and on behalf of the G-77 and China in New York. Apart from the few resolutions adopted by consensus, the EU has so far not been able to support these resolutions for various reasons. (E.g. concerns related to limitations of media, references to the need for complementary standards, unbalanced reflections of the Durban-conference vis à vis the importance of ICERD, etc.). Unfortunately, the main sponsor has traditionally shown limited flexibility to meet our concerns (aware that they have the necessary votes anyway).

Furthermore, the EU takes advantage of any occasion at the UN, for example the international day of elimination of racial discrimination to underline its work against racism. The EU also regularly engages in the interactive dialogues with the **Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**.

Despite the fact that the EU has an adequate framework to combat racism and is constantly sharing information on its comprehensive legal framework, measures and activities in this field, our engagement at the UN is somehow tarnished by our voting patterns in the racism resolutions. It is therefore of paramount importance to fend off inaccurate accusations that the EU is not fully committed to the fight against racism, notably through continuous constructive engagement at the UN.

The coming challenges at the UN are:

- Continuing the engagement with South Africa to achieve consensus on the racism resolutions.
- Avoid the creation of complementary standards and instead focus on the implementation of the Convention.
- The establishment of the Forum for People of African Descent which should be based one of the existing Durban follow-up mechanisms to avoid the creation of new structures.

EU engagement on racism and xenophobia at the OSCE (Organisation for Security and Cooperation in Europe)

The EU engages in all OSCE discussions related to racism, including by participating in the relevant sessions at the annual OSCE Human Dimension Implementation Meeting, and those that take place in the Permanent Council and its subsidiary working group, the OSCE Human Dimension Committee. The EU engages fully with the *Personal Representative of the OSCE Chairperson-in-Office on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions*, and Member States facilitate country visits by the Personal Representative.

The EU also actively supports the work of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to combat racism, and the broader work of OSCE High Commissioner on National Minorities.

The challenges confronting the EU in OSCE are similar to those arising in the UN, namely polarisation and instrumentalisation. Although the issues that are the subjects of instrumentalisation and polarization are slightly different from those of the Durban processes. In the OSCE context they are typically related to linguistic and national minorities. Another factor hampering the EU's ability for concerted actions is that it is often difficult for EU Member States to agree on the priorities within the OSCE.

Country Level dialogues

ICERD is the most widely ratified UN Human Rights instrument. This provides a solid basis for raising issues related to racial discrimination in the political as well as the human rights dialogues with a number of countries. The many competing human rights and democracy issues that are raised in the dialogues pose challenges in terms of maintaining a strong and consistent EU pressure on racism issues. The challenges are exacerbated when there is a spill over from the racism discussions at the international level. The country level dialogues benefits positively from the possibility of providing capacity building support through various EU financial instruments.

Public Statements

The EU High Representative issues a statement on behalf of the European Union on the fight against racism every year on March 21 in marking the International Day for the Elimination of Racial Discrimination. These statements also provide a platform for discussing racism issues with partner countries and help maintain a strong visibility for the importance that the EU attaches to the elimination of racial discrimination and xenophobia.

Financial Support

Financial support to combat all forms of racial discrimination is a fundamental objective as well as a crosscutting issue in all EU development and cooperation strategies and in its financing instruments. This enables EU support to international organizations such as to United Nations' Office of the High Commissioner for Human Rights and regional organizations as well as partner countries to, inter alia, awareness raising campaigns and capacity building activities that addresses and fights racial discrimination. Furthermore, the EU gives support to civil society organisations fighting racism both through the European Instrument for Democracy and Human Rights and the programmes for Civil Society and Local Authorities under the Development Cooperation Instrument and support provided under geographical instruments.

Training and awareness of staff

Objectives related to combatting racism are also included in the Human Rights' training that is organized every year for staff in EU delegations around the world. This training ensures that staff working in EU delegations is made aware of the importance that the EU attaches to the fight against racism. In order to further enhance the capacity of EU staff to engage robustly in dialogues and capacity building endeavours at both bilateral and multilateral level, it could be considered to develop specialised training initiatives, that also include the external as well as the internal dimension of the fight against racism and xenophobia.