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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 revised paper prepared by the EEAS for the COHOM meeting on 7 October 2015.

Overall policy framework

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

The EU draws extensively upon 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 is not convinced that the resources spent on these follow-up mechanisms constitute the most effective way to address and to combat racism but has so far not been successful in efforts to streamline these mechanisms. A fourth mechanism the *Independent Eminent Experts' Group* which had been dormant for several years was revitalised and reactivated by the 2013 GA Durban resolution 68/151. Revitalising 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.

International Decade for People of African Descent

The EU participated in the difficult and protracted negotiations for the programme of activities **for the International Decade for People of African Descent**, which will run from 2015-2024. Some of the most difficult questions involved were questions on reparations for slavery, 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 at this point, the EU supported the consensus adoption of the programme in the General Assembly last autumn, eleven months after the proclamation of the decade in December 2013. The racism-resolutions at the HRC in Geneva are presented by South Africa on behalf of the African Group and those in New York are presented by China on behalf of the G-77. 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 freedom 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).

Despite the fact that the EU has an extensive framework to combat racism and is constantly sharing information on its comprehensive legal framework, measures and activities in this field, the perception of our engagement at the UN is potentially undermined 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. **In this regard ensuring an EU common position at the UN on the initiatives concerning racism and xenophobia will give heightened visibility to EU's genuine engagement for the fight against racism and xenophobia.** The EU should furthermore continue to take advantage of any occasion at the UN, for example the international day of elimination of racial discrimination to underline its work against racism as well as in engaging the interactive dialogues with the *Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance*.

The challenges at the UN are:

- Continuing the genuine 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 should be based on one of the existing Durban follow-up mechanisms to avoid the creation of new structures as foreseen by the Programme of Activities for the Decade of People of African Descent.

Fostering close contacts and establishing a practice of “light coordination” on racism resolutions with GRULAC countries, and Brazil in particular, should be considered both as a means as well as an end to the achievement of consensus adoptions of racism related resolutions at the HRC as well as in UNGA.

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. The challenges of the EU in OSCE would be easier to overcome if the fight against racism and xenophobia could become an agreed priority of the EU in the OSCE.

EU engagement on racism and xenophobia at the Council of Europe (CoE)

The EU is actively engaging at all levels in the Council of Europe (CoE) to fight racism and xenophobia. In this context the EU is participating in the plenary meetings and other events of the European Commission against Racism and Intolerance (ECRI) of the CoE and extensively contributing to the debates on problems of racism, xenophobia, antisemitism, intolerance and discrimination in Europe. EU and ECRI are exchanging views on a regular basis in order to create synergies as it was mentioned in the Council Conclusions on combating hate crime in the European Union of 5th and 6th of December 2013. The ECRI's valuable country-specific independent monitoring reports examining the situation concerning manifestations of racism and intolerance does not only cover EU Member States, but includes candidates to EU accession and neighbouring countries that are member states to the CoE.

CoE's North-South Centre for intercultural dialogue has proven useful for some Member States in offering dialogue and discussion platforms for the fight against racism and xenophobia.

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 of contentious issues from the racism discussions at the international level. The country level dialogues can benefit positively from the possibility of providing capacity building support through **various EU financial instruments**. There are also a number of best practices in terms of including discussions on **how to cooperate on the racism agenda at multilateral fora** in the country level human rights dialogues. These best practices speak for the continued systematic inclusion of these issues in the EU Human Rights dialogues with third countries. Furthermore, the dialogues could also promote the exchange of best practices with partner countries on strategies and policies to combat racism, racial discrimination, xenophobia and related intolerance as foreseen by the EU Action Plan for Human Rights and Democracy 2015-2019

Public Statements

The EU High Representative/Vice President 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 commitment as well as a cross cutting issue in all EU development and cooperation strategies and in its financing instruments. This enables EU support to international organisations such as to United Nations' Office of the High Commissioner for Human Rights and regional organizations such as Council of Europe, the African Union etc. Support is also provided to partner countries, including EU Accession candidate states and Eastern Partnership countries, to, inter alia, awareness raising campaigns and capacity building activities that addresses and fight 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 financing instruments.

Training and awareness of staff

Objectives related to combatting racism are also included in the Human Rights' training that is organised 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.

Proposals for possible further enhanced Action

- Reinforce efforts for ensuring an EU common position at the UN on the initiatives concerning racism and Xenophobia.
- Promote genuine engagement with South Africa to achieve consensus on racism resolutions. Promote light coordination with GRULAC countries and Brazil in particular with the view to promote consensus adoptions of racism resolutions at the HRC and UNGA.

- Work for EU common engagement and positions in OSCE agenda relevant to the fight against racism, xenophobia and related intolerance a priority.
- 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 should engage its public diplomacy resources in concrete activities to support the implementation of the Decade within areas of priority to us (e.g. activities to further promote the ICERD and/or actions to implement the Programme of Activities of the Decade of People of African Descent) - in addition to all the measures and activities already in place to support the fight against racism in general.
- Information could usefully be shared on the activities of individual MS also to carry out activities to mark the Decade.
- Organise joint EU MS events to commemorate the 50th Anniversary of the ICERD in EU MS capitals as well as at multilateral venues in December 2015.
- Organise commemorative events in 2016 celebrating the 15th anniversary of the 2001 World Conference against Racism, Xenophobia and related Intolerance.
- Develop specialised training initiatives that also include the external as well as the internal dimension of the fight against racism and xenophobia.
- Use the publicising of EUMS Guidance notes and Action Plans to Combat Racism, Xenophobia and related Intolerance to promote the exchange of best practices with partner countries on strategies and policies to combat racism, discrimination, xenophobia and related intolerance as foreseen by the EU Action Plan for Human Rights and Democracy 2015-2019