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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	EU action plan against racism 2020-2025 - <i>Policy Debate</i>

Delegations will find attached a steering note prepared by the Presidency, with a view to the policy debate on the above subject at the EPSCO Council on 27-28 November 2023.

POLICY DEBATE ON ANTI-RACISM IN THE EUROPEAN UNION

INTRODUCTION

Council Directive 2000/43/EC of 29 June 2000 implements the principle of equal treatment between persons irrespective of racial or ethnic origin. As also pointed out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A Union of Equality: EU Anti-Racism Action Plan 2020-2025", discrimination on the grounds of racial or ethnic origin is prohibited in the European Union (EU). Such discrimination persists in our society. It is therefore not enough to be against racism. We have to actively oppose racism.

Racism takes various forms. Overt manifestations of individual racism and racial discrimination are the most obvious. People of Asian or African descent, Muslims, Jews and Roma are suffering from intolerance. However, there are other, less explicit forms of racism and racial discrimination, such as those based on unconscious prejudice. Racist and discriminatory behaviour can be embedded in social, financial and political institutions, impacting all levels of power and policy-making.

According to the EU Anti-Racism Action Plan, prejudice and stereotypes can be tackled, first and foremost, by acknowledging the historical roots of racism. Colonialism, slavery and the Holocaust are part of our history and continue to have profound consequences for today's society. Ensuring historical memory is an important part of promoting inclusion and understanding.

Furthermore, structural racism has a negative impact on people's access to employment, health care, housing, finance or education. Racism is rooted in the history of our societies, intertwined with their cultural traditions and norms. It can be reflected in the way society functions, how power is distributed and how citizens interact with the state and with public services. It may sometimes be unconscious. Given that the impact of structural racism can be as deep and damaging as individual racism, its existence must be acknowledged and addressed through proactive policies.

The EU Anti-Racism Action Plan calls on EU Member States to acknowledge structural racism. UN CERD General Recommendation 34¹ on people of African descent also points out that racism and structural discrimination against people of African descent, rooted in the infamous regime of slavery, are still evident in the situations of inequality affecting them and reflected in several domains. These include the fact that they are part of the poorest groups of the population; their low rate of participation and representation in political and institutional decision-making processes; additional difficulties they face in access to and completion of quality education, which results in the transmission of poverty from generation to generation; inequality in access to the labour market; limited social recognition and devaluation of their ethnic and cultural diversity; and a disproportionate presence in prison populations.

Recently, in the framework of the Spanish Presidency of the Council of the European Union, a High-Level Conference on "Anti-racism in the European Union, People of African Descent: Recognition, Justice and Development"² was held in Barcelona, organised by the Spanish Presidency, the European Commission, the European Union Agency for Fundamental Rights (FRA) and the EEA and Norway Grants. Representatives from Member States and EU institutions, international organisations, equality bodies and civil society participated in the conference and discussed structural racism and the need to collect ethnically disaggregated data in statistics, studies and surveys; the representation of people of African descent in public office and in the media; and anti-racist legislation and national action plans against racism.

As several Member States have acknowledged the existence of structural racism based on their history, the need to assess it and to establish indicators was also discussed. In this regard, the EU Anti-Racism Action Plan notes that accurate and comparable data are essential for policy makers and citizens to assess the extent and nature of discrimination experienced and to design, adapt, monitor and evaluate policies.

¹ <https://www2.ohchr.org/english/bodies/cerd/docs/cerd-c-gc-34.pdf>

² <https://www.antiracism2023.eu/en/>

This requires disaggregating data on the basis of ethnic or racial origin, as noted at the 2002 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and in the Durban Programme of Action³, which endorsed the need to collect disaggregated data in population statistics, with the explicit consent of respondents, on the basis of their self-identification and in accordance with human rights standards that protect privacy.

At the aforementioned Conference "Anti-racism in the European Union", it was pointed out that a working group in Eurostat, as well as the subgroup on equality data coordinated by the European Commission, are working on this issue. In addition, several Member States, such as Spain, Portugal and Italy, are taking steps in this direction, following the path of Ireland within the EU, and of Anglo-Saxon and Latin American countries, which already collect this type of data.

An intersectional perspective deepens understanding of structural racism and makes responses more effective. In addition to religion or belief, racism can also be linked to discrimination and incitement to violence or discrimination, known as hate speech, on other grounds, such as gender expression, birth, sex, age, disability, sexual orientation or identity, disease or health status, HIV status and/or genetic predisposition to pathologies and disorders, language, socioeconomic status, or any other personal or social condition or circumstance. Racism can also be directed against migrants.

Action to combat racial discrimination, racism, xenophobia and related intolerance at European level currently depends on an established EU legal framework. It is based on a number of Treaty provisions, as well as on the general principles of non-discrimination and equality, also reiterated in the EU Charter of Fundamental Rights.

³ https://www.ohchr.org/sites/default/files/Documents/Publications/Durban_text_en.pdf

Effective policing and respect for human rights are complementary. Law enforcement is key in ensuring that the law is obeyed and security is guaranteed. Recognising ethnic diversity and ensuring fair law enforcement is essential to combating racism. However, reports on racial discrimination show that illegal racial profiling continues to be an issue that affects certain communities. The results of the recently published FRA report "Being black in the EU"⁴ highlights that among those stopped in the 12 months before the survey, more than half (58 %) perceived the most recent stop as racially motivated. People who have been subjected to police control that they perceive to be based on racial profiling are much less trusting of the police. The survey also found that 45% of respondents reported having experienced racial discrimination in the 5 years prior to the survey, up from 39% in the last FRA survey.

In line with the EU Racial Equality Directive, persons of all ethnic backgrounds should have equal access to education. Teachers must be trained to work with all children and be sensitive to pupils' needs. Schools must be free of racism, discrimination and racial segregation. Member States are obliged to prevent racial segregation in accordance with article 3 of the UN Convention on the Elimination of All Forms of Racial Discrimination⁵. However, we do not have sufficient indicators at European level on the existence of educational and residential segregation.

Meanwhile, people who experience racial discrimination are also at greater risk of living in unhealthy conditions and residential segregation. 31% of people of African descent report experiencing racial discrimination when trying to find housing.

⁴ <https://fra.europa.eu/en/publication/2023/being-black-eu>

⁵ <https://www.ohchr.org/sites/default/files/cerd.pdf>

GUIDING QUESTIONS FOR DISCUSSION

In the light of the above, Ministers are invited to respond to the following questions:

1. In your opinion, how can we acknowledge and assess the structural racism that exists in our respective countries?
 2. How can we be more effective in combating illegal racial profiling at national level?
 3. How can we best address the issues of structural racism and illegal racial profiling in national anti-racism legislation and/or national anti-racism action plans?
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