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The 3rd Equality Summit – Co-operation for Equality
Equality in times of crisis: current challenges to equality in Europe

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Keynote address

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1. Introduction

The struggle for human rights is largely about preventing discrimination. It is ensuring that everyone can enjoy human rights on an equal basis. In a difficult economic situation, when tough decisions on priorities are made, equality becomes a key issue. We should not let the economic crisis turn into a social crisis as well. There is an urgent need to protect vulnerable groups from injustice.

During the current decade, Europe has made important strides towards equality. Equality Directives of the European Union, the European Convention on Human Rights, including its non-discrimination Protocol No. 12, and the European Social Charter have inspired a fundamental shift towards consolidating the human rights principle of equality and non-discrimination. Solid anti-discrimination legislation is already in place in most European countries. Equality bodies, promoting non-discrimination and new complaints mechanisms enforcing the legislation, have also been set up.

Yet the agenda for equality has by no means been exhausted. The EU-MIDIS survey, conducted by the Fundamental Rights Agency, has revealed that discrimination, harassment and racially motivated violence are far more widespread than recorded in official statistics. More than a third of the respondents stated that they had been personally discriminated against in the past 12 months. The survey also demonstrated that groups who were most vulnerable to discrimination were often unaware of who to turn to for assistance when they were discriminated against. Of the respondents, 80% did not know of any organisation that could offer support or advice to victims of discrimination.

While we can certainly build on past achievements, we also need to measure the current challenges and address them in a serious way. We have to identify the victims of discrimination and fill in the gaps so as to protect their rights. Awareness of both discrimination and the means available to combat it are essential.

2. Victims of discrimination

Virtually everyone, at some point in his or her life, can become a victim of discrimination. Direct and indirect discrimination can take place on a multitude of grounds, for example, gender, race, ethnic origin, religion, belief, disability, age, sexual orientation and gender identity. This is by no means an exhaustive list. Many persons also experience multiple discrimination on more than one ground.

It is nevertheless true that certain groups of people are particularly vulnerable to discrimination. Let me highlight the situation of some of these groups, although there are many others as well. Today, I have chosen to refer to Roma, people with disabilities, Lesbian, Gay, Bisexual and Transgender persons (LGBT) as well as women.

Roma

The EU-MIDIS survey, along with other studies, demonstrates that Roma face the highest levels of discrimination in Europe. Half of the respondents answered that they had suffered discrimination at least once during the last 12 months and for many of them there had been several such incidents. The overwhelming majority had not reported these incidents as they did not believe that any action would be taken. Most of them were not aware of any

organisation or institution to which they could address such complaints.

One in four stated that they had been victims of personal crime at least once over the past 12 months and one in five responded that they had suffered racially motivated personal crime including assaults, threats and serious harassment. A clear majority did not report such crimes to the police. They did not believe that the police would do anything about their complaints. This may be because one in three Roma interviewed had in fact been stopped by the police over the past 12 months and half of them thought this had happened because they were Roma.

The survey also confirmed problems related to schooling – 30% had gone to school for only five years or less. In addition, the employment rate was generally low: from 17% to 44% depending on the country studied.

The FRA report indicates that the long history of discrimination against Roma has resulted, not only in poverty, but also in alienation and exclusion. Many Roma seem unaware of the institutions set up to receive complaints about human rights violations or such institutions are not seen as open or useful to them. As incidents of harassment and racist crimes are not reported in many cases, even today the depth of the discrimination is not fully reflected in official data.

The exclusion of Roma is also a major cause of their migration in Europe. A recent study commissioned by the OSCE High Commissioner on National Minorities and my Office highlights discriminatory practices which the Roma migrants currently face. A FRA report published last week confirms this assessment and stresses that Roma continue to be subjected to racism, discrimination and exclusion in the states they have moved to.

Although many initiatives are currently under way internationally and nationally to remedy the situation of Roma, including the “Decade of the Roma Inclusion 2005-2015”, we have to conclude that progress is slow. We have learnt that there is no single reform or action which could lead to a change for the better in the short term. Although, for example, a great deal of investment in education, including pre-schooling, for Roma children is essential, the results would still depend on other improvements, such as ensuring better housing conditions and enhanced health care. A comprehensive, but also participatory and sustained programme is needed. It is also absolutely essential to *combat anti-Gypsyism*. The continued negative attitudes in the vast majority of the population is a deep problem. Without changes in these all the programmes will fail.

Persons with disabilities

Persons with disabilities is another group which has been subjected to discrimination and exclusion from society for a long time. Too often, policies concerning persons with disabilities have focused on institutional care, medical rehabilitation and welfare benefits. Such policies were built on the premise that persons with disabilities were victims, rather than subjects able and entitled to be active citizens. The result has been that men, women and children with disabilities have had their civil, cultural, economic, political and social rights violated. For example, persons with mental health or intellectual disabilities still face problems relating to their right to take decisions for themselves, particularly on important matters. Their legal capacity is restricted or deprived completely, and they are placed under the guardianship of someone else who is entitled to take all decisions on their behalf.

Fortunately, over the last few decades a shift in thinking has taken place in many parts of Europe. Persons with disabilities are no longer seen as objects of charity, but as citizens with equal rights who have an active role to play in our societies. It is also now understood that persons with disabilities are often disabled by their physical environment rather than any personal characteristic. Making buildings and transport accessible while providing reasonable accommodation in the workplace are key measures for creating inclusive societies.

It is encouraging that many European states have adopted national disability plans and strategies. Every country will need to develop such plans tailored to its own circumstances. Full removal of social, legal and physical barriers to the inclusion of persons with disabilities will take time and require resources, but it has to be done. We cannot afford to keep barriers that prevent 80 million people in Europe from fully participating and contributing to our societies as voters, politicians, employees, consumers, parents and taxpayers – in the way that everybody else in society does. The recent UN Convention on the Rights of Persons with Disabilities should be fully implemented throughout Europe.

LGBT

Lesbians, gays, bisexuals and transgender people (LGBT) continue to be stigmatised because of their actual or perceived sexual orientation and gender identity. Both the FRA and my Office have undertaken major research into the situation of LGBT persons. In some cases, these individuals are still being denied their right to education, health care, housing and work. Some of them are harassed by the police, get no protection when attacked by extremists or are deported to countries where they risk torture or execution. Also, some of their organisations are denied registration or are refused a permit to organise peaceful meetings and demonstrations. Homophobic and transphobic expressions are still common in Europe.

It is sometimes said that the protection of the human rights of LGBT amounts to introducing new rights. That is a misunderstanding. The Universal Declaration of Human Rights and the agreed treaties establish that human rights apply to everyone and that no one should be excluded. The idea is to make clear the obvious – that lesbians, gays, bisexuals and transgender people have the same rights as others. The international standards do apply to them as well. In other words, discrimination against anyone on the grounds of sexual orientation or gender identity is a human rights violation. This means that legislation and action plans against discrimination should include this type of discrimination. Explicit protection against homophobic and transphobic hate crimes should also be provided.

Women

Many women are still discriminated against on the basis of their gender even if women form the majority of the population. According to the recent report of the European Commission to the European Parliament on the implementation of gender equality directives, member states have made satisfactory progress in putting a legislative framework in place for promoting gender equality. Yet the achievement of equal pay and equal representation of women among decision-makers still eludes us. There are also more women living in poverty than men. Violence against women, which is a form of extreme discrimination, continues to plague European societies.

Gender equality should receive the attention it deserves in all work against discrimination. The fact that the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is celebrating its 30th anniversary this December, demonstrates long term commitment to gender equality. The recent establishment of the EU Institute for Gender Equality will enable a more constant review of policies and actions in this field. Evidence-based information on the situation of women and men is essential for giving sound advice for the achievement of genuine equality for everybody.

3. Protection measures

Let me now assess some of the protection measures against discrimination already in place. Many European countries have adopted comprehensive legal frameworks and national action plans against discrimination. However, studies carried out by the European Commission and the FRA show that the implementation of anti-discrimination legislation remains uneven and that sanctions are often not applied effectively. The existing equality bodies, which promote non-discrimination, need strong independent mandates and the necessary resources to combat discrimination successfully.

Last year, the EU Commission proposed a new “horizontal” directive which would ensure that there is protection against discrimination on most grounds and in most fields of activity. It addresses the anomaly that there is presently unequal legal protection against discrimination offered to different groups. Currently, discrimination on the grounds of race, ethnic origin and gender receive more extensive protection in EU law than discrimination on the grounds of religion, belief, disability, age and sexual orientation. This is problematic as it may lead to the impression that there is a hierarchy among the grounds of discrimination and correspondingly among the victims of discrimination.

The proposed EU directive has already received the support of the European Parliament and is currently being discussed in the Council of the European Union. The final decision has to be reached through unanimity. I encourage the Council to adopt this key piece of legislation. It would give a strong signal of the Union’s commitment to equality. This is particularly important during the economic crisis.

It should also be noted that discrimination takes place on grounds which are not yet enumerated in EU equality directives. The European Convention on Human Rights bans discrimination in the application of the rights specified in the Convention “on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status” (Article 14). The Charter of

Fundamental Rights of the European Union also provides an open-ended list of discrimination grounds in its non-discrimination Article 21. An additional protocol to the European Convention on Human Rights (Protocol 12) goes even further and stipulates a general prohibition of discrimination.

At the national level, states should enact robust and comprehensive anti-discrimination legislation which covers all relevant grounds of discrimination as well as multiple forms of discrimination. Non-discrimination legislation should be applicable in all major areas of activity and be accompanied by penal provisions against incitement to hatred and other hate crimes. The available sanctions and compensation provided for by non-discrimination legislation should be effective and dissuasive towards potential perpetrators.

All groups at risk of discrimination should be equally protected; any “hierarchy” among the individual victims based on different grounds for discrimination should be avoided. A proportionate application of positive measures should be authorised in favour of those groups of people who do not yet fully enjoy their human rights due to past discrimination.

Independent and effective equality bodies should be set up to receive complaints and monitor the implementation of the legislation. Their role as “authorised advocates” of equality is essential for the success of non-discrimination measures. It is particularly important that equality bodies are easily accessible and responsive to marginalised and vulnerable groups of people.

Measures against discrimination should also include awareness-raising and training among the public and professionals. Otherwise the prejudices that underpin discrimination would not be adequately addressed. School children, youth and government officials must be educated to counter discriminatory, racist or xenophobic tendencies and have effective knowledge which promotes tolerance and respect for those who are different. Human rights training should be a mandatory and regular activity for professionals who have a duty to implement non-discrimination legislation.

Awareness of human rights and equality issues among the general public should be promoted with a focus on how to access different remedies. European campaigns such as “All different - all equal” and “Speak-out against discrimination” have already helped raise awareness of discrimination and ways to tackle it. Popular role models speaking up, a vibrant civil society and the media can actively contribute to counter discrimination and racism. Campaigns should make special efforts to reach marginalised and excluded groups of people so that they become aware of their rights and have the confidence to complain about the violations of their rights.

4. Co-operation

The major theme of this conference is co-operation for equality: to bring the stakeholders together to advance the equality agenda. The workshops this afternoon will debate the best methods of co-operation and co-ordination. Let me offer some preliminary thoughts on the matter.

Working for equality involves many, or most, authorities in any country. Co-ordination and co-operation within the government and among different authorities at national, regional and local levels is thus essential. One tested method is to establish a co-ordinating body consisting of representatives from all relevant ministries and agencies.

Such a mechanism provides a forum for the exchange of experiences and information, discussion and co-operation. To get authorities on board, they must perceive this process as relevant to their work. In the long term, an equality perspective should be mainstreamed in the day-to-day activities of different authorities and budgetary decisions.

Stakeholders other than authorities should also be involved in continuously working for equality. Focus groups for the representatives of civil society, indigenous and national minorities, national human rights structures and private enterprises can be established for this purpose. Since the principle of non-discrimination has to be strictly applied in the labour market and in the commercial and service sectors, it is very important that the business community and trade unions play an active part. Moreover, the media play a central role in raising public awareness about equality in society. It is essential that the media are able to convey critical and multi-faceted perspectives with regard to equality issues. It is a special challenge to give a voice to excluded and vulnerable groups as well.

In the European Union, national equality bodies have often become the driving force in promoting and implementing non-discrimination legislation. Their work in handling complaints, raising awareness, training officials and providing expertise has to be saluted. They should have strong independent mandates and sufficient resources to carry out their work effectively. Equality bodies should also be highly visible and accessible to all victims of discrimination. Yet they should not be the only ones endowed with the task of implementing equality. Broader co-operation is necessary. Equality bodies also need to co-operate with other human rights structures, for example, in the handling of complaints as this competence may be shared with ombudspersons or other complaints mechanisms.

When non-discrimination legislation is prepared or modified, all stakeholders should have the opportunity to express their views. National action plans against discrimination and racism are also a useful method of implementing non-discrimination in a broader sense. Their preparation, implementation and evaluation should again involve all stakeholders. Action plans also serve as communication tools for stakeholders and societies at large. Any indicators and benchmarks are far more useful when they have been designed together with the people who are responsible for implementing equality. The inclusiveness and transparency of the work for equality are essential for its success.

5. Conclusion: equality in times of crisis

Finally, I would like to conclude with remarks on the relevance of the current economic crisis when it comes to achieving equality in Europe. You may remember that in his inauguration speech, President Obama made the point that the economic crisis was not only the result of the reckless risk-taking of bank officials or the *“greed and irresponsibility on the part of some”* – it was also, he said, the result of *“our collective failure to make hard choices and prepare the nation for a new age”*. That new age will not arrive if we continue to ignore the deep inequalities and injustices in our societies. These undermine social cohesion and thereby security for all. And certainly they violate the principles of human rights which we have pledged to respect over and over again.

In Europe, there are large groups of people who are poor and marginalised. They often lack influence and opportunities for making their voices heard. In many cases, they feel ignored by political parties and, in general, they have little confidence in the authorities. They may be

victims of crime, but mistrust the police. In the courts, they are at a disadvantage in comparison with those who can hire prominent lawyers and they are over-represented in prisons.

People living in poverty tend not to enjoy fully the right to education which in our societies provides the ticket to a life in which one's rights are respected. Many are also marginalised because they belong to a minority; some of them do not speak the dominant language and are therefore doubly excluded. There is a gender aspect to these injustices as well. It is estimated that about two-thirds of those who live in absolute poverty are women. Women are often in a weak position in poor communities and the barriers which prevent them from asserting their rights can be almost insurmountable.

The economic crisis should also be seen as an opportunity for positive change. It is necessary to meet the needs of those who are now particularly vulnerable – those who are suffering the most from the adverse consequences of the crisis. Poverty is one of the main reasons for social backwardness and violations of human rights. The current crisis ought to be a turning point for concrete measures to restore social justice – we must not allow these gaps to grow even further. It has to be recognised that the crisis goes deeper than obvious economic failures; it touches basic confidence and ethical values. It is time to start re-building a cohesive society which excludes no one and leaves no one behind.

This is our human rights challenge. The Universal Declaration of Human Rights provides that all human beings have the right to a standard of living adequate for their health and well-being, including food, clothing, housing and medical care (Article 25). The UN Covenant on Economic, Social and Cultural Rights and the European Social Charter have given further substance to these rights and highlight the necessity of implementing them without discrimination.

Another key human rights instrument to address injustice in Europe is Protocol No. 12 to the European Convention on Human Rights which sets out a general prohibition against discrimination. This general prohibition also covers discriminatory treatment on social rights. When ratified by a member state this norm becomes the basis for applications to the European Court of Human Rights in Strasbourg. 17 Council of Europe member states, of which only 6 Member States of the European Union, have so far ratified this Protocol. I urge more member states to make the same move.

In the European Union, the Charter of Fundamental Rights, whose legal status will be shortly endorsed by the Lisbon Treaty, should give new impetus to tackling discrimination in the broadest sense. Its chapters on equality and solidarity are particularly relevant in this context. The scope of the Charter is no longer limited to the grounds of discrimination laid out in the EU equality directives alone.

A comprehensive approach is indeed required to address all forms of discrimination and inequality. Positive measures are necessary to overcome past disadvantages and to accelerate progress towards the equality of particular groups. Equal treatment is not the same as identical treatment. To realise full and effective equality, it is necessary to treat people differently according to their different circumstances, to allow them to assert their equal worth and to enhance their ability to participate in society as equals.

Social justice cannot be established only through the traditional human rights instruments, even if updated and modernised. The enormous gaps between the haves and have-nots is a major political and ideological challenge the resolution of which will profoundly affect many aspects of our societies. And this, in turn, will promote the realisation of all the agreed human rights standards.

The Universal Declaration of Human Rights, which was drafted in the post-war world, gives us a familiar echo from another time of crisis and reconstruction. Article 28 in this Declaration clearly states that *“Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized”*. The EU Charter of Fundamental Rights should provide us with a new framework for realising the aspirations of the Declaration in the current European context.