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**Speaking points**

### **STATE OF PLAY**

- The Action Plan acknowledges that **there are different forms of racism**, for example anti-black racism, antigypsyism, antisemitism and anti-Asian racism, **that link to religion or belief** in cases such anti-Muslim hatred. **All** share the reality that the **value** of a person is undermined by **stereotypes** based on prejudice.
- In addition to religion or belief, racism can also be combined with **discrimination** and **hatred on other grounds**, including gender, sexual orientation, age, and disability or against migrants. This needs to be taken into account through **an intersectional based policy approach**.
- Intersectionality is built on the premise that **inequities are never the result of single, distinct factors**. Rather, they are the outcome of intersections of different social locations, power relations and experiences.
- In our fight against discrimination and racism, we need *proactive* policies at all levels of governance and through different measures.
- An intersectional perspective deepens understanding of discrimination and racism, and can make responses more **effective**.
- From a legal point of view, intersectionality **is not covered** by the Treaty nor by the Equality Directives.
- However, the **EU directives prohibit specific forms of discrimination on different grounds**.
- The Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC) and several gender equality Directives (i.a. Directive 2004/113/EC, Directive 2006/54/EC, Directive 2010/41/EU) protect against discrimination in certain fields based on race and ethnic origin, religion and beliefs, disability, age, sexual orientation and gender.
- Article 21 of the EU Charter of Fundamental Rights is also a key provision in relation to non-discrimination on various grounds.
- In 2016, the Court of Justice of the EU (CJEU) indeed acknowledged that '**discrimination may indeed be based on several of the grounds**' protected under EU law.
- However, the Court did not recognise intersectional discrimination as a protected ground, as it currently has no clear legal basis in the EU Equality Directives.
- **National law can go beyond the minimum set by EU law and recognize intersectionality**. In practice, the fact that most equality bodies are multi grounds bodies may also facilitate this.
- The **Commission acknowledged the importance of intersectional discrimination and the need to address this phenomenon in all its equality strategies**. It has also offered its support for the effective recognition of **multiple discrimination at national level** by commissioning studies and co-organising

seminars exploring challenges and good practices in addressing intersectional discrimination in national legislation and policymaking;

- Also, in order to identify and tackle potential manifestations of structural racism and their impact, the European Commission guiding principles for national actions plans against racism **require Member States to mainstream and apply an intersectional approach by recognising the need for tailoring measures to different groups and individuals with the aim of addressing intersecting inequalities.**
- Policies aimed at combating discrimination should recognise **the interplay between different grounds of discrimination** in order to highlight and effectively address the phenomenon of multiple and intersectional discrimination.
- An **online compendium of good practices in MSs** implementing a national action plan against racism or racial discrimination will be published by the Commission in early 2023 that will, among others, **highlight policies and practices adopting the intersectional approach.**

## TOOLS

- All in all, policy measures should include **targeted measures and provisions on intersectional discrimination**, acknowledging the **combined effects** of discrimination on combined and multiple grounds (e.g. gender equality policies and national action plans against racism).
- **Equality data** must be compiled to operationalise intersectionality in the EU. To tackle structural inequality, equality data **disaggregated by race together with other grounds** is a way to be able to map the situation, inform policies and assess progress towards more equality for the most marginalised, including by setting up targets for these groups. In the absence of robust equality data, identifying and addressing the inequalities that exist becomes difficult.
- As already mentioned by Commissioner Dalli earlier this morning, the European Commission envisages extending the competence of equality bodies to two additional Directives, thereby **extending their scope of activities to two new fields and four new grounds of discrimination: disability, sexual orientation, age and religion or belief.**
- This will help in further developing the intersectional approach.
- Moreover, cooperation and common strategies should be developed between local, national and EU legislative and political bodies and civil society actors **working with communities at particular risk of experiencing intersecting forms of discrimination. Consultation mechanisms** should be increased at all levels of the law and policymaking process.
- The Commission should continue to **aim to work closely with all relevant actors and stakeholders** and engage in a **continuous dialogue** to help inform the further development and implementation of policies to counter racism and discrimination. As part of this dialogue, the EU institutions and Member States need to bring a fresh approach to how they engage with civil society and ensure that the voices of people with a minority racial or ethnic background are heard.

- At national level, continuous efforts should be done to ensure that non-discrimination legislation is effectively implemented. For instance:
- Member States should ensure effective and easy accessible complaints procedures. This is particularly important **in consideration of certain minority groups** – such as recent immigrants – who may have limited knowledge of the respective systems in a country for lodging discrimination complaints.
- National equality bodies are important actors in this respect, as they are **empowered to assist victims of discrimination**.