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MOTION FOR A RESOLUTION

to wind up the debate on statements by the Council and the Commission

pursuant to Rule 110(2) of the Rules of Procedure

on strengthening the fight against racism, xenophobia, anti-Semitism,
anti-Gypsyism, homophobia, transphobia and all other forms of hate crime and
hate speech
(2013/2543(RSP))

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United in diversity

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**European Parliament resolution on strengthening the fight against racism, xenophobia, anti-Semitism, anti-Gypsyism, homophobia, transphobia and all other forms of hate crime and hate speech
(2013/2543(RSP))**

The European Parliament,

- having regard to the international human rights instruments prohibiting discrimination, notably the UN Convention on the Elimination of All Forms of Racial Discrimination (UNCERD),
- having regard to the European Convention on Human Rights, notably Article 14 thereof, which prohibits ‘discrimination 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’, and amending Protocol No 12 thereto, on the general prohibition of discrimination, and to the related case law of the European Court of Human Rights,
- having regard to Article 21 of the Charter of Fundamental Rights, which prohibits ‘any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation’ or on grounds of nationality,
- having regard to Article 2 of the Treaty on European Union (TEU), which states that the EU ‘is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’,
- having regard to Article 10 of the Treaty on the Functioning of the European Union (TFEU), which states that ‘in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation’,
- having regard to Article 19 TFEU, which gives the EU a political mandate to ‘take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation’,
- having regard to Article 67 TFEU, which states that the EU ‘shall endeavour to ensure a high level of security through measures to prevent and combat [...] racism and xenophobia’,
- having regard to Article 83(2) TFEU, which enables the EU, ‘if the approximation of criminal laws and regulations of the Member States proves essential to ensure the

effective implementation of a Union policy in an area which has been subject to harmonisation measures’, to adopt directives to ‘establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned’,

- having regard to its previous resolutions on racism, xenophobia, anti-Semitism, Islamophobia, anti-Gypsyism, homophobia, transphobia, discrimination, bias violence, extremism and an EU approach on criminal law,
 - having regard to the Fundamental Rights Agency (FRA) and its work in the areas of non-discrimination, racism, xenophobia, anti-Semitism, homophobia and related intolerances and bias violence,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas racism, xenophobia, anti-Semitism, homophobia, transphobia, anti-Gypsyism and related intolerances involve beliefs, prejudices and attitudes that legitimise discrimination, violence and hatred on the basis of certain grounds;
- B. whereas, although all the Member States have introduced the prohibition of discrimination into their legal systems in order to promote equality for all, discrimination and hate crimes – i.e. violence and crimes motivated by racism, xenophobia, anti-Gypsyism, religious intolerance, anti-Semitism, homophobia, transphobia or membership of a minority group, on the basis of the grounds listed in the Charter of Fundamental Rights – continue to take place in the EU;
- C. whereas speeches, campaigns, publications and programmes spreading hate and intolerance are promoted by extremist and populist leaders whose parties have gained parliamentary and even government representation in several Member States;
- D. whereas the populist right-wing Freedom Party of Austria (FPÖ) allows, and even encourages, an increasing level of hate crime and hate speech; whereas the Austrian populist FPÖ politician Heinz-Christian Strache has posted anti-Semitic cartoons on his Facebook page; whereas the number of anti-Semitic incidents in Austria doubled from 71 to 135 between 2011 and 2012; whereas the Austrian anti-racism organisation ZARA reported 706 cases of racism in 2011 (including murder, racially motivated arrests, discrimination and hate speech), especially against people with African origins or of Muslim denomination; whereas, moreover, recent attacks against young gay men have shown that the Austrian LGBT community also suffers from hate crime and hate speech;
- E. whereas Greece’s populist neo-Nazi party Chrysi Avgi (Golden Dawn) is encouraging an increasing level of hate crime and hate speech, with the Greek police tolerating impunity for hate crimes; whereas according to the Office of the UN High Commissioner for Refugees, 87 racist crimes were recorded in Greece from January to September 2012, 15 of them attributed to police-induced racist violence and brutality; whereas according to migrant unions there were more than 600 cases of racist crimes in Greece in 2011 and 2012, especially against people with Pakistani or Afghan origins or of Muslim denomination; whereas the newly established hate crime units in the Greek police do not operate sufficiently well, leading to many hate crimes not being reported as such, with the recent murder of a Pakistani migrant (stabbed to death by two neo-Nazis while cycling)

being the most prominent case; whereas the Greek LGBT community reports an alarming rise in the level of homophobic and transphobic crime and hate speech; whereas the Greek police reportedly do not recognise transphobic and homophobic crimes as falling within the competence of the new hate crime units, refusing to accept complaints from victims of such crimes or from irregular migrants who are victims of hate crime;

- F. whereas Zsolt Bayer, a prominent conservative commentator and founding member of Hungary's Fidesz party, has sparked outrage in Hungary and abroad for comparing Roma to animals and saying they 'shouldn't be allowed to exist' and that 'a significant part of the Roma are unfit for coexistence. They are not fit to live among people. These Roma are animals, and they behave like animals. When they meet with resistance, they commit murder. They are incapable of human communication. Inarticulate sounds pour out of their bestial skulls [...]'; whereas, furthermore, Márton Gyöngyösi, foreign policy critic for Hungary's far-right Jobbik party, has called for a 'Jewish list', arguing that Jews are a security risk;
- G. whereas in Sweden, 2011 statistics for the category of hate crimes motivated by anti-religious grounds show that the number of hate crimes motivated by Islamophobia decreased, while the number of hate crimes motivated by anti-Semitism increased; whereas, however, the biggest category was xenophobic/racist crimes; whereas only 7 % of hate crimes in Sweden are solved by the police, compared with 17 % of crimes in general; whereas there have been several reports of anti-Semitic violence in Malmö, noted by the UN and the US President among others; whereas in September 2012 a bomb detonated outside the Mosaic Church in Malmö and whereas two young men were arrested on suspicion of having committed the crime;
- H. whereas research conducted by Human Rights Watch about the situation in Germany, published on 9 December 2011, which revealed that victims of hate crimes often face inadequate treatment by law enforcement agencies, including a lack of reaction by the police against the aggressor, a refusal to search for witnesses or file their testimony, and treating the actual victim as the aggressor in some cases;
- I. whereas the European Commission against Racism and Intolerance (ECRI), in its 2011 report on Spain, expresses its concern about the Constitutional Court's 2007 decision declaring the criminalisation of Holocaust denial to be unconstitutional; whereas the judgment states that the simple, neutral denial of some facts without any intention to justify or incite violence, hatred or discrimination has no criminal relevance; whereas 4 of the 12 judges voted against the ruling; whereas ECRI has been informed that the local leader of the Popular Party has been promoting hate speech in Badalona, a city near Barcelona, for several years, accusing Romanian and Roma immigrants of being the cause of crime in the city; whereas civil society organisations have expressed concern about the 'invisibility' of racism and racial discrimination in Spain, as well as passivity and a lack of will to acknowledge and deal with the problem at lower levels of government; whereas the fact that there is no data available on racism or racial discrimination contributes to the impression that racism does not exist; whereas the hate crimes and discrimination service of the Barcelona prosecution office was set up in October 2009 following two highly publicised trials of owners of Barcelona bookstores who were selling publications justifying and promoting genocide; whereas, according to the authorities, there are no

plans at present to reproduce this service in other Spanish cities and it is too early to evaluate its effectiveness;

- J. whereas in the United Kingdom there has been a notable increase in the number of hate crimes against people with disabilities;
- K. whereas it is important that the EU and its Member States take action to fight such behaviour, in both the private and the public spheres, by preventing it through education in a culture of respect, acceptance and tolerance and by ensuring that it is reported by victims, investigated by law enforcement agencies and sanctioned by the judicial system;
- L. whereas the EU has adopted a series of instruments to combat such acts and discrimination, notably: Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the Racial Equality Directive)¹; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (the Equal Treatment in Employment Directive)², which prohibits employment discrimination on the grounds of religion or belief, disability, age or sexual orientation; Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law (the Framework Decision on Racism and Xenophobia)³; and the EU Framework for National Roma Integration Strategies;
- M. whereas Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime⁴ requires the Member States to protect and support victims of bias violence without discrimination, including as regards their legal status, and acknowledges that victims having suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics, may require specific protection as a result of the specific nature of the crime;
- N. whereas the Commission's 2008 proposal for a Council directive on protecting equal treatment outside employment irrespective of religion or belief, disability, age or sexual orientation (Equality Directive) has not been adopted by the Council after five years of debate, owing to staunch opposition from a few Member States;
- O. whereas the FRA has reported that official data are most often recorded for racist/xenophobic crimes (25 Member States), followed by anti-Semitic crimes (12), crimes motivated by a person's sexual orientation (8), extremist crimes (7), religiously motivated crimes (6) and Islamophobic crimes (6); whereas four Member States record official data on crimes motivated by a person's gender identity, membership of the Roma minority or disability;
- P. whereas the FRA has reported that every fourth person from a minority group has experienced a hate crime, with up to 90 % of these incidents not being reported to the

¹ OJ L 180, 19.7.2000, p. 22.

² OJ L 303, 2.12.2000, p. 16.

³ OJ L 328, 6.12.2008, p. 55.

⁴ OJ L 315, 14.11.2012, p. 57.

police, and that only four Member States collect or publish data on anti-Roma crime and only eight record crime motivated by the victim's (perceived) sexual orientation;

- Q. whereas the FRA has reported that every fourth person from a minority group has experienced a racially motivated crime and that up to 90 % of all assaults or threats experienced by migrants or members of ethnic minority groups are not reported to the police;
- R. whereas Parliament has repeatedly called on the Commission, the Council and the Member States to strengthen the fight against violence and discrimination based on bias, such as racism, xenophobia, anti-Semitism, Islamophobia, homophobia, transphobia and anti-Gypsyism;
- S. whereas it has notably called for:
- a) full implementation of the anti-discrimination directives already adopted and of the Framework Decision on Racism and Xenophobia;
 - b) the adoption without further delay of the Equality Directive;
 - c) the review of the Framework Decision on Racism and Xenophobia in order to enlarge its scope and strengthen its provisions and efficacy;
 - d) the recognition in both national and European law of hate crime, the bias motivations underlying it and the effect it has on victims, and the collection of data pertaining to it;
 - e) the launch of a roadmap for equality on grounds of sexual orientation and gender identity;
 - f) action to strengthen the fight against anti-Gypsyism and secure the fundamental rights of Roma against persecution, discrimination and expulsion;
 - g) public figures to refrain from making public statements that encourage or incite hatred or stigmatisation of groups of people on the basis of their race, ethnic origin, religion, disability, sexual orientation or nationality;
- T. whereas the Irish Presidency launched a debate at the informal Justice and Home Affairs Council of 17-18 January 2013 on EU action to counter hate crime, racism, anti-Semitism, xenophobia and homophobia, and highlighted the fact that better protection and data collection are necessary, as well as a stronger commitment by leaders to 'actively uphold European values and foster a climate of mutual respect for and inclusion of persons of different religious or ethnic background or sexual orientation';
- U. whereas the Home Affairs Commissioner, Cecilia Malmström, recently warned about far-right political discourse feeding hatred throughout the EU, as disparaging words targeting minority groups such as Roma, Muslims, Jews and immigrants are becoming more common; whereas racist, extremist and populist political discourse may also inspire 'lone wolves' to carry out indiscriminate killings as the threat of violent extremism spreads;
- V. whereas the collection of collective, comparable and reliable disaggregated data is needed

in order to prove discrimination in legal proceedings, to measure inequalities and diversity, to assess the effectiveness of anti-discrimination legislation and to design effective public policies;

- W. whereas the FRA's upcoming report on its study of discrimination against, and victimisation of, LGBT people is expected to highlight the extent of homophobic and transphobic hate crime and hate speech in the EU;
- X. whereas all the states participating in the Organisation for Security and Cooperation in Europe (OSCE), including all the Member States, have acknowledged that hate crimes, defined as criminal offences committed with a bias motive, have to be combated by means of criminal legislation and specific tailored policies;
1. Calls on the Commission, the Council and the Member States to strengthen the fight against violence and discrimination based on bias and hatred in the Member States by:
- a) proposing an ambitious review of Framework Decision 2008/913/JHA along the lines indicated by Parliament, explicitly including certain forms and expressions of anti-Semitism, Islamophobia, homophobia, transphobia and anti-Gypsyism;
 - b) ensuring that all relevant EU criminal law instruments, including the Framework Decision, are fully consistent with human rights standards, including in the area of freedom of expression, addressing clearly defined and delimited conduct which cannot be addressed effectively by less severe measures, and incorporate a broader spectrum of graduated sanctions, including, where appropriate, alternative penalties such as community service;
 - c) launching a comprehensive strategy for fighting hate crime, bias violence and discrimination;
 - d) adopting without further delay the Equality Directive, which represents one of the main EU instruments for promoting and guaranteeing genuine equality in the EU and combating bias and multiple discrimination;
 - e) ensuring full implementation of the EU Framework for National Roma Integration Strategies and strengthening it, notably by recognising and providing long-term support for the fight against anti-Gypsyism, including with a view to enabling local and regional authorities to develop and implement effective human-rights-compliant policies, programmes and interventions for the inclusion of Roma, using available funds, including EU funds; strictly monitoring respect for fundamental rights and the implementation of the Free Movement Directive;
 - f) systematically assessing the expertise developed thanks to the various relevant EU programmes (Daphne, Fundamental Rights and Citizenship 2007-2013, Rights and Citizenship 2014-2020 and Justice 2014-2020), including the participation of the relevant civil society organisations;
 - g) ensuring that broader, reliable data are collected on hate crime, i.e. recording, as a minimum, the number of incidents reported by the public and recorded by the authorities,

the number of convictions, the grounds on which offences were found to be discriminatory and the punishments imposed, as well as crime victimisation surveys on the nature and extent of unreported crimes, the experiences of crime victims with law enforcement, the reasons for non-reporting, and rights awareness among victims of hate crime;

- h) putting in place mechanisms to make hate crime visible in the EU by showing that the authorities take hate crime seriously, encouraging victims of hate crime and witnesses to report incidents and providing the opportunity to seek redress against perpetrators;
 - i) implementing Parliament's repeated request for a roadmap for equality on grounds of sexual orientation and gender identity;
 - j) having the EU sign the UNCERD, given that all the Member States have already ratified it;
 - k) implementing the relevant commitments made by the Member States within other international forums, including the OSCE's Ministerial Council Decision No 9/09 on Combating Hate Crimes and Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers on measures to combat discrimination on grounds of sexual orientation and gender identity;
 - l) supporting and supplementing national policies and programmes, with the particular aim of eradicating violence against people with disabilities when implementing the European Disability Strategy 2010-2020;
 - m) mainstreaming issues related to all forms of bias violence in the work programme of the EU's agencies (e.g. the FRA, Eurofound, the European Police College, Eurojust, FRONTEX and the European Asylum Support Office);
- 2. Calls on those Member States objecting to and blocking the Equality Directive to make their reasons public so as to allow a public and transparent debate on them;
 - 3. Calls on the Member States to make sure that leaders and authorities at all levels and in all fields (government, state, regional and local administration, law enforcement agencies, the judiciary, political parties, political and religious leaders, etc.) and their actions and declarations do not incite discrimination, violence and hate or condone them;
 - 4. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.