**European Regional Forum on Hate Speech, Social Media and Minorities**

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**Opening remarks**

by

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Dear Government representatives,

Representatives of regional organizations,

Experts, civil society and minority representatives,

Dear Special Rapporteur,

It is a great honour for me to take the floor at this European Regional Forum on Hate Speech, Social Media and Minorities and I would like to thank in particular Special Rapporteur Fernand de Varennes for organizing this meeting together with the Tom Lantos Institute.

I participated in last year’s Forum on Education, Language and the Human Rights of Minorities, celebrating Europe’s linguistic diversity. This year’s seminar also deals with language, but from a very different angle. Today and tomorrow, we will be discussing language that hurts, diminishes, humiliates and, in its worst form, incites to hostility or even violence.

As the UN Secretary-General said, during Covid-19, we have witnessed a tsunami of hate, xenophobia and scaremongering against stigmatized groups, many of whom were already facing the disproportionate impact of the health and economic crisis.

The history of Europe and the experience of the United Nations around the world have taught us that the failure to effectively address hate speech exacerbates human rights violations and creates an enabling environment for atrocity crimes.

Pledging to tackle hate speech wherever it occurred, the UN Secretary-General launched, in June 2019, the UN Strategy and Plan of Action on Hate Speech. The working definition of hate speech used is “any kind of communication in speech, writing or behaviour that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of one or more identity factors.” The Plan of Action, which applies to the entire UN system, seeks a more effective response to hate speech and a greater effort to tackle the root causes that are allowing hate speech to proliferate at the rate we are currently witnessing.

Addressing hate speech is indeed a matter of urgency, and there is an increasing impetus to respond with legislative initiatives. I personally had the pleasure earlier this month of attending the first meeting of the Steering Committee on Anti-Discrimination, Diversity and Inclusion set up by the Committee of Minsters of the Council of Europe, which has a mandate to develop Guidelines on Hate Speech. Our regional office also follows closely the EU’s Digital Services Act which will impact on the problem of hate speech, even though its scope is much broader.

To ensure legal certainty for member States and domestic courts, it is important that new legal instruments are in line with international human rights law, standards and the jurisprudence developed by the UN treaty bodies over decades.

Models from Europe are often copied in other parts of the world. In the face of a weakening rule of law in many places and a global backlash against human rights, we need to be cautious that hate speech laws and standards are not abused to curtail dissent, as has sometimes happened with counterterrorism legislation.

But what does international human rights law say about hate speech?

Let me start by saying that there is no legal definition of hate speech in international law. International human rights law protects freedom of opinion, which cannot be restricted -- however much we may disagree with the opinion. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights also protect freedom of expression. Another foundational principle of international human rights law is that of equality and non-discrimination. And we know from the Vienna Declaration and Programme of Action of 1993 that all human rights are interdependent and indivisible.

The Committee on the Elimination of Racial Discrimination (in its General Recommendation No. 35 on Combating Racist Hate Speech) expressed that the dichotomy between freedom of expression, on the one hand, and the right to equality and non-discrimination, on the other, was a fake dichotomy. It is not a zero-sum game where upholding one right necessarily implies diminishing the other. But there is, nevertheless, a tension between freedom of expression and protection against discrimination. And this is precisely why international law places a few narrowly defined boundaries on freedom of expression. The question then is: at which point does free speech become hate speech and what should the legal and judicial response be?

In the second paragraph of article 20 of the International Covenant on Civil and Political Rights, which all European countries have ratified, it is mandated that what we may call the “top level” of hate speech, namely advocacy of national, racial or religious hatred that constitutes **incitement to discrimination, hostility or violence**, must be prohibited by law, because of the severity of the harm caused.

An “intermediate level” of hate speech is dealt with in article 19, paragraph 3, of the same treaty. It allows for possible, but not mandatory, legal restrictions on freedom of expression to protect **the rights or reputation of others**.

It is not always straightforward to qualify hate speech, which is essential to determine the appropriate legal or judicial response. This is why the UN Human Rights Office engaged in a two- year process to develop a framework of six criteria to help policy-makers and judges assess, between the three types of speech, which speech should be outlawed and face criminal, civil or administrative sanctions, which speech may be restricted, provided the restriction meets the criteria of legality, legitimacy, necessity and proportionality, and when free speech -- even if hurtful -- must be upheld and protected. This threshold test is captured in the Rabat Plan of Action.

In the last case, when offensive speech does not reach the intermediate or top level, the United Nations supports more speech, not less, to tackle hate speech. Promoting more speech means promoting alternative and positive speech narratives.

This brings me to my next point which goes to say that there are a multitude of non-legal responses that can and should be given in response to hate speech, like public campaigns against stereotyping, ending segregation in schools and housing so people actually interact with minorities, human rights education, and the promotion of media pluralism with a diversity of content and staff.

Some political leaders relentlessly search for scapegoats for electoral gain rather than promoting dignity and dialogue. In some countries, hatred has penetrated mainstream politics. As public figures, political leaders have the power to shape the debate and to shift public opinion, either positively or negatively. This is why they carry a special responsibility to refrain from hate speech and to speak out firmly and promptly against it.

Last year, our office brought together EU officials, human rights defenders and social media representatives for a dialogue. The first part was dedicated to sharing experiences on using social media to mobilize for human rights and build coalitions, something for which social media has opened up great potential.

But social media is also an enabler of hate speech, which has amplified exponentially in the digital sphere. In the second part of our dialogue, human rights defenders shared shocking testimony about the hatred they were receiving on social media, which was even worse in the case of women. In many instances, vicious and personal attacks by anonymous persons were taking a toll on their well-being and that of their colleagues. In some cases, it was leading to self-censorship, or even people leaving the sector. I am sharing this experience, because most participants were representing or speaking on behalf of minority groups in society. In the European context, the problem of increasing hate speech is thus closely linked to the problematic shrinking of civic space.

Our Office is working with Facebook to explore how the six-part threshold test can help to root their content moderation policies in international human rights law. In cooperation with Facebook, the Rabat Plan of Action was also translated in 32 languages.

Last week, UN High Commissioner for Human Rights Bachelet sent a letter to European Commission President von der Leyen in the context of the consultations on the EU Digital Services Act. She called for greater transparency on the rules and mechanisms used to moderate online content. She also expressed concern for members of at-risk and marginalized communities and called for the new law to protect their rights to effective and accessible remedies. Indeed, the same rights that people have offline must be protected online. Again, it will therefore be vital to ensure that any regulations which touch upon expression are firmly rooted in international human rights law.

Addressing hate speech requires a comprehensive response that also tackles the root causes and drivers of hate speech and measures its impact on victims and societies more broadly. I welcome the EU anti-racism action plan 2020 – 2025 that was presented by the European Commission to the other EU institutions just last Friday. We hope that it will lead to the adoption of national action plans against racism across the continent, which States committed to almost twenty years ago in the Declaration and Programme of Action adopted at the World Conference against Racism in Durban in 2001. I would like to emphasize that such national action plans require a genuine dialogue among all sectors of society, for only an action plan with broad buy-in can be effective.

We are living a critical time in history, with ever larger pockets of the population in Europe appearing to have become deaf to the suffering and pain of others, desensitized to exclusion, and buying into stereotypical myths.

I would like to say a few words about the difference between integration and inclusion. Many integration programmes tend to focus on minorities and what they must do to belong. Increasingly, as with the EU Roma framework, it has become clear that when programmes address only the target of discrimination and not the victimizer, the results will be mixed at best and poor at worst. Any programme aimed at empowering minorities and overcoming discrimination and hate speech therefore also needs to address structural discrimination and prejudice against them by the majority population. Currently, preconceived stereotypes act as powerful barriers that prevent minorities from being included -- no matter how empowered, no matter how educated, no matter how prosperous. It takes two to tango.

And this also means practicing what we preach. We need to open our institutions and organizations to persons of minority backgrounds and embrace diversity beyond speeches. The UN Human Rights Office has a Fellowship Programme since 2005 which by now counts 500 minority and indigenous fellows worldwide.

In conclusion, States have the obligation under international human rights law to act against incitement to discrimination, hostility and violence while respecting freedom of expression. Following a human rights approach, it is essential that minorities themselves and civil society at large are consulted and participate in the shaping of laws, policies or programmes to confront hate speech, which requires an open civic space. And prevention is critical. Also here, there is much that States and cities can and are doing. But we all have a role to play. Civil society organizations can raise alarm, because at grassroot level they are closer to the people. And as informed individuals all of us can stand up for human rights. Thank you.