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**РАСИЗМ, РАСОВАЯ ДИСКРИМИНАЦИЯ, КСЕНОФОБИЯ
И ВСЕ ФОРМЫ ДИСКРИМИНАЦИИ:
ВСЕОБЪЕМЛЮЩЕЕ ОСУЩЕСТВЛЕНИЕ И ПОСЛЕДУЮЩИЕ МЕРЫ
ПО ВЫПОЛНЕНИЮ ДУРБАНСКОЙ ДЕКЛАРАЦИИ
И ПРОГРАММЫ ДЕЙСТВИЙ**

Доклад Рабочей группы экспертов по проблеме лиц африканского происхождения

Добавление

ПОЕЗДКА В БЕЛЬГИЮ*

(13-17 июня 2005 года)

* Резюме доклада о поездке распространяется на всех официальных языках. Текст самого доклада, содержащийся в приложении к резюме, распространяется только на языке представления и на французском языке.

Резюме

По приглашению правительства Бельгии Рабочая группа экспертов по проблеме лиц африканского происхождения осуществила официальную поездку в Бельгию 13-17 июня 2005 года. В настоящем докладе Рабочая группа анализирует общее положение лиц африканского происхождения в Бельгии, описывает условия, в которых оказались лица африканского происхождения, и ситуации, когда они подвергаются дискриминации, а также излагает меры, принимаемые на различных уровнях в интересах этих лиц.

Беспокойство, выраженное Рабочей группой в ходе ее поездки, касалось главным образом того бесправного положения, в котором оказались лица африканского происхождения по сравнению с большинством населения в сферах доступа к занятости, частному жилью и образованию. Возникающие проблемы обусловлены дискриминационной практикой при найме на работу и на рабочих местах, особенно в частном секторе, которая до сих пор не позволяет упомянутым лицам пользоваться такими же возможностями в сфере занятости, какие есть у остального населения; неравноправием в том, что касается получения образования детьми иностранного происхождения, включая проблемы повторения учебного года, неуспеваемости, абсентеизма и отсева; непропорционально высоким представительством детей иностранного происхождения в специальных профессиональных учебных заведениях; трудностями, связанными с официальным признанием дипломов, полученных в другой стране; и практикой установления непомерно высокой арендной платы в том, что касается доступа к жилью.

В этой связи Рабочая группа с удовлетворением отмечает позитивные усилия, которые прилагают все государственные учреждения различных уровней для борьбы с дискриминационной практикой в таких вопросах, как доступ к занятости, образованию и жилью. По мнению Рабочей группы, крайне важно, чтобы заинтересованные правительственные институты продолжали поддерживать государственную деятельность и политику в интересах лиц африканского происхождения, чтобы искоренить проявления упомянутой дискриминации. Рабочая группа рассматривает осуществляемые программы как важные инструменты разработки комплексной стратегии по обеспечению гражданских прав, доступности образования и контактов на рабочих местах.

Рабочая группа высоко ценит усилия бельгийских властей по учету положений Дурбанской декларации и Программы действий в национальном законодательстве и с удовлетворением отмечает действия правительства по поощрению межкультурного диалога посредством различных инициатив на федеральном, региональном, общинном и муниципальном уровнях. Она предлагает национальным органам всех уровней продолжать поощрять межкультурные инициативы в качестве долгосрочной стратегии по созданию атмосферы терпимости, а также в качестве инструмента поощрения того разнообразия, которое вносят в бельгийское общество лица африканского происхождения в частности и выходцы из других стран в целом.

Рабочая группа принимает к сведению позицию Бельгии в отношении сбора статистических данных в разбивке по признаку расы и этнического происхождения в контексте защиты данных личного характера. В этой связи она подчеркивает, что дезагрегированные данные имеют важнейшее значение для анализа аспектов неравенства, и рекомендует национальным органам рассмотреть альтернативные способы определения уровня дискриминации в отношении лиц африканского и иного этнического происхождения и разработки методов оценки воздействия и эффективности мер, принимаемых правительством для ликвидации дискриминации.

Рабочая группа приветствует принятие и осуществление политики интеграции и призывает компетентные органы уделять больше внимания стратегиям в области интеграции, участия, информированности и взаимных обменов, а также стратегиям поощрения гармоничных отношений и терпимости между лицами иностранного происхождения и основной частью общества.

Конкретные меры, рекомендуемые Рабочей группой, включают: проведение дополнительных мероприятий по повышению уровня информированности, в том числе частных предприятий, о проблемах дискриминации и необходимости того, чтобы условия труда отражали разнообразие общества; поощрение межкультурных инициатив в качестве долгосрочной стратегии по созданию атмосферы терпимости и в качестве инструмента поощрения разнообразия, которое вносят в бельгийское общество лица африканского происхождения; разработку дополнительных мер по борьбе с неравенством в том, что касается получения образования детьми иностранного происхождения; активизацию усилий по разработке надлежащих процедур и критериев для подтверждения эквивалентности дипломов; продолжение политики, направленной на выявление всех частных предприятий, применяющих дифференцированный подход в их политике по найму рабочей силы; создание и, в соответствующих случаях, укрепление механизмов контроля за последствиями проведения дифференцированной политики в области занятости; выделение дополнительных средств на повышение роли района Матонге как очага африканских культур и традиций в Бельгии; активизацию информационно-просветительской деятельности в целях борьбы с расизмом и дискриминацией; а также разработку стратегий и программ по обеспечению уважения прав жертв дискриминации. Рабочая группа предлагает ассоциациям лиц африканского происхождения разработать стратегии сотрудничества и определить общую платформу для взаимодействия с правительственными органами.

Приложение

**REPORT OF THE WORKING GROUP OF EXPERTS ON
PEOPLE OF AFRICAN DESCENT ON ITS MISSION TO
BELGIUM (13-17 JUNE 2005)**

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Introduction

1. Bearing in mind its status as a special procedure of the Commission on Human Rights, the Working Group of Experts on People of African Descent (WGPAD) decided at its fourth session to undertake country visits as a means of effectively discharging its mandate. The Working Group recognized that such visits could contribute to in-depth understanding of the situation of people of African descent in various regions of the world (E/CN.4/2005/21, para. 98).
2. At the invitation of the Government of Belgium, WGPAD undertook a country visit to Belgium from 13 to 17 June 2005. The delegation, headed by Peter Lesa Kasanda, the Chairperson of the Working Group, included the following experts: Joe Frans, George Nicolas Jabbour and Irina Zlatescu. During their mission, the experts visited Brussels, Liège, Namur and Mechelen.
3. In Brussels, the Working Group met with the Minister for Foreign Affairs, the Minister for the Civil Service, Social Integration, Urban Policy and Equal Opportunities, the State Secretary for the Family and Disabled Issues, the deputy to the Minister for Social Affairs and Public Health, and with officials of the Ministries for Foreign Affairs, Equal Opportunities, Justice, Employment and the Interior; members of the Parliament; and police officers. They also met with the Flemish Minister of the Interior, Urban Policies, Housing and Integration and with the Minister of the Walloon Region for Health, Social Action and Equal Opportunities, and held a number of meetings with several authorities of the French and Flemish Regions and Communities. The experts also interacted with representatives of local authorities, the Centre for the Equality of Opportunities and Opposition to Racism, non-governmental organizations and persons of African descent. They visited the Royal Museum for Central Africa.
4. The experts wish to thank the Government of Belgium for its invitation and for its help and assistance before and during their visit to the country. They would also like to thank the international organizations, non-governmental organizations, academic institutions and people of African descent with whom they met during their mission. In this report the experts examine the situation of people of African descent living in Belgium. This report describes the facts observed and the information received by the Working Group during its visit.
5. For the purposes of the present report, it is important to recall that Belgium is a federal State made up of three Communities (the Flemish Community, the French Community and the German-speaking Community) and three Regions (the Flemish Region, the Brussels-Capital Region and the Walloon Region). The powers of the federal State cover everything connected with the public interest, notably public finances, the army, the gendarmerie, the judicial system, social security, foreign affairs and development aid as well as substantial parts of public health

and home affairs. The federal State is responsible for the commitments of Belgium towards international and regional organizations. The federal Government's powers also cover everything that does not expressly come under the Communities or Regions. The federal State also has powers for exemptions and restrictions on the powers of the Communities and the Regions.

6. Regions have powers in fields that are connected with their region or territory in the widest sense of the term. Therefore, they have powers relating to the economy, employment, agriculture, water policy, housing, public works, energy, transport, the environment, town and country planning, modernization of agriculture, nature conservation, credit, foreign trade, supervision of the provinces, communes and intercommunal utility companies. They also have powers relating to scientific research and international relations in those fields. The Communities are based on language and have powers regarding culture, education, the use of languages, health policy, protection of youth, social welfare, aid to families, immigrant assistance services. They also have authority over scientific research and international relations in relation to their powers.

I. THE GENERAL CONTEXT OF PEOPLE OF AFRICAN DESCENT IN BELGIUM

7. According to data provided by the Immigration Office of the Federal Public Service for Home Affairs, there are some 155,000 persons of African origin (including from the Maghreb region) legally residing on Belgian territory. The Working Group was informed that data collection in Belgium is based on the criterion of nationality and, as there is no ethnic registration, figures related to Africans in Belgium only apply to those with a foreign nationality. This figure hence does not include those persons of African descent who acquired Belgian nationality. Nonetheless, estimates would place people of African descent belonging to the latter category around 25,000.¹

8. The experts were told that it is since the early 1960s, coinciding with the independence of Belgium's former colonies, that people of African descent started migrating to Belgium for a variety of reasons. Initially, their presence within the country was linked to post-secondary studies, internships, business and diplomatic representation. This initial temporary presence became a stable one during the mid-1980s, for reasons related mainly to the political unrest and economic crisis in their homelands. To this first wave of students, diplomats and businessmen of African origin, other waves followed in the process of family reunion, asylum, and economic migration. During the 1960s, Belgium also witnessed a migration from North Africa, especially

¹ This figure only relates to Belgians of sub-Saharan African origin.

Morocco, with migrants arriving to the country primarily for economic reasons and as labourers. Since the inception of such a migration wave from North Africa, people were encouraged to settle in Belgium with their own families, thus making this second type of migration longer-term as compared to that originating from the sub-Saharan region. Many persons of African descent have acquired Belgian nationality over the years, thus transforming what was meant to be a transitional phase in their life into a permanent status.

9. The African diaspora in Belgium is composed of more than 30 nationalities, the majority originating in the Democratic Republic of the Congo, Rwanda, Burundi and Morocco. People of African descent are for the most part concentrated in the Walloon region or in the region of Brussels-Capital for reasons related to the language spoken, which is French. There are also settlements in Flanders, in particular in the big cities of Antwerp, Ghent and Bruges. The Working Group tried to find out the number of Afro-descendants present in the country. But because in Belgium statistical data collected on the basis of nationality is not disaggregated by ethnicity, it was somehow difficult to ascertain their exact number. The experts noted that people of African descent were not identified as such in the country but were lumped together in the general categories of “people of foreign nationality” or as “persons of foreign background/origin”. The experts acknowledged the existing problem faced in collecting statistical data on people of African descent and were informed of the ongoing political dialogue on the issue, with a specific working group created to handle this concern.

A. Framework for the protection of the human rights of people of African descent

1. The international legal framework for the protection of the human rights of people of African descent

10. Internationally, Belgium has demonstrated its commitment to the promotion and protection of human rights and played an active role during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001.

11. With regard to the main international human rights instruments, Belgium has either ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention, the International Covenant on Civil and Political Rights and the two Optional Protocols to that Covenant, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to that Convention, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Optional Protocols to the Convention on the involvement of children in armed conflict, and on the sale of children, child prostitution and

child pornography, and the International Convention for the Elimination of All Forms of Racial Discrimination.

12. With regard to the main regional human rights instruments, Belgium has either ratified or acceded to the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols Nos. 1, 2, 3, 4, 5, 6, 8, 9, 10, 11 and 13. It has just recently signed Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which specifically relates to discrimination issues. It is also party to the Additional Protocol to the Convention on cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems. The country is also party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its protocols Nos. 1 and 2, and the European Social Charter (revised).

2. The national legal framework

13. The experts noted that, apart from the equality and anti-discrimination provisions enshrined in its Constitution, Belgium has adopted several specific legal instruments at the national level with respect to the fight against racism, racial discrimination, xenophobia, anti-Semitism and intolerance: the Anti-Racism Law of 30 July 1981, modified in 1994, 1999 and through the law of 20 January 2003, related to the strengthening of the national legislation against racism; the general anti-discrimination law of 25 February 2003; the culture pact law of 16 July 1973 which guarantees the protection of ideological and philosophical tendencies; the law of 19 March 2004 giving the right to vote to non-European Union foreigners for local elections; and the 1989 law regulating the financing of political parties and its 1999 amendments providing for limitation or cessation of donations to political parties whose ideology or actions are in contradiction with the European Convention of Human Rights. In 2001, the Council of Ministers further adopted a decree for the application of the 1989 law allowing for the expropriation of public funding to parties “manifesting hostility towards human rights”. A decree (*arrêté royal*) determining the specific rules and procedures for the examination of complaints filed on the basis of such a law was adopted on 31 August 2005 and the experts have been informed that a first complaint is already in progress.

14. The experts noted with appreciation that the 25 February 2003 Anti-Discrimination Law adopted to incorporate the provisions of two Directives of the European Council, notably Council Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC on establishing a general framework for equal treatment in employment and occupation, into the national legislative framework, strengthens the Belgian anti-discrimination legislation. The experts consider such a legal instrument as key in the anti-discrimination legal apparatus of the country

because it supplements the 1981 Anti-Racism Law, which was limited by several deficiencies, in particular, the difficulty of providing evidence of racially motivated acts in a criminal case.

15. The new law provides important solutions to the shortcomings of the 1981 Law by introducing a provision establishing that the racist motivation constitutes a specific aggravating circumstance. Indeed, its articles 7 to 14 provide that hatred, contempt or hostility based, inter alia, on supposed race, colour, descent, religious convictions and/or national or ethnic origin, are aggravating circumstances in respect to a certain number of offences. The same law also introduces civil provisions against direct and indirect discrimination on a broad range of grounds. The experts also welcome the provisions in the law relating to a shared burden of proof in cases of discrimination, and to the admissibility of statistical data and of evidence collected during tests in discrimination cases.

16. The experts were told that the Belgian Parliament decided in 2002 to implement at the national level the Durban Declaration and Programme of Action and to integrate its provisions into its legal and institutional framework against racism and discrimination. To this end, the Centre for Equal Opportunities and Opposition to Racism (CEOOR) has been entrusted by the Prime Minister with the task of drafting a national plan of action for the fight against racism, racial discrimination, xenophobia and related intolerance, as a follow-up step to the 2001 World Conference. The draft national plan of action prepared by CEOOR is addressed to all the institutional authorities of Belgium (federal Government, Regions and Communities).

17. The experts were also informed of the adoption in July 2004 of the Principles for a Federal Plan of action against racism, anti-Semitism and xenophobia and of the 10-point national plan of action to fight against racism, racial discrimination, xenophobia and related intolerance, as a follow-up to the Durban Declaration and Programme of Action. The latter is the federal concretization of the draft national plan of action prepared by CEOOR, which underwent a process of updating and priority-setting on the basis of measures already enacted. The experts welcomed these important tools to implement at the national level the provisions of the Durban Programme of Action through a concerted effort of all concerned actors and in all spheres of social life. The experts also endorse the decision, included in the Principles to develop a “barometer of tolerance”, meaning an instrument to measure at the quantitative and qualitative level, the evolution of racist, anti-Semitic and xenophobic attitudes within the country.

18. The experts took note of the presence of institutional mechanisms concerned with anti-racism and anti-discrimination issues. The experts noted the important role played by CEOOR in consolidating respect for the principles of equality and non-discrimination. The centre, an autonomous public service established by an act of the Parliament, is at the disposal of individuals who are the victim of or have witnessed acts of racism or discrimination. A team of

experts provides information, registers complaints, analyses discriminatory situations, makes referrals to other services and sets up mediation. If necessary, CEOOR discusses with the complainant whether to take legal action. The centre receives all kinds of complaints and enquiries either by direct visits, its free phone number or the permanently staffed local anti-discrimination centres. Its area of responsibility encompasses all forms of discrimination, except for gender-based discrimination (competence of another institution), migration issues, integration policies and Internet-related issues in cooperation with the Internet Rights Observatory. Its training and awareness-raising programmes for the police, teachers, the social services sector and the business community, and its public awareness campaigns directed at civil servants, persons of foreign origin and public opinion in general are to be warmly welcomed.

II. PEOPLE OF AFRICAN DESCENT IN BELGIUM: GENERAL COMMENTS

A. Measures to facilitate the participation of people of African descent in all political, economic, social and cultural aspects of society and in the advancement and economic development of the country

19. The Working Group was informed of the initiative launched by the federal Government to create an Intercultural Dialogue Commission, composed of representatives of religious authorities, social partners and representatives of civil society organizations, with the mandate to draft a report on the state of citizenship and cultural diversity in Belgium. Such a consultative body was created at the beginning of 2004, following a rise in racist crimes and violence, with the aim of improving the social cohesion of Belgium's culturally diverse society. Its mandate covers four areas: citizenship, gender equality, basic principles for the public services, and the role of religion in a secular society. The Minister for Social Integration briefed the experts on the main findings and recommendations of the Commission, stressing that access to employment and to quality education were amongst the problematic areas flagged by the Commission in its report.

20. In the field of employment, the Commission felt it was necessary that action be taken to counter discriminatory practices not only through law enforcement actions but also through measures aimed at changing mentalities and combating prejudices with the adhesion of social, political, economic and cultural actors.

21. Various authorities the experts interacted with highlighted the following challenges in their efforts for the integration of persons of foreign background: recognition of diplomas obtained in a foreign country (Communities); inhumation of Muslims (Regions); and access to the labour market (all levels).

1. Access to education

22. The experts underlined that education is an effective tool for combating fear of human diversity and for changing intolerant behaviour. It is a tool for empowering people to understand and exercise their human rights. It is an essential means to promote participation, mutual exchange, to fight against discrimination and marginalization and a vehicle for integration and acceptance.

23. Education is a competence of the Communities and their ministers of education. In the French-speaking community, the experts were told that the effect of the average economic, social and cultural status of students within schools far outweighs the effects of the individual socio-economic background. The experts were also informed of the problem faced by some schools located in areas highly populated by persons of foreign background, where the composition of students is mostly of foreign origin. For instance, certain schools of the Belgian capital are composed 100 per cent by pupils of foreign origin and from a disadvantaged background. The effect of this problem is somehow reinforced by the principle of free choice of schools by parents. The experts were told about the integration policies and community-building actions put in place to ensure a more equal representation of target-group pupils in schools. In this regard, they encouraged the competent authorities to continue to commit resources to eliminate inequalities in educational outcomes for children of foreign origin.

24. The experts were told that, in Flanders, the educational policy for persons of foreign background is part of the policy of equal chances in education aimed at creating the most favourable learning and development opportunities for all pupils and at promoting social cohesion by countering processes of exclusion, segregation and discrimination. The policy is founded on the right to enrol in schools of own choice, the responsibility at the local level through the establishment of local consultation platforms and a supplementary support for schools hosting a large number of pupils from a disadvantaged social position. Linguistic integration policies are also applied and primary importance is given to the knowledge of the Flemish language as one of the conditions for effective integration of citizens.

25. Since 2002, the Flemish government has implemented a programme for monitoring and overseeing equality of opportunity in education by giving priority treatment to classes with disadvantaged children. While these measures do not apply specifically to persons of foreign origin, they nevertheless recognize the priority needs of those pupils for whom Dutch is not the native language. Reception classes are organized for the newly arrived individuals, and the goal is to ensure integration into the Flemish society by means of learning the common language. When the newly arrived migrants are over school age, and non-EU citizens, they are required to

participate in an “integration process” which has at its core the learning of the local language as a first step towards full participation in society.

26. For the French community, the experts were told that the educational policy is founded on measures aimed at ensuring equal opportunities for social emancipation for all pupils of primary and secondary schools through positive measures. Various francophone schools have, since 1998, been eligible for additional resources in terms of staffing within the framework of positive discrimination measures based upon the “educational priority areas” which existed from 1989 to 1999 with the objective of promoting equal opportunity among pupils. The target groups of such a policy are minors with foreign nationality, of foreign descent and finally those, who are undocumented but accompanied. A specific policy has also been put in place for children of newcomers. Newly arrived pupils have the right to attend *classes-passerelles* (transitional classes) intended to take children for a period ranging from several weeks to six months or a year, in a referral class where French is intensively taught. As well as these additional French lessons, they are also entitled to follow the entire or partial package of the ordinary secondary school programme.

27. The experts raised the issue of the modalities for assessing education and integration policies for persons of foreign background without reliable statistical data on percentages disaggregated by foreign origin or nationality of children’s repeating, school delay, absenteeism and dropout, and representation in special and vocational training. They also underlined that very often children with a foreign background and children from deprived families do not start their schooling with the same social and cultural capital as other children. The experts consider this aspect as an important element to take into account when devising educational measures for such target groups.

28. The experts considered that opportunities for adequate education are crucial in the integration process. In this regard they were briefed on policies and initiatives that the Flemish and French Communities have developed to generate and foster equal learning and developing opportunities for foreigners. Despite many initiatives of positive discrimination and support, the experts noted that problems with respect to the provision of adequate education opportunities remain unresolved. One of these is the recognition of diplomas, obtainable through a complex procedure. The recognition process is especially complex for those people who earned a certificate in a country which does not belong to the European Economic Space.

29. The experts were told about the two existing recognition procedures, namely the acknowledgement of the level of studies and the academic recognition. The acknowledgement of the level of studies means that a level of attainment is given to the studies undertaken in the country of origin through a meaningful comparison with Belgian qualifications. The procedure

is the same in Flanders as in the French Community. The advantage of this procedure lies in the fact that it is fast and not too many documents are required. The academic recognition is the official confirmation that two certificates (the Belgian and the foreign one) are equivalent. There are two types of academic recognition, full recognition and partial equivalence of diplomas. The procedures differ in the French and Flemish Communities and the process implies the collection of many documents for the applicant and an in-depth comparison work for the evaluators.

30. The experts noted the identification by State authorities, civil society organizations, and CEOOR of certain specific patterns of discrimination against Afro-descendants, namely in the fields of employment, housing and education. They welcomed the public actions and policies in favour of people of African descent to overcome such discriminations and encouraged the actors concerned to undertake further actions and initiatives aimed at combating discrimination and facilitating equality of opportunities.

2. Access to employment

31. The experts noted that practices of discrimination in the access to the labour market were still widespread and targeted not only migrants but also persons of Belgian nationality, mainly of foreign origins. Indeed, difficulties in accessing the labour market are not only attributable to a qualifications deficit or low level of knowledge of the national languages, but are rooted in explicit or latent discriminatory practices during the selection process for a job. Employment remains the area where CEOOR receives the majority of complaints of discrimination. Many of the persons of African descent who interacted with the experts underlined that one of the main difficulties encountered is obtaining a job.

32. The experts were informed of a number of initiatives that have been taken at the regional level, where most of the competencies on employment issues lie, and at the federal level, in order to combat discrimination and promote the participation of people of foreign origin in employment. The Minister for the Civil Service, Social Integration, Urban Policy and Equal Opportunities briefed the experts on the 2005-2007 Plan of Action adopted to value diversity in the civil service, a plan which emphasizes the richness that diversity in society represents for the State in its role as employer and vehicle of services to the public. At the federal level, a Multicultural Enterprise Unit has been established within the Federal Ministry of Employment and Occupation. This unit has the task of promoting equal treatment of foreign workers and workers of immigrant background, notably through information, awareness-raising and support initiatives. CEOOR has launched awareness-raising campaigns against discrimination in the private sector and in the civil service and in the field of access of non-citizens to the civil service. The experts were also informed about the more proactive role of employers' associations in the recruitment of non-citizens and persons of immigrant background.

33. The experts were also briefed on the various initiatives taken at the level of the regions aimed at improving the services provided by employment and training agencies to non-citizens and persons of immigrant background, including the adoption of codes of conduct and guidelines on how to deal with discriminatory employment offers. In Flanders, where 40 per cent of the population of foreign origin is unemployed, the regional government participates in the funding of positive-action plans aimed at achieving proportional representation of persons of immigrant background in enterprises and eliminating discrimination in recruitment. A specific process was also launched in June 2000 to support companies looking for innovative concepts on how to do business in a responsible and ethical way.

34. In the Walloon Region, a public service for employment and professional training, FOREM, has been established with the aim of orienting, counselling and coaching persons in search of an occupation. FOREM is a public regional institution for training and placement; it combines a vocational training and a placement strategy for future workers, mainly of immigrant background. It also extends its services to enterprises offering a package for the training of their employees with the “training cheque”. This proposes to potential employers a plan for the integration traineeship of individuals looking for an occupation, with the advantage of benefiting from reduced salary costs for the period of traineeship. It also supports those enterprises interested in extending their activities or reconverting them into other priority sectors. The experts were informed of the existence of similar services in the Brussels-Capital and Flemish Regions. They acknowledged the emphasis put by the Walloon Region on diversity in employment through the strategic cross-cutting “Creation of activities and jobs” plan. They consider of utmost importance the key elements of the plan, consisting in the monitoring of the impact of such a policy and the labelling of those enterprises committed to managing diversity at the workplace.

35. In the Brussels-Capital Region, anti-discrimination policies and actions are enshrined in the Territorial Employment Pact. Such an initiative has the aim of mobilizing all actors involved in employment issues around a common project, allowing for better coordination of actions generating employment within the region. The pact is founded on the key principles of partnership, a bottom-up approach, an integrated method, and effort toward innovation. Its objectives span from the improvement of employment and economic dynamics, to the increase of the employability of individuals seeking a job, better knowledge of the socio-economic realities of the region and strengthening of concerted efforts in the fight against discrimination in employment.

36. The experts noted that the Belgian authorities had been promoting dialogue between the different social, political and economic actors involved in stimulating the adoption of new

initiatives for combating discrimination in employment. They welcomed the actions undertaken in these fields, which they viewed as examples of good practices to counter discrimination in employment. They also noted that, while a number of programmes had been launched at the regional and federal levels in order to combat discrimination and promote participation of foreigners and persons of immigrant background in employment, the authorities should continue to ensure that persons belonging to these groups enjoy genuinely equal opportunities in employment with the rest of the population. The experts consider these programmes as important tools toward the establishment of a multifaceted strategy encompassing civil rights enforcement, public education and communication at the workplace. They encourage the Belgian authorities to continue investing in those actions by strengthening the advancement of non-discriminatory practices at the workplace. The experts also encourage the Belgian authorities to undertake further awareness-raising efforts, directed in particular at private enterprises, on the issues of discrimination and the need for the work environment to reflect the diversity of the society.

3. Participation in public life by people of African descent

37. The experts interacted with a parliamentarian and a state secretary of African descent and stressed the important role played by them as positive role models for the young generations. They were informed of the recent practice of democratic political parties of integrating persons of foreign origin into their lists of candidates for elections. They also met with members of the Congolese diaspora in Belgium and were informed about the structured African movements existing in Belgium. The experts were told that the statute for an association of the African diaspora in Belgium had been drafted, but the process for its establishment is stalled because of the problems between the various associations, mainly consisting in a replication of the political tensions existing between the various countries of origin, in particular the Democratic Republic of the Congo and Rwanda.

38. The experts were briefed on the creation of the Association of the Congolese Diaspora and its role as an interface between the community and the Belgian authorities on one side and the Congolese authorities and population on the other. The experts were informed about the objectives of the association: fostering the socio-economic integration of Congolese in Belgium; emphasizing the expertise of the Congolese diaspora, its contribution to the Belgian social and public life, and its possible value for the development of projects in the Democratic Republic of the Congo. The association would function as a bridge with Belgian institutions and with the country of origin. The experts acknowledged the difficulties encountered in this endeavour but encouraged the creation of a structured forum for dialogue and discussion where the various associations of Africans living in the diaspora can interact with the State authorities and among themselves. They were also informed that the Belgian authorities, in particular the

Ministry of Foreign Affairs, have encouraged the creation of an organized association of the African diaspora.

39. The experts interacted with the Federal Police and were briefed on the diversity plan enacted by the police in its recruitment strategy so as to have an ethnic composition of the police that mirrors the multi-ethnic features of the Belgian population. The experts shared with the officials their concerns for allegations of episodes of police violence accompanied by racial discrimination and requested information on preventive and repressive actions enacted by the institution. They were told about the training on diversity given to police officers within the framework of their general training and continuing education. They were also informed about the institutions overseeing the conduct of law enforcement officials and briefed on the functions of those mandated with the task of examining alleged acts of racism and discrimination on the part of law enforcement officials, namely the disciplinary body (*Inspection générale*) of the federal and local police, and the standing committee on police oversight (*Comité P*).

40. The experts also took note of the establishment of an investigation mechanism within each police unit entrusted with examining allegations of misbehaviour. The experts were briefed also on various projects enacted by the police to build trust with the various communities of foreign background. They were told about the sports activities organized by the police involving young people of disadvantaged boroughs and cooperation with the associations (*Carrefours*) of young Africans for joint actions to ensure the safety of the Brussels subway and for informative sessions on the dangerous effects of drugs.

41. The experts also met representatives of the Ministry of Justice who informed them about the compulsory training programmes organized for judges, prosecutors and legal trainees on the anti-discrimination and anti-racism legislation and on intercultural understanding. The experts welcomed the organization of such training. The experts were also informed of the statistical tools used by the Ministry of Justice to enable the collection of qualitative data from the different levels of the criminal justice system, to allow for statistical analyses concerning the prosecution of racism and xenophobia in the country. They welcomed the establishment of that system as an effort to ensure that comprehensive information on complaints of racism and xenophobic acts and their outcome be collected and analysed.

B. Policies for the integration of people of African descent

42. With regard to integration policies, the experts noted that there was no specific policy aimed at the integration of people of African descent. However, general policies for the integration of people of foreign origin or nationality have been formulated and implemented. Such integration policies aim at fostering the equality of chances and at promoting the creation

of a society respectful of cultural and social diversity, ameliorating the conditions for a harmonious cohabitation amongst persons of different national or ethnic origin.

43. In the Walloon Region, the integration instruments are multifaceted and varied. At the city and commune level, there exists a system of public centres for social action (CPAS) mandated to process all requests of social aid; such centres exist in the whole country. There are also seven specific regional centres for integration based in those areas where a high concentration of people of foreign origin lives. Within those centres, the administrative and management bodies are composed of representatives of the public sector and of associations. Each centre also has a representative council, a consultative instance with the powers of developing integration activities at the social and socio-professional level, in the field of housing and health in partnership with the local authorities and associations; promoting the orientation and training of foreigners and persons of foreign origin; promoting intercultural exchanges and respect for diversity; coaching and orienting individuals depending on their needs.

44. The experts were also briefed on policies for the subsidy of tolerance-building projects focused on social and intercultural mediation, civic education (information on the rights and duties of citizens, foreigners legally residing in the country, illegal migrants), literacy programmes, vocational training, and socio-professional integration. Funds are also available within the framework of the FIPs (funds to promote immigration policies) for financing projects within the framework of the integration policy of young people of foreign origin or nationality.

45. The experts were informed about the creation in 2004 of an intercultural association (*carrefour*) with the task of ensuring an interface between the policies developed and the actions of the actors involved in implementing integration programmes for persons of foreign nationality or origin. Such a body is composed of persons of foreign origin and nationality, social actors, representatives of the Walloon government, of the Union of Cities and Communes, of private and university research centres, of the Regional Centres for Integration, local associations and individuals.

46. During their visit to Liège, the experts were briefed about the activities towards integration and tolerance-building implemented by the municipal authorities. They welcomed the establishment of tenders to finance projects enhancing the richness of diversity and multiculturalism. They were also briefed on the municipal service for intercultural relations and welcomed the organization of practical activities (e.g. the school for African hairdressing) and programmes (e.g. the twinning between the cities of Liège and Lubumbashi) aimed at spreading African traditions and culture among mainstream society. The experts also met with associations of people of African descent, social workers and cultural mediators who explained to them the difficulties in overcoming the disadvantaged situation in which many persons of African descent

find themselves. These are mainly linked to access to employment, adequate housing and recognition of diplomas obtained in a foreign country. They underlined that the African diaspora in Belgium, of sub-Saharan origin, is composed of highly qualified and educated persons who cannot find an occupation commensurate with their skills and academic knowledge.

47. The Flemish Minister for Home Affairs, Urban Policy, Housing and Civic Integration briefed the experts on the Flemish integration “minorities’ policy” which is three-pronged: a “policy for emancipation” aimed at the full participation in society of legal migrants; a policy to facilitate the integration of legal newcomers; and a “rescue” policy targeted at illegal migrants and aimed at securing minimum needs with regard to health care, welfare and education. Such a strategy encompasses five target groups: foreign-origin (“allochthone”) citizens, citizens with official refugee status, travellers, non-Dutch-speaking newcomers and illegal individuals. A specific component of such a policy for newcomers is composed of the “citizenship trajectories”, which encompass language courses and induction to the Flemish/Belgian society. This scheme has become compulsory for most non-EU newcomers in Flanders since April 2004, and optional in Brussels.

48. During their visit to the municipality of Mechelen, the experts were briefed on the demographic situation of the town, inhabited by 80,000 individuals of 83 nationalities. Persons of foreign background live dispersed all over the town and the mayor recognized that more efforts should be made in the fields of employment, housing and education. Indeed, for 2004 the official statistics on the unemployment rate showed that 35 per cent of the pool of the unemployed was of foreign origin. As for housing, because of their often lower average economic income, people of African descent are more dependent on housing of lower quality and security. The mayor also told the experts that unfortunately the “rack-rent landlord phenomenon” still exists. As for education, children and young persons of foreign background suffer from the phenomenon of school drop out and school repeating. During the school year 2003-2004, the secondary school system counted a 37 per cent repeat rate for Belgian children against 63 per cent for children of foreign origin. This problem is linked also to the role the family plays in the education of children. In Flanders, parents of foreign origin, who do not have a good knowledge of the Flemish language, tend to have a less active role in the education of their children.

49. The experts welcomed the initiatives undertaken at the municipal level to foster the integration of persons of foreign background into the mainstream community (in particular, the service of job counselling provided for through the project Stop it!) and the confidence-building measures enacted in the various neighbourhoods through sports and cultural activities. They also took note of the establishment of a contact line against racism (Meldpunt Racisme), composed of a network of eight organizations collecting complaints of alleged discriminatory treatment. The

mayor told the experts that the majority of complaints received related to housing matters and that a code has been developed for landlords as a preventive measure.

50. The experts visited a company adhering to the charter on non-discrimination to promote social cohesion and diversity in recruitment, training opportunities and promotions. They were briefed on such an initiative, which already embraces 600 companies all over Belgium. The experts interacted with some employees of African descent working in the firm that they visited.

51. The experts welcomed the adoption and implementation of integration policies and consider that emphasis should continue to be put on the promotion of intercultural exchange and on the positive contribution of persons of foreign origin and/or nationality to the mainstream society, so as to have a multifaceted strategy encompassing integration, participation, awareness-raising, mutual exchange and fostering greater harmony and tolerance between the persons of foreign origin and mainstream society.

C. Measures to promote a greater knowledge of and respect for the cultural heritage and culture of people of African descent

52. The experts visited the Royal Museum for Central Africa in Tervuren, which originated as a temporary exhibition in 1897 in the colonial section of the Brussels world fair. It was built as a showcase for the Congo Free State that King Leopold II had founded and intended to arouse interest in that country among the Belgians. The temporary exhibition took then a permanent character through the establishment of the Museum of Congo, later renamed the Royal Museum for Central Africa in 1952. The experts noted that the museum is founded on the country's colonial past in Central Africa presented in a critical but constructive way, and it offers the visitors thinking paths on the colonial history of the country, incentives for intercultural dialogue, and represents an important multidisciplinary scientific research centre.

53. The experts welcomed the exhibition entitled "Memory of Congo - the colonial era" as a means to examine the colonial past of Belgium and as a tool for giving a wide range of information about the Congo during the colonial period. They were informed of all the projects carried out to improve access to the information at the disposal of the institution, through the complete digitalization of the existing collections and databanks. This will be done with the intention of transforming the museum into a catalyst for intercultural dialogue and interest in contemporary Africa, and to enhance the social role the institution intends to play through its multidisciplinary expertise, by making a significant contribution to the sustainable development of Africa. Through its scientific departments of cultural anthropology, African zoology, geology and mineralogy and its general scientific services, the museum contributes to a better understanding of African cultures and environments.

54. The experts also welcomed the initiatives organized by the museum to discuss and explore aspects of contemporary Africa, in cooperation with the African community in Belgium, through “African weekends”. They also found very informative the culture and ethnography workshops directed to junior schoolchildren to give them an overview of the past and present history of Africa in a lively and playful manner, by driving schoolchildren into a journey through time and space.

55. The experts took note of the special attention paid by Belgium to its colonial past, including the acknowledgement of the murder of Patrice Lumumba and the apathy and the cold attitude of the Government of Belgium at the time. The former Belgian Foreign Minister Louis Michel asked the family of late Lumumba and the Congolese people to accept Belgium’s apology. A parliamentary commission had come to the conclusion that Belgium had a moral responsibility for the assassination. The experts considered such an action as a very important step together with the establishment of a fund called the Patrice Lumumba Foundation, financing projects to prevent conflict, strengthen justice and target youth in the Democratic Republic of the Congo. The experts also acknowledged the role played by Belgium in supporting efforts for bringing about peace, security and democratic governance in the Great Lakes region.

D. Measures to strengthen the intercultural dialogue in the African-populated area of Matongé

56. The experts visited Matongé, the African borough of Brussels. The district was created in the late 1950s and represents the main meeting point for people of African descent living in the country. It is a concentration of little shops selling African products and it recreates a traditional microcosm for Africans living in the Belgian diaspora. While it was once the meeting point of African students in Belgium, it started developing its commercial activities, becoming also the economic centre for the African diaspora. During the 1990s the area witnessed episodes of violence with the police. With the opening of a police office inside the Galerie d’Ixelles (the main shopping area of Matongé), called the “Cellule Matongé”. With the development of a policy of cooperation and dialogue between and with the various communities operating in the area, the borough is now experiencing a period of dynamic commercial and cultural life.

57. The role of the Cellule Matongé is a preventive one. The 10 police officers working in the district implement a policy of dialogue, and work in cooperation with various African associations to build and maintain a social network within the area. They also contribute to projects for the revitalization of the area at the social and economic level. The police and the municipal services of the Commune of Ixelles have strengthened their cooperation links with a non-governmental organization, Ba Ya Ya, an association created after the assassination of a

young African inside the Galerie d'Ixelles. Every evening, representatives of the association accompany the police officers to close the Galerie and, in case of opposition, they are always there to mediate and dialogue.

58. The experts interacted with various associations of people of African descent operating in the Matongé area. They were informed that the main problems they faced was in employment. It was noted that people of African descent are either unemployed or having a job not commensurate to their qualifications. This has negative repercussions for the young generations, who do not see their highly qualified parents as role models any more and who drop out of school thinking that higher education is not going to give them a better future.

59. Various associations operating in the Matongé area have started implementing specific projects for young people who meet in the area. One of the programmes that the experts were briefed on is an initiative to counter vandalism on public transport by bands of young Africans. "African mamas", in groups of four, travel each day on the main bus and subway lines talking to young Africans each time they create problems. The role of the mother in the African culture is central to the family and social life and through this project the association seeks to prevent deviant social behaviours by resorting to the African culture.

60. Various representatives of associations of people of African descent told the experts that Matongé is a central area of social relations for the Africans and more efforts should be made to invest in the social and cultural potential of the district. The experts were informed that the Commune of Ixelles could only support two social workers to work with the young Africans living in the area who are in a difficult situation; it is believed that the problems of Matongé should also be addressed at the regional and federal level, since many of the visitors of the area come from other communes. The experts noted that, notwithstanding the difficulties in addressing the multifaceted problems of the African community in Matongé, the strategic network of partnerships between the commune, the associations and the police is noteworthy and deserves to be strengthened.

III. CONCLUSIONS AND RECOMMENDATIONS

61. **The experts note with satisfaction the Government of Belgium's efforts to protect the human rights of people of African descent and to address the issues concerning their well-being. During the visit, the experts identified areas where people of African descent find themselves in a disempowered situation vis-à-vis the mainstream community, namely access to employment, private housing and education. The experts were in a position to establish a sincere and frank dialogue with governmental authorities on those areas of concern, and to gather information on actions, measures and policies enacted to overcome**

the problems faced by people of African descent living in the country. The experts note that the Government is well aware of the problems faced by people of African descent and persons of foreign background more generally, and they welcome the positive efforts being made by all government bodies at various levels to counter discriminatory practices in the access to employment, education and housing.

62. The experts believe that it is essential for the governmental actors concerned to continue investing in public actions and policies in favour of people of African descent to overcome such discriminations. The experts consider the programmes enacted to counter discrimination in the field of employment as good practices that should be replicated elsewhere and as important tools toward the establishment of a multifaceted strategy encompassing civil rights enforcement, public education and communication at the workplace.

63. The experts praise the efforts of the Belgian authorities in translating the provisions of the Durban Declaration and Programme of Action into the national legislative framework. In this regard, they consider the following actions by the Government of Belgium as good practices in the realization of the provisions of the Durban anti-discrimination agenda: the adoption of the Principles for a Federal Plan of action against racism, anti-Semitism and xenophobia and of the 10-point national plan of action to fight against racism, racial discrimination, xenophobia and related intolerance; the legislative changes that have contributed to improvements in the existing legal apparatus to fight against racism and discrimination; and the dialogue that the authorities have been promoting between the different social, political and economic actors involved to stimulate the adoption of new initiatives for combating discrimination in employment.

64. The experts also endorse the decision, included in the Principles, to develop a “barometer of tolerance”. They invite the governmental bodies concerned to pursue the realization of such an instrument, which they consider important for measuring at the quantitative and qualitative level the evolution of racist, anti-Semitic and xenophobic attitudes within the country.

65. The experts take note of the efforts of the Belgian authorities in promoting intercultural dialogue through various initiatives at the federal, regional, communities and municipal level. They acknowledge the creation and the work carried out by the Intercultural Dialogue Commission. The Mechelen “Black week” or the “African weekends” organized by the Royal Museum of Central Africa are good examples in this regard, and similar initiatives should be encouraged and implemented.

66. The experts take note of the initiative by the Government of Belgium in presenting apologies for its moral responsibility in the murder of Patrice Lumumba. They also praise the creation of the Patrice Lumumba Foundation as an appropriate way to restore the dignity of the victim by contributing to the sustainable development of the Congolese population through the financing of specific projects. In this regard, they would like to be kept informed on the progress of the foundation.

67. The experts take note of the State's view on the collection of statistical data disaggregated by race and ethnicity vis-à-vis the protection of personal data. In this regard, they stress that disaggregated data is crucial to understanding patterns of inequality. Otherwise, inequality can appear to be purely a function of class-based disadvantage, thus omitting the horizontal dimension of inequality, namely the gaps in well-being between clearly defined groups. It is important for establishing precisely what role colour and ethnicity play in economic and social exclusion, and would significantly help in development planning and resource allocation.

68. They take note of the creation by the Government of an inter-ministerial working group to discuss the issue of ethnic data collection and, to this end, recommend that the national authorities examine alternative ways for identifying the level of discrimination against people of African descent and persons of different ethnic origin. They also recommend that the Government find methods to assess the impact and the effectiveness of the measures it adopted to redress discrimination. In this respect, they request the Belgian authorities to report on the deliberations of the inter-ministerial working group.

69. The experts underline that children of African descent or with a foreign background frequently do not start their school career with the same social and cultural capital as other children and consider this aspect as an important element to take into account when framing education measures for such target groups. They are concerned that in some areas highly populated by persons of foreign origin, school classes are composed mainly of pupils of foreign background, thus undermining the integration efforts of the national authorities.

70. Another concern is the process for the recognition of diplomas obtained in a foreign country. Many persons of African descent are highly educated, with university degrees obtained in foreign countries, but they face difficulties in having their academic titles recognized in Belgium because of the lengthy and bureaucratic procedure and the documents they need to produce.

71. The experts note that, in the field of employment, discriminatory behaviours and practices are recorded, in particular in the recruitment process. The experts take note of the programmes, policies and measures put in place for fighting against discrimination in the access to the labour market. They commend all those initiatives aimed at coaching and orienting persons in search of a job and the investments made to raise awareness amongst private-sector actors of the richness of diversity. In particular, they stress the important role played by the Multicultural Enterprise Unit in promoting equal treatment of foreign workers and workers of immigrant background.

72. The experts welcome the adoption and implementation of integration policies and encourage the competent authorities to put additional emphasis on strategies encompassing integration, participation, awareness, mutual exchange and fostering greater harmony and tolerance between the persons of foreign origin and the mainstream society.

73. The experts welcome the diversity plan enacted by the police in its recruitment strategy and the training programmes for police officers which put also emphasis on diversity, anti-discrimination and anti-racism. They also take note of the projects enacted to build trust with the various communities of foreign background and encourage the furtherance and enhancement of such confidence-building measures.

74. The experts welcome the training programmes organized for judges and prosecutors on anti-discrimination issues and consider them an example to follow. They also welcome the statistical tools used by the Ministry of Justice to enable the collection of qualitative data from the various levels of the criminal justice system, to allow for statistical analyses concerning the prosecution of racism and xenophobia in the country.

75. The experts welcome the adoption of the law on financing for anti-democratic parties and they consider it an important step for isolating those political parties urging racial hatred through hampering them from benefiting from the public financing system. They recommend that additional measures be taken to prevent individuals and groups from seeking to arouse racial hatred and xenophobia.

76. The experts note the important role in the fight against racism and discrimination played by CEOOR, commend the programmes and projects carried out by that centre and encourage the institution to continue organizing awareness-raising activities to counter racism and discrimination and to devise empowerment strategies and programmes for the victims of discrimination.

77. The experts welcome the establishment within the Matongé area of a police unit and consider the confidence-building programmes enacted in the area as a good practice which should be extended and replicated elsewhere. In particular, they consider important the strict partnerships established by the various social stakeholders operating in the area as a capacity-building measure for establishing harmony and security in the borough amongst all the communities. A commendable practice is the cooperation with associations of African descent for countering socially deviant behaviours using tools from the African culture.

78. The experts recommend that, in the short and medium terms, measures to ensure a more effective protection of the rights of people of African descent in Belgium should be strengthened. These measures should include:

(a) Further awareness-raising actions to counter discrimination in access to employment, directed in particular to private enterprises;

(b) Policies aimed at highlighting all private enterprises applying a diversity strategy in their recruitment policies, so as to create exemplary models for other private actors that have not yet done so;

(c) The establishment and, where already existing, the reinforcement of mechanisms for monitoring the impact of diversity employment policies;

(d) The organization of additional intercultural initiatives, as a long-term tolerance-building strategy and as a tool for celebrating the diversity that people of African descent in particular and persons of foreign background more generally bring to Belgian society;

(e) Strengthening measures to counter inequalities in educational outcomes for children of foreign origin, through educational policies that ensure a more equal representation of target-group pupils in schools and which address the problem of repeating, school delay, absenteeism and dropout, and the overrepresentation in special and vocational training of children of foreign origin;

(f) A greater effort to devise suitable procedures and criteria for the equivalency of diplomas;

(g) Additional efforts to ensure that the composition of the police reflects the diversity of society and an increase of programmes to prevent and counter discrimination;

(h) An increase in investments for enhancing the role of Matongé as a catalyst of the African culture and traditions in Belgium. To this end, they encourage the organization of a Matongé intercultural dialogue initiative as a venue for the African diaspora components to have a structured dialogue, as a mechanism for the African community to communicate and interact with the mainstream society through the means of its culture, its traditions, its history, its contribution to the Belgian social and economic development, thus making the borough the symbol of intercultural understanding and dialogue;

(i) Involvement of people of African descent in playing a leadership role in the public, social, economic, academic sphere, in confidence-building and awareness-raising measures, so as to present positive role models for the young African generations and for people of African descent at large living in Belgium.

79. The experts also urge that associations of people of African descent devise strategies to cooperate and to establish a common platform to act as an interface with the governmental authorities to voice the concerns and the needs of the African diaspora in Belgium and to plan concerted actions for the betterment of the situation of people of African descent within the country. They also recommend that associations of people of African descent develop measures to establish a centre of studies on the African diaspora, as a tool for preserving the knowledge of the history, traditions, culture, languages of the countries of origin and as a centre for intercultural exchange and understanding.

80. The experts invite university institutions to continue with their rights research programmes on people of African descent.
