

EUROPEAN PARLIAMENT

2004



2009

Session document

12.07. 2008

B6-xxxx/07

MOTION FOR A RESOLUTION

to wind up the debate on Oral questions by political Groups

pursuant to Rule 108 of the Rules of Procedure

by Jan Marinus Wiersma, Kristian Vigenin, Magda Kosane Kovacs, Claudio Fava, Gianni Pittella, Adrian Severin, Katalin Lévai on behalf of PSE Group

by Viktoria Mohacsi, Marco Cappato, Sarah Ludford, Metin Kazak, Imre Magor Csibi on behalf of ALDE Group

by Monica Frassoni, Els De Groen, Claude Turmes on behalf of GREENS-EFA Group

by Giusto Catania, Roberto Musacchio, Vittorio Agnoletto and Umberto Guidoni on behalf of GUE/NGL Group

on Census of Roma on the basis of ethnicity in Italy

The European Parliament

- having regard to human rights and fundamental freedoms, the principles of equality and non-discrimination, the right to dignity, privacy and to data protection, the rights of the child, the rights of persons belonging to minorities, as recognised by international and European conventions protecting human rights and fundamental freedoms, and notably the European Convention on Human rights and the related jurisprudence¹ and by the Charter of Fundamental Rights, as well as the UN Convention on the Rights of the Child,
- having regard to the EU Treaties, and notably to articles 2, 6 and 7 TUE, article 13 TEC (measures against discrimination based on, inter alia, race and ethnic origin), article 12 TEC (prohibition of discriminations on the basis of nationality), article 17 (European citizenship), article 18 (freedom of movement), articles 39 and following (free movement of workers),
- having regard to the Council directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and notably to the definitions of direct and indirect discrimination, to directive 2004/38/EC of the EP and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States and to directive 95/46/EC of the EP and of the Council of 24 October 1995 on the protection of **individuals with regard to the processing of personal data**;
- having regard to the Roma Staff Working Paper on Community Instruments and Policies for Roma Inclusion², to the Fundamental Rights Agency annual report of 2008;
- having regard to its previous resolutions on, inter alia, Roma, racism and xenophobia, anti-discrimination, freedom of movement³,
- having regard to Rules 108 and 103(2) to (5) of its Rules of Procedure,

- whereas the EU is a community of values based on democracy and the rule of law, human rights and fundamental freedoms, equality and non-discrimination, including the protection of persons belonging to minorities, and that the EU is committed to fight against racism and xenophobia, as well as against discriminations based on any of the grounds stated in articles 13 and 12 TCE,
- whereas these values are implemented in the EU through the anti-discrimination and freedom of movement directives, as well as the policies underpinning them, and Member States are bound to implement them fully and refrain from acts that could violate them,

¹ and notably to the ruling D.H. and Others v. the Czech Republic

² SEC (2008) 2172

³ EP resolutions of 28 April 2005 on the situation of Roma in the European Union, of 1 June 2006 on the situation of Roma women in the European Union, of 17 November 2008 on the application of Directive 2004/38/EC on the right of EU citizens and their families to move and reside freely within the territory of the Member States, of 31 January 2008 on a European Strategy on the Roma

- whereas Roma are one of the main targets of racism and discrimination, as shown by the recent events of attacks and aggressions against Roma in Italy and Hungary and further underlined by recent Eurobarometer surveys,

- whereas the Commission in its Staff Working paper underlines that a series of EU legislative and financial instruments and policies are already available to Member States in order to fight against discrimination of Roma, promote inclusion and integration of Roma, particularly in view of exchanging and promoting good practices in this field,

- whereas the Roma population is a nation-stateless pan European ethno-cultural community and consequently the EU has a particular responsibility in devising a European Roma strategy and policy together with Member States,

- whereas on the 21st of May 2008 the Italian government adopted a decree declaring the state of emergency in relation to the settlements of nomad communities in the territories of Campania, Lazio and Lombardia⁴, based on the law of 24 February 1992, n. 225 on civil protection, which grants to the government emergency powers to declare the state of emergency in the event of "natural disasters, catastrophes or other events that, for their intensity and extension, have to be faced with extraordinary powers and means",

- whereas this decree has been followed on the 30th of May 2008 by further orders ("ordinanze") of the President of the Council⁵ that:

- Designate the Prefects of Rome, Milan and Naples Prefects as Commissioners on Roma emergency;

- Grant them extraordinary powers on the identification of persons, including minors, also through the collection of fingerprints;

- Entrust them to take the necessary measures against those who are or could be subjected to administrative or judicial measures of expulsion;

- Allow them to derogate (albeit in the respect of the rule of law and of EU law) to a series of laws concerning a wide spectrum of issues touching at constitutional prerogatives (for instance the right to be informed when subject to an administrative procedure like fingerprinting and the requirement that a person be dangerous, suspect or refuse to identify, before undergoing an identity screening involving photos, fingerprinting or collection anthropometric data.

- - whereas the decree has declared the state of emergency for a period of one year, until the 31st of May 2009,

- whereas the Italian Minister of Interior declared in repeated occasions that that the collection of fingerprints aims at a census of the Roma population in Italy and that he intends to allow fingerprinting of Roma living in camps, minors included, in derogation of ordinary laws, affirming that Italy will proceed with these identification operations that will be concluded before the 15th of October in Milan, Rome and Naples,

- whereas fingerprinting operations are already underway in Italy, and notably in Milan and Naples, and whereas according to information provided by NGOs such data would be allegedly stored by Prefects in a database,

⁴ Italian Official Journal n. 122 of 26/05/2008

⁵ nr 3676 on Lazio, nr 3677 on Lombardia, nr 3678 on Campania, Italian Official Journal n. 127 of 31/05/2008

- whereas Commissioners Barrot and Spidla underlined in this respect the importance of the principles of equality and non-discrimination in the EU, affirming that EU law clearly forbids discrimination based on race and ethnicity,

- whereas UNICEF, the Secretary General of the Council of Europe and the Human Rights Commissioner of the Council of Europe expressed their concerns, while the latter sent a memorandum to the Italian government in relation, inter alia, to racism, xenophobia and the protection of human rights of Roma,

- whereas the Italian Data Protection Authority asked for information to the competent authorities and notably to the Prefects of Rome, Milan and Naples in respect of the possibility to fingerprint Roma, including minors, concerned that these could raise problems of discrimination that could touch upon also personal dignity, notably of minors,

1. Urges the Italian authorities to refrain from proceeding to the collection of fingerprints of Roma, including minors, as this would clearly constitute an act of discrimination based on race and ethnic origin forbidden by the art. 14th of the European Convention of human rights and furthermore an act of discrimination between EU citizens of Roma origin or nomads and those who are not and who are not required to undergo such procedures,

2. shares the concerns of UNICEF underlining that it is inadmissible, with the aim of protecting children, to violate their fundamental rights and to criminalize them, as well as those expressed by the Council of Europe and by many NGOs and religious communities, and considers that the best way to protect the rights of Roma children is to guarantee access to education, housing, health care, in the framework of inclusion and integration policies, and to protect them from exploitation,

3. shares the views of the Commission that such acts would constitute a violation of the prohibition of direct and indirect discrimination, particularly as foreseen in the EU directive on race and ethnicity and enshrined in articles 13, 12 and 17 to 22 of the EC Treaty;

4. Reaffirms that policies enhancing exclusion will never be effective in combating crime and will not contribute to prevention and security;

5. Condemns utterly and without equivocation all forms of racism and discrimination faced by the Roma and others regarded as "Gypsies";

6. asks Member States to review and repeal laws and policies that discriminate against Roma on the basis of race and ethnicity, directly or indirectly, and asks to the Commission and the Council to monitor the application by Member States of EU Treaties and directives on anti-discrimination and freedom of movement so to ensure consistent and full implementation and to take the necessary measures shall this not be the case,

7. asks the Commission to proceed to a thorough evaluation of the legislative and executive measures defined by the Italian government in order to check their compatibility with EU Treaties and with EU law;

8. expresses concern at the affirmation - contained in the administrative decrees and orders issued by the Italian government - that the presence of Romani camps around large cities determines in itself a situation of serious social alarm, with repercussions on public order and security justifying a 12 months "state of emergency";

9. is worried that, due to the declaration of a state of emergency, extraordinary measures in derogation of laws can be taken by Prefects, thus delegated for the execution of all measures including the collection of fingerprints, based on a law concerning civil protection in case of "natural disasters, catastrophes or other events", non adequate nor proportionate to this specific case;

10. asks the Commission and the Council to further strengthen the EU policies on Roma by launching a EU Roma Strategy to support and promote actions and projects by Member States and NGOs linked to integration and inclusion of Roma, particularly of Romani Children,

11. invites the Commission and Member States, in the framework of a EU Roma strategy and in view of the Decade of Roma Inclusion, to enact legislation and policies aiming at supporting Roma communities while promoting their integration in all fields, launch anti-racism and anti-discrimination programmes in schools, employment and media,

12. reiterates in this respect the importance of developing strategies at EU and national level, making full use of the opportunities provided by EU funds, to abolish Roma segregation in education and ensure equal access to quality education for Romani children (participation in mainstream education; introduction of special scholarship and trainee programmes), ensure and improve Roma access to labour markets, provide equal access to health care and social security benefits, combat discriminatory practices in providing housing, increase the participation of Roma in social, economic, cultural and political life.

13. Welcomes the creation by the Commission of an anti-discrimination Working Group with representatives of all Member States and asks for the competent European Parliament Committee to be associated and have full access to the works of such Working Group; asks its competent committee to establish a dialogue with national parliaments of the EU Member States on this issue,

14. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Secretary General of the Council of Europe, the Human Rights Commissioner of the Council of Europe, UNICEF and the Italian Data Protection Authority.