

Census of the Roma on the basis of ethnicity in Italy

European Parliament resolution of 10 July 2008 on the census of the 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 the protection of personal data, 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, notably the UN Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the related case law of the European Court of Human Rights¹, and the Charter of Fundamental Rights of the European Union²,
- having regard to the Treaties, and notably to Articles 2, 6 and 7 of the Treaty on European Union and Articles 13 (measures against discrimination based on, inter alia, racial or ethnic origin), 12 (prohibition of discrimination on the basis of nationality), 17 (citizenship of the Union), 18 (freedom of movement) and 39 et seq. (free movement of workers) of the EC Treaty,
- having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin³ and notably to the definitions of direct and indirect discrimination, Directive 2004/38/EC of the European Parliament 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 States⁴ and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁵,
- having regard to the Commission Staff Working Document on Community Instruments and Policies for Roma Inclusion (SEC(2008) 2172) and the Annual Report for 2008 of the European Union Agency for Fundamental Rights,
- having regard to its previous resolutions on, inter alia, the Roma, racism and xenophobia, measures against discrimination, and freedom of movement, namely those of 28 April 2005 on the situation of the Roma in the European Union⁶, of 1 June 2006 on the situation of Roma women in the European Union⁷, of 15 November 2007 on the application of

¹ Notably the ruling on the case *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, ECHR 2007 – (13.11.07).

² OJ C 303, 14.12.2007, p. 1.

³ OJ L 180, 19.7.2000, p. 22.

⁴ OJ L 158, 30.4.2004, p. 77 (corrected version in OJ L 229, 29.6.2004, p. 35).

⁵ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁶ OJ C 45 E, 23.2.2006, p. 129.

⁷ OJ C 298 E, 8.12.2006, p. 283.

Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the territory of the Member States¹, of 13 December 2007 on combating the rise of extremism in Europe², and of 31 January 2008 on a European Strategy on the Roma³,

- having regard to Rules 108(5) of its Rules of Procedure,
- A. 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 whereas the EU is committed to fighting racism and xenophobia, as well as discrimination based on any of the grounds referred to in Articles 12 and 13 of the EC Treaty,
- B. whereas these values are implemented in the EU through the above-mentioned 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 infringe them,
- C. whereas, in its resolution of 31 January, Parliament urged the Member States to solve the problem of slums and illegal camps, where there are no hygiene or safety standards and where a large number of Roma children die in domestic accidents, particularly fires, caused by the lack of such standards,
- D. whereas the Roma are one of the main targets of racism and discrimination, as shown by the recent incidents involving attacks and aggression against Roma in Italy and Hungary and further underlined by recent Eurobarometer surveys,
- E. whereas in its above-mentioned Staff Working Document the Commission emphasises that a series of EU legislative and financial instruments and policies are already available to Member States in order to fight discrimination against the Roma and promote the inclusion and integration of the Roma, particularly by exchanging and promoting good practices in this field,
- F. whereas the Roma population is a pan-European ethno-cultural community without a nation State and consequently the EU has a particular responsibility to devise a EU Roma strategy and policy together with the Member States,
- G. whereas on 21 May 2008 the Italian Government issued a decree declaring a state of emergency in relation to nomad settlements in the regions of Campania, Lazio and Lombardy⁴, based on Law No 225 of 24 February 1992 on the establishment of a national civil protection service, which empowers the government to declare a state of emergency in the event of 'natural disasters, catastrophes or other events that, on account of their intensity and extent, have to be tackled using extraordinary powers and means',

¹ Texts adopted, P6_TA(2007)0534.

² Texts adopted, P6_TA(2007)0623.

³ Texts adopted, P6_TA(2008)0035.

⁴ *Gazzetta Ufficiale* (Italian Official Journal) No 122 of 26 May 2008, p. 9.

- H. whereas this decree was followed on 30 May 2008 by further orders ('*ordinanze*') issued by the Prime Minister¹ that:
- designate the Prefects of Rome, Milan and Naples as Commissioners ("*Commissari delegati*") for the Roma emergency,
 - grant them extraordinary powers to identify persons, including minors and including by taking fingerprints,
 - empower them to take the necessary measures against those who are to or could be expelled by virtue of an administrative or judicial measure,
 - allow them to derogate (albeit without prejudice to the rule of law and EU law) from a series of laws concerning a wide spectrum of issues affecting constitutional prerogatives (for instance the right to be informed when subject to an administrative procedure such as fingerprinting and the requirement that persons be dangerous or suspect or that they refuse to identify themselves before undergoing identity screening involving photographing, fingerprinting or the gathering of anthropometric data),
- I. whereas the decree declared a state of emergency for a period of one year, until 31 May 2009,
- J. whereas the Italian Minister of the Interior has repeatedly declared that the purpose of taking fingerprints is to carry out a census of the Roma population in Italy and that he intends to allow the fingerprinting of Roma living in camps, minors included, by way of derogation from ordinary laws, affirming that Italy will proceed with these identification operations that will be concluded before 15 October 2008 in Milan, Rome and Naples,
- K. whereas fingerprinting operations are already under way in Italy, notably in Milan and Naples, and whereas according to information provided by NGOs such data are stored by Prefects in a database,
- L. whereas Commissioners Barrot and Špidla have underlined, in this respect, the importance of the principles of equality and non-discrimination in the EU, and have put forward a new horizontal anti-discrimination directive, affirming that EU law clearly forbids discrimination based on race and ethnicity,
- M. whereas UNICEF, the Secretary General of the Council of Europe and the Commissioner for Human Rights of the Council of Europe have expressed their concerns, while the Commissioner has sent a memorandum to the Italian Government concerning, inter alia, racism, xenophobia and the protection of the human rights of the Roma,
- N. whereas the Italian Data Protection Authority has requested information from the competent authorities, notably the Prefects of Rome, Milan and Naples, concerning the possibility of fingerprinting Roma, including minors, expressing concern that it could entail discrimination that might also affect personal dignity, notably that of minors,
1. Urges the Italian authorities to refrain from collecting fingerprints from Roma, including minors, and from using fingerprints already collected, pending the forthcoming announced evaluation by the Commission of the measures envisaged, as this would clearly constitute

¹ No 3676 on Lazio, No 3677 on Lombardy and No 3678 on Campania, *Gazzetta Ufficiale* No 127 of 31 May 2008, pp. 7, 9 and 11 respectively.

an act of direct discrimination based on race and ethnic origin prohibited by Article 14 of the ECHR and furthermore an act of discrimination between EU citizens of Roma origin and other citizens, who are not required to undergo such procedures;

2. Shares the concerns of UNICEF and considers that it is inadmissible, with the aim of protecting children, to violate their fundamental rights and to criminalise 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 them equal access to quality education, housing and health care, within the framework of inclusion and integration policies, and to protect them from exploitation;
3. Calls on the Member States to take firm steps to protect unaccompanied minors subjected to exploitation, irrespective of their ethnic origin and nationality, and, where the identification of such minors would be useful for this purpose, to employ, on a case-by-case basis, ordinary, non-discriminatory identification procedures ensuring full respect for every form of legal guarantee and protection;
4. Shares the view of the Commission that such acts would constitute a violation of the prohibition on direct and indirect discrimination, particularly as laid down in Council Directive 2000/43/EC and enshrined in Articles 12, 13 and 17 to 22 of the EC Treaty;
5. Reaffirms that policies which increase exclusion will never be effective in combating crime and will not contribute to crime prevention or security;
6. Condemns utterly and without equivocation all forms of racism and discrimination faced by the Roma and others regarded as 'Gypsies';
7. Calls on the Member States to review and repeal laws and policies that discriminate against the Roma on the basis of race and ethnicity, directly or indirectly, and calls on the Council and the Commission to monitor the application by the Member States of the Treaties and of the directives on measures against discrimination and on freedom of movement in order to ensure their consistent and full implementation and to take the necessary measures if that is not the case;
8. Calls on the Commission to thoroughly evaluate the legislative and executive measures adopted by the Italian Government in order to check their compatibility with the Treaties and with EU law;
9. Expresses concern at the affirmation - contained in the administrative decrees and orders issued by the Italian Government - that the presence of Roma camps around large cities in itself constitutes a serious social emergency with repercussions for public order and security which justify declaring a state of emergency for one year;
10. Is concerned that, owing to the declaration of a state of emergency, extraordinary measures in derogation from laws may be taken by Prefects to whom authority has been delegated to implement all measures, including the collection of fingerprints, based on a law concerning civil protection in the event of 'natural disasters, catastrophes or other events', which is not appropriate or proportionate to this specific case;
11. Calls on the Council and the Commission to further strengthen EU policies on the Roma by launching an EU Roma Strategy to support and promote actions and projects by Member

States and NGOs linked to the integration and inclusion of the Roma, particularly of Roma children;

12. Calls on the Commission and the Member States, within the framework of an EU Roma Strategy and in the context of the Decade of Roma Inclusion 2005-2015, to enact legislation and policies to support Roma communities while promoting their integration in all fields to launch anti-racism and anti-discrimination programmes in schools, employment and the media and to enhance the exchange of expertise and best practices;
13. Reiterates in this context 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, to ensure equal access to quality education for Roma children (participation in mainstream education, introduction of special scholarship and trainee programmes), to ensure and improve Roma access to labour markets, to provide equal access to health care and social security benefits, to combat discriminatory practices in the provision of housing, and to increase the participation of the Roma in social, economic, cultural and political life;
14. Welcomes the creation by the Commission of an anti-discrimination working group with representatives of all the Member States and calls for the competent Parliamentary committee to be associated and have full access to the proceedings of the working group; calls on its competent committee to establish a dialogue with the national parliaments of the Member States on this issue;
15. 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 Commissioner for Human Rights of the Council of Europe, UNICEF and the Italian Data Protection Authority.