



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

6.3.2013

B7-0124/2013

MOTION FOR A RESOLUTION

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

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

on strengthening the fight against racism, xenophobia, anti-Semitism, Islamophobia, anti-Roma (Sinti, Travellers) homophobia, transphobia and all other forms of discrimination
(2013/2543(RSP))

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European Parliament resolution on strengthening the fight against racism, xenophobia, anti-Semitism, Islamophobia, anti-Roma (Sinti, Travellers) homophobia, transphobia and all other forms of discrimination (2013/2543(RSP))

The European Parliament,

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

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

- having regard to its previous resolutions on racism, xenophobia, anti-Semitism, Islamophobia, anti-Gypsyism, homophobia, transphobia, discrimination, bias violence, extremism and an EU approach on criminal law,
 - having regard to the Fundamental Rights Agency (FRA) and its work in the areas of non-discrimination, racism, xenophobia, anti-Semitism, homophobia and related intolerances and bias violence,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas racism, xenophobia, anti-Semitism, Islamophobia, sectarianism, homophobia, transphobia, anti-Roma (Sinti, Traveller, etc.) and related intolerances involve beliefs and attitudes that legitimise discrimination, violence and hatred on the basis of certain grounds;
- B. whereas, although all the Member States have introduced the prohibition of discrimination into their legal systems in order to promote equality for all, discrimination and hate crimes – i.e. violence and crimes motivated by racism, xenophobia, anti-Gypsyism, religious intolerance, sexual orientation, gender identity or membership of a minority group, on the basis of the grounds listed in the Charter of Fundamental Rights – continue to take place in the EU;
- C. whereas in a situation of economic and social crisis, xenophobia is on the increase and is at risk of being politically exploited to create a fertile breeding ground for right-wing extremism;
- D. whereas speeches and programmes spreading hate and intolerance are promoted by far-right movements whose parties have gained parliamentary representation in some EU Member States;
- E. whereas immigrant communities are subject on a daily basis to displays of distrust and hostility and to continuous discrimination, often accompanied by racial violence, when seeking accommodation, employment or access to public services;
- F. whereas it is important that the EU and its Member States take action to fight such behaviour, in both the private and the public spheres, by investing in preventive education and awareness-raising in order to foster a culture of respect and tolerance;
- G. whereas it is important that the Member States promote a culture where intolerant and discriminatory behaviour such as this can be safely reported by victims, investigated where necessary by law enforcement agencies and sanctioned by the judicial system;
- H. whereas the EU has adopted a series of instruments to combat such acts and discrimination, notably: Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the Racial Equality

Directive)¹; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (the Equal Treatment in Employment Directive)²; Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law (the Framework Decision on Racism and Xenophobia)³; and the EU Framework for National Roma Integration Strategies;

- I. whereas Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime⁴ requires the Member States to protect and support victims of bias violence without discrimination, and acknowledges that victims having suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics, may require specific protection as a result of the specific nature of the crime;
- J. whereas the Commission's 2008 proposal for a Council directive on protecting equal treatment outside employment irrespective of religion or belief, disability, age or sexual orientation (Equality Directive) has not been adopted by the Council after five years of debate, owing to staunch opposition from a few Member States;
- K. whereas the FRA has reported that every fourth person from a minority group has experienced a hate crime, with up to 90 % of these incidents not being reported to the police, and that only four EU Member States collect or publish data on anti-Roma crime and only eight record crime motivated by the victim's (perceived) sexual orientation, that every fourth person from a minority group has experienced a racially motivated crime, and that up to 90% of all assaults or threats experienced by migrants or members of ethnic minority groups are not reported to the police;
- L. whereas Parliament has repeatedly called on the Commission, the Council and the Member States to strengthen the fight against violence and discrimination based on bias such as racism, xenophobia, anti-Semitism, Islamophobia, homophobia, transphobia and anti-Gypsyism;
- M. whereas it has notably called for:
 - a) full implementation of the anti-discrimination directives already adopted and of the Framework Decision on Racism and Xenophobia;
 - b) the adoption without further delay of the Equality Directive;
 - c) the Framework Decision on Racism and Xenophobia to be reviewed without delay in order to enlarge its scope and strengthen its provisions and efficacy;
 - d) it to be ensured that hate crime, the bias motivations underlying it and the effect it has on victims are recognised in both national and European law, and that data are collected;

¹ OJ L 180, 19.7.2000, p. 22.

² OJ L 303, 2.12.2000, p. 16.

³ OJ L 328, 6.12.2008, p. 55.

⁴ OJ L 315, 14.11.2012, p. 57.

- e) the launch of a roadmap for equality on grounds of sexual orientation and gender identity;
 - f) action to strengthen the fight against anti-Gypsyism and secure the fundamental rights of Roma against persecution, discrimination and expulsion;
 - g) public figures to refrain from making public statements that encourage or incite hatred or stigmatisation of groups of people on the basis of their race, ethnic origin, religion, disability, sexual orientation or nationality;
- N. whereas the Irish Presidency launched a debate at the informal Justice and Home Affairs Council of 17-18 January 2013 on EU action to counter hate crime, racism, anti-Semitism, xenophobia and homophobia, and highlighted the fact that better protection and data collection are necessary, as well as a stronger commitment by leaders to ‘actively uphold European values and foster a climate of mutual respect for and inclusion of persons of different religious or ethnic background or sexual orientation’;
- O. whereas, while this initiative is to be welcomed, there should nevertheless be a broader horizontal exercise approaching anti-discrimination on all grounds, including addressing in greater depth social and economic factors and policy responses to them, and how these generate or counteract discrimination and inequalities;
- P. whereas the Commission recently warned against racist and inflammatory political discourse targeting certain minorities;
- Q. whereas after the Arab Spring the Commission published communications and legislative proposals describing certain third-country migration flows, particularly from East Africa, as a potential threat to certain sectors of society, and subsequently formulated demands for a reinforcement of conditions for entering the Union’s territory, while at the same time seeming to view migration flows as a useful tool for dealing with the ageing population and the challenges it poses for society in the Member States;
- R. whereas an increasing amount of EU migration and asylum management is being outsourced to third countries;
- S. whereas policies to deal with irregular migration are increasingly framed in law enforcement or criminal law rhetoric, which looks like a very disconcerting repetition of populist politics in the early nineties, as a result of which law-makers in some Member States sought to curb the legal status of numerous regular migrants;
- T. whereas the collection of collective, comparable and reliable disaggregated data is needed in order to prove discrimination in legal proceedings, to measure inequalities and diversity, to assess the effectiveness of anti-discrimination legislation and to design effective public policies, which should focus not just on repressive responses, but also on prevention;
- U. whereas the FRA’s upcoming report on its study of discrimination against, and victimisation of, LGBT people is expected to highlight the extent of homophobic and transphobic hate crime and hate speech in the EU;

- V. whereas all the states participating in the Organisation for Security and Cooperation in Europe (OSCE), including all the EU Member States, have acknowledged that hate crimes, defined as criminal offences committed with a bias motive, must be combated by means of criminal legislation and specific tailored policies;
- W. whereas questions may be raised as to the effects and perverse consequences of the EU's visa policy on the increasing racial bias towards certain ethnic groups and minorities, especially those coming from the Western Balkans, given that in the framework of visa liberalisation the EU asks partner third countries to strengthen their exit controls in order to prevent people from applying for asylum in the EU, or given the policies that aim to reintroduce the so-called visa suspension mechanism, which could lead to the reintroduction of the visa requirement for all citizens of a third country if there is an increase in asylum applications stemming from citizens of that third country;
1. Calls on the Member States, the Commission and the Council to strengthen the fight against violence and discrimination based on bias and hatred by:
 - a) proposing an ambitious review of Framework Decision 2008/913/JHA along the lines indicated by Parliament, explicitly including certain forms and expressions of anti-Semitism, Islamophobia, homophobia, transphobia and anti-Gypsyism;
 - b) ensuring that all relevant EU criminal law instruments, including the Framework Decision, are fully consistent with human rights standards, including in the area of freedom of expression, and incorporate a broader spectrum of graduated sanctions, including, where appropriate, alternative penalties such as community service;
 - c) launching a comprehensive strategy for fighting hate crime, bias violence and discrimination, with a strong focus on preventive educational strategies in all sectors of society;
 - d) approving without further delay the Equal Treatment Directive, which represents one of the main EU instruments for promoting and guaranteeing genuine equality in the EU and combating bias and discrimination;
 - e) ensuring full implementation of the EU Framework for National Roma Integration Strategies and strengthening it, notably by providing long-term support for local and regional authorities to enable them to develop and implement effective human-rights-compliant policies, programmes and interventions for the inclusion of Roma, using available funds, including EU funds; strictly monitoring respect for fundamental rights and the implementation of the Free Movement Directive;
 - f) ensuring the full application of the right to move and reside freely throughout the Union;
 - g) ensuring that broader, reliable data is collected on hate crime, i.e. recording, as a minimum, the number of incidents reported by the public and recorded by the authorities, the number of convictions, the grounds on which offences were found to be discriminatory and the punishments imposed, as well as crime victimisation surveys on the nature and extent of unreported crimes, the experiences of crime victims with law enforcement, the reasons for non-reporting, and rights awareness among victims of hate

crime;

- h) putting in place mechanisms to make hate crime visible in the EU by showing that the authorities take hate crime seriously, encouraging victims of hate crime and witnesses to report incidents and providing the opportunity to seek redress against perpetrators;
 - i) signing and ratifying the International Convention on the Fundamental Rights of Migrant Workers and their Family Members and ensuring that there is full implementation in national law;
 - j) implementing Parliament's repeated request for a roadmap for equality on grounds of sexual orientation and gender identity;
 - k) having the EU sign the UNCERD, given that all the Member States have already ratified it;
 - l) implementing the relevant commitments made by the Member States within other international forums, including the OSCE's Ministerial Council Decision No 9/09 on Combating Hate Crimes and Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers on measures to combat discrimination on grounds of sexual orientation and gender identity;
- 2. Calls on those Member States objecting to and blocking the Equality Directive to make their reasons public so as to allow a public and transparent debate on them;
 - 3. Calls on the Member States to make sure that leaders and authorities at all levels and in all fields (government, state, regional and local administration, law enforcement agencies, the judiciary, political parties, political and religious leaders, etc.) and their actions and declarations do not incite discrimination, violence and hate or condone them;
 - 4. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.