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MOTION FOR A RESOLUTION

to wind up the debate on statements by the European Council and Commission
pursuant to Rule 103(2) of the Rules of Procedure

by Martin Schulz, Claudio Fava, Gianni Pittella, Pasqualina Napoletano,
Adrian Severin, Dan Mihalache, and Kristian Vigenin, on behalf of the PSE
Group

by Monica Frassoni and Daniel Cohn-Bendit, on behalf of the Verts/ALE
Group

by Francis Wurtz, Roberto Musacchio, Marco Rizzo,
Sylvia-Yvonne Kaufmann, Giusto Catania, Vittorio Agnoletto, and
Umberto Guidoni, on behalf of the GUE/NGL Group

on the application of 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 States

European Parliament resolution on the application of 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 States

The European Parliament,

- having regard to Articles 2, 6, 13, and 29 of the Treaty on European Union,
 - having regard to Articles 61, 62, and 64 of the Treaty establishing the European Community,
 - having regard to Articles 6, 19, and 45 of the Charter of Fundamental Rights of the European Union,
 - having regard to Directive 2004/38/EC on the free movement of Union citizens and their family members,
 - having regard to the Council of Europe Framework Convention for the Protection of National Minorities,
 - having regard to its resolutions on free movement of persons and the eradication of discrimination in all its forms and, in particular, to its resolution on the situation of the Roma in the European Union (RC-B6-0272/2005),
 - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas free movement of persons is an inalienable fundamental freedom accorded to Union citizens by the Treaties and by the Charter of Fundamental Rights and whereas it constitutes a linchpin of European citizenship,
- B. whereas for that reason Directive 2004/38/EC on the free movement of Union citizens and their families, while allowing a Member State to expel a Union citizen, circumscribes that possibility within clearly defined limits intended to safeguard fundamental freedoms,
- C. whereas the Union must seek to afford its citizens a high degree of security in an area of freedom, security, and justice,
- D. whereas organised crime and trafficking in human beings pose challenges on a transnational scale and whereas free movement within the European area also depends on closer Europe-wide judicial and police cooperation for the purposes of investigation and prosecution, aided by Eurojust and Europol,
- E. whereas respect for the laws of every Member State is a sine qua non for coexistence and social inclusion in the Union,
- F. whereas combating racism and xenophobia of every kind, as well as all forms of

discrimination, is one of the fundamental principles on which the European Union is built,

- G. whereas the Rom minority are continuing to suffer discrimination and abuse on EU territory and whereas – regrettably – the objectives of integration, social inclusion, and protection of that minority remain unrealised,
 - H. appalled at the brutal attack on, and the murder of, a woman in Rome, the accused party being a Romanian national,
 - I. having regard to the racist attacks on Romanian citizens in the wake of this incident,
 - J. having regard to the joint initiative by the Italian and Romanian Prime Ministers and their joint letter to the Commission President,
1. Reaffirms the value of free movement as a fundamental principle of the European Union, a constituent part of European citizenship, and a key element of the internal market;
 2. Reaffirms the goal of making the Union an area in which every person can live in freedom, security, and justice;
 3. Notes that Directive 2004/38/EC circumscribes the possibility of expelling a Union citizen within very clearly defined limits and that, specifically,
 - under Article 27, Member States may not restrict freedom of movement and residence other than on grounds of public policy, public security, or public health, and those grounds may not be invoked to serve economic ends; any measures taken must accord with the principle of proportionality and be based solely on the personal conduct of the individual concerned and on no account on considerations of general prevention;
 - under Article 28, any expulsion decision must be preceded by an assessment designed to allow for the personal circumstances of the individual concerned, taking into account, for example, the duration of his/her residence, his/her age, state of health, and family and economic situation, and the extent to which he/she has integrated in the host Member State;
 - under recital 16 and Article 14, a citizen may be expelled if he/she imposes an unreasonable burden on the host Member State's social assistance system, subject to the proviso, however, that each individual case must be thoroughly examined and that the above condition cannot, under any circumstances, be considered sufficient in itself to justify automatic expulsion;
 4. Maintains that national legislation must, in every instance, conform exactly to these limits and safeguards, including the possibility of legal appeal against expulsion and exercise of the right to a fair hearing, and that any exception laid down in the directive must be interpreted in the narrow sense; points out that mass expulsions are prohibited by the Charter of Fundamental Rights and the European Convention on Human Rights;
 5. Supports the appeal by the two Prime Ministers for the Union to commit itself to the social integration of the most underprivileged populations and to cooperation among the Member

States as regards management of their population movements, making use of the development and social aid programmes provided for under the Structural Funds;

6. Calls on the Commission, without delay, to submit a detailed assessment of the steps taken by Member States to implement Directive 2004/38/EC, together with any necessary proposals, acting pursuant to Article 39;
7. Without encroaching on the remit of the Commission, instructs its appropriate committee, in collaboration with the national parliaments, to complete an assessment by 1 June 2008 of the problems entailed in transposition of the directive, highlighting best practice and, secondly, measures that might lead to forms of discrimination among European citizens;
8. Calls on the Member States to cease all hesitation and move more rapidly to strengthen the means available for Europe-wide police and judicial cooperation in criminal matters so as to make for effective action to fight the transnational phenomena of organised crime and trafficking in human beings while providing a uniform framework of procedural safeguards;
9. Rejects the principle of collective responsibility and emphatically reaffirms the need to combat every form of racism and xenophobia and all forms of discrimination and stigmatisation based on nationality and ethnic origin, as stated in the EU Charter of Fundamental Rights;
10. Points out to the Commission that it is imperative to submit a draft horizontal directive to combat all the forms of discrimination referred to in Article 13 of the EC Treaty, as provided for in the 2008 legislative programme;
11. Considers that protection of the rights of the Rom minority, and the integration of that minority, pose a challenge to the Union as a whole and calls on the Commission to act without delay by pursuing an overall strategy for social inclusion of the Rom population and, not least, making use of the Integration Fund and the Structural Funds to support national, regional, and local authorities in their efforts to bring about the social inclusion of the Rom populations;
12. Believes that the recent statements to the Italian press by Mr Franco Frattini, a Commission Vice-President, in connection with the serious incidents in Rome were contrary to the spirit and the letter of Directive 2004/38/EC, a directive with which he is called upon to comply in full;
13. Instructs its President to forward this resolution to the Council and Commission, and the governments and parliaments of the EU Member States.