

EUROPEAN PARLIAMENT

2004



2009

Session document

12.11.2007

B6-0464/2007

MOTION FOR A RESOLUTION

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

pursuant to Rule 103(2) of the Rules of Procedure

by Graham Watson, Alfonso Andria, Adina-Ioana Vălean and Viktória Mohácsi

on behalf of the ALDE Group

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

B6-0464/2007

European Parliament resolution 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

The European Parliament,

- having regard to Articles 2, 6, 13 and 29 of the EU Treaty,
 - having regard to Articles 61, 62, and 64 of the EC Treaty,
 - having regard to Articles 6, 19 and 45 of the European Union Charter of Fundamental Rights of the European Union,
 - having regard to 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,
 - having regard to the Council of Europe Framework Convention for the Protection of National Minorities,
 - having regard to its previous resolutions on the free movement of persons and measures to combat discrimination and in particular its resolution on the situation of the Roma in the European Union,
 - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas the free movement of persons is a fundamental and inalienable freedom of European Union citizens, as recognised by the Treaties and by the Charter of Fundamental Rights, and constitutes a pillar of European citizenship,
- B- whereas, for this reason, Directive 2004/38/EC concerning the free movement of Union citizens and their families, while providing for the possibility of a Member State expelling a European Union citizen, circumscribes this possibility within well-defined limits so as to guarantee fundamental freedoms,
- C. considering that security and freedom are fundamental rights and the Union is seeking to ensure a high level of security for its citizens in the area of freedom, security and justice,
- D. whereas organised crime and human trafficking are challenges of a transnational dimension and freedom of movement within Europe is based also on strengthening legal and police cooperation at European level for the purposes of investigation and prosecution, with the support of Eurojust and Europol,
- E. having regard to Italian Government Decree 181/2007,
- F. whereas measures to combat all forms of racism and xenophobia and all forms of discrimination are among the basic principles on which the European Union is founded,

- G. whereas the members of the Roma minority are again the victims of discrimination and injustice on the territory of the European Union while integration, social integration and the protection of this minority are unfortunately objectives still to be achieved,
- H. whereas a Romanian national has been accused of the brutal murder of a woman in Rome,
- I. whereas Romanian nationals have been subject to racist attacks following this incident,
- J. having regard to the joint initiative by the Italian and Romanian Prime Ministers and their joint letter to the President of the Commission,
1. Reaffirms the value of the free movement of persons as a fundamental principle of the European Union, an integral part of European citizenship and a cornerstone of the internal market;
 2. Reaffirms its objectives of making the Union and its communities an area in which each inhabitant is guaranteed a high level of security, freedom and justice;
 3. Recalls that Directive 38/2004/EC makes the expulsion of European Union nationals subject to very specific limits, in particular:
 - Article 27 states that Member States may only restrict freedom of movement and residence on grounds of public policy, public security or public health and that these grounds shall not be invoked to serve economic ends; all measures must comply with the principle of proportionality and be based exclusively on the personal conduct of the individual concerned and in no case on considerations of general prevention;
 - Article 28 states that, before taking an expulsion decision, it is necessary to take account of the personal situation of the individual concerned, in particular length of residence, his/her age, family and economic situation and cultural integration into the host Member State;
 - Recital 16 and Article 14 refer to the possibility of expulsion if an individual becomes an unreasonable burden of the social assistance system, while stressing the need for a detailed consideration of individual circumstances and pointing out that in no case may automatic expulsion be justified on these grounds alone;
 4. Reaffirms that all national legislation must strictly respect these limits and guarantees, including access to legal appeal against expulsion and the right to a defence, and that any exception as defined in the directive must be interpreted restrictively; recalls that collective expulsions are prohibited under the Charter of Fundamental Rights and the European Convention on Human Rights;
 5. Welcomes the visit by the Romanian Prime Minister in Italy and the joint statement issued by Mr Romano Prodi and Mr Călin Țăriceanu;
 6. Expresses its support for the appeal by the two prime ministers for European Union commitment to the social integration of the less-favoured sections of the population and cooperation between the Member States in administering the movements of their

populations in particular by means of Structural Fund provisions for development and social assistance programmes;

7. Calls on the Commission to submit without delay an exhaustive assessment of the implementation of Directive 2004/38/EC by the Member States and the proposals referred to in Article 39 thereof;
8. Without prejudice to the Commission remits instructs its committee responsible, by 1 June 2008, to carry out, in collaboration with the national parliaments, an assessment of the problems arising regarding the transposition of this directive with a view to highlighting best practices and identifying those measures which could lead to discrimination between European citizens;
9. Urges the Member States to overcome any hesitation and expedite measures to consolidate instruments for police and judicial cooperation in criminal matters at European Union level so as to ensure that effective measures are taken to combat organised crime and trafficking in people, activities which have a transnational dimension, while ensuring a uniform framework of procedural guarantees;
10. Rejects the principle of collective responsibility and vigorously reaffirms the need to combat all forms of racism and xenophobia, and all forms of discrimination and stigmatisation based on nationality and ethnic origin, as indicated in the Charter of Fundamental Rights of the European Union;
11. Reminds the Commission of the urgent need to submit a proposal for a horizontal directive against all forms of discrimination set out in Article 13 of the EC Treaty, as provided for under the 2008 legislative programme;
12. Considers that protection of the rights of the Roma minority and its integration constitutes a challenge for the European Union as a whole and calls on the Commission to act without delay in developing a global strategy for the social integration of the Roma community, earmarking appropriations from the Integration Fund and Structural Funds for measures to support the national, regional and local authorities in their efforts to achieve the social integration of the Roma communities;
13. Considers that the recent statements to the Italian press made by the Commission Vice-President Mr Franco Frattini in response to the serious episodes which occurred in Rome are contrary to the spirit and letter of Directive 38/2004/EC, the provisions of which he is asked to respect to the full;
14. Instructs its President to forward this resolution to Council, the Commission, and the governments and parliaments of the Member States.