

EUROPEAN PARLIAMENT

2004



2009

Session document

14.11.2007

B6-0462/2007 }

B6-0464/2007 }

JOINT MOTION FOR A RESOLUTION

pursuant to Rule 103(4) 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
- Graham Watson, Adina-Ioana Vălean, Viktória Mohácsi, Ignasi Guardans Cambó, Sarah Ludford, Alfonso Andria, Luciana Sbarbati and Marco Cappato, on behalf of the ALDE Group
- Monica Frassoni and Daniel Cohn-Bendit, on behalf of the Verts/ALE Group
- Francis Wurtz, Roberto Musacchio, Marco Rizzo, Sylvia-Yvonne Kaufmann, Giusto Catania, Vittorio Agnoletto and Umberto Guidoni, on behalf of the GUE/NGL Group

replacing the motions by the following groups:

- PSE, Verts/ALE, GUE/NGL (B6-0462/2007)
- ALDE (B6-0464/2007)

on 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

European Parliament resolution on 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 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(4) 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. 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 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; whereas all individuals are obliged to respect the law of the European Union and the laws in force in the Member State in which they find themselves; whereas criminal responsibility is always personal; whereas, in addition to enjoying the rights and freedoms granted to them by the Treaty, Community citizens must comply with the requirements attached to the exercise of those rights, as set out, in particular, in European law and the law of the host Member State,
- F. whereas all national legislation must comply with the principles and provisions laid down in

the directive;

- G. 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,
 - H. whereas in accordance with the principle of non-discrimination on the basis of nationality, all Union citizens and the members of their families who reside freely and lawfully in a Member State should enjoy, in that State, equality of treatment with national citizens,
 - I. whereas Roma 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,
 - J. having regard to the brutal attack on, and the murder of, a woman in Rome, the accused party being a Romanian national,
 - K. whereas Romanian citizens have been subject to racist attacks following this incident,
 - I. whereas public personalities are expected to refrain from statements that might be understood as encouraging the stigmatisation of groups of people,
 - M. 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 the free movement of persons 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 objective of making the Union and its communities an area in which each inhabitant is guaranteed a high level of security, freedom 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 Article 30, the persons concerned must be notified in writing of expulsion decisions and in such a way that they are able to comprehend, and must be informed precisely and in full of the grounds of the decision, of the court or administrative authority for appeal and of the time allowed for them to leave the country, which must not be less than one month from notification;

- under Article 31, the persons concerned must have access to judicial and administrative redress procedures to appeal against the expulsion decision in the host Member State, and have a right to request an interim order to suspend the enforcement of the decision, which must be enacted, except in specific cases;
 - under Article 36, sanctions laid down by Member States must be effective and proportionate;
 - 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. Welcomes the Romanian Prime Minister's visit to Italy and the joint statement issued by Mr Romano Prodi and Mr Călin Țăriceanu; 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 and of the correctness of the transposing legislation, 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 Roma, 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 Roma 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 Roma;
12. Advocates the establishment of a network of organisations dealing with the social inclusion of Roma as well as the promotion of awareness-raising instruments regarding the rights and duties of the Roma community, including exchange of best practices; considers intensive and structured cooperation with the Council of Europe to be extremely important for this purpose;
13. 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;
14. Instructs its President to forward this resolution to the Council and Commission, and to the governments and parliaments of the EU Member States.