EUROPEAN PARLIAMENT

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

DRAFT REPORT

on the LIBE delegation to Italy on September 18th/19th

(nomads camps emergency)

RAPPORTEUR: Gérard DEPREZ

(Nota bene: Annexes I and II are published in seperate document)

CONTENTS

DELEGATION REPORT.....3-21

1. The delegation:

On 7 July 2008 the European Parliament held a debate on an Oral Question dealing notably with an Italian Government decision to make a "census" of people, mainly of Roma origin, living in nomads camps in the regions of Latium, Campania and Lombardy.
The resolution winding up the plenary debate was adopted on 10 July 2008 and the Committee on Civil Liberties, Justice and Home Affairs (LIBE) was authorised by the Conference of Presidents to send a delegation to Rome to meet national and local authorities in order to have a better view of the situation of nomads' camps, subject of recent emergency measures adopted by the Italian Government.

A short overview of the main events related to this issue before the LIBE Delegation visit are summurised at the end of the present report.

A selection of official documents dealing with the emergency of nomads camps in Italy is in Annex 1. Annex 2 outlines the contribution from NGOs.

Given the workload of the Translation Services at the end of the EP legislature it won't be possible to obtain the full translation of Annexes I and II.

The Members of the Delegation were:
Mr. Gérard DEPREZ Chairman of Committee on Civil Liberties, Justice and Home Affairs and Head of delegation, Ms. Lívia JÁRÓKA (EPP-ED), Mr. Claudio FAVA (PSE), Ms. Viktória MOHÁCSI (ALDE), Ms. Els DE GROEN-KOUWENHOVEN (Greens), Ms. Roberta ANGELILLI (UEN) and Mr. Giusto CATANIA (GUE).

Took also part to all or part of the works of the Delegation the following MEPS:
Mr Alfredo ANTONIOZZI (EPP-ED), Mr Mario BORHEZIO (UEN), Mr Armando VENETO (EPP-ED), Mr Fabio CIANI (ADLE), Mr Roberto FIORE (NI), Mrs Monica FRASSONI (Greens), Mrs Elisabetta GARDINI (EPP-DE), MR Marian-Jean MARINESCU (EPP-DE), Mrs Maria Grazie PAGANO (PSE), Mr Luca ROMAGNOLI (NI), Mr Senastiano SENZARELLO (EPP-DE), Mrs Adina-Ioana VALEAN (ADLE), Mrs Renate WEBER (ADLE), Mr Stefano ZAPPALÀ (EPP-DE).

2. The visit

The visit took place from 18 to 20 September 2008 and in that context the EP delegation had the chance to meet with members of both Italian Chambers, with the Italian Minister of Internal Affairs, the Mayor of Rome, the Italian Data Protection Supervisor and a number of NGOs.

Taking into account the EP Resolution of 10 July 2008, LIBE delegation focused mainly on the following issues (falling under the LIBE Committee competencies):

- the risk of direct or indirect discrimination (art. 13 TEC) which might arise from a census carried out for public security reasons of categories of people such as nomads of ROMA origin;

- the protection of human rights and notably of minors' rights;
- the expulsion of EU citizens for grounds not compliant with European law and notably with Directive 38/2004 (this issue is also the subject of a specific LIBE initiative report referring to the situation in all the EU Member States and a questionnaire was addressed to all national Parliaments);

18 September 2008

1. Meeting with the National Parliament representatives[1]

The first Delegation meeting was with the Chair and Vice Chair of the National Parliament committees on Constitutional Affairs and European Affairs the following Italian Parliament Representatives ([2])
- Rossana BOLDI, Chair of the Committee on European affairs, Senate (LEGA NORD)
- Mario PESCANTE, Chair of the Committee on European affairs, Chamber (PDL)
- Domenico BENEDETTI VALENTINI, Vice-Chair Committees on constitutional affairs, Senate (PDL)
- Roberto ZACCARIA, Vice-Chair Committee on constitutional affairs, Chamber (PD*)*
Attended the meeting also the following parlamentarians: Sandro GOZI (Deputato - PD) Maurizio TURCO (Deputato Radicals - PD), Rita BERNARDINI (Deputato Radicale - PD), SANTINI (Senatore PDL), MARINARO (Senatrice PD)

From the Italian side the Meeting was opened by a welcome speeches stressing the willingness to have a dialogue with the LIBE delegation notably with regard to:
- internal security and discrimination (BOLDI),
- the impact of the enlargement to countries such as Romania (PESCANTE),
- the strengthening of fundamental rights (VALENTINI),
- the necessity to verify as soon as possible the compliance of Italian legislation with EU principles (ZACCARIA), as it was recently done by the Italian Government with regard to the three draft "legislative decrees" implementing the Directives on refugee status, family reunification and freedom of movement of European citizens.

By replying to these messages President DEPREZ stressed that the LIBE delegation was aimed to strengthen the dialogue between European and national legislators while fully respecting their independence.
In this perspective, he explained that LIBE Committee was notably concerned by the recently adopted Italian legislation providing as an "aggravating circumstance" for any kind of crime, the simple fact that the perpetrator when committing the crime was illegally on the Italian territory. According to LIBE, and to the European Commission and to the European Parliament legal service such a provision appears to be discriminatory and contrary to the EC principles on the free movement of EU citizens.
In the same perspective President Deprez made reference to the draf "legislative decree" implementing the Directive 2004/38 (on EU citizens' freedom of movement and residence) which might be non compliant with EC legislation.

Then following participants took the floor:

[1] An audio registration of the meeting is accessible at the following address: http://www.radioradicale.it/scheda/262587/incontro-del-comitato-per-le-liberta-civili-la-giustizia-e-gli-affari-interni-del-parlamento-europeo-con-i

[2]

- Mr. Luca ROMAGNOLI who stressed the fact that in Italy the non-citizens could enjoy even more rights and facilities than the Italian citizens as, for instance, they don't' pay taxes and administrative redevances. To confirm this assertion He presented the annexed synopsis;
- Mr. Giusto CATANIA referred to the opinion delivered by the EP legal service on the aggravating circumstance and to its discriminatory nature and underlined that recently security aspects linked to the presence of foreigners in Italy were unjustifiably dramatised;
- Ms. Els DE GROEN-KOUWENHOVEN stressed her surprise on the contradictory messages arising on the Italian "security package". While according to the Italian Government the "security package" and notably the recent "Emergency Orders" were aimed essentially to the full integration of Roma, a different message came from the Fundamental Rights Agency's report, and from other sources according to which the measures taken were mainly of repressive nature claiming also of grave mistreatments of Roma Children by the "Carabinieri" ([1]) ;

While speaking Mrs De Groen-Kouwenhoven was interrupted by the protest of several Italian Members of the national and European Parliament and President Deprez invited her to focus on legislative issues. She then reiterated the European Parliament and the European Commission concern on the possible discrimination between European citizens in case of expulsion from the nomad camps.

President BOLDI stigmatized the declarations of Mrs DE GROEN as absolutely unfounded and President PESCANTE reacted by referring back these accusations as a bad example of the mentality of Mrs De Groen-Kouwenhoven country.

Vice President ZACCARIA by intervening immediately after called the present's attention to the fact that Mrs DE GROEN was not accusing anybody but only making reference to external sources.
He then invited the audience to focus on the specific nature in the Italian legal framework of the civil protection measures of the "Emergency Orders" of May 2008 requiring the fingerprinting of nomads and which were founded. These kind of exceptional measures even if of administrative nature can temporarily suspend the application of the ordinary legislation. According to Vice President ZACCARIA , at least in the first phase of their existence these "Orders" were inconsistently implemented and raised serious concerns outside and inside the Country.
Only in a second phase the legal situation was clarified with the adoption by the Minister of Interior of interpretative "Guidelines" previously approved by the National Data Protection Authority ("Garante").

Senator SANTINI intervened thereafter by recalling that in the previous European Parliament legislature he was the Rapporteur for the Directive on the freedom of movement of the European citizens. Regrettably at that time there was no idea of the possible movement of hundreds of thousands of European citizens as it happened after the EU enlargement to the new EU Member States. Therefore Directive 2004/38 should not only take in account the Roma situation but also the one of many other minorities.

Vice President VALENTINI recalled to the presents that an objective situation of emergency was already in place under the previous Government. He took note of the question raised on the

[1] A judicial inquiry is currently pending on this fact.

law on the "aggravating circumstances" but he informed the presents that the Tribunal of Latina recently submitted the case to the Italian Constitutional Court so that a definitive legal position would soon be available. He also affirmed that all different communities present on the Italian territory should be equal in front of the law.

Ms WEBER as well focused on the aggravating circumstance. She mentioned that generally, in criminal law, the aggravating circumstances are linked to a specific behaviour of the person concerned and not to his/her status. She evoked the situation of a possible interpretative conflict between the Italian Constitutional Court and the European Court of Justice.

Ms. MOHÁCSI asked several questions:
- on which basis it was decided to focus on a particular social target (the nomads),
- why Italy has not listed the Roma as a national minority,
- whether the whole "security package" or only a part of it was referred to the Constitutional Court,
- whether it is the opinion of the national parliamentarians that the "security package" deals correctly with the European citizens, the third country nationals and the stateless people.

Ms. JÁRÓKA asked how many Roma children the Italian Authorities have taken away from their parents and raised the question of the automatic expulsion of European citizens for crimes punishable with only two years sentence.

Senator MARINARO highlighted the importance of integrating minorities and of improving the inter-parliamentary dialogue, preparing future meetings by focusing more precisely on the issues to be discussed. She concluded by praising the support given by the European Commission.

Ms ANGELILLI considered fruitful this kind of meetings and praised the initiative taken by the Government to submit to the European Commission the draft legislation. Concerning the organisational aspects of this kind of meetings, she considered interesting to translate the documents (such as the Government Emergency Orders and the Red Cross Opinion).
Referring to the European Parliament legal service opinion, she stressed the fact that the aggravating circumstance could be questioned for EU citizens but can be considered lawful when applied to third country nationals.
Finally she referred to the critical situation of the Roma children who are practically abandoned.

Mr MARINESCU expressed a negative view on what affirmed by President PESCANTE on security problems linked to Romania's accession to the EU, given that the Romanian community is one of the most active and integrated communities in Italy. Problems exist but cannot be generalised. In this perspective, he asked two questions: what is the real aim of the "census"? If there is a real social emergency, how do authorities plan to solve it?

President BOLDI **stressed** the essential need to ensure the identity of everyone and notably of children in order to avoid exploitation by criminal networks.

Mr GOZI considered that Italy was facing a structural problem which can hardly be solved with emergency tools.

He informed the LIBE delegation that the Opposition voted against the adoption of the legislative decrees on the basis of the same arguments raised by the LIBE Delegation and by the European Commission notably on the aggravating circumstance.
Referring to the Italian transposition of Directive 2004/38, he considered that reversing the burden of proof for the European citizen (who, according to one of the decrees, should give evidence of the licit nature of their financial resources) is not compliant with the Directive. Moreover, the lack of registration after three months of presence in Italy could not justify the expulsion of an EU citizen.

Vice President VALENTINI, answering to Ms JAROCKA, reminded that each expulsion should be decided by a judge and not by an administrative authority. Replying to Ms MOHÁCSI, he recalled that the Italian measures were not targeting any specific minority and in any case the integration is a two ways process which require from everybody a sincer will to be integrated in the Italian society.

President BOLDI closed the meeting saying that it was a fruitful one and that other meetings should follow, maybe more focused and prepared in advance, so that to strengthen the relations between national and European parliamentarians.

2. Meeting with public mandated organisations and with NGOs

By welcoming all the Institutions and NGOs Chairman DEPREZ raised a series of questions such as:
1) the exact role played with regard to the census in the nomad camps;
2) how the data were collected through the census,
3) how they judge the situation of Roma in Italy and how the protection of human rights and civil liberties is ensured.

The UNCHR representative, Paolo ARTINI, stated that 20% of the 160.000 Roma in Italy come from the Balkans, and that they cannot be expelled as they can be considered as asylum seekers. He denounced a rising climate of racism and xenophobia in several sectors of the Italian society and more generally a growing indifference of the public opinion on the situation of third country nationals.
Regrettably the Italian authorities do not implement a real integration policy and moreover do not condemn strongly as thay should racist acts and in some occasions the episodes of mistreatment and violence by law enforcement agents. He recalled the UNCHR "Charter of Roma" and stated that the main responsibility of the current situation should be referred to the lack of will of politics and politicians;

The UNICEF representative, Mr SALVAN, explained that UNICEF launched a campaign against all forms of discrimination and for children's rights and had several meetings and discussions with Minister MARONI on the possible impact of the "Security Package" and of the "Emergency Orders". He stressed the need to build on a real dialogue with the Roma community as well of a formal recognition by Italy of Roma as a national under the COE Convention. He insisted on the need of an effective integration policy by promoting on schooling, work, children's rights, health, housing, etc.

The Italian Red Cross (IRC) representative, Mr CAPUANO stated that IRC works for the Government Extraordinary Commissioner as intermediary and that, in relation to the census, has an active role only in Rome. IRC is not involved in the census operations in Naples and Milan, the Red Cross works there only for health support.
In Rome the Red Cross collected "fogli notizie" (cards with information concerning health, name, surname, etc.) from those who were volunteers to participate in the census and distributed also specific cards allowing the free access to health and citizens' services in Rome.
As far as the census was concerned, the Red Cross acted in 36 settlements, mainly of unauthorised nature, by focusing mainly on vulnerable people. Data on the current situation will be collected directly by IRC until the middle of October.
According to the Red Cross, there was no need to collect fingerprints and all the personal data were held by a data protection officer of the IRC and are accessible only under strict conditions (for instance by judges for criminal enquiries).
A version with anonymyzed data will be sent to an institute for statistical purposes.
By so doing IRC interprets its mission as a way to grant an identity to 2.500 persons in vulnerable situation.

Mr CAPUANO answered then to several questions raised by Mrs De Groen, Mrs Valean, Weber, Romagnoli, Borghezio e Frassoni

The representative of OPERA NOMADI Mrs LUONGO gave some general figures on the nature of the Roma minority by recalling that a its presence in Italy dated back to XIV century, 60/70% of these people was under 18 years old and that the life expectation was by average 20 years less than for the other people. The scholarized people were a minority and that very often in case of children abandoned or abused they are taken out from their parents and put in institutes.

The representative of AMNESTY INTERNATIONAL denounced the escalation of racism and xenophobia in some sector of the public opinion in Italy (a phenomenon which worries also some High level Public Authorities) and the growing climate of fear and hate against third country nationals. He considered that these worrying trends were partly fuelled in the public opinion by some political parties and by a misleading public communication on the aims of the "Security Package" and of the Emergency Orders..

The CARITAS Representative stated that, according to Opera Nomadi, there are 200.000 Roma, while the Italian Minister for Interior talks about 130.000 Roma, of which approximately 50% are Italian citizens. Regrettably the most recent General Census of Italian population date back to of 1995 According to Caritas, there are discriminations. The issue has been left aside for years and now it is exploding; the representative of Caritas spoke also about the different kind of camps, some authorised some not, some managed by the county of Rome.

The representative of COMUNITA DI ST EGIDIO, Mr Paolo CIANI, recalled that Minister MARONI himself announced during a parliamentary hearing on June 25th that ".we have asked to the Prefects to collect fingerprints of everybody, minors included" and that this message was relayed by the press to the public. Moreover following such a declaration the Government Extraordinary Commissioner in Naples started the fingerprints of 350 persons (among which of 50 minors). This move was then blocked due to the critics raised by the European Authorities (the European Parliament and the COE Commissioner for human rights). Mr CIANI acknowledged therefore that the "Guidelines" adopted on the 23rd of July gave a correct

interpretation of the way how the "Emergency Orders" should have been applied. Regrettably these guidelines were not been made public, not even with a press conference, which has led to confusion and difficulties for the people interested to invoke them.

Ms GRAZIANO, representative of ARCI recalled that Roma is most large European minority so that the problem should also be addressed at European Union level. He also considered that if the real aim was to better integrate this community in the Italian society the Minister for Welfare should had been a better choice. He also stressed that the better way to integrate Roma people should be to associate the community representatives to the integration programs by combating notably children exploitation and by eliminating any form of "ghettoisation".

Mr GUARNERI, representative of the association of "Roma and Sinti insieme" abounded in the sense of the previous speakers by claiming that there was not a real involvement of the Roma community which felt excluded from any kind of dialogue. It stressed the fact that Roma people should not be discriminated even under an apparent "positive" discrimination. He also challenged the current European policy in this domain and the lack of transparency on final destination of the 250 millions of Euros allocated to the Member States by the European Community to address the Roma emergency at European level.

Friday 19 September 2008

Meeting with the "Garante" - the Italian Authority for data protection.

The President of the "Garante" Prof. Francesco PIZZETTI [1] (DPA), accompanied by Mr PAISSAN and Mr CHIARAVALLOTI of the same authority and by the Secretary General Mr BUTTARELLI welcomed the LIBE delegation.
Prof. PIZZETTI informed the delegation that as soon as the "Emergency Orders" were adopted, the Data Protection Authority asked the Prefects in their capacity of "Extraordinary Commissioneers" to provide information on the way how the census would have been carried out. Has it appeared from the replies received that the Prefects were implementing the "orders" in different ways, the DPA contacted the Cabinet of the Minister of Interior in order to ensure that the "orders" would had been implemented in a consistent way. To do so the Ministry of Interior decided to issue the "Guidelines" by taking in account the opinions of the Italian DPA and of the EU data protection authorities, notably excluding specific databases and profiling.
In the same perspective the Italian DPA and the Ministry of Interior in order to avoid any discrimination on the basis of nationality, agreed not to collect ethnic and religious data and to collect health data only on a voluntary basis.

In that context, the DPA noted that fingerprints should be taken only when it was impossible to identify persons in other ways making a distinction between minors of 6 years (the ordinary law foresees that law enforcement authorities can ask for fingerprinting a minor and, if it is the case, the Public Prosecutor takes action, while the guidelines state that without a previous authorisation of the Public Prosecutor no minor can be fingerprinted). A further distinction should be made between minors between 6 and 14 years, minors between 14 and 18 and adults.

[1] http://www.garanteprivacy.it/garante/navig/jsp/index.jsp, Piazza di Monte Citorio n. 121 00186 Roma,
E-mail: garante@garanteprivacy.it, Tel: (+39) 06.69677.1

Contacts between the Ministry and the DPA continued and when the guidelines were finally sent to the DPA, he requested them to be made them public.
The DPA also requested that data illegally collected would had been destroyed, and that no database would had been created and that adequate controls should had been carried out.
Answering to questions from MEPs, Professor Pizzetti explained that:
- the DPA will proceed to checks on the spot only upon request from data subjects, in order to assess whether the guidelines are correctly applied;
- no complain was received so far by the DPA from a person alleging that his/her data had been abused;[1]
- the collection of fingerprints and data related to ethnicity and religion occurred only in Naples, when the census started; the DPA intervened to block it. In Rome, the Prefect waited for the intervention of DPA before starting the census, and in Milan only 4 persons have been fingerprinted in the framework of criminal investigations.

Meeting with Mr Gianni ALEMANNO, Mayor of Rome

After a warm welcome to the LIBE Delegation Mayor ALEMANNO stressed that:
- the situation of nomads camps was no more tolerable and emergency measures were necessary
- these measures will be taken under the direction of the Extraordinary Commissioners and by ensuring the full protection of human rights, of non-discrimination and of the security of interested people
- many persons living in the nomads camps are Italian citizens, others are EU citizens and non-EU citizens in a situation which is still to be verified (regardless of their ethnicity or other issues);
- it is necessary to provide assistance, and to care about the integration of nomads in order to plan this kind of interventions,
- it is necessary first to know more about nomads (answering a question of MEP CATANIA on the fact that school programmes have already started but that any action has been taken concerning schooling o nomad children and on the need for urgent interventions in camps);
- the measures foreseen by the previous City administrations have been maintained, awaiting for the end of the census that is foreseen for mid October; after that, the Prefect, who currently holds all the powers in relation to nomads integration on the basis of the orders approved by the government, will launch a series of interventions in the fields of integration, housing, schooling, training, work, etc;

Mayor ALEMANNO also stated that when for the data collected it will be up to the Prefect to manage it. As far as the Directive on freedom of movement was concerned he declared that according to the Italian law the persons will be expelled if found illegally on the Italian soil.

[1] - *MEPs in general made questions on: the proportionality and necessity of the orders and of the declaration of the state of emergency, what happened in the period between the orders and the issuing of the guidelines; the difference between the data given by IRC and those of the authorities (Catania); how data is treated by CRI and if the DPA will make an enquiry to check if data are treated according to the guidelines (Fava); if the collection of data related to minors is according to IT ordinary law or in derogation of it (Renate Weber); more information on the data collected during the census (Mohacsi); fingerprinting of minors, which social reasons behind the census, which interventions of the DPA (Agnoletto); etc (answers are, when available, inserted above in the DPA declarations)*

Meeting with Mr. MARONI, Minister of Interior
and with Mr Ronchi, Minister for European Affairs

Minister MARONI welcomed the LIBE delegation and made reference to first meeting with President Deprez where the issue of "Emergency Orders" was raised.
He stated that the implementation of the "Emergency Orders" was under way and notably the "census" of the people and of the needs was advanced. A first report with all the relevant information was already sent on August 1st to Vice President of the Commission Mr Barrot.
Thereafter a positive answer was received from the Commission. Vice-President Barrot, in fact, took note of the content of the report, and in particular of the assurance given by the Minister Maroni, that no data were being collected based on ethnic origin and religion. Vice- President Barrot asked to be kept informed of the application on the ground of the guidelines given by Minister Maroni to the Prefects.

He provided the delegation with the current data concerning the census: the census took place on: 1.588 persons in Lombardia, of which 773 minors; 1608 persons in Campania, of which 786 minors; 2679 persons in Lazio, of which 1228 minors;

He also informed the delegation that1525 children attend schools, which demonstrates the need for a plan on schooling to be set up with the Ministry of Education, UNICEF, Red Cross.
According to the current schedule the "census" in the 3 regions will be completed by mid October and that only at that moment the second phase of the implementation of the "Emergency orders" would start. During the second phase the Extraordinary Commissioners will have to:
- find appropriate sites for the new "regular" camps replacing the irregulars ones,
- ensure the scholarisation of children
- promote the communities integration, social and health assistance, training and work;
For the time being the habitants of the nomads camps answered positively to the census, aimed at giving them an identity and a future.

Answering with Minister Ronchi to a series of questions from MEPs, he added that the aim of the intervention is to eliminate abusive camps and the degrading conditions in which nomads live there; the aim is to create villages where services and structures are provided, to ensure peaceful coexistence (such as in Voghera);
The Ministers expressed their hope that, also thanks to this visit, it will be possible to overcome, if not the political contrasts at least the misunderstandings. From his side the Italian government already showed is willingness to find solution compatible with the EU principles also for the three draft legislative decrees being part of the "Security Package".

More specifically on these texts Minister MARONI informed the LIBE delegation that
- the European Commission objected only to the decree concerning EU citizens and freedom of movement, while he had received a green light on the other two measures (on family reunification and asylum);
- a supplementary examination in the Italian government and parliament would be needed and he would send a revised text to the Commission and to European Parliament so to avoid contrasts with the EU law.

Concerning the measure, already in force, introducing aggravating circumstances in criminal law for EU citizens who stay irregularly in Italy (, the Minister said that for Italian authorities, it was clear that the *aggravante* was to be applied only to non-EU citizens. He was aware that the issue raised problems of conformity with EC law but affirmed that it would preferably be solved through a "authentic" interpretation to the law and not by a formal amendment of the measure.

As concerns the census of nomad encampments and the data collected in Naples before the guidelines were issued, the Minister said that they would be re-processed according to the guidelines.

He also informed the delegation that since the approval of the "Amato decree" , there have been 350 EU citizens expelled, on a case by case basis, based on a specific administrative act and that there are no EU citizens in temporary detention centres for immigrants.

Concerning the attacks in the camp of Ponticelli, Minister MARONI stated that the judicial enquiry is ongoing.

He also informed that 3 Millions Euros have been made available for the census, and that in the second phase funds will be provided by the Ministry of Interior and Education, by regions, provinces and municipalities, in collaboration with UNICEF.

He informed that on 9th October a meeting would take place between Italian authorities and Romanian authorities, while on 30th September Minister MARONI would meet the Romanian Minister of Interior DAVID in Bucharest.

When summing up the meeting, Chairman DEPREZ asked to Minister MARONI if he understood correctly that the legislative measures on free movement of EU citizens and on aggravating circumstances would be revised according to the indications from the EU institutions , and the Minister MARONI confirmed.

Visit of two Roma nomad camps [1]

The delegation first visited the camp Casilino 900, then the camp Salone.

Casilino 900, Via Casilina, S-E suburb of Rome

According to the press, 650 persons live in the camp Casilino 900, out of which 250 minors. The creation of the Camp date back to more than 35 years and it has never been authorised. Even if in the previous days more than 500 tons of material was taken out by the Hygiene Services of the County the camp appeared as a group of barracks in very bad conditions, like a "favela". The situation is made worse by the absence of water and electricity supplies as of the heating system (closed down after a visit of the law enforcement agents finding out that it was not legally established).
Several members of the delegations visited the camp and discussed with the inhabitants on their conditions.
The President Deprez found the situation extremely shocking notably due to the long lasting situation and the absence of the minimum standards of normal life.
According to informal declaration on the spot, the closure of Casilino 900 and the transfer of its habitant to a "regular" camp is a priority for the Italian Authorities.

Campo Salone, Via di Salone 323, Roma

The Salone camp is managed by the *Comune di Roma*, together with a social cooperative. According to the press is made of 135 containers or caravans, and 700 people live there. A school bus is provided, some Roma work outside of the camp. At first sight the living conditions are far better than the ones of the Casilino 900 Camp and proof the feasibility of more human dignity compliant temporary settlement.
Therefore even in this case it was difficult to understand how people living there since years could still be considered as "nomads".

Press conference – *Location*: *Ambasciatori Hotel*[2]

The press conference can be heard at: http://www.radioradicale.it/scheda/262633

[1] *Camps agreed with the political group on the 10.09.2008*
[2] *Ambasciatori Palace Hotel,* Via Vittorio Veneto, 62 - 00187 Roma, Tel. +39 06 47 493

CONCLUSIONS:

The LIBE delegation visit even if it was very short was a useful as, according to your rapporteur.

1. Made possible to ascertain the social tension and the climate which currently characterizes Italy as far as the situation of nomads is concerned. Uneasiness is spreading around and a sense of insecurity seems to grows among Italian and foreign citizens in daily life. There has been a rise in acts of xenophobia and racism, some of which involving unprecedented violence. The "social alarm" which is cited has the justification of the "Security Package" and of the "Emergency Orders" is still present and the over reactive role of the media and of the political discourse seem more heating than calming the existing tensions in the Italian society.

2. Made possible to examine and partially understand the legal complexity of the different measures taken by the Italian Authorities in the framework of the so called "security package". The package groups together a Law-Decree converted in law, three legislative decrees, one ordinary draft law and four Governmental orders adopted under the civil protection mechanism. Such complex legal construction was (and remains) difficult to understand. Its communication to general public and the media seems to have been simplified and incorrect, creating some grey areas which required further interventions such as, for instance, the adoption (after the request of information of the EU Commission and the adoption of EP Resolution) of Ministerial "guidelines" completing the Governmental "orders".

3) Even if marked by a clear misunderstanding (probably due to translation problems) of an intervention of a member of the LIBE Delegation the meeting with Members of the Italian Parliament was very interesting as it make possible to verify the problems that can raise when implementing the EU measures (such as the Directive on fredom of movement of the EU Citizens. At the end of the meeting the wish was declared to organise further meetings on more focused issue and with a deeper preparation

4) Made possible to collect opinion, remarks and criticisms from the representatives of Institutions (such as the Red Cross and UNHCR) and from ONGs on the fact that for a long period the condition of nomad people has been underestimated by the public authorities and that the situation is seriously compromised

5) Gave the opportunity to receive clarifications ans assurances from Government representatives notably on the following issues:
- the "aggravating circumstances" currently into force will not apply to EU citizens and the law will be amended (or legally interpreted) accordingly, in this regard, it is up to the European Commission to monitor the situation;
- the legislative decree amending the Italian legislation implementing Directive 2004/38 will be withdrawn and a new draft bill compliant with the European Commission's suggestions and without criminalising the non registration after three months of residence will be adopted, in this regard it has to noted that the government withrawn the daft legislative decree as promised;
- the "census" in the nomads camps aimed to improve social integration of the community concerned, notably of the minors;
- no database was and will be created and the data collected during the operations will be treated as all the other similar data and no minor of less than 14 years will be identified or taken

fingerprints without an authorisation of the judicial authority; in this regard, it will be up to the National Data Protection Authority to make the appropriate verifications.

The Minister announced that the situation will become clearer after the first phase of the "census" (mid October), after the adoption by the Prefects ("Commissari") of the resettlement plans for the regular and irregular camps and the definition of programmes aiming to assist and integrate the members of the community concerned (notably the children).

6) Made possible to ascertain the commitment of the local authorities to find a suitable solution for the nomads camps notably for the "favela-like" situation of an irregular 35 years old nomad camp (Casilino 900) at only 10 km far from the centre of the Italian capital.

Main events before the LIBE Visit

2007

31 October. An Italian woman named Giovanna Reggiani is raped and killed in Rome. Main suspect is a Romanian citizen (later condamned). Following to this brutal crime public opinion starts asking for security measures. A number of non Italian people were expulsed.

17 August. An Italian biker is aggressed while cycling in Tor di Valle, a suburb of Rome. The biker dies a couple of months later as a consequence of the aggression. Two Rumanian people are condemned for the aggression.

2008:

10 May. In the suburban district of Ponticelli (municipality of Naples) a 16-year old Roma Girl is charged with attempted kidnapping a nine month old baby. In the following days (12th /14th May) several Roma people are physically attacked and unknown persons set a number of Roma shacks on fire. On 15th May, all Roma residents had been forced to leave the Ponticelli camps and to move to camps (and schools) in other districts. According to rumours this violent reaction was pushed by the local mafia type criminality (Camorra)[1]. It has also been underlined that the area where the camps were located was in any case to be freed no later than the 4th August in order to implement the Urban Rehabilitation Programme (PRU) approved by the municipal council. On 29 May 2008 the Under-Secretary of State for the Interior addressing the Parliament unreservedly condemned the violence and intolerance against Roma and reaffirmed the government's will to act firmly to remove the causes at the root of these manifestations of intolerance. An "incident report" on these events was prepared by the Fundamental Rights Agency (and was published on August 4th).

21 May. Referring to art. 5 of the Civil Protection law, the President of the Italian Council of Minister declared the emergency status in the regions of Campania, Lombardy and Latium. This decision was motivated by the social alarm created by the existence of irregular nomads' camps and the risk for the internal public order. The emergency is declared by decree till to May 31st, 2009. This Decree is completed by three specific "Ordinanze" (2) adopted on May 30th ("Ordinanze" 3676, 3677 and 3678) which have foreseen the "census" of people (minors included) living in the regular and irregular nomads' camps in Naples, Rome, and Milan. Local Prefects in their capacity of "Extraordinary Government Commissioners" were charged of the implementation of the "Ordinanze"3.

---

[1] FRA incident Report on "Violent attacks against Roma in the "Ponticelli district of Naples, Italy", p.6; De Arcangelis: " More fires started in Naples to drive the Roma out: the comorra is behind the attacks " in La Repubblica of 15.5.2008 p.11.

[2] "Ordinanze" are exceptional, temporary administrative measures that the Public authority at national, regional and local level could adopt authorised by a law (such as the one on Civil Protection) to face exceptional crisis or threats. Ordinanze should list the legislation which can be temporarily derogated but should in any case abide by the principles of the legal order and the international agreements as well as the EC law. The conditions to be respected when making use of these derogatory powers have been settled by the Italian Constitutional Court with several Judgements (the more recent being the Judgment n° 277 July 16th 2008, the precedents being the n° 284 of 2006, 127 of 1995, 418 of 1992, 201 of 1987, 4 of 1977, 26 of 1961 and 8 of 1956).

[3] The "Ordinanze" foresee notably that: "2.The Commissioner, if necessary by way of derogation from current provisions concerning the environment, rural planning, health and safety, regional planning, local police, and roads and highways, and without prejudice to the obligation to maintain essential measures for the protection of health and the environment, shall take the following initiatives in the Lazio region:

23 May. The Italian Government adopts the other legal measures of the Italian "Security package".

1. The first one is the Law Decree ([1]) N° 92 of 23/05/2008 (converted on July 24th, 2008by a definitive Law n° 125) entitled "Urgent measures concerning public security" which include notably the following:
a) Aliens are deported and EU citizens are removed from the territory by court decision if sentenced to more than two years' imprisonment;
b) The irregular status of aliens who commit a criminal offence is added to the list of aggravating circumstances of the Criminal Code;
c) The letting of accommodation to irregular migrants is subject to a sentence ranging from 6 months to three years' imprisonment.
d) Respecting the general principles of the legal order, mayors are entrusted with the power to adopt, inter alia, motivated urgent measures in order to prevent and redress serious threats to public and urban security". The notion of "serious threats to public and urban security" is defined by decree of the Minister of Interiors on 5/05/2008.

2. The second set is of **two draft Laws** (submitted to the Parliament on 03/06/2008).
The first one (currently Act of Senate n. 733 still under discussion so that the text so far is provisional) foresee some alien-related provisions such as the following:
a) Illegal entry is subject to a sentence of imprisonment ranging from six months to four years. In these cases, the court, following proceedings that should be the swiftest possible, should also order the aliens' expulsion.
b) Aliens may be detained in the "Identification and Expulsion Centres" for 60 days in order to be identified. If this is not possible within 60 days, the extension of the detention for another 60 days may be authorized by a judge upon a request by the Head of Police. The maximum length of detention is increased to 18 months (instead of 60 days until now);
c) The Head of Police, even before the deadline of the sixty days of detention may carry out an alien's expulsion, informing immediately also the competent court;
d) The acquisition of Italian citizenship by marriage would be possible after two years' residence in Italy;

(a) drawing up action plans to end the emergency;
(b) monitoring authorised camps in which nomad communities are living and identifying illegal settlements;
(c) identifying and carrying out a census of persons, including minors, and families living in the places referred to in subparagraph (b), through the recording of particulars;
(d) adopting the necessary measures, with the assistance of the police, for those persons referred to in subparagraph (c) who are or may be the subject of administrative or judicial deportation or expulsion measures;
(e) where existing plans are unable to satisfy housing requirements, identifying other sites suitable for authorised camps;
(f) adopting measures aimed at the clearance and restoration of areas occupied by illegal settlements;
(g) implementing preliminary measures aimed at restoring minimum levels of social and health services;
(h) adopting measures aimed at encouraging the social inclusion and integration of persons transferred to authorised camps, with particular reference to support measures and integrated projects for minors, as well as initiatives aimed at tackling the phenomena of illegal trade, begging and prostitution;
(i) monitoring and encouraging schemes introduced at authorised camps to promote schooling and vocational training and involvement in housing construction or regeneration projects;
(l) adopting any useful and necessary measures to end the emergency".
[1] According to art. 96 of the Italian Constitution a Law Decree is a "temporary" but immediately enforceable law adopted by the Government when faced to exceptional circumstances. The Parliament should convert the LawDecret in a definitive Law in 60 days from its adoption (if needed with modifications). In this case the Law converting the Decree was the N° 125 promulgated on July 24th.

The second one deals with the ratification of Prum Treaty which does not directly relate with the third country nationals

The third set of measures of the "Security Package" was submitted to the parliamentary committees in the form of three Draft Legislative Decrees ([1]) prepared by the Government to modify the existing legislation that has transposed three EC Directives relating to :
a) Directive 2004/38 on EU citizens' freedom of movement and residence. According to the legislative Decree the EU citizens:
- wishing to reside in Italy for more than three months will have to prove that they have sufficient means, from legal sources, to sustain themselves and their families. They should also have a medical insurance or voluntarily registered in the National Medical Service.
- may be removed from the territory on grounds of "public security" which include, inter alia, the fact that they have not registered with the competent authorities within 10 days after the three month period or if they may be considered as a concrete, real and serious threat to fundamental human rights or to "public security" or public morals. Their removal will be urgent if their stay seems to be incompatible with a "civil and safe cohabitation" which can demonstrated by the lack of an habitation compliant with hurbanism and healt requirement.
b) Directive 2003/86/EC on family reunification (of third country nationals (non-EU citizens)). According to this legislative decree DNA tests may be requested to take place at the applicants' expenses in cases where the conditions for reunification may not be verified with certainty through documents submitted by the authorities of the applicants' country of origin, or if there are doubts about the authenticity of the documents procured.
c) Directive 2005/85/EC on refugee status recognition procedures. As regards in particular asylum seekers, if they are issued with an expulsion or rejection order due to irregular entry or stay in Italy prior to filing their asylum application, they will no longer be hosted in open reception centres but they will be held in the "Identification and Expulsion Centres".

The Italian Government accompanied these measures with
- a strengthened dialogue with European Countries of origins of ROMA (notably Prime minister and Interior Minister of Romania)
- a new commitment to revive the bilateral security agreements with non European Countries as the one with Libya on "the cooperation in the fight against terrorism, organized crime, drug trafficking and illegal immigration", (signed in December 2000 and in force as from December 2002).

19.-20. June. Visit to Italy of the COE Human Rights Commissioner Mr Hammamberg. In the report published ([2]) on 28 July 2008, COE Commissioner: ".express concern at the recent adoption of the "security package" that resulted in the targeting in particular of Roma EU immigrants, and at the declaration of states of emergency in certain regions and the consequent enlargement of powers of Prefects therein. The frequent adoption of emergency legislative and other measures by a Council of Europe member state is indicative of serious weaknesses of the

[1] A Legislative Decree is according to the Italian Constitution a Law adopted by the Government by delegation of the Parliament who define the principles and limits to be followed. Before the final adoption the Government should consult the competent parliamentary committees
[2] See:
https://wcd.coe.int/ViewDoc.jsp?id=1309811&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679

state mechanism that appears to be unable to deal effectively with social problems that are not novel by means of ordinary legislative or other measures…"
"..notes that, despite a widespread opposite state trend, international law has clearly established the principle that aliens whose only offence is the violation of immigration law should not be treated by transit or host states as criminals or potential criminals. As Article 17, paragraph 3, of the 1990 International Convention on the Protection of the Rights of All Migrants Workers and Members of their Families prescribes, migrants detained for violation of provisions relating to migration should be held, in so far as practicable, separately from convicted persons or persons detained pending trial. Even though Italy is not a State Party to this Convention, the Commissioner considers this text as a reference for the protection of migrants' rights and the need to avoid their criminalisation. He notes with regret the Government's disagreement on this point."
"..even though there seems to be no readmission agreement between the two countries, Italy has returned forcibly to Libya large numbers of irregular migrants. Therefore according to the Italian authorities these returns have resulted in the planning and monitoring by Italy of the ensuing removal of the deportees from Libya to their countries of origin[34]."

25 June. Minister Maroni presents the "Security package" at the Italian Senate Constitutional Affairs Committee and explains the Government strategy:
- to ease the expulsions of illegal migrants by considering the illegal entry a crime
- to ease the expulsion of citizens of other EU Member States if they don't register themselves after three months, don't give evidence of the availability of licit financial resources and live in houses in fully conformity with legal requirements.
The day after the press reported about the beginning of census operations in Naples.

2.-3. July. The Italian Permanent Representative notifies to the Commission (Vice President Barrot) the text of the Italian "Emergency Orders".
Vice President Barrot asks for further information to Minister Maroni and notably on the scope of the envisaged measures, on the legal framework, the purposes, and procedures of the "census". The Commission asks for further information also on other aspects of the "security package" dealing with EC/EU competences.

7 July. In the margins of the Informal JHA Council, Minister Maroni meets with VP Barrot and President Deprez.
Minister Maroni provides for preliminary information on the situation of nomads camps in Italy (700-1000) and on the fact that the "census" only aims to deliver social assistance to the persons concerned.
President Deprez expresses his concern to the Minister for the ambiguous wording of the "Ordinanze" and informs him that the European Parliament was on the way of discussing, the same day, a resolution expressing strong concern on the risk of indirect discrimination for ROMA (the most part of who are EU citizens). Therefore he promises to inform immediately the political groups on the explanations received as well as on the possibility to accept the invitation of Minister Maroni to visit Italy to ascertain the state of the situation.

9 July. Jonathan Faull (General Director of the DG JLS) writes to the IT Permanent representation asking IT to deliver a report on the implementation of the Ordinanze by the end of July 2008. Notably, he asks:

- if the first census operations in Naples (with references to religion on the ethnicity) could be considered an incident not be repeated;
- if data protection principles are respected notably during the fingerprinting operations and if minors of less of 14 years are identified following a judicial order and only for identification purpose;
- What the situation in the rest of the Italian territory (not covered by the emergency declaration) is;
- to forward to the European Commission the text of other pending draft bills linked to the "Security Package" (three legislative decrees dealing respectively with the circulation and residence of EU nationals, the family reunification for third country nationals and the treatment of refugees).

10 July. The European Parliament adopts a resolution ([i]) expressing serious concern on the use of extraordinary measures such as the "Ordinanze" (suspending ordinary legislation), the possibility of indirect discrimination of the Roma community (as it appears from the first Census forms distributed in Naples), the risk of violation of the EC Directives on privacy (95/46), against any form of discrimination (2000/43) as well the one on the freedom of movement of EU citizens (2004/38).

17 July. Adoption by the Minister of Interior, after the opinion of the Italian Data Protection authority of the "Guidelines" that the Naples, Rome and Milan Commissioners should follow to protect personal data notably of minors (as required by the EC) and avoid the creation of any specific database when doing the "census".

1 August. Minister Maroni send to VP Barrot a report on the implementation of the first phase of the "Nomads Camps" emergency as well as the text of three "Legislative Decrees" as modified after the examination by the parliamentary committees (see above) but not yet finalized. Such a transmission should be considered a sign of particular good-will of the National Government towards the European Commission.

3 and 16 September. Preparatory meetings between VP Barrot and the LIBE coordinators (and official delegation members)

[i] Texts adopted by Parliament
http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0361+0+DOC+XML+V0//EN