EUROPEAN PARLIAMENT

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

PROVISIONAL
2005/2008(INI)

24.2.2005

DRAFT REPORT

on the protection of minorities and anti-discrimination policies in an enlarged Europe
(2005/2008(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Claude Moraes

CONTENTS

Page

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION 3

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the protection of minorities and anti-discrimination policies in an enlarged Europe (2005/2008(INI))

The European Parliament,

- having regard notably to the Commission Green Paper on equality and non-discrimination in an enlarged European Union (COM(2004)0379) and to the annual and thematic reports adopted by the European Monitoring Centre on Racism and Xenophobia,

- having regard to Articles 6 and 7 of the EU Treaty, which set out the objectives of developing the Union as an area of freedom, security and justice and giving effect to the principles of liberty, democracy, the protection of fundamental rights and the rule of law,

- having regard, in particular, to Article 13 of the EC Treaty, which sets out the task of the Community to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation, to Article 63 of the EC Treaty, which establishes the framework of asylum and immigration policy within which the integration of third-country nationals is promoted and to the other legal bases for Union action in this domain,

- having regard to the Treaty establishing a Constitution for Europe, which further develops the current acquis, especially through the inclusion of the Charter for Fundamental Rights, thereby bringing the concept of fundamental rights to even greater prominence[1],

- having regard to Rule 45 of its Rules of Procedure,

- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Employment and Social Affairs, the Committee on Culture, Youth, Education, the Media and Sport and the Committee on Women's Rights and Equal Opportunities (A6-0000/2005),

The political dimension and the urgent need for anti-discrimination policies and minority protection

1. Considers that it is of primary importance to the enlarged Union of 25 Member States and 450 million inhabitants:

   - to reinforce the links between the Union's peoples and the project that it represents, while at the same time strengthening the sense of belonging to the European Union and the recognition of each person's own history, culture, identity and distinctiveness,

[1] Once the Treaty establishing a Constitution enters into force, the term 'minorities' will for the first time appear in primary law, in two provisions: Article 21 of the Charter (Art. II-81 of the Constitution), which forbids all discrimination based on "membership of a national minority"; Article I-2 of the Constitution, which refers to "human rights, including the rights of persons belonging to minorities" as one of the values on which "the Union is founded". The Constitution also states that the Union must "combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child" (Article I-3(3), subparagraph 2).

- to make action and the exercise of power more coherent at local, regional, national and EU level, in line with the principle of subsidiarity, and

- to implement in good time existing legislation in the area;

2. Recalls that there is still no Community definition of who can be considered a member of a minority and that this concept is far from being harmonised, even at United Nations or Council of Europe level[1];

3. Takes note of the fact that, in general, minority issues in the Union have not been high enough on the agenda of the Union and now need to be given greater attention, in order to strengthen the effectiveness of the measures taken by the public authorities in this domain; considers that, in this context, the future Agency for Fundamental Rights must play a key role;

4. Advocates an integrated approach to equality and non-discrimination and the mainstreaming of these concepts in relevant EU policies; considers that the objective is to ensure that Member States deal effectively and appropriately with the increasing diversity of their societies in terms of ethnic origin, religion, age, disability or sexual orientation;

How to find a balance between integration and promoting diversity

5. Considers that, as is clear from the situations outlined above:

   - no single solution exists for improving the situation for all minorities in all the Member States,

   - some common and minimum objectives for public authorities in the EU could be developed, taking into account the experience of many Member States and on the basis of the implementation of the Conventions of the Council of Europe, such as the FCNM and the European Charter for Regional or Minority Languages;

6. Notes that the Commission has already taken these standards into account in the context of the Copenhagen criteria[2] during the accession negotiations with the countries of Central and Eastern Europe, Cyprus and Malta and with the current candidate countries;

7. Points to the fact that, by implementing a policy of protecting minorities and of anti-discrimination, the Union does not seek to question the legal and constitutional structure of its Member States or the principle that all are equal before the law;

The shortcomings in the Member States' responses to the measures based on Article 13 TEC

8. Considers, therefore, that, as a priority, the Union should, in agreement with its Member

[1] Under the Framework Convention for the protection of national minorities (FCNM), it is for the States Parties to define what is meant by minorities (a prerogative recognised in the FCNM as a result of which Roma communities are recognised as a national minority in certain countries but not in others).
[2] One of the three Copenhagen criteria concerns: being a stable democracy, the rule of law, human rights and respect for and protection of minorities.

States and using existing legal bases, favour a coherent policy of integration through the adoption of legislative measures and the provision of financial support, with the aim of eliminating barriers and enhancing the protection of cultural diversity;

9. Regrets the lack of progress made by the Member States particularly in transposing Directive 2000/43/EC[1] (the Race Directive) and urges the Commission to retain amongst the objectives of the 2007 European Year of Equal Opportunities for All the need to find an adequate solution to avoid the problems relating to:

   - late or incomplete transposition by Member States[2],

   - the failure to set up equality bodies[3],

   - training and capacity-building, which are of the utmost importance in order for anti-discrimination legislation to be effective (there is a clear need to provide training to judges, lawyers, NGO advocates, etc. on the key provisions and concepts, such as the definitions of direct and indirect discrimination, burden of proof, etc.),

   - dissemination of information, as the Directive requires Member States to inform people about the provisions of anti-discrimination law (the involvement of NGOs and the social partners is essential for greater awareness raising and in order to ensure that information about the opportunities offered by the Directive is disseminated to potential victims of discrimination);

Minorities discriminated against for multiple reasons, including race, ethnic origin, sexual orientation, religion, disability, and age[4]

10. Calls on the institutions of the European Union, the Member States and all European democratic political parties to:

   - condemn all acts of intolerance and incitement to racial hatred, and all acts of harassment or racist violence,

   - condemn all acts and expressions of anti-semitism and islamophobia,

   - condemn all acts of violence motivated by religious or racial hatred or intolerance, including attacks on religious places, sites and shrines,

[1] OJ L 180, 19.7.2000, p. 22.
[2] The Commission has already launched "non-communication" infringement procedures against Austria, Finland, Germany, Greece, Luxembourg and the Czech Republic. The first two ECJ judgments (Finland and Luxembourg) are due on 24 February. Infringement procedures for "non-conformity" will be launched against a number of old and new Member States later in 2005, once Commission lawyers have completed their assessment of legislation and other information submitted by national authorities.
[3] The Commission has serious doubts about the independence and/or the capacity of the equality bodies required by Directive 2000/43/EC: such bodies do not yet exist or are not yet fully operational in a number of Member States (Spain, Luxembourg, Germany, France, Hungary and Malta).
[4] In order to ensure that everyone living in the EU benefits from legal protection against discrimination, the Union has at its disposal two directives: Directive 2000/43/EC and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).

- condemn the fact that discrimination on religious and ethnic grounds continues at various levels, notwithstanding the important measures adopted by the European Union in application of Article 13 of the EC Treaty;

11. Urges the Council and the Commission, and the various levels of local, regional and national government in the Member States, to coordinate their measures to combat anti-semitism and attacks on minority groups, including Roma and third-country nationals, in order to uphold the principles of tolerance and non-discrimination and to promote social, economic and political integration;

12. Is convinced that these efforts should also include the promotion of dialogue and cooperation between the different segments of society at the local and national levels, including dialogue and cooperation between different cultural, ethnic and religious communities;

13. Reaffirms its conviction that remembrance and education are vital components of the effort to make intolerance, discrimination and racism a thing of the past, and urges the Council, Commission and Member States to strengthen the fight against anti-semitism and racism through promoting awareness and by:

- developing the capacity to prevent and address discrimination effectively, in particular by strengthening organisations' means of action and through support for the exchange of information and good practice and networking at European level, while taking into account the specific characteristics of the different forms of discrimination;

- promoting and disseminating the values and practices underlying the fight against discrimination, including through the use of awareness-raising campaigns, since it considers that preventing discrimination is as important as combating it;

The Roma community

14. Considers that this community needs special protection since, with the enlargement of the Union, it is one of the largest minorities in the EU and, as a community, it has been historically marginalised and prevented from developing in certain key areas: Roma culture, history and languages are often neglected or denigrated;

15. Welcomes the publication of the abovementioned Green paper, which addresses the problems faced by the Roma in an enlarged EU, the organisation of a workshop for national authorities on how to use the Structural Funds to assist Roma and other disadvantaged groups and the launch of a specific Commission internship scheme for members of the Roma community; considers, however, that the most evident disadvantages could also be addressed by:

- the implementation of joint integration projects between the Member States where members of this community live, in order to solve, within ten years, the most evident disadvantages faced by the Roma,

- promoting common projects financed out of the European Regional and Development Fund,

- promoting knowledge of the language of the countries where members of this community live and the teaching of their common language, as a way of strengthening their own culture and social cohesion,

- improving access to employment, accommodation, social services and pension schemes;

New immigrants

16. Considers that recent immigrants may experience specific kinds of discrimination, which will differ in some respects from the discrimination faced by settled ethnic-minority EU citizens of the second, third and fourth generations of immigrants;

Settled ethnic-minority communities of immigrant origin

17. Considers it important to distinguish between newly-arrived immigrants and people belonging to settled ethnic minorities, who may experience different forms of discrimination; notes with concern that settled ethnic minorities continue to face discrimination, for example in the work place, despite having similar or better qualifications than those not belonging to a minority; recognises that settled ethnic minorities account for a majority of EU citizens of ethnic origin;

Different ethnic or national minorities living on the territory of a Member State

18. Considers that the most urgent need of these minorities is to integrate into society as soon as possible, including through further simplification of the naturalisation procedure; encourages the governments of those Member States that have yet to ratify the FCNM1 to do so without further delay;

The legislative measures to be taken before the entry into force of the Constitutional Treaty

19. Congratulates the Commission for its work on Article 13 and urges it to continue to implement a coherent general strategy on the problems facing minorities in the Union, by continuing to enforce existing anti-discrimination legislation and considering possible further action based on the following Treaty Articles:

    (a) Article 13 on anti-discrimination policy; using this legal basis, which is the most far reaching as regards the protection of minorities, the Union could, on the basis of its experience, develop the following initiatives that have already been implemented and strengthen various articles of the FCNM, such as Article 3(1), Article 4(2) and (3) and Articles 6 and 8 thereof,

    (b) Article 18 TEC, which deals with freedom of movement and the right of residence, could serve as a strong basis for facilitating the movement of people belonging to minorities, thereby avoiding their isolation or the creation of new "ghettos",

[1] This Convention has not been ratified by Belgium, France, Greece, Latvia and Luxembourg.

(c) Articles 49, 95 and 151 TEC could provide a strong foundation in the Union for safeguarding the principles enshrined in Article 9 of the FCNM, such as freedom of expression or the right not to be discriminated against in access to the media,

(d) Articles 65 TEC and 31 TEU, which deal with judicial cooperation and assistance and cover similar ground to Article 10(3) of the FCNM, are of the utmost importance for a member of a minority seeking assistance whether in civil or criminal proceedings,

(e) Article 62 TEC, which deals with migration policy, which remains incomplete six years after the entry into force of the Treaty of Amsterdam (consideration must be given to the need for long-term legal migrants to be integrated into society, as stated in its resolution on the links between legal and illegal immigration (the Gaubert report)),

(f) Article 137(1)(g), (h), (i) and (j), which deal with the employment of third-country nationals, the integration of persons excluded from the job market and combating social exclusion, would be a strong basis for new initiatives focusing on minorities,

(g) Article 149 TEC on improving access to education could contribute, through education, to furthering the integration of minorities into society, as provided for in Article 12 and 14 of the FCNM,

(h) Articles 151 and 163 TEC, which deal with culture and research, could be of importance for developing common programmes for minorities in these areas (as provided for in Article 12 of the FCNM);

Future economic and financial measures

20. Considers that the Union should complement the action of the Member States at local, regional and national level with adequate financing:

- by making it easier for minorities to benefit from the Structural Funds, the Cohesion Fund, the European Social Fund and the Equal Community Initiative in particular,

- by establishing new pilot projects and solidarity networks on the basis of the abovementioned Treaty Articles and appropriate initiatives with the third countries whence came the minorities;

urges, in this context, the Member States to delegate some of their decision-making powers over the Structural Funds to regional and local authorities, in line with the Union's decentralisation policy;

Implementing measures and feedback mechanism

21. Welcomes the recent initiatives taken by the Commission in this field, namely:

- the establishment by the President of the Commission of a Group of Commissioners for Fundamental Rights, which must play a crucial role in contributing to the

protection of minorities and non-discrimination,

- the establishment of an inter-service group bringing together representatives of 14 different Commission services;

22. Is convinced that, in line with the subsidiarity principle, there should be close cooperation between representatives of minorities and local, regional, national and European institutions; considers that such cooperation should be based on:

- clear benchmarking, so as to make it possible to check whether the action taken complies with the standards previously defined,

- the open method of coordination, bringing together different Member States' authorities and representatives from the European institutions;

23. Considers it of the utmost importance for the Fundamental Rights Agency to become a useful tool of cooperation with the European Institutions, in close coordination with national institutions dealing with fundamental rights; believes that the Agency should also monitor the impact of the policies outlined in this resolution and should report regularly to the European Parliament and national parliaments;

24. Invites the Commission to begin to review the application of Directive 2000/43/EC, with the aim of strengthening European Union anti-discrimination measures, and to organise a major conference involving all the actors concerned, in particular political representatives and representatives of public institutions at national, regional and local level and of NGOs and associations active in this field;

25. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States and candidate countries.