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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 ... on behalf of PSE Group

by ... on behalf of ALDE Group

by ... on behalf of GREENS-EFA Group

by ... on behalf of GUE/NGL 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*

The European Parliament,

- Having regard to Articles 2, 6, 13 and 29 of the Treaty on the European Union;
- Having regard to Articles 61, 62 and 64 of the Treaty on the European Community;
- Having regard to Articles 6, 19, 45 of the European Charter on Fundamental Rights;
- Having regard to Directive 38/2004 EC on freedom of movement of EU citizens and of their families;
- Having regard to the Convention of the Council of Europe on the rights of national minorities;
- Having regard of the resolutions of the European Parliament on the free circulation of persons, the fight against discriminations and notably its resolution on the situation of Roma in the European Union (RC-B6-0272/2005);
- Having regard of Rule 103 of the Rules of Procedure;

A. Whereas free circulation of persons is a fundamental and inalienable freedom granted to the citizens of the EU by the Treaties as well as by the Charter of Fundamental Rights, and whereas it constitutes one of the pillars of the European citizenship;

B. Whereas for this reason Directive 38/2004 EC concerning the free movement of citizens of the EU and of their families, while foreseeing the possibility for a Member State to expel a citizen of the EU, frames this possibility within very precise limits, with the aim to guarantee fundamental freedoms;

C. Whereas **security is a fundamental right / freedom and security are fundamental rights** and that the EU has as objective to ensure to its citizens a high level of security in an area of freedom, security and justice;

D. Whereas organised criminality and trafficking of human beings are challenges with a transnational dimension and whereas free movement in the European area is also founded on the strengthening of judicial and police cooperation at the European level as regards the activities of enquiry and persecution, with the support of Eurojust and Europol;

E. Whereas the respect of legality is an essential condition for free movement and that all integration shall be based on the respect of the laws of the host Member State;

F. Whereas the fight against all forms of racism and xenophobia as well as against all forms of discrimination are part of the fundamental principles on which the EU is founded;

G. Whereas the Roma minority is still subjected to discrimination and abuse on the EU territory and whereas the objectives of integration, social inclusion and the protection of this minority are still unfortunately objectives to be met;

Either

H. Whereas the brutal murder of a woman took place in Rome and for which a Romanian citizen is accused; whereas racist aggression against Romanian citizens followed this event and the decree adopted by the Italian government;

Or

H. Whereas the brutal aggression and the murder of a woman took place in Rome and for which a Romanian citizen is accused, that has followed a considerable rise in the number of crimes, including many serious crimes, as well as the new challenges to urban security, that needs answers at the European level;

Together with

H bis. Whereas racist attacks have followed this event, with Romanian citizens as victims;

I. Whereas the initiatives taken by the two Italian and Romanian Prime Ministers, as well as the joint letter that they have addressed to the President of the European Commission;

1. Reaffirms the value of freedom of movement of persons as a fundamental principle of the European Union, a constitutive part of the European citizenship and a fundamental element of the internal market;

2. Reaffirms the objective to make of the EU and of the collectivities a space where each person can live in being granted with a high level of security, ***freedom and justice;***

Either

3. Recalls that Directive 38/2004 foresees the possibility for Member States to expel citizens of the Union on grounds of public order, public security or public health, or when they constitute an unreasonable burden on the social assistance system, while framing this possibility within very precise limits, including access to legal appeal procedures and to all procedural guarantees;

and

3 bis. Underlines that according to the directive any measure has to be proportionate and based exclusively on the personal conduct of the individual and in no case on reasons of general prevention;

Or

3. Recalls that Directive 38/2004 frames the possibility to expel a Union citizen within very precise limits and that it foresees notably:

- according to Article 27, that Member States cannot limit freedom of movement and residence except for reasons of public order, public security or public health and that these reasons cannot be invoked to serve economic needs; any measure has to be proportionate and based exclusively on the personal conduct of the individual and in no case on reasons of general prevention;

- according to Article 28, an evaluation is necessary before any decision of expulsion is taken, so as to take into account the personal situation of the individual concerned, and notably the length of his/her residence, age, state of health, family and economic situation, integration into the host Member State;

- according to recital 16 and Article 14, foresees the possibility to expel a EU citizen if he/she poses an unreasonable burden on the social assistance system, but affirms at the same time that an extended examination of the individual case shall be made and that in no case this sole condition can justify the automatic expulsion;

4. Reaffirms that all national legislation shall strictly respect these limits and guarantees, including access to legal appeal procedures against the expulsion and the exercise of the right of defence and that any exception defined by the directive shall be interpreted in a restrictive way; recalls that collective expulsions are prohibited by the Fundamental Rights Charter and by the European Convention on Human Rights;

5. Reaffirms that free movement is based also on the respect of legality in the host Member State;

6. Welcomes the visit of the Romanian Prime Minister in Italy and of the joint declaration of Romano Prodi and Calin Tariceanu;

7. Expresses its support to the appeal of the two Prime Ministers for an engagement of the European Union for the social integration of the less favoured populations and for the cooperation among Member States in terms of management of their population movements, as well as through programs of development and social aid foreseen by the structural funds;

8. Invites the Commission to launch without delays an exhaustive evaluation of the implementation by the Member States of Directive 38/2004 as well as proposals, in conformity with Article 39;

9. Without prejudice to the Commission competencies, charges its competent parliamentary committee to conduct from now until June 2008 in collaboration with the national parliaments, and evaluation of the problems in the transposition of the Directive so as to highlight the best practices as well as the measures that could lead to discriminations against European citizens;

10. Invites the Member States to overcome any reticence and to proceed as quickly as possible to the reinforcement of the instruments of police and judicial cooperation in criminal matters at the EU level, so as to guarantee an effective fight against organized crime and human trafficking, phenomena with a transnational dimension, while ensuring the adoption of a uniform framework of procedural guarantees;

11. Rejects the principle of collective responsibility and reaffirms with vigour the necessity of fighting against all forms of racism and xenophobia and against all forms of discrimination and stigmatisation on the basis of nationality and of ethnic origin, as indicated in the Charter of fundamental rights of the EU;

12. Recalls the Commission of the urgency to launch a proposal for a horizontal directive against all discriminations as listed in Article 13 TEC, foreseen by the legislative program for 2008;

13. Considers that the protection of the rights of the Roma minority is a challenge for the EU in its entirety and invites the Commission to act without delay to develop a global strategy for the social inclusion of the Roma population, using notably the Integration Fund, as well as the structural funds to support national, regional and local authorities in their efforts to ensure the social inclusion of Roma populations;

14. Considers that the recent declarations of the Vice-President of the European Commission Franco Frattini, given to the Italian press on the occasion of the serious episodes that took place in Rome, are contrary to the spirit and the letter of Directive 38/2004/EC, a Directive that he is requested to fully respect;

15. Instructs its President to forward this resolution to the Council, the Commission, the governments and Parliaments of EU Member States.