



Vladimir Špidla
European Commissioner
Responsible for Employment, Social Affairs and Equal Opportunities

CC Commissioner Jacques Barrot

Brussels, 4 May 2009

Dear Commissioner Špidla,

We are writing to the European Commission in its role as guardian of the treaties as provided for by Article 226 EC Treaty. The European Roma Rights Centre (ERRC), osservAzione and the Open Society Institute (OSI) hereby submit a joint memorandum to support the Commission in conducting an assessment of the compliance with European Community law of the Declaration of the state of emergency with regard to settlements of the nomad community in the territories of Campania, Lazio and Lombardia regions+ (the Nomad Emergency Decree) and its implementation. Based on our factual and legal analysis of the matter, we urge your services to start an infringement procedure addressing the non-compliance of the Italian authorities with European Community law, specifically Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, 29 June 2000 (the EC Racial Equality Directive).

The aim of the memorandum attached to this letter is to provide the Commission with the primary data collected by the ERRC in collaboration with osservAzione on the implementation of the Nomad Emergency Decree and its implementing orders and guidelines (in particular the census conducted in camps for nomads+in Rome, Milan, Naples and the Region of Veneto) and a legal analysis by the OSI Justice Initiative concerning non-compliance of the Italian authorities with European Community law.

On the basis of evidence collected in Italy, the memorandum argues that the Nomad Emergency Decree and its implementation amounts to discrimination against Roma and Sinti which, as a minority group collectively perceived as Gypsies, is singled out and designated as the cause of an emergency situation and target of emergency state action (violation of Article 2 and Article 3(1)(h) of the EC Racial Equality Directive, as well as Articles 8 and 14 of the European Convention on Human Rights).

Regarding the underlying question of whether Italian laws and policies against nomads+ constitute illegal discrimination under EC law, we argue that Italian authorities have long used the term nomads+ as a proxy for Roma and Sinti, both in legislation and in official communications with international organizations. Thus, there should be no doubt that the Nomad Emergency Decree, directed at nomads+, in fact targets Roma and Sinti on the basis of their ethnic origin. Moreover, ERRC observation and documentation of census activity in camps for Roma and Sinti between October 2008 and April 2009 confirm that the census undertaken is ethnically motivated and solely directed at Roma and Sinti, a fact that has been confirmed in press accounts and statements of Italian officials. There has been no evidence of any census activity except in Roma and Sinti camps. Moreover, census activity has been

directed at both Roma and Sinti people who are Italian nationals and those who are not Italian nationals, with no distinction in the method or questions asked.

Through its Nomad Emergency Decree and its implementing orders and guidelines, the Italian Government has codified in law prohibited differential treatment, instructing relevant authorities in Rome, Milan and Naples to discriminate against and harass Roma and Sinti by:

- Defining the mere presence of the Roma and Sinti as grounds for a state of emergency creating an intimidating, hostile, degrading, humiliating or offensive environment.
- Directly discriminating against Roma and Sinti by conducting a compulsory census of all Roma and Sinti on the basis of their accommodation in camps for nomads created by the government, allowing for the creation of an ethnic database of Roma and Sinti without adequate safeguards.
- Explicitly instructing local authorities in Campania, Lombardia and Lazio to target Roma and Sinti in census activity.
- Granting the local law enforcement authorities, headed by the Prefect, with nearly unlimited powers to address the proclaimed *Nomadi %emergency+* and to take targeted repressive action.
- Enhanced and repressive law enforcement and immigration measures targeting exclusively Roma.
- Segregating Roma by placing or keeping them in settlements located as remotely as possible from residential areas.
- Publicly making anti-Romani/Sinti statements condoning racist violence against Roma, and failing to protect Roma.

We hope that this information will support the role of the European Commission in ensuring this clear case of non-compliance with Community law is addressed without delay.

Please do not hesitate to contact us should you have any additional questions.

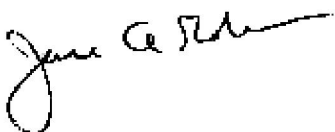
Yours sincerely,



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