



EUROPEAN PARLIAMENT

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Italy Persists in Violating EU Laws and International Conventions **PRESS STATEMENT**

Berlusconi' "Sicurezza" Package, favourably voted on by the Italian Senate, on July 23d 2008, violates international norms on discrimination issues, as well as the EU legislation on freedom of movement.

Among the many new law amendments – highly debatable from the point of view of Italian's authorities method of fighting illegal migration (the presence on the Italian territory of extra-communitarians) - there is one that, without a shadow of a doubt, **must attract sanctions from the European Commission.**

Article 11-bis, added now to paragraph 1, art. 61 in the Italian Penal Code, establishes the increase with a third of punishments applied, "if the deed is committed by a subject illegally staying on the national [Italian] territory".

So, for the same crime, an Italian citizen will receive a certain sanction, while a person considered to be illegally staying in Italy will have the sanction increased with a third, regardless of the provenience country – whether from outside EU or from a member state, while the illegality of his/her staying is considered to be a crime in itself and it is sanctioned with time in prison.

This measure is obviously discriminatory, because it takes under consideration other aspects than just the behaviour of the doer. The principles of penal law are clear in this respect: the aggravations may be taken into consideration and sanctioned, when the circumstances of the committed crime are imputable to the crime-doer. But when the illegal stay is a crime in itself and gets punished separately, to consider it also an aggravation for another crime is discrimination, because this is solely based on the citizenship of the person.

The new Italian criminal law is an **obvious violation of the International Convention on the Elimination of All Forms of Racial Discrimination.**

Many provisions of the EU Treaty¹ and of the European Communities Treaty² are breached as well.

At the same time, **the new law represents a violation of Directive 38/2004 on freedom of movement inside the European Union**, because and EU citizen, which has the right to be on the territory of any member state, may find oneself in a situation which the Italian authorities might consider illegal, even for a short period of time; and if, during that time, he/she does a crime, even by negligence, he/she will receive a punishment increased with a third!

It is time that the long awaited European Commission' sanctions to be put in place and the Italian legislation must be brought in front of the European Court of Justice.

**Renate Weber, Romanian liberal MEP (ALDE Group)
Brussels, July 24th, 2008**

¹ Art. 2, 6 and 7

² Amongst those, art. 12 and 13, which forbid discrimination based on nationality, racial and ethnic origin, art. 17, on EU citizenship, and art. 18 on freedom of movement