

Reference: **B1848**

Ms Emily O'Reilly  
European Ombudsman  
Rue Montoyer 30  
B-1047 Brussels

Brussels, 16 February 2018

Dear Ms O'Reilly,

## COMPLAINT ABOUT EUROPEAN COMMISSION'S FAILURE TO PROPERLY IMPLEMENT THE EU PILOT PROCEDURE

Amnesty International is herewith lodging a complaint against the European Commission for failure to properly implement the European Union (EU) pilot procedure in relation to its engagement with Italy for breach of the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the Race Equality Directive or RED).

In July 2012, Amnesty International requested that the European Commission launch an infringement procedure against Italy.<sup>1</sup> In its complaint, Amnesty International argued that the discriminatory treatment suffered by Romani people in Italy with regards to adequate housing and related rights constituted a breach of the EU's Race Equality Directive. In support of its complaint, Amnesty International enclosed detailed submissions that provided evidence of breaches of Articles 2 and 3(1)(h) of the Race Equality Directive by the Italian Government.<sup>2</sup>

The European Commission replied on 24 August 2012, stating that: "[t]he services of the European Commission [were] currently examining [Amnesty International's] letter and related reports, as well as recent reports of other NGOs on the same issue. The European Commission intend[ed] to contact the Italian authorities to seek their views on this matter. It will then look into the compatibility of the present situation with the Race Equality Directive".<sup>3</sup>

In February 2014, in response to an access to information request, the European Commission informed Amnesty International that it had addressed a letter on this matter to Italy in September 2012 to which Italy responded in November 2012 and May 2013.<sup>4</sup>

In February 2016, Amnesty International together with other NGOs addressed a letter to First Vice-President Timmermans highlighting the ongoing discrimination of Roma in housing and asking for support for the initiation of infringement proceedings against Italy on the matter. The Commission responded via a letter dated 18 April 2013 (7 months later) stating that the Commission "ha[d] already been in contact with Italy on this matter and [was] currently reflecting on the appropriate follow-up." It further stated that "[t]he Commission ha[d] not yet taken any decision regarding possible infringement proceedings." and that "[d]ue to the complexity of these cases, both from a legal and factual perspective, this assessment need[ed] thorough analysis."

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<sup>1</sup> Our reference: B1236, see attached.

<sup>2</sup> Amnesty International's submissions to the Commission are available at: <http://www.amnesty.org/fr/library/info/EUR30/011/2012/en>.

<sup>3</sup> Reference: Ares (2012)998640, see attached.

<sup>4</sup> Reference : Ares (2014)286859, see attached.

As you know, the EU Pilot was introduced with the aim to find “quicker and better answers” to questions concerning the application of EU law without resorting to the formal infringement procedure.<sup>5</sup> The European Commission has given itself, as a general rule, a deadline of one year for the decision to open an infringement procedure or to close the case.<sup>6</sup>

Yet, in August 2017, in response to another inquiry about the status of the investigations<sup>7</sup> by Amnesty International, the European Commission stated that it was still “*examining the situation of Roma in the field of housing in Italy, with a view to assess the compatibility of Italian law and its application with Directive 2000/43/EC on Racial Equality.*”

It further stated that it “*need[ed] to take all relevant information into consideration for this assessment. The services of the Commission [were] in regular contact with Italian authorities.*” and expressed its “*appreciation of the information provided by Amnesty International – as well as other NGOs – in the past years regarding this issue.*”<sup>8</sup>

The European Commission’s informal dialogue with the Italian government has not brought an end nor a remedy to the stated ongoing breaches of the RED. Amnesty International continued its research into this matter. This research has shown that the Italian authorities continue to systematically deprive Romani people of adequate housing on discriminatory grounds.<sup>9</sup> A speedy and effective course of action by the European Commission to ensure full application of EU law would therefore be necessary and any further delays would perpetuate the injustice Roma have been facing for years.

Amnesty International believes that the current delay of five and a half years in concluding this EU Pilot on Italy for breach of the RED amounts to maladministration. This maladministration is particularly concerning as it pertains to serious, systemic and ongoing fundamental rights violations under EU law. It is, further, at odds with the European Commission’s

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<sup>5</sup> 28<sup>th</sup> Annual report on the monitoring of the application of EU law (2010), p.15.

<sup>6</sup> COM(2012) 154 final, Point 8.

<sup>7</sup> Our reference: B 1820, see attached.

<sup>8</sup> References Ares (2017)4118594.

<sup>9</sup> “Roma risk imminent forced eviction in Rome” (June 2012) available at <https://www.amnesty.org/en/documents/eur30/007/2012/en/>; “On the edge: Roma, forced evictions and segregation in Italy” (October 2012) available at <https://www.amnesty.org/en/documents/eur30/010/2012/en/>; “Op-Ed: Europe’s Roma discrimination shame” (October 2012) available at <https://www.amnesty.org/en/latest/news/2012/10/op-ed-don-t-forget-past-abuses-fix-current-attitudes-towards-europe-s-roma/>; “Double standards: Italy’s housing policies discriminate against Roma” (October 2013) available at <https://www.amnesty.org/en/documents/eur30/008/2013/en/>; “Italy: Housing and Roma in Italy: Facts and figures” (October 2013) available at <https://www.amnesty.org/en/documents/eur30/013/2013/en/>; “Italy: Rome authorities should stop forced evictions targeting Roma” (January 2014) available at <https://www.amnesty.org/en/documents/eur30/004/2014/en/>; “Italy: Ongoing concerns: Discrimination against Roma and violations of the rights of migrants, asylum-seekers and refugees: Amnesty International submission to the UN Universal Periodic Review, October – November 2014” (June 2014) available at <https://www.amnesty.org/en/documents/eur30/006/2014/en/>; “Human rights council adopts Universal Periodic Review outcome on Italy” (March 2015) available at <https://www.amnesty.org/en/documents/eur30/1253/2015/en/>; “Italy: Ground-breaking court victory for Romani people underscores authorities’ failure to protect rights” (June 2015) available at <https://www.amnesty.org/en/latest/news/2015/06/italy-ground-breaking-court-victory-for-romani-people/>; “Italy: The National Strategy for Roma Inclusion: A short-lived hope for Roma in Italy” (February 2016) available at <https://www.amnesty.org/en/documents/eur30/3520/2016/en/>; “Roma on the margins: Housing rights denied” (April 2016) available at <https://www.amnesty.org/en/latest/campaigns/2016/04/roma-on-the-margins-housing-rights-denied/>; “Roma families to be relocated to bare field” (June 2016) available at <https://www.amnesty.org/en/documents/eur30/4284/2016/en/>; “Italy: Authorities placed Roma from Masseria del Pozzo in inhumane conditions” (June 2016) available at <https://www.amnesty.org/en/documents/eur30/4300/2016/en/>; “Italy: Submission to the United Nations Committee on the Elimination of Racial Discrimination – 91<sup>st</sup> session, 21 November – 9 December” (November 2016) available at <https://www.amnesty.org/en/documents/eur30/5078/2016/en/>; “1000 Roma face homelessness” (March 2017) available at <https://www.amnesty.org/en/latest/campaigns/2017/03/gianturco-eviction/>; “Hundreds of Roma to be forcibly evicted as EU leaders’ refusal to sanction Italy exposed” (April 2017) available at <https://www.amnesty.org/en/latest/news/2017/04/roma-forcibly-evicted-eu-leaders-italy/>; “Italy: Forced eviction of Roma on eve of International Roma Day ‘cruel!’” (April 2017) available at <https://www.amnesty.org/en/latest/news/2017/04/italy-forced-eviction-international-roma-day/>; “‘They are throwing us on the street like dogs’ - Europe abandons the Roma in Italy” (April 2017) available at <https://www.amnesty.org/en/latest/news/2017/04/they-are-throwing-us-on-the-street-like-dogs-europe-abandons-the-roma-in-italy/>; “A home destroyed: the eviction of Gianturco” (April 2017) available at <https://www.amnesty.org/en/latest/campaigns/2017/04/the-eviction-of-gianturco/>; “Hundreds of Roma forcibly evicted” (April 2017) available at <https://www.amnesty.org/en/documents/eur30/6051/2017/en/>; “EU Executive fails to act as pregnant Romani women and infants are rendered homeless in Italy” (June 2017) available at <https://www.amnesty.org/en/latest/news/2017/06/eu-executive-fails-to-act-as-pregnant-romani-women-and-infants-are-rendered-homeless-in-italy/>; “Romani families left homeless, others at risk” (June 2017) available at <https://www.amnesty.org/en/documents/eur30/6523/2017/en/>; “Italy: Around 150 Roma in Naples again at risk of forced eviction and homelessness” (July 2017) available at <https://www.amnesty.org/en/documents/eur30/6715/2017/en/>

Communication “EU law: Better results through better application.”<sup>10</sup> The European Commission has failed to provide specific and valid reasons for its delay and thus failed to properly implement the EU Pilot procedure.

We will welcome you investigating this case for maladministration.

We thank you for your attention and remain at your disposal for any further information.

Yours sincerely,



Iverna McGowan

Head of European Institutions Office and Advocacy Director

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<sup>10</sup> Communication from the Commission “EU law: Better results through better application’ (2017/C 18/02) states: “Beyond these cases, the Commission attaches importance to ensuring that national legislation complies with EU law since incorrect national legislation systematically undermines citizens’ ability to assert their rights including their fundamental rights, and to draw fully the benefits from EU legislation. The Commission will also pay particular attention to cases showing a persistent failure by a Member State to apply EU law correctly.”, p.14.