

## FLASH REPORT

- Date:** 7 January 2010
- Expert:** Alessandro Simoni
- Title:** Administrative Court declares the illegality of some of the initiatives adopted in the context of the alleged "emergency situation" concerning nomadic groups - enforcement of the decision suspended until pronouncement on final appeal.
- Country:** Italy
- Context**
- Issue at stake:** Compatibility with equal treatment rules of provisions aimed at the identification of persons living in "settlements of nomadic communities"; legality of internal regulations of the legal settlements
- Ground of discrimination:** of Racial/ethnic origin
- Source:** Decision (*sentenza*) of Regional Administrative Court for the Lazio Region (first section), of June 24, 2009, registered on July 1, 2009, and interim decision (*ordinanza*) of the Supreme Administrative Court (fourth section), of August 25, 2009, registered on August 26, 2009. Both decisions can be found on the website [www.asgi.it](http://www.asgi.it)
- Field:** Other
- Legislative provisions:** *Decreto del Presidente del Consiglio dei Ministri 21 maggio 2008 (in Gazzetta Ufficiale n. 122 del 26.5.2008, "Dichiarazione dello stato di emergenza in relazione agli insediamenti di comunità nomadi nel territorio delle regioni Campania, Lazio e Lombardia (Decree of the President of the Council of Ministers, n. 122 of May 21, 2008, in Official Journal, May 26, 2008, Declaration of the state of emergency in connection with the settlements of nomadic communities in the territory of Campania, Lazio and Lombardia).*  
*Decreto del Presidente del Consiglio dei Ministri, 28 maggio 2009 (in Gazzetta Ufficiale n. 129 del 6 giugno 2009, "Proroga dello stato di emergenza per la prosecuzione delle iniziative inerenti agli insediamenti di comunità nomadi nel territorio delle regioni Campania, Lazio e Lombardia ed estensione della predetta situazione di emergenza anche al territorio*

*delle regioni Piemonte e Veneto*" (Decree of the President of the Council of Ministers, n. 129 of May 28, 2009, in Official Journal, June 6, 2009, Extension of the state of emergency for the continuation of the initiatives related to the settlements of nomadic communities in the territory of Campania, Lazio and Lombardia, and extension of the aforementioned emergency situation to the territory of the regions Piemonte and Veneto).



## Content

Following the enactment in May 2008 of a decree declaring the “state of emergency” in three regions (Lombardia, Lazio and Campania) in order to react to an alleged situation of crisis within the settlements known as *campi nomadi*, and its renewal one year later with the extension to two further regions (Piemonte and Veneto), a number of anti discrimination suits were filed in ordinary and administrative courts by Romani individuals supported by NGOs. By now, the most successful of these legal actions is represented by the suit brought in the administrative court of Rome (*Tribunale amministrativo regionale per la regione Lazio, prima sezione*) with the assistance of the European Roma Rights Center.

A first decision issued by the Regional Administrative Court for the Lazio Region (first section) on June 24, 2009, and registered on July 1, recognises indeed the illegality of some of the initiatives adopted to introduce a stricter control over the presence of Roma groups in Italy. The court does not consider to be sufficient evidence that the Ordinances declaring the emergency situation and accordingly taking a series of measures, are *per se* discriminatory against persons of Roma ethnicity. Notwithstanding, this affirms that the provisions of the Ordinances prescribing the identification and census taking of the persons, even minors, present in both authorized and illegal settlements also through the taking of fingerprints are to be considered as violations of the "general principles in the field of personal freedom, of the rules on protection of minors" and of the legislation on data protection. The question is, however, deemed to be superseded in practice following the publication of the guidelines of the Ministry of the Interior of July 2008, which prescribed stricter standards for the implementation of the identification procedures.

The interest of this decision lies, however, also in the answer given on a further point raised by the applicants, i.e. the legality of the internal regulations of the authorized settlements existing in Rome and Milan. Several provisions of these regulations governing the life on the persons living in the settlements have been considered by the Administrative Court as representing illegal infringements of their freedom of movement and their private and family life, as e.g. the limitations on the possibility to receive visits and the obligation to attend professional trainings, thus putting a heavy question mark on one of the pillars of recent local policies.

Whatever its Importance in principle, this decision will have no immediate practical impact, since its enforcement has been suspended, until final decision on the appeal, by the Supreme Administrative Court (*Consiglio di Stato*), with an interim decision issued in August 2009. The short motivation for the suspension contains a reference to the "complex and delicate questions concerning the respect of the fundamental rights, the dignity of the person and the prohibition [...] of



racial and ethnic discrimination", but without explaining precisely why the interest of the administration should prevail until decision of the appeal.