

(English version)

**Question for written answer E-001884/25
to the Commission
Giuseppe Antoci (The Left)
(12 May 2025)**

Subject: Criminalisation of dissent in migrant pre-removal centres and compatibility of the Security Decree with EU law

The Decree-Law on Security ⁽¹⁾ that was recently enacted by the Italian Government introduced the new offence of ‘rioting’ in migrant detention centres ⁽²⁾, establishing heavy prison sentences of up to four years for people who commit acts of violence or resistance, even in a passive form ⁽³⁾.

The government, then, views detention centres ⁽⁴⁾ as real prisons ⁽⁵⁾ and is choosing to suppress, by applying strict punitive measures, all forms of dissent. Some forms of passive resistance, such as hunger strikes, are the only tool for detained migrants to exercise their — albeit limited — freedom of expression.

This scenario, which may breach detainees’ human rights, appears to run counter to EU law, in particular, the Returns Directive ⁽⁶⁾, Article 15 of which requires Member States to apply to detained migrants the least coercive measure possible in the specific case, and with the criterion of proportionality of the penalty in relation to the conduct laid down in the EU Charter of Fundamental Rights, given that in this case the conduct may also be not violent but simply disobedient.

In view of how serious this state of affairs is:

1. What is the Commission’s assessment of this new crime of ‘rioting’ in the context of Directive 2008/115/EC?
2. In the light of the provisions of EU legislation in this area, will it take action against the Italian Government?

Submitted: 12.5.2025

**Answer given by Mr Brunner on behalf of the European Commission
(15 September 2025)**

The Return Directive ⁽¹⁾ envisages that detention for the purpose of removal can only take place as a measure of last resort. Detention must as a rule take place in specialised detention facilities and detention conditions need to respect fundamental rights ⁽²⁾.

Any physical or administrative constraint put on a third-country nationals detained should be limited to what is strictly necessary in order to ensure effective preparation for removal ⁽³⁾.

The Return Directive does not prevent Member States from imposing a sentence of imprisonment to punish the carrying out of offences other than those stemming from the mere fact of illegal stay, including in situations where the return procedures have not yet been completed ⁽⁴⁾.

Member States may establish criminal sanctions for conduct other than the mere fact of illegal stay, and such measures must respect EU law

The Commission regularly assesses the compliance of national legislation with EU law and make take appropriate measures where necessary. It also closely monitors developments related to the rule of law through its annual Rule of Law Report ⁽⁵⁾.

¹ Decree-Law No 48/2025.

² <https://www.internazionale.it/notizie/annalisa-camilli/2025/04/08/cosa-prevede-il-decreto-sicurezza>.

³ When they are committed by three or more people together.

⁴ Migrant pre-removal centres (CPRs) are administrative detention facilities where migrants are held when their status is at odds with the entry and residency rules in a specific European state.

⁵ Note the equivalent crime of rioting in prisons.

⁶ Directive 2008/115/EC

⁽¹⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

⁽²⁾ Judgment of 10 March 2022, Landkreis Gifhorn, C-519/20, ECLI:EU:C:2022:178, paragraph 46.

⁽³⁾ Judgment of 10 March 2022, Landkreis Gifhorn, C-519/20, ECLI:EU:C:2022:178, paragraph 45.

⁽⁴⁾ Judgment of 7 June 2016, Selina Affum, C-47/15, EU:C:2016:296, , paragraph 65.

⁽⁵⁾ The Decree-Law on Security is mentioned in the 2025 Rule of Law Report, which was published by the European Commission on 8 July 2025.