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REPORT

on the initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals
(10130/2000 – C5-0398/2000 – 2000/0819(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Hartmut Nassauer

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

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PROCEDURAL PAGE

By letter of 27 July 2000 the Council consulted Parliament, pursuant to Article 67 of the EC Treaty, on the initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals (10130/2000 - 2000/0819 (CNS)).

At the sitting of 4 September 2000 the President of Parliament announced that she had referred this initiative to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible (C5-0398/2000).

At the sitting of 27 October 2000 the President of Parliament announced that she had also referred the initiative to the Committee on Petitions for its opinion.

On 7 November 2000 the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs decided to request the opinion of the Committee on Legal Affairs and the Internal Market on the legal basis pursuant to Rule 63(2) of the Rules of Procedure.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Hartmut Nassauer rapporteur at its meeting of 14 September 2000.

It considered the initiative of the French Republic and the draft report at its meetings of 11 October, 7 November and 5 December 2000.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Graham R. Watson, chairman; Hartmut Nassauer, rapporteur; Maria Berger (for Ozan Ceyhun), Alima Boumediene-Thiery, Michael Cashman, Charlotte Cederschiöld, Carlos Coelho, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Francesco Fiori (for Marcello Dell'Utri pursuant to Rule 153(2)), Pernille Frahm, Anna Karamanou, Margot Keßler, Timothy Kirkhope, Ewa Klamt, Baroness Sarah Ludford, Elena Ornella Paciotti, Hubert Pirker, Anna Terrón i Cusí, Maurizio Turco (for Marco Cappato), Gianni Vattimo and Christian von Boetticher.

The opinions of the Committee on Petitions and the Committee on Legal Affairs and the Internal Market are attached.

The report was tabled on 11 December 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals (10130/2000 – C5-0398/2000 – 2000/0819(CNS))

The initiative is rejected.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals (10130/2000 – C5-0398/2000 – 2000/0819(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the initiative of the French Republic (10130/2000¹),
 - having regard to Article 63(3) of the EC Treaty,
 - having been consulted by the Council pursuant to Article 67 of the EC Treaty (C5-0398/2000),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Legal Affairs and the Internal Market on the proposed legal basis,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinion of the Committee on Petitions (A5-0394/2000),
1. Rejects the initiative of the French Republic;
 2. Asks the French Republic to withdraw its initiative;
 3. Instructs its President to forward its position to the Council, the Commission and the government of the French Republic.

¹ OJ C 243, 24.8.2000, p. 1.

EXPLANATORY STATEMENT

I. The general context

By letter of 27 July 2000 from the Secretary-General of the Council the European Parliament was asked to deliver an opinion on a draft Council directive on mutual recognition of decisions on the expulsion of third country nationals.

An explanatory memorandum of 19 July 2000 regarding the above initiative was subsequently forwarded in a note by the French Presidency for the Working Party on Migration and Expulsion concerning the initiative of the French Republic.

The initiative is based on Article 63(3) of the EC Treaty, under which the Council, acting in accordance with the procedure referred to in Article 67 of the EC Treaty, is to adopt measures on immigration policy within a period of five years after the entry into force of the Treaty of Amsterdam. Article 63(3)(b) refers explicitly to the areas of illegal immigration and illegal residence, including the repatriation of illegal residents.

The European Parliament's right to be consulted stems from Article 67(1) of the EC Treaty, according to which the Council is to act unanimously on a proposal from the Commission or on the initiative of a Member State and after consulting the European Parliament in respect of the areas covered by Title IV of the EC Treaty.

Pursuant to the Protocols annexed to the Treaty of Amsterdam, the United Kingdom, Ireland and Denmark are not required to take part in the adoption of measures pursuant to Title IV of the EC Treaty.

II. Substance of the proposed directive

The purpose of the directive is to facilitate the enforcement of decisions on the expulsion of third country nationals. To that end, an expulsion decision issued by a Member State is also to be enforceable by order of the authorities of another Member State within whose territory the third country national is resident.

The heart of the directive is thus the mutual recognition of expulsion decisions. This is explicitly confirmed in Recital 3 of the draft directive.

According to Article 2(a) the directive is targeted at third country nationals who are above the age of majority, and according to Article 2(b) it limits expulsion decisions explicitly to administrative decisions taken by the competent authority of a Member State.

Objectively, the directive does not cover all expulsion decisions, but only two types of case:

- first, expulsion decisions issued on the basis of a serious threat to public security or public policy or to national security. They must also be supported either by a sentence of a non-suspended penalty involving deprivation of liberty of at least one year, or by serious

grounds for believing that serious criminal offences have been committed or that such offences are being planned;

- secondly, the directive covers expulsion decisions based on failure to comply with entry or residence regulations.

The directive also includes rules on the obligation of the enforcing Member State to check that the decisions are enforceable and that they are consistent with international agreements, and it also regulates proceedings for remedies against enforcement measures.

In the explanatory memorandum concerning to the French initiative, which was forwarded subsequently, reference is made to the incorporation into the Community system of asylum and immigration matters under the Treaty of Amsterdam, and also to the European Council's Tampere conclusions of October 1999, in which the Council confirmed the objective of a common asylum and migration policy. The proposed directive is intended to help facilitate the enforcement of expulsion decisions and therefore proposes the introduction of a mechanism for the mutual recognition of expulsion decisions by the Member States. Such decisions by a Member State should be enforceable by order of the authorities of the other Member States. The purpose of this initiative is explicitly related to the field of 'immigration policy' pursuant to Article 63 of the EC Treaty.

III. Legal assessment

The mutual recognition of expulsion decisions basically falls within the sphere of the Treaty objectives regarding the creation of a common area of security, freedom and justice in the European Union. Common asylum and immigration law, as envisaged by the Treaty of Amsterdam, is intended to make decisions taken by one Member State in these areas valid throughout the Union. An asylum decision taken by one Member State, for example, should apply for or against all the other Member States. It may not be challenged either by another Member State or by the applicant for asylum after the non-appealable completion of the procedure. The competent authorities of one Member State thus decide on the rejection or acceptance of an application for asylum with binding effect on all the other Member States. What applies to substantive decisions relating to asylum law should also basically apply to the enforcement of the decisions taken. It would be highly unsatisfactory if e.g. an asylum application which had been finally rejected was not re-submitted but the expulsion based on that rejection could not be enforced because the expulsion or repatriation procedure was not covered by the binding effect of the final rejection of the asylum application. The same applies to repatriation decisions based on other expulsion decisions. Community asylum and immigration law which includes Community repatriation law must also make a Member State's repatriation decisions valid throughout the Community. The legal objective of the French initiative cannot but be endorsed.

IV. 1. The legal basis

A. The draft directive is based on Article 63 of the EC Treaty, and in particular paragraph 3 thereof. This provision, however, is out of the question as the legal basis for the proposed rules.

- Article 63 of the EC Treaty is part of Title IV, which is concerned with visas, asylum, immigration and other policies related to free movement of persons. Article 63(3) of the EC Treaty provides the legal basis for measures on immigration policy in certain areas. Article 63(3)(a) refers to conditions of entry and residence and visa procedures. Article 63(3)(b) provides the legal basis for measures relating to illegal immigration and illegal residence, including the repatriation of illegal residents.
- That provision thus basically empowers the Council to adopt measures to regulate illegal immigration and illegal residence. It is further empowered to determine rules on the repatriation of illegal residents.
- The wording, legislative purport and context of the Treaty provision thus empower the Council to determine under what conditions a third country national's residence is illegal and under what other conditions, if any, illegal residence should result in expulsion or repatriation. We are dealing here with the power to determine substantive repatriation law, which will bindingly lay down for the European Union the substantive conditions under which a third country national may be expelled or returned to his state of origin against his will.
- These issues, however, are not dealt with in this draft directive. The draft text is not fundamentally concerned with laying down substantively the conditions for repatriation. Instead, it is explicitly concerned only with the mutual recognition of expulsion decisions which have already been taken. It specifically does not cover repatriation decisions under Community law, which would have been enacted on the basis of legislation founded on Article 63 of the EC Treaty; the draft directive is apparently directed, instead, at expulsion decisions which have already been taken on the basis of national law.
- The directive thus does not seek to lay down Community repatriation law, but merely to ensure that an expulsion decision taken in one Member State on the basis of national law can be enforced in another Member State. It lays down conditions for the enforcement of that decision. It is thus a directive which should be ascribed to the sphere of the law on enforcement processes, and not one which substantively regulates repatriation law. Article 63(3) of the EC Treaty only admits of the latter; it says nothing about the mutual recognition of decisions taken on the basis of national law. It cannot be assumed that the Treaty's authorisation of substantive legislation on repatriation includes the mutual recognition of expulsion decisions. For this reason, regardless of the legal objective, which is to be endorsed, Article 63(3)(b) of the EC Treaty, which is cited by the authors of the directive, is out of the question as a legal basis for the directive.
- Article 63 of the EC Treaty does not provide a legal basis for the mutual recognition of expulsion decisions in other respects, either.

B. It is true that Article 66 of the EC Treaty empowers the Council to ensure cooperation between the relevant departments of the Member States' administrations in the areas covered by Title IV of the EC Treaty. However, this provision cannot be used as a legal basis for the mutual recognition of expulsion decisions, either. Cooperation between departments is concerned with internal administrative procedures, but does not justify measures associated with interventions in protected legal situations of Union citizens or third country nationals.

C. The draft directive is not concerned with measures in the field of judicial cooperation in civil matters (Article 65 of the EC Treaty), either, because expulsion issues are matters in the sphere of public law. Overall, no Community power regarding the mutual recognition of expulsion decisions is evident.

D. Finally, it should be mentioned that the Treaty on European Union makes no provision either, in connection with cooperation between States, for measures such as the proposed mutual recognition of expulsion decisions. The provisions of Title VI of the TEU on police and judicial cooperation in criminal matters are not relevant here, either.

E. In the final analysis, it has to be stated that the legal basis cited by the French Republic, Article 63(3) of the EC Treaty, does not support the draft directive.

IV. 2. Substantive problems

Irrespective of the problem of the legal basis, the draft text also throws up questions of substance. The restriction to 'decision[s] of an administrative nature' (Article 2(b) of the draft directive) explicitly rules out the planned rules being applied to expulsion decisions taken by courts. This means that the directive cannot be applied wherever recourse to the courts is permitted as a way of appealing against expulsion decisions by the competent administrative authorities. This is likely to be the case in most Member States. The directive's significance in practical terms is thereby substantially reduced.

V. Recommendation

Irrespective of approval of its legal objective, this draft text is rejected owing to its lack of a legal basis in the European treaties, the French Republic is called upon to withdraw its initiative and the President of the European Parliament is instructed to forward its position to the Council, the Commission and the government of the French Republic.

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on the initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals (10130/2000 – C5-0398/2000 – 2000/0819(CNS))

Draftsman: Diana Paulette Wallis

Subject: Legal basis of the Initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals
OJ C 243, 24.8.2000, p. 4 ; CNS-00-0819

Dear colleague,

By letter of 7 November 2000 you requested the Legal Affairs Committee's opinion on the legal basis of the abovementioned item. My committee considered the issue at its meeting of 28 November 2000.

The initiative

The key elements of the initiative are worded as follows:

Article 1

- 1. The purpose of this Directive is to make possible the enforcement of an expulsion decision issued by a competent authority in one Member State, hereinafter referred to as the "issuing Member State", against a third country national present within the territory of another Member State, hereinafter referred to as the "enforcing Member State".*
- 2. The expulsion referred to in paragraph 1 shall be carried out in accordance with the conditions laid down in this Directive.*

According to Article 3, the expulsion "*shall*" be carried out if a third country national is the subject of an expulsion decision based on

a *sentence* involving deprivation of liberty of at least one year
the existence of serious *grounds for believing* that a third country national has committed serious criminal offences

failure to comply with national *regulations on the entry or residence of aliens*.

Pursuant to Article 5, the third country national concerned must be able to bring proceedings for a remedy against the enforcement measure under the conditions laid down by the enforcing Member State's legislation.

The legal basis cited by the initiative

The French initiative indicates Article 63(3) as its legal basis.

Article 63(3) reads:

“The Council ... shall ... adopt:

3) measures on immigration policy within the following areas:
conditions of entry and residence, and standards on procedures for the issue by Member States of long term visas and residence permits, including those for the purpose of family reunion ;
illegal immigration and illegal residence, including repatriation of illegal residents ;”

The determination of the legal basis

The first legal basis the committee discussed was Article 63(3)(b):

“...*measures* on immigration policy within the following areas: ... b) illegal immigration and illegal residence, including *repatriation of illegal residents*”

[...des *mesures* relatives à la politique d'immigration dans les domaines suivants: b) immigration clandestine et séjour irrégulier, y compris le *rapatriement des personnes en séjour irrégulier*]

[...einwanderungspolitische *Maßnahmen* in folgenden Bereichen: ...b) illegale Einwanderung und illegaler Aufenthalt, einschließlich der *Rückführung solcher Personen, die sich illegal in einem Mitgliedstaat aufhalten*]

Some members, in particular the rapporteur for questions relating to legal basis, Mrs Wallis, took the view that Article 63(3)(**b**) (and not Article 63(3), as the French initiative is suggesting) was a sufficient legal basis for the initiative.

Nevertheless, other members argued that Article 63 is the appropriate legal basis only for matters of *substantive* law, but not for *procedural* issues such as mutual recognition (cf. section IV.1 of the draft report).

The second legal basis the committee discussed was Article 308 of the EC Treaty:

“If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this

Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.”

Conclusion

The Committee on Legal Affairs and the Internal Market¹ expressed doubts as to whether Article 63(3)(b) was a sufficient legal basis for the French initiative, the final assessment depending on the nature of the amendments to the draft directive which might be adopted. The Committee on Legal Affairs and the Internal Market suggested that Article 308 of the EC Treaty should be taken into consideration as an additional legal basis. This issue might be discussed at our extraordinary meeting on 11 December in the light of the amendments adopted by the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs tabled for the vote in plenary.

Yours sincerely,

(sgd) Ana PALACIO

¹ Were present: Mr Rothley (vice-chairman), Mr Beysen (vice-chairman), Mrs Wallis (draftsman), Mr Fiori, Mrs Fourtou, Lord Inglewood, Mr Koukiadis, Mr Lehne, Mr Nassauer, Mr Speroni, Mr Wuermeling.

28 November 2000

DRAFT OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on the initiative of the French Republic with a view to adopting a Council Directive on mutual recognition of decisions on the expulsion of third country nationals
(10130/2000 – C5-0398/2000 – 2000/0819 (CNS))

Draftsman: Luciana Sbarbati

PROCEDURE

At its meeting of 9 October 2000 the Committee on Petitions appointed Luciana Sbarbati draftsman.

It considered the draft opinion at its meeting of 27 and 28 November 2000.

At that meeting it adopted the following conclusions by 8 votes to 1, with 1 abstention.

The following were present for the vote: Roy Perry, acting chairman and 1st vice-chairman; Proinsias De Rossa, 2nd vice-chairman; Luciana Sbarbati, 3rd vice-chairman and draftsman; Herbert Bösch, Felipe Camisón Asensio, Laura González Álvarez, Jean Lambert, Ioannis Marinos, Véronique Mathieu and María Sornosa Martínez.

SHORT JUSTIFICATION

1. The aim of the directive

The purpose of the directive is to allow the enforcement of national administrative expulsion measures against third country nationals even where the latter have meanwhile moved to another Member State. The adoption of the directive and its present wording might appear defensible at first sight since they would serve to prevent unchecked movement between Member States of third country nationals who are the subject of expulsion decisions. This would also appear, again at first sight, to be in line with the conclusions of the Tampere European Council (October 1999) aimed at better migration management. However, a more careful examination of the text and its legal basis, and of the political and media background to the immigration debate and the launching of measures to deal with it in the EU Member States, shows up the total ambiguity of this proposal, its imprecise nature, the haste with which it has been prepared and its legal lacunae.

If the Community genuinely wishes to establish an area of **freedom, security and justice**, the measures taken must be two-way measures and not simply form part of a **security** policy in the context of which foreigners – who are seen as a real or potential danger – cannot enjoy genuinely guaranteed **freedoms**; in short, **justice** must be more than just an empty word. Sometimes one has just the opposite impression: that, consciously or unconsciously, the use of refined, efficient legal instruments is turning the societies we live in into **societies of exclusion and expulsion** in both the literal and the metaphorical sense.

2. The Committee on Petitions hears many accounts of human distress

The Committee on Petitions is open to petitions from citizens even when they are third country nationals, and in reading the many petitions from non-Community citizens threatened with or subjected to expulsion it has heard at first hand of the painful and tragic human situations which these men, women and children encounter when they enter the well-guarded territory of the Community and for one reason or another run into problems with the authorities. These human insights – of which one should never lose sight when dealing with the problem of immigration – do not, however, prevent us from analysing the legal and political aspects of this complex subject in a more neutral way as well. Everyone knows that there are two different strands of opinion in the Community, which are fuelled by the media and are difficult to separate out: on the one hand, there is the realisation that a sometimes extremely serious demographic deficit will soon make massive recourse to immigration inevitable if we are to prevent the economic, social and human decline of our ageing European continent. Contrasting with this view, which sees immigration as a challenge but also an opportunity, is the other strand of opinion, the view of all those who harbour fears and fantasies about *'the barbarian hordes coming to exploit our prosperity and destroy our civilisation and culture'*. The two attitudes intersect or conflict, depending on the circumstances, the country involved and its political situation: *'Shouldn't we encourage certain immigrants on the grounds of the religion they profess and, conversely, exclude others because they belong to a particular religious group?'* These alternatives are currently a subject of public debate in one of our own Member States. In another country one can hear arguments along the lines of: *'Should this country be taking in immigrants and shouldn't our culture be the culture of reference (Leitkultur) for everyone?'* In yet another country we hear

people asking: 'Shouldn't the places where refugees and immigrants faced with expulsion are kept be run by private companies for profit?' Others will remember the shift from debate to action that took place in a small village in one Member State in the summer of 2000, when the enraged inhabitants pursued illegal immigrants for days on end. And we could give many more examples ...

3. Omissions and shortcomings of the directive

The main shortcoming of the directive is that instead of introducing an overall set of European rules on immigration (covering various aspects such as asylum policy, visas, free movement, combating illegal immigration – and the “slave-traders” who profit from it –, legalisation policy, integration policy and reception arrangements), we are witnessing attempts to use Community law as an instrument to *extend* the use of national laws on expulsion into the sphere of the other Member States.

While it is up to the lawyers to pinpoint the defects of this directive, may we nevertheless be permitted to mention a number of doubts which have occurred to this committee and some questions we ask ourselves with regard to the legal coherence and the very basis of the directive.

- ✓ Why use only Article 163 of the EC Treaty as the legal basis, and not articles from the Treaty on European Union?
- ✓ What about those expulsion measures which are the subject of legal appeals that have not yet run their full course? Must expulsion measures be implemented even if the courts have delivered rulings to the opposite effect?
- ✓ Can the State in which the foreigner facing expulsion is resident not take steps to determine whether or not such expulsion violates the Community Charter of Fundamental Rights, the European Convention on Human Rights or the Geneva Convention on the Status of Refugees?
- ✓ Can the State in which the person facing expulsion is resident refuse to implement it in certain cases? Can it grant the person political refugee status instead?
- ✓ Are we not running the risk of the harshest and most restrictive law, applied judicially and fiscally, eventually coming to be applied uniformly throughout the Union on the basis of the unwritten law of Gresham according to which bad laws drives out good?

4. Places of retention or detention?

May we be allowed, on the strength of the sad privilege enjoyed by this committee of having direct access to testimonies of human distress, to make brief mention here of the **places of retention** where candidates for expulsion and asylum seekers are dumped? By a terminological shift that does more justice to reality and is less hypocritical, they should be called **places of detention**. But, unlike our prisons, these places are governed by neither laws nor rules. By a supreme irony, the 1998 immigration law of one Member State says that aliens should be housed in places providing *conditions comparable to those of a hotel*. While in

another Member State – where NGOs and lawyers are denied access – there is talk of the possibility of putting these places in the hands of private companies. Shall we one day see a situation where these ‘camps’ are given two or three stars, like hotels?

It is a fine edifice that we are helping to construct here, this ‘fortress Europe’ which can be entered only with difficulty, almost only by stealth, in fact, and whose drawbridge opens only outwards, for the purpose of expelling undesirables! What picture are we giving to the rest of the world of those humanitarian, universalist values we acquired and proclaimed after so many political and social wrangles, and which were to be crowned and completed by the European Charter of Fundamental Rights? Those same values that prompted the President of the Parliamentary Assembly of the Council of Europe, Lord Russell-Johnston, to declare in his inaugural address that *'Humanity has no nationality'*.

5. An undesirable initiative that must be rejected

The policy of ‘zero immigration’ and the reduction of the right of asylum (often in violation of international conventions) encourage clandestine immigration, which is not only more open to exploitation, but is also more likely to break the law. Experience shows, however, that even when faced with a legal immigrant who is guilty of committing some offence or other, the administrative authorities are more inclined (for a kind of *crimen faciei*) to consider that the *serious threat to public security or public policy or to national security* referred to in Article 3 of the directive, leading to the administrative step of expulsion, has arisen.

This committee takes the view that all immigration laws should be proposed by the Commission, which historically has held this power and is able to exercise it responsibly, bearing in mind overall coherence and the Community structure of which it is the institutional guardian. This would avoid the regrettable impression that initiatives emanating from States holding the Presidency are dealt with on an ad hoc basis, and that Parliament has to set itself up as a political, legal and moral judge, and reject the legislation proposed. This, however, is what your draftsman is proposing, supported by the opinion of the political group coordinators and by the very wise words spoken to the Committee on Petitions by **Mr Nassauer**, rapporteur for the Committee on Citizens’ Freedoms and Rights, the committee responsible.

CONCLUSIONS

The Committee on Petitions, on the basis of the following considerations:

- having regard to the many petitions sent to the European Parliament by non-Community citizens threatened with, or facing, expulsion measures,
- whereas the Union must draw up a set of measures on immigration to take account of its demographic decline and ageing population,
- mindful of the European Charter of Fundamental Rights, and recalling its decision of 14 November 2000 on this subject (A5-0325/2000),
- whereas the Union intends to, and must, remain an area of freedom, security and justice,
- whereas expulsion measures must be framed in Community law and form part of a coherent set of legally proper and politically acceptable provisions which does not

- concentrate on the repressive aspect alone,
- whereas third country nationals facing expulsion are kept in places of detention, often in subhuman conditions,
 - recalling the Commission's power of legislative initiative,
 - considering the French Republic's initiative to be inappropriate at the political as well as the legal, cultural and human levels,

calls on the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments into its report:

AMENDMENTS

Initiative of the French Republic¹

Amendments

(Amendment 1)

Draft legislative resolution, paragraph 1

[The European Parliament]

Rejects the initiative of the French Republic;

Justification:

Most of the members of the committee believe that the European Parliament should reject the French Government's proposal for a directive, considering it to be inappropriate at the political as well as the legal, cultural and human levels.

(Amendment 2)

Draft legislative resolution, paragraph 2

[The European Parliament]

Asks the French Republic to withdraw its initiative;

¹ OJ C 243, 24.8.2000

Justification:

Most of the members of the committee consider that the French Government should withdraw its initiative, since all matters concerning immigration should be examined on the basis of a Commission initiative, in the context of a global approach.