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REPORT

of the Committee on Civil Liberties and Internal Affairs

on the abolition of controls at internal borders and free movement of persons within the European Community

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PE 201.529/tin.
Or. EN

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By letter of 26 March 1992 the Committee on Civil Liberties and Internal Affairs requested authorization to draw up a report on the abolition of controls at internal borders and free movement of persons within the European Community.

At the sitting of 11 May 1992 the President of the European Parliament announced that the committee had been authorized to draw up a report on this subject.

At its meeting of 21/22 April 1992 the Committee on Civil Liberties and Internal Affairs had appointed Mr Tsimas rapporteur.

At its meeting of 13/14 and 15 July 1992 the Committee on Civil Liberties and Internal Affairs decided to include in its report the following motion for a resolution which has been referred to it on 15 May 1992:

- motion for a resolution B3-0277/92 by the following Members: M Böge and others on setting up a Euro-coastguard (Opinion: Committee on the Environment, Public Health and Consumer Protection).

At its meetings of 13/14 and 15 July, 23/24 September and 29/30 September 1992 the committee considered the draft report.

At the last meeting it adopted the motion for a resolution by unanimously with 1 abstention.

The following took part in the vote: Turner, chairman; Salisch, vice-chairman; Tsimas, vice-chairman and rapporteur; Chr. Beazley, Bontempi, Van den Brink, Defraigne, Jarzembowski, Lafuente Lopez, Mebrak-Zaïdi, Magnani Noya, Marinho, Ramirez Heredia, Roth and Van Oustrive.

The Committee on the Environment, Public Health and Consumer Protection decided on 15 June 1992 not to deliver an opinion on the above mentioned motion for a resolution.

The report was tabled on 2 October 1992.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

MOTION FOR A RESOLUTION

on the abolition of controls at internal borders and
free movement of persons within the European Community

The European Parliament,

- having regard to the motion for a resolution by Mr Böge and others on the setting up of an Euro-coastguard (B3-0277/92),
- having regard to Articles 3, 5, 7, 8a, 100 and 235 of the EEC Treaty,
- having regard to the Articles 3, 5, 6, 7a, 8 to 8e, 100, 100c, 100d, K to K9 of the Treaty on European Union,
- having regard to its resolution of 11 November 1977 on the granting of special rights to citizens of the European Community in implementation of the decision of the Paris Summit of December 1974 (1),
- having regard to its resolution of 15 March 1990 on the free movement of persons in the internal market (2),
- having regard to its resolution of 14 June 1990 on the Schengen Agreement, the Convention on the right of asylum and the status of refugees as defined by the ad hoc Group on Immigration (3),
- having regard to its plenary debates of 20 and 21 February 1990 (4),
- having regard to its resolution of 13 September 1991 on the free movement of persons and security in the European Community (5),
- having regard to the report of the ad hoc Committee on a People's Europe (the Adonnino report),
- having regard to the White Paper on the completion of the internal market (6), which made provision for a series of proposals for directives on freedom of movement,
- having regard to the Commission communication to the Council and to Parliament, on abolition of internal border controls (7) and to the Commission's latest report on the achievement of the internal market (8),
- having regard to Rule 121 of its Rules of Procedure,
- having regard to the report by the Committee on Civil Liberties and Internal Affairs (A3-0284/92),

(1) OJ No C 299, 12.12.1977, p. 26.

(2) OJ No C 96, 17.4.1990, p. 274.

(3) OJ NO C 175, 16.7.1990, p. 170.

(4) See verbatim report of proceedings of 20.2.1991, p. 184, and 21.2.1991, p. 304.

(5) OJ No C 267, 14.10.1991, p. 197.

(6) COM(85) 0310.

(7) SEC(92) 0877.

(8) COM(92) 0383.

- A. whereas Article 2(c) of the Treaty establishing the European Economic Community speaks of 'the abolition, as between Member States, of obstacles to freedom of movement for persons, services and capital,
 - B. whereas, pursuant to Article 7 of the EEC Treaty, without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited,
 - C. having regard to both the importance for all persons living in the Community of the opening-up of intra-Community borders on 1 January 1993 and the fact that no dispute regarding competence could justify any delay in the opening-up of those frontiers on the scheduled date,
 - D. whereas, in the Commission communication to the Council and to Parliament on abolition of internal border controls the Commission states "The situation is worrying at all political levels where free movement of individuals is concerned" (9),
 - E. whereas the powers of the Community are still not being fully utilized if the actions called for in the White Paper has not been proposed or adopted, and whereas the Commission has therefore failed in its duty to protect the interests of the Community,
 - F. whereas the signing of an agreement on the operation of external borders has been presented as a condition for the application of the Schengen Agreement and for the abolition of controls at internal borders,
 - G. whereas a sizeable proportion of residents in the European Community have a right of residence in a Member State of the Community but do not have European citizenship; whereas such residents may have lived for many years in the Community, paid taxes and made a valuable contribution to the Community and should not suffer adversely as a result of proposals on the free movement of persons,
1. Considers, in conformity with the Commission communication on the abolition of border controls, that article 8a of the EEC Treaty imposes on the Community, and therefore also on the Member States, an obligation to produce results and that this obligation can only be met if all controls at internal borders are abolished by 1.1.1993;
 2. Considers that there is no possible doubt that free movement of goods, persons, services and capital must all be achieved by 1.1.1993 and that there is no possibility to postpone entry into force of one of these four parts;
 3. Reminds the Commission, the Council and the Governments that the long-standing promise of abolition of internal border controls must be fulfilled, in particular calls upon the Commission to clarify its attitude towards checks designed to ensure that non-EC citizens do not interfere with the rights of free movement of persons within the EC;
 4. Takes for granted that by 1.1.1993 all border checks at internal borders will be abolished;
 5. Regrets the confusion arising from the different dates set for the entry into force of the various instruments relating to the abolition of

(9) SEC(92) 0877 par. 2, second indent.

controls at internal borders and the harmonization of controls at external borders;

6. Considers it unacceptable if, as a result of national legislation on carriers' liability, internal border identity checks are simply transferred from officials to employees of transportation carriers; also considers it unacceptable if security checks (including identity checks) become systematically more obtrusive on passengers travelling on routes between Member States than on domestic routes;
7. Is concerned that an important part of the necessary arrangements and practical measures have apparently not yet been taken;
8. Calls on the Presidency to inform the European Parliament and the Governments to inform their Parliaments about the measures that will be taken;
9. Calls for urgent Community measures to complete identical sets of documents which are important for all external border and police controls such as passports, identity cards, visas, drivers' licences, residence permits, vehicle identification papers, "fire arms" licences etc.;
10. Calls for urgent measures to improve police co-operation in the field of justice, the exchange of information, taking into account the law on the protection of privacy and wants the possibility of checks, carried out within the EC, thus ensuring that a Europe without frontiers will not become a "criminals' Europe";
11. Calls on the Council to use the appropriate procedures to ensure that throughout the Community, police identity checks take place only where there is a justification in each individual case, and that Community citizens have clear and well-publicized means of redress against wrongful detention;
12. Awaits the following measures:
 - a. at airports or seaports: separate entry gates and exit gates for EC citizens to secure entry and exit, within a given time limit for waiting, and without systematic controls;
 - b. at all external borders, ports or airports:
 - appropriate checks at the external borders in accordance with harmonised control criteria
 - the installation of a computer system and programme which makes it possible to exchange information and to identify all categories of people who do not qualify for entry while respecting the necessary data protection principles
 - customs co-operation executing the necessary harmonised standard control exercised on non-EC citizens
 - the provision of assistance to Member States that need help in order to receive under humane conditions persons forced to seek refuge in the EC to escape from prosecution, famine or war;
 - the creation of a coordinated European immigration service to ensure the identical application of a harmonised entry policy;
13. Considers that the implementation of these measures (referred to in paragraphs 7 and 12, among others) is subject to the European Parliament's right of information and supervision, and must not be the result of negotiations between the relevant administrative departments of the Commission and the Member States alone,

14. Calls on the Member States to find a solution to make it possible to agree on the external borders convention and to install a Community external borders control;
15. Recalls that in Parliament's opinion all measures relating to the harmonization of controls at the external borders should be adopted as soon as possible as a Directive or a Regulation;
16. Takes the view, moreover, that the European Information System may be set up on the basis of Article 235 of the Treaty, in the same way as REITOX; and that the European Parliament must be informed in full of the activities and decisions of the 'horizontal group';
17. Recalls that the creation of a European Coast Guard would be helpful in order to install an external borders control combatting illegal immigration, illegal import, illegal import of drugs, and helping to check sea transport, and preventing environmental damage;
18. Takes the view that residents from third countries are entitled to apply for the nationality of a Member State five years after acquiring right of residence there;
19. Warns against branding illegal immigrants as criminals and recognizes that the problem of illegal immigration can only be solved in the long term by eliminating the political and economic reasons for which immigrants leave their countries of origin, and not within the EC by stepping up police controls, surveillance and expulsions;
20. Considers that the establishment of the free movement of persons must not lead to a generalized obligation for EC and non-EC citizens to report to the authorities;
21. Calls on the Commission to make use of article 169 of the EEC Treaty if one or more Member States have failed to fulfil the obligation contained in article 8a, to deliver a reasoned opinion as soon as possible and to bring the matter before the Court of Justice if the Member State or Member States do not comply with the opinion within the period laid down by the Commission which period, in the opinion of the Parliament, should not be unduly long;
22. Recalls its intention to institute an inquiry with a view to bringing an action before the Court of Justice pursuant to Article 175 of the Treaty against the Council and the Commission for failure properly to implement the free movement of persons referred to in Article 8a and to take the decisions necessary to that end (10);
23. Instructs its President to forward this resolution to the Commission and Council, and to the governments of the Member States.

(10) Cf. EP resolution on the completion of the internal market of 9 July 1992 (PE 161.604, Part 2, p. 53).

EXPLANATORY STATEMENTI. Introduction

On 1 January 1993 controls at the borders between Member States are to be removed and an area is to be created in which free movement of goods, persons, services and capital is guaranteed. This obligation arises from both Article 8a of the EEC Treaty, introduced by the Single European Act, and the future Article 8a introduced by the Treaty on European Union (concluded at Maastricht but not yet ratified, hereafter referred to as the Union Treaty)(11).

In addition, over a period of nearly 20 years the political will to create a 'People's Europe'(12) has been expressed, and European citizens have been promised a Europe without borders as of 1 January 1993.

On 13 September 1991 the European Parliament adopted a resolution on the free movement of persons and security in the European Community(13) on the basis of the report by Mr K. Malangré on behalf of the Committee on Legal Affairs and Citizens' Rights (A3-0199/91). For the topics discussed in the report, the reader is referred to the report itself. During the debates(14) on the Malangré report, the speakers were virtually unanimous in expressing their concern about the delay in achieving free movement of persons and also about the emphasis on intergovernmental cooperation, as a result of which democratic control over decision-making - or over the failure to take decisions - was lacking. In its resolution of 13 September 1991, Parliament insisted that the Commission submit proposals before 1 December 1991 for the measures required for achieving the free movement of persons laid down in the Treaty before the end of 1992.

Now, some seven months before the 1 January 1993 deadline, it is still the case that no proposal has been made for abolishing border controls for citizens(15). Thus the ironic question arises as to whether the governments of the Member States will abolish border controls as of 1 January 1993 without any EC directive or regulation, possibly violating their own statutory obligations in so doing. In view of the difficulties of ratification, it is not yet even certain whether the Schengen countries (Belgium, the Netherlands, Luxembourg, Germany, France, Italy, Spain and Portugal) will be able to abide by their obligations pursuant to the agreement implementing the agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic concerning the gradual removal of controls at their common frontiers concluded on 14 June 1985 in Schengen(16). The substance of the Schengen Implementation Agreement provides

(11)The Union Treaty rennumbers Article 8a of the EEC Treaty as Article 7a.

(12)The Paris Summit on 9 and 10 December 1974 adopted a decision on this.

(13)OJ No. C 267, 14.10.1991, p. 197.

(14)Debates of the European Parliament, No. 3-408, p. 155 et seq.

(15)Another tendency needs to be noted, too. In cooperating together, the Member States have rightly devoted much attention to the fight against crime and to upholding law and order. The Palma document (PE 156.304) contained many measures which were scheduled for 1992. So far as the rapporteur is aware, very little has been done to carry them out other than informally.

(16)The agreement was signed at Schengen on 19 June 1990. Italy, Spain and Portugal subsequently acceded to the agreements. Hereafter the agreement of 14 June 1985 will be referred to as the Schengen Agreement and the

a very good idea of the topics on which decisions need to be taken in order to realize free movement of persons. To this extent it can be regarded as a useful example(17).

As it is clear that intergovernmental cooperation is not having the desired results(18), Parliament should consider what it can do to achieve free movement of persons. Can Parliament now put forward an own-initiative proposal for a directive or regulation, or should it indicate the broad outlines of the measures which need to be taken? Before answering this question, a few important aspects of the free movement of persons will be discussed, such as the treaty framework, the definition of 'free movement', who the right is to be conferred on, and specific issues regarding visa policy, immigration and the right of asylum.

II. The treaty framework

Article 3(c) of the EEC Treaty concluded in Rome on 25 March 1957 already provided for 'the abolition, as between Member States, of obstacles to freedom of movement for persons, services and capital'.

Article 7 laid down that 'within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited'.

In view of the primarily economic objectives of the Treaty, little progress was made towards achieving freedom of movement for persons not economically active(19). However, even before the signature of the Single European Act, such initiatives had been adopted as:

- the decision of the conference of heads of state and of government of December 1974 on special rights to be conferred on EC citizens (point 11 of the final communiqué of the Paris Summit),
- the submission in 1979 of a proposal for a Council directive on the right of citizens of the Member States to reside in other Member States(20).

agreement of 19 June 1990 will be referred to as the Schengen Implementation Agreement.

(17) The same cannot be said of the undemocratic and secretive manner in which the agreement was concluded.

(18) Cf. for example the statement by Commission vice-president Mr Bangemann in communication SEC(90) 437/3 of 21 March 1990: 'the Commission's general approach is pragmatic rather than doctrinaire... Thus, where the best prospects for progress lie in going down the road of intergovernmental conventions rather than Community legal instruments, the Commission has opted for making progress rather than fighting time-consuming battles for competence'. It is now clear that this approach, which helped to undermine Community powers and thereby also largely sidelined the European Parliament, is not producing any results. Cf. inter alia the Commission Communication to the Council and Parliament on the abolition of border controls; provisional version SEC(92) 877/5.

(19) Freedom of movement already exists for workers; cf. Regulation 1612/68/EEC (freedom of movement of workers), OJ No. L 257, 19.10.1968, Directive 68/360/EEC (right of workers and members of their families to travel and reside), OJ No. L 257, 19.10.1968, Regulation 1317/70/EEC (the right to remain after termination of employment), OJ No. L 42, 30.1.1970.

(20) OJ No. C 207, 17.8.1979, p. 14 (amended several times).

- the Commission communication to the Council on a People's Europe (implementing the conclusions of the Fontainebleau European Council), COM(84) 446 final of 24 September 1984.
- the reports of the ad hoc committee, often referred to as the Adonis Committee after its chairman, on a People's Europe published in the Bulletin of the European Communities, Supplement 7/85,
- the White Paper on Completing the Internal Market (COM(85) 310 final).

Since the signature of the Single European Act in Luxembourg on 17 February 1986 and its ratification, Article 8a of the current Treaty has provided for the obligation to abolish border controls. It reads: 'The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992, in accordance with the provisions of this Article and of Articles 8b, 8c, 28, 57 (2), 59, 70 (1), 84, 99, 100a and 100b and without prejudice to the other provisions of this Treaty. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty'.

This was not the end of the matter, however; the Union Treaty adds a number of new articles or parts thereof, the most important being:

Article 8a (new, the existing Article 8a being renumbered 7a):

'1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.

2. The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1; save as otherwise provided in this Treaty, the Council shall act unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament.'

Article 100c (new):

'1. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall determine the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States ...

6. This Article shall apply to other areas if so decided pursuant to Article K.9 of the provisions of the Treaty on European Union which relate to cooperation in the fields of justice and home affairs, subject to the voting conditions determined at the same time

7. The provisions of the conventions in force between the Member States governing areas covered by this Article shall remain in force until their content has been replaced by directives or measures adopted pursuant to this Article.'

III. FREEDOM OF MOVEMENT

Article 8a of the EEC Treaty mainly emphasises the abolition of internal frontiers. European heads of government did indeed promise the citizens of Europe that internal border controls would be abolished with effect from 1 January 1993. Thus it will no longer be permissible for any checks to be made on people travelling from one Member State to another. This is not to say that the abolition of internal border controls will lead to complete freedom of movement. If the legislation of a Member State whose nationality an individual does not possess lays down that a person who has entered that country is there illegally, no true freedom of movement exists. In order to achieve complete freedom of movement, many changes would need to be made which

are unrealistic in today's Europe. It is possible to compare Europe with the USA, but as the twelve Member States do not have a common language and as there is considerable diversity in their school systems, for example, and national autonomy exists, the resemblance is not complete. However, a situation must be created there as regards travel and residence (including long-term residence) which is as similar as possible to the situation within a single state. This means that, in addition to the right to cross borders without being subject to checks, people must also at the very least acquire the right to reside in all Member States(21).

The three directives recently adopted confer on nationals of Member States the right of residence(22) with restrictions. The directive on the right of residence, for example, requires the citizen and members of his family to have sickness insurance in respect of all risks in the host country and requires them to have sufficient means of subsistence to avoid their requiring national assistance from the host country during their stay(23). The Member States may also derogate from the provisions of the directives on grounds of public policy, public security or public health(24) and Member States may require revalidation of the residence permit at the end of the second year, and the period of validity of a residence permit may be limited to five years(25). In addition, applicants for residence permits must be in possession of a valid identity card or passport. These requirements are defensible, but they do not generally apply to moves within a citizen's own Member State.

The interpretation of the new Article 8a(1) of the Union Treaty may also give rise to problems here: according to this article the restrictions and conditions which may be imposed must be laid down in the Treaty or in the measures adopted to give it effect. As the restrictions laid down in the Treaty relate to those in Article 56 of the EEC Treaty (public order etc), the question arises as to whether the other restrictive conditions should lapse(26).

(21) Cf. Article 8a of the Union Treaty.

(22) Directive 90/364/EEC (right of residence), Directive 90/365/EEC (right of residence of pensioners) and Directive 90/366/EEC (right of residence of students), OJ No. L 180, 13.7.1990, p. 26 et seq.

(23) Cf. Article 1(1) of Directive 90/364/EEC.

(24) Directive 64/221/EEC, OJ no. 56, 4.4.1964, p. 850/64 then applies.

(25) Cf. Article 2(1) of Directive 90/364/EEC. The residence permit may be extended.

(26) Freedom of movement does not, incidentally, mean that there will be no checks: subject to certain conditions, the police may check documents (driving licences, identity documents etc); hotels must also keep records, which must be checked. The obligation to register with the authorities in one's place of residence, which is a requirement in most Member States, also applies. There is no obligation to carry an identity document in the UK or the Netherlands. This was debated by the Lower House of Parliament in the Netherlands during the debate on the Schengen Implementation Agreement. The rapporteur believes that an obligation to carry an identity document is necessary; however, this measure is intrinsically separate from measures to establish freedom of movement. All documents which assist supervision by the police, such as passports, identity cards, residence permits, driving licences, visas and so on, must be completely harmonized, in so far as this has not already been done.

IV. Ports and airports

In principle, no problems arise at internal land borders. The situation at ports and airports is more complicated(27). When people travel by air or sea, their documents are generally checked both on departure and on entry. At present, checks are often made even on internal flights because no distinction is made between passengers starting their journeys in different places. This is unacceptable in the light of efforts to establish a situation similar to that in the USA.

Reference may be made to the results of Parliament's consideration of the subject of abolition of checks on baggage at ports and airports(28) for travel within the Community.

It is impossible to make an exhaustive analysis within the ambit of this report. However, the rapporteur has selected the following general points which are relevant to the topic discussed here:

- Passengers on aircraft travelling directly from one Member State to another should not be subject to any border controls (upon either entry or departure) after 1 January 1993. Airports need to be converted in time for this (if necessary on a provisional basis).
- Passengers on aircraft arriving from a non-Member State should be subject to strict controls. If nationals of third countries who ought in principle to have visas (see Chapter VI) do not have them, they should be given the opportunity to obtain them at the airport. Decisions on visa applications should be taken as quickly as possible (the rapporteur would suggest within three days as a rule); the applicant should pay the costs of the procedure. It should also be possible to apply for asylum; in the rapporteur's view, there should be no right of entry while the application is being considered(29).
- For similar arrangements for ports, taking into account the possibility that vessels may take passengers and goods on board at sea or that they may put in at other ports, reference is made to the regulation referred to in note 18.

V. The definition of 'persons'

The concept of 'persons' as used in Article 3c and Article 8a of the EEC Treaty is not defined, but the new Article 8 inserted by the Maastricht Treaty states that 'Every person holding the nationality of a Member State shall be a

(27) In principle, ports and airports are both internal and external frontiers (see also Chapter VI).

(28) Cf. Commission proposal COM(90) 390 final - SYN 289, OJ No. C 212, 25.8.1990, p. 26, A3-0355/90 and A3-0025/91 (rapporteur: Mr von Wogau), the EP's opinion on 13 March 1991, C3-0305/91 (common position) and A3-0267/91 (recommendation, rapporteur: Mr von Wogau) and the EP's resolution of 20 November 1991 (minutes 42 II, p. 23).

(29) The practice of detaining non-EC citizens at airports is controversial. A Dutch court (Haarlem District Court, judgment given in chambers, 28 March 1989) has rejected a case based on Article 5(1) and Articles 14 and 18 of the European Convention on Human Rights. There are problems with a more or less similar practice in France. The rapporteur believes that humane solutions can be found which will ensure that asylum-seekers are treated well and that decisions are taken quickly.

citizen of the Union'. At all events, anybody who holds the nationality of a Member State has the right to freedom of movement.

However, there are also people in the Member States who come from third countries, such as workers and their families, retired workers, ex-workers seeking employment, tourists, business travellers, entrepreneurs, students on exchange programmes, refugees, asylum-seekers awaiting a decision on their application, legal immigrants, aliens whose presence is officially tolerated(30) and illegal immigrants.

As a full analysis would go beyond the scope of this report, a few indications must suffice to show who must be granted freedom of movement. For EC citizens there is no objection to free movement or to their taking up residence in another Member State(31). For citizens of third countries, especially workers, tourists, business travellers, entrepreneurs, students on exchange programmes, recognized refugees and legal immigrants, the rapporteur believes that there should also be freedom of movement (without any right to settle permanently)(32)(33). The situation is different when it comes to pensioners and unemployed people from third countries. In principle they should be compelled to return to their country of origin, but the rapporteur takes the view that exceptions may be made to this rule. The rapporteur does not think that asylum-seekers awaiting a decision on their application should be allowed to travel freely or to settle anywhere. Illegal immigrants do not enjoy freedom of movement, but a solution must be found whereby people from the colonies who have resided in the Member State for at least ten years and have committed no offences are 'legalized'.

VI. Controls at external frontiers(34)

Both the Schengen Implementation Agreement and the draft convention on the crossing of external frontiers provide for strict controls at external frontiers(35). However, once a citizen has entered the EC he is not, in principle, subject to any controls at the internal frontiers if he wishes to travel to a different Member State. Third-country nationals (see note 22) also enjoy freedom of movement across such frontiers. However, it is obvious that this is not acceptable either to governments or to citizens of all the

(30) They are generally granted a form of temporary asylum; no positive decision is taken on an asylum application, but the situation is regarded as serious enough to warrant tolerating their presence in the territory of the Member State in question (temporarily at least).

(31) Articles 55, 56, 57, 58, 215, 216, 217, 218 and 221 in the Act of Accession for Spain and Portugal will largely lapse by 1 January 1993.

(32) The Commission communication to the Council and Parliament on the abolition of border controls (SEC(92) 877/5) states that abolishing border controls only for nationals of Member States would reduce the effectiveness of Article 8a of the EEC Treaty.

(33) In the rapporteur's view, stricter rules could apply to these third-country nationals in the case of long-term residence in a particular municipality: for example that they should be entered in a register if they stay longer than one month in the same municipality (cf. note 16).

(34) Preparations by the Member States for the conclusion of a convention on the crossing of external frontiers have reached an advanced stage (cf. PE 200.606). It seems that it is unlikely to be signed because of a difference of opinion about Gibraltar.

(35) Strict controls are provided for by Title II, Chapter 2, of the Schengen Implementation Agreement, for example.

Member States without special arrangements being made(36)/(37). Both the pressure of immigration(38) and the ever growing stream of asylum-seekers(39) necessitate a common policy on admission(40).

A decision in principle has now been taken in Article 100c of the Union Treaty, and a European visa policy(41) is to be established. In view of the above, the rapporteur believes that everybody who is not a national of one of the 12 Member States or of the USA, Canada, Australia, New Zealand, the EFTA countries or Japan should have a visa before entering the EC. A Community computer system should be set up to assist checks. As regards checks at the external borders, attention needs to be devoted to the difficulties involved in carrying out checks at maritime borders. In this regard, the burden should be shared equally among the Member States.

The role of the EP

As noted above, too little progress is now(42) perceptible to enable us to look forward to 1 January 1993 without concern. This seems to be due to the intergovernmental approach. Almost by definition, intergovernmental negotiations based on the idea that the participating states are autonomous are less likely to lead to results than decision-making within the EC, where there is often an obligation to take a decision. The Malangré report and the resolution of 14 October 1991 suffice to indicate Parliament's position in this respect. Nonetheless, every effort must be made to abolish border controls at the internal frontiers as of 1 January 1993.

Parliament has always worked for a Europe without frontiers.

The rapporteur proposes that Parliament firstly express its concern through a resolution and continue to insist that free movement of persons must be achieved as of 1 January 1993. The absence of the necessary measures with regard to external frontiers, asylum, visas etc. must not be allowed to stand in the way of this.

(36) A strict European visa policy is intended to ensure that one or more Member States do not admit large groups of immigrants who could then travel on to all the other Member States and settle there.

(37) A European asylum policy is intended to ensure that one or more Member States do not permit 'bogus' refugees to enter their territory, who would then be able to travel freely and settle in any Member State.

(38) The Committee on Civil Liberties and Internal Affairs has appointed Mrs Van den Brink rapporteur for an own-initiative report on immigration which is likely to be debated by the EP in plenary in November 1992.

(39) The Committee on Civil Liberties and Internal Affairs has appointed Mr Cooney rapporteur for an own-initiative report on the right of asylum which is likely to be debated by the EP in plenary in November 1992.

(40) Title VI of the Union Treaty - 'Provisions on cooperation in the fields of justice and home affairs' - provides, inter alia, for asylum policy, regulations on crossing the external borders, and immigration policy regarding nationals of third countries.

(41) The distinction between visas for periods up to 3 months ('Schengen visas') and for longer periods (national visas), which was made in the Schengen Implementation Agreement, does not appear in Article 100c of the Union Treaty.

(42) The text of the explanatory statement was translated at the end of May 1992.

Secondly, Parliament could itself adopt a draft regulation or directive, thereby indicating to the Commission and Council - which are evidently unable to achieve results - what form a Community instrument should take.

MOTION FOR A RESOLUTION (B3-0277/92)

pursuant to Rule 63 of the Rules of Procedure

by the following Members: BÖGE, LANGES, THEATO, QUISTHOUDT-ROWOHL, SÄLZER, LAGENHAGEN, FLORENZ and SCHLEICHER

on setting up a Euro-coastguard

The European Parliament,

- A. having regard to the outcome of the second North Sea Conference,
 - B. having regard to the unsolved problems relating to protection of the marine environment,
 - C. having regard to its call of 9 July 1991 for a Euro-coastguard to be set up,
 - D. having regard to the inefficient fragmentation of monitoring systems in such areas as preventive protection of the marine environment, inspection of fisheries and checks on the maritime transport sector as a whole, including smuggling,
1. Considers the studies on a Euro-coastguard compiled by the Society for the Protection of the German North Sea Coast to be extremely useful and believes they should be examined by the European Parliament without delay;
 2. Reaffirms its view that the establishment of a Euro-coastguard would be of particular value to all coastal regions of the Community, as regards protection of their ecological resources as well as their economic prospects.