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16. Instructs its President to forward this resolution to the Commission, the Council, the Economic and Social Committee and the governments of the Member States and of the Swiss Confederation.

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16. Passport checks by certain airlines

A3-0081/94

Resolution on the incompatibility of passport checks carried out by certain airlines with Article 7a of the EC Treaty

The European Parliament,

— having regard to the Articles 3(c), 7a, and 100a of the EC Treaty,

— having regard to Article 8a of the EC Treaty,

— having regard to the Universal Declaration of Human Rights of 10 December 1948, in particular Article 14: 'Everyone has a right to seek and to enjoy in other countries asylum from persecution',

— having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms, including Protocol No 4,

— having regard to the Geneva Convention relating to the Status of Refugees 1951 and the additional protocol of New York of 1967, which have been ratified by all the Member States,

— having regard to Annex 9 of 1944 Chicago Convention on International Aviation, under which no sanctions may be imposed on airlines, except in cases of serious negligence which constitutes assisting illegal immigration,

— having regard to the Schengen Agreement and Convention, the draft External Frontiers Convention and the Dublin Convention on the State responsible for the examination of an asylum application (1),

— having regard to its various previous resolutions on the free movement of persons within the European Community, the Schengen Convention, the External Frontiers draft Convention and the Dublin Convention,

— having regard to Rule 148 of its Rules of Procedure,

— having regard to its resolution of 19 November 1992 on the abolition of controls at internal borders and the free movement of persons within the European Community (2),

— having regard to the White Paper of the Commission to the European Council on completing the internal market (COM(85)0310) of 14 June 1985, 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 the Parliament on abolition of internal border controls (SEC(92)0877),

— having regard to the report of the Committee on Legal Affairs and Citizens' Rights (A3-0081/94),

(1) EC Bulletin 1990 — 6, p. 155.
(2) OJ C 337, 21.12.1992, p. 211

A. Whereas free movement of persons throughout the Community and now the Union should have been achieved by 31 December 1992, but was not because of the failure of the Commission to submit appropriate legislative proposals and the non-fulfilment by Member States of the preconditions cited in the Conclusions of the Presidency of the Edinburgh European Council:

— completion of the ratification process of the Dublin Asylum Convention;

— conclusion of the External Frontiers Convention;

— completion of negotiations on a Convention on the European Information System;

B. whereas carriers providing services to and from Member States, such as the UK, France and Italy are obliged (by virtue of carriers' liability legislation and associated penalties) to carry out double passport controls on the travel documents of passengers travelling to and from those Member States,

C. whereas carriers who transport passengers to those Member States who are not in possession of the requisite travel documents risk incurring substantial fines in respect of all such passengers,

D. whereas the Schengen Convention also requires the nine signatory Member States to introduce carriers' liability legislation for air, sea and coach travel, with penalties on carriers who transport third-country nationals who do not possess the necessary travel documents,

E. whereas carriers should not be put in a position of deciding who may exercise the right of free movement, and of applying for asylum, under the various Treaties and Conventions,

F. whereas the exercise of these rights should be a matter for the competent authorities of the Member States only,

G. whereas passport checks by carriers related to carriers' liability legislation must be distinguished from identity checks related to security, which should in principle be the same for travel within each Member State as to elsewhere in the Union,

H. whereas the adoption of conventions at inter-governmental level cannot be relied upon to either achieve the free circulation of persons or the respect of their human rights,

1. Calls upon the Commission to introduce legislation to achieve the free circulation of persons as soon as possible;

2. Calls upon the Commission to examine carriers' liability legislation and the associated penalties, such as those in the United Kingdom and in the Schengen signatory States to see if they are in breach of any existing Community legislation in so far as they relate to travel within the Union;

3. In accordance with the spirit and objectives of the Treaties establishing the European Communities, urges those Member States which have adopted legislation on carriers' liability to repeal such legislation;

4. Urges Member States to specify that identity checks related to security should be same for domestic travel as for travel to elsewhere in the Union;

5. Urges airlines to cease, as a minimum contribution to the free movement of persons, carrying out double checks;

6. Instructs its President to forward this resolution to the Commission, the Council, and the governments and parliaments of the Member States.