Bilateral readmission agreement between a Member State of the European Union and a third country

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The Committee on Civil Liberties adopted the report by Mrs Claudia ROTH (V, D) on the Council's draft recommendation concerning a specimen bilateral readmission agreement between a Member State of the European Union and a third country. This text takes the form of a draft recommendation, i.e. a form which does not figure among the instruments listed in Title VI of the Treaty for the purpose of implementing cooperation in the area of justice and internal affairs. The respective legal basis is not stated and it was sent to the European Parliament "for information purposes", thereby disregarding the obligation incumbent upon the Presidency under Article K.6 to consult the European Parliament and to ensure that due account is taken of its views. Apart from the implied violation of the rights of Parliament (and the Commission), it would appear that the Council had used the procedure followed in a bid to define legal rules without setting them out in a binding legislative act, thereby scuppering the facility for individuals to take legal recourse, especially to the European Court of Justice. It was this which prompted the members of the European Parliament to adopt "horizontal" amendments (see also COS0214, COS0217, COS0216), in which they maintained that the Commission had a political and legal obligation not to leave the initiative in these matters to the Member States or the Presidency of the Council and called on the Commission to draft binding proposals on the issues in question and to submit their proposals to the European Parliament and the Council. Although it recognized the need for a clear legal framework governing the possible repatriation of third country nationals, Mrs ROTH's report considered that the adoption of this recommendation without first consulting the European Parliament put the Council in breach of the provisions of Article K6 of the Treaty on European Union and that the Commission should submit an amended proposal on this basis. Parliament considered that Member States' policies vis--vis third country nationals entering their countries should be geared towards facilitating their return so as to allow compliance with bilateral readmission agreements. Parliament called on the Member States to offer persons who had lived in the European Union for several years (especially de facto refugees) the possibility of legalizing their status (or to promote programmes to encourage their voluntary return), rather than taking recourse to readmission agreements. Finally, Parliament reminded the Member States of their duty to honour their international commitments vis--vis refugees and stateless persons and to take a humane approach when examining requests for asylum.