Limiting of admission of third-country nationals: pursuit of independent professional activity

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The Committee on Civil Liberties adopted the report by Mr Klaus-Heiner LEHNE (PPE, D) on the Council's draft resolution relating to the limitations on the admission of third country nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons. This text takes the form of a draft resolution, 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 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, irrespective of their position on the individual texts, to adopt "horizontal" amendments (see also COS0215, COS0214, COS0217), 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. The report reiterated the above criticism and considered that the resolution could only represent a temporary measure pending a Commission proposal. The report also called for provisions banning independent economic activity once paid employment had been taken to be abolished, as they impeded the integration of third country nationals. The report also called for the list of persons to whom the resolution did not apply to be extended to include refugees and third country nationals already legally resident and authorized to exercise a legal activity in a Member State. In addition, the resolution should not imply any restriction on the rights to which third country nationals are entitled under Community law.