Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)

2004/0127(COD) - 13/06/2005

The committee adopted the report by Michael CASHMAN (PES , UK) amending the proposal under the 1st reading of the codecision procedure (N.B. this is the first time that MEPs have been able to exercise codecision powers in this field). The amendments were the result of long negotiations with the Council, with the aim of ensuring that the proposal could be adopted at 1st reading:

- the committee introduced a **new Article 5a** entitled 'Conduct of border checks' stipulating that border guards should "fully respect human dignity", take "proportionate" measures in the performance of their duties and not discriminate against people on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;

- **Article 6** was tightened up slightly to enable border guards, "on a non-systematic basis, when carrying out minimum checks on persons enjoying the Community right of free movement", to consult national and European databases to ensure that a person does not represent a real danger to "internal security, public order, international relations of the Member States or a threat to public health;

- **Article 9** was amended so that the travel documents of third-country nationals would be systematically stamped not only upon entry, as proposed by the Commission, but also upon exit;

- the committee introduced a **new Article 9a** stating that, if the travel document of a third-country national does not bear an entry stamp, "the competent national authorities may presume that the holder does not fulfil, or no longer fulfils, the conditions of duration of stay applicable within the Member State concerned". However, the article added that this presumption may be rebutted upon production by the third-country national of "credible evidence such as transport tickets or proof of his or her presence outside the territory of the Member States, which shows that he or she has respected the conditions relating to the duration of a short stay";

- MEPs amended **Article 11** ('Refusal of entry') so as to strengthen further the rights of third country nationals to appeal against refusal of entry. The committee also added new provisions requiring Member States to collect statistics on the number of people refused entry, the grounds for refusal, the nationality of those refused and the type of border (land, air, sea) at which they were refused entry. This information would be transmitted to the Commission once a year.