

Procedure file

Basic information	
COS - Procedure on a strategy paper (historic)	1994/2214(COS)
Free movement of persons: admission of third-country nationals in the Community for the purpose of study	Procedure completed
Subject	
7.10 Free movement and integration of third-country nationals	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties and Internal Affairs	FE CACCAVALE Ernesto	24/01/1995
Council of the European Union			

Key events			
30/11/1994	Non-legislative basic document published	10880/1994	Summary
20/01/1995	Committee referral announced in Parliament		
17/07/1995	Vote in committee		Summary
17/07/1995	Committee report tabled for plenary	A4-0181/1995	
20/09/1995	Debate in Parliament		
22/09/1995	Decision by Parliament	T4-0427/1995	Summary
22/09/1995	End of procedure in Parliament		
16/10/1995	Final act published in Official Journal		

Technical information	
Procedure reference	1994/2214(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 101o
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/4/06291

Documentation gateway					
Non-legislative basic document		10880/1994	30/11/1994	CSL	Summary
Committee report tabled for plenary, single reading		A4-0181/1995 OJ C 269 16.10.1995, p. 0009	17/07/1995	EP	
Text adopted by Parliament, single reading		T4-0427/1995 OJ C 269 16.10.1995, p. 0193-0200	22/09/1995	EP	Summary

Free movement of persons: admission of third-country nationals in the Community for the purpose of study

In this resolution, the Council defines principles which will allow the Member States to harmonise their conditions of admission to third country nationals for the purpose of study: - scope: these principles: . apply to third country students studying in a Member State of the Community or preparing a dissertation for a Ph. D. or thesis as part of a training course, . do not apply to persons with the right of freedom of movement under Community law (nationals of the EC and the EEA and members of their families) or to nationals authorised to reside in the Community in order to reunite families, . do not apply to primary or secondary school pupils or apprentices. - conditions of admission: the national must prove to the authorities in the Member State that: . he satisfies the conditions of entry to and residency in the territory of the Member State, . he has a firm offer of a place in a higher education institute (and, where applicable, that his studies follow on from previous studies in the country of origin), . he has sufficient funds to cover his daily expenses and will not become a burden on the host state, . if national legislation so requires, he has medical insurance which covers all risks in the host state. A Member State may also demand that the student give an assurance that he will in fact return to his own country on completion of his studies; - resident's permit: residency is limited to the length of the course. Permits are issued for one year (maximum) and may be extended from one year to the next in order to cover the entire course. Permits will only be extended if the student continues to meet all the basic entry requirements and proves that he has passed the examinations set by the institute in question. Any change of course also implies a change to the grounds for residency (and hence the need to issue a new resident's permit). This permit must be stamped in the student's passport; - work permit: in theory, students are not allowed to engage in paid work but the Member State may allow supplementary short-term work which does not constitute an essential means of subsistence for the student; - admission of family members: this is subject to national law (as is the spouse's right to work). These principles are not legally binding on the Member States but they should make an effort to bring their legislation into line with them by 1 January 1996. If Member States decide to amend their legislation in this area, these principles must be complied with.?

Free movement of persons: admission of third-country nationals in the Community for the purpose of study

The Committee on Civil Liberties adopted the report by Mr Ernesto CACCAVALE (UPE, I) on the draft resolution of the Council relating to the admission of third-country nationals to the Community for the purpose of study; The draft resolution is in a form which is not appropriate for the instruments listed in Title VI of the Treaty for the implementation of cooperation in the field of justice and internal affairs. There is no mention of a legal basis. Furthermore, it has been sent to Parliament for "information purposes", regardless of the obligation to consult Parliament and to ensure that its opinions are duly taken into account - duties which according to Article K6 should fall to the Presidency. Apart from the breach of the rights of Parliament (and of the Commission) which this procedure implies, it seems that the Council is thereby seeking to define legal rules without giving them the form of a binding legislative act, and in particular by removing the possibility for private individuals to have recourse to justice, and especially to the Court of Justice of the European Communities. It was for this reason that the MEPs, regardless of their position on the content of each of the texts, have adopted the "horizontal" amendments (see also COS0215, COS0216 and COS0217). In these amendments, they maintain that the Commission has the political and legal obligation not to allow the Member States or the Presidency of the Council to have the initiative in these matters and have called on the Commission to draw up binding proposals for the areas in question and to present these to Parliament and to the Council. While calling on the Council to consult Parliament and to comply with the spirit of Article K6 of the Treaty, the Committee wanted the wording being proposed by the Council to state that there would be no restriction to the rights of third-country nationals in these specific cases, under the provision of Community law. Some parts of the report supported the idea of providing better protection for the rights of students from third countries, and in particular by establishing that "all students from third countries" who fulfil the criteria required by each Member State (which should be in line with the criteria applied to students from the Member State itself) "must enjoy the right of being able to finance their studies by work, in the same way as any student from the home country". The report also called for transparency in the rules governing the return of students to their country of origin, after having completed their studies. Pending an initiative from the Commission in this regard (see above), the Committee on Civil Liberties called on the Council to limit the validity of the resolution to a maximum period of 18 months. ?

Free movement of persons: admission of third-country nationals in the Community for the purpose of study

Parliament adopted the report by Mr CACCAVALE (FE, I), which in its first part protests against the form of consultation to which Parliament was subjected within the framework of the text. The latter should be regarded as a document in the sense of Article K6 of the Treaty on European Union, which stipulates that Parliament must be consulted on the main aspects of activities coming under the Third Pillar of the Union (cooperation on justice and internal affairs). The Council should, in addition, ensure that Parliament's opinions were duly taken into consideration, something which could not be the case here given the form of consultation employed. Parliament recalled, in the general aspects of the resolution, that the Commission had the political obligation not to let the Member States or the Presidency of the Council have

the initiative in this area and called on that institution to be more active in proposing forms of wording which were binding in nature. Parliament also made a number of amendments to the specific aspects of the resolution, as follows: - extension of the categories of persons to which the resolution is not applicable: . third-country nationals admitted to the Community for the purpose of working as self-employed persons or as salaried employees, . refugees as defined under the Geneva Convention and national legislation, . third-country nationals who are legally resident in a Member State and who enjoy certain rights (particularly rights of access) in accordance with bilateral or association agreements; - students must be able to prove their student status on the basis of criteria which cannot be different from those which apply to students from the home country. They must also be entitled to contribute to the financing of their studies in the same way as "national" students (for example, by way of supplementary short-term work); - the rules governing the return of students to their country of origin must be made more transparent; - a sixth principle should be added, by which the resolution cannot result in any restriction to the rights of third-country nationals in these specific cases, under the provision of Community law; - the period of validity of the resolution should be limited as far as possible; - it is mainly the responsibility of the academic authorities to recognize the validity of students' qualifications, which will enable them to continue their studies; - the conditions for the admission of third-country nationals, who wish to study in the Community, should be clarified. In the final part of its resolution, Parliament called for an amended version of the text to be presented to the Council, either by the Commission or by the Presidency, and for it to be published in the Official Journal after the Council had given appropriate consideration to the proposed amendments. ?