

# Resolution on the PNR Agreement with the United States

2007/2602(RSP) - 12/07/2007 - Text adopted by Parliament, topical subjects

Following the debate which took place during the sitting of 9 July 2007, the European Parliament adopted a resolution on the PNR (Passenger Name Records) Agreement with the United States.

Recognising the difficult conditions under which the PNR negotiations took place, the Parliament acknowledges, in principle, the benefit of having a single EU-US PNR agreement rather than 27 bilateral agreements between the Member States and the US.

MEPs strongly regrets the lack of democratic oversight of any kind, as the new PNR agreement, prompted by US requirements, has been negotiated and agreed without any involvement of the European Parliament and leaving insufficient opportunity for national parliaments to exercise any influence over the negotiating mandate, to thoroughly assess the proposed new PNR agreement, or to propose modifications to it.

Parliament is concerned that the handling, collection, use and storage of PNR data is not founded on a proper agreement, but only on non-binding assurances that can be unilaterally changed by the Department of Homeland Security at any given moment and that do not confer any rights or benefits on any person or party. It regrets the lack of clear purpose-limitation given in the DHS letter, which notes that the PNR data may be used for the fight against terrorism and related crimes, but also for a range of unspecified additional purposes, notably 'for the protection of the vital interests of the data subject or other persons, or in any criminal judicial proceedings, or as otherwise required by law'.

It also regrets the fact that the EU negotiations with the US took no account of Directive 2004/82/EC or of the EU's PNR agreements with Australia and Canada, which ensure higher standards of protection of personal data and it recalls that the administrative agreement concluded between the EU and the US must not have the effect of reducing the level of protection of personal data assured by Member States' national legislation, and regrets that it will create further confusion as to the obligations of EU airlines and the fundamental rights of EU citizens.

As regards data protection, the Parliament deplores the fact that the length of retention of PNR data will be extended from 3.5 years to 15 years, as well as this being retroactively applied to data collected under the previous PNR agreements. It strongly criticises the fact that after the 15-year retention period, consisting of a 7-year 'active' and an 8-year 'dormant' period, there is no guarantee that the data will be definitively deleted. It is also concerned that data will be kept for seven years in 'active analytical databases', leading to a significant risk of massive profiling and data mining, which is incompatible with basic European principles and is a practice still under discussion in the US Congress.

As regards sharing of information, Parliament strongly opposes the provision that third countries in general may be given access to PNR data if adhering to US-specified conditions, and that third countries may exceptionally, in unspecified emergency cases, be given access to PNR data without assurances that the data will be handled according to the DHS level of data protection. It regrets the fact that the EU has accepted 'not to interfere' with regard to the protection of EU citizens' PNR data that may be shared by the US with third countries.

The Commission is invited to clarify the state of play with regard to an EU PNR system, including making available the feasibility study it has pledged to undertake. The report recalls that the new PNR agreement will eventually have to be reviewed in the light of future EU institutional reforms, as outlined in the conclusions of the European Council of June 2007 and in the mandate for the next IGC.

Lastly, the Parliament intends to seek a legal appraisal of the new PNR agreement for conformity with national and EU legislation, and invites the Article 29 Working Party and the European Data Protection Supervisor to present comprehensive opinions in this respect.