

Resolution on the impact of aviation security measures and body scanners on human rights, privacy, personal dignity and data protection

2008/2651(RSP) - 23/10/2008 - Text adopted by Parliament, single reading

Following the debate that took place during the sitting of 21 October 2008, the European Parliament adopted by 361 votes to 16 with 181 abstentions, a resolution on the impact of aviation security measures and body scanners on human rights, privacy, personal dignity and data protection.

The resolution had been tabled for consideration in plenary by the EPP-ED, PES, ALDE, Greens/ALE, GUE/NGL and UEN groups.

Parliament recalls that the Commission has proposed a draft Commission regulation supplementing the common basic standards on civil aviation security, which includes, among the permitted methods for screening of passengers in EU airports, 'body scanners', i.e. machines producing scanned images of persons as if they were naked, equivalent to a virtual strip search. The draft measure, far from being merely technical, has a serious impact on the right to privacy, the right to data protection and the right to personal dignity, and therefore needs to be accompanied by strong and adequate safeguards. Parliament notes that the draft measure was not accompanied by a Commission impact assessment relating to fundamental rights. The Commission consulted neither the European Data Protection Supervisor (EDPS) as required by Article 28(2) of Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions, nor the Article 29 Working Party, nor the Fundamental Rights Agency (FRA). No enquiries have been made into the possible impact of such machines on passengers' health. For these reasons, doubts arise in relation to the justification of this measure and its proportionality and necessity in a democratic society.

Furthermore, this draft measure on methods of screening of passengers, which has been examined by way of the regulatory procedure with scrutiny (comitology), will be followed by implementing measures relating to requirements and procedures for screening, which will be decided through procedures under which Parliament has almost no powers.

Accordingly, Parliament considers that the conditions for taking a decision have not yet been met, given that essential information is still lacking, and asks the Commission, before the expiry of the three-month deadline, to:

- carry out an impact assessment relating to fundamental rights;
- consult the EDPS, the Article 29 Working Party and the FRA;
- carry out a scientific and medical assessment of the possible health impact of such technologies;
- carry out an economic, commercial and cost-benefit impact assessment;

Members believe that this **draft measure could exceed the implementing powers** provided for in the basic instrument, as the measures in question cannot be considered mere technical measures relating to aviation security, but have a serious impact on the fundamental rights of citizens. They consider, in this respect, that all aviation security measures, including use of body scanners, should respect the

principle of proportionality as justified and necessary in a democratic society, and therefore ask the EDPS, the Article 29 Working Party and the FRA, as a matter of urgency, to deliver an opinion on body scanners by the beginning of November 2008.

Parliament reserves the right to verify the compatibility of such measures with human rights and fundamental freedoms with the EU legal services, and to take the necessary follow-up actions.