

Resolution on the global approach to transfers of passenger name record (PNR) data to third countries, and on the recommendations from the Commission to the Council to authorise the opening of negotiations between the European Union and Australia, Canada and the United States

2010/2899(RSP) - 11/11/2010 - Text adopted by Parliament, single reading

After a debate that took place in plenary on 10 November 2010, following the declarations of the Council and of the Commission on the EU's external strategy on Passenger Name Records (PNRs), the European Parliament adopted a resolution on the global approach to transfers of passenger name record (PNR) data to third countries, and on the recommendations from the Commission to the Council to authorise the opening of negotiations between the European Union and Australia, Canada and the United States.

The text adopted in plenary was tabled as a joint resolution by the EPP, S&D, ALDE, Greens/EFA, ECR and GUE/NGL.

Although Members welcome the Commission communication on the global approach to transfers of PNR data to third countries, as well as recommendation from the Commission to the Council to authorise the opening of negotiations with a view to the conclusion of an agreement between the European Union, on the one hand, and Australia, Canada and the United States, on the other, for the transfer and use of PNR data to prevent and combat terrorism and other serious transnational crime, they recall that the purpose of the agreements is to ensure that the transfer of data is in line with **European data protection standards**. As a result, the legal base of these agreements must include Article 16 of the Treaty on the Functioning of the EU (TFEU).

Respecting the proportionality principle: Members point out that proportionality remains a key principle in data protection policies, and that any agreement or policy measure must also stand the legal proportionality test, demonstrating that it aims to attain Treaty objectives. They reiterate their call to the Commission to provide it with factual evidence that the collection, storage, and processing of PNR data is **necessary** for each of the stated purposes and to explore less intrusive alternatives

Refusal of profiling: Parliament reiterates its position that PNR data shall in no circumstances be used for data mining or profiling. The differences between the concepts of 'risk assessment' and 'profiling' in the PNR context need to be clarified.

Parliament to be kept better informed: the resolution highlights the need for Parliament to be fully informed on all PNR-related and relevant developments in order to be able to consider giving its consent to the agreements under negotiation. Members therefore urge the Commission and the Council to clarify fully the state of play with regard to bilateral agreements and memorandums of understanding between Member States and the USA concerning the exchange of law-enforcement data and participation in the US Visa Waiver Programme, as well as the One-Stop Security programme.

Negotiation of bilateral agreements: Members emphasise that **bilateral memorandums of understanding** between Member States and the USA, alongside negotiations between the EU and the USA, are **contrary to the principle of loyal cooperation between the EU institutions**. Further information and legal clarity on the situation regarding the legal base and competence of bilateral memorandums of understanding are required. They strongly support the recommendation from the Commission to the Council to authorise the opening of negotiations for an **agreement between the EU and the USA** on protection of personal data when transferred and processed for the purpose of preventing, investigating, detecting or prosecuting criminal offences, including terrorism, and support the Commission's approach of having such a framework agreement apply to all future and all existing EU or Member States' agreements with the USA for the purpose of preventing, investigating, detecting or prosecuting criminal offences in the framework of judicial and police cooperation.