Resolution on seeking an opinion from the Court of Justice on the compatibility with the Treaties of the Agreement between Canada and the European Union on the transfer and processing of passenger name record (PNR) data

2014/2966(RSP) - 25/11/2014 - Text adopted by Parliament, single reading

The European Parliament adopted by 383 votes to 271, with 47 abstentions, a resolution tabled by the ALDE Group on seeking an opinion from the Court of Justice on the compatibility with the Treaties of the Agreement between Canada and the European Union on the transfer and processing of Passenger Name Record data (PNR).

The European Union concluded an agreement with Canada in 2005 on the processing of Passenger Name Record (PNR) data on the basis of a set of commitments by the Canada Border Services Agency (CBSA) in relation to the application of its PNR programme. With the expiry of the relevant Commission decision on 22 September 2009, the European legal basis for the transmission of PNR data to the CBSA ceased to exist.

On 2 December 2010 the Council adopted a decision, together with a negotiating directive, authorising the Commission to open negotiations on behalf of the EU for an agreement with Canada on the transfer and processing of Passenger Name Record data.

Parliament decided to **seek an opinion from the Court of Justice on the compatibility of the agreement with the Treaties**. It took the view that there is **legal uncertainty** as to whether the draft agreement is compatible with the provisions of the Treaties (Article 16 TFEU) and the Charter of Fundamental Rights of the European Union (Articles 7, 8 and 52(1)) as regards the right of individuals to protection of personal data.

Moreover, Parliament also questioned the **choice of legal basis**, i.e. Articles 82(1)(d) and 87(2)(a) TFEU (police and judicial cooperation) rather than Article 16 TFEU (data protection).

It is recalled that following the entry into force of the Lisbon Treaty on 1 December 2009, the conclusion of new PNR agreements requires the consent of the European Parliament before they can be adopted by the Council.