Protection of personal data: adequacy of the US safe harbor privacy principles

2000/2144(COS) - 21/06/2000

In spite of a strong recommendation by Legal Affairs Commissioner Frits BOLKESTEIN to the contrary, the committee adopted a report in which doubts were voiced over the adequacy of personal data protection in the United States. In the report by Ornella PACIOTTI (PES, I) on a draft decision by the Commission to allow for the transfer of EU personal data to the US, the committee felt that the American system of self-regulation (the "safe harbor privacy principles") contained several loopholes and was not yet fully operational. The report was critical of the Commission because data relating to EU citizens now seemed to be circulating in third countries without any effective control by the Commission or the EU Member States. The Commission was given until 30 September to draw up standard contractual clauses that EU citizens could invoke in the courts of third countries. The committee agreed that for economic reasons it would be unwise to hold up the free movement of data to the US, all the more so since this transfer apparently already takes place without any guarantees whatsoever. However, it felt that - in spite of hopeful developments such as the numerous legislative proposals now pending before Congress - the present lack of legal data protection in the US and the very limited possibilities of legal redress warranted withholding authorisation of the free movement of data until all the elements of the safe harbor system were in place and operational. After that, the Commission should closely monitor its functioning.