EU/USA agreement on the judicial cooperation in criminal matters and extradition

2003/2003(INI) - 03/06/2003 - Text adopted by Parliament, single reading

The European Parliament passed a resolution adopting the own-initiative report drafted by Jorge Salvador HERNANDEZ MOLLAR (EPP-ED, Spain) on the EU-US judicial cooperation agreement. (Please refer to the document dated 25/05/03). The resolution was adopted by 356 in favour, 63 against, and no abstentions Parliament stated that, since the agreements are the first agreements on extradition and judicial cooperation to be concluded between the EU as a whole and a third country, they must serve as a model for negotiations for any agreements to be concluded with other third countries. Given their scope and the fact that they affect the rights and freedoms of individual citizens, these agreements must be deemed by the Council to be 'basic choices' for the Union in terms of both foreign policy and judicial cooperation. Consequently, Parliament must be consulted pursuant to Articles 21, 34(2)(c) and 39(1) of the EU Treaty. Furthermore, simple information to Parliament during the ratification phase, which the Council referred to in the House, cannot be deemed satisfactory from either a political or a constitutional point of view. Parliament called on the Council as a matter of urgency to consult formally the European Parliament in the same way as the American authorities consult the US Congress. Parliament clearly stated that the judicial system of some US States does not offer the same level of guarantees that the ECHR and EU measures seek to provide for EU Member States. It is paradoxical to sign an agreement with the United States when several European Union citizens are still being held at the US military base at Guantßnamo Bay, quite unlawfully under both US and international law and without the slightest guarantee that they will receive a fair trial. The agreements should explicitly exclude every form of judicial cooperation with American exceptional and/or military courts and all discrimination should be abolished between European and American citizens which might arise from application of the Patriot Act and of the Homeland Security Act. Parliament also recommended that, with regard to the specific provisions of the draft agreement on extradition: -no request for extradition submitted by a third country should take precedence over a request for surrender from a Member State in the execution of a European arrest warrant; -Member States should ensure that, when faced with several competing extradition demands, they respect their obligations under the Rome Statute regarding surrender to the International Criminal Court; -EU applicant countries and associated states should align themselves with the EU common position on the International Criminal Court and on the processing of US requests for the signature of immunity agreements. Finally, Parliament expressed its concern about the procedure to be applied to data protection. There are no common principles on which to act with regard to the correct use of data, its integrity, and the rights of the data subject to rectification and erasure if the data are inaccurate. Since US legislation is not subject to verification for compliance with the principle of proportionality, a very detailed study should be made of the possible impact of US legislation, such as the Homeland Security Act, before the agreement is ratified. The agreements shouldprovide for data-protection guarantees that are at least equivalent to the provisions of the Council of Europe's Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data.