

Procedure file

Basic information		
INI - Own-initiative procedure	2006/2193(INI)	Procedure completed
<p>European Parliament recommendation to the Council on the negotiations for an agreement with the USA on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime</p> <p>Subject</p> <p>1.20.09 Protection of privacy and data protection</p> <p>3.20.15.02 Air transport agreements and cooperation</p> <p>7.30.20 Action to combat terrorism</p> <p>Geographical area</p> <p>United States</p>		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs	ALDE IN 'T VELD Sophia	20/06/2006
	Former committee for opinion		
	AFET Foreign Affairs	The committee decided not to give an opinion.	

Key events			
03/07/2006	Non-legislative basic document published	B6-0382/2006	
13/07/2006	Vote in committee		Summary
19/07/2006	Committee report tabled for plenary	A6-0252/2006	
07/09/2006	Results of vote in Parliament		
07/09/2006	Committee referral announced in Parliament		
07/09/2006	Debate in Parliament		
07/09/2006	Decision by Parliament	T6-0354/2006	Summary
07/09/2006	End of procedure in Parliament		

Technical information	
Procedure reference	2006/2193(INI)

Procedure type	INI - Own-initiative procedure
Legal basis	Rules of Procedure EP 134o-p3
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/38316

Documentation gateway

Non-legislative basic document	B6-0382/2006	03/07/2006	EP	
Committee draft report	PE376.425	04/07/2006	EP	
Amendments tabled in committee	PE376.449	06/07/2006	EP	
Committee report tabled for plenary, single reading	A6-0252/2006	19/07/2006	EP	
Text adopted by Parliament, single reading	T6-0354/2006	07/09/2006	EP	Summary
Commission response to text adopted in plenary	SP(2006)4772	19/10/2006	EC	
Commission response to text adopted in plenary	SP(2006)4861	15/11/2006	EC	

European Parliament recommendation to the Council on the negotiations for an agreement with the USA on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime

The committee adopted the own-initiative report by Sophia in 't VELD (ALDE, NL) containing a recommendation to the Council on the negotiations for an agreement with the USA on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime. The report was tabled under a special procedure provided for in Parliament's rules (Rule 114), which enables MEPs to submit a recommendation to the Council where Parliament has not been consulted on an international agreement.

On 30 May 2006, following a legal case brought by Parliament against the Commission, the European Court of Justice annulled an agreement between the European Community and the US on the processing and transfer of personal data, as well as the 2004 Commission Decision on the adequate protection of those data. Parliament argued that the legal basis (Article 95) was incorrect, that Parliament should have had the power of assent rather than simple consultation, that the agreement was in breach of the principle of proportionality and that the US did not offer adequate data protection. The Court annulled the agreement purely on procedural grounds (i.e. the legal basis) and did not express any views on Parliament's objections against its substance. The agreement will have no legal effect after 30 September 2006, but the Council has decided to negotiate a new, short-term PNR agreement with the US, based on Articles 24 and 38 of the Treaty on European Union, to cover the period between 1 October 2007 and November 2007 (the date originally set for expiry of the current agreement). This legal basis means that the European Parliament will not be formally consulted and that the Court of Justice will not have competence concerning the new agreement (which will have the same substance as the current agreement).

The committee decided to draw up a recommendation to the Council, urging it to ensure in its negotiations that the US offers adequate protection of European passenger data and that sufficient safeguards are in place. For the interim agreement, this would mean:

- ensuring that the agreement only covers the period until November 2007, following which a medium-term agreement should be negotiated with full involvement of Parliament;
- ensuring that the shortcomings already identified in the current agreement are rectified;
- incorporating a shift to a PUSH system (i.e. US officers should request concrete data on a case-by-case basis, instead of being granted access to the full database);
- ensuring that staff who handle the data receive adequate instructions and training.

As regards the content of the medium-term agreement, MEPs called on the Council to provide the EU with a clear and consistent legal framework for data protection and to avoid an artificial division between the "pillars" by implementing the bridging clause under Article 42 of the TEU to ensure that the new agreement is concluded in association with Parliament and is subject to the scrutiny of the Court of Justice. The Council was also urged to limit the amount of data that may be requested and ensure that the new agreement grants European passengers the same level of data protection as enjoyed by US citizens. Lastly, the report recommended that representatives of Parliament be included in the negotiation process as observers and that Parliament should hold a joint session with the US Congress.

European Parliament recommendation to the Council on the negotiations for an agreement with the USA on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime

The European Parliament adopted a resolution based on the own-initiative report drafted by Sophia in 't VELD (ALDE, NL) giving a recommendation to the Council on the negotiations for an agreement with the USA on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime. (For the background to this resolution, please see the summary of 13/07/2006.)

Parliament recommended that the Council should negotiate:

- a new short-term international agreement to cover the period between 1 October 2006 and November 2007 (the period originally covered by the US/EC agreement that was the subject of the Court's judgment); and
- for the medium to long term, a more coherent approach at International Civil Aviation Organisation (ICAO) level towards the exchange of passenger data in order to ensure both air-traffic security and respect of human rights at global level.

Parliament made a series of recommendations on the contents of the two agreements. With regard to the short-term agreement, these include the shift to a PUSH system (as provided for in Undertaking 13), as in the case of EC agreements with Canada and Australia, since all the technical requirements are in place.

For the medium and long-term, Parliament proposed a more coherent approach towards the exchange of passenger data. By the time of the review of the agreement in 2007, MEPs want the Council to give Parliament full co-decision rights on such issues so they can ensure future agreements are properly respect data protection safeguards. Such a change would mean invoking the so-called "passerelle" clause of the Treaty, which allows the Council, by a unanimous decision, to move policy areas from decision making by unanimity in Council and consultation of Parliament to qualified majority voting in Council and co-decision with Parliament.

Parliament reiterated its previous demand that the new agreement should grant to European passengers the same level of data protection as is enjoyed by US citizens. It proposed that a dialogue in which parliamentary representatives would take part be launched before the end of 2006 between the EU, the US, Canada and Australia with a view to preparing jointly the 2007 review and establishing a global standard for the transmission of PNR, if that is deemed necessary.