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Committee on Foreign Affairs

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DRAFT OPINION

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the draft Council decision on the conclusion of the Agreement between the United States of America and the European Union on the use and transfer of Passenger Name Records to the United States Department of Homeland Security
(17433/2011 – C7-0511/2011 – 2011/0382(NLE))

Rapporteur: Traian Ungureanu

SHORT JUSTIFICATION

The European Union and the United States are facing a number of common challenges in ensuring an effective fight against international terrorism as part of a wider global agenda. In this common endeavour, information sharing, in particular the transfer of Passenger Name Record (PNR) by air carriers operating flights between the EU and the US, serves the purpose of combating the threat to international peace and security.

In order to advance their cooperation on data exchange aimed at containing international terrorism, the EU and the US signed an agreement on PNR in 2007, which has been applied on a provisional basis since. In May 2010, the European Parliament declined to give its consent and requested to re-negotiate the provisional agreement referring to the necessity to meet European data protection standards. In its resolution, the Parliament underlined its determination to fight international terrorism and organised and transnational crime as a key component of European external action and to pursue a policy of prevention.

Simultaneously, it demanded to protect fundamental rights and to ensure utmost respect for the privacy of EU citizens in compliance with relevant EU standards and norms of data protection. It called for a new agreement to introduce, inter alia, appropriate mechanisms for independent review and judicial oversight, to set out arrangements – in accordance with the PUSH method - on the use of PNR data only for law enforcement and security purposes in cases of terrorist offences and transnational crime as well as to prohibit in all circumstances the use of PNR for data mining and profiling. The European Parliament has also re-affirmed that necessity and proportionality remain key principles without which the fight against terrorism and transnational crime can not be effective.

The re-negotiated EU-US PNR agreement, which was initialled in November 2011 and now awaits Parliament's consent, provides better information sharing between EU and US law-enforcement agencies, tightens a number of provisions on the protection of data of European citizens and enhances data protection safeguards. The purpose of processing PNR data was limited to preventing, detecting and prosecuting terrorist offences and serious transnational crimes, the data retention period was limited, the disclosure of information contained in PNR was subject to legal limitations and the PUSH method was recognized as the standard mode of transfer. Individuals were provided with the right inter alia to access, correct and erase their data and any EU citizen may now be able to seek effective administrative and judicial redress.

While a number of shortcomings are recognized in the new draft agreement as regards particularly the broad purpose of using PNR data, the retention periods and concerns on the onward transfer of data to third countries, the rapporteur is committed to an agreement which would reinforce the common fight of the EU and the US against international terrorism in the interests of the security of EU citizens. He strongly believes that the EU and US shall be united in rolling back the threat from terrorism by pursuing a multi-faceted approach, including information sharing, to mitigate its many risks.

Considering the above provisions, the rapporteur is of the view that the new draft agreement is an essential and necessary element of close transatlantic cooperation in the successful common fight against terrorism and provides the basic safeguards for the respect of the data protection rights of EU citizens.

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to propose that Parliament give its consent.