



Data protection: how to bring Americans and Europeans closer together?

[DICO] Commission: Committee on Civil Liberties, Justice and Home Affairs

Though the Swift data privacy issue not forgotten, Europeans and Americans are trying to overcome their data protection differences via a possible police and judicial co-operation agreement. At a Civil Liberties Committee hearing on Monday, MEPs debated a draft negotiating brief proposed by the Commission to the Council. Parliament will have a right of veto over the final agreement.

"We would like to adjust the trajectory" with this agreement, said rapporteur Jan-Philipp Albrecht (Greens/EFA, DE), the new text of which "must remedy certain shortcomings which we have identified in recent years". Simon Busuttil (EPP, MT), welcomed a "change of approach" by the US authorities: "one year ago, the United States seemed unaware of the existence of this Parliament" during debates on the Swift agreement. The Americans "will have to be as flexible as possible, because we shall not be easy partners", he warned.

Don't bet security against privacy

Europeans and Americans should not bet security against privacy - "we want both", said US Ambassador to the EU William E. Kennard. "Neither must take precedence", acknowledged Alexander Alvaro (ALDE, DE), who wondered where the dividing line should be drawn between "what is legal and what is legitimate, especially when gathering personal data "becomes an end in itself".

The EU's Belgian Presidency would like the negotiating brief to be approved in December, said current President of the Council Stefaan De Clerck.

For the time being, "a patchwork" of sector-specific deals and "about a hundred" bilateral agreements

"Today we face a patchwork" of cross-Atlantic data exchange deals, "all of which have proven their worth, but the overall result is not very satisfactory", said the European Commission Director-General for justice Françoise Le Bail, justifying the Commission proposal. "It's a real puzzle, which complicates the work of officials and policemen, as well as the exercise of citizens' rights" added Mr De Clerck.

"We have different systems but common values" observed Mr Kennard, expressing concern about certain aspects of the negotiating brief proposed by the Commission. "We fear that a possible retroactive application could compromise the one hundred various agreements already signed. They might have to be reopened and renegotiated", which could take "years, or indeed decades", he said.

"I suppose you have a list" of these agreements, said Stavros Lambrinidis (S&D, EL). "Which of them would pose a problem?" he asked, adding that "if all the bilateral agreements more or less comply with the proposed data protection principles", then "the obstacle should not be too difficult to overcome".

Right of appeal: revise the US Privacy Act?

Press release

The agreement as envisaged by the Commission "will guarantee a certain number of basic rights for those whose data is gathered" to enable them to take legal action, in Europe or the USA, against abuses of these rights, explained Ms Le Bail. "A key issue is recognition - or otherwise - that European citizens possess the same rights as Americans under the Privacy Act. And only Congress can change that", observed Rui Tavares (GUE/NGL, PT).

"I don't think that Congress can reopen debate on the Privacy Act. The Obama Administration does not want this, and personal view is that it won't happen", replied Mr Kennard. Many other legal remedies could be used to solve the problem, he added.

"Standards first, then co-operation"

"I found the Ambassador's contribution somewhat disappointing, said Douwe Korff, a professor of international law at the London Metropolitan University. "We have common values, but the US rides roughshod over some of them", he observed, noting that "Guantanamo was opened to avoid the protection of US constitutional law". He urged MEPs to "first insist on decent standards - only thereafter will co-operation be possible".

"There are not wicked Americans on one side and good Europeans on the other" said committee chair Sophie in 't Veld (ALDE, NL), noting that on the issue of Guantanamo, "not a single European government justified" its complicity in extraordinary rendition.

Committee on Civil Liberties, Justice and Home Affairs

In the chair: Sophie in 't Veld (ALDE, NL)

Contact :

Baptiste CHATAIN

LIBE

BXL: (+32) 2 28 40992

STR: (+33) 3 881 74005

PORT: (+32) 498 98 35 90

EMAIL: libe-press@europarl.europa.eu