



Swift/data sharing - a look at its slow legislative death

Reacting to a No vote in the European Parliament on the Swift data sharing agreement earlier this month, EU Justice Ministers Thursday (25 February) reaffirmed their desire for a brand new deal with the US to fight terrorism. The vote by Parliament on 11 February was seen by many as a watershed, as MEPs used new powers given to them under the Lisbon Treaty to reject the deal.

The Belgian based Swift financial company handles 80% of all international financial transactions from some 208 countries. Given this ubiquity, after 9/11 it became a target for the US intelligence community in its investigation of possible terrorist financing.

378 no to Swift, 196 yes

The US Treasury Department used its **Terrorism Finance Tracking Program** (TFTP) to subpoena records and data from Swift. When this came to light it provoked a furore on Europe and the practice was stopped.

To fill the gap last November a 9-month interim agreement was reached between Washington and EU governments.

It was this agreement that was struck down by the European Parliament by 378 votes to 196, with 31 abstentions on 11 February. The accord had been due to come into force on 1 February but Swift said it would await the EP's decision before implementing it.

Prior to the vote senior figures in Washington including Secretary of State **Hillary Clinton** had lobbied to try and persuade Parliament to approve the deal.

"Trust in both, security and data claims"

Dutch Liberal **Jeanine Hennis-Plasschaert** drafted Parliament's report on the Swift interim agreement and recommended rejection. "Rules on data transfer and storage provided for in the interim agreement were not proportionate to the security supposedly provided". she said.

She added, "I too support a strong EU that is capable of acting shoulder to shoulder as a true counterpart to the US. The exchange and use of data for counter-terrorism purposes is and will remain necessary. But European citizens must be able to have trust in both, security and data claims. Council has been insufficiently strong on this".

Prior to the vote MEPs debated the issues surrounding Swift. Across the house there was a broad lack of enthusiasm for the deal. Speaking for the largest bloc in Parliament, the centre right European People's party, Austrian MEP **Ernst Strasser** said "we want to ensure safety and security, as well as civil liberties and data protection on an equal footing".

EU justice Ministers vow to find new agreement

On Thursday, EU countries reaffirmed their support for a joint bank data transfer agreement with the US to help fight terrorism. Following a meeting of the Justice and Home Affairs Council in Brussels, the Spanish Minister for Home Affairs, **Alfredo Pérez Rubalcaba** (who chaired the meeting), declared "we want an agreement from all the countries in Europe

rather than bilateral solutions". Mr Rubalcaba also said the USA "has understood" that the new agreement must include the safeguards proposed by the European Parliament concerning the infringement of fundamental rights.

The new European Commissioner for Home Affairs, **Cecilia Malmström** has previously said that the Commission would be drawing up a new agreement that would then be submitted for approval in the European Parliament and by government in the Council of Ministers.

Viviane Reding, the European Commissioner for Justice, Fundamental Rights and Citizenship, said recently "we will be preparing the recommendation for authorising the negotiation of a future EU-US data protection and information sharing agreement".

"A poor agreement"

The leader of the second largest bloc, **Martin Schulz** of the Socialist and Democrats commented that "signing this agreement was a mistake by EU governments...they thought they could get away with such a poor agreement, which is not in line with fundamental rights".

Speaking after the vote Parliament's Speaker **Jerzy Buzek** said, "the majority view in the EP is that the correct balance between security and the protection of civil liberties and fundamental rights has not been achieved in the text put to us by the Council".