

EUROPEAN PARLIAMENT

1999



2004

Session document

11 December 2001

B5-0820/2001

MOTION FOR A RESOLUTION

further to the Council statement

pursuant to Rule 37(2) of the Rules of Procedure

by Giuseppe Di Lello Finuoli, Pernille Frahm and Ilka Schröder

on behalf of the GUE/NGL Group

on EU judicial cooperation with the United States in combating terrorism

European Parliament resolution on EU judicial cooperation with the United States in combating terrorism

The European Parliament,

- having regard to Articles 2, 6, 11, 29 and 31 of the EU Treaty, which, together with the Charter of Fundamental Rights, stipulate that Member States and the European Union must fully respect the rule of law and human rights, and maintain a high level of judicial standards in all their actions affecting their citizens and third-country nationals on the territory of the European Union,
 - having regard to the letter of 16 October 2001 from President Bush to the President-in-Office, Prime Minister Verhofstadt, and to Commission President Romano Prodi, presenting a list of 40 US proposals on EU/US cooperation against terrorism, including proposals concerning criminal investigations, data surveillance, border controls and extradition,
 - having regard to relevant international legal instruments, in particular the United Nations Convention against Torture and other cruel, inhuman or degrading treatment or punishment and to the European Convention on Human Rights and in particular to Protocol 6 of the ECHR, as well as the Geneva Convention on refugee status (1951),
 - having regard to Article 19 of the EU Charter of Fundamental Rights,
 - having regard to relevant international and European legal instruments on data protection, namely the 1981 Council of Europe convention and Directives 95/46/CE and 97/66/CE,
- A. recalling that the fight against terrorism must be conducted with due respect for human rights, fundamental freedoms, democracy and the rule of law, in order to avoid the risk of infringing human rights and undermining democracy in seeking to protect it from terrorism,
- B. reaffirming the EU's commitment to fully participating in the fight against terrorism,
- C. whereas the aforementioned letter includes requests on: revision of EU rules on data protection and privacy; authorisation for police authorities to deal directly with US law enforcement authorities; authorisation of exchange of information on the basis of an oral request; exploration of alternatives to extradition, including expulsion and deportation; establishment of procedures to share information on immigration lookouts for individuals associated with terrorist organisations; improvement of cooperation on the removal of status violators, criminals and 'inadmissibles',

- D. noting that that recent proposals in the United States and US initiatives vis-à-vis the European Union could be in breach of EU and Member States' legal and constitutional provisions and substantially depart from US legal tradition,
 - E. noting, in particular, the Bush administration plans for military trials, in which prosecution evidence could be withheld from defence lawyers, the role of independent defence lawyers severely restricted and judicial decisions, including decisions applying capital punishment, taken by a 2/3 majority of the jury,
 - F. noting that the recently adopted US Patriot Act seriously undermines the legal protection of third-country nationals residing in the US,
 - G. recalling that all Member States have signed Protocol 6 of the ECHR which does not permit extradition to countries which apply the death penalty,
1. Calls on the Council and the Member States to guarantee that the judicial safeguards contained in EU norms and traditions are fully respected, and not to conclude an agreement on a fast-track extradition procedure with the United States unless full guarantees are in place ensuring that the United States legal system meets EU and international standards, in particular by guaranteeing fair trials and access to appropriate defence;
 2. Reaffirms the EU view on capital punishment, which implies that extradition of requested persons from the EU to the United States can only take place after the USA abolish capital punishment; asks that expulsion or deportation proceedings will not be used as "disguised" extradition proceedings;
 3. Demands once again that the USA abolish the death penalty at federal and state levels;
 4. Rejects any extraordinary judicial measures and expresses its concern regarding the adoption of any agreement on extradition, that makes provision for military tribunals, and different treatment for non-American citizens as regards trial-related guarantees;
 5. Calls on the EU to guarantee European data protection standards and ensure that no mandatory retention of data be allowed, which would undermine any rights and guarantees;
 6. Asks for the EP to be fully informed and consulted before the adoption of any EU-USA cooperation agreement in the field of JHA and that the conclusion of such an agreement be conditional upon a ruling confirming its conformity with EC law, established by the Court of Justice;
 7. Asks for the application of the principle of reciprocity in judicial and police cooperation between the EU and USA;
 8. Instructs its President to forward this resolution to the Council, the Commission, the governments of Member States and the US administration.