



EUROPEAN PARLIAMENT

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Plenary sitting

16.10.2013

B7-0467/2013

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 110(2) of the Rules of Procedure

on the suspension of the SWIFT agreement as a result of US National Security Agency surveillance
(2013/2831(RSP))

Agustín Díaz de Mera García Consuegra, Axel Voss, Manfred Weber, Véronique Mathieu Houillon, Salvatore Iacolino, Hubert Pirker
on behalf of the PPE Group

European Parliament resolution on the suspension of the SWIFT agreement as a result of US National Security Agency surveillance (2013/2831(RSP))

The European Parliament,

- having regard to the SWIFT agreements and to all declarations and resolutions on the subject,
 - having regard to Council Decision 2010/412/EU of 13 July 2010 on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program , and to the accompanying declarations by the Commission and the Council,
 - having regard to the joint review reports on the implementation of the Agreement,
 - having regard to the Commission communication of 13 July 2011 on a European terrorist finance tracking system (COM(2011)0429),
 - having regard to Written Questions E-11200/2010, E-2166/2011, E-2762/2011, E-2783/2011, E-3148/2011, E-3778/2011, E-3779/2011, E-4483/2011, E-6633/2011, E-8044/2011, E-8752/2011, E-617/2012, E-2349/2012, E-3325/2012, E-7570/2012 and E-000351/2013,
 - having regard to Article 16 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Article 87 TFEU,
 - having regard to Article 225 TFEU,
 - having regard to Article 226 TFEU,
 - having regard to Article 218 TFEU,
 - having regard to Article 234 TFEU,
 - having regard to Article 314 TFEU,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (hereinafter ‘the Agreement’) entered into force on 1 August 2010;
- B. whereas, after rejecting the temporary TFTP Agreement, Parliament only gave its consent

to the current TFTP Agreement by reason of its strengthened protections safeguarding the personal data and privacy rights of EU citizens;

- C. whereas Parliament agreed to the TFTP Agreement in 2010 in the light of its firm belief in the necessity of tracking terror finance;
- D. whereas the US Treasury has classified a large quantity of relevant information regarding this Agreement as 'EU Secret';
- E. whereas the Commission has stated that while the Agreement sets out strict safeguards regarding the transfer of data, it acknowledges the longer-term ambition for the EU to establish a system allowing the extraction of data to take place on EU soil;
- F. whereas the Commission was invited to submit to Parliament and the Council, no later than 1 August 2011, a legal and technical framework for the extraction of data on EU territory and, no later than 1 August 2013, a progress report on the development of an equivalent EU system under Article 11 of the Agreement;
- G. whereas the report TESAT 2012 (Terrorism Situation and Trend Report), conducted by Europol, states that terrorism remains, still today, a threat to the Member States; whereas the number of terrorist attacks worldwide was 219 in 2012, of which, however and thanks to the implementation of the Agreement, only seven occurred on EU territory;
- H. whereas on 13 July 2011 the Commission presented a description of the different steps taken by it to move towards establishing the legal and technical framework referred to above, communicating preliminary results and some theoretical options for a European terrorist finance tracking system while not going into detail;
 - 1. Recalls its determination to fight terrorism and to improve police, judicial and intelligence cooperation among Member States, and its firm belief in the need to strike the right balance between security measures and the protection of civil liberties and fundamental rights while ensuring the utmost respect for privacy and data protection;
 - 2. Considers the TFTP Agreement to be an essential tool in the fight against terror and serious transnational crime;
 - 3. Recalls the financial impact of the terror attacks of 9/11, and for that reason stresses the importance of terrorist finance tracking policies as a key tool, such that suspension of the Agreement may only be considered if the EU itself is able to extract the contemplable data or if the agreed arrangements for handling personal data are not respected;
 - 4. Expresses its gratitude to its US counterparts for their commitment and cooperation in the joint fight against terrorism and serious crime;
 - 5. Urges the Commission to investigate the allegations according to which there are or have been serious breaches of the Agreement and to reserve all action until the end of the inquiry;
 - 6. Expects, for reasons of security and for reasons of the Union's responsibility to defend and protect its citizens against terror attacks, that there will be no suspension of the

Agreement on the grounds of the alleged NSA mass surveillance until the conclusion of an investigation by the Commission; considers any suspension without solid and fundamental reasons to constitute a gap in EU counter-terrorism policy;

7. Urges the Commission to submit a legislative proposal for a legal and technical framework for the extraction of data on EU territory without any further delay, since without this the current EU-US TFTP Agreement would be at risk as of July 2015, due to the stipulations made in Article 11 of the Agreement;
8. Welcomes, in this context, the statements already received from Commissioner Malmström and the Director of Europol concerning the state of implementation of the Agreement and the high degree of compliance with it;
9. Expects all parties to the Agreement to ensure:
 - (a) that Requests under Article 4 are not abstract, but are tailored as narrowly as possible;
 - (b) that the term ‘tailored as narrowly as possible’ under Article 4 should be interpreted in the same way as it currently is under Article 5;
 - (c) that the rights of access, rectification, erasure and blocking can be fully exercised in practice;
 - (d) that the permanent overseer appointed by the Commission has full authority to review in real time and retrospectively all searches made of the Provided Data, the authority to block any or all searches that appear to be in breach of Article 5, the authority to query such searches and, as appropriate, the authority to request additional justification of the terrorism nexus;
10. Expects any legal proposal for a legal and technical framework for the extraction of data on EU territory to ensure:
 - (a) full compliance with European data protection legislation;
 - (b) that no Single Euro Payments Area (SEPA) or national financial data, regardless of the system in which they are processed, are extracted;
 - (c) that no data are extracted or retained without prior authorisation;
11. Instructs its President to forward this resolution to the Council, the Commission and Europol.