

To Mr Michael Chertoff
Secretary of the US Department of Homeland Security

C.c. Mr Boyden Gray, US Ambassador to the EU

Dear Sir,

The United States and the European Union are united in their efforts to ensure a free, democratic and safe world for their citizens. In recent years security measures aiming to protect our citizens from terrorist attacks have been stepped up considerably in the face of growing threats. But ultimately, a democratic, open society is the best defense against extremism, hatred and violence. Conversely, any undue restrictions of our freedom, unjustified encroachment upon our civil liberties, undermining of the rule of law, or curtailing of democratic rights can be considered a victory for the terrorists.

Against this backdrop, we want to express our deep concern over the confidential treatment, requested by the DHS, of the evaluation of the US-EU agreement on Passenger Name Records. Since 2004 the US require all airline companies to submit Passenger Name Records of all passengers. The aforementioned agreement covers - amongst other things - undertakings regarding the protection of personal data of EU citizens. You may remember that the European Parliament has strong reservations as to the adequacy of those undertakings. As the elected representatives of the European citizens, we are naturally concerned to see their personal data adequately protected by the US authorities, as well as adequate means for redress in case of non compliance on the side of the US.

The joint evaluation of the implementation of the agreement was presented to the European Parliament on March 13th, in an in camera session. In September of last year, many elements of the evaluation were presented to us orally by the European Commission during a public session. The (somewhat critical) internal evaluation done by the Privacy Officer of your Department, was included in our deliberations.

The final European Commission evaluation document is classified, at the request of the US. However, in view of the above, we feel that our citizens have a right to know if their personal data are safe with the US authorities, if the PNR scheme is effective from a security point of view (i.e.: if it has demonstrably led to greater security) and if both parties fully comply with the undertakings in the agreement.

Citizens have a right to scrutinise their administration. By insisting on the confidentiality of this document, the impression is given that there is something to

hide. It will create fears and suspicions amongst our people. In the current climate of insecurity and fear, it is vital that people can fully trust their politicians.

If we have confidence in the strength and vitality of our own democracies, we do not need to fear debate and criticism. Secrecy does not protect us, quite the contrary: it weakens our democracies.

Therefore we wholeheartedly endorse the request of the European Commission for public access to the document. By way of this open letter we urge you to make the evaluation available for public scrutiny, in the name of democracy, transparency and freedom. In the name of our shared values and good cooperation based on mutual trust. Such a gesture would go some way to addressing the concerns that a majority of European parliamentarians have on this matter and improving relations between our respective institutions.

Sophie in 't Veld, Sarah Ludford, Alexander Alvaro, Jeanine Hennis-Plasschaert
Members of the European Parliament