

Answer given by Mr Bolkestein on behalf of the Commission

(21 March 2003)

In the aftermath of the terrorist attacks of 11 September 2001, the United States passed a law, the Aviation and Transportation Security Act of 2001, requiring that air carriers operating flights to, from or through the United States provide the United States' Customs with electronic access to the data contained in their automated reservation and departure control systems, known as Passenger Name Records (PNR).

This requirement conflicts with Community and Member States' legislation on data protection and also with certain provisions of the Community Regulation on Computer Reservation Systems⁽¹⁾.

The Commission has taken the issue up with the United States side on several occasions since the publication of the implementing rules, which, after one postponement, entered into force on 5 February 2003. However, as a result of the démarches by the Commission, the United States' Customs agreed to waive the imposition of penalties on non-complying airlines until 5 March 2003. These penalties include severe fines and even the withdrawal of landing rights.

In order to reconcile United States' requirements with the requirements of data protection law in the Union, a meeting took place on 17 and 18 February 2003 between senior officials of the Commission and the United States' Customs Service. As a result of those discussions, the two sides issued a Joint Statement⁽²⁾ which sets out the steps that need to be taken to reach a mutually satisfactory solution that can provide legal certainty to all concerned. In particular, both sides agreed to work together towards a bilateral arrangement under which the Commission, in response to information and undertakings provided by the United States side about the way transferred data would be handled and protected in the United States, may take a decision under Article 25.6 of the Data Protection Directive⁽³⁾, on the adequacy of the level of protection ensured by the United States. Following the adoption of such decisions, Member States must take the necessary measures to comply.

The Joint Statement also includes in annex the undertakings of United States Customs with regard to the manner in which it will handle the personal data that it accesses. These undertakings apply with immediate effect.

It should be noted that the Commission has not entered into any agreement with the United States. Community law confers powers on the Commission to make findings of adequate protection in third countries. The Commission has committed itself to working with the United States' authorities towards such a finding, but the decision will of course depend on a close examination of the information and undertakings to be made by the United States' side.

⁽¹⁾ Council Regulation (EC) No 323/1999 of 8 February 1999 amending Regulation (EEC) No 2299/89 on a code of conduct for computer reservation systems (CRSs), OJ L 40, 13.2.1999.

⁽²⁾ available on the Commission's website on: http://www.europa.eu.int/comm/external_relations/us/intro/pnr.htm.

⁽³⁾ Directive 95/46/EC of the Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281, 23.11.1995.

(2003/C 161 E/239)

WRITTEN QUESTION E-0649/03**by Erik Meijer (GUE/NGL) to the Commission**

(5 March 2003)

Subject: Criticism by the Netherlands National Audit Office of the lack of transparency in the management of EU funds by fund flow and by Member State

1. Is the Commission aware that the Netherlands National Audit Office published its first annual 'EU trends report' on 18 February 2003, the aim of which is to chart developments in the management of Community funds and oversight and monitoring of their allocation, as well as legality and effectiveness in the Netherlands and throughout the European Union?

2. Is the Commission aware that the 2003 report points out that, while the Commission exercises checks, their results are not published, so that the public is unable to establish any link between shortcomings in financial management and certain countries or flows of funds, and that the report also criticises the fact that since 1994 the European Court of Auditors, in its reports on the reliability of income and expenditure, has made no specific reference by country or fund flow, and hence can make no positive statements on the accounts of the European Union?
3. Is there a law in all the Member States comparable to the Dutch law on supervision of European subsidies, which was adopted following the discovery of errors in the management of the ESF in the period from 1994 to 1999, and which requires ministers to exercise central oversight over decentralised spending?
4. Is oversight at national level limited in practice to the Member States Austria, the United Kingdom and the Netherlands, and the candidate countries Estonia, Latvia, Hungary and Romania?
5. Why are results broken down by fund flow not published, particularly as regards the Structural and Cohesion Funds and agricultural subsidies?
6. Why are results broken down by Member State, including Member States which themselves practise no or little oversight, not published?
7. What is the Commission doing, particularly in the light of the report in question, to present these financial data to the public in a better form, thus reinforcing the possibility of public oversight of movements of EU funds?

Answer given by Mrs Schreyer on behalf of the Commission

(7 April 2003)

The Commission is collecting the information it needs to answer the question. It will communicate its findings as soon as possible.

(2003/C 161 E/240)

WRITTEN QUESTION E-0765/03

by Patricia McKenna (Verts/ALE) to the Commission

(12 March 2003)

Subject: Proposed Swedish ban on cod fishing

With respect to the proposal by Sweden to not participate in the cod fishery on several stocks, the Commission is encouraging Sweden to consider adopting technical measures as an alternative. Both Reg. 88/98⁽¹⁾ (technical measures in the Baltic) and Reg. (EC) 850/98⁽²⁾ (technical measures in other areas) include provisions for Member States to take measures going beyond the minimum requirements set out in these Regulations (Art. 13 of 88/98, Art. 46 of 850/98).

Could the Commission please provide a list of the cases in which Member States have availed themselves of this possibility? For each instance, could the Commission please specify:

- the fishery/fisheries involved, in terms of target species, area and gear type,
- when and for how long the measures were enacted,
- what measures were adopted by the Member State compared to the CFP requirement,
- whether any analysis has been conducted to ascertain if there was any impact from these measures.