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*Plenary sitting*

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25/01/16

## **Greens/EFA Amendments**

on the use of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

25.01.2016

**Amendment 1**

**Jan Philipp Albrecht**

on behalf of the Verts/ALE Group

**[Recital 10]**

(10) To prevent, detect, investigate and prosecute terrorist offences and serious crime, it is essential that all Member States introduce provisions laying down obligations on air carriers operating extra EU-flights, ***and if the Member State wishes to do so also on air carriers operating intra EU-flights,*** to transfer any collected PNR and API data. These provisions should be without prejudice to Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

*Amendment*

(10) To prevent, detect, investigate and prosecute terrorist offences and serious crime, it is essential that all Member States introduce provisions laying down obligations on air carriers operating extra EU-flights, to transfer any collected PNR and API data. These provisions should be without prejudice to Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

25.01.2016

Amendment ] ] 2

Jan Philipp Albrecht

on behalf of the Verts/ALE Group

[Article 1a]

*Amendment*

*If a Member State wishes to apply this Directive to intra-EU flights, it shall give notice in writing to the Commission to that end. The Commission shall publish such a notice in the Official Journal of the European Union. A Member State may give or revoke such notice at any time after the entry into force of this Directive.* *deleted*

*Where such a notice is given, all the provisions of this Directive shall apply in relation to intra-EU flights as if they were extra-EU flights and to PNR data from intra-EU flights as if it were PNR data from extra-EU flights.*

*A Member State may decide to apply this Directive only to selected intra-EU flights. In making such a decision the Member State shall select the flights it considers necessary in order to further the purposes of this Directive. The Member State may decide to change the selection of intra-EU flights at any time.*

Or. [en]

25.01.2016

**Amendment 3**  
**Jan Philipp Albrecht**  
on behalf of the Verts/ALE Group

**[Article 2(ba)]**

*Amendment*

*(ba) 'intra-EU flight' means any scheduled or non-scheduled flight by an air carrier flying from the territory of a Member State planned to land on the territory of one or more of the other Member States, without any stop-overs at the territory/airports of a third country;.* *deleted*

Or. [en]

25.01.2016

**Amendment 4**  
**Jan Philipp Albrecht**  
on behalf of the Verts/ALE Group

**[Article 4(5)]**

*Amendment*

5. The consequences of the assessments of passengers referred to in point (a) of paragraph 2 shall not jeopardise the right of entry of persons enjoying the Union right of free movement into the territory of the Member State concerned as laid down in Directive 2004/38/EC. *In addition, the consequences of such assessments, where these are carried out in relation to intra-EU flights between Member States to which the Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders' applies, shall comply with that Code.*

5. The consequences of the assessments of passengers referred to in point (a) of paragraph 2 shall not jeopardise the right of entry of persons enjoying the Union right of free movement into the territory of the Member State concerned as laid down in Directive 2004/38/EC.

Or. [en]

25.01.2016

**Amendment 5**

**[Article 6(1)]**

*Amendment*

1. Member States shall adopt the necessary measures to ensure that air carriers transfer ('push') the PNR data as defined in point (c) of Article 2 and specified in Annex I, to the extent that such data are already collected by them in the normal course of their business, to the database of the Passenger Information Unit of the Member State on the territory of which the flight will land or from the territory of which the flight will depart. Where the flight is code-shared between one or more air carriers the obligation to transfer the PNR data of all passengers on the flight shall be on the air carrier that operates the flight. Where an extra-EU flight has one or more stop-overs at the airports of the Member States, air carriers shall transfer the PNR data of all passengers to the Passenger Information Units of all the Member States concerned.  
*This also applies where an intra-EU flight has one or more stopovers at the airports of different Member States, but only in relation to Member States which are collecting intra-EU flight PNR data..*
1. Member States shall adopt the necessary measures to ensure that air carriers transfer ('push') the PNR data as defined in point (c) of Article 2 and specified in Annex I, to the extent that such data are already collected by them[in the normal course of their business, to the database of the Passenger Information Unit of the Member State on the territory of which the flight will land or from the territory of which the flight will depart. Where the flight is code-shared between one or more air carriers the obligation to transfer the PNR data of all passengers on the flight shall be on the air carrier that operates the flight. Where an extra-EU flight has one or more stop-overs at the airports of the Member States, air carriers shall transfer the PNR data of all passengers to the Passenger Information Units of all the Member States concerned.

Or. [en]

25.01.2016

**Amendment 6**  
**Jan Philipp Albrecht**  
on behalf of the Verts/ALE Group

**[Article 2(i)]**

*Amendment*

(i) 'serious crime' means the offences, listed in Annex II, where if they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of a Member State.

(i) 'serious crime' means the offences, listed in Annex II, where if they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of a Member State, ***and if;***

- i. They are committed in more than one state;***
- ii. They are committed in one state but a substantial part of their preparation***
- iii. They are committed in one state but involve an organised criminal group that engages in criminal activities in more than one state; or***
- iv. They are committed in one state but have substantial effects in another state.***

Or. [en]

25.01.2016

**Amendment 7**

**Jan Philipp Albrecht**

on behalf of the Verts/ALE Group

**[Article 4(1)]**

*Amendment*

1. The PNR data transferred by the air carriers, shall be collected by the Passenger Information Unit of the relevant Member State, *as provided for by Article 6.*

Should the PNR data transferred by air carriers include data beyond those listed in Annex I, the Passenger Information Unit shall delete such data immediately and permanently upon receipt.

1. The PNR data transferred by the air carriers, *pursuant to Article 6, in relation to international flights which land on or depart from the territory of each Member State* shall be collected by the Passenger Information Unit of the relevant Member State. *Member States shall adopt the necessary measures to ensure that their Passenger Information Unit may request air carriers in accordance with Article 6 to:*

*(a) transfer ('push') all PNR data of all passengers arriving or departing from that Member state in an anonymised format;*

*(b) transfer ('push') specific PNR data of an individual linked to a name, contact detail or payment method linked to a specific case of prevention, detection, investigation or prosecution of a terrorist offence or a specific serious transnational crime;*

*(c) transfer ('push') PNR data of all passengers on specific flights where a risk assessment of the Passenger Information Unit has proven a high concrete risk that persons linked to a specific case of prevention, detection, investigation or prosecution of a terrorist offence or a specific serious transnational crime are travelling on those flights.*

*The processing of PNR data may be authorised only by order of a competent court of a Member State following application by the Passenger Information*



***Unit. Only where the Passenger Information Unit identifies danger in delay ('periculum in mora'), in particular an urgent need to avert serious consequences for the life, liberty of physical integrity of a person, may it authorise such processing itself, subject to a review by a court within 48 hours)***

Should the PNR data transferred by air carriers include data beyond those listed in Annex I, the Passenger Information Unit shall delete such data immediately and permanently upon receipt.

Or. [en]

25.01.2016

**Amendment 8**

**Jan Philipp Albrecht**

on behalf of the Verts/ALE Group

**[Recital 32]**

*[Motion for a resolution]*

(32) In particular, the scope of this Directive is as is as limited as possible, as it allows retention of PNR data in the Passenger Information Units for a period of time not exceeding **five years**, after which the data should be deleted, as the data should be depersonalised through masking out after, and as the collection and use of sensitive data should be prohibited. In order to ensure efficiency and a high level of data protection, Member States are required to ensure that an independent national supervisory authority and, in particular, a data protection officer, is responsible for advising and monitoring the way PNR data are processed. All processing of PNR data should be logged or documented for the purpose of verification of its legality, self-monitoring and ensuring proper data integrity and security of the data processing. Member States should also ensure that passengers are clearly and precisely informed about the collection of PNR data and their rights.

**[Article 9(1)]**

1. Member States shall ensure that the PNR data provided by the air carriers to the Passenger Information Unit are retained in a database at the Passenger Information Unit for a period of **five years** after their transfer to the Passenger Information Unit of the Member State on whose territory the flight is landing or departing.

*Amendment*

(32) In particular, the scope of this Directive is as is as limited as possible, as it allows retention of PNR data in the Passenger Information Units for a period of time not exceeding **12 months**, after which the data should be deleted, as the data should be depersonalised through masking out after, and as the collection and use of sensitive data should be prohibited. In order to ensure efficiency and a high level of data protection, Member States are required to ensure that an independent national supervisory authority and, in particular, a data protection officer, is responsible for advising and monitoring the way PNR data are processed. All processing of PNR data should be logged or documented for the purpose of verification of its legality, self-monitoring and ensuring proper data integrity and security of the data processing. Member States should also ensure that passengers are clearly and precisely informed about the collection of PNR data and their rights.

*Amendment*

1. Member States shall ensure that the PNR data provided by the air carriers to the Passenger Information Unit are retained in a database at the Passenger Information Unit for a period of **12 months** after their transfer to the Passenger Information Unit of the Member State on whose territory the flight is landing or departing.

Or. [en]

25.01.2016

**Amendment 9**

**Jan Philipp Albrecht**

on behalf of the Verts/ALE Group

**[Article 9(2)]**

*Amendment*

2. Upon expiry of a period of **6 months** after the transfer of the PNR data as referred to in paragraph 1, all PNR data shall be depersonalised through masking out the following data elements which could serve to directly identify the passenger to whom the PNR data relate:

1. Name(s), including the names of other passengers on PNR and number of travellers on PNR travelling together;
2. Address and contact information;
3. All forms of payment information, including billing address, to the extent that it contains any information which could serve to directly identify the passenger to whom PNR relate or any other persons;
4. Frequent flyer information;
5. General remarks to the extent that it contains any information which could serve to directly identify the passenger to whom the PNR relate; and
6. Any collected advance passenger information.

2. Upon expiry of a period of **30 days** after the transfer of the PNR data as referred to in paragraph 1, all PNR data shall be depersonalised through masking out the following data elements which could serve to directly identify the passenger to whom the PNR data relate:

1. Name(s), including the names of other passengers on PNR and number of travellers on PNR travelling together;
2. Address and contact information;
3. All forms of payment information, including billing address, to the extent that it contains any information which could serve to directly identify the passenger to whom PNR relate or any other persons;
4. Frequent flyer information;
5. General remarks to the extent that it contains any information which could serve to directly identify the passenger to whom the PNR relate; and
6. Any collected advance passenger information.

**[Article 9(3)]**

*Amendment*

3. Upon expiry of the **6 month** period referred to in paragraph 2, disclosure of the full PNR data shall be permitted only where it is reasonably believed that it is necessary for the purpose of Article 4(2)(b).

Disclosure of the full PNR data can be permitted only when approved :

- by a judicial authority or,
- by another national authority competent under national law to verify whether the conditions for disclosure are fulfilled, subject to information and ex-post review by the data protection officer of the Passenger Information Unit.

3. Upon expiry of the **30 day** period referred to in paragraph 2, disclosure of the full PNR data shall be permitted only where it is reasonably believed that it is necessary for the purpose of Article 4(2)(b).

Disclosure of the full PNR data can be permitted only when approved :

- by a judicial authority or,
- by another national authority competent under national law to verify whether the conditions for disclosure are fulfilled, subject to information and ex-post review by the data protection officer of the Passenger Information Unit.

Or. [en]

25.01.2016

**Amendment 10**

**Jan Philipp Albrecht**

on behalf of the Verts/ALE Group

**[Article 17a (new)]**

*Amendment*

*This Directive shall lose its effect after a period of seven years. The Commission may ask to extend the effect of this Directive for further seven-year-periods after the consent of the European Parliament and the Council.*

Or. [en]