



25/11/2015

AMENDMENTS 1 - 52

Timothy Kirkhope

Use of Passenger Name Record data (EU PNR)

Proposal for a directive COM(2011)0032 - C7-0039/2011 – 2011/0023(COD)

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Amendment 1

Ana Gomes

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) PNR data are necessary to effectively prevent, detect, investigate and prosecute terrorist offences and serious crime and thus enhance internal security.

Amendment

(5) PNR data are necessary to effectively prevent, detect, investigate and prosecute terrorist offences and serious ***transnational*** crime and thus enhance internal security.

Or. en

Amendment 2

Ana Gomes

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) PNR data help law enforcement authorities prevent, detect, investigate and prosecute serious crimes, including acts of terrorism, by comparing them with various databases of persons and objects sought, to construct evidence and, where relevant, to find associates of criminals and unravel criminal networks.

Amendment

(6) PNR data help law enforcement authorities prevent, detect, investigate and prosecute serious ***transnational*** crimes, including acts of terrorism, by comparing them with various databases of persons and objects sought, to construct evidence and, where relevant, to find associates of criminals and unravel criminal networks.

Or. en

Amendment 3

Ana Gomes

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) PNR data enable law enforcement authorities to identify persons who were previously ‘unknown’, i.e. persons

Amendment

(7) PNR data enable law enforcement authorities to identify persons who were previously "unknown", i.e. persons

previously unsuspected of involvement in serious crime and terrorism, but whom an analysis of the data suggests may be involved in such crime and who should therefore be subject to further examination by the competent authorities. By using PNR data law enforcement authorities can address the threat of serious crime and terrorism from a different perspective than through the processing of other categories of personal data. However, in order to ensure that the processing of data of innocent and unsuspected persons remains as limited as possible, the aspects of the use of PNR data relating to the creation and application of assessment criteria should be further limited to serious crimes that are also transnational in nature, i.e. are intrinsically linked to travelling and hence the type of the data being processed.

previously unsuspected of involvement in serious crime and terrorism, but whom an analysis of the data suggests may be involved in such crime and who should therefore be subject to further examination by the competent authorities. By using PNR data law enforcement authorities can address the threat of serious **transnational** crime and terrorism from a different perspective than through the processing of other categories of personal data. However, in order to ensure that the processing of data of innocent and unsuspected persons remains as limited as possible, the aspects of the use of PNR data relating to the creation and application of assessment criteria should be further limited to serious **transnational** crimes that are also transnational in nature, i.e. are intrinsically linked to travelling and hence the type of the data being processed, **which is as an indispensable condition for the use of such data by law enforcement authorities to be proportional.**

Or. en

Amendment 4

Ana Gomes, Marju Lauristin, Tanja Fajon

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) To prevent, detect, investigate and prosecute terrorist offences and serious crime, it is therefore essential that all Member States introduce provisions laying down obligations on air carriers operating international flights to or from the territory of the Member States of the European Union.

Amendment

(10) To prevent, detect, investigate and prosecute terrorist offences and serious **transnational** crime, it is therefore essential that all Member States introduce provisions laying down obligations on air carriers operating international flights to or from the territory of the Member States of the European Union, **including chartered flights, as well as other commercial operators or non-commercial flight operators, operating private flights, and**

privately freighted flights .

Or. en

Amendment 5

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Marju Lauristin, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Air carriers already collect and process PNR data from their passengers for their own commercial purposes. This Directive should not impose any obligation on air carriers to collect or retain any additional data from passengers or to impose any obligation on passengers to provide any data in addition to that already being provided to air carriers.

Amendment

(11) Air carriers already collect and process PNR data from their passengers for their own commercial purposes. This Directive should not impose any obligation on air carriers to collect or retain any additional data from passengers or to impose any obligation on passengers to provide any data in addition to that already being provided to air carriers. ***For charter, private and freighted flights, PNR data should also be collected and transferred to the Passenger Information Unit of the relevant Member State.***

Or. en

Amendment 6

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Marju Lauristin

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) The definition of terrorist offences should be taken from ***Articles 1 to 4 of Council Framework Decision 2002/475/JHA on combating terrorism***³⁷. ***The definition of serious crime should be taken from Article 2 of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedure***

Amendment

(12) The definition of terrorist offences should be taken from ***the offences defined under national law and should include the travelling for the purpose of perpetrating, planning, preparing, providing or receiving training for terrorism, in accordance with United Nations Security Council resolution 2178 and Additional Protocol on the Council of***

between Member States³⁸. However, Member States may exclude those minor offences for which, taking into account their respective criminal justice system, the processing of PNR data pursuant to this directive would not be in line with the principle of proportionality. The definition of serious transnational crime should be taken from Article 2 of Council Framework Decision 2002/584/JHA and the United Nations Convention on Transnational Organised Crime.

³⁸ OJ L 190, 18.7.2002, p. 1.

Europe Convention on the Prevention of Terrorism.

³⁸ OJ L 190, 18.7.2002, p. 1.

Or. en

Amendment 7

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Marju Lauristin, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) PNR data should be transferred to a single designated unit (Passenger Information Unit) in the relevant Member State, so as to ensure clarity and reduce costs to air carriers.

Amendment

(13) PNR data should be transferred to a single designated unit (Passenger Information Unit) in the relevant Member State, so as to ensure clarity and reduce costs to air carriers **and other commercial operators or non-commercial flight operators.**

Or. en

Amendment 8

Ana Gomes

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) The contents of any lists of required PNR data to be obtained by the Passenger

Amendment

(14) The contents of any lists of required PNR data to be obtained by the Passenger

Information Unit should be drawn up with the objective of reflecting the legitimate requirements of public authorities to prevent, detect, investigate and prosecute terrorist offences or serious crime, thereby improving internal security within the Union as well as protecting the fundamental rights of citizens, notably privacy and the protection of personal data. Such lists should not contain any personal data that could reveal racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership or data concerning health or sexual life of the individual concerned. The PNR data should contain details on the passenger's reservation and travel itinerary which enable competent authorities to identify air passengers representing a threat to internal security.

Information Unit should be drawn up with the objective of reflecting the legitimate requirements of public authorities to prevent, detect, investigate and prosecute terrorist offences or serious **transnational** crime, thereby improving internal security within the Union as well as protecting the fundamental rights of citizens, notably privacy and the protection of personal data. Such lists should not contain any personal data that could reveal racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership or data concerning health or sexual life of the individual concerned. The PNR data should contain details on the passenger's reservation and travel itinerary which enable competent authorities to identify air passengers representing a threat to internal security.

Or. en

Amendment 9

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Marju Lauristin, Emilian Pavel, Tanja Fajon

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The Commission supports the International Civil Aviation Organisation (ICAO) guidelines on PNR. These guidelines should thus be the basis for adopting the supported data formats for transfers of PNR data by air carriers to Member States. This justifies that such supported data formats, as well as the relevant protocols applicable to the transfer of data from air carriers should be adopted in accordance with the advisory procedure foreseen in Regulation (EU) No..... of the European Parliament and the Council [.....]

Amendment

(16) The Commission supports the International Civil Aviation Organisation (ICAO) guidelines on PNR. These guidelines should thus be the basis for adopting the supported data formats for transfers of PNR data by air carriers **and other commercial operators or non-commercial flight operators** to Member States. This justifies that such supported data formats, as well as the relevant protocols applicable to the transfer of data from air carriers **and other commercial operators or non-commercial flight operators** should be adopted in accordance with the advisory procedure foreseen in

Amendment 10

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Marju Lauristin, Emilian Pavel, Tanja Fajon

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) The Member States should take all necessary measures to enable air carriers to fulfil their obligations under this Directive. Dissuasive, effective and proportionate penalties, including financial ones, should be provided for by Member States against those air carriers failing to meet their obligations regarding the transfer of PNR data. Where there are repeated serious infringements which might undermine the basic objectives of this Directive, these penalties may include, in exceptional cases, measures such as the immobilisation, seizure and confiscation of the means of transport, **or the temporary suspension or withdrawal of the operating licence.**

Amendment

(17) The Member States should take all necessary measures to enable air carriers **and other commercial operators or non-commercial flight operators** to fulfil their obligations under this Directive. Dissuasive, effective and proportionate penalties, including financial ones, should be provided for by Member States against those air carriers **and other commercial operators or non-commercial flight operators** failing to meet their obligations regarding the transfer of PNR data. Where there are repeated serious infringements which might undermine the basic objectives of this Directive, these penalties may include, in exceptional cases, measures such as the immobilisation, seizure and confiscation of the means of transport.

Or. en

Amendment 11

Ana Gomes

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) Each Member State should be responsible for assessing the potential threats related to terrorist offences and

Amendment

(18) Each Member State should be responsible for assessing the potential threats related to terrorist offences and

serious crime.

serious **transnational** crime.

Or. en

Amendment 12

Ana Gomes

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should share with other Member States the PNR data that they receive where such transfer is necessary for the prevention, detection, investigation or prosecution of terrorist offences or serious crime . The provisions of this Directive should be without prejudice to other Union instruments on the exchange of information between police and judicial authorities, including Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol)³⁹ and Council Framework Decision 2006/960/JHA of 18 September 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union⁴⁰ . Such exchange of PNR data between law enforcement and judicial authorities should be governed by the rules on police and judicial cooperation.

³⁹ OJ L 121, 15.5.2009, p. 37.

⁴⁰ OJ L 386, 29.12.2006, p. 89.

Amendment

(20) Member States should share with other Member States the PNR data that they receive where such transfer is necessary for the prevention, detection, investigation or prosecution of terrorist offences or serious **transnational** crime . The provisions of this Directive should be without prejudice to other Union instruments on the exchange of information between police and judicial authorities, including Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol)³⁹ and Council Framework Decision 2006/960/JHA of 18 September 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union⁴⁰ . Such exchange of PNR data between law enforcement and judicial authorities should be governed by the rules on police and judicial cooperation.

³⁹ OJ L 121, 15.5.2009, p. 37.

⁴⁰ OJ L 386, 29.12.2006, p. 89.

Or. en

Amendment 13

Ana Gomes

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) The period during which PNR data are to be retained should be proportionate to the purposes of the prevention, detection, investigation and prosecution of terrorist offences and serious crime. Because of the nature of the data and their uses, it is necessary that the PNR data are retained for a sufficiently long period for carrying out analysis and for use in investigations. In order to avoid disproportionate use, it is necessary that, after an initial period, the data are anonymised and only accessible under very strict and limited conditions.

Amendment

(21) The period during which PNR data are to be retained should be proportionate to the purposes of the prevention, detection, investigation and prosecution of terrorist offences and serious ***transnational*** crime. Because of the nature of the data and their uses, it is necessary that the PNR data are retained for a sufficiently long period for carrying out analysis and for use in investigations. In order to avoid disproportionate use, it is necessary that, after an initial period, the data are anonymised (***masked out***) and only accessible under very strict and limited conditions, ***under judicial control***.

Or. en

Amendment 14

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) This Directive does not affect the possibility for Member States to provide, under their domestic law, for a system of collection and handling of PNR data for purposes other than those specified in this Directive, or from transportation providers other than those specified in the Directive, regarding internal flights subject to compliance with relevant data protection provisions, provided that such domestic law respects the Union acquis. The issue of the collection of PNR data on internal flights should be the subject of specific reflection at a future date.

Amendment

deleted

Or. en

Amendment 15

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Recital 29

Text proposed by the Commission

(29) As a result of the legal and technical differences between national provisions concerning the processing of personal data, including PNR, air carriers are and will be faced with different requirements regarding the types of information to be transmitted, as well as the conditions under which this information needs to be provided to competent national authorities. These differences may be prejudicial to effective cooperation between the competent national authorities for the purposes of preventing, detecting, investigating and prosecuting terrorist offences or serious crime.

Amendment

(29) As a result of the legal and technical differences between national provisions concerning the processing of personal data, including PNR, air carriers **and other commercial operators or non-commercial flight operators** are and will be faced with different requirements regarding the types of information to be transmitted, as well as the conditions under which this information needs to be provided to competent national authorities. These differences may be prejudicial to effective cooperation between the competent national authorities for the purposes of preventing, detecting, investigating and prosecuting terrorist offences or serious crime.

Or. en

Amendment 16

Ana Gomes, Emilian Pavel

Proposal for a directive

Recital 32

Text proposed by the Commission

(32) In particular, the scope of the Directive is as limited as possible, it allows retention of PNR data for period of time not exceeding 5 years, after which the data must be deleted, the data must be anonymised after a very short period, the collection and use of sensitive data is prohibited. In order to ensure efficiency and a high level of data protection, Member States are required to ensure that

Amendment

(32) In particular, the scope of the Directive is as limited as possible, it allows retention of PNR data for period of time not exceeding 5 years, after which the data must be deleted, the data must be anonymised (**masked out**) after a very short period, the collection and use of sensitive data is prohibited. In order to ensure efficiency and a high level of data protection, Member States are required to

an independent national supervisory authority is responsible for advising and monitoring how PNR data are processed. All processing of PNR data must be logged or documented for the purpose of verification of the lawfulness of the data processing, self-monitoring and ensuring proper data integrity and security of the data processing. Member States must also ensure that passengers are clearly and precisely informed about the collection of PNR data and their rights.

ensure that an independent national supervisory authority is responsible for advising and monitoring how PNR data are processed. All processing of PNR data must be logged or documented for the purpose of verification of the lawfulness of the data processing, self-monitoring and ensuring proper data integrity and security of the data processing. Member States must also ensure that passengers are clearly and precisely informed about the collection of PNR data and their rights.

Or. en

Amendment 17

Ana Gomes, Marju Lauristin

Proposal for a directive

Article 1 – paragraph 2 – introductory part

Text proposed by the Commission

2. The PNR data collected in accordance with this Directive may be processed only for ***the following purposes:***

Amendment

2. The PNR data collected in accordance with this Directive may be processed only for ***the prevention, detection, investigation and prosecution of terrorist offences and serious transnational crime according to Article 4(2)(a) and (d).***

Or. en

Amendment 18

Ana Gomes

Proposal for a directive

Article 1 – paragraph 2 – point a

Text proposed by the Commission

(a) The prevention, detection, investigation and prosecution of terrorist offences and serious crime according to Article 4(2)(b) and (c); and

Amendment

deleted

Or. en

Amendment 19

Ana Gomes

Proposal for a directive

Article 1 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) The prevention, detection, investigation and prosecution of terrorist offences and serious transnational crime according to Article 4(2)(a) and (d).

deleted

Or. en

Amendment 20

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Marju Lauristin, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 2 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) (new) 'other commercial operator' means an undertaking, company or tour operator that may operate charter flights or book a number of seats on an airplane;

Or. en

Amendment 21

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Marju Lauristin, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 2 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(a b) (new) 'other non-commercial flight operator' means a private undertaking that may operate private planes or privately freighted flights;

Or. en

Amendment 22

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Marju Lauristin, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) 'international flight' means any scheduled or non-scheduled flight by an air carrier planned to land on the territory of a Member State originating in a third country or to depart from the territory of a Member State with a final destination in a third country, including ***in both cases any transfer or*** transit flights;

Amendment

(b) 'international flight' means any scheduled or non-scheduled flight by an air carrier ***or other commercial operator or a non-commercial flight operator*** planned to land on the territory of a Member State originating in a third country or to depart from the territory of a Member State with a final destination in a third country, including ***chartered flights, private planes, privately freighted flights, as well as*** transit flights;

Or. en

Amendment 23

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) 'Passenger Name Record' or 'PNR data' means a record of each passenger's travel requirements which contains information necessary to enable reservations to be processed and controlled by the booking and participating air carriers for each journey booked by or on behalf of any person, whether it is contained in reservation systems, Departure Control Systems (DCS) or equivalent systems providing the same functionalities;

Amendment

(c) 'Passenger Name Record' or 'PNR data' means a record of each passenger's travel requirements which contains information necessary to enable reservations to be processed and controlled by the booking and participating air carriers ***and other commercial operators or non-commercial flight operators*** for each journey booked by or on behalf of any person, whether it is contained in reservation systems, Departure Control Systems (DCS) or equivalent systems providing the same functionalities;

Or. en

Amendment 24

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Marju Lauristin

Proposal for a directive

Article 2 – paragraph 1 – point g

Text proposed by the Commission

(g) 'terrorist offences' means the offences under national law ***referred to in Articles 1 to 4 of Council Framework Decision 2002/475/JHA;***

Amendment

(g) 'terrorist offences' means the offences ***defined*** under national law, ***including the act of travelling for the purpose of perpetrating, planning, preparing, providing or receiving training for terrorism, in accordance with United Nations Security Council resolution 2178 (2014) and Additional Protocol on the Council of Europe Convention on the Prevention of Terrorism;***

Or. en

Amendment 25

Ana Gomes

Proposal for a directive

Article 2 – paragraph 1 – point h

Text proposed by the Commission

(h) 'serious crime' means the offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA 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, however, Member States may exclude those minor offences for which, taking into account their respective criminal justice system, the processing of PNR data pursuant to this directive would not be in line with the principle of proportionality;

Amendment

deleted

Or. en

Proposal for a directive
Article 2 – paragraph 1 – point i – introductory part

Text proposed by the Commission

(i) 'serious transnational crime' means the offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA **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 :**

Amendment

(i) 'serious transnational crime' means the **following** offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA, **provided that** they are **committed in more than one state, or that they are committed in one state but a substantial part of their preparation, planning, direction or control takes place in another state, or that they are committed in one state but involve an organised criminal group that engages in criminal activities in more than one state, or they are committed in one state but have substantial effects in another state:**

- **participation in a criminal organization,**
- **terrorism,**
- **trafficking in human beings,**
- **trafficking in human organs and tissue,**
- **trafficking in drugs,**
- **trafficking in weapons, munitions and explosives,**
- **trafficking in nuclear and radioactive materials,**
- **kidnapping, hostage-taking**
- **laundering of the proceeds of crime,**
- **corruption,**
- **computer-related crime,**
- **crimes within the jurisdiction of the International Criminal Court**

Member States may exclude those offences which, under their national legal order, are punishable by a custodial

sentence or a detention order for a maximum period inferior to three years.

Or. en

Amendment 27

Ana Gomes

Proposal for a directive

Article 2 – paragraph 1 – point i – point i

Text proposed by the Commission

Amendment

(i) They are committed in more than one state;

deleted

Or. en

Amendment 28

Ana Gomes

Proposal for a directive

Article 2 – paragraph 1 – point i – point ii

Text proposed by the Commission

Amendment

(ii) They are committed in one state but a substantial part of their preparation, planning, direction or control takes place in another state;

deleted

Or. en

Amendment 29

Ana Gomes

Proposal for a directive

Article 2 – paragraph 1 – point i – point iii

Text proposed by the Commission

Amendment

(iii) They are committed in one state but involve an organised criminal group that engages in criminal activities in more than one state; or

deleted

Or. en

Amendment 30
Ana Gomes

Proposal for a directive
Article 2 – paragraph 1 – point i – point iv

Text proposed by the Commission

(iv) They are committed in one state but have substantial effects in another state.

Amendment

deleted

Or. en

Amendment 31
Ana Gomes

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. Each Member State shall set up or designate an authority competent for the prevention, detection, investigation or prosecution of terrorist offences and serious crime or a branch of such an authority to act as its ‘Passenger Information Unit’ responsible for collecting PNR data from the air carriers, storing them, analysing them and transmitting the result of the analysis to the competent authorities referred to in Article 5. Its staff members may be seconded from competent public authorities.

Amendment

1. Each Member State shall set up or designate an authority competent for the prevention, detection, investigation or prosecution of terrorist offences and serious **transnational** crime or a branch of such an authority to act as its ‘Passenger Information Unit’ responsible for collecting PNR data from the air carriers **and other commercial operators or non-commercial flight operators**, storing them, analysing them and transmitting the result of the analysis to the competent authorities referred to in Article 5. Its staff members may be seconded from competent public authorities.

Or. en

Amendment 32
Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Tanja Fajon, Anna Hedh

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The PNR data transferred by the air carriers ***and other non-commercial flight operators***, 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. Should the PNR data transferred by air carriers ***and other commercial operators or non-commercial flight operators*** include data beyond those listed in the Annex, the Passenger Information Unit shall delete such data immediately upon receipt.

Or. en

Amendment 33

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Marju Lauristin

Proposal for a directive

Article 4 – paragraph 2 – point a

Text proposed by the Commission

(a) carrying out an assessment of the passengers prior to their scheduled arrival or departure from the Member State in order to identify any persons who may be involved in a terrorist offence or serious transnational crime and who require further examination by the competent authorities referred to in Article 5. In carrying out such an assessment, the Passenger Information Unit may process PNR data against pre-determined criteria. Member States shall ensure that any positive match resulting from such automated processing is individually reviewed by non-automated means in order to verify whether the competent authority referred to in Article 5 needs to take action;

Amendment

(a) carrying out an assessment of the passengers prior to their scheduled arrival or departure from the Member State in order to identify any persons who may be involved in a terrorist offence or serious transnational crime and who require further examination by the competent authorities referred to in Article 5. In carrying out such an assessment, the Passenger Information Unit may process PNR data against pre-determined criteria, ***in accordance with this Directive, and may compare PNR data against relevant databases, international or national databases or national mirrors of Union databases, where they are established on the basis of Union law, on persons or objects sought or under alert, including***

against data stored by Europol, in accordance with Union, international and national rules applicable to such files.

Member States shall ensure that any positive match resulting from such automated processing is individually reviewed by non-automated means in order to verify whether the competent authority referred to in Article 5 needs to take action;

Or. en

Amendment 34

Ana Gomes

Proposal for a directive

Article 4 – paragraph 2 – point c

Text proposed by the Commission

(c) responding, on a case-by-case basis, to duly reasoned requests from competent authorities to provide PNR data and process PNR data in specific cases for the purpose of prevention, detection, investigation and prosecution of a terrorist offence or serious crime, and to provide the competent authorities with the results of such processing; and

Amendment

(c) responding, on a case-by-case basis, to duly reasoned requests from competent authorities to provide PNR data and process PNR data in specific cases for the purpose of prevention, detection, investigation and prosecution of a terrorist offence or serious ***transnational*** crime, and to provide the competent authorities with the results of such processing; and

Or. en

Amendment 35

Ana Gomes

Proposal for a directive

Article 4 – paragraph 3

Text proposed by the Commission

3. The assessment of the passengers prior to their scheduled arrival or departure from the Member State referred to in point (a) of paragraph 2 shall be carried out in a non-discriminatory manner on the basis of assessment criteria established by its Passenger Information Unit. Member

Amendment

3. The assessment of the passengers prior to their scheduled arrival or departure from the Member State referred to in point (a) of paragraph 2 shall be carried out in a non-discriminatory manner on the basis of assessment criteria established by its Passenger Information Unit. Member

States shall ensure that the assessment criteria are set by the Passenger Information Units, in cooperation with the competent authorities referred to in Article 5. The assessment criteria shall in no circumstances be based on a *person's* race or ethnic origin, religious or philosophical belief, political opinion, trade union membership, health or sexual life.

States shall ensure that the assessment criteria are set by the Passenger Information Units, in cooperation with the competent authorities referred to in Article 5, ***and should, to the furthest possible extent, be consistent across the Union.*** The assessment criteria shall in no circumstances be based on a *person's* race or ethnic origin, religious or philosophical belief, political opinion, trade union membership, health or sexual life.

Or. en

Amendment 36

Ana Gomes

Proposal for a directive

Article 4 – paragraph 4

Text proposed by the Commission

4. The Passenger Information Unit of a Member State shall transfer the PNR data or the results of the processing of PNR data of the persons identified in accordance with ***points (a) and (b)*** of paragraph 2 for further examination to the relevant competent authorities of the same Member State. Such transfers shall only be made on a case-by-case basis.

Amendment

4. The Passenger Information Unit of a Member State shall transfer the PNR data or the results of the processing of PNR data of the persons identified in accordance with ***point (a)*** of paragraph 2 for further examination to the relevant competent authorities of the same Member State. Such transfers shall only be made on a case-by-case basis.

Or. en

Amendment 37

Ana Gomes, Marju Lauristin, Emilian Pavel

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. Each Member State shall adopt a list of the competent authorities entitled to request or receive PNR data or the result of the processing of PNR data from the Passenger Information Units in order to

Amendment

1. Each Member State shall adopt a list of the competent authorities entitled to request or receive PNR data or the result of the processing of PNR data from the Passenger Information Units in order to

examine that information further or take appropriate action for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime.

examine that information further or take appropriate action for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious ***transnational crime. In the framework of this Directive, Europol shall be entitled, within its mandate, to request from the Passenger Information Units PNR data or relevant analytical information obtained from PNR data that may be necessary in a specific and duly justified case to prevent, detect, investigate, or prosecute terrorist offences and certain types of serious transnational*** crime.

Or. en

Amendment 38
Ana Gomes

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. Competent authorities shall consist of authorities competent for the prevention, detection, investigation or prosecution of terrorist offences and serious crime.

Amendment

2. Competent authorities shall consist of authorities competent for the prevention, detection, investigation or prosecution of terrorist offences and serious ***transnational*** crime.

Or. en

Amendment 39
Ana Gomes

Proposal for a directive
Article 5 – paragraph 4

Text proposed by the Commission

4. The PNR data of passengers and the result of the processing of PNR data received by the Passenger Information Unit may be further processed by the competent authorities of the Member States only for the purpose of preventing, detecting,

Amendment

4. The PNR data of passengers and the result of the processing of PNR data received by the Passenger Information Unit may be further processed by the competent authorities of the Member States only for the purpose of preventing, detecting,

investigating or prosecuting terrorist offences or serious crime.

investigating or prosecuting terrorist offences or serious **transnational** crime.

Or. en

Amendment 40

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Tanja Fajon

Proposal for a directive

Article 6 – title

Text proposed by the Commission

Obligations on air carriers

Amendment

Obligations on air carriers **and other commercial operators and non-commercial flight operators**

Or. en

Amendment 41

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Tanja Fajon

Proposal for a directive

Article 6 – paragraph 1

Text proposed by the Commission

1. Member States shall adopt the necessary measures to ensure that air carriers transfer ('push') the PNR data as defined in Article 2(c) and specified in the Annex, **to the extent that such data are already collected by them**, to the database of the national Passenger Information Unit of the Member State on the territory of which the international 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 the flight has one or more stop-overs at the airports of the Member States, air carriers shall transfer the PNR data to the Passenger

Amendment

1. Member States shall adopt the necessary measures to ensure that air carriers **and other non-commercial flight operators** transfer ('push') the PNR data as defined in Article 2(c) and specified in the Annex, to the database of the national Passenger Information Unit of the Member State on the territory of which the international 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 the flight has one or more stop-overs at the airports of the Member States, air carriers shall transfer the PNR data to the Passenger Information Units of

Information Units of all the Member States concerned.

all the Member States concerned.

Or. en

Amendment 42

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Marju Lauristin, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. In the cases of chartered flights, air carriers shall make sure to transmit all PNR data onto the concerned Passenger Information Unit.

Or. en

Amendment 43

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Marju Lauristin, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 6 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1 b. In the cases of private planes or privately freighted flights, Member States should adopt the necessary measures to ensure that non-commercial flight operators provide PNR data for all passengers

Or. en

Amendment 44

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

3. Member States may permit air carriers to limit the transfer referred to in point (b) of paragraph 2 to updates of the transfer referred to in point (a) of paragraph 2.

Amendment

3. Member States may permit air carriers **and other non-commercial flight operators** to limit the transfer referred to in point (b) of paragraph 2 to updates of the transfer referred to in point (a) of paragraph 2.

Or. en

Amendment 45
Ana Gomes, Tanja Fajon

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. On a case-by-case basis, upon request from a Passenger Information Unit in accordance with national law, air carriers shall transfer PNR data where access earlier than that mentioned in point (a) of paragraph 2 is necessary to assist in responding to a specific and actual threat related to terrorist offences or serious crime.

Amendment

4. On a case-by-case basis, upon request from a Passenger Information Unit in accordance with national law, air carriers **and other non-commercial flight operators** shall transfer PNR data where access earlier than that mentioned in point (a) of paragraph 2 is necessary to assist in responding to a specific and actual threat related to terrorist offences or serious **transnational** crime.

Or. en

Amendment 46
Ana Gomes

Proposal for a directive
Article 7 – paragraph 4

Text proposed by the Commission

4. Only in those cases where it is necessary for the prevention of an immediate and serious threat to public security may the competent authorities of a Member State request directly the Passenger Information Unit of any other Member State to provide

Amendment

4. Only in those cases where it is necessary for the prevention of an immediate and serious threat to public security may the competent authorities of a Member State request directly the Passenger Information Unit of any other Member State to provide

it with PNR data that are kept in the latter's database in accordance with Article 9(1) and (2). Such requests shall relate to a specific investigation or prosecution of terrorist offences or serious crime and shall be reasoned. Passenger Information Units shall respond to such requests as a matter of priority. In all other cases the competent authorities shall channel their requests through the Passenger Information Unit of their own Member State.

it with PNR data that are kept in the latter's database in accordance with Article 9(1) and (2). Such requests shall relate to a specific investigation or prosecution of terrorist offences or serious **transnational** crime and shall be reasoned. Passenger Information Units shall respond to such requests as a matter of priority. In all other cases the competent authorities shall channel their requests through the Passenger Information Unit of their own Member State.

Or. en

Amendment 47

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh

Proposal for a directive

Article 7 – paragraph 6

Text proposed by the Commission

6. Exchange of information under this Article may take place using any existing channels for international law enforcement cooperation. The language used for the request and the exchange of information shall be the one applicable to the channel used. Member States shall, when making their notifications in accordance with Article 3(3), also inform the Commission with details of the contacts to which requests may be sent in cases of urgency. The Commission shall communicate to the Member States the notifications received.

Amendment

6. Exchange of information under this Article may take place using any existing channels for international law enforcement cooperation, **including the secure channels provided for by Europol**. The language used for the request and the exchange of information shall be the one applicable to the channel used. Member States shall, when making their notifications in accordance with Article 3(3), also inform the Commission with details of the contacts to which requests may be sent in cases of urgency. The Commission shall communicate to the Member States the notifications received.

Or. en

Amendment 48

Ana Gomes, Marju Lauristin

Proposal for a directive

Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) the third country agrees to transfer the data to another third country only where it is necessary for the purposes of this Directive specified in Article 1(2) and only with the express authorisation of the Member State.

Amendment

(c) the third country agrees to transfer the data to another third country only where it is necessary for the purposes of this Directive specified in Article 1(2) and only with the express authorisation of the Member State, ***ensuring the required level of protection of the data and its processing, according to Directive 95/46/EC*** .

Or. en

Amendment 49

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive

Article 9 – paragraph 1

Text proposed by the Commission

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 30 days after their transfer to the Passenger Information Unit of the first Member State on whose territory the international flight is landing or departing.

Amendment

1. Member States shall ensure that the PNR data provided by the air carriers ***and other non-commercial flight operators*** to the Passenger Information Unit are retained in a database at the Passenger Information Unit for a period of 30 days after their transfer to the Passenger Information Unit of the first Member State on whose territory the international flight is landing or departing.

Or. en

Amendment 50

Ana Gomes

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Upon expiry of the period of 30 days after the transfer of the PNR data to the

Amendment

Upon expiry of the period of 30 days after the transfer of the PNR data to the

Passenger Information Unit referred to in paragraph 1, the data shall be retained at the Passenger Information Unit for a further period of five years. During this period, all data elements which could serve to identify the passenger to whom PNR data relate shall be masked out. Such anonymised PNR data shall be accessible only to a limited number of personnel of the Passenger Information Unit specifically authorised to carry out analysis of PNR data and develop assessment criteria according to Article 4(2)(d). Access to the full PNR data shall be permitted only by the Head of the Passenger Information Unit for the purposes of Article 4(2)(c) and where it could be reasonably believed that it is necessary to carry out an investigation and in response to a specific and actual threat or risk or a specific investigation or prosecution.

Passenger Information Unit referred to in paragraph 1, the data shall be retained at the Passenger Information Unit for a further period of five years. During this period, all data elements which could serve to identify the passenger to whom PNR data relate shall be masked out. Such anonymised **(masked out)** PNR data shall be accessible only to a limited number of personnel of the Passenger Information Unit specifically authorised to carry out analysis of PNR data and develop assessment criteria according to Article 4(2)(d). Access to the full PNR data shall be permitted only by the Head of the Passenger Information Unit for the purposes of Article 4(2)(c) and where it could be reasonably believed that it is necessary to carry out an investigation and in response to a specific and actual threat or risk or a specific investigation or prosecution.

Or. en

Amendment 51

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive Article 10 – title

Text proposed by the Commission

Penalties against air carriers

Amendment

Penalties against air carriers **and non-commercial flight operators**

Or. en

Amendment 52

Ana Gomes, Christine Revault D'Allonnes Bonnefoy, Juan Fernando López Aguilar, Anna Hedh, Emilian Pavel, Tanja Fajon

Proposal for a directive Article 10 – paragraph 1

Text proposed by the Commission

Member States shall ensure, in conformity with their national law, that dissuasive, effective and proportionate penalties, including financial penalties, are provided for against air carriers which, do not transmit the data required under this Directive, to the extent that they are already collected by the them, or do not do so in the required format or otherwise infringe the national provisions adopted pursuant to this Directive.

Amendment

Member States shall ensure, in conformity with their national law, that dissuasive, effective and proportionate penalties, including financial penalties, are provided for against air carriers ***and other non-commercial flight operators*** which, do not transmit the data required under this Directive, to the extent that they are already collected by the them, or do not do so in the required format or otherwise infringe the national provisions adopted pursuant to this Directive.

Or. en