

Brussels, 5 October 2015 (OR. en)

11105/2/15 REV 2

LIMITE

GENVAL 29 AVIATION 78 DATAPROTECT 123 ENFOPOL 218 CODEC 1067

NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record for the prevention, detection, investigation and prosecution of terrorist offences ans serious crime -
	Preparation of the informal trilogues

On 15 July 2015, the LIBE Committee of the European Parliament adopted its orientation vote on the above draft Directive. The LIBE Committee also agreed to enter into negotiations with the Council, which already adopted a general approach in April 2012. To facilitate discussions, the Presidency submits in the Annex a five-column table with observations.

Abbreviations used:

GA = Council General Approach

CNS = Council

MS = Member States

EP = European Parliament

PRES = Presidency

Changes compared to the original Commission proposal are marked; in the Council general approach by strike through when text has been deleted, and <u>underlining</u> for new and added text; in the draft EP text, new wording is in **bold**.

Following the EP lawyer-linguist revision of the text voted by the LIBE Committee on 15 July 2015, the third column of this document has been updated. This REV 2 has been prepared in order to correct some clerical errors in the previous version.

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Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		Title		
Proposal for a Directive of the	Proposal for a Directive of the	Proposal for a Directive of the		
European Parliament and of	European Parliament and of the	European Parliament and of the		
the Council on the use of	Council on the	Council on the		
Passenger Name Record data	use of Passenger Name Record	use of Passenger Name Record		
for the prevention, detection,	data for the prevention,	data for the prevention,		
investigation and prosecution	detection, investigation and	detection, investigation and		
of terrorist offences and	prosecution of terrorist offences	prosecution of terrorist offences		
serious crime	and serious crime	and serious transnational crime		
		Recitals		
(1) On 6 November 2007 the	(1) On 6 November 2007	(1) On 6 November 2007 the		
Commission adopted a	the Commission adopted a	Commission adopted a proposal		
proposal for a Council	proposal for a Council	for a Council Framework		
Framework Decision on the	Framework Decision on the use	Decision on the use of		
use of Passenger Name	of Passenger Name Record	Passenger Name Record (PNR)		
Record (PNR) data for law	(PNR) data for law enforcement	data for law enforcement		
enforcement purposes ¹ .	purposes. However, upon entry	purposes. However, upon entry		
However, upon entry into	into force of the Treaty of	into force of the Treaty of		
force of the Treaty of Lisbon	Lisbon on 1 December	Lisbon on 1 December		
on 1 December 2009, the	2009, the Commission's	2009, the Commission's		
Commission's proposal,	proposal, which had not	proposal, which had not		
which had not been adopted	been adopted by the	been adopted by the		
by the Council by that date,	Council by that date,	Council by that date,		
became obsolete.	became obsolete.	became obsolete.		

¹ COM(2007) 654.

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Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
			-	
(2) The 'Stockholm	(2) The 'Stockholm Programme	(2) The 'Stockholm		
Programme — An open and	— An open and secure Europe	Programme — An open and		
secure Europe serving and	serving and protecting the	secure Europe serving and		
protecting the citizens' calls	citizens'3	protecting the citizens'		
on the Commission to present	calls on the Commission to	calls on the Commission to		
a proposal for the use of PNR	present a proposal for the	present a proposal for the		
data to prevent, detect,	use of PNR data to prevent,	use of PNR data to prevent,		
investigate and prosecute	detect, investigate and prosecute	detect, investigate and prosecute		
terrorism and serious crime.	terrorism and serious crime.	terrorism and serious crime.		
(3) In its Communication of	(3) In its Communication of 21	(3) In its Communication of 21		
21 September 2010 'On the	September 2010 "On the global	September 2010 'On the global		
global approach to transfers of	approach to transfers of	approach to transfers of		
Passenger Name Record	Passenger Name Record (PNR)	Passenger Name Record (PNR)		
(PNR) data to third	data to third countries" the	data to third		
countries' the Commission	Commission outlined	countries' the		
outlined certain core elements	certain core elements of a	Commission outlined		
of a Union policy in this area.	Union policy in this area.	certain core elements of a Union		
		policy in this area.		
(4) Council Directive	(4) Council Directive	(4) Council Directive		
2004/82/EC of 29 April 2004	2004/82/EC of 29 April	2004/82/EC of 29 April 2004 on		
on the obligation of air	2004 on the obligation of	the obligation of air carriers to		
carriers to communicate	air carriers to communicate	communicate passenger data		
passenger data ⁵ regulates the	passenger data regulates	regulates		
transfer of advance passenger	the transfer of advance	the transfer of advance		
information by air carriers to	passenger information data by	passenger information by		
the competent national	air carriers to the competent	air carriers to the competent		

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² Council document 17024/09, 2.12.2009.

³ 17024/09 CO EUR-PREP 3 JAI 896 POLGEN 229.

⁴ COM(2010) 492.

⁵ OJ L 261, 6.8.2004, p. 24.

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
authorities for the purpose of improving border controls and combating irregular immigration.	national authorities for the purpose of improving border controls and combating irregular illegal immigration.	national authorities for the purpose of improving border controls and combating irregular immigration. (4a) The purpose of this Directive is to ensure security, to protect the life and safety of the public, and to create a legal framework for the protection and exchange of PNR data between Member States and law enforcement		
(5) PNR data are necessary to effectively prevent, detect, investigate and prosecute terrorist offences and serious crime and thus enhance internal security.	(5) PNR data are necessary to effectively prevent, detect, investigate and prosecute terrorist offences and serious crime and thus enhance internal security- [], inter alia 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.	authorities. (5) PNR data are necessary to effectively prevent, detect, investigate and prosecute terrorist offences and serious transnational crime and thus enhance internal security.	Recital (5) of the GA has been merged with recital (6) of the COM proposal	
(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		(6) PNR data can help law enforcement authorities prevent, detect, investigate and prosecute serious transnational crime , including acts of terrorism, by comparing them with various databases of persons and objects		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
evidence and, where relevant, to find associates of criminals and unravel criminal networks. (7) PNR data enable law	(7) PNR data enable law	sought, to find the necessary evidence and, where relevant, to find associates of criminals and unravel criminal networks.	•	
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	enforcement authorities to identify persons who were previously "unknown", i.e. persons previously unsuspected of involvement in terrorism or 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 it is possible to 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	(7) PNR data enable law enforcement authorities to identify persons who were previously "unknown", i.e. persons previously unsuspected of involvement in serious transnational 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.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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limited to serious crimes that	should be further limited to			
are also transnational in	serious crimes that are also			
nature, i.e. are intrinsically	transnational in nature, i.e. are			
linked to travelling and hence	intrinsically linked to travelling			
the type of the data being	and hence the type of the data			
processed.	being processed. terrorist			
	offences and relevant forms of			
	serious crime. Furthermore, the			
	assessment criteria shall be			
	defined in a manner which			
	ensures that as few innocent			
	people as possible are identified			
	by the system.			
(8) The processing of personal	(8) Air carriers already collect	(8) The processing of personal		
data must be proportionate to	and process PNR	data must be necessary and		
the specific security goal	data from their passengers for	proportionate to the specific aim		
pursued by this Directive.	their own commercial purposes.	pursued by this Directive.		
	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.			
(9) The use of PNR data	(9) Some air carriers retain any	(9) The use of PNR data		
together with Advance	collected advance passenger	together with Advance		
Passenger Information data in	information (API) data as part	Passenger Information data in		
certain cases has added value	of the PNR data, while others	certain cases has added value in		
in assisting Member States in	do not. The use of PNR data	assisting Member States in		
verifying the identity of an	together with API data has	verifying the identity of an		
individual and thus reinforcing	added value in assisting	individual and thus reinforcing		
their law enforcement value.	Member States in verifying the	their law enforcement value.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
	identity of an individual and	,		
	thus reinforcing their law			
	enforcement value and			
	minimising the risk of carrying			
	out checks and investigations on			
	innocent people. It is therefore			
	important to ensure that, where			
	air carriers collect API data,			
	they should transfer it,			
	irrespective of whether the API			
	data is retained as part of the			
	PNR data or not.			
(10) To prevent, detect,	(10) In order to prevent, detect,	(10) To prevent, detect,		
investigate and prosecute	investigate and prosecute	investigate and prosecute		
terrorist offences and serious	terrorist offences and serious	terrorist offences and serious		
crime, it is therefore essential	crime, it is essential that all	transnational crime, it is		
that all Member States	Member States introduce	therefore essential that all		
introduce provisions laying	provisions laying down	Member States introduce		
down obligations on air	obligations on air carriers	provisions laying down		
carriers operating international	operating extra EU-flights, and	obligations on air carriers and		
flights to or from the territory	if the Member State wishes to	non-carrier economic		
of the Member States of the	do so also on air carriers	operators operating		
European Union.	operating intra EU-flights, to	international flights to or from		
	transfer any collected PNR and	the territory of the Member		
	API data. These provisions	States.		
	should be without prejudice to			
	Council Directive 2004/82/EC			
	of 29 April 2004 on the			
	obligation of carriers to			
	communicate passenger data.			

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
(11) Air carriers already	(11) The processing of personal	(11) Air carriers and non-		
collect and process PNR data	data must be proportionate to	carrier economic operators		
from their passengers for their	the specific security goals	already collect and process PNR		
own commercial purposes.	pursued by this Directive.	data from their passengers for		
This Directive should not		their own commercial purposes.		
impose any obligation on air		This Directive should not		
carriers to collect or retain any		impose any obligation on air		
additional data from		carriers or non-carrier		
passengers or to impose any		economic operators to collect		
obligation on passengers to		or retain any additional data		
provide any data in addition to		from passengers or to impose		
that already being provided to		any obligation on passengers to		
air carriers.		provide any data in addition to		
		that already being provided to		
		air carriers and non-carrier		
		economic operators.		
		(11a) Non-carrier economic		
		operators, such as travel		
		agencies and tour operators,		
		sell package tours making use		
		of charter flights for which		
		they collect and process PNR		
		data from their customers,		
		without necessarily		
		transferring the data to the		
		airline operating the		
		passenger flight.		
		(11b) Each Member State		
		should be responsible for the		
		costs of running and		
		maintaining its own PNR		
		system, including the costs of		
		appointing and running a		

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
		competent authority and a national supervisory	v	•
		authority. The costs incurred		
		by transferring PNR data held		
		by passenger airlines in their		
		reservation systems to national law enforcement		
		agencies and competent		
		authorities should be borne by		
		the airlines.		
(12) The definition of terrorist	(12) The definition of terrorist	(12) The definition of terrorist		
offences should be taken from	offences applied in this	offences should be taken from		
Articles 1 to 4 of Council	<u>Directive</u> should be taken from	Articles 1 to 4 of Council		
Framework Decision	Articles 1 to 4 of the same as in	Framework Decision		
2002/475/JHA on combating	Council Framework Decision	2002/475/JHA ⁸ . The definition		
terrorism ⁶ . The definition of	2002/475/JHA on combating	of serious transnational crime		
serous crime should be taken	terrorism . T and the definition	should be taken from Article 2		
from Article 2 of Council	of serious crime applied in this	of Council Framework Decision		
Framework Decision	<u>Directive</u> should be taken from	2002/584/JHA ⁹ and should		
2002/584/JHA of 13 June	the same as in Article 2 of	encompass the crimes listed in		
2002 on the European Arrest	Council Framework Decision	this Directive.		
Warrant and the surrender	2002/584/JHA of 13 June 2002			
procedure between Member	on the European Arrest Warrant			
States ⁷ . However, Member	and the surrender procedure			
States may exclude those	between Member States.			

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OJ L 164, 22.6.2002, p. 3. Decision as amended by Council Framework Decision 2008/919/JHA of 28 November 2008 (OJ L 330, 9.1.2.2008, p. 21).

⁷ OJ L 190, 18.7.2002, p. 1.

⁸ Council Framework Decision of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p.3).

Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between member States (OJ L 190, 18.7.2002, p. 1).

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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minor offences for which,	However, Member States may			
taking into account their	exclude those minor offences			
respective criminal justice	for which, taking into account			
system, the processing of PNR	their respective criminal justice			
data pursuant to this directive	system, the processing of PNR			
would not be in line with the	data pursuant to this directive			
principle of proportionality.	would not be in line with the			
The definition of serious	principle of proportionality. The			
transnational crime should be	definition of serious			
taken from Article 2 of	transnational crime should be			
Council Framework Decision	taken from Article 2 of Council			
2002/584/JHA and the United	Framework Decision			
Nations Convention on	2002/584/JHA and the United			
Transnational Organised	Nations Convention on			
Crime.	Transnational Organised Crime.			
	The list of relevant serious			
	crime with relation to which			
	PNR data may be used for the			
	creation and application of			
	assessment criteria should be			
	based on Framework Decision			
	2002/584/JHA.			
(13) PNR data should be	(13) PNR data should be	(13) PNR data should be		
transferred to a single	transferred transmitted to a	transferred to a single		
designated unit (Passenger	single designated unit	designated unit (Passenger		
Information Unit) in the	(Passenger Information Unit) in	Information Unit) in the relevant		
relevant Member State, so as	the relevant Member State, so	Member State, so as to ensure		
to ensure clarity and reduce	as to ensure clarity and reduce	clarity and reduce costs to air		
costs to air carriers.	costs to air carriers. The	carriers and non-carrier		
	Passenger Information Unit	economic operators. Members		
	may have different locations in	States should exchange the		
	one Member State and Member	information through the use		
	States may also jointly set up	of the Secure Information		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
	one Passenger Information Unit.	Exchange Network Application (SIENA), in order to ensure information sharing and interoperability between Member States.	·	
	(13a) It is desirable that co- financing of the costs related to the establishment of the national Passenger Information Units will be provided for under the instrument for financial support for police cooperation, preventing and combating crime, and crisis management as part of the Internal Security Fund.			
(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.	(14) The contents of any lists of required PNR data to be obtained by the a 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 eitizens persons, notably privacy and the	(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 transnational crime, thereby improving internal security within the Union as well as protecting the fundamental rights of citizens, notably privacy and the protection of		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
Such lists should not contain	protection of personal data.	personal data, by applying high		
any personal data that could	Such lists should not contain	standards in accordance with		
reveal racial or ethnic origin,	any personal data that could	the Charter of Fundamental		
political opinions, religious or	reveal be based on a person's	Rights of the European Union		
philosophical beliefs, trade	racial or ethnic origin, political	(the 'Charter'), the		
union membership or data	opinions, religious or	Convention for the Protection		
concerning health or sexual	philosophical beliefs, trade	of Individuals with regard to		
life of the individual	union membership, or data	Automatic Processing of		
concerned. The PNR data	eoncerning health or sexual life	Personal Data ('Convention		
should contain details on the	of the individual concerned.	No 108'), and the European		
passenger's reservation and	The PNR data should contain	Convention for the Protection		
travel itinerary which enable	details on the passenger's	of Human Rights and		
competent authorities to	reservation and travel itinerary	Fundamental Freedoms (the		
identify air passengers	which enable competent	'ECHR'). Such data sets		
representing a threat to	authorities to identify air	should not contain any personal		
internal security.	passengers representing a threat	data that could reveal racial or		
	to internal security.	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 only details of		
		the passenger's reservation and		
		travel itinerary as referred to in this Directive.		
(15) There are two possible	(15) There are two possible	(15) There are two possible		
methods of data transfer	methods of data transfer	methods of data transfer		
currently available: the 'pull'	currently available: the	currently available: the 'pull'		
method, under which the	'pull' method, under which the	method, under which the		
competent authorities of the	competent authorities of the	competent authorities of the		
Member State requiring the	Member State requiring the data	Member State requiring the data		
data can reach into (access)	can reach into (access) the air	can reach into (access) the air		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
the air carrier's reservation	carrier's reservation system and	carrier's reservation system and		
system and extract ('pull') a	extract ('pull') a copy of the	extract ('pull') a copy of the		
copy of the required data, and	required data, and the	required data, and the 'push'		
the 'push' method, under	'push' method, under which air	method, under which air carriers		
which air carriers transfer	carriers transfer ('push') the	and non-carrier economic		
('push') the required PNR data	required PNR data to the	operators transfer ('push') the		
to the authority requesting	authority requesting them, thus	required PNR data to the		
them, thus allowing air	allowing air carriers to retain	authority requesting them, thus		
carriers to retain control of	control of what data	allowing air carriers to retain		
what data is provided. The	is provided. The 'push' method	control of what data is provided.		
'push' method is considered to	is considered to	The 'push' method is		
offer a higher degree of data	offer a higher degree of data	considered to offer a higher		
protection and should be	protection and should be	degree of data protection and		
mandatory for all air carriers.	mandatory for all air	should be mandatory for all air		
	carriers.	carriers and non-carrier		
		economic operators.		
(16) The Commission supports	(16) The Commission supports	(16) The Commission supports		
the International Civil	the International Civil Aviation	the International Civil Aviation		
Aviation Organisation (ICAO)	Organisation (ICAO) guidelines	Organisation (ICAO) guidelines		
guidelines on PNR. These	on PNR. These guidelines	on PNR. These guidelines		
guidelines should thus be the	should thus be the basis for	should thus be the basis for		
basis for adopting the	adopting the supported data	adopting the supported data		
supported data formats for	formats for transfers of PNR	formats for transfers of PNR		
transfers of PNR data by air	data by air carriers to Member	data by air carriers and non-		
carriers to Member States.	States. This justifies that such	carrier economic operators to		
This justifies that such	supported data formats, as well	Member States. In order to		
supported data formats, as	as the relevant protocols	ensure such transfer of PNR		
well as the relevant protocols	applicable to the transfer of data	data, the power to adopt acts		
applicable to the transfer of	from air carriers should be	in accordance with Article 290		
data from air carriers should	adopted in accordance with the	of the Treaty on the		
be adopted in accordance with	advisory examination procedure	Functioning of the European		
the advisory procedure	foreseen provided for in	Union (TFEU) should be		
foreseen in Regulation (EU)	Regulation (EU) No. <u>182/2011</u>	delegated to the Commission		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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No of the European	of the European Parliament and	in respect of adopting a list of		
Parliament and the Council	of the Council of 16 February	such supported data formats as		
[]	2011 laying down rules and	well as of the accepted		
	general principles concerning	common protocols applicable to		
	mechanisms for control by	the transfer of data. It is of		
	Member States of the	particular importance that the		
	Commission's exercise of	Commission carry out		
	implementing powers ¹⁰ .	appropriate consultations		
		during its preparatory work,		
		including at expert level. The		
		Commission, when preparing		
		and drawing up delegated		
		acts, should ensure a		
		simultaneous, timely and		
		appropriate transmission of		
		relevant documents to the		
		European Parliament and to		
(17) 771 1 (1)	(17) 77 1 2 1 1 1	the Council.		
(17) The Member States	(17) The Member States should	(17) The Member States should		
should take all necessary	take all necessary measures to	take all necessary measures to		
measures to enable air carriers	enable air carriers to fulfil their	enable air carriers and non-		
to fulfil their obligations under	obligations under this Directive.	carrier economic operators to		
this Directive. Dissuasive,	Dissuasive, effective and	fulfil their obligations under this		
effective and proportionate	proportionate penalties,	Directive. Dissuasive, effective		
penalties, including financial	including	and proportionate penalties,		
ones, should be provided for	financial ones, should be	including financial ones, should		
by Member States against	provided for by Member States	be provided for by Member		
those air carriers failing to	against those air carriers failing	States against those air carriers		
meet their obligations	to meet their obligations	and against non-carrier		
regarding the transfer of PNR	regarding the transfer of PNR	economic operators failing to		
data. Where there are repeated	data. Where there are repeated	meet their obligations regarding		

¹⁰

OJ L 55, 28.02.2011, p. 13.

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
serious infringements which	serious infringements which	the transfer of PNR data and		
might undermine the basic	might undermine the basic	the protection of that data.		
objectives of this Directive,	objectives of this Directive,	Where there are repeated		
these penalties may include, in	these penalties may include, in	serious infringements which		
exceptional cases, measures	exceptional cases, measures	might undermine the basic		
such as the immobilisation,	such as the immobilisation,	objectives of this Directive,		
seizure and confiscation of the	seizure and confiscation of the	these penalties may include, in		
means of transport, or the	means of transport, or the	exceptional cases, measures		
temporary suspension or	temporary suspension or	such as the immobilisation,		
withdrawal of the operating	withdrawal of the operating	seizure and confiscation of the		
licence.	licence.	means of transport, or the		
		temporary suspension or		
		withdrawal of the operating		
		licence.		
(18) Each Member State	(18) Each Member State should	(18) Each Member State should		
should be responsible for	be responsible for assessing the	be responsible for assessing the		
assessing the potential threats	potential	potential threats related to		
related to terrorist offences	threats related to terrorist	terrorist offences and serious		
and serious crime.	offences and serious crime.	transnational crime.		
(19) Taking fully into	(19) Taking fully into	(19) Taking fully into		
consideration the right to the	consideration the right to	consideration the right to the		
protection of personal data and	the protection of personal data	protection of personal data and		
the right to non-	and the right to non-	the right to non-discrimination,		
discrimination, no decision	discrimination, no decision that	in accordance with Articles 8		
that produces an adverse legal	produces an adverse legal effect	and 21 of the Charter, no		
effect on a person or seriously	on a person or seriously affects	decision that produces an		
affects him/her should be	him/her should be taken only by	adverse legal effect on a person		
taken only by reason of the	reason of the automated	or seriously affects him/her		
automated processing of PNR	processing of PNR data.	should be taken only by reason		
data. Moreover, no such	Moreover, in respect of Article	of the automated processing of		
decision should be taken by	21 of the Charter of	PNR data. Moreover, no such		
reason of a person's race or	Fundamental Rights of the	decision should be taken by		
ethnic origin, religious or	European Union no such	reason of a person's race or		

0017/13)		Observations	Compromise
8916/12)	(/2015)	Presidency	proposal
ld be taken by riminate on any as a person's sex. ethnic orig philosophi opinion, tr	gin, religious or ical belief, political		
processing should in used by M ground to internatio under the Relating t Refugees a supplement York Prof. 1967 and a to deny as and effect the Union their right protection (19b) Takic considerated.	stocol of 31 January should not be used sylum seekers safe tive legal avenues to a territory to exercise at to international a		
	suppleme York Pro 1967 and to deny a and effect the Union their righ protection (19b) Tak considera conseque	supplemented by the New York Protocol of 31 January 1967 and should not be used to deny asylum seekers safe and effective legal avenues to the Union territory to exercise their right to international protection. (19b) Taking fully into consideration the consequences of the judgment of the Court of Justice in	supplemented by the New York Protocol of 31 January 1967 and should not be used to deny asylum seekers safe and effective legal avenues to the Union territory to exercise their right to international protection. (19b) Taking fully into consideration the consequences of the judgment

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
· · · · · · · · · · · · · · · · · · ·	, ,	Joined Cases C-293/12, Digital		
		Rights Ireland and C-594/12,		
		Seitlinger and others, the		
		application of this Directive		
		must ensure the full respect of		
		fundamental rights and the		
		right to privacy, the principle		
		of proportionality. It must		
		also genuinely meet the		
		objectives of what is necessary		
		and proportionate in order to		
		achieve the general interests		
		recognised by the Union and		
		the need to protect the rights		
		and freedoms of others in the		
		fight against terrorism and		
		serious transnational crime.		
		The application of this		
		Directive must be duly		
		justified and the necessary		
		safeguards must be in place in order to ensure the lawfulness		
		of any storage, analysis,		
		transfer and use of PNR data.		
(20) Member States should	(20) Member States should	(20) Member States should		
share with other Member	share with other Member States	share with other Member States		
States the PNR data that they	the PNR data that	and at Union level, as through		
receive where such transfer is	they receive where such transfer	Europol, the PNR data that they		
necessary for the prevention,	this is necessary for the	receive where this is necessary		
detection, investigation or	prevention, detection,	for the prevention, detection,		
prosecution of terrorist	investigation or prosecution of	investigation or prosecution of		
offences or serious crime. The	terrorist offences or serious	terrorist offences or serious		
provisions of this Directive	crime. The	transnational crime or for the		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
should be without prejudice to	provisions of this Directive	prevention of an immediate	· ·	
other Union instruments on the	should be without prejudice to	and serious threat to public		
exchange of information	other Union instruments on the	security. Passenger		
between police and judicial	exchange of information	Information Units should, in		
authorities, including Council	between police and judicial	any case, without delay,		
Decision 2009/371/JHA of 6	authorities, including Council	transmit the result of the		
April 2009 establishing the	Decision 2009/371/JHA of 6	processing of PNR data to the		
European Police Office	April 2009 establishing the	Passenger Information Units		
(Europol) ¹¹ and Council	European Police Office	of other Member States for		
Framework Decision	(Europol) and Council	further investigation. The		
2006/960/JHA of 18	Framework Decision	provisions of this Directive		
September 2006 on	2006/960/JHA of 18 September	should be without prejudice to		
simplifying the exchange of	2006 on simplifying the	other Union instruments on the		
information and intelligence	exchange of information and	exchange of information		
between law enforcement	intelligence between law	between police and judicial		
authorities of the Member	enforcement authorities of the	authorities, including Council		
States of the European	Member States of the European	Decision 2009/371/JHA ¹⁴ and		
Union ¹² . Such exchange of	Union ¹³ . Such exchange of PNR	Council Framework Decision		
PNR data between law	data between law enforcement	2006/960/JHA ¹⁵ . Such		
enforcement and judicial	and judicial authorities should	exchange of PNR data between		
authorities should be governed	be governed by the rules on	law enforcement and judicial		
by the rules on police and	police and judicial cooperation.	authorities should be governed		
judicial cooperation.	-	by the rules on police and		
-		judicial cooperation and should		
		not undermine the high level		

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OJ L 121, 15.5.2009, p. 37.

OJ L 386, 29.12.2006, p. 89.

OJ L 386, 29.12.2006, p. 89.

¹⁴ Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) (OJ L 121, 15.5.2009, p. 37).

¹⁵ 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 Union (OJ L 386, 29.12.2006, p. 89).

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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		of privacy and protection of		
		personal data in accordance		
		with the Charter, Convention		
		No 108 and the ECHR.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		(20a) The exchange of information through a secure Union system for the exchange of PNR data between Member States and between Member States and Europol should be guaranteed. The development and operational management of that system could be the responsibility of Europol. A one-stop shop could be created as part of that system to register and transmit the requests for information exchanges. The European Data Protection Supervisor should be responsible for monitoring the processing of the personal data performed through this Union system for exchange of PNR data with Europol.		proposus
(21) The period during which PNR data are to be retained should be proportionate to the	(21) The period during which PNR data are to be retained should be proportionate	(21) The period during which PNR data are to be retained should be necessary for, and		
purposes of the prevention,	to the	proportionate to, the purposes of		
detection, investigation and prosecution of terrorist	purposes of the prevention,	the prevention, detection,		
offences and serious crime.	detection, investigation and prosecution of terrorist offences	investigation and prosecution of terrorist offences and serious		
Because of the nature of the	and serious crime. Because of	transnational crime. Because		
data and their uses, it is	the nature of the data and their	of the nature of the data and		
necessary that the PNR data	uses, it is necessary that the	their uses, it is necessary that		
are retained for a sufficiently	PNR data are retained for a	the PNR data are retained for a		
are retained for a sufficiently	rink data are retained for a	the risk data are retained for a		

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Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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long period for carrying out	sufficiently long period for	sufficiently long period for		•
analysis and for use in	carrying out analysis and	carrying out analysis and for use		
investigations. In order to	for use in investigations. In	in investigations. In order to		
avoid disproportionate use, it	order to avoid disproportionate	avoid disproportionate use, it is		
is necessary that, after an	use, it is necessary that, after an	necessary that, after an initial		
initial period, the data are	initial period, the data are	period, the data are masked out		
anonymised and only	anonymised depersonalised	and only accessible under very		
accessible under very strict	through masking out and that	strict and limited conditions.		
and limited conditions.	the full PNR data are only			
	accessible under very strict and			
	limited conditions.			
		(21a) PNR data should be		
		processed to the greatest		
		extent possible, subject to		
		masking out, in order to		
		ensure the highest level of		
		data protection by making it		
		impossible for those with		
		access to that data to identify		
		the data subject and to draw		
		conclusions as to what persons are related to that data. Re-		
		identifying masked out data		
		should be possible only under		
		conditions ensuring a high		
		level of data protection.		
(22) Where specific PNR data	(22) Where specific PNR data	(22) Where specific PNR		
have been transferred to a	have been transferred	data have been transferred		
competent authority and are	transmitted to a competent	to a competent authority		
used in the context of specific	authority and are used in the	and are used in the context		
criminal investigations or	context of specific criminal	of specific criminal		
prosecutions, the retention of	investigations or prosecutions,	investigations or prosecutions,		
such data by the competent	the retention	the retention		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
authority should be regulated	of such data by the	of such data by the		
by the national law of the	competent authority should be	competent authority should be		
Member State, irrespective of	regulated by the national law of	regulated by the national law of		
the retention periods set by	the Member State, irrespective	the Member State, irrespective		
this Directive.	of the retention periods set by	of the retention periods set by		
	out in this Directive.	this		
		Directive.		
(23) The processing of PNR	(23) The processing of PNR	(23) The processing of PNR data		
data domestically in each	data domestically in each	domestically in each Member		
Member State by the	Member State by the Passenger	State by the Passenger		
Passenger Information Unit	Information Unit and by	Information Unit and by		
and by competent authorities	competent	competent authorities should be		
should be subject to a standard	authorities should be subject to	subject to a standard of		
of protection of personal data	a standard of protection	protection of personal data		
under their national law which	of personal data under their	under their national law which		
is in line with Framework	national law which is in line	is in line with Council		
Decision 2008/977/JHA of 27	with Framework Decision	Framework Decision		
November 2008 on the	2008/977/JHA of 27 November	2008/977/JHA ¹⁷ , and Union		
protection of personal data	2008 on the protection of	data protection law, including		
processed in the framework of	personal data processed in the	the specific data protection		
police and judicial cooperation	framework of police and	requirements laid down in this		
in criminal matters ¹⁶	judicial cooperation in criminal	Directive.		
('Framework Decision	matters ('Framework Decision			
2008/977/JHA').	2008/977/JHA') .			
(24) Taking into consideration	(24) Taking into consideration	(24) Taking into consideration		
the right to the protection of	the right to	the right to the protection of		
personal data, the rights of the	the protection of personal data,	personal data, the rights of the		
data subjects to processing of	the rights of the data subjects to	data subjects to processing of		

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OJ L 350, 30.12.2008, p. 60.

¹⁷ Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008).

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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their PNR data, such as the right of access, the right of rectification, erasure and blocking, as well as the rights to compensation and judicial remedies, should be in line with Framework Decision 2008/977/JHA.	concerning the processing of their PNR data, such as the right of access, the right of rectification, erasure and blocking, as well as the rights to compensation and judicial remedies, should be in line with Framework Decision 2008/977/JHA.	their PNR data, such as the right of access, the right of rectification, erasure and blocking, as well as the rights to compensation and judicial remedies, should be in accordance with Framework Decision 2008/977/JHA, Union data protection law, and the high level of protection provided by the Charter and the ECHR.		
(25) Taking into account the right of passengers to be informed of the processing of their personal data, Member States should ensure they are provided with accurate information about the collection of PNR data and their transfer to the Passenger Information Unit.	(25) Taking into account the right of passengers to be informed of the processing of their personal data, Member States should ensure they are provided with accurate information about the collection of PNR data and their transfer to the Passenger Information Unit.	(25) Taking into account the right of passengers to be informed of the processing of their personal data, Member States should ensure they are provided with accurate information that is easily accessible and easy to understand about the collection of PNR data and their transfer to the Passenger Information Unit, as well as their rights as data subjects.		
	(25a) This Directive allows the principle of public access to official documents to be taken into account.			
(26) Transfers of PNR data by Member States to third countries should be permitted	(26) Transfers of PNR data by Member States to third countries should be	(26) Transfers of PNR data by Member States to third		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
only on a case-by-case basis	permitted only on a case-	countries should be permitted	•	
and in compliance with	by-case basis and in compliance	pursuant to an international		
Framework Decision	with	agreement or on a case-by-case		
2008/977/JHA. To ensure the	Framework Decision	basis and in full compliance		
protection of personal data,	2008/977/JHA. To ensure	with the provisions laid down		
such transfers should be	the protection of personal data,	by Member States pursuant to		
subject to additional	such transfers should be	Framework Decision		
requirements relating to the	subject to additional	2008/977/JHA. To ensure the		
purpose of the transfer, the	requirements relating to the	protection of personal data, such		
quality of the receiving	purpose and the necessity of the	transfers should be subject to		
authority and the safeguards	transfer , the quality of the	additional requirements relating		
applicable to the personal data	receiving authority and the	to the purpose of the transfer,		
transferred to the third	safeguards applicable to the	the quality of the receiving		
country.	personal data transferred to the	authority and the safeguards		
	third country.	applicable to the personal data		
		transferred to the third country,		
		as well as to the principles of		
		necessity and proportionality		
		relating to the transfers, and		
		to the high level of protection		
		provided by the Charter,		
		Convention No 108, and the		
		ECHR. If the national		
		supervisory authority finds		
		the transfer of PNR data to a		
		third country to be in breach		
		of any of the principles		
		referred to in this Directive, it		
		should have the right to		
		suspend the data flow to that		
		third country.		
		-		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
(27) The national supervisory authority that has been established in implementation of Framework Decision 2008/977/JHA should also be responsible for advising on and monitoring of the application and implementation of the provisions of this Directive.	(27) The national supervisory authority that has been established in implementation of Framework Decision 2008/977/JHA should also be responsible for advising on and monitoring of the application and implementation of the provisions of adopted by the Member States pursuant to this Directive.	(27) The national supervisory authority that has been established in implementation of Framework Decision 2008/977/JHA should also be responsible for advising on and monitoring of the application and implementation of the provisions of this Directive.		
(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.	(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.	(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.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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	prejudice to the current Union			
	rules on the way border controls			
	are carried out or with the			
	Union rules regulating entry and			
	exit from the territory of the			
	<u>Union.</u>			
(29) As a result of the legal	(29) As a result of the legal and	(29) As a result of the legal and		
and technical differences	technical differences between	technical differences between		
between national provisions	national provisions concerning	national provisions concerning		
concerning the processing of	the processing	the processing of personal data,		
personal data, including PNR,	of personal data, including	including PNR, air carriers and		
air carriers are and will be	PNR, air carriers are and	non-carrier economic		
faced with different	will be faced with different	operators are and will be faced		
requirements regarding the	requirements regarding the	with different requirements		
types of information to be	types of information to be	regarding the types of		
transmitted, as well as the	transmitted, as well as the	information to be transmitted, as		
conditions under which this	conditions under which this	well as the conditions under		
information needs to be	information needs to be	which this information needs to		
provided to competent	provided to competent national	be provided to competent		
national authorities. These	authorities. These differences	national authorities. These		
differences may be prejudicial	may be prejudicial to effective	differences may be prejudicial		
to effective cooperation	cooperation between the	to effective cooperation		
between the competent	competent national authorities	between the competent national		
national authorities for the	for the purposes of preventing,	authorities for the purposes of		
purposes of preventing,	detecting, investigating and	preventing, detecting,		
detecting, investigating and	prosecuting terrorist	investigating and prosecuting		
prosecuting terrorist offences	offences or serious crime.	terrorist offences or serious		
or serious crime.		transnational crime.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
(30) Since the objectives of	(30) Since the objectives of this	(30) Since the objectives of this		
this Directive cannot be	Directive cannot be sufficiently	Directive cannot be sufficiently		
sufficiently achieved by the	achieved by the Member States,	achieved by the Member States,		
Member States, and can be	and can be better achieved at	and can be better achieved at		
better achieved at Union level,	Union level, the Union may	Union level, the Union may		
the Union may adopt	adopt measures, in accordance	adopt measures, in accordance		
measures, in accordance with	with the principle of	with the principle of subsidiarity		
the principle of subsidiarity as	subsidiarity as set out in Article	as set out in Article 5 of the		
set out in Article 5 of the	5 of the Treaty on European	Treaty on European Union. In		
Treaty on European Union. In	Union. In accordance with the	accordance with the		
accordance with the principle	principle of proportionality, as	principle of proportionality, as		
of proportionality, as set out in	set out in that Article,	set out in that Article,		
that Article, this Directive	this Directive does not go	this Directive does not go		
does not go beyond what is	beyond what is necessary in	beyond what is necessary in		
necessary in order to achieve	order to achieve that objective.	order to achieve that objective.		
that objective.				
(31) This Directive respects	(31) This Directive respects the	(31) This Directive respects		
the fundamental rights and the	fundamental rights and the	the fundamental rights and the		
principles of the Charter of	principles of the Charter of	principles of the Charter of		
Fundamental Rights of the	Fundamental Rights of	Fundamental Rights of		
European Union, in particular	the European Union, in	the European Union, in		
the right to the protection of	particular the right to the	particular the right to the		
personal data, the right to	protection of personal data, the	protection of personal data, the		
privacy and the right to non-	right to privacy and the right to	right to privacy and the right to		
discrimination as protected by	non-discrimination	non-discrimination		
Articles 8, 7 and 21 of the	as protected by Articles 8, 7 and	as protected by Articles 8, 7 and		
Charter and has to be	21 thereof the Charter and has	21 of the Charter and has to be		
implemented accordingly. The	to be implemented accordingly.	implemented accordingly. The		
Directive is compatible with	The Directive	Directive		
data protection principles and	is compatible with data	is compatible with data		
its provisions are in line with	protection principles and its	protection principles and its		
the Framework Decision	provisions are in line with	provisions are in line with		
2008/977/JHA. Furthermore,	the Framework Decision	the Framework Decision		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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and in order to comply with	2008/977/JHA.	2008/977/JHA.	•	
the proportionality principle,	Furthermore, and in order to	Furthermore, and in order to		
the Directive, on specific	comply with the proportionality	comply with the proportionality		
issues, will have stricter rules	principle, the Directive, on	principle, the Directive, on		
on data protection than the	specific issues, will have stricter	specific issues, will have stricter		
Framework Decision	rules on data protection than the	rules on data protection than the		
2008/977/JHA.	Framework Decision	Framework Decision		
	2008/977/JHA.	2008/977/JHA.		
(32) In particular, the scope of	(32) In particular, the scope of	(32) In particular, the scope of		
the Directive is as limited as	the this Directive is as limited	this Directive is as limited as		
possible, it allows retention of	as possible, <u>as</u> it allows	possible, and allows retention		
PNR data for period of time	retention of PNR data in the	of PNR data for a period of time		
not exceeding 5 years, after	Passenger Information Units for	not exceeding five years, after		
which the data must be	period of time not exceeding 5	which the data should be		
deleted, the data must be	years, after which the data must	deleted, the data should be		
anonymised after a very short	should be deleted, as the data	masked out after 30 days, the		
period, the collection and use	must should be anonymised	collection and use of sensitive		
of sensitive data is prohibited.	depersonalised through masking	data should be prohibited. In		
In order to ensure efficiency	out after a very short an initial	order to ensure efficiency and a		
and a high level of data	period, and as the collection and	high level of data protection, it		
protection, Member States are	use of sensitive data is	should be ensured that an		
required to ensure that an	prohibited. In order to ensure	independent national		
independent national	efficiency and a high level of	supervisory authority and, in		
supervisory authority is	data protection, Member States	particular, its data protection		
responsible for advising and	are required to ensure that an	officer is responsible for		
monitoring how PNR data are	independent national	advising and monitoring how		
processed. All processing of	supervisory authority is	PNR data are processed. All		
PNR data must be logged or	responsible for advising and	processing of PNR data should		
documented for the purpose of	monitoring how the way PNR	be logged or documented for the		
verification of the lawfulness	data are processed. All	purpose of verification of the		
of the data processing, self-	processing of PNR data must	lawfulness of the data		
monitoring and ensuring	should be logged or	processing, self-monitoring and		
proper data integrity and	documented for the purpose of	ensuring proper data integrity		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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security of the data processing.	verification of the lawfulness of	and security of the data		
Member States must also	the data processing its legality,	processing. Member States		
ensure that passengers are	self-monitoring and ensuring	should also ensure that		
clearly and precisely informed	proper data integrity and	passengers are clearly and		
about the collection of PNR	security of the data processing.	precisely informed about the		
data and their rights.	Member States must should also	collection of PNR data and their		
	ensure that passengers are	rights.		
	clearly and precisely informed			
	about the collection of PNR			
	data and their rights.			
(33) [In accordance with	(33) {In accordance with Article	(33) [In accordance with Article		
Article 3 of the Protocol (No	3 of the Protocol	3 of the Protocol		
21) on the position of United	(No 21) on the position of	(No 21) on the position of		
Kingdom and Ireland in	United Kingdom and	United Kingdom and		
respect of the Area of	Ireland in respect of the	Ireland in respect of the		
Freedom, Security and Justice,	Area of Freedom, Security and	Area of Freedom, Security and		
annexed to the Treaty on	Justice, annexed to the	Justice, annexed to the Treaty		
European Union and the	Treaty on European Union and	on European Union and the		
Treaty on the Functioning of	the Treaty on the Functioning of	Treaty on the Functioning of the		
the European Union, those	the	European Union, those Member		
Member States have notified	European Union, those Member	States have		
their wish to participate in the	States have	notified their wish to participate		
adoption and application of	notified their wish to participate	in the adoption and application		
this Directive] OR [Without	in the adoption and application	of this Directive] OR [Without		
prejudice to Article 4 of the	of this Directive] OR [Without	prejudice to Article 4 of the		
Protocol (No 21) on the	prejudice to Article 4 of the	Protocol (No 21) on the position		
position of the United	Protocol (No 21) on the position	of the United Kingdom and		
Kingdom and Ireland in	of the United Kingdom and	Ireland in respect of the Area of		
respect of the Area of	Ireland in respect of the Area of	Freedom, Security and Justice,		
Freedom, Security and Justice,	Freedom, Security and Justice,	annexed to the		
annexed to the Treaty on	annexed to the	Treaty on European Union and		
European Union and the	Treaty on European Union and	the Treaty on the Functioning of		
Treaty on the Functioning of	the Treaty on the Functioning of	the		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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the European Union, those	the	European Union, those Member		
Member States will not	European Union, those Member	States will not participate in the		
participate in the adoption of	States will not participate in the	adoption		
this Directive and will not be	adoption	of this Directive and will		
bound by or be subject to its	of this Directive and will	not be bound by or be		
application].	not be bound by or be	subject to its application].		
	subject to its application].			
(34) In accordance with	(34) In accordance with Articles	(34) In accordance with Articles		
Articles 1 and 2 of the	1 and 2 of the Protocol (No 22)	1 and 2 of the Protocol (No 22)		
Protocol (No 22) on the	on the position of Denmark	on the position of Denmark		
position of Denmark annexed	annexed to the Treaty on	annexed to the Treaty on		
to the Treaty on European	European Union and the Treaty	European Union and the Treaty		
Union and the Treaty on the	on the Functioning	on the Functioning of the		
Functioning of the European	of the European Union,	European Union, Denmark is		
Union, Denmark is not taking	Denmark is not taking part	not taking part in the adoption		
part in the adoption of this	in the adoption of this Directive	of this		
Directive and is not bound by	and is not bound	Directive and is not bound		
it or subject to its application,	by it or subject to its	by it or subject to its		
	application,	application.		

CHAPTER I

GENERAL PROVISIONS

Articles

Commission proposal (doc. 6607/11)	Council GA (doc. 8916/12)	Orientation vote LIBE	Observations Presidency	Compromise proposal			
	Article 1						
Subject-matter and scope	Subject-matter and scope	Subject-matter and scope					
1. This Directive provides for the transfer by air carriers of Passenger Name Record data of passengers of international flights to and from the Member States, as well as the processing of that data, including its collection, use and retention by the Member States and its exchange between them.	1. This Directive provides for the transfer by air carriers of Passenger Name Record PNR) data of passengers of international extra-EU flights to and from the Member States, as well as the processing of that data, including its collection, use and retention by the Member States and its exchange between them.	1. This Directive provides for the transfer by air carriers and non-carrier economic operators of Passenger Name Record data of passengers of international flights to and from the Member States, as well as the processing of that data, including its collection, use and retention by the Member States and its exchange between the Member States and between the Member States and between the Member States and Europol.					
2. The PNR data collected in accordance with this Directive may be processed only for the following purposes:(a) The prevention,	2. The PNR data collected in accordance with this Directive may be processed only for the following purposes: (a) The prevention, detection,	2. The PNR data collected in accordance with this Directive may be processed only for the purposes of the prevention, detection, investigation and					

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
detection, investigation and prosecution of terrorist offences and serious crime according to Article 4(2)(b) and (c); and (b) The prevention, detection, investigation and prosecution of terrorist offences and serious transnational crime according to Article 4(2)(a) and (d).	investigation and prosecution of terrorist offences and serious crime according to as provided for Article 4(2)(a), (b) and (c); and (b) The prevention, detection, investigation and prosecution of terrorist offences and serious transnational crime according to Article 4(2)(a) and (d).	prosecution of terrorist offences and of certain types of serious transnational crime in accordance with Article 4(2) or the prevention of an immediate and serious threat to public security.		
10 Thatele 1(2)(u) and (c):		Article 1a		
	Application of the directive to intra-EU flights			
	1. 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.			
	2. 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			

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Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
	PNR data from intra-EU flights			
	as if it were PNR data from			
	extra-EU flights.			
	3. 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			
	selected intra-EU flights at any			
	time.			

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		Article 2		
Definitions	Definitions	Definitions		
For the purposes of this Directive the following definitions shall apply:	For the purposes of this Directive the following definitions shall apply:	For the purposes of this Directive the following definitions apply::		
(a) 'air carrier' means an air transport undertaking with a valid operating licence or equivalent permitting it to carry out carriage by air of passengers;	(a) 'air carrier' means an air transport undertaking with a valid operating licence or equivalent permitting it to carry out carriage by air of passengers;	(a) 'air carrier' means an air transport undertaking with a valid operating licence or equivalent permitting it to carry out carriage by air of passengers;		
		(aa) 'non-carrier economic operator' means an economic operator, such as travel agencies and tour operators, which provides travel-related services, including the booking of flights for which they collect and process PNR data of passengers;		
(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,	(b) 'international extra-EU flight' means any scheduled or non-scheduled flight by an air carrier flying from a third country planned to land on the territory of a Member State originating in a third country or to depart or from the territory of a Member State with a final	(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		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
including in both cases any	destination planned to land in a	any transfer or transit flights;		
transfer or transit flights;	third country, including in both			
	cases flights with any transfer			
	stop-overs at the territory of			
	Member States or transit flights			
	third countries;			
	(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;			
(c) 'Passenger Name	(c) 'Passenger Name	(c) 'Passenger Name Record' or		
Record' or 'PNR data' means a	Record' or 'PNR data'	'PNR data' means a record of		
record of each passenger's	means a record of each	each passenger's travel		
travel requirements which	passenger's travel requirements	requirements which contains		
contains information	which	information necessary to enable		
necessary to enable	contains information	reservations to be processed and		
reservations to be processed	necessary to enable	controlled by the booking and		
and controlled by the booking	reservations to be processed	participating air carriers for each		
and participating air carriers	and controlled by the booking	journey booked by or on behalf		
for each journey booked by or	and participating	of any person, whether it is		
on behalf of any person, whether it is contained in	air carriers for each journey	contained in reservation		
	booked by or on behalf of any	systems, Departure Control		
reservation systems, Departure	person, whether it is contained in reservation systems,	Systems (DCS) or equivalent systems providing the same		
Control Systems (DCS) or equivalent systems providing	•	functionalities;		
the same functionalities;	Departure Control Systems (DCS), the system used to	Tunctionanties,		
the same functionanties;	check passengers onto flights)			
	check passengers onto mgnts)			

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
	or equivalent systems providing the same functionalities;			
(d) 'passenger' means any person, except members of the crew, carried or to be carried in an aircraft with the consent of the carrier;	(d) 'passenger' means any person, except members of the crew, carried or to be carried in an aircraft with the consent of the air carrier, which is manifested by the persons' registration in the passengers list and which includes transfer or transit passenger;	(d) 'passenger' means any person, except members of the crew, carried or to be carried in an aircraft with the consent of the carrier;		
(e) 'reservation systems' means the air carrier's internal inventory system, in which PNR data are collected for the handling of reservations;	(e) 'reservation systems' means the air carrier's internal inventory reservation system, in which PNR data are collected for the handling of reservations;	(e) 'reservation systems' means the air carrier's or non-carrier economic operator's internal inventory system, in which PNR data are collected for the handling of reservations;		
(f) 'push method' means the method whereby air carriers transfer the required PNR data into the database of the authority requesting them;	(f) 'push method' means the method whereby air carriers transfer the required PNR data into the database of the authority requesting them;	(f) 'push method' means the method whereby air carriers or non-carrier economic operators transfer the required PNR data listed in the Annex into the database of the authority requesting them;		
(g) 'terrorist offences' means the offences under national law referred to in Articles 1 to 4 of Council Framework Decision 2002/475/JHA;	(g) 'terrorist offences' means the offences under national law referred to in Articles 1 to 4 of Council Framework Decision 2002/475/JHA;	(g) 'terrorist offences' means the offences under national law referred to in Articles 1 to 4 of Framework Decision 2002/475/JHA;		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
(h) 'serious crime' means	(h) 'serious crime' means	(h) 'serious crime' means	Ţ.	
the offences under national	the offences under national	the offences under national		
law referred to in Article 2(2)	law referred to in Article 2(2)	law referred to in Article 2(2)		
of Council Framework	of Council Framework	of Council Framework		
Decision 2002/584/JHA if	Decision 2002/584/JHA if	Decision 2002/584/JHA if		
they are punishable by a	they are punishable by a	they are punishable by a		
custodial sentence or a	custodial sentence or a	custodial sentence or a		
detention order for a	detention order for a	detention order for a maximum		
maximum period of at least	maximum period of at least	period of at least three years		
three years under the national	three years under the national	under the national law of a		
law of a Member State,	law of a Member State,	Member State, however,		
however, Member States may	however, Member States may	Member States may exclude		
exclude those minor offences	exclude those minor offences	those minor offences for which,		
for which, taking into account	for which, taking into account	taking into account their		
their respective criminal	their respective criminal	respective criminal justice		
justice system, the processing	justice system, the processing	system, the processing of PNR		
of PNR data pursuant to this	of PNR data pursuant to this	data pursuant to this directive		
directive would not be in line	directive would not be in line	would not be in line with the		
with the principle of	with the principle of	principle of proportionality;		
proportionality;	proportionality;			
(i) 'serious transnational	(i) 'serious [] crime' means	(i) 'serious transnational crime'		
crime' means the offences	the offences under national law	means the following offences,		
under national law referred to	referred	where they are punishable by a		
in Article 2(2) of Council	to in Article 2(2) of Council	custodial sentence or a detention		
Framework Decision	Framework Decision	order for a maximum period of		
2002/584/JHA if they are	2002/584/JHA if they are	at least three years under the		
punishable by a custodial	punishable by a custodial	national law of a Member State,		
sentence or a detention order	sentence or a detention	as referred to in Article 2(2) of		
for a maximum period of at	order for a maximum period of	Council Framework Decision		
least three years under the	at least three years under the	2002/584/JHA;		
national law of a Member	national law of a Member State,	- participation in a criminal		
State, and if:	and if:	organisation,		
		organisation,		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
(i) They are committed in	(i) They are committed in	- trafficking in human beings,		
more than one state;	more than one state;	facilitation of unauthorised		
		entry and residence, illicit		
(ii) They are committed in	(ii) They are committed in	trade in human organs and		
one state but a substantial part	one state but a substantial part	tissue,		
of their preparation, planning,	of their preparation, planning,			
direction or control takes	direction or control takes place	- sexual exploitation of		
place in another state;	in another state;	children and child		
(''') 771 ''' 1 '	(***) 771 *** 1 **	pornography, rape, female		
(iii) They are committed in	(iii) They are committed in one state but involve an	genital mutilation,		
one state but involve an organised criminal group that	organised criminal group that	- illicit trafficking in narcotic		
engages in criminal activities	engages in criminal activities in	drugs and psychotropic		
in more than one state; or	more than one state; or	substances,		
in more than one state, or	more than one state, or	substances,		
(iv) They are committed in	(iv) They are committed in	- illicit trafficking in weapons,		
one state but have substantial	one state but have substantial	munitions and explosives,		
effects in another state.	effects in another state.	,		
		- serious fraud, fraud against		
		the financial interests of the		
		EU, laundering of the		
		proceeds of crime, money		
		laundering and counterfeiting		
		currency,		
		- murder, grievous bodily		
		injured, kidnapping, illegal		
		restraint and hostage-taking,		
		armed robbery,		
		garious computar valoted		
		- serious computer-related crime and cybercrime,		
		crime and cybercrime,		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,		
		- forgery of administrative documents and trafficking therein, illicit trafficking in cultural goods, including antiques and works of art, counterfeiting and piracy of products,		
		- unlawful seizure of aircraft/ships,		
		- espionage and treason,		
		- illicit trade and trafficking in nuclear or radioactive materials and their precursor and in this regard non- proliferation related crimes,		
		- crimes within the jurisdiction of the International Criminal Court.		
	(j) 'depersonalising through masking out of data' means rendering certain data elements of such data invisible to a user			

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
	without deleting these data elements.			

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
		CHAPTER II		
	RESPONSII	BILITES OF THE MEMBER ST	ATES	
		Article 3		
Passenger Information Unit	Passenger Information Unit	Passenger Information Unit		
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.	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' (PIU) responsible for collecting PNR data from the air carriers, storing them, analysing processing them and transmitting the PNR data or the result of the analysis processing thereof to the competent authorities referred to in Article 5. The PIU is also responsible for the exchange of PNR data or the result of the processing thereof with PIUs of other Member States in accordance with Article 7. Its staff members may be seconded	1. Each Member State shall set up or designate an authority competent for the prevention, detection, investigation or prosecution of terrorist offences and of serious transnational crime and for the prevention of immediate and serious threats to public security, or a branch of such an authority, to act as its 'Passenger Information Unit'. The Passenger Information Unit shall be responsible for collecting PNR data from air carriers and noncarrier economic operators, storing, processing and analysing those data and transmitting the result of the analysis to the competent authorities referred to in Article 5. The Passenger Information Unit shall also responsible for the exchange of PNR data and		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
	from competent public authorities. It shall be provided with adequate resources in order to fulfil its task.	of the result of the processing thereof with the Passenger Information Units of other Member States and with Europol in accordance with Articles 7 and 7a, and for conducting the assessments referred to in Article 4. Its staff members may be seconded from competent public authorities. Member States shall provide the Passenger Information Unit with adequate resources in order to fulfil its tasks.		
2. Two or more Member States may establish or designate a single authority to serve as their Passenger Information Unit. Such Passenger Information Unit shall be established in one of the participating Member States and shall be considered the national Passenger Information Unit of all such participating Member States. The participating Member States shall agree on the detailed rules for the operation of the Passenger Information Unit and shall respect the	2. Two or more Member States may establish or designate a single authority to serve as their Passenger Information Unit. Such Passenger Information Unit shall be established in one of the participating Member States and shall be considered the national Passenger Information Unit of all such participating Member States. The participating Member States shall agree on the detailed rules for the operation of the Passenger Information Unit and shall respect the	2. Two or more Member States may establish or designate a single authority to serve as their Passenger Information Unit. Such Passenger Information Unit shall be established in one of the participating Member States and shall be considered the national Passenger Information Unit of all such participating Member States. The participating Member States shall agree jointly on the detailed rules for the operation of the Passenger Information Unit and shall respect the requirements laid down in this		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
requirements laid down in this	requirements laid down in this	Directive.		
Directive.	Directive.			
3. Each Member State	3. Each Member State shall	3. Each Member State shall		
shall notify the Commission	notify the Commission thereof	notify the Commission thereof		
thereof within one month of	within one month of the	within one month of the		
the establishment of the	establishment of the Passenger	establishment of the Passenger		
Passenger Information Unit	Information Unit and thereof. It	Information Unit and shall at		
and may at any time update its	may at any time update modify	any time update its declaration.		
declaration. The Commission	its declaration notification. The	The Commission shall publish		
shall publish this information,	Commission shall publish this	this information, including any		
including any updates, in the	information, including any	updates, in the Official Journal		
Official Journal of the	updates modifications of it, in	of the European Union.		
European Union.	the Official Journal of the			
	European Union.			
		Article 3a		
		Data Protection Officer in the		
		Passenger Information Unit:		
		1. All staff members of the		
		Passenger Information Unit		
		who have access to PNR data		
		shall receive specifically		
		tailored training on		
		processing of PNR data in full		
		compliance with data		
		protection principles and		
		fundamental rights.		
		2. The Passenger Information		
		Unit shall appoint a data		
		protection officer responsible		
		for monitoring the processing		
		for momenting the processing		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		of PNR data and implementing the related safeguards. 3. Member States shall ensure that the data protection officer is designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and ability to fulfil the tasks referred to in this Directive. Member States shall provide that any other professional duties of the data protection officer are compatible with that person's tasks and duties as data protection officer and do not result in a conflict of interest. The data protection officer shall: (a) raise awareness and advise staff members of the Passenger Information Unit		_
		regarding their obligations concerning the protection of personal data, including the training of staff members and the assignment of		
		responsibilities;		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		(b) monitor the implementation and application of data protection requirements laid down in this Directive, in particular through conducting random sampling of data processing operations;		
		(c) ensure that all documentation is maintained and records kept in accordance with this Directive, and monitor documentation, notification and communication of personal data breaches and report wrongful conduct as regards the data protection requirements laid down in this Directive to the appropriate authorities;		
		(d) monitor responses to requests from the national supervisory authority and cooperate with the national supervisory authority, especially on matters relating to data transfers to other Member States or to third countries, and act as contact point for the national		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		supervisory authority on		
		issues related to the		
		processing of PNR data,		
		where appropriate,		
		contacting the national		
		supervisory authority on his or her own initiative.		
		or her own initiative.		
		Member States shall provide		
		data protection officers with		
		the means to perform their		
		duties and tasks in		
		accordance with this Article		
		effectively and independently.		
		4. Member States shall ensure		
		that the data subject has the		
		right to contact the data		
		protection officer, as a single		
		point of contact, on all issues		
		relating to the processing of		
		the data subject's PNR data.		
		Member States shall ensure		
		that the name and contact		
		details of the data protection		
		officer are communicated to		
		the national supervisory authority and to the public.		
	1	<u> </u>		
Article 4				
Processing of PNR data	Processing of PNR data	Processing of PNR data		
1. The PNR data	1. The PNR data transferred	1. The PNR data transferred by		
transferred by the air carriers,	by the air	the air carriers and the non-		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
pursuant to Article 6, in	carriers, pursuant to Article 6,	carrier economic operators,		
relation to international flights	in relation to international	pursuant to Article 6, in relation		
which land on or depart from	flights which land on or depart	to international flights which		
the territory of each Member	from the territory of each	land on or depart from the		
State shall be collected by the	Member State shall be collected	territory of a Member State		
Passenger Information Unit of	by the Passenger Information	shall be collected by the		
the relevant Member State.	Unit of the relevant Member	Passenger Information Unit of		
Should the PNR data	State, as provided for Article 6.	that Member State. Should the		
transferred by air carriers	Should the PNR data transferred	PNR data transferred by air		
include data beyond those	by air carriers include data	carriers and non-carrier		
listed in the Annex, the	beyond those listed in the	economic operators include		
Passenger Information Unit	Annex, the Passenger	data beyond those listed in the		
shall delete such data	Information Unit shall delete	Annex, the Passenger		
immediately upon receipt.	such data immediately upon	Information Unit shall delete		
	receipt.	such data immediately and		
		permanently upon receipt.		
2. The Passenger	2. The Passenger	2. The Passenger		
Information Unit shall process	Information Unit shall process	Information Unit shall process		
PNR data only for the	PNR data only for the following	PNR data only for		
following purposes:	purposes:	the following purposes:		
(a) carrying out an	(a) carrying out an	(a) carrying out an assessment		
assessment of the passengers	assessment of the	of the passengers prior to their		
prior to their scheduled arrival	passengers prior to their	scheduled arrival to , or		
or departure from the Member	scheduled arrival to or departure	departure from, the Member		
State in order to identify any	from the Member State in order	State in order to identify any		
persons who may be involved	to identify	persons who may be involved in		
in a terrorist offence or serious	any persons who may be	a terrorist offence or serious		
transnational crime and who	involved in a terrorist	transnational crime and who		
require further examination by	offence or serious transnational	require further examination by		
the competent authorities	erime and	the competent authorities		
referred to in Article 5. In	who require further examination	referred to in Article 5 and,		
carrying out such an	by the competent authorities	where relevant, by Europol, in		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
assessment, the Passenger	referred to in Article 5. In	accordance with Article 7a. In	-	
Information Unit may process	carrying out such an	carrying out such an assessment,		
PNR data against pre-	assessment, the Passenger	the Passenger Information Unit		
determined criteria. Member	Information Unit may process	may process PNR data against		
States shall ensure that any	PNR data against pre-	pre-determined criteria in		
positive match resulting from	determined criteria. Member	accordance with this		
such automated processing is	States shall ensure that any	Directive, and may compare		
individually reviewed by non-	positive match resulting from	PNR data against relevant		
automated means in order to	such automated processing is	databases, including		
verify whether the competent	individually reviewed by non-	international or national		
authority referred to in Article	automated means in order to	databases or national mirrors		
5 needs to take action;	verify whether the competent	of Union databases, where		
	authority	they are established in		
	referred to in Article 5	compliance with Union law,		
	needs to take action;	on persons or objects sought		
		or under alert, in accordance		
		with Union, international and		
		national rules applicable to		
		such files, in accordance with		
		the requirements set out in		
		paragraph 3. 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;		
(b) carrying out an	(b) carrying out an	(b) carrying out an assessment		
assessment of the passengers	assessment in view of the	of the passengers prior to their		
prior to their scheduled arrival	passengers prior to their	scheduled arrival or departure		
or departure from the Member	scheduled arrival or departure	from the Member State in order		

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Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
State in order to identify any	from the Member State in order	to identify any persons who may	•	
persons who may be involved	to identify	be involved in a terrorist offence		
in a terrorist offence or serious	any fact that such persons who	or serious transnational crime		
crime and who require further	may be involved in a terrorist	and who require further		
examination by the competent	offence or serious crime and	examination by the competent		
authorities referred to in	who require further examination	authorities referred to in Article		
Article 5.	by the competent authorities	5. In carrying out such an		
In carrying out such an	referred to in Article 5.	assessment the Passenger		
assessment the Passenger	(i) In carrying out such an	Information Unit may compare		
Information Unit may	assessment the Passenger	PNR data against relevant		
compare PNR data against	Information Unit may compare	databases, including national		
relevant databases, including	PNR data against relevant	databases or national mirrors of		
international or national	databases, relevant for the	Union databases, on persons or		
databases or national mirrors	purpose of prevention,	objects sought or under alert, in		
of Union databases, where	detection, investigation and	accordance with Union and		
they are established on the	prosecution of terrorist offences	national rules applicable to such		
basis of Union law, on persons	and serious crime,	databases for the purpose of		
or objects sought or under	including international or	preventing, detecting,		
alert, in accordance with	national -databases or	investigating and prosecuting		
Union, international and	national mirrors of Union	terrorist offences and serious		
national rules applicable to	databases, where they are	transnational crime. In		
such files. Member States	established on the basis of	carrying out such an		
shall ensure that any positive	Union law, on persons or	assessment, the Passenger		
match resulting from such	objects sought or under	Information Unit may		
automated processing is	alert, in accordance with Union,	compare PNR data against the		
individually reviewed by non-	international and national rules	Schengen Information System		
automated means in order to	applicable to such files	and the Visa Information		
verify whether the competent	databases.	System. Member States shall		
authority referred to in Article		ensure that any positive match		
5 needs to take action;	(ii) When carrying out an	resulting from such automated		
	assessment of persons who may	processing is individually		
	be involved in a terrorist	reviewed by non-automated		
	offence or serious crime listed	means in order to verify whether		

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	in Annex II to this Directive, the Passenger Information Unit may also process PNR data against pre-determined criteria. Member States shall ensure that any positive match resulting from such automated processing of PNR data conducted under point (a) of paragraph 2 is individually reviewed by non-automated means in order to verify whether the competent authority referred to in Article 5 needs to take action in accordance with national law;	the competent authority referred to in Article 5 needs to take action;		
(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	(b) 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	(c) responding, on a case-by- case basis based on sufficient evidence, 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 of serious transnational crime listed in point (i) of Article 2 or for the prevention of an immediate and serious threat to public security, and to provide the competent authorities or, where		

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		appropriate, Europol with the results of such processing; and		
(d) analysing PNR data for the purpose of updating or creating new criteria for carrying out assessments in order to identify any persons who may be involved in a terrorist offence or serious transnational crime pursuant to point (a).	(c) analysing PNR data for the purpose of updating or creating new criteria for carrying out assessments referred to in point (a)(ii) in order to identify any persons who may be involved in a terrorist offence or serious transnational crime pursuant to point (a) crimes listed in Annex II.	(d) analysing PNR data for the purpose of updating or creating new criteria for carrying out assessments in order to identify any persons who may be involved in a terrorist offence or serious transnational crime pursuant to point (a).		
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	3. The assessment of the passengers prior to their scheduled arrival or departure from the Member State <u>carried</u> <u>out against pre-determined</u> <u>criteria</u> 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	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. This assessment criteria must be targeted, specific, justified, proportionate and fact-based. A regular review shall involve the data protection officer; Member States shall ensure that the assessment criteria are set by the Passenger Information Units, in cooperation with the		

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person's race or ethnic origin, religious or philosophical belief, political opinion, trade union membership, health or sexual life.	circumstances be based on a person's race racial or ethnic origin, political opinions, religious or philosophical beliefs, political opinion, trade union membership, health or sexual life.	competent authorities referred to in Article 5 and regularly reviewed. The assessment criteria shall in no circumstances be based on person's race or ethnic origin, political opinions, religion or philosophical beliefs, sexual orientation or gender identity, trade-union membership or activities, and the processing of data concerning health or sexual life;		
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.	4. The Passenger Information Unit of a Member State shall transfer transmit 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 referred to in Article 5. Such transfers shall only be made on a case-by-case basis.	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 by human action.		

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		4a. Member States shall ensure that the data protection officer has access to all data transmitted to the Passenger Information Unit and from the Passenger Information Unit to a competent authority pursuant to Article 5. If the data protection officer considers that transmission of any data was not lawful, he or she shall refer the matter to the national supervisory authority, which shall have power to order the receiving competent authority to delete that data.		proposus.
		4b. The storage, processing and analysis of PNR data shall be carried out exclusively within a secure location within the territory of the Member States of the European Economic Area.		
		4c. Member States shall bear the costs of use, retention and exchange of PNR data.		
	5. The consequences of the assessments of passengers referred to in point (a) of paragraph 2 shall not jeopardise			

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	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 18 applies, shall comply			
	with that Code.			
		Article 5		
Competent authorities	Competent authorities	Competent authorities		
1. Each Member State	1. Each Member State shall	Each Member State shall		
shall adopt a list of the	adopt a list of the competent	adopt a list of the competent		
competent authorities entitled	authorities	authorities entitled to request or		
to request or receive PNR data	entitled to request or	receive masked out PNR data		
or the result of the processing	receive PNR data or the result	or the result of the systematic		
of PNR data from the	of the processing of PNR data	processing of PNR data from		
Passenger Information Units	from the	the Passenger Information Units		
in order to examine that	Passenger Information	in order to examine that		
information further or take	Units in order to examine that			

¹⁸ OJ L 105, 13.4.2006, p.1.

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appropriate action for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime.	information further or take appropriate action for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime.	information further or take appropriate action for the specific purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious transnational crime, or the prevention of an immediate and serious threat to public security. Europol shall be entitled to receive PNR data or the result of the processing of PNR data from the Passenger Information Units of the Member States within the limits of its mandate and, where necessary, for the performance of its tasks.		
2. Competent authorities shall consist of authorities competent for the prevention, detection, investigation or prosecution of terrorist offences and serious crime.	2. Competent The authorities referred to in paragraph 1 shall consist of authorities be competent for the prevention, detection, investigation or prosecution of terrorist offences and or serious crime.	2. Competent authorities shall consist of authorities competent for the prevention, detection, investigation or prosecution of terrorist offences and serious transnational crime or the prevention of immediate and serious threats to public security.		
3. Each Member State shall notify the list of its competent authorities to the Commission twelve months after entry into force of this	3. For the purpose of Article 7(4), eEach Member State shall notify the list of its competent authorities to the Commission twelveeighteen months after	3. By* [12 months after the date of entry into force of this Directive], each Member State shall notify the list of its competent authorities to the		

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Directive at the latest, and may at any time update its declaration. The Commission shall publish this information, as well as any updates, in the Official Journal of the European Union.	entry into force of this Directive at the latest, and may at any time update its declarationthis notification. The Commission shall publish this information, as well as any updatesmodifications of it, in the Official Journal of the European Union.	Commission and shall at any time update its declaration. The Commission shall publish this information, as well as any updates, in the Official Journal of the European Union.		
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.	4. The PNR data of passengers and the result of the processing of PNR data received by from 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.	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 specific purpose of prevention, detection, investigation or prosecution of terrorist offences and of serious transnational crime, upon request, in accordance with Article 4(2) or for the prevention of an immediate and serious threat to public security.		
5. Paragraph 4 shall be without prejudice to national	5. Paragraph 4 shall be without prejudice to	5. Paragraph 4 shall be without prejudice to national law		
law enforcement or judicial	national law enforcement or	enforcement or judicial powers		
powers where other offences,	judicial powers where other	where other offences, or		
or indications thereof, are	offences violations of criminal	indications thereof, are detected		
detected in the course of	law, or indications thereof, are	in the course of enforcement		

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enforcement action further to	detected in the course of	action further to processing for		
such processing.	enforcement action further to	which it was originally		
	such processing.	intended.		
6. The competent	6. The competent authorities	6. The competent authorities		
authorities shall not take any	shall not take	shall not take any decision that		
decision that produces an	any decision that produces	produces an adverse legal effect		
adverse legal effect on a	an adverse legal effect on a	on a person or significantly		
person or significantly affects	person or significantly	affects a person only by reason		
a person only by reason of the	affects a person only by reason	of the automated processing of		
automated processing of PNR	of the automated processing of	PNR data. Such decisions shall		
data. Such decisions shall not	PNR data. Such decisions shall	not be taken on the basis of data		
be taken on the basis of a	not be taken on the basis of a	revealing a person's race or		
person's race or ethnic origin,	person's race or ethnic origin,	ethnic origin, political		
religious or philosophical	religious or philosophical belief,	opinions, religion or		
belief, political opinion, trade	political opinion, trade union	philosophical beliefs, sexual		
union membership, health or	membership, health or sexual	orientation or gender identity,		
sexual life.	life.	trade-union membership or		
		activities, and the processing		
		of data concerning health or		
		sexual life.		
		Article 6		
Obligations on air carriers	Obligations on air	Obligations on air carriers		
	carriers on transfers of data	and non-carrier economic		
		operators		
1. Member States shall	Member States shall	1. Member States shall adopt		
adopt the necessary measures	adopt the necessary measures to	the necessary measures to		
to ensure that air carriers	ensure that air carriers transfer	ensure that air carriers and non-		
transfer ('push') the PNR data	('push') the PNR data as defined	carrier economic operators		
as defined in Article 2(c) and	in Article 2(ed) and specified in	transfer all pushed PNR data as		
specified in the Annex, to the	the	defined in point (c) of Article 2		
extent that such data are	Annex \underline{I} , to the extent	and specified in the Annex, to		

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already collected by them, to	that such data are already	the extent that such data are		
the database of the national	collected by them, to the	already collected by them in the		
Passenger Information Unit of	database of the national	normal course of their		
the Member State on the	Passenger Information Unit of	business , to the database of the		
territory of which the	the Member State on the	national Passenger Information		
international flight will land or	territory of which the	Unit of the Member State on the		
from the territory of which the	international flight will land or	territory of which the		
flight will depart. Where the	from the territory of which the	international flight will land or		
flight is code-shared between	flight will depart. Where the	from the territory of which the		
one or more air carriers, the	flight is code-shared between	flight will depart. Where the		
obligation to transfer the PNR	one or more air carriers, the	flight is code-shared between		
data of all passengers on the	obligation to transfer the PNR	one or more air carriers the		
flight shall be on the air	data of all passengers on the	obligation to transfer the PNR		
carrier that operates the flight.	flight shall be on the air carrier	data of all passengers on the		
Where the flight has one or	that operates the flight. Where	flight shall be on the air carrier		
more stop-overs at the airports	the an extra-EU flight has one	and the non-carrier economic		
of the Member States, air	or more stop-overs at the	operator that operates the		
carriers shall transfer the PNR	airports of the Member States,	flight. Where the flight has one		
data to the Passenger	air carriers shall transfer the	or more stop-overs at the		
Information Units of all the	PNR data of all passengers to	airports of the Member States,		
Member States concerned.	the Passenger Information Units	air carriers and non-carrier		
	of all the Member States	economic operators shall		
	concerned. This also applies	transfer the PNR data to the		
	where an intra-EU flight has	Passenger Information Units of		
	one or more stopovers at the	all the Member States		
	airports of different Member	concerned.		
	States, but only in relation to			
	Member States which are			
	collecting PNR data.			

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,	1a. In case the air carriers	,	v	1 1
	have collected any advance			
	passenger information (API)			
	data listed under item (18) of			
	Annex 1 to this directive but do			
	not retain these data as part of			
	the PNR data, Member States			
	shall adopt the necessary			
	measures to ensure that air			
	carriers also transfer ('push')			
	these data to the Passenger			
	Information Unit of the Member			
	State referred to in paragraph 1.			
	In case of such transfer, all the			
	provisions of this Directive			
	shall apply in relation to these			
	API data as if they were part of			
2 Air 1	the PNR data.	2 4:		
2. Air carriers shall	2. Air carriers shall transfer	2. Air carriers and non-carrier		
transfer PNR data by	PNR data by electronic means	economic operators shall		
electronic means using the	using the common protocols	transfer PNR data by electronic		
common protocols and supported data formats to be	and supported data formats to be adopted in accordance with	means using the common protocols and supported data		
adopted in accordance with	the procedure of referred to in	formats to be adopted in		
the procedure of Articles 13	Articles 13 and 14 or, in the	accordance with Articles 13 and		
and 14 or, in the event of	event of technical failure, by	14 or, in the event of technical		
technical failure, by any other	any other appropriate means	failure, by any other appropriate		
appropriate means ensuring an	ensuring an appropriate level of	means ensuring an appropriate		
appropriate level of data	data security:	level of data security:		
security:	and security.	it. If of data seeding.		
	(a) once 24 to 48 hours	(a) once , 24 to 48 hours before		
(a) 24 to 48 hours	before the scheduled time	the scheduled time for flight		
before the scheduled time for	for flight departure;	departure; and		

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flight departure;	and			
and		(b) once , immediately after		
	(b) <u>once</u> immediately after	flight closure, that is once the		
(b) immediately after flight	flight closure, that is once	passengers have boarded the		
closure, that is once the	the passengers have	aircraft in preparation for		
passengers have boarded the	boarded the aircraft in	departure and it is no longer		
aircraft in preparation for	preparation for departure	possible for further passengers		
departure and it is no longer	and it is no longer possible for	to board.		
possible for further passengers	further passengers to board or			
to board.	<u>leave</u> .			
3. Member States may	3. Member States may shall	3. Member States shall permit		
permit air carriers to limit the	permit air carriers to limit the	air carriers and non-carrier		
transfer referred to in point (b)	transfer referred to in point (b)	economic operators to limit the		
of paragraph 2 to updates of	of paragraph 2 to updates of the	transfer referred to in point (b)		
the transfer referred to in point	transfer referred to in point (a)	of paragraph 2 to updates of the		
(a) of paragraph 2.	of paragraph 2.	transfer referred to in point (a)		
		of that paragraph.		
4. On a case-by-case basis,	4. On a case-by-case basis	4. On a case-by-case basis, upon		
upon request from a Passenger	and where access to PNR data is	request from a Passenger		
Information Unit in	necessary to respond to a	Information Unit in accordance		
accordance with national law,	specific and actual threat related	with national law, air carriers		
air carriers shall transfer PNR	to terrorist offences or serious	and non-carrier economic		
data where access earlier than	crime, air carriers shall, upon	operators shall transfer PNR		
that mentioned in point (a) of	request from a Passenger	data where access earlier than		
paragraph 2 is necessary to	Information Unit in accordance	that mentioned in point (a) of		
assist in responding to a	with the procedures provided	paragraph 2 is necessary to		
specific and actual threat	under national law, transfer	assist in responding to a		
related to terrorist offences or	PNR data where access earlier	specific, imminent , and actual		
serious crime.	at other points in time than that	threat related to terrorist		
	mentioned in point (a) of	offences or serious		
	paragraph 2 is necessary to	transnational crime.		
	assist in responding to a specific			
	and actual threat related to			

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	terrorist offences or serious			• •
	erime(a) and (b).			
		4a. Air carriers and non- carrier economic operators shall duly inform passengers of the type of personal data being collected for law		
		enforcement purposes, their		
		rights regarding their data as		
		a passenger. Such information		
		shall be provided to		
		passengers proactively, in an		
		easily understandable format.		
		Article 7		
Exchange of information	Exchange of information	Exchange of information		
between Member States	between Member States	between Member States		
1. Member States shall	1. Member States shall	1. Passenger Information		
ensure that, with regard to	ensure that, with regard to	Units shall automatically		
persons identified by a	persons identified by a	exchange data on the results		
Passenger Information Unit in	Passenger Information Unit in	of the processing of PNR data.		
accordance with Article	accordance with Article 4(2)(a)	Member States shall ensure that		
4(2)(a) and (b) , the result of	and (b), the PNR data or the	the results of the processing of		
the processing of PNR data is	result of theany processing	PNR data, either analytical		
transmitted by that Passenger	there of PNR data is transmitted	information obtained from		
Information Unit to the	by that Passenger Information	PNR data or the results with		
Passenger Information Units	Unit to the Passenger	regard to persons identified		
of other Member States where	Information Units corresponding	by a Passenger Information		
the former Passenger	<u>units</u> of other Member States	Unit in accordance with		
Information Unit considers	where the former Passenger	Article 4(2), which is		
such transfer to be necessary	Information Unitit considers	transmitted for further		
for the prevention, detection,	such transfer to be necessary for	examination to their relevant		

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investigation or prosecution of	the prevention, detection,	competent authorities in		
terrorist offences or serious	investigation or prosecution of	accordance with Article 4(4),		
crime. The Passenger	terrorist offences or serious	is proactively transmitted by <i>a</i>		
Information Units of the	crime. The Passenger	Passenger Information Unit to		
receiving Member States shall	Information Units of the	the Passenger Information Units		
transmit such PNR data or the	receiving Member States shall	of the other Member States		
result of the processing of	transmit such PNR data or the	without delay. The Passenger		
PNR data to their relevant	result of the processing of PNR	Information Unit of the		
competent authorities.	datathe received information to	receiving Member States shall		
	their relevant competent	transmit such results of the		
	authorities in accordance with	processing of PNR data to their		
	<u>Article 4(4)</u> .	relevant competent authorities,		
		in accordance with Article		
		4(4). Where appropriate, an		
		alert shall be entered in		
		accordance with Article 36 of		
		Council Decision		
		2007/533/JHA ¹⁹ .		

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Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

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2. The Passenger	2. The Passenger	2. Passenger Information Units		
Information Unit of a Member	Information Unit of a Member	shall have the right to request, if		
State shall have the right to	State shall have the right to	necessary, the Passenger		
request, if necessary, the	request, if necessary, the	Information Unit of any other		
Passenger Information Unit of	Passenger Information Unit of	Member State to provide it with		
any other Member State to	any other Member State to	PNR data that are kept in the		
provide it with PNR data that	provide it with PNR data that	latter's database in accordance		
are kept in the latter's	are kept in the latter's database	with Article 9(1) and, if		
database in accordance with	in accordance with and have not	necessary, also the result of		
Article 9(1), and, if necessary,	yet been depersonalised through	processing thereof, if it has		
also the result of the	masking out under Article	already been prepared		
processing of PNR data. The	$9(\underline{12})$, and, if necessary, also the	pursuant to points (a) and (b)		
request for such data may be	result of theany processing of	of Article 4(2). The duly		
based on any one or a	PNR datathereof, if it has	reasoned request for such data		
combination of data elements,	already been prepared pursuant	shall be strictly limited to the		
as deemed necessary by the	to Article $4(2)(a)$. The <u>duly</u>	data necessary in the specific		
requesting Passenger	<u>reasoned</u> request for such data	case and may be based on any		
Information Unit for a specific	may be based on any one or a	one or a combination of data		
case of prevention, detection,	combination of data elements,	elements, as deemed necessary		
investigation or prosecution of	as deemed necessary by the	by the requesting Passenger		
terrorist offences or serious	requesting Passenger	Information Unit for a specific		
crime. Passenger Information	Information Unit for a specific	case of prevention, detection,		
Units shall provide the	case of prevention, detection,	investigation or prosecution of		
requested data as soon as	investigation or prosecution of	terrorist offences or serious		
practicable and shall provide	terrorist offences or serious	transnational crime or for the		
also the result of the	crime. Passenger Information	prevention of an immediate		
processing of PNR data, if it	Units shall provide the	and serious threat to public		
has already been prepared	requested data as soon as	security . Passenger Information		
pursuant to Article 4(2)(a) and	practicable and shall provide	Units shall provide the		
(b).	also the result of the processing	requested data as soon as		
	of PNR data, if it has already	possible using the common		
	been prepared pursuant to	protocols and supported data		
	Article 4(2)(a) and (b). In case	formats. Such a request shall		

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	the requested data have been	be justified in writing.		
	depersonalised through masking			
	out in accordance with Article			
	9(2) the Passenger Information			
	Unit shall only provide the full			
	PNR data where it is reasonably believed that it is necessary for			
	the purpose of Article 4(2)(b)			
	and only when authorised to do			
	so by an authority competent			
	under Article 9(3).			
	under Article 9(3).			
3. The Passenger	3. The Passenger	3. Passenger Information Units		
Information Unit of a Member	Information Unit of a Member	shall have the right to request, if		
State shall have the right to	State shall have the right to	necessary, the Passenger		
request, if necessary, the	request, if	Information Unit of any other		
Passenger Information Unit of	necessary, the Passenger	Member State to provide it with		
any other Member State to	Information Unit of any	PNR data that have been		
provide it with PNR data that	other Member State to provide	already masked out and that		
are kept in the latter's	it with PNR data	are kept in the latter's database		
database in accordance with	that are kept in the latter's	in accordance with Article 9(2),		
Article 9(2), and, if necessary,	database in accordance with	and, if necessary, also the result		
also the result of the	Article 9(2), and, if necessary,	of the processing of PNR data.		
processing of PNR data. The	also the result of the processing	The Passenger Information Unit		
Passenger Information Unit	of PNR data. The Passenger	may request access to specific		
may request access to specific	Information Unit may request	PNR data kept by the Passenger		
PNR data kept by the	access to specific PNR data	Information Unit of another		
Passenger Information Unit of	kept by	Member State in their full form		
another Member State in their	the Passenger Information Unit	without the masking out only in		
full form without the masking	of another Member State in	the most exceptional		
out only in exceptional	their full form without the	circumstances in response to a		
circumstances in response to a	masking out	specific real-time threat or with		
specific threat or a specific	only in exceptional	regard to a specific		

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investigation or prosecution	circumstances in response	investigation or prosecution	-	
related to terrorist offences or	to a specific threat or a specific	related to terrorist offences or		
serious crime.	investigation or prosecution	serious transnational crime or		
	related to terrorist offences or	to the prevention of an		
	serious crime.	immediate and serious threat		
		to public security. Such access		
		to the full PNR data shall be		
		permitted only with the		
		approval of the Head of the		
		requested Passenger		
		Information Unit.		
4. Only in those cases	4. Only when necessary in	4. Only in those cases where		
where it is necessary for the	cases of emergency and under	it is necessary for the prevention		
prevention of an immediate	the conditions laid down in	of an immediate and serious		
and serious threat to public	paragraph 2 in those cases	threat to public security may the		
security may the competent	where it is necessary for the	competent authorities of a		
authorities of a Member State	prevention of an immediate and	Member State request directly		
request directly the Passenger	serious threat to public security	the Passenger Information Unit		
Information Unit of any other	may the competent authorities	of any other Member State to		
Member State to provide it	of a Member State request	provide it with PNR data that		
with PNR data that are kept in	directly the Passenger	are kept in the latter's database		
the latter's database in	Information Unit of any other	in accordance with Article 9(1)		
accordance with Article 9(1)	Member State to provide it with	and (2). Such requests shall		
and (2). Such requests shall	PNR data that are kept in the	relate to a specific investigation		
relate to a specific	latter's database in accordance	or prosecution of terrorist		
investigation or prosecution of	with Article 9(1) and (2). The	offences or serious crime and		
terrorist offences or serious	requests from the competent	shall be reasoned. Passenger		
crime and shall be reasoned.	authorities, a copy of which	Information Units shall respond		
Passenger Information Units	shall always be sent to the	to such requests as a matter of		
shall respond to such requests	Passenger Information Unit of	priority. In all other cases the		
as a matter of priority. In all	the requesting Member State,	competent authorities shall		
other cases the competent	Such requests shall relate to a	channel their requests through		
authorities shall channel their	specific investigation or	the Passenger Information Unit		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
requests through the Passenger Information Unit of their own Member State.	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.	of their own Member State.	·	
5. Exceptionally, where early access is necessary to respond to a specific and actual threat related to terrorist offences or serious crime, the Passenger Information Unit of a Member State shall have the right to request the Passenger Information Unit of another Member State to provide it with PNR data of flights landing in or departing from the latter's territory at any time.	5. Exceptionally, where early access to PNR data is necessary to respond to a specific and actual threat related to terrorist offences or serious crime, the Passenger Information Unit of a Member State shall at any time have the right to request the Passenger Information Unit of another Member State to provide it withobtain PNR data of flights landing in accordance with article 6(4) and provide it to the requesting Passenger Information Unit or departing from the latter's territory at any time.	5. Exceptionally, where early access is strictly necessary to respond to a specific and actual threat related to terrorist offences or serious transnational crime or to prevent an immediate and serious threat to public security, the Passenger Information Unit of a Member State shall have the right to request the Passenger Information Unit of another Member State to provide it with PNR data of flights landing in or departing from the latter's territory at any time, where such data has been retained. That procedure shall cover only requests for the PNR data already collected and retained by the Passenger		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		Information Unit which is	•	
		requested to provide the data.		
6. Exchange of	6. Exchange of information	6. Exchange of information		
information under this Article	under this Article may take	under this Article shall take		
may take place using any	place	place using existing channels for		
existing channels for	using any existing channels for	Union and international law		
international law enforcement	international law enforcement	enforcement cooperation, in		
cooperation. The language	cooperation between the	particular Europol, its Secure		
used for the request and the	competent authorities of the	Information Exchange		
exchange of information shall	Member States. The language	Network Application (SIENA)		
be the one applicable to the	used for the request and the	and national units established		
channel used. Member States	exchange of information shall	in accordance with Article 8 of		
shall, when making their	be the one applicable to the	Decision 2009/371/JHA. The		
notifications in accordance	channel used. Member States	language used for the request		
with Article 3(3), also inform	shall, when making their	and the exchange of information		
the Commission with details	notifications in accordance with	shall be the one applicable to the		
of the contacts to which	Article 3(3), also inform the	channel used. Member States		
requests may be sent in cases	Commission with details of the	shall, when making their		
of urgency. The Commission	contacts points to which	notifications in accordance with		
shall communicate to the	requests may be sent in cases of	Article 3(3), also inform the		
Member States the	urgency emergency. The	Commission with details of the		
notifications received.	Commission shall communicate	contacts to which requests may		
	to the Member States the	be sent in cases of urgency. The		
	notifications received.	Commission shall communicate		
		to the Member States the		
		notifications received.		
		6a. Where analytical		
		information obtained from		
		PNR is transferred pursuant		
		to this Directive, the		
		safeguards provided for in		
		paragraph 1 shall be complied		
		with.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		Article 7a:		
		Conditions for access to PNR		
		data by Europol		
		1. Europol may submit, on a		
		case-by-case basis, an		
		electronic and duly reasoned		
		request to the Passenger		
		Information Unit of any		
		Member State for the		
		transmission of specific PNR		
		data or the results of the		
		processing of specific PNR		
		data, when this is strictly		
		necessary to support and		
		strengthen action by Member		
		States to prevent, detect or		
		investigate a specific terrorist		
		offence or serious		
		transnational crime in so far		
		as such an offence or crime is		
		within Europol's competence		
		pursuant to Decision		
		2009/371/JHA. The reasoned		
		request shall set out		
		reasonable grounds on the basis of which Europol		
		basis of which Europol considers that the		
		transmission of PNR data or		
		the results of the processing of		
		PNR data will substantially		
		contribute to the prevention,		
		detection, investigation or		
		ucteenon, myesuganon or		<u> </u>

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Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		prosecution of the criminal offence concerned.		
		2. Upon receipt of a request by Europol, a court or an independent administrative body of the Member State shall verify, in a timely manner, whether all the conditions set out in paragraph 1 are met. The Passenger Information Unit shall provide the requested data to Europol as soon as practicable, provided that those conditions are met.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
		3. Europol shall inform the		
		data protection officer		
		appointed in accordance with		
		Article 28 of Decision		
		2009/371/JHA of each		
		exchange of information		
		under this Article.		
		4. Exchange of information		
		under this Article shall take		
		place by way of SIENA and in		
		accordance with Decision 2009/371/JHA. The language		
		used for the request and the		
		exchange of information shall		
		be that applicable to SIENA.		
	<u> </u>			
		Article 8		
Transfer of data to third	Transfer of data to third	Transfer of data to third		
countries	eountries States	countries		
A Member State may transfer	A Member State may	1. A Member State may transfer		
PNR data and the results of	transfer PNR data and as well as	PNR data and the results of the		
the processing of PNR data to	the results of the processing of	processing of PNR data to a		
a third country, only on a	PNR such data stored by the	third country, only on a case-by-		
case-by-case basis and if:	Passenger Information Unit in	case basis, subject to a duly		
	accordance with Article 9 to a third country, only on a case-	reasoned request based on sufficient evidence, where the		
	by-case basis and if:	transfer is necessary for the		
	by case basis and ii.	prevention, investigation,		
(a) the conditions laid down	(a) the conditions laid down	detection or prosecution of		
in Article 13 of Council	in Article 13 of Council	criminal offences, the		
Framework Decision	Framework Decision	prevention of an immediate		
2008/977/JHA are	2008/977/JHA are	and serious threat to public		

Co	mmission proposal		Council GA	Orientation vote LIBE	Observations	Compromise
	(doc. 6007/11)		(doc. 8916/12)	(/2015)	Presidency	proposal
	fulfilled,		fulfilled,	security or the execution of criminal penalties and the	·	
(b)	the transfer is necessary for the purposes of this Directive specified in Article 1(2), and	(b)	the transfer is necessary for the purposes of this Directive specified in Article 1(2),	receiving competent authority in the third country is responsible for the prevention, investigation, detection or		
(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	(c)	and 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	prosecution of criminal offences, the prevention of an immediate and serious threat to public security or the execution of criminal penalties, provided that: (a) the third country		
	Article 1(2) and only with the express authorisation of the Member State.	<u>(d)</u>	Article 1(2) and only with the express authorisation of the Member State. similar conditions as those laid down in Article 7(2) are fulfilled.	concerned ensures an adequate level of protection as referred to in Directive 95/46/EC of the European Parliament and of the Council ²⁰ for the intended data processing, subject to meeting all the other		
				conditions laid down in this Directive; (b) the Member State from which the data were obtained has given its consent to the transfer in compliance with national law.		

Directive 95/46/EC of the European 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, p. 31).

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Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
(doc. 600//11)	(doc. 8916/12)	In exceptional circumstances, transfers of PNR data without prior consent in accordance with paragraph 1 shall be permitted only if such transfers are essential for the prevention of an immediate and serious threat to public security of a Member State or a third country or to protect the essential interests of a Member State and prior consent cannot be obtained in good time. The authority responsible for giving consent shall be informed without delay and the transfer shall be duly recorded and subject to an ex-post verification.	Presidency	proposai
		By way of derogation from the first subparagraph, transfers of data shall be permitted on a systematic basis following the conclusion of an international agreement between a third country and the Union. 2. Member States shall transfer PNR data to competent authorities of third gountries only under forms.		
		countries only under terms consistent with this Directive		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
	·	and only upon ascertaining	•	
		that the use that the recipients		
		intend to make of the PNR is		
		consistent with those terms		
		and safeguards.		
		3. Onward transfers to other		
		third countries shall be		
		prohibited.		
		4. Where PNR data relating to		
		a citizen or a resident of		
		another Member State are		
		transferred to a third country,		
		the competent authorities of		
		that Member State shall be		
		informed of the matter at the		
		earliest appropriate		
		opportunity.		
		5. The data protection officer		
		shall be informed each time a		
		Member State transfers PNR		
		data pursuant to this Article.		
		The data protection officer		
		shall inform the national		
		supervisory authority of the		
		transmission of data pursuant		
		to this Article on a regular		
		basis.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise		
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal		
	Article 9					
Period of data retention	Period of data retention	Period of data retention				
Period of data retention 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.	Period of data retention 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 five years after their transfer transmission to the Passenger Information Unit of the first Member State on whose territory the international flight is landing or departing.	1. Member States shall ensure that the PNR data provided by the air carriers and non-carrier economic operators to the Passenger Information Unit pursuant to Article 4(2) 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. 2. 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 masked out PNR data shall be accessible only to a limited number of personnel of the Passenger Information Unit				

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
2. Upon expiry of the period of 30 days after the	2. Upon expiry of thea period of 30 daystwo years after the	specifically authorised to carry out analysis of PNR data and develop assessment criteria according to point (d) of Article 4(2). 2a. After consulting the data protection officer for 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	transfer of the PNR data to the Passenger Information Unitas referred to in paragraph 1, the PNR data shall be retained at the Passenger Information Unit for a further period of five years. During this period, all depersonalised through masking out of the following data elements which could serve to directly identify the passenger to whom the 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	purposes of point (b) of Article 4(2), the national supervisory authority shall authorise re-identification of masked out PNR data and access to the full PNR data where it reasonably believes that such re-identification is necessary to carry out an investigation in response to a specific and actual threat or risk relating to terrorist offences, to carry out a specific investigation or prosecution relating to a serious transnational crime, or to prevent an immediate and serious threat to public security. Such access to the full data shall be allowed for a period of four years after the data has been masked out in cases concerning serious transnational crime and for		
where it could be reasonably	Information Unit for the	the entire five-year period referred to in paragraph 2 in		

Commission proposal (doc. 6007/11) 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.	Council GA (doc. 8916/12) 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.	Orientation vote LIBE (/2015) cases concerning terrorist offences. For the purposes of this Directive, the data elements which could serve to identify the passenger to whom PNR data relate and which should be filtered and masked out are:	Observations Presidency	Compromise proposal
For the purposes of this Directive, the data elements which could serve to identify the passenger to whom PNR data relate and which should be filtered and masked out are: - Name (s), including the names of other passengers on PNR and number of travellers on PNR travelling together; - Address and contact information; - General remarks to the extent that it contains any information which could serve to identify the passenger to whom PNR relate; and - Any collected Advance	For the purposes of this Directive, the data elements which could serve to identify the passenger to whom PNR data relate and which should be filtered and masked out are: 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	 Name(s), including the names of other passengers on PNR and number of travellers on PNR travelling together; Address and contact information; General remarks to the extent that it contains any information which could serve to identify the passenger to whom PNR relate; and Any collected Advance Passenger Information. 		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
Passenger Information.	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 <u>directly</u> identify the passenger to whom <u>the PNR relate</u> ; and			
	6. Any collected <u>Aadvance</u> <u>Ppassenger <u>Iinformation</u>.</u>			
	3. Upon expiry of the two-year 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) and 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.			
3. Member States shall ensure that the PNR data are deleted upon expiry of the	34. Member States shall ensure that the PNR data are deleted upon expiry of the	3. Member States shall ensure that the PNR data are deleted permanently upon expiry of the		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
period specified in paragraph 2. This obligation shall be without prejudice to cases where specific PNR data have been transferred to a competent authority and are used in the context of specific criminal investigations or prosecutions, in which case the retention of such data by the competent authority shall be regulated by the national law of the Member State.	period specified in paragraph 2 1. This obligation shall be without prejudice to cases where specific PNR data have been transferred to a competent authority and are used in the context of specific criminal investigations case for the prupose of prevention, detection, investigation or prosecutions, in which case the retention of such data by the competent authority shall be regulated by the national law of the Member State.	period specified in paragraph 2. This obligation shall be without prejudice to cases where specific PNR data have been transferred to a competent authority and are used in the context of specific criminal investigations or prosecutions, in which case the retention of such data by the competent authority shall be regulated by the national law of the Member State.		
4. The result of matching referred to in Article 4(2)(a) and (b) shall be kept by the Passenger Information Unit only as long as necessary to inform the competent authorities of a positive match. Where the result of an automated matching operation has, further to individual review by non-automated means, proven to be negative, it shall, however, be stored so as to avoid future 'false' positive matches for a maximum period of three	45. The result of matchingthe processing referred to in Article 4(2)(a) and (b) shall be kept by the Passenger Information Unit only as long as necessary to inform the competent authorities of a positive match. Where the result of an automated matching operation processing has, further to individual review by non-automated means as referred to in Article 4(2)(a) last subparagraph, proven to be negative, it shall may, however, be stored so as to avoid future 'false' positive matches for a	4. The result of matching referred to in points (a) and (b) of Article 4(2) shall be kept by the Passenger Information Unit only as long as necessary to inform the competent authorities of a positive match. Where the result of an automated matching operation has, subject to human intervention by a member of the Passenger Information Unit, proven to be negative, it shall, however, be stored so as to avoid future 'false' positive matches for a maximum period of three years		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
years unless the underlying	maximum period of three years	unless the underlying data have		
data have not yet been deleted	unlessas long as the underlying	not yet been deleted in		
in accordance with paragraph	data have not yet been deleted in	accordance with paragraph 3 at		
3 at the expiry of the five	accordance with paragraph 31 at	the expiry of the five years, in		
years, in which case the log	the expiry of the five years, in	which case the log shall be kept		
shall be kept until the	which case the log shall be kept	until the underlying data are		
underlying data are deleted.	until the underlying data are	deleted.		
	deleted .			

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal	
Article 10					
Penalties against air carriers	Penalties against air carriers	Penalties against air carriers and non-carrier economic operators			
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.	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, as provided for in Article 6, or do not do so in the required format or otherwise infringe the national provisions adopted pursuant to this Directive.	1. 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 non-carrier economic operators which do not transmit the data required under this Directive, to the extent that they are already collected by them, do not do so in the required format, do not process the data in accordance with the data protection rules laid down in this Directive, or otherwise infringe the national provisions adopted pursuant to this Directive. 1a. All data held by air carriers and non-carrier economic operators shall be held in a secure database on a security accredited computer system, that either meets or exceeds international industrial standards.			

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Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal		
(, , , , , , , , , , , , , , , , , , ,	Article 11					
Protection of personal data	Protection of personal data	Protection of personal data				
1. Each Member State shall provide that, in respect of all processing of personal data pursuant to this Directive, every passenger shall have the same right to access, the right to rectification, erasure and blocking, the right to compensation and the right to judicial redress as those adopted under national law in implementation of Articles 17, 18, 19 and 20 of the Council Framework Decision 2008/977/JHA. The provisions of Articles 17, 18, 19 and 20 of the Council Framework Decision 2008/977/JHA shall therefore be applicable.	1. Each Member State shall provide that, in respect of all processing of personal data pursuant to this Directive, every passenger shall have the same right to access, the right to rectification, erasure and blocking, the right to compensation and the right to judicial redress as those adopted under national law in implementationing of Articles 17, 18, 19 and 20 of the Council Framework Decision 2008/977/JHA. The provisions of Articles 17, 18, 19 and 20 of the Council Framework Decision 2008/977/JHA shall therefore be applicable.	1. Each Member State shall provide that, in respect of all processing of personal data pursuant to this Directive, every passenger shall have the same right to protection of their personal data, right to access, the right to rectification, erasure and blocking, the right to compensation and the right to judicial redress as laid out in national and Union law, and in the implementation of Articles 17, 18, 19 and 20 of the Framework Decision 2008/977/JHA. Those Articles shall therefore be applicable.				
2. Each Member State shall provide that the provisions adopted under national law in implementation of Articles 21 and 22 of the Council Framework Decision 2008/977/JHA regarding	2. Each Member State shall provide that the provisions adopted under the national law in to implementation of Articles 21 and 22 of the Council Framework Decision 2008/977/JHA regarding	2. Each Member State shall provide that the provisions adopted under national law in implementation of Articles 21 and 22 of the Framework Decision 2008/977/JHA regarding confidentiality of processing and data security				

Commission proposal (doc. 6007/11) confidentiality of processing and data security shall also apply to all processing of personal data pursuant to this Directive.	Council GA (doc. 8916/12) confidentiality of processing and data security shall also apply to all processing of personal data pursuant to this Directive	Orientation vote LIBE (/2015) shall also apply to all processing of personal data pursuant to this Directive.	Observations Presidency	Compromise proposal
		2a. Where provisions adopted under national law in implementation of Directive 95/46/EC provide the passenger with greater rights related to the processing of their data than with this Directive, those provisions shall apply.		
3. Any processing of PNR data revealing a person's race or ethnic origin, religious or philosophical belief, political opinion, trade union membership, health or sexual life shall be prohibited. In the event that PNR data revealing such information are received by the Passenger Information Unit they shall be deleted immediately.	3. Any processing of PNR data revealing a person's race racial or ethnic origin, political opinions, religious or philosophical belief, political opinion, trade union membership, health or sexual life shall be prohibited. In the event that PNR data revealing such information are received by the Passenger Information Unit they shall be deleted immediately without delay.	3. Member States shall prohibit the processing of PNR data from revealing a person's race or ethnic origin, political opinions, religion or philosophical beliefs, sexual orientation or gender identity, trade-union membership or activities, and the processing of data concerning health or sexual life. In the event that PNR data revealing such information are received by the Passenger Information Unit they shall be deleted immediately.		

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
(doc. 0007/11)	(uoc. 6916/12)	3a. Member States shall ensure that the Passenger Information Unit maintains documentation of all processing systems and procedures under their responsibility. That documentation shall contain at least:	Tresidency	ргорозаг
		(a) the name and contact details of the organisation and personnel in the Passenger Information Unit entrusted with the processing of the PNR data, the different levels of access authorisation and the personnel concerned;		
		(b) the requests by competent authorities and Passenger Information Units of other Member States and the recipients of the processed PNR data;		
		(c) all requests and transfers of data to a third country, the identification of that third country and the legal grounds on which the data are transferred;		

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
(333,300,112)	(333,3710,12)	(d) the time limits for retention and erasure of different categories of data. The Passenger Information Unit shall make all		P2 5 P 0 5 0 12
		documentation available, on request, to the national supervisory authority.		

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
		3b. Member States shall ensure that the Passenger Information Unit keeps records of at least the following processing operations: collection, alteration, consultation, disclosure, combination or erasure. The records of consultation and disclosure shall show, in particular, the purpose, date and time of such operations and, as far as possible, the identification of the person who consulted or disclosed the PNR data, and the identity and recipients of that data. The records shall be used solely for the purposes of verification, self-monitoring and for ensuring data integrity and data security or for purposes of auditing. The Passenger Information Unit shall make the records available, on request, to the national supervisory authority.		proposur

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
		The persons who operate security controls, access and analyse the PNR data, and operate the data logs, shall be security cleared and security trained. They shall have a profile which establishes and limits the records which they are authorised to access in accordance with the nature of their work, role, and legal entitlement. The records shall be kept for a period of four years. However, where in accordance with Article 9(3), the underlying data have not been deleted at the end of that four-year period, the records shall be kept until the underlying data are deleted.		

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
		3c. Member States shall ensure that their Passenger Information Unit implements appropriate technical and organisational measures and procedures to ensure a high level of security appropriate to the risks represented by the processing and the nature of the PNR data to be protected.		

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(doc. 0007/11)	(doc. 8910/12)	3d. Member States shall ensure that where a personal data breach is likely to affect the protection of the personal data or the privacy of the data subject adversely, the Passenger Information Unit shall communicate that breach to the data subject and to the national data protection supervisor without undue delay.	Tresidency	ргорозаг
4. All processing of PNR data by air carriers, all transfers of PNR data by Passenger Information Units and all requests by competent authorities or Passenger Information Units of other Member States and third countries, even if refused, shall be logged or documented by the Passenger Information Unit and the competent authorities for the purposes of verification of the lawfulness of the data processing, selfmonitoring and ensuring proper data integrity and security of data processing, in particular by the national data	4. All processing, including receipt of PNR data by from air carriers, all transfers of PNR data by Passenger Information Units and all requests by competent authorities or Passenger Information Units of other Member States and third countries, even if refused, shall be logged or documented by the Passenger Information Unit and the competent authorities for the purposes of verification of the lawfulness of the data processing, selfmonitoring and ensuring proper data integrity and security of data processing, in particular by the national	4. All processing of PNR data by air carriers, all transfers of PNR data by Passenger Information Units and all requests by competent authorities or Passenger Information Units of other Member States and third countries, even if refused, shall be logged or documented by the Passenger Information Unit and the competent authorities for the purposes of verification of the lawfulness of the data processing, self-monitoring and ensuring proper data integrity and security of data processing, in particular by the national data protection supervisory		

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protection supervisory authorities. These logs shall be kept for a period of five years unless the underlying data have not yet been deleted in accordance with Article 9(3) at the expiry of those five years, in which case the logs shall be kept until the underlying data are deleted.	data protection supervisory authorities. These logs shall be kept for a period of five years unless the underlying data have not yet been deleted in accordance with Article 9(34) at the expiry of those five years, in which case the logs shall be kept until the underlying data are deleted.	authorities. These logs shall be kept for a period of five years unless the underlying data have not yet been deleted in accordance with Article 9(3) at the expiry of those five years, in which case the logs shall be kept until the underlying data are deleted.		
5. Member States shall ensure that air carriers, their agents or other ticket sellers for the carriage of passengers on air service inform passengers of international flights at the time of booking a flight and at the time of purchase of a ticket in a clear and precise manner about the provision of PNR data to the Passenger Information Unit, the purposes of their processing, the period of data retention, their possible use to prevent, detect, investigate or prosecute terrorist offences and serious crime, the possibility of exchanging and sharing such data and their data protection rights, in particular the right to complain	5. Member States shall ensure that air carriers, their agents or other ticket sellers for the carriage of passengers on air service inform passengers of international flights at the time of booking a flight and at the time of purchase of a ticket in a clear and precise manner about the provision of PNR transmission data to the Passenger Information Unit, the purposes of their processing, the period of data retention, their possible use to prevent, detect, investigate or prosecute terrorist offences and serious crime, the possibility of exchanging and sharing such data and their data protection rights, in particular the right to complain to a the	that air carriers and non-carrier economic operators inform passengers of international flights at the time of booking a flight and at the time of purchase of a ticket in a clear and precise manner about the provision of PNR data to the Passenger Information Unit, the purposes of their processing, the period of data retention, their possible use to prevent, detect, investigate or prosecute terrorist offences and serious transnational crime, the possibility of exchanging and sharing such data and their data protection rights, such as the right to access, correction, erasure and blocking of data, and in particular the right to		

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to a national data protection supervisory authority of their choice. The same information shall be made available by the Member States to the public.	competent national data protection supervisory authority of their choice. The same information shall be made available by the Member States to the public.	lodge a complaint to a national supervisory authority of their choice.		
6. Any transfer of PNR	6. Any transfer of PNR data by Passenger Information Units	5a. Member States shall also ensure that their Passenger Information Unit provides the data subject with the information with regard to the rights referred to in paragraph 5 and how to exercise those rights. 6. Any transfer of PNR data by Passenger Information Units		
data by Passenger Information Units and competent authorities to private parties in Member States or in third countries shall be prohibited.	and competent authorities to private parties in Member States or in third countries -shall be prohibited.	and competent authorities to private parties in Member States or in third countries shall be prohibited.		
7. Without prejudice to Article 10, Member States shall adopt suitable measures to ensure the full implementation of the provisions of this Directive and shall in particular lay down effective, proportionate and dissuasive penalties to be imposed in case of infringements of the provisions adopted pursuant to	7. Without prejudice to Article 10, Member States shall adopt suitable measures to ensure the full implementation of the provisions of this Directive and shall in particular lay down effective, proportionate and dissuasive penalties to be imposed in case of infringements of the provisions adopted pursuant to this Directive.	7. Without prejudice to Article 10, Member States shall adopt suitable measures to ensure the full implementation of <i>all</i> the provisions of this Directive and shall in particular lay down effective, proportionate and dissuasive penalties to be imposed in case of infringements of the provisions adopted pursuant to this		

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this Directive.		Directive. National supervisory authorities shall take disciplinary action against persons responsible for any intentional breach of privacy, as appropriate, to include denial of system access, formal reprimands, suspension, demotion, or removal from duty.		
		7a. Any transfer of PNR data by competent authorities or Passenger Information Units to private parties in Member States or in third countries shall be prohibited. Any wrongful conduct shall be penalised.		
		Article 12		
National supervisory authority	National supervisory authority	National supervisory authority		
Each Member State shall provide that the national supervisory authority established in implementation of Article 25 of Framework Decision 2008/977/JHA shall also be responsible for advising on and monitoring the application within its	Each Member State shall provide that the national supervisory authority or authorities established in to implementation of Article 25 of Framework Decision 2008/977/JHA shall also be responsible for advising on and monitoring the application	Each Member State shall provide that the national supervisory authority established in implementation of Article 25 of Framework Decision 2008/977/JHA is responsible for advising on and monitoring the application		

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territory of the provisions adopted by the Member States pursuant to the present Directive. The further provisions of Article 25 Framework Decision 2008/977/JHA shall be applicable.	within its territory of the provisions adopted by the Member States pursuant to the present Directive. The further provisions of Article 25 Framework Decision 2008/977/JHA shall be applicable.	within its territory of the provisions adopted by the Member States pursuant to this Directive. The further provisions of Article 25 Framework Decision 2008/977/JHA shall be applicable.	•	
		Article 12a		
		Duties and powers of the national supervisory authority 1. The national supervisory		
		authority of each Member State shall be responsible for monitoring the application of		
		the provisions adopted pursuant to this Directive and		
		for contributing to its consistent application		
		throughout the Union, in order to protect fundamental		
		rights in relation to the processing of personal data.		
		Each national supervisory authority shall:		
		(a) hear complaints lodged by any data subject, investigate		
		the matter and inform the		
		data subjects of the progress and the outcome of their		

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		complaints within a	•	
		reasonable time period, in		
		particular where further		
		investigation or coordination		
		with another national		
		supervisory authority is		
		necessary, such complaints		
		having been brought by any		
		individual, regardless of		
		nationality, country of origin,		
		or place of residence;		
		(b) exercise effective powers of		
		oversight, investigation,		
		intervention and review, and		
		have the power to refer		
		infringements of law related		
		to this Directive for		
		prosecution or disciplinary		
		action, where appropriate;		
		(c) check the lawfulness of the		
		data processing, conduct		
		investigations, inspection and		
		audits in accordance with		
		national law, either on its own		
		initiative or on the basis of a		
		complaint, and inform the		
		data subject concerned, if the		
		data subject has addressed a		
		complaint, of the outcome of		
		the investigations within a		
		reasonable time period;		

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		(d) monitor relevant developments, insofar as they have an impact on the protection of person data, in particular the development of information and communication technologies. Member States shall provide a redress process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat.		
		2. Each national supervisory authority shall, upon request, advise any data subject in exercising the rights laid down in provisions adopted pursuant to this Directive and, where appropriate, cooperate with national supervisory authorities of other Member States to that end.		
		3. For complaints referred to in point (a) of paragraph 1 the national supervisory authority shall provide a complaint submission form, which can		

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		be completed electronically,		
		without excluding other		
		means of communication.		

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		4. Member States shall ensure that the performance of the duties of their national supervisory authority is free of charge for the data subject. However, where requests are manifestly excessive, in particular due to their repetitive character, the national supervisory authority may charge a reasonable fee.		
		5. Each Member State shall ensure that their national supervisory authority is provided with the adequate human, technical and financial resources, premises and infrastructure necessary for the effective performance of its duties and powers.		
		6. Each Member States shall ensure that their national supervisory authority has its own staff which are appointed by, and subject to, the direction of the Head of the national supervisory authority.		

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		7. In the performance of their duties, members of the national supervisory authority shall neither seek nor take instruction from anybody, and shall maintain complete independence and impartiality.		
	IN	CHAPTER IV MPLEMENTING MEASURES Article 13		
Common protocols and supported data formats	Common protocols and supported data formats	Common protocols and supported data formats		
1. All transfers of PNR data by air carriers to the Passenger Information Units for the purposes of this Directive shall be made by electronic means or, in the event of technical failure, by any other appropriate means, for a period of one year following the adoption of the common protocols and supported data formats in	1. All transfers of PNR data by air carriers to the Passenger Information Units for the purposes of this Directive shall be made by electronic means or, in the event of technical failure, by any other appropriate means, for a period of one year following the adoption of the common protocols and supported data formats in	1. All transfers of PNR data, by air carriers and by non-carrier economic operators, to the Passenger Information Units for the purposes of this Directive shall be made by electronic means which provides sufficient guarantees in respect of the technical security measures and organisational measures		

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accordance with Article 14.	accordance with Article 14.	governing the processing to be carried out. In the event of technical failure, the PNR data shall be transferred by any other appropriate means whilst maintaining the same level of security and in full compliance with Union data protection law.		
2. Once the period of one year from the date of adoption of the common protocols and supported data formats has elapsed, all transfers of PNR data by air carriers to the Passenger Information Units for the purposes of this Directive shall be made electronically using secure methods in the form of accepted common protocols which shall be common to all transfers to ensure the security of the data during transfer, and in a supported data format to ensure their readability by all parties involved. All air carriers shall be required to select and identify to the Passenger Information Unit the common protocol and data format that they intend to use	2. Once the period of one year from the date of adoption, for the first time, of the common protocols and supported data formats by the Commission in accordance with paragraph 3, has elapsed, all transfers of PNR data by air carriers to the Passenger Information Units for the purposes of this Directive shall be made electronically using secure methods in the form of those accepted common protocols which shall be common to all transfers to ensure the security of the data during transfer, and in a supported data format to ensure their readability by all parties involved. All air carriers shall be required to select and identify to the Passenger	2. Once the period of one year from the date of adoption of the common protocols and supported data formats has elapsed, all transfers of PNR data by air carriers and by non-carrier economic operators to the Passenger Information Units for the purposes of this Directive shall be made electronically using secure methods in the form of accepted common protocols which shall be common to all transfers to ensure the security of the data during transfer, and in a supported data format to ensure their readability by all parties involved. All air carriers shall be required to select and identify to the Passenger Information Unit the common protocol and data format that		

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for their transfers.	Information Unit the common protocol and data format that they intend to use for their transfers.	they intend to use for their transfers.		
3. The list of accepted common protocols and supported data formats shall be drawn up and, if need be, adjusted, by the Commission in accordance with the procedure referred to in Article 14(2).	3. The list of accepted common protocols and supported data formats shall be drawn up taking due account of ICAO regulations and, if need be, adjusted, by the Commission by means of implementing acts in accordance with the procedure referred to in Article 14(2).	3. The Commission shall be empowered to adopt delegated acts in accordance with Article 14 concerning the adoption and, if necessary, adjustment of a list of accepted common protocols and supported data formats.		
4. As long as the accepted common protocols and supported data formats referred to in paragraphs 2 and 3 are not available, paragraph 1 shall remain applicable.	4. As long as the accepted common protocols and supported data formats referred to in paragraphs 2 and 3 are not available, paragraph 1 shall remain applicable.	4. As long as the accepted common protocols and supported data formats referred to in paragraphs 2 and 3 are not available, paragraph 1 shall remain applicable.		
5. Each Member State shall ensure that the necessary technical measures are adopted to be able to use the common protocols and data formats within one year from the date the common protocols and supported data formats are adopted.	5. Each Member State shall ensure that the necessary technical measures are adopted to be able to use the common protocols and data formats within one year from the date the common protocols and supported data formats are adopted referred to in paragraph 2.	5. Each Member State shall ensure that the necessary technical measures are adopted to be able to use the common protocols and data formats within one year from the date the common protocols and supported data formats are adopted.		

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Article 14					
Committee procedure	Committee procedure	Delegated Acts			
1. The Commission shall be assisted by a committee ('the Committee'). That Committee shall be a committee within the meaning of Regulation [/2011/EU] of 16 February 2011.	1. The Commission shall be assisted by a committee ('the Committee'). That Committee shall be a committee within the meaning of Regulation—[(EU) No. 82/2011/EU] of 16 February 2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. The Commission shall not adopt the draft implementing act when no opinion is delivered by the Committee and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.			

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2. Where reference is	2. Where reference is made	2. The power to adopt	· ·	
made to this paragraph,	to this paragraph, Article 45 of	delegated acts referred to in		
Article 4 of Regulation	Regulation [/2011/ EU] of 16	Article 13(3) shall be		
[/2011/EU] of 16 February	February No. 182/2011 shall	conferred on the Commission		
2011 shall apply.	apply.	for a period of [X] years from		
		* [the date of entry into		
		force of this Directive]. The		
		Commission shall draw up a		
		report in respect of the		
		delegation of power not later		
		than nine months before the		
		end of the [X] year period.		
		The delegation of power shall		
		be tacitly extended for periods		
		of an identical duration,		
		unless the European		
		Parliament or the Council		
		opposes such extension not		
		later than three months before		
		the end of each period.		
		2a. The delegation of power		
		referred to in Article 13(3)		
		may be revoked at any time		
		by the European Parliament		
		or by the Council. A decision		
		to revoke shall put an end to		
		the delegation of the power		
		specified in that decision. It		
		shall take effect the day		
		following the publication of		
		the decision in the Official		
		Journal of the European		
		Union or at a later date		

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		specified therein. It shall not affect the validity of any delegated acts already in force.	·	
		2b. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
		2c. A delegated act adopted pursuant to Article 13(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		

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		3. The delegation of power	•	
		referred to in Article 14 may		
		be revoked at any time by the		
		European Parliament or by		
		the Council. A decision to		
		revoke shall put an end to the		
		delegation of the power		
		specified in that decision. It		
		shall take effect the day		
		following the publication of		
		the decision in the Official		
		Journal of the European		
		Union or at a later date		
		specified therein. It shall not		
		affect the validity of any		
		delegated acts already in		
		force.		
		4. As soon as it adopts a		
		delegated act, the Commission		
		shall notify it simultaneously		
		to the European Parliament		
		and to the Council.		
		5. A delegated act adopted		
		pursuant to Article 14 shall		
		enter into force only if no		
		objection has been expressed		
		either by the European		
		Parliament or the Council		
		within a period of [two		
		months] of notification of that		
		act to the European Parliament and the Council or		
		if, before the expiry of that		

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		period, the European			
		Parliament and the Council			
		have both informed the			
		Commission that they will not			
		object. That period shall be			
		extended by [two months] at			
		the initiative of the European			
		Parliament or of the Council.			
CHAPTER V					
		FINAL PROVISIONS			
	T	Article 15			
Transposition	Transposition	Transposition			
1. Member States shall	1. Member States shall bring	1. Member States shall			
bring into force the laws,	into force the laws, regulations	bring into force the laws,			
regulations and administrative	and administrative provisions	regulations and			
provisions pagassery to	nagagamy to somely with	administrativa provisions			
	necessary to comply with	administrative provisions			
comply with this Directive at	this Directive at the latest two	necessary to comply with			
comply with this Directive at the latest two years after the	this Directive at the latest two years 36 months after the entry	necessary to comply with this Directive at the latest two			
comply with this Directive at the latest two years after the entry into force of this	this Directive at the latest two years 36 months after the entry into force of this Directive.	necessary to comply with this Directive at the latest two years after the entry into force			
provisions necessary to comply with this Directive at the latest two years after the entry into force of this Directive. They shall	this Directive at the latest two years 36 months after the entry into force of this Directive. They shall forthwith	necessary to comply with this Directive at the latest two years after the entry into force of this Directive. They shall			
comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the	this Directive at the latest two years 36 months after the entry into force of this Directive. They shall forthwith communicate to the	necessary to comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the			
comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those	this Directive at the latest two years 36 months after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those	necessary to comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those			
comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation	this Directive at the latest two years 36 months after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation	necessary to comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation			
comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions	this Directive at the latest two years 36 months after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions	necessary to comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions			
comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation	this Directive at the latest two years 36 months after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation	necessary to comply with this Directive at the latest two years after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation			

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those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the	When Member States adopt those provisions, they shall contain a reference to this Directive or be	When Member States adopt those provisions, they shall contain a reference to this		
occasion of their official publication. Member States shall determine how such reference is to be made.	accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.		
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.		
		Article 16		
Transitional provisions	Transitional provisions	Transitional provisions		
Upon the date referred to in	Upon the date referred to in	Upon the date referred to in		
Article 15(1), i.e. two years	Article 15(1), i.e. two years	Article 15(1), i.e. two years after		
after the entry into force of	after the entry into force of this	the entry into force of this		
this Directive, Member States	Directive, Member States shall	Directive, Member States shall		
shall ensure that the PNR data	ensure that the PNR data of at	ensure that the PNR data of at		
of at least 30% of all flights	least 30% of all flights referred	least 30% of all flights referred		
referred to in Article 6(1) are	to in Article 6(1) are collected.	to in Article 6(1) are collected.		
collected. Until two years after	Until two years after the date	Until two years after the date		
the date referred to in Article	referred to in Article 15,	referred to in Article 15,		
15, Member States shall	Member States shall ensure that	Member States shall ensure that		
ensure that the PNR data from	the PNR data from at least 60%	the PNR data from at least 60 %		

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at least 60 % of all flights	of all flights referred to in	of all flights referred to in		
referred to in Article 6(1) are	Article 6(1) are collected.	Article 6(1) are collected.		
collected. Member States shall	Member States shall ensure that	Member States shall ensure that		
ensure that from four years	from four years after the date	from four years after the date		
after the date referred to in	referred to in Article 15, the	referred to in Article 15, the		
Article 15, the PNR data from	PNR data from all flights	PNR data from all flights		
all flights referred to in Article	referred to in Article 6(1) are	referred to in Article 6(1) are		
6(1) are collected.	collected.	collected.		
		Article 17		
Review	Review	Review		
	1. The Council shall, at the			
	appropriate level, discuss			
	regularly the practical			
	experiences and relevant issues			
	within the scope and subject			
	matter of the Directive.			
On the basis of information	2. On the basis of these	On the basis of information		
provided by the Member	discussions as well as other	provided by the Member States,		
States, the Commission shall:	information provided by the	the Commission shall, by		
	Member States, including the	*[four years after the date		
(a) review the feasibility	statistical information referred	of transposition referred to in		
and necessity of including	to in Article 18 (2), the	Article 15(1)], conduct a		
internal flights in the scope of	Commission shall <u>undertake a</u>	review of the operation of this		
this Directive, in the light of	review of the operation of this	Directive and submit a report to		
the experience gained by those	Directive and:	the European Parliament and to		
Member States that collect	(a) review the feasibility and	the Council. That review shall		
PNR data with regard to	necessity of including internal	cover all the elements of this		
internal flights. The	flights in the scope of this	Directive.		
Commission shall submit a	Directive, in the light of the			
report to the European	experience gained by those	In conducting its review, the		
Parliament and the Council	experience gamed by those	Commission shall pay special		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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within two years after the date mentioned in Article 15(1); (b) undertake a review of the operation of this Directive and submit a report to the European Parliament and the Council within four years after the date mentioned in Article 15(1). Such review shall cover all the elements of this Directive, with special attention to the compliance with standard of protection of personal data, the length of the data retention period and the quality of the assessments. It shall also contain the statistical information gathered pursuant to Article 18.	Member States that collect PNR data with regard to internal flights. The Commission shall submit a report to the European Parliament and the Council within two years after the date mentioned in Article 15(1); (b) undertake a review of the operation of this Directive and submit a report to the European Parliament and the Council on the feasibility and necessity of including all or selected intra-EU flights in the scope of this Directive on a mandatory basis, taking into account the experience gained by Member States, especially those Member States that in accordance with Article 1a collect PNR with regard to intra-EU flights. (b) within four years after the date mentioned in Article 15(1)-Such review shall cover all the submit a report to the European Parliament and the Council on all other elements of this Directive and on the feasibility and necessity of including transportation providers other	attention to compliance with the standards of protection of personal data, the necessity and proportionality of the collection and processing of PNR data for each of the stated purposes, the length of the data retention period and the quality of the assessments and the effectiveness of the sharing of data between the Member States, and the quality of the assessment including with regard to the statistical information gathered pursuant to Article 18. It shall also contain the statistical information gathered pursuant to Article 18; After consulting the relevant Union agencies, the Commission shall, by* [two years after the date of transposition of this Directive referred to in Article 15(1)], submit an initial evaluation report to the European Parliament and to the Council.	Presidency	proposal

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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	than air carriers in the scope of			
	this Directive, taking into			
	account the experience gained			
	by Member States, especially			
	those Member States that			
	collect PNR from other			
	transportation providers with			
	special attention to the			
	compliance with standard of			
	protection of personal data, the			
	length of the data retention			
	period and the quality of the			
	assessments. It shall also			
	contain the statistical			
	information gathered pursuant			
	to Article 18.			
	3. If appropriate, in light of			
	the review referred to in			
	paragraph 2, the Commission			
	shall make a legislative			
	proposal to the European			
	Parliament and the Council with			
	a view to amending this			
	<u>Directive.</u>			

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal		
(400, 0007/11)	(doc. 0007/11) (doc. 0510/12) (/2013) Tresidency proposal Article 18					
1. Member States shall prepare a set of statistical information on PNR data provided to the Passenger Information Units. Such statistics shall as a minimum cover the number of identifications of any persons who may be involved in a terrorist offence or serious crime according to Article 4(2) and the number of subsequent law enforcement actions that were taken involving the use of PNR data per air carrier and destination.	1. Member States shall prepare provide on a yearly basis the Commission with a set of statistical information on PNR data provided to the Passenger Information Units. Such These statistics shall not contain any personal data.	1. Member States shall prepare a set of statistical information on PNR data provided to the Passenger Information Units. Such statistics shall as a minimum cover the number of identifications of any persons who may be involved in a terrorist offence or transnational serious crime according to Article 4(2) and the number of subsequent law enforcement actions that were taken involving the use of PNR data per air carrier and destination, including the number of investigation and convictions that have resulted from the collection of PNR data in each Member State.				
2. These statistics shall not contain any personal data. They shall be transmitted to the Commission on a yearly basis.	The statistics shall as a minimum cover the (a) total number of identifications of any persons who may be involved in a terrorist offence or serious crime according to Article 4(2) passengers whose PNR	2. These statistics shall not contain any personal data. They shall be transmitted to the European Parliament, the Council and the Commission every two years.				

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
	data were collected and exchanged; (b) number of passengers identified for further scrutiny; (c) and the number of subsequent law enforcement actions that were taken involving the use of PNR data-per air carrier and destination.			
	23. These statistics shall not contain any personal data. They shall be transmitted to the Commission oOn a yearly basis, the Commission shall provide the Council with cumulative statistics referred to in Article 18(1).			

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal		
	Article 19					
Relationship to other instruments	Relationship to other instruments	Relationship to other instruments				
1. Member States may continue to apply bilateral or multilateral agreements or arrangements between themselves on exchange of information between competent authorities, in force when this Directive is adopted, in so far as such agreements or arrangements are compatible with this Directive.	1. Member States may continue to apply bilateral or multilateral agreements or arrangements between themselves on exchange of information between competent authorities, in force when this Directive is adopted, in so far as such agreements or arrangements are compatible with this Directive.	1. Member States may continue to apply bilateral or multilateral agreements or arrangements between themselves on exchange of information between competent authorities, in force when this Directive is adopted, in so far as such agreements or arrangements are compatible with this Directive.				
		1a.This Directive applies without prejudice to the Council Framework decision 2008 /977/JHA.				
2. This Directive is without prejudice to any obligations and commitments of the Union by virtue of bilateral and/or multilateral agreements with third countries.	2. This Directive is without prejudice to any obligations and commitments of Member States or of the Union by virtue of bilateral and/or multilateral agreements with third countries.	2. This Directive is without prejudice to any obligations and commitments of the Union by virtue of bilateral and/or multilateral agreements with third countries.				

Commission proposal (doc. 6007/11)	Council GA (doc. 8916/12)	Orientation vote LIBE (/2015)	Observations Presidency	Compromise proposal
		Article 20		
Entry into force	Entry into force	Entry into force		
This Directive shall enter into force the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force the twentieth day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force the twentieth day following that of its publication in the Official Journal of the European Union.		
This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties.		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
(doc. 6007/11)	(doc. 8916/12)	(/2015)	Presidency	proposal
Annex	Annex I	Annex		
Passenger Name Record	Passenger Name Record data	Passenger Name Record data		
data as far as collected by	as far as collected by air	as far as collected by air		
air carriers	carriers	carriers		
(1) PNR record locator	(1) PNR record locator	(1) PNR record locator		
(2) Date of reservation/issue	(2) Date of reservation/issue of	(2) Date of reservation/issue of		
of ticket	ticket	ticket		
(3) Date(s) of intended travel				
(4) Name(s)	(3) Date(s) of intended travel	(3) Date(s) of intended travel		
(5) Address and contact	(4) Name(s)			
information (telephone	(5) Address and contact	(4) Name(s)		
number, e-mail address)	information (telephone	(5) Address and contact		
(6) All forms of payment	number, e-mail address)	information (telephone number,		
information, including		e-mail address)		
billing address	(6) All forms of payment			
(7) Complete travel itinerary	information, including	(6) All forms of payment		
for specific PNR	billing address	information, including billing		
(8) Frequent flyer	(7) Complete travel itinerary	address		
information	for specific PNR	(7) Complete travel itinerary for		
(9) Travel agency/travel	•	specific PNR		
agent	(8) Frequent flyer information			
(10) Travel status of	(9) Travel agency/travel agent	(8) Frequent flyer information		
passenger, including	(10) Travel status of passenger,			
confirmations, check-in	including confirmations,	(9) Travel agency/travel agent		
status, no show or go	check-in status, no show or			
show information	go show information	(10) Travel status of passenger,		
(11) Split/divided PNR	(11) Split/divided PNR	including confirmations, check-		
information	information	in status, no show or go show		
(12) General remarks	(12) General remarks (including	information		
(including all available	all available information on	(11) Split/divided PNR		
information on	unaccompanied minors	information		
unaccompanied minors	under 18 years, such as	(12) General remarks (including		

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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under 18 years, such as	name and gender of the	all available information on		
name and gender of the	minor, age, language(s)	unaccompanied minors under 18		
minor, age, language(s)	spoken, name and contact	years, such as name and gender		
spoken, name and contact	details of guardian on	of the minor, age, language(s)		
details of guardian on	departure and relationship	spoken, name and contact		
departure and relationship	to the minor, name and	details of guardian on departure		
to the minor, name and	contact details of guardian	and relationship to the minor,		
contact details of	on arrival and relationship	name and contact details of		
guardian on arrival and	to the minor, departure and	guardian on arrival and		
relationship to the minor,	arrival agent)	relationship to the minor,		
departure and arrival		departure and arrival agent)-A		
agent)	(13) Ticketing field	number of amendments relating		
(13) Ticketing field	information, including	to the general remarks box.		
information, including	ticket number, date of			
ticket number, date of	ticket issuance and one-	(13) Ticketing field information,		
ticket issuance and one-	way tickets, Automated	including ticket number, date of		
way tickets, Automated	Ticket Fare Quote fields	ticket issuance and onewayone-		
Ticket Fare Quote fields		way tickets, Automated Ticket		
(14) Seat number and other	(14) Seat number and other seat	Fare Quote fields		
seat information	information			
(15) Code share information	(15) Code share information	(14) Seat number and other seat		
(16) All baggage information	(16) All baggage information	information		
(17) Number and other names		(15) Code share information		
of travellers on PNR	(17) Number and other names	(16) All baggage information		
(18) Any Advance Passenger	of travellers on PNR			
Information (API) data		(17) Number and other names		
collected	(18) Any Advance Passenger	of travellers on PNR		
(19) All historical changes to	Information (API) data			
the PNR listed in	collected (<u>inter alia</u>	(18)Any Advance Passenger		
numbers 1 to 18	document type, document	Information (API) data		
	number, nationality,	collected		
	country of issuance, date of			
	document expiration,			

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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	family name, given name, gender, date of birth, airline, flight number, departure date, arrival date, departure port, arrival port, departure time, arrival time) (19) All historical changes to the PNR listed in numbers 1 to 18	(19) All historical changes to the PNR listed in numbers 1 to 18	·	
	Annex II			
	 participation in a criminal organisation. trafficking in human beings. sexual exploitation of children and child pornography. illicit trafficking in narcotic drugs and psychotropic substances. illicit trafficking in weapons, munitions and explosives. fraud. laundering of the proceeds of crime. computer-related crime. environmental crime, including illicit trafficking in endangered animal species and in endangered 			

Commission proposal	Council GA	Orientation vote LIBE	Observations	Compromise
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	plant species and varieties,			
	10. facilitation of unauthorised			
	entry and residence,			
	11. illicit trade in human			
	organs and tissue,			
	12. kidnapping, illegal restraint			
	and hostage-taking.			
	13. organised and armed			
	robbery,			
	14. illicit trafficking in cultural			
	goods, including antiques			
	and works of art,			
	15. forgery of administrative			
	documents and trafficking			
	therein,			
	16. illicit trafficking in			
	hormonal substances and			
	other growth promoters,			
	17. illicit trafficking in nuclear			
	or radioactive materials,			
	18. unlawful seizure of			
	aircraft/ships,			
	19. sabotage, and			
	20. trafficking in stolen			
	<u>vehicles</u>			