
Brussels, 15 November 2010

ARTICLE 29 DATA PROTECTION WORKING PARTY

**Data protection authorities critical on sharing passengers' data.
No objective proof that PNR data are valuable when combating terrorism.**

The European data protection authorities, united in the Article 29 Working Party, remain critical about the European Commission's wish to exchange Passenger Name Record (PNR) data with countries outside the European Union. In its opinion, the Article 29 Working Party questions the necessity of large-scale profiling for law enforcement purposes on the basis of passengers' data. The opinion contains the reaction to the Communication on the global approach to transfers of PNR presented by the European Commission in September 2010. The European data protection authorities stress that the European Commission still has not presented objective proof or statistics that PNR data are valuable when combating terrorism or transnational crime. Jacob Kohnstamm, Chairman of the Article 29 Working Party, brought these concerns under the attention of EU Commissioner for Home Affairs Cecilia Malmström during their meeting on 10 November 2010.

The European Commission's Communication defines common standards and criteria which should be part of any agreement with non-EU countries dealing with the exchange of PNR data. The Working Party welcomes this initiative of the Commission as a step in the right direction, since its application should in principle lead to a better level of data protection for the European citizen. At the same time, the Article 29 Working Party emphasizes that the standards mentioned in the Communication should be seen as the minimum to be achieved in negotiations on PNR agreements and not as a mere wish list.

The Data Protection Authorities also see room for further improvement of the so-called global approach. Several of the standards, including those referring to onward transfer of collected data and the need for a joint review, have not been developed enough in the Communication. With regard to onward transfer of data the principle of purpose limitation should apply, which means that the collected data may not be used by other government authorities in the receiving country for purposes not related to the combating of transnational serious crime and terrorism. Further important issues, for example the question on data quality, have not been included in the Communication at all. The latter is of importance, since PNR data are originally only collected by airlines from their passengers in order to provide better in flight services. As there is no easy way to objectively verify these data, PNR data cannot be considered as exact information that can be used for law enforcement purposes.

The Article 29 Working Party has requested the European Commission, the European Parliament and the Council of the European Union to take its opinion into account

when they will discuss and adopt the negotiating mandates for new PNR agreements with the United States, Canada and Australia. These are likely to be adopted before the end of the year, with the negotiations starting early 2011.

The Opinion is available at:

http://ec.europa.eu/justice/policies/privacy/workinggroup/wpdocs/2010_en.htm

Background Information

The European data protection authorities (the Article 29 Working Party on the Protection of Individuals with regard to the Processing of Personal Data) is an independent advisory body on data protection and privacy, set up under Article 29 of the Data Protection Directive 95/46/EC. It is composed of representatives from the national data protection authorities of the EU Member States, the European Data Protection Supervisor and the European Commission. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC. The Article 29 Working Party is competent to examine any question covering the application of the data protection directives in order to contribute to the uniform application of the directives. It carries out this task by issuing recommendations, opinions and working documents.

http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/index_en.htm