

ROADMAP

Title of initiative: **Directive on the use of Passenger Name Records for law enforcement purposes (European PNR)**

Type of initiative (CWP/Catalogue/Comitology): CWP

Lead DG: DG HOME/A3,

Expected date of adoption of the initiative: January 2011

Date of modification: August 2010

Version No:

This indicative roadmap is provided for information purposes only and is subject to change. It does not prejudge the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

This initiative will contribute to delivering an area of freedom, justice and security for EU citizens through a proposal on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime. PNR data is recorded in electronic systems by airlines and travel agents when passengers make bookings, and is of most interest in relation to air passengers.

i) The Council's Stockholm programme on freedom, justice and security called for the re-tabling of this proposal. The Commission signalled its intention to proceed in its Action Plan implementing the Stockholm Programme.

ii) The proposal was initially adopted as a proposal for a Framework Decision based on the ex-third pillar. Following the entry into force of the Lisbon Treaty, this proposal needs to be re-tabled under the new Treaty rules.

What are the main problems identified?

The need to increase the security of the EU, using new methods. The use of PNR data must be harmonised throughout the EU so as to achieve a higher level of security, while establishing high standards of data protection relating to such use.

Who is affected?

Air carriers and passengers

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

The proposal is aimed at increasing the internal security of the EU. This objective cannot be achieved by Member States acting alone. Even if Member States implemented national PNR systems, they would find it impossible to cooperate between them on this issue. In addition, it is essential that there are uniform rules for carriers and for data protection.

B. Objectives of EU initiative

What are the main policy objectives?

Contribute to increasing the security in the EU, while respecting the right to protection of personal data and other fundamental rights.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

Yes.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered?
(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

i) and ii) there are four main options, each containing two variables:

Policy Option A. Refraining from addressing the issue at EU level – Maintaining status quo

Policy Option B. Options addressing the structure of a system for collecting and processing PNR data, i.e. decentralised or centralised collection and processing of data.

Policy Option C. Options addressing the purpose limitation of the proposed measures, i.e. only law enforcement purposes or law enforcement and other policy purposes

Policy Option D. Options addressing the modes of transport to be covered by the proposed measures, i.e. air carriers or air, sea and rail carriers.

iii) yes

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No

Explain how the options respect the proportionality principle

The proposal is only limited to air travel and does not extend to sea and rail travel. It covers only international flights and not intra-EU flights. The purpose is limited to law enforcement purposes rather than extent it to other policy objectives. The data protection guarantees are proportionate.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Impacts on the security of the EU, data protection, cost on public authorities and on carriers, encouraging of a global approach.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The option of a centralised collection of EU PNR data would have an impact on the EU budget. However, this option will not be chosen. The decentralised option which will be chosen does not have an impact on the EU budget.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

The proposal would have an impact on relations with third countries in the form of encouraging the global approach which is proposed by the EU.

E. Planning of further impact assessment work

When will the impact assessment work start?

An impact assessment was completed in 2007 for the previous version of this proposal [Document SEC(2007) 1453]. A new impact assessment is currently being drafted and is expected to be completed in September 2010.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when?
(v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The first impact assessment was completed in 2007 (Document SEC(2007) 1453). The new impact assessment will build on the 2007 impact assessment. It includes the views of the Member States as expressed in the Council working group discussions, of the European Parliament in its resolutions, the European Data Supervisor, the Art.29 working party on data protection and the fundamental rights Agency.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Member States, carriers and data protection authorities have already been consulted. The Fundamental Rights Agency and the European Parliament also had the opportunity to express their opinion on this file.