

EN
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Answer given by Ms Malmström
on behalf of the Commission
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Further to enquiries undertaken in March 2012, Amadeus does not have a mirror backup database in the US and has not received subpoenas relating to flights between the EU and the US.

The EU-US PNR agreement covers PNR data on flights between the EU and the US, irrespective of where the database containing PNR data is located¹.

The US Patriot Act provides for a possibility to collect PNR data which is implemented through regulations. These regulations are made in line with any EU-US PNR agreement in force. During the last joint review, the US authorities confirmed that they received all data necessary and would not seek to access any categories of data beyond those allowed by the PNR agreement. In this context subpoenas appear redundant.

PNR transfers are very different to TFTP data. Prior to the TFTP agreement, there was no specific EU-US legal framework established and the mutual legal assistance agreement was considered too cumbersome. Therefore, the US authorities resorted to subpoenas. Under the TFTP agreement, data are transferred upon specific narrowly tailored requests from the US side. The transfer of PNR does not follow the same logic. PNR processing relies on systematic and automatic transfers of data on a high number of flights with a possibility of ad-hoc requests for data in emergency situations. These data are then processed and run against various databases to find matches assisting in preventing and combating serious crime and terrorism. The EU-US PNR agreement responds completely to these needs, while providing safeguards ensuring the protection of personal data.

In the absence of the EU-US PNR agreement or bilateral agreements between the EU Member States and the US, the US would in any case require air carriers to provide PNR data as this obligation is laid down in US law.

¹ The same applies to Computer Reservation Systems. The Commission is aware of the existence in the US territory of Computer Reservation Systems containing PNR data. As long as these data concern flights between the EU and the US, they are covered by the EU-US PNR agreement.