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

Article 1

Subject-matter and scope	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.	for the transfer by air carriers of Passenger Name Record PNR) data of passengers of international	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 Europol.	1. This Directive provides for the transfer by air carriers and noncarrier economic operators of Passenger Name Record data of passengers of 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 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, 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).	2. The PNR data collected in accordance with this Directive may be processed only for the following-purposes: (a) The prevention, detection, 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).	2. The PNR data collected in accordance with this Directive may be processed only for the purposes of the prevention, detection, investigation and 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.	2. The PNR data collected in accordance with this Directive may be processed only for the purposes of the prevention, detection, investigation and 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.
		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		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

<u>Directive.</u>		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		2. Where such a notice is given, all the provisions
Directive shall apply in		of this Directive shall
relation to intra-EU flights as if they were extra-EU flights		apply in relation to intra- EU flights as if they were
and to PNR data from intra-		extra-EU flights and to
EU flights as if it were PNR data from extra-EU flights.		PNR data from intra-EU flights as if it were PNR
		data from extra-EU
		<u>flights.</u>
3. A Member State may		3. A Member State may
decide to apply this Directive only to selected intra-EU		decide to apply this Directive only to selected
flights. In making such a		intra-EU flights. In
decision the Member State shall select the flights it		making such a decision the Member State shall
considers necessary in order to		select the flights it
further the purposes of this		considers necessary in
Directive. The Member State may decide to change the		order to further the purposes of this
selected intra-EU flights at		Directive. The Member
any time.		State may decide to
		change the selected intra-
		EU flights at any time.

Article 2				
Definitions	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:	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;	(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;	(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; Proposal: Move to recital in conjuncture with including this in the review mechanism
(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	(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	(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	(b) '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 or from the territory of

a Member State with a final destination in a third country, including in both cases any transfer or transit flights;	from the territory of a Member State with a final destination planned to land in a third country, including in both cases flights with any transfer stop-overs at the territory of Member States or transit flights third countries;	final destination in a third country, including in both cases any transfer or transit flights;	a Member State planned to land in a third country, including in both cases flights with any stop-overs at the territory of Member States or 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;		(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 Record' or 'PNR data' means a record of each passenger's travel requirements which contains information necessary to enable reservations to be processed and controlled by the booking and participating air carriers for each journey booked by or on behalf of any person, whether it is contained in reservation systems, Departure Control	(c) 'Passenger Name Record' or 'PNR data' means a record of each passenger's travel requirements which contains information necessary to enable reservations to be processed and controlled by the booking and participating air carriers for each journey booked by or on behalf of	(c) 'Passenger Name Record' or 'PNR data' means a record of each passenger's travel requirements which contains information necessary to enable reservations to be processed and controlled by the booking and participating air carriers for each journey booked by or on behalf of any person, whether it is contained in reservation systems, Departure Control Systems (DCS) or equivalent systems providing the same	(c) 'Passenger Name Record' or 'PNR data' means a record of each passenger's travel requirements which contains information necessary to enable reservations to be processed and controlled by the booking and participating air carriers for each journey booked by or on behalf of

Systems (DCS) or equivalent systems providing the same functionalities;	any person, whether it is contained in reservation systems, Departure Control Systems (DCS) , the system used to check passengers onto flights) or equivalent systems providing the same functionalities;	functionalities;	any person, whether it is contained in reservation systems, Departure Control Systems (DCS), the system used to check passengers onto flights) 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 <u>air</u> 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;	(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;
(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;	(e) 'reservation systems' means the air carrier's [or, where applicable, non-carrier economic operator's] internal reservation 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	(f) 'push method' means the method whereby air carriers transfer the required PNR data into the database of the authority requesting	(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	(f) 'push method' means the method whereby air carriers [or, where applicable, non-carrier economic operators] transfer the required PNR

requesting them;	them;	of the authority requesting them;	data listed in <i>the</i> Annex I 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;	national law referred to in	(g) 'terrorist offences' means the offences under national law referred to in Articles 1 to 4 of 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;

(h) 'serious crime' means the offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA if they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of a Member State, however, Member States may exclude those minor offences for which, taking into account their respective criminal justice system, the processing of PNR data pursuant to this directive would not be in line with the principle of proportionality;	(h) 'serious crime' means the offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA if they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of a Member State, however, Member States may exclude those minor offences for which, taking into account their respective eriminal justice system, the processing of PNR data pursuant to this directive would not be in line with the principle of proportionality;	(h) 'serious crime' means the offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA if they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of a Member States, however, Member States may exclude those minor offences for which, taking into account their respective criminal justice system, the processing of PNR data pursuant to this directive would not be in line with the principle of proportionality;		
(i) 'serious transnational crime' means the offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA if they are punishable by a custodial sentence or a	(i) 'serious [] crime' means the offences under national law referred to in Article 2(2) of Council Framework Decision 2002/584/JHA if they are punishable by a custodial	(i) 'serious transnational crime' means the following offences, where they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under the national law of a Member	List of offences to be agreed upon with EP, see Annex. Offences added to reflect the EP proposed amendments.	(i) 'serious crime' means the offences listed in Annex II, where they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under the

detention order for a	sentence or a detention	State, as referred to in	national law of a Member
maximum period of at least three years under the national law of a Member State, and if:	order for a maximum period of at least three years under the national law of a Member State, and if:	Article 2(2) of Council Framework Decision 2002/584/JHA; - participation in a criminal	State, as referred to in Article 2(2) of Council Framework Decision 2002/584/JHA
(i) They are committed in more than one state;	(i) They are committed in more than one state;	organisation, - trafficking in human beings, facilitation of unauthorised entry and residence, illicit trade in	
(ii) They are committed in one state but a substantial part of their preparation, planning, direction or control takes place in another state;	(ii) They are committed in one state but a substantial part of their preparation, planning, direction or control takes place in another state;	 human organs and tissue, sexual exploitation of children and child pornography, rape, female genital mutilation, 	
(iii) They are committed in one state but involve an organised criminal group that engages in criminal activities in more than one state; or	(iii) They are committed in one state but involve an organised criminal group that engages in criminal activities in more than one state; or	 illicit trafficking in narcotic drugs and psychotropic substances, illicit trafficking in weapons, munitions and explosives, 	
(iv) They are committed in one state but have substantial effects in another state.	(iv) They are committed in one state but have substantial 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,	
tuning, urineu robber y,	
- serious computer-related	
crime and cybercrime,	
- 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,	
espionage and treason,	
illigit trade and trafficking	
- illicit trade and trafficking	
in nuclear or radioactive	
materials and their	
precursor and in this	
regard non-proliferation	
related crimes,	
,	
- crimes within the	
- 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		(j) 'depersonalising through masking out of data' means rendering certain data elements of such data invisible to a user.

CHAPTER II

RESPONSIBILITES OF THE MEMBER STATES

Article 3

Article 5			
Passenger Information Unit	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 from competent public authorities. It shall be	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'. The Passenger Information Unit shall be responsible for collecting PNR data from air carriers and non-carrier 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 of the result of the processing thereof with the Passenger	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 crime or a branch of such an authority, to act as its 'Passenger Information Unit' (PIU). The PIU shall be responsible for collecting PNR data from air carriers storing, processing and transmitting those data or the result of the processing thereof to the competent authorities referred to in Article 5. The PIU shall also be responsible for the exchange of PNR data and of the result of the processing thereof with the PIUs of other Member States and

	provided with adequate resources in order to fulfil its task.	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.	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 PIUs 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 requirements laid down in this Directive.	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 requirements laid down in this Directive.	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 Directive.	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. 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 Directive.
3. Each Member State	3. Each Member State	3. Each Member State shall	3. Each Member State
shall notify the Commission	shall notify the Commission	notify the Commission thereof	shall notify the
thereof within one month of	thereof within one month of	within one month of the	Commission thereof
the establishment of the	the establishment of the	establishment of the Passenger	within one month of the
Passenger Information Unit	Passenger Information Unit	Information Unit and shall at	establishment of the PIU
and may at any time update	and thereof. It may at any time	any time update its	and <i>shall</i> at any time
its declaration. The	update modify its declaration	declaration. The Commission	update its notification.
Commission shall publish	notification. The Commission	shall publish this information,	The Commission shall
this information, including	shall publish this information,	including any updates, in the	publish this information,
any updates, in the Official	including any updates	Official Journal of the	including any
Journal of the European	modifications of it, in the	European Union.	modifications, in the
Union.	Official Journal of the		Official Journal of the
	European Union.		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	1: The Passenger Information Unit shall appoint a data protection officer responsible for monitoring the processing of PNR data and implementing the related safeguards. 2:Member States shall provide data protection			
appoint a data protection officer responsible for	officers with the means to perform their duties			

monitoring the processing of PNR data and implementing the related safeguards.

- 3. Member States shall the data ensure that 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 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;
- (b) monitor the implementation and application of data protection requirements laid

and tasks in accordance with this Article effectively and independently.

3: 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.

(Could include within Article 3)

down in this Directive, in particular through random conducting sampling of data processing operations; (c) ensure that all documentation is maintained and records kept accordance with this Directive, and monitor documentation, notification communication and 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 matters on relating to data transfers to other Member States or to third countries, and act as contact point for the national supervisory authority on issues related to the processing of PNR data, where appropriate, contacting the national supervisory authority on his or her own initiative.

Mombon States shall provide	
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.	

Article 4				
Processing of PNR data	Processing of PNR data	Processing of PNR data		Processing of PNR data
1. The PNR data	1. The PNR data	1. The PNR data transferred by		1. The PNR data
transferred by the air carriers,	transferred by the air	the air carriers and the non-		transferred by the air
pursuant to Article 6, in	carriers , pursuant to Article 6,	carrier economic operators,		carriers shall be collected
relation to international	in relation to international	pursuant to Article 6, in		by the Passenger
flights which land on or	flights which land on or depart	relation to international flights		Information Unit of the
depart from the territory of	from the territory of each	which land on or depart from		relevant Member State, as
each Member State shall be	Member State shall be	the territory of <i>a</i> Member State		provided for by Article 6.
collected by the Passenger	collected by the Passenger	shall be collected by the		Should the PNR data
Information Unit of the	Information Unit of the	Passenger Information Unit of		transferred by air carriers

			T	
relevant Member State.	relevant Member State, as	that Member State. Should the		include data beyond those
Should the PNR data	<u>provided for Article 6</u> . Should	PNR data transferred by air		listed in Annex, the
transferred by air carriers	the PNR data transferred by	carriers and non-carrier		Passenger Information
include data beyond those	air carriers include data	economic operators include		Unit shall delete such
listed in the Annex, the	beyond those listed in the	data beyond those listed in the		data immediately and
Passenger Information Unit	Annex, the Passenger	Annex, the Passenger		permanently upon
shall delete such data	Information Unit shall delete	Information Unit shall delete		receipt.0
immediately upon receipt.	such data immediately upon	such data immediately and		•
	receipt.	permanently upon receipt.		
2. The Passenger	2. The Passenger	2. The Passenger		2. The Passenger
Information Unit shall	Information Unit shall process	Information Unit shall process		Information Unit shall
process PNR data only for	PNR data only for the	PNR data only for		process PNR data only
the following purposes:	following purposes:	the following purposes:		for the following
the following purposes.	ionowing purposes.	the following purposes.		purposes:
(a) a a maria a a sut a a	(a)	(a) annuina ant an assassant	Charle language from market	* *
(a) carrying out an	(a) carrying out an	(a) carrying out an assessment	Check language from recital	• •
assessment of the passengers	assessment of the	of the passengers prior to their	(5):	assessment of the
prior to their scheduled	passengers prior to their	scheduled arrival to, or	(5)	passengers prior to their
arrival or departure from the	scheduled arrival to or	departure from, the Member	(5) PNR data are	scheduled arrival to or
Member State in order to	departure from the Member	State in order to identify any	necessary to effectively	departure from the
identify any persons who	State in order to identify	persons who may be involved	prevent, detect, investigate	Member State in order to
may be involved in a	any persons who may be	in a terrorist offence or serious	and prosecute terrorist	identify
terrorist offence or serious	involved in a terrorist	transnational crime and who	offences and serious crime	persons who
transnational crime and who	offence or serious	require further examination by	and thus enhance internal	require further
require further examination	transnational crime and	the competent authorities	security, inter alia by	examination by the
by the competent authorities	who require further	referred to in Article 5 and,	comparing them with various	competent authorities
referred to in Article 5. In	examination by the competent	where relevant, by Europol,	databases of persons and	referred to in Article 5
carrying out such an	authorities referred to in	in accordance with Article	objects sought, to construct	and, where relevant, by
assessment, the Passenger	Article 5. In carrying out such	7a. In carrying out such an	evidence and, where	Europol, in accordance
Information Unit may	an assessment, the Passenger	assessment, the Passenger	relevant, to find associates of	with Article 7a, in view
process PNR data against	Information Unit may process	Information Unit may process	criminals and unravel	of the fact that such
pre-determined criteria.	PNR data against pre-	PNR data against pre-	criminal networks.	persons may be involved
Member States shall ensure	determined criteria. Member	determined criteria in		in [a terrorist offence or
that any positive match	States shall ensure that any	accordance with this		serious crime]/criminal
resulting from such	positive match resulting from	Directive, and may compare		networks.
automated processing is	such automated processing is	PNR data against relevant		

individually reviewed by non-automated means in order to verify whether the competent authority referred to in Article 5 needs to take action;

individually reviewed by nonautomated means in order to verify whether the competent authority referred to in Article 5 needs to take action:

including databases, international or national databases national or mirrors of Union databases. where they are established in compliance with Union law, 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 nonautomated means in order to verify whether the competent authority referred to in Article 5 needs to take action:

- (i) In carrying out such an assessment the Passenger Information Unit may compare PNR data against databases, relevant for the purpose of prevention, detection, investigation and prosecution of terrorist offences [and serious crime]. including databases, on persons or objects sought or under alert, in accordance with Union. international and national rules applicable to such databases.
- (ii) When carrying out an assessment of persons who may be involved in [a terrorist offence or serious crime] listed 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 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;
(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	passengers prior to their	scheduled arrival or departure		
arrival or departure from the	scheduled arrival or departure	from the Member State in		
Member State in order to	from the Member State in	order to identify any persons		
identify any persons who	order to identify	who may be involved in a		
may be involved in a	any fact that such persons	terrorist offence or serious		
terrorist offence or serious	who may be involved in a	transnational crime and who		
crime and who require	terrorist offence or serious	require further examination by		
further examination by the	crime and who require further	the competent authorities		
competent authorities	examination by the competent	referred to in Article 5. In		
referred to in Article 5.	authorities referred to in	carrying out such an		
In carrying out such an	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	databases, including national		
relevant databases, including	compare PNR data against	databases or national mirrors		
international or national	relevant databases, relevant	of Union databases, on persons		
databases or national mirrors	for the purpose of prevention,	or objects sought or under		
of Union databases, where	detection, investigation and	alert, in accordance with		
they are established on the	prosecution of terrorist	Union and national rules		
basis of Union law, on	offences and serious crime,	applicable to such databases		
persons or objects sought or	including international or	for the purpose of		
under alert, in accordance	national databases or	preventing, detecting,		

		T	T	
with Union, international and	national mirrors of Union	investigating and		
national rules applicable to	databases, where they are	prosecuting terrorist		
such files. Member States	established on the basis of	offences and serious		
shall ensure that any positive	Union law, on persons or	transnational crime. In		
match resulting from such	objects sought or under	carrying out such an		
automated processing is	alert, in accordance with	assessment, the Passenger		
individually reviewed by	Union, international and	Information Unit may		
non-automated means in	national rules applicable to	compare PNR data against		
order to verify whether the	such files databases.	the Schengen Information		
competent authority referred		System and the Visa		
to in Article 5 needs to take	(ii) When carrying out an	Information System. Member		
action;	assessment of persons who	States shall ensure that any		
,	may be involved in a terrorist	positive match resulting from		
	offence or serious crime listed	such automated processing is		
	in Annex II to this Directive,	individually reviewed by non-		
	the Passenger Information	automated means in order to		
	Unit may also process PNR	verify whether the competent		
	data against pre-determined	authority referred to in Article		
	criteria.	5 needs to take action;		
		,		
	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;			
(c) responding, on a	(b) responding, on a case-			(b) responding, on a
		(c) responding, on a case-by-		case-by-case basis,
case-by-case basis, to duly	by-case basis, to duly reasoned	case basis based on sufficient		subject to a duly
reasoned requests from	requests from competent	evidence, to duly reasoned		subject to a duly
		evidence, to duly reasoned		

competent authorities to	authorities to provide PNR	requests from competent	reasoned requests based
provide PNR data and	data and process PNR data in	authorities to provide PNR	on sufficient indication
process PNR data in specific	specific cases for the	data and process PNR data in	from competent
cases for the purpose of	purpose of prevention,	specific cases for the purpose	authorities to provide
prevention, detection,	detection, investigation and	of prevention, detection,	PNR data and process
investigation and prosecution	prosecution of a terrorist	investigation and prosecution	PNR data in specific
of a terrorist offence or	offence or serious crime,	of a terrorist offence or of	cases for the
serious crime, and to provide	and to provide the	serious transnational crime	purpose of prevention,
the competent authorities	competent authorities with the	listed in point (i) of Article 2	detection, investigation
with the results of such	results of such processing; and	or for the prevention of an	and prosecution of a
processing; and		immediate and serious	terrorist offence or
		threat to public security, and	serious crime [or for the
		to provide the competent	prevention of an
		authorities or, where	immediate and serious
		appropriate, Europol with	threat to public
		the results of such processing;	security],
		and	and to provide the
			competent authorities or,
			where appropriate,
			Europol with the results
			of such processing; and
(d) analysing PNR data	© analysing PNR data	(d) analysing PNR data for the	(c) analysing PNR
for the purpose of updating	for the purpose of updating or	purpose of updating or	data
or creating new criteria for	creating new criteria for	creating new criteria for	for the purpose of
carrying out assessments in	carrying out assessments	carrying out assessments in	updating or creating new
order to identify any persons	referred to in point (a)(ii) in	order to identify any persons	criteria for carrying out
who may be involved in a	order to identify any persons	who may be involved in a	assessments referred to in
terrorist offence or serious	who may be involved in a	terrorist offence or serious	point (a)(ii) in order to
transnational crime pursuant	terrorist offence or serious	transnational crime pursuant to	identify any persons who
to point (a).	transnational crime pursuant to	point (a).	may be involved in a
	point (a) crimes listed in		terrorist offence or
	Annex II.		serious crimes listed in
			Annex II.
3. The assessment of	3. The assessment of the	3. The assessment of the	3. The assessment
the passengers prior to their	passengers prior to their	passengers prior to their	of the passengers prior to
		passengers prior to then	

scheduled arrival or departure from the Member State referred to in point (a) of paragraph 2 shall be carried out in a nondiscriminatory manner on the basis of assessment criteria established by its Passenger Information Unit. Member States shall ensure that the assessment criteria are set by the Passenger Information Units, in cooperation with the competent authorities referred to in Article 5. The assessment criteria shall in no circumstances be based on a person's race or ethnic origin, religious or philosophical belief, political opinion, trade union membership, health or sexual life.

scheduled arrival or departure from the Member State carried out against pre-determined criteria referred to in point (a) of paragraph 2 shall be carried out in a non-discriminatory manner on the basis of assessment criteria established by its Passenger Information Unit. Member States shall ensure that the assessment criteria are set by the Passenger Information Units, in cooperation with the competent authorities referred to in Article 5. The assessment criteria shall in no circumstances be based on a person's race racial or ethnic origin, political opinions, religious or philosophical beliefs, political opinion, trade union membership, health or sexual life.

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, iustified, 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 competent authorities referred to in Article 5 and regularly **reviewed**. The assessment criteria shall in circumstances be based on person's race or ethnic origin, political opinions, religion or philosophical beliefs, sexual orientation \mathbf{or} gender identity, trade-union membership or activities, and the processing of data concerning health or sexual life:

their scheduled arrival to or departure from the Member State carried out against pre-determined criteria referred to in point (a)(ii) of paragraph 2 shall be carried out in a non-discriminatory manner on the basis of assessment criteria established by its **Passenger Information** Unit. These assessment criteria must be targeted, proportionate, and specific. 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 and regularly reviewed. The assessment criteria shall in no circumstances be based on a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership 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.	4. The Passenger Information Unit of a Member State shall transmit the PNR data or the results of the processing of PNR data of the persons identified in accordance with points (a) of paragraph 2 for further examination to the competent authorities of the same Member State referred to in Article 5. Such transfers shall only be made on a case-by-case basis by non automated means.
		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.	4a. Member States shall ensure that the data protection officer has access to all data transmitted to the Passenger Information Unit and from processed by the Passenger Information Unit—to—a competent—authority pursuant to Article—5. If the data protection officer considers that transmission processing of any data was not lawful, he or she shall may refer the matter to the national supervisory

4b. The storage, processing and analysis of PNR data		authority, which shall have power to order the receiving competent authority to delete that data. 4b. The storage, processing and analysis
shall be carried out exclusively within a secure		of PNR data by the PIU shall be carried out
location within the territory		exclusively within a
of the Member States of the European Economic Area.		secure location within the territory of the <i>European</i>
4c. Member States shall bear	Possibly acceptable if	<i>Union.</i> 4c. Member States shall
the costs of use, retention	combined with recital (13a).	bear the costs of use,
and exchange of PNR data.	"(13a) It is desirable that co-	retention and exchange of PNR data.
	financing of the costs related	
	to the establishment of the national Passenger	Move to recital.
	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."	
	11.00.11.00	
	<u>COM</u> : EP AM stating the	
	obvious: running cost to be	
	borne by MSs (separate from	
	` 1	
	establishing a PNR system)	
	ED. Droposol to put this into	
	<u>EP</u> : Proposal to put this into	
, m	recital	
5. The consequences of		5. The
the assessments of passengers		consequences of the
referred to in point (a) of		assessments of
paragraph 2 shall not		passengers referred to in
jeopardise the right of entry of		point (a) of paragraph 2
persons enjoying the Union		shall not jeopardise the
right of free movement into		right of entry of persons
the territory of the Member		enjoying the Union right
State concerned as laid down		of free movement into
in Directive 2004/38/EC. In		the territory of the
addition, the consequences of		Member State concerned
such assessments, where these		as laid down in Directive
are carried out in relation to		2004/38/EC. In addition,
intra-EU flights between		the consequences of such
Member States to which the		assessments, where these
Regulation (EC) No 562/2006		are carried out in relation
of the European Parliament		to intra-EU flights
and of the Council of 15		between Member States
March 2006 establishing a		to which the Regulation
Community Code on the rules		(EC) No 562/2006 of the
governing the movement of		European Parliament and
governing the movement of		Laropean ramament and

persons across borders ¹	of the Council of	15
applies, shall comply with that	March 2006 establish	ng
Code.	a Community Code	on
	the rules governing	he
	movement of person	ns
	across borders ² appli	es,
	shall comply with t	
	Code.	

	Article 5			
Competent authorities	Competent authorities	Competent authorities	Competent authorities	
1. Each Member State shall adopt a list of the competent authorities entitled to request or receive PNR data or the result of the processing of PNR data from the Passenger Information Units in order to examine that information further or take appropriate action for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime.	1. Each Member State shall adopt a list of the competent authorities entitled to request or receive PNR data or the result of the processing of PNR data from the Passenger Information Units in order to examine that information further or take appropriate action for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime.	1. Each Member State shall adopt a list of the competent authorities entitled to request or receive masked out PNR data or the result of the systematic processing of PNR data from the Passenger Information Units in order to examine that 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	1. Each Member State shall adopt a list of the competent authorities entitled to request or receive PNR data or the result of the processing of PNR data from the Passenger Information Units in order to examine that information further or take appropriate action for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime, or the prevention of an immediate and serious threat to public security]. Europol shall	

OJ L 105, 13.4.2006, p.1. OJ L 105, 13.4.2006, p.1. 2

2. Competent	2. Competent The	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	be entitled to request 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 competences and for the performance of its tasks. 2. The authorities
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.	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.	referred to in paragraph 1 shall be competent for the prevention, detection, investigation or prosecution of terrorist offences or serious 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 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.	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 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 updates modifications of it, in the Official Journal of the	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 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.	3. For the purpose of Article 7(4), each Member State shall notify the list of its competent authorities to the Commission twelve months after entry into force of this Directive at the latest, and shall at any time update this notification. The Commission shall publish this information, as well as any

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	European Union.		modifications of it, in the
			Official Journal of the
			European Union.
4. The PNR data of	4. The PNR data of passengers	4. The PNR data of passengers	4. The PNR data and the
passengers and the result of	and the result of the processing	and the result of the processing	result of the processing
the processing of PNR data	of PNR data received by from	of PNR data received by the	of PNR data received by
received by the Passenger	the Passenger Information Unit	Passenger Information Unit	the Passenger
Information Unit may be	may be further processed by	may be further processed by	Information Unit may be
further processed by the	the competent authorities of	the competent authorities of	further processed by the
competent authorities of the	the Member States only for the	the Member States only for the	competent authorities of
Member States only for the	purpose of preventing,	specific purpose of	the Member States only
purpose of preventing,	detecting, investigating or	prevention, detection,	for the specific purpose
detecting, investigating or	prosecuting terrorist offences	investigation or prosecution	of prevention , detection,
prosecuting terrorist offences	or serious crime.	of terrorist offences and of	investigation or
or serious crime.		serious transnational crime,	prosecution of terrorist
		upon request, in accordance	offences and of serious
		with Article 4(2) or for the	crime, or for the
		prevention of an immediate	prevention of an
		and serious threat to public	immediate and serious
		security.	threat to public
			security.

5. Paragraph 4 shall be	5. Paragraph 4 shall be	5. Paragraph 4 shall be without		5. Paragraph 4 shall
without prejudice to national	without prejudice to	prejudice to national law		be without prejudice to
law enforcement or judicial	national law enforcement or	enforcement or judicial powers		national law enforcement
powers where other offences,	judicial powers where other	where other offences, or		or judicial powers where
or indications thereof, are	offences violations of criminal	indications thereof, are		other violations of
detected in the course of	<u>law</u> , or indications thereof, are	detected in the course of		criminal law, or
enforcement action further to	detected in the course of	enforcement action further to		indications thereof, are
such processing.	enforcement action further to	processing for which it was		detected in the course of
	such processing.	originally intended.		enforcement action
				further to such
				processing for which it
				was originally intended.
6. The competent	6. The competent	6. The competent authorities	List taken from DPD (GA),	6. The competent
authorities shall not take any	authorities shall not take	shall not take any decision that	Art. 8	authorities shall not take
decision that produces an	any decision that produces	produces an adverse legal		any decision that
adverse legal effect on a	an adverse legal effect on a	effect on a person or		produces
person or significantly	person or significantly	significantly affects a person		an adverse legal effect on
affects a person only by	affects a person only by reason	only by reason of the		a person or significantly
reason of the automated	of the automated processing of	automated processing of PNR		affects a person only by
processing of PNR data.	PNR data. Such decisions	data. Such decisions shall not		reason of the automated
Such decisions shall not be	shall not be taken on the basis	be taken on the basis of data		processing of PNR data.
taken on the basis of a	of a person's race or ethnic	revealing a person's race or		Such decisions shall not
person's race or ethnic	origin, religious or	ethnic origin, political		be taken on the basis of a
origin, religious or	philosophical belief, political	opinions, religion or		person's race or ethnic
philosophical belief, political	opinion, trade union	philosophical beliefs, sexual		origin, political opinions,
opinion, trade union	membership, health or sexual	orientation or gender		religion or philosophical
membership, health or sexual	life.	identity, trade-union		beliefs, trade union
life.		membership or activities, and		membership and the
		the processing of data		processing of data
		concerning health or sexual		concerning health or
		life.		sexual life.

	Article 6			
Obligations on air carriers	Obligations on air carriers <u>on transfers of data</u>	Obligations on air carriers and non-carrier economic operators		tions on air on transfers of
1. Member States shall	1. Member States shall	1. Member States shall adopt	1. Membe	er States shall
adopt the necessary	adopt the necessary measures	the necessary measures to	adopt th	ne necessary
measures to ensure that air	to ensure that air carriers	ensure that air carriers and	measures	to ensure that
carriers transfer ('push') the	transfer ('push') the PNR data	non-carrier economic	air carr	iers transfer
PNR data as defined in	as defined in Article 2(ed) and	operators transfer all pushed	('push') the	e PNR data as
Article 2(c) and specified in	specified in the	PNR data as defined in point	defined in	n point (c) of
the Annex, to the extent that	Annex \underline{I} , to the extent	(c) of Article 2 and specified	Article 2 a	and specified in
such data are already	that such data are already	in the Annex, to the extent that	the Annex	x [1], to the
collected by them, to the	collected by them, to the	such data are already collected	extent that	t such data are
database of the national	database of the national	by them in the normal course	already col	llected by them
Passenger Information Unit	Passenger Information Unit of	of their business, to the	in the nor	rmal course of
of the Member State on the	the Member State on the	database of the national	their bus	siness, to the
territory of which the	territory of which the	Passenger Information Unit of	database o	of the national
international flight will land	international flight will land or	the Member State on the	Passenger	Information
or from the territory of	from the territory of which the	territory of which the	Unit of the	e Member State
which the flight will depart.	flight will depart. Where the	international flight will land or	on the terr	ritory of which
Where the flight is code-	flight is code-shared between	from the territory of which the	the flight	will land or
shared between one or more	one or more air carriers, the	flight will depart. Where the	from the	territory of
air carriers, the obligation to	obligation to transfer the PNR	flight is code-shared between	which the	e flight will
transfer the PNR data of all	data of all passengers on the	one or more air carriers the	depart. W	here the flight
passengers on the flight shall	flight shall be on the air carrier	obligation to transfer the PNR		nared between
be on the air carrier that	that operates the flight. Where	data of all passengers on the	one or mo	ore air carriers
operates the flight. Where	the an extra-EU flight has one	flight shall be on the air carrier	the obligat	tion to transfer
the flight has one or more	or more stop-overs at the	and the non-carrier	the PNR	data of all
stop-overs at the airports of	airports of the Member States,	economic operator that	passengers	on the flight
the Member States, air	air carriers shall transfer the	operates the flight. Where the	shall be on	n the air carrier
carriers shall transfer the	PNR data of all passengers to	flight has one or more stop-		ites the flight.
PNR data to the Passenger	the Passenger Information	overs at the airports of the	Where an	extra-EU flight
Information Units of all the	Units of all the Member States	Member States, air carriers	has one of	or more stop-

Member States concerned.	concerned. This also applies where an intra-EU flight has	operators shall transfer the	overs at the airports the Member States,	air
	one or more stopovers at the		carriers shall transfer	
	airports of different Member		PNR dataof	
	States, but only in relation to	Member States concerned.	passengers to	the
	Member States which are		Passenger Informat	ion
	collecting PNR data.		Units of all the Mem	ber
			States concerned. T	his
			also applies where	an
			intra-EU flight has one	e or
			more stopovers at	the
			airports of differ	rent
			Member States, but o	nly
			in relation to Mem	ber
			States which	are
			collecting PNR data.	

	1a. In case the air carriers		Annex I	1a. In case the air
	have collected any advance			carriers have collected
	passenger information (API)			any advance passenger
	data listed under item (18) of		(18) Any Advance Passenger	information (API) data
	Annex 1 to this directive but		Information (API) data	listed under item (18) of
	do not retain these data as part		collected (<u>inter alia</u>	Annex 1 to this directive
	of the PNR data, Member		document type,	but do not retain these
	States shall adopt the		document number,	data as part of the PNR
	necessary measures to ensure		nationality, country of	data, Member States shall
	that air carriers also transfer		issuance, date of	adopt the necessary
	('push') these data to the		document expiration,	measures to ensure that
	Passenger Information Unit of		<u>family</u> name, given	air carriers also transfer
	the Member State referred to		name, gender, date of	('push') these data to the
	in paragraph 1. In case of such		birth, airline, flight	Passenger Information
	transfer, all the provisions of		number, departure date,	Unit of the Member State
	this Directive shall apply in		arrival date, departure	referred to in paragraph
	relation to these API data as if		port, arrival port,	1. In case of such
	they were part of the PNR		departure time, arrival	transfer, all the
	data.		<u>time)</u>	provisions of this
				Directive shall apply in
			Underlined text=added GA	relation to these API data
			text	as if they were part of the
				PNR data.
2. Air carriers shall	2. Air carriers shall	2. Air carriers and non-		2. Air carriers shall
transfer PNR data by	transfer PNR data by	carrier economic operators		transfer PNR data by
electronic means using the	electronic means using the	shall transfer PNR data by		electronic means using
common protocols and	common protocols and	electronic means using the		the common protocols
supported data formats to be	supported data formats to	common protocols and		and supported data
adopted in accordance with	be adopted in accordance with	supported data formats to be		formats to be adopted in
the procedure of Articles 13	the procedure of referred to in	adopted in accordance with		accordance with Articles
and 14 or, in the event of	Articles 13 and 14 or, in the	Articles 13 and 14 or, in the		13 and 14 or, in the event
technical failure, by any	event of technical failure, by	event of technical failure, by		of technical failure, by
other appropriate means	any other appropriate means	any other appropriate means		any other appropriate
ensuring an appropriate level	ensuring an appropriate level	ensuring an appropriate level		means ensuring an
of data security:	of data security:	of data security:		appropriate level of data

			T	ag gyreityy
(a) 24 to 48 hours	(a) once 24 to 48 hours	(a) once , 24 to 48 hours before		security:
(a) 24 to 48 hours before the scheduled time for	before the scheduled time	the scheduled time for flight		(a) once, 24 to 48 hours
		e e e e e e e e e e e e e e e e e e e		before the scheduled time
flight departure;	for flight departure;	departure; and		
and	and	(1.)		for flight departure; and
	(1)	(b) once , immediately after		(1)
(b) immediately after	(b) <u>once</u> immediately after	flight closure, that is once the		(b) once , immediately
flight closure, that is once	flight closure, that is once	passengers have boarded the		after flight closure, that is
the passengers have boarded	the passengers have	aircraft in preparation for		once the passengers have
the aircraft in preparation for	boarded the aircraft in	departure and it is no longer		boarded the aircraft in
departure and it is no longer	preparation for departure	possible for further passengers		preparation for departure
possible for further	and it is no longer possible for	to board.		and it is no longer
passengers to board.	further passengers to board or			possible for passengers to
	<u>leave</u> .			board or leave.
3. Member States may	3. Member States may	3. Member States shall permit		3. Member States shall
permit air carriers to limit	shall permit air carriers to	air carriers and non-carrier		permit air carriers to limit
the transfer referred to in	limit the transfer referred to in	economic operators to limit		the transfer referred to in
point (b) of paragraph 2 to	point (b) of paragraph 2 to	the transfer referred to in point		point (b) of paragraph 2
updates of the transfer	updates of the transfer referred	(b) of paragraph 2 to updates		to updates of the transfer
referred to in point (a) of	to in point (a) of paragraph 2.	of the transfer referred to in		referred to in point (a) of
paragraph 2.		point (a) of that paragraph.		that paragraph.
4. On a case-by-case	4. On a case-by-case	4. On a case-by-case basis,		4. On a case-by-case
basis, upon request from a	basis and where access to PNR	upon request from a Passenger		basis_and where access to
Passenger Information Unit	data is necessary to respond to	Information Unit in		PNR data is necessary to
in accordance with national	a specific and actual threat	accordance with national law,		respond to a specific
law, air carriers shall transfer	related to terrorist offences or	air carriers and non-carrier		and actual threat related
PNR data where access	serious crime, air carriers	economic operators shall		to terrorist offences or
earlier than that mentioned in	shall, upon request from a	transfer PNR data where		serious crime, air carriers
point (a) of paragraph 2 is	Passenger Information Unit in	access earlier than that		shall, upon request from
necessary to assist in	accordance with the	mentioned in point (a) of		a Passenger Information
responding to a specific and	procedures provided under	paragraph 2 is necessary to		Unit in accordance with
actual threat related to	national law, transfer PNR	assist in responding to a		national law, , transfer
terrorist offences or serious	data where access earlier at	specific, imminent , and actual		PNR data at other points
crime.	other points in time than that	threat related to terrorist		in time than that
	mentioned in point (a) of	offences or serious		mentioned in paragraph
	r r (, 32	22 5011045	1	Taraba and American

paragraph 2 is necessary to assist in responding to a specific and actual threat related to terrorist offences or	transnational crime.		2, (a) and (b).
serious crime(a) and (b).			
	4a. Air carriers and non- carrier economic operators shall duly inform passengers		[deleted]
	of the type of personal data being collected for law		To be discussed.
	enforcement purposes, their rights regarding their data as a passenger. Such	additional language/rights	
	information shall be provided to passengers	understandable"), incorporate in Art 11(5).	
	proactively, in an easily understandable format.	Tentative agreement to try to put it into Art 11(5).	

Article 7					
Exchange of information between Member States	Exchange of information between Member States	Exchange of information between Member States		Exchange of information between	
1. Member States shall ensure that, with regard to	Member States shall ensure that, with regard to	1. Passenger Information Units shall automatically		Member States 1. Member States shall ensure that, with	
persons identified by a Passenger Information Unit	persons identified by a	exchange data on the results of the processing of PNR		regard to persons identified by a Passenger	
in accordance with Article 4(2)(a) and (b), the result of	accordance with Article	data. Member States shall ensure that the results of the		Information Unit in accordance with Article	
the processing of PNR data is transmitted by that	or the result of theany	processing of PNR data, either analytical information		4(2)(a), the PNR data or the result of any	
Passenger Information Unit to the Passenger Information	transmitted by that Passenger	obtained from PNR data or the results with regard to		processing thereof is transmitted by that	

of other Member Passenger Information Units States where the former Passenger Information Unit considers such transfer to be necessary for the prevention, detection, investigation or prosecution of terrorist offences or serious crime. The Passenger Information Units of the receiving Member States shall transmit such PNR data or the result of the processing of PNR data to their relevant competent authorities.

Unitscorresponding units of other Member States where the former Passenger Information Unitit considers such transfer to be necessary for the prevention, detection, investigation or prosecution of terrorist offences or serious crime. The Passenger Information Units of the receiving Member States shall transmit such PNR data or the result of the processing of PNR datathe received information to their relevant competent authorities in accordance with Article 4(4).

persons identified by a **Passenger Information Unit** in accordance with Article 4(2), which is transmitted for further examination to their relevant competent authorities in accordance 4(4), with Article **proactively** transmitted by a Passenger Information Unit to the Passenger Information Units of the other Member States without delay. The Passenger Information Unit of the receiving Member States shall transmit such results of the processing of PNR data to their relevant competent authorities, in accordance with Article 4(4). Where appropriate, an alert shall be entered in accordance with 36 of Council Article **Decision 2007/533/JHA³.**

Information Passenger Unit to the corresponding units of all other Member States where it considers such transfer to be necessary for the prevention, detection, *investigation* prosecution of terrorist offences or serious crime. The Passenger Information Units of the receiving Member States shall transmit the received information to their—competent authorities in accordance with Article 4(4).

³ 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).

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

The Passenger Information Unit of a Member State shall have the right to request, if necessary, the Passenger Information Unit of any other Member State to provide it with PNR data that are kept in the latter's database and have not vet been depersonalised through masking out under Article 9(2), and, if necessary, also the result anv processing thereof, if it has already been prepared pursuant to Article 4(2)(a). The duly reasoned request for such data may be based on any one or a combination of data deemed elements. as necessary by the Passenger requesting Information Unit for a specific case of prevention, detection, investigation prosecution of terrorist offences or serious crime. Passenger Information Units shall provide the requested data as soon as

			 <u> </u>
	have been depersonalised		practicable. In case the
	through masking out in		requested data have been
	accordance with Article 9(2)		depersonalised through
	the Passenger Information		masking out in
	Unit shall only provide the full		accordance with Article
	PNR data where it is		9(2) the Passenger
	reasonably believed that it is		Information Unit shall
	necessary for the purpose of		only provide the full
	Article 4(2)(b) and only when		PNR data where it is
	authorised to do so by an		reasonably believed that
	authority competent under		it is necessary for the
	Article 9(3).		purpose of Article
			4(2)(b) and only when
			authorised to do so by an
			authority competent
			under Article 9(3).
3. The Passenger	3. The Passenger	3. Passenger Information	
Information Unit of a	Information Unit of a Member	Units shall have the right to	
Member State shall have the	State shall have the right to	request, if necessary, the	
right to request, if necessary,	request, if	Passenger Information Unit of	
the Passenger Information	necessary, the Passenger	any other Member State to	
Unit of any other Member	Information Unit of any	provide it with PNR data that	
State to provide it with PNR	other Member State to provide	have been already masked	
data that are kept in the	it with PNR data	out and that are kept in the	
latter's database in	that are kept in the latter's	latter's database in accordance	
accordance with Article 9(2),	database in accordance with	with Article 9(2), and, if	
and, if necessary, also the	Article 9(2), and, if necessary,	* **	
	also the result of the	• .	
Information Unit may		C	
· I	C		
1 1	PNR data kept by	Passenger Information Unit of	
Passenger Information Unit	the Passenger Information	another Member State in their	
of another Member State in	Unit of another Member State	full form without the masking	
their full form without the	in their full form without the	out only in the most	
and, if necessary, also the result of the processing of PNR data. The Passenger Information Unit may request access to specific PNR data kept by the Passenger Information Unit of another Member State in	Article 9(2), and, if necessary, also the result of the processing of PNR data. The Passenger Information Unit may request access to specific PNR data kept by the Passenger Information Unit of another Member State	another Member State in their full form without the masking	

	1		1	
masking out only in	masking out	exceptional circumstances in		
exceptional circumstances in	only in exceptional	response to a specific real-		
response to a specific threat	circumstances in response	time threat or with regard to		
or a specific investigation or	to a specific threat or a	a specific investigation or		
prosecution related to	specific investigation or	prosecution related to terrorist		
terrorist offences or serious	prosecution related to terrorist	offences or serious		
crime.	offences or serious crime.	transnational crime or to the		
		prevention of an 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	4. Only in those cases		3. Only when
where it is necessary for the	in cases of emergency and	where it is necessary for the		necessary in cases of
prevention of an immediate	under the conditions laid down	prevention of an immediate		emergency and under the
and serious threat to public	in paragraph 2 in those cases	and serious threat to public		conditions laid down in
security may the competent	where it is necessary for the	security may the competent		paragraph 2 may the
authorities of a Member	prevention of an immediate	authorities of a Member State		competent authorities of
State request directly the	and serious threat to public	request directly the Passenger		a Member State request
Passenger Information Unit	security may the competent	Information Unit of any other		directly the Passenger
of any other Member State to	authorities of a Member State	Member State to provide it		Information Unit of any
provide it with PNR data that	request directly the Passenger	with PNR data that are kept in		other Member State to
are kept in the latter's	Information Unit of any other	the latter's database in		provide it with PNR data
database in accordance with	Member State to provide it	accordance with Article 9(1)		that are kept in the
Article 9(1) and (2). Such	with PNR data that are kept in	and (2). Such requests shall		latter's database. The
requests shall relate to a	the latter's database-in	relate to a specific		requests from the
specific investigation or	accordance with Article 9(1)	investigation or prosecution of		competent authorities, a
prosecution of terrorist	and (2). The requests from the	terrorist offences or serious		copy of which shall
offences or serious crime and	competent authorities, a copy	crime and shall be reasoned.		always be sent to the
shall be reasoned. Passenger	of which shall always be sent	Passenger Information Units		Passenger Information
Information Units shall	to the Passenger Information	shall respond to such requests		Unit of the requesting
respond to such requests as a	Unit of the requesting Member	as a matter of priority. In all		Member State, shall be
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matter of priority. In all other	State, Such requests shall	other cases the competent	reasoned. In all other
cases the competent	relate to a specific	authorities shall channel their	cases the competent
authorities shall channel	investigation or prosecution of	requests through the Passenger	authorities shall channel
their requests through the	terrorist offences or serious	Information Unit of their own	their requests through the
Passenger Information Unit	erime and shall be reasoned.	Member State.	Passenger Information
of their own Member State.	Passenger Information Units		Unit of their own
	shall respond to such requests		Member State.
	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.		
5. Exceptionally, where	5. Exceptionally, where	5. Exceptionally, where early	5. Exceptionally,
early access is necessary to	early access to PNR data is	access is strictly necessary to	where access to PNR
respond to a specific and	necessary to respond to a	respond to a specific and	data is necessary to
actual threat related to	specific and actual threat	actual threat related to terrorist	respond to a specific and
terrorist offences or serious	related to terrorist offences or	offences or serious	actual threat related to
crime, the Passenger	serious crime, the Passenger	transnational crime or to	terrorist offences or
Information Unit of a	Information Unit of a Member	prevent an immediate and	serious crime [or to
Member State shall have the	State shall at any time have the	serious threat to public	prevent an immediate
right to request the Passenger	right to request the Passenger	security, the Passenger	and serious threat to
Information Unit of another	Information Unit of another	Information Unit of a Member	<pre>public security], the</pre>
Member State to provide it	Member State to provide it	State shall have the right to	Passenger Information
with PNR data of flights	withobtain PNR data of flights	request the Passenger	Unit of a Member State
landing in or departing from	landing in accordance with	Information Unit of another	shall at any time have the
the latter's territory at any	article 6(4) and provide it to	Member State to provide it	right to request the
time.	the requesting Passenger	with PNR data of flights	Passenger Information
	Information Unit or departing	landing in or departing from	Unit of another Member
	from the latter's territory at	the latter's territory at any	State to obtain PNR data
	any time.	time, where such data has	in accordance with article
		been retained. That	6(4) and provide it to the
		procedure shall cover only	requesting Passenger
		requests for the PNR data	Information Unit. [That
		already collected and	procedure shall cover

		retained by the Passenger	only requests for the
		Information Unit which is	PNR data already
		requested to provide the	collected and retained
		data.	by the Passenger
			Information Unit which
			is requested to provide
			the data.]
6. Exchange of	6. Exchange of	6. Exchange of information	6. Exchange of
information under this	information under this Article	under this Article shall take	information under this
Article may take place using	may take place	place using existing channels	Article may take place
any existing channels for	using any existing channels	for Union and international	using any existing
international law	for international law	law enforcement cooperation,	channels for cooperation
enforcement cooperation.	enforcement-cooperation	in particular Europol, its	between the competent
The language used for the	between the competent	Secure Information	authorities of the
request and the exchange of	authorities of the Member	Exchange Network	Member States. The
information shall be the one	States. The language used for	Application (SIENA) and	language used for the
applicable to the channel	the request and the exchange	national units established in	request and the exchange
used. Member States shall,	of information shall be the one	accordance with Article 8 of	of information shall be
when making their	applicable to the channel used.	Decision 2009/371/JHA. The	the one applicable to the
notifications in accordance	Member States shall, when	language used for the request	channel used. Member
with Article 3(3), also	making their notifications in	and the exchange of	States shall, when
inform the Commission with	accordance with Article 3(3),	information shall be the one	making their notifications
details of the contacts to	also inform the Commission	applicable to the channel used.	in accordance with
which requests may be sent	with details of the contacts	Member States shall, when	Article 3(3), also inform
in cases of urgency. The	points to which requests may	making their notifications in	the Commission with
Commission shall	be sent in cases of urgency	accordance with Article 3(3),	details of the contact
communicate to the Member	emergency. The Commission	also inform the Commission	points to which requests
States the notifications	shall communicate to the	with details of the contacts to	may be sent in cases of
received.	Member States the	which requests may be sent in	emergency. The
	notifications received.	cases of urgency. The	Commission shall
		Commission shall	communicate to the
		communicate to the Member	Member States the
		States the notifications	notifications received.
		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.		
Article 7a:		
Conditions for access to PNR data by Europol		Conditions for access to PNR data by Europol
1. Europol may submit, on a		1. Europol may submit,
case-by-case basis, an	(20a) The exchange of	on a case-by-case basis,
electronic and duly reasoned	information through a	an electronic and duly
request to the Passenger	secure Union system for the	reasoned request to the
Information Unit of any Member State for the	exchange of PNR data between Member States	Passenger Information
Member State for the transmission of specific PNR	and between Member	Unit of any Member State through the
data or the results of the	States and Europol should	Europol National Unit
processing of specific PNR	be guaranteed. The	for the transmission of
data, when this is strictly	development and	specific PNR data or the
necessary to support and	operational management of	results of the processing
strengthen action by	that system could be the	of specific PNR data,
Member States to prevent,	responsibility of Europol. A	when this is strictly
detect or investigate a	one-stop shop could be	necessary to support and
specific terrorist offence or	created as part of that	strengthen action by
serious transnational crime	system to register and	Member States to
in so far as such an offence	transmit the requests for	prevent, detect or
or crime is within Europol's	information exchanges. The	investigate a specific terrorist offence or
competence pursuant to Decision 2009/371/JHA. The	European Data Protection Supervisor should be	terrorist offence or serious crime in so far as
reasoned request shall set	responsible for monitoring	such an crime is within
out reasonable grounds on	the processing of the	Europol's competence
the basis of which Europol	personal data performed	pursuant to Decision
considers that the	through this Union system	2009/371/JHA. The
transmission of PNR data or	for exchange of PNR data	reasoned request shall set

the results of the processing of PNR data will substantially contribute to the prevention, detection, investigation or prosecution of the criminal offence concerned.	with Europol.	out reasonable grounds on the 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 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.		[deleted]
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.		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.	4. Exchange of information under this Article shall take place through 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.

Article 8				
Transfer of data to third countries	Transfer of data to third countries States	Transfer of data to third countries		Transfer of data to third States
A Member State may	A Member State may	1. A Member State may	Align to DPD Art. 34	A Member State may
transfer PNR data and the	transfer PNR data and as well	transfer PNR data and the		transfer PNR data as well
results of the processing of	as the results of the processing	results of the processing of	Ad end of para: "transfers on	as the results of the
PNR data to a third country,	of PNR such data stored by	PNR data to a third country,	a systematic basis": no, risky,	processing of such data
only on a case-by-case basis	the Passenger Information	only on a case-by-case basis,	only case-by-case	stored by the Passenger
and if:	Unit in accordance with	subject to a duly reasoned		Information Unit in
	Article 9 to a third country,	request based on sufficient		accordance with Article 9

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

only on a case-by-case basis and if:

- (a) the conditions laid down in Article 13 of Council Framework Decision 2008/977/JHA are fulfilled,
- (b) the transfer is
 necessary for the
 purposes of this
 Directive specified in
 Article 1(2), and
- the third country (c) agrees to transfer the data to another third country only where it is necessary for the of this purposes Directive specified in Article 1(2) and only the with express authorisation of the Member State.
- (d) similar conditions as those laid down in Article 7(2) are fulfilled.

evidence, where the transfer necessary for the investigation. prevention. detection or prosecution of criminal offences. prevention of an immediate and serious threat to public security or the execution of criminal penalties and the receiving competent authority in the third country is responsible for the prevention, investigation, detection or prosecution of offences. criminal prevention of an immediate and serious threat to public security or the execution of criminal penalties, provided that:

(a) the third country concerned ensures an adequate level of protection as referred to in Directive 95/46/EC of the European Parliament and of the Council⁴ for the intended data processing, subject to meeting all the other conditions laid down in this Directive:

to a third country, only on a case-by-case basis and if

- (a) the conditions laid down in Article 13 of Council Framework Decision 2008/977/JHA are fulfilled,
- (b) the transfer is necessary for the purposes of this Directive specified in Article 1(2), 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 Article—1(2) and
 only—with—the
 express
 authorisation—of the
 Member State.

(d) <u>similar</u> adequate

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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).

(b) the Member State from which the data were obtained has given its consent to the transfer in compliance with national law.

In exceptional circumstances, transfers of PNR data without prior consent in accordance with paragraph 1 shall 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 giving for consent shall be informed without delay and the transfer shall be dulv recorded and subject to an ex-post verification.

By way of derogation from the first subparagraph, transfers of data shall be permitted on a systematic basis following the conditions as those laid down in Article 7(2) are fulfilled.

exceptional In circumstances, transfers of PNR data without prior consent shall be permitted only if such transfers are essential for the prevention of 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 expost verification.

conclusion of an	
international agreement	
between a third country and	
the Union.	
2. Member States shall	2. Member States shall
transfer PNR data to	transfer PNR data to
competent authorities of	competent authorities
third countries only under	of third countries only
terms consistent with this	under terms consistent
Directive and only upon	with this Directive and
ascertaining that the use that	only upon ascertaining
the recipients intend to make	that the use that the
of the PNR is consistent with	recipients intend to
those terms and safeguards.	make of the PNR is
	consistent with those
	terms and safeguards.
3. Onward transfers to other	3. Onward transfers
third countries shall be	from one third country
prohibited.	to another shall be
	prohibited.
4. Where PNR data relating	protection.
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	5. The data protection
shall be informed each time	officer shall be
a Member State transfers	informed each time a
PNR data pursuant to this	Member State transfers
Article. The data protection	PNR data pursuant to
officer shall inform the	this Article.
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national supervisory authority of the transmission of data pursuant to this Article on a regular basis. ———————————————————————————————————	
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DRAFT 16 NOV		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.	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.	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 <i>5 years</i> after their transmission 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	2. Upon expiry of thea period of 30 daystwo years after the transfer of the PNR data to the Passenger Information Unitas referred to in paragraph 1, the PNR data shall be retained at	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	2. Upon expiry of thea period of 30 days 6 months after the transfer of the PNR data to the Passenger Information Unitas referred to in paragraph 1, the PNR

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

For the purposes of this Directive, the data elements which could serve 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 Information Unit for the purposes of Article 4(2)(c) and where it could be reasonably believed that it is necessary to carry out an investigation and in response to a specific and actual threat or risk or a specific investigation or prosecution.

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

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 specifically authorised to carry out analysis of PNR data and develop assessment criteria according to point (d) of Article 4(2).

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

Passenger Information Unit for a further period of five years. During this period all PNR data shall be epersonalised 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 Information Unit for the purposes of Article 4(2)(c) and where it could be reasonably believed that it is necessary to carry out an investigation and in response to a specific and actual threat or risk or a specific investigation or prosecution. For the purposes of this Directive, the data elements which could serve to identify

data shall be retained at the

mich 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 Passenger Information. the name on PNR travellers together together together together together. 2. A information address contains the passenger together	t are :	information;	1	
	Address and contact formation; All forms of payment formation, including billing dress, to the extent that it entains any information which full serve to directly identify the passenger to whom PNR late or any other persons;	- 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.		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 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; 5. General remarks to the extent that it contains any information which could serve to directly identify the passenger to whom the PNR relate; and 6. Any collected Advance Ppassenger Information.
		2a. After consulting the data protection officer for the purposes of point (b) of	GA, Art. 7(2), last part In case the requested data	

	Article 4(2), the national	have been depersonalised	
	supervisory authority shall	through masking out in	
	authorise re-identification	accordance with Article 9(2)	
	of masked out PNR data	the Passenger Information	
	and access to the full PNR	Unit shall only provide the	
	data where it reasonably	full PNR data where it is	
	believes that such re-	reasonably believed that it is	
	identification is necessary	necessary for the purpose of	
	to carry out an	Article 4(2)(b) and only	
	investigation in response to	when authorised to do so by	
	a specific and actual threat	an authority competent	
	or risk relating to terrorist	under Article 9(3).	
	offences, to carry out a		
	specific investigation or		
	prosecution relating to a	EP suggested AM for a new	
	serious transnational	para 2a has been merged	
	crime, or to prevent an	with para 3.	
	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 the entire five-year		
	period referred to in		
	paragraph 2 in		
2 11 2 64			2
3. Upon expiry of the two-			3. Upon expiry of the 6
<u>year period referred to in</u>			months period referred to in
paragraph 2, disclosure of the			paragraph 2, disclosure of
full PNR data shall be permitted			the full PNR data shall be
only where it is reasonably			permitted only where it is
believed that it is necessary for			reasonably believed that it is
the purpose of Article 4(2)(b)			necessary for the purpose of

	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.		Article 4(2)(b). Disclosure of the full PNR data can be permitted only when approved by a judicial authority or, following consultation of the data protection officer of the Passenger Information Unit, 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 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.	34. Member States shall ensure that the PNR data are deleted upon expiry of the 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 eriminal investigations case for the purpose 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.	3. Member States shall ensure that the PNR data are deleted permanently upon expiry of the 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.	Member States shall ensure that the PNR data are deleted permanently upon expiry of the 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 eriminal investigations case for the purpose 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.

- 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 years unless the underlying data have not yet been deleted in accordance with paragraph 3 at the expiry of the five years, in which case the log shall be kept until the underlying data are deleted.
- 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 nonautomated means as referred to in Article 4(2)(a) last subparagraph,, proven to be negative, it shallmay, however, be stored so as to avoid future 'false' positive matches for a maximum period of three years unless as long as the underlying data have not yet been deleted in accordance with paragraph 31 at the expiry of the five years, in which case the log shall be kept until the underlying data are deleted.
- 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 Passenger the **Information Unit**, proven to negative, it shall, however, be stored so as to avoid future 'false' positive matches for a maximum period of three years unless the underlying data have not been deleted vet accordance with paragraph 3 at the expiry of the five vears, in which case the log shall be kept until the underlying data are deleted.

45. The result 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 and, according to Article 7 (1) the Passenger Information Units of other Member States 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 shallmay, however, be stored so as to avoid future 'false' positive matches for a maximum period of three years unlessas long as underlying data have not yet been deleted in accordance with paragraph 31—at the expiry of the five years, in which case the log shall be kept until the underlying data are deleted.

Article 10	
Penalties against air carriers and non-carrier economic operators	
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.	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.

	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.	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 confidentiality of	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		

confidentiality of processing and data security shall also apply to all processing of personal data pursuant to this Directive.	processing and data security shall also apply to all processing of personal data pursuant to this Directive	shall also apply to all processing of personal data pursuant to this Directive.		
	3. Any processing of	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. Member States shall
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.	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.	Agreed at the 2nd trilogue to take the list from the Data Protection Directive in order not to have more diverging lists.	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, tradeunion 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

- 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:
- (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;
- (d) the time limits for retention and erasure of

Concerning 3a(a) and persons to have access: In particular worries from smaller MSs that a too strict limitation will pose difficulties/be operationally unmanageable and maybe even counterproductive.

- 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:
- (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

	different categories of data. The Passenger Information Unit shall make all documentation available, on request, to the national supervisory authority.	legal grounds on which the data are transferred; (d) the time limits for retention and erasure of different categories of data.
		The Passenger Information Unit shall make all documentation available, on request, to the national supervisory authority.

3b. Member States shall ensure that the Passenger Information Unit keeps records of at least the following processing operations: collection, consultation, alteration, 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, the identity and and recipients of that data. The records shall be used solely for the purposes 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.

3b. Member States shall that ensure **Passenger Information** Unit keeps records of at following least the 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 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**

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 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.

3c. Member States shall The persons who ensure that their Passenger operate security controls, access and Information Unit appropriate analyse the PNR data, implements technical and organisational and operate the data measures and procedures to logs, shall be security ensure a high level of cleared and security trained. They shall have security appropriate to the risks represented by the a profile which processing and the nature of establishes and limits the PNR data to be the records which they are authorised to access protected. in accordance with the nature of their work, role, and legal entitlement. The records shall be kept for a period of four five 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. 3c. Member States shall ensure that their **Passenger Information** Unit implements

		propriate technical d organisational
	me	asures and
		ocedures to ensure a
		h level of security
		propriate to the risks
		presented by the
		ocessing and the
		ture of the PNR data
	to	be protected.

		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.	3d. Member States shall ensure that where a personal data breach is likely to affect-result in a high risk 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.
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	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, self-monitoring and ensuring proper data	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	

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

complain to a national data protection supervisory authority of their choice. The same information shall be made available by the Member States to the public.	particular the right to complain to a the competent national data protection supervisory authority—of their choice. The same information shall be made available by the Member States to the public.	blocking of data, and in particular the right to lodge a complaint to a national supervisory authority of their choice.	
		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.	Member States shall ensure that individuals are provided with information relating to their rights and how to exercise those rights.
6. Any transfer of PNR data by Passenger Information Units and competent authorities to private parties in Member States or in third countries shall be prohibited.	6. Any transfer of PNR data by Passenger Information Units and competent authorities to private parties in Member States or in third countries shall be prohibited.	6. Any transfer of PNR data by Passenger Information Units 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	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 <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 Directive. National	7. Without prejudice to Article 10, Member States shall adopt suitable measures to ensure the full implementation of all the provisions of this Directive and shall in particular lay down effective, proportionate and dissuasive penalties to be imposed in case of

to this Directive.	this Directive.	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.	infringements of the provisions adopted pursuant to this 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.	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	Each Member State shall provide that the national supervisory authority or authorities established in to implementation of Article 25	Each Member State shall provide that the national supervisory authority established in implementation of Article 25 of Framework	Each Member State shall provide that the national supervisory authority established in to implementation of

of Framework Decision 2008/977/JHA shall also be responsible for advising on and monitoring the application 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.	of Framework Decision 2008/977/JHA shall also be responsible for advising on and monitoring the application 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.	Decision 2008/977/JHA is responsible for advising on and monitoring the application 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 25 of Framework Decision 2008/977/JHA is responsible for advising on and monitoring the application 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	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 with a view to protect fundamental rights in relation to the processing of personal

data subject, bv any investigate the matter and inform the data subjects of the progress and the outcome of their 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

data. Each national supervisory authority shall:

- (a) hear complaints lodged by any data subject, investigate the matter and inform the data subjects of the and progress the of their outcome complaints within a reasonable time period, in particular where further investigation or coordination 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;

subject has addressed a complaint, of the outcome of the investigations within a reasonable time period;

(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.

- (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 subject data has addressed a complaint, of the outcome of the investigations within a reasonable time period;
- (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.	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 be completed electronically, without excluding other means of communication.	3. For complaints referred to in point (a) of paragraph 1 the national supervisory authority shall provide a complaint submission form, which can be completed electronically, without excluding other means of communication.

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.	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.	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.	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

Ī			national	supervisory
			authority.	

7. In the performance of	7. In the performance of
their duties, members of the	their duties, members of
national supervisory	the national supervisory
authority shall neither seek	authority shall neither
nor take instruction from	seek nor take instruction
anybody, and shall maintain	from anybody, and shall
complete independence and	maintain complete
impartiality.	independence and
	impartiality.

Article 13

Common protocols and supported data formats	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 accordance with Article 14.	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	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 governing the processing to be carried out. In the event of technical failure, the PNR	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 which provides sufficient guarantees in respect of the technical security measures and organisational measures governing the processing to be carried out. In the event of

		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.	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 for their transfers.	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 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 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 they intend to use for their transfers.	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

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 supported data formats shall be drawn up and, if need be, adjusted the Commission by mean implementing acts accordance with the proce referred to in Article 14(2)	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	conditions for the implementation of the Directive, therefore implementing acts (Article 291 TFEU) is the appropriate type of acts. The essential elements and the conditions	1
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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.	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	5. Each Member State shall ensure that the necessary	•	5. Each Member State shall ensure that the
necessary technical measures are adopted to be able to use the common protocols and	technical measures are adopted to be able to use the common		necessary technical measures are adopted to be able to use the
data formats within one year from the date the common	protocols and data formats within one year from the	1	common protocols and data formats within one
protocols and supported data formats are adopted.	date the common protocols and supported data formats are adopted referred to in	supported data formats are adopted.	year from the date—referred to in paragraph 2.
	paragraph 2.		

	Article 14					
Committee procedure	Committee procedure	Delegated Acts		Committee procedure		
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.	committee within the meaning of Regulation—(EU) No.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	The list of accepted common protocols and supported data formats concerns the uniform conditions for the implementation of the Directive, therefore implementing acts (Article 291 TFEU) is the appropriate type of acts.			

			I	
2. Where reference is	2. Where reference is	2. The power to adopt		
made to this paragraph,	made to this paragraph, Article	delegated acts referred to in		
Article 4 of Regulation	4 <u>5</u> of Regulation	Article 13(3) shall be		
[/2011/EU] of 16 February	[/ 2011/ EU] of 16	conferred on the		
2011 shall apply.	February No. 182/2011 shall	Commission for a period of		
	apply.	[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		

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 or 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.		
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	affect the validity of any delegated acts already in	
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	delegated act, the Commission shall notify it simultaneously to the European Parliament and to	
	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	

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 period, the European

Parliament and the Council	
have both informed the	
Commission that they will	
not object. That period shall	
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

CHAPTER V FINAL PROVISIONS

Article 15

Transposition	Transposition	Transposition		Transposition
1. Member States shall	1. Member States shall	1. Member States shall	Consistent with practice	1. Member States shall
bring into force the laws,	bring into force the laws,	bring into force the laws,	regarding Directives;	bring into force the laws,
regulations and	regulations and administrative	regulations and	horizontal position of the	regulations and
administrative provisions	provisions necessary to	administrative provisions	Council.	administrative provisions
necessary to comply with	comply with	necessary to comply with		necessary to comply with
this Directive at the latest	this Directive at the latest two	this Directive at the latest two		this Directive at the latest
two years after the entry into	years 36 months after the entry	years after the entry into force		two years after the entry
force of this Directive. They	into force of this Directive.	of this Directive. They shall		into force of this
shall forthwith communicate	They shall forthwith	forthwith communicate to the		Directive. They shall
to the Commission the text	communicate to the	Commission the text of those		forthwith communicate
of those provisions and a	Commission the text of those	provisions and a correlation		to the Commission the
correlation table between	provisions and a correlation	table between those provisions		text of those provisions.
those provisions and this	table between those provisions	and this		
Directive.	and this	Directive.		When Member States
When Member States adopt	Directive.	When Member States adopt		adopt those provisions,
those provisions, they shall	When Member States adopt	those provisions, they shall		they shall contain a
contain a reference to this	those provisions, they shall	contain a reference to this		reference to this
Directive or be accompanied	contain a reference to this			Directive or be
by such a reference on the	Directive or be	Directive or be		accompanied by such a

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.	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.	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.	reference on the occar of their official publication. Member States shall determin how such reference i be made. 2. Member States communicate to Commission the text the main provision national law which adopt in the field cor by this Directive.	shall the ext of a they
		Article 16		
Transitional provisions	Transitional provisions	Transitional provisions	Transitional provis	sions
Upon the date referred to in Article 15(1), i.e. two years after the entry into force of this Directive, Member States shall ensure that the PNR data of at least 30% of all flights referred to in Article 6(1) are collected. Until two years after the date referred to in Article 15, Member States shall ensure that the PNR data from at least 60% of all flights referred to in Article 6(1) are collected. Member States shall ensure that from four years after the date referred	Upon the date referred to in Article 15(1), i.e. two years after the entry into force of this Directive, Member States shall ensure that the PNR data of at least 30% of all flights referred to in Article 6(1) are collected. Until two years after the date referred to in Article 15, Member States shall ensure that the PNR data from at least 60% of all flights referred to in Article 6(1) are collected. Member States shall ensure that from four years after the date referred to in Article 15, the PNR data from	Upon the date referred to in Article 15(1), i.e. two years after the entry into force of this Directive, Member States shall ensure that the PNR data of at least 30% of all flights referred to in Article 6(1) are collected. Until two years after the date referred to in Article 15, Member States shall ensure that the PNR data from at least 60% of all flights referred to in Article 6(1) are collected. Member States shall ensure that from four years after the date referred to in Article 15, the PNR data from all flights	Upon the date referring Article 15(1), i.e. years after the entry force of this Direct Member States ensure that the PNR of at least 30% of flights referred to Article 6(1) are collected until two years after date referred to in A 15, Member States ensure that the PNR from at least 60 % of flights referred to Article 6(1) are collected until two years after dates are referred to in A 15, Member States ensure that the PNR from at least 60 % of flights referred to Article 6(1) are collected until two years after dates.	e. two y into ective, shall R data of all co in ected. er the Article shall R data of all co in ected.
to in Article 15, the PNR data from all flights referred	all flights referred to in Article 6(1) are collected.	referred to in Article 6(1) are collected.	ensure that from years after the	

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 after the date vears 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.

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 than air carriers in the scope of this Directive, taking into account the experience gained by Member States, especially

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.

European Parliament and to the Council.

conducting review, the Commission shall pav special attention to compliance with the standards of protection of personal data, the necessity and proportionality of the collection processing of PNR data for each of the stated purposes, as well as its compliance with the European Court of Justice ruling on the Retention Data Directive, including the length of the data retention period and the of quality 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 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.

pursuant to Article 18.

The report submitted shall also include a review on the feasibility and necessity, proportionality, and effectiveness of the collection and transfer of including all or selected intra-EU flights in the scope of this Directive, *including the* possibility of the collection of intra-EU *flights* 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.

[After consulting the relevant Union agencies, the Commission shall, by ...* [four years after the entry into force of this Directive], submit an initial evaluation report to the European Parliament and to the

		Council].	
3. If appropriate, in ligh	<u>t</u>	3. If appropr	riate, in
of the review referred to in		light of the	review
paragraph 2, the Commission		referred to in pa	ragraph
shall make a legislative		2, the Commission	on shall
proposal to the European		make a leg	gislative
Parliament and the Council		proposal to the Eu	uropean
with a view to amending this		Parliament and	d the
Directive.		Council with a v	view to
		amending this Dire	ective.

Article 18						
Statistical 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 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.	Statistical data 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.	Redundant paragraph 2	in view	of	1. Member States shall prepare a set of statistical information on PNR data provided to the Passenger Information Units. These statistics shall not contain any personal data.
2. These statistics shall not contain any personal data. They shall be transmitted to the Commission on a yearly basis.	2. 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 data were collected and	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.				2. The statistics shall as a minimum cover (a) total number of passengers whose PNR data were collected and exchanged; (b) number of passengers identified for further scrutiny;

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.	and (c) 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).	3. On a yearly basis, the Commission shall provide the Council and the European Parliament with cumulative statistics referred to in Article 18(1).

Article 19				
Relationship to other instruments	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.		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.	Art. also contained in DS 1576/15: This Directive provides specific rules relating to the processing of personal data that either falls within the scope of the FD (exchanges between MSs) or to which the FD is made applicable (national processing). Thus, this Directive affects the FD. We suggest, instead, to clarify that Directive 95/46 remains applicable.	1a. This Directive is without prejudice to the applicability of Directive 95/46 to the processing of personal data by air carriers.

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.	without prejudice to any obligations and commitments of Member States or of the Union by	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.	without prejudice to any obligations and
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Proposal for a revised list of offences

GA / ANNEX II

- 1. participation in a criminal organisation,
- 2. trafficking in human beings,*
- 3. sexual exploitation of children and child pornography,
- 4. illicit trafficking in narcotic drugs and psychotropic substances,*
- 5. illicit trafficking in weapons, munitions and explosives,*
- 6. fraud, including that against the financial interests of the EU,*
- 7. laundering of the proceeds of crime,* money laundering and counterfeiting of currency, including the euro*
- 8. computer-related crime / cybercrime*
- 9. environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,*
- 10. facilitation of unauthorised entry and residence,* ? is this immigration related or those persons banned under risk to national / public security?

murder, grievous bodily injury*

- 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,*

counterfeiting and piracy of products,*

- 15. forgery of administrative documents and trafficking therein,* Is this covered by 2?
- 16. illicit trafficking in hormonal substances and other growth promoters,* Is this not covered by trafficking in narcotics and psychotropic substances?
- 17. illicit trafficking in nuclear or radioactive materials,*

rape

crimes within the jurisdiction of the International Criminal Court,

- 18. unlawful seizure of aircraft/ships,*
- 19. sabotage,*
- 20: trafficking in stolen vehicles,* and industrial espionage.
- * = Europol mandate