

Summary of policy options analysed in Commission Impact Assessment

Using PNR for other purposes

Options addressing the purpose limitation of the proposed measures also adhered to the possibility of using PNR data not just for the prevention, detection, investigation and prosecution of terrorist offences and other serious crime, but also for *other purposes*, such as immigration control, aviation security and health safety. Although it was felt that this would increase security within the EU, it was concluded that there is currently no need to use PNR for these purposes, that it could not be justified as necessary and that it would lead to a substantial increase in costs for public authorities and was to be deemed to be “disproportionate at this stage”.^[1]

Other modes of transport

The collection of PNR data from air, sea and rail travel was considered. This would be desirable as it would lead to all (other than road) border crossings being covered and would thus limit the possibility of security gaps and increase the security in the EU. It was noted that this would entail the collection and processing of more data as such data is not currently collected by rail and sea carriers and thus the cost on public authorities would be substantially increased. The reason for rejecting this option was thus partially pragmatic. It was acknowledged that the option of extending the proposal to include more modes of transport would involve greater interference with data protection and increased costs for public authorities. In addition, it fails to encourage a global approach as it would go further than the policy of the EU on PNR agreements with third countries. The Commission do state that an extension to sea and rail travel:

“could be considered in the future, once we will have learned from the experiences with PNR collection from air travel.”^[2]

Proposed Option

On the proposed policy option, it is noted that:

“the option is not believed to present the ultimate solution to the problem, but at the current stage, it is the most desirable solution. It is a good starting point and will help towards gathering experience in this field.”^[3]

It is indicated that the purpose of any future measure should be not be extended to “other purposes” and should be limited to the prevention etc. of terrorist offences and serious crime. Again, the Commission reiterates that “as a first step”, the proposal is limited to air carriers.^[4] However, the current proposal (Recital 18) for the Directive “does not affect the possibility for MS to provide under their domestic law, for a system of collection and handling of PNR data for purposes other than those specified in this Directive, regarding internal flights subject to compliance with relevant data protection provisions,

¹ Commission Staff Working Paper, Impact Assessment on Proposal for a PNR Directive, <http://www.statewatch.org/news/2011/feb/eu-com-eu-pnr-ia-sec-132-11.pdf>

² See n. 1 at 36

³ See n. 1 at 38

⁴ See n. 1 at 38

provided that such domestic law respects the Union acquis.”^[5] Again the proposal goes on to state (Recital 18) that the collection of PNR data on internal flights will be considered at a future date.

The operation of the Directive is to be addressed within four years of its entry into force and the Commission are to consider the possibility of “extending the measure to internal EU flights within two years from its entry into force.”^[6]

⁵ Commission Proposal for a PNR Directive, 18: <http://www.statewatch.org/news/2011/feb/eu-com-eu-pnr-com-32-11.pdf>

⁶ See n. 1 at 41