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NOTE

From:	Presidency
To:	Working Party on Information Exchange and Data Protection (DAPIX)
No. prev. doc.:	10597/19; 11433/19
Subject:	Widening the scope of passenger name record (PNR) data legislation to transport forms other than air traffic - An impact assessment - Draft Council Conclusions

On initiative of the Presidency, DAPIX discussed the issue of using passenger name record (PNR) data in the fight against terrorism and serious crime. The objective was to explore to what extent Member States would support the widening of the scope of the EU PNR Directive to transportation forms other than air traffic.

DAPIX extensively dealt with the issue on the basis of Presidency papers 10597/19 and 11433/19. Subsequently, the Presidency drafted Council Conclusions that reflect the outcome of these discussions.

Delegations find in annex the draft Council Conclusions on widening the scope of EU PNR legislation on the use of passenger name record (PNR) data.

Delegations are invited to agree on the draft Conclusions with a view to submit the draft to COREPER / Council for adoption at one of their forthcoming meetings.

Draft

Council Conclusions

of ...

on

**Widening the scope of the use of passenger name record (PNR) data
to transport forms other than air traffic**

THE COUNCIL OF THE EUROPEAN UNION,

RECALLS that the PNR Directive¹, applies to PNR data on air traffic and does not cover any other transportation form. PNR may contain different types of data, such as travel dates, travel itinerary, ticket information, contact details, travel agent through which the flight was booked, means of payment used, seat number and baggage information. Air carriers are required to transfer the registered data for all passengers on extra EU flights and Member States can decide to apply the same obligation to intra EU flights,

ACKNOWLEDGES that traffic volumes from both within and outside the Schengen area are increasing. Besides air traffic, also ferry, ship, boat, train and bus traffic carry large numbers of passengers on a daily basis across the borders,

NOTES that gathering and analyzing PNR data is deemed important for combating terrorism and serious crime. Through handling and analyzing PNR data, law enforcement authorities' actions and resources are directed more efficiently and in a targeted way,

¹ Directive (EU) 2016/681 of the European Parliament and of the Council on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, OJ L 119/132, 4.5.2016.

TAKES NOTE that in some Member States, PNR data is already collected from other transportation forms than air traffic. However, the handling and use of PNR data for these transportation forms is not regulated at EU level,

TAKES NOTE of the Presidency initiative to launch discussions in DAPIX about widening the scope of the EU PNR legislation to other transport forms than air traffic,

REMINDS the outcome of these discussions², where some Member States welcomed the Presidency initiative and acknowledged the potential added value for preventing, detecting, investigating and prosecuting terrorist offences and serious crime,

REMINDS the concerns voiced by delegations about the timing and likely legal, technical and financial challenges and their suggestion to carry out a thorough impact assessment, which should take into account the outcome of the PNR review in 2020 provided for by the Directive, and therefore,

CALLS FOR a thorough impact assessment conducted by the European Commission on widening the scope of PNR Directive to other travelling forms than air traffic subsequent to the PNR review,

EMPHASISES that in making the impact assessment, it is important to closely study the legal, operational, technical and other challenges and, especially including:

- the travel forms to be included,
- the impact on data protection and other fundamental rights,
- the extent to which operators dealing with other means of transportation already collect PNR data in the normal course of business, and the impact of additional mandatory processing of their business data,

² 11433/19

- the impact on widely used travel options with flexible tickets not bound to a specific person or a specific connection,
- the lack of common protocols and data formats,
- the compliance with the principles of proportionality and necessity,
- the different needs in Member States due to their geographical situation,
- the costs for both public and private sector,

CONCLUDES that the aim is not to have a legislative proposal for the near future, but to explore the necessity and feasibility of the collection, storage and processing of PNR data from other transportation forms than air traffic.
