

EU Directive on Passenger Name Records

This statement was given to the House of Commons by the minister for immigration on Tuesday 10 May 2011.

'With permission, Mr Speaker, I would like to make a statement on the draft EU Directive on Passenger Name Records - PNR - and the government's decision to opt into that draft Directive. My appearance today fulfils a commitment I made to the European Scrutiny Committee. Mr Speaker, global travel brings with it countless benefits – economic, cultural and social.

There is no doubt that our more inter-connected world is a better world. But greater freedom of movement also provides opportunities for those who wish to do us harm. We know that terrorists have long had an interest in aviation related attacks. We know too that serious criminals, people traffickers and drug smugglers have exploited easy international forms of travel to carry out their crimes. Very often, they plan and execute their crimes in meticulous detail, using intricate ruses to escape detection and capture. In response, governments around the world are increasingly exercising greater vigilance to keep their citizens safe. Passenger Name Records – that is, passenger data collected by air carriers as part of the operation of their business – is a vital and proven tool in the fight against terrorism and other serious crimes.

PNR helps our law enforcement agencies to prevent, detect, investigate and prosecute terrorists and other serious criminals. Its power lies in the fact that by using an automated system and interrogating it intelligently, we are able to sift data quickly and in such a way that it reveals patterns and makes links that would otherwise not be readily apparent.

For example, the case of David Headley, the terrorist facilitator convicted in the US of involvement in the Mumbai attacks shows the benefits of PNR. All that was available to investigators initially was the first name 'David', a vague travel window of 'the next few weeks' and the partial travel itinerary of a flight from the United States to Germany. The US used this PNR data in association with other known flight information to identify the suspect before he could travel. Headley was later arrested and pleaded guilty to terrorism-related crimes.

PNR data, therefore, has a proven capability to protect our citizens from harm. Along with Advance Passenger Information (API), PNR is a crucial element of the UK's e-Borders system. Since 2005, e-Borders has led to over 1,500 people being refused entry and over 8,700 arrests, including 57 for murder, 175 for rape/sexual assault, 25 for kidnapping, 441 for fraud, 397 for drugs offences and 920 for violence. This is why we committed to supporting e-Borders in our coalition agreement. Critical to our decision of opting-in to the Directive was the aim of securing an ability to mandate the collection of PNR data on flights between two EU member states - for the full usefulness of the system to be realised. I am pleased to say the Coalition

Government made significant progress on this ahead of the opt-in deadline and that the Council has given a clear political signal that it favours collection of data on intra-EU flights following a UK amendment to that effect.

The Home Secretary pressed the argument for it at the April Justice and Home Affairs council meeting, which has been reported to the House via letters to the Chairs of both scrutiny committees. At the Council, 15 Member States supported the UK's position to include intra-EU data collection. So, while we have reservations about some aspects of the Directive that will need to be resolved in due course, we can enter into negotiations from a position of strength, knowing that we have the support of a majority of other Member States on this key issue for the UK.

Indeed, the official Outcome of Proceedings of 11 April JHA Council states that 'the preparatory work on the draft PNR Directive will continue... on the basis of the indication by the Council that the Directive should allow individual Member States the option to mandate the collection of PNR data with regard to targeted intra-EU flights.'

The draft Directive as it stands is not perfect, but it is right that we work with our European partners to get a Directive that best serves Britain's interests. Initial Parliamentary scrutiny of the Directive has already taken place, but will continue as the negotiations progress. Debates have been held in both Houses. The Lords strongly recommended that we opt into the Directive and the Commons were supportive of the government's negotiating position.

Whilst we have domestic legislation to underpin the collection of PNR data, the Directive will provide an unequivocal legal framework at EU level for the collection and sharing of PNR data.

I know, however, that some honourable Members do have concerns about the PNR Directive. I want to address those concerns here today. Let me address the two basic issues of why using PNR is both necessary and proportionate. I set out earlier how PNR data has been used to target suspected terrorists. The application of this data also has wider benefits in tackling serious organised crime. For example, in 2009, working with our Italian colleagues, we used PNR data to identify Chinese passengers attempting to travel to London from Italy in a human trafficking operation. This led to the conviction in the Italian courts of several traffickers in January 2010. Modern criminality requires modern methods to seek out and shut down criminal activity. We cannot just focus on solving crimes after they have happened. Instead we must use the tools available to prevent them happening in the first place.

Our commitment to a proportionate approach is made clear by our proposal to collect data only on routes of high risk, whether these are between a third country and a Member State or between Member States. Our starting position therefore is about reducing the amount of data collected rather than imposing blanket coverage on all routes from outside the EU as the Directive currently proposes.

A further benefit of our approach is that it should help make costs manageable – both in terms of data transmission by carriers, and management and maintenance of the system by the Member State. We will want to see stringent data protection requirements, overseen by independent information commissioners, so that people's rights over their personal data are protected. We will also work to

ensure that the Directive only allows data to be retained for as long as is necessary and proportionate to the task in hand.

Third, some honourable Members will have concerns about sovereignty. Let me be clear - this Directive is not about handing over responsibility to a European institution. Rather, it is about Member States collecting and processing PNR data on travel under an agreed legal framework to help protect citizens from harm. The draft proposals are based on each Member State collecting and analysing the data and we will vigorously stand by that way of operating. Indeed, the current Directive would not allow for the creation of an EU-wide database. We must recognise that criminals are no respecters of national boundaries – they will exploit any perceived gaps or weaknesses within the EU. Therefore it is our collective responsibility to ensure that we close loopholes wherever and whenever we can.

Finally, carriers will not be required to collect any more data than they already collect as part of an ordinary business transaction. Set up costs will be borne by Member States, with assistance from the EU. Transmission costs will be borne by the carrier and have been estimated by the Commission as less than eight pence per passenger per flight – a small price to pay for increased safety and security.

Mr Speaker, opting in to this Directive is good for our safety, good for our security and good for our citizens. It is necessary and right. Opting in to this Directive will make Britain safer.

I commend this statement to this House.'