

Brussels, 13 JUL. 2011
C/2011/ 4902

Dear Mr. Westerberg,

The Commission would like to thank the Swedish Riksdag for its opinion regarding the Communication from the European Commission on the global approach to transfers of Passenger Name Record (PNR) data to third countries {COM(2010)492 final}.

The Commission agrees that it is essential to ensure that access to PNR data is allowed in order to combat serious crime, including terrorism, whilst fully respecting fundamental rights, in particular the right to the protection of personal data and right to privacy. The Commission also welcomes the Riksdag's view that the PNR strategy provides a good framework to drive these efforts forward and is in line with the principle of subsidiarity.

With regard to the principles laid down in the strategy itself, the Commission notes the attention drawn by the Riksdag to issues related to the purpose of PNR agreements, the information to be transferred, the data retention periods, onward transfers, the need to monitor the correct application of the agreement including joint reviews, as well as informing the Council and the European Parliament of the outcome of such reviews.

On the purpose for which PNR data may be used and which information may be transferred, the Commission agrees that this is a key element of any PNR agreement. The EU thus strives for a formulation of the purpose which should be as clearly and precisely defined as possible, in line with the principle of purpose limitation. The information to be transferred, e.g. the PNR data categories, is listed in an annex to a PNR agreement so as to make clear which data can be transferred. This is important for air carriers, allowing them to understand the scope of the obligation placed on them, whilst at the same time providing clarity to passengers on which information can be made available.

On the length of the data retention period, the Commission would like to stress that when looking at the overall period during which the data may be stored, particular attention should be paid to the conditions under which such storage takes place. The Commission agrees with the Riksdag that the retention period should be linked to the reasons for which the data are transmitted.

On onward transfers to other authorities and to third countries, the Commission shares the Riksdag's view that this is an issue of great importance. Such transfers therefore are subject to specific conditions. For example, the sharing of PNR data by means of onward transfers may be allowed if it takes place on a case-by-case basis and if the receiving country respects the guarantees laid down in the PNR agreement. This ensures consistent treatment of the data, even if that country is not a party to the agreement.

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On the monitoring of the correct implementation of PNR agreements and in particular the joint reviews, the Commission shares the view of the Riksdag. Hitherto, three such reviews have been conducted by the Commission, and in all three instances the Council and the European Parliament have received the full joint review report.

I hope that these clarifications address the issues raised in your opinion.

Yours sincerely,