

Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

## CHAPTER II

### ***Responsibilities of the Member States***

#### *Article 11*

#### **Transfer of data to third countries**

1 A Member State may transfer PNR data and the result of processing such data that are stored by the PIU in accordance with Article 12 to a third country, only on a case-by-case basis and if:

- a the conditions laid down in Article 13 of Framework Decision 2008/977/JHA are met;
- b the transfer is necessary for the purposes of this Directive referred to in Article 1(2);
- c the third country agrees to transfer the data to another third country only where it is strictly necessary for the purposes of this Directive referred to in Article 1(2) and only with the express authorisation of that Member State; and
- d the same conditions as those laid down in Article 9(2) are met.

2 Notwithstanding Article 13(2) of Framework Decision 2008/977/JHA, transfers of PNR data without prior consent of the Member State from which the data were obtained shall be permitted in exceptional circumstances and only if:

- a such transfers are essential to respond to a specific and actual threat related to terrorist offences or serious crime in a Member State or a third country, and
- b 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 *ex-post* verification.

3 Member States shall transfer PNR data to the competent authorities of third countries only under conditions consistent with this Directive and only upon ascertaining that the use the recipients intend to make of the PNR data is consistent with those conditions and safeguards.

4 The data protection officer of the PIU of the Member State that has transferred the PNR data shall be informed each time the Member State transfers PNR data pursuant to this Article.