

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 13

Protection of personal data

1 Each Member State shall provide that, in respect of all processing of personal data pursuant to this Directive, every passenger shall have the same right to protection of their personal data, rights of access, rectification, erasure and restriction and rights to compensation and judicial redress as laid down in Union and national law and in implementation of Articles 17, 18, 19 and 20 of Framework Decision 2008/977/JHA. Those Articles shall therefore apply.

2 Each Member State shall provide that the provisions adopted under national law in implementation of Articles 21 and 22 of Framework Decision 2008/977/JHA regarding confidentiality of processing and data security shall also apply to all processing of personal data pursuant to this Directive.

3 This Directive is without prejudice to the applicability of Directive 95/46/EC of the European Parliament and of the Council⁽¹⁾ to the processing of personal data by air carriers, in particular their obligations to take appropriate technical and organisational measures to protect the security and confidentiality of personal data.

4 Member States shall prohibit the processing of PNR data revealing a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation. In the event that PNR data revealing such information are received by the PIU, they shall be deleted immediately.

5 Member States shall ensure that the PIUs maintain documentation relating to all processing systems and procedures under their responsibility. That documentation shall contain at least:

- a the name and contact details of the organisation and personnel in the PIU entrusted with the processing of the PNR data and the different levels of access authorisation;
- b the requests made by competent authorities and PIUs of other Member States;
- c all requests for and transfers of PNR data to a third country.

The PIU shall make all documentation available, upon request, to the national supervisory authority.

6 Member States shall ensure that the PIU keeps records of at least the following processing operations: collection, consultation, disclosure and erasure. The records of consultation and disclosure shall show, in particular, the purpose, date and time of such operations and, as far as possible, the identity of the person who consulted or disclosed the PNR data and the identity of recipients of those data. The records shall be used solely for the purposes of verification, of self-monitoring, of ensuring data integrity and data security or of auditing. The PIU shall make the records available, upon request, to the national supervisory authority.

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Those records shall be kept for a period of five years.

7 Member States shall ensure that their PIU implements appropriate technical and organisational measures and procedures to ensure a high level of security appropriate to the risks represented by the processing and the nature of the PNR data.

8 Member States shall ensure that where a personal data breach is likely to result in a high risk for the protection of the personal data or affect the privacy of the data subject adversely, the PIU shall communicate that breach to the data subject and to the national supervisory authority without undue delay.

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- (1) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([OJ L 281, 23.11.1995, p. 31](#)).