

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 8

Obligations on air carriers regarding transfers of data

1 Member States shall adopt the necessary measures to ensure that air carriers transfer, by the ‘push method’, the PNR data listed in Annex I, to the extent that they have already collected such data in the normal course of their business, to the database of the PIU of the Member State on the territory of which the flight will land or from the territory of which the flight will depart. Where the flight is code-shared between one or more air carriers the obligation to transfer the PNR data of all passengers on the flight shall be on the air carrier that operates the flight. Where an extra-EU flight has one or more stop-overs at airports of the Member States, air carriers shall transfer the PNR data of all passengers to the PIUs of all the Member States concerned. This also applies where an intra-EU flight has one or more stopovers at the airports of different Member States, but only in relation to Member States which are collecting PNR data from intra-EU flights.

2 In the event that the air carriers have collected any advance passenger information (API) data listed under item 18 of Annex I but do not retain those data by the same technical means as for other PNR data, Member States shall adopt the necessary measures to ensure that air carriers also transfer, by the ‘push method’, those data to the PIU of the Member States referred to in paragraph 1. In the event of such a transfer, all the provisions of this Directive shall apply in relation to those API data.

3 Air carriers shall transfer PNR data by electronic means using the common protocols and supported data formats to be adopted in accordance with the examination procedure referred to in Article 17(2) or, in the event of technical failure, by any other appropriate means ensuring an appropriate level of data security:

- a 24 to 48 hours before the scheduled flight departure time; and
- b immediately after flight closure, that is once the passengers have boarded the aircraft in preparation for departure and it is no longer possible for passengers to board or leave.

4 Member States shall permit air carriers to limit the transfer referred to in point (b) of paragraph 3 to updates of the transfers referred to in point (a) of that paragraph.

5 Where access to PNR data is necessary to respond to a specific and actual threat related to terrorist offences or serious crime, air carriers shall, on a case by case basis, transfer PNR data at other points in time than those mentioned in paragraph 3, upon request from a PIU in accordance with national law.