

**ARTICLE 29 Data Protection Working Party  
Working Party on Police and Justice**



Brussels, 19 December 2007

Minister of Justice  
Dr. Alberto Costa  
Cabinet of the Minister  
Praça Do Comercio  
1149-019 LISBOA  
Portugal

**Re: Proposal for a Council Framework Decision on the use of Passenger Name Record (PNR) for law enforcement purposes. (Com (2007) 654 final)**

**Joint Opinion of the Article 29 Working Party and of the Working Party on Police and Justice**

Dear Minister Dr. Costa,

It is our pleasure to inform you that both the Article 29 Working Party and the Working Party on Police and Justice have jointly adopted an Opinion on the Proposal for a Council Framework Decision on the use of Passenger Name Record (PNR) for law enforcement purposes (Com (2007) 654 final) which was presented by the Commission on November 6, 2007. The Working Paper WP 145/ WPPJ 01/07 adopted on December 5 and December 18, 2007 respectively, is enclosed for your perusal.

The European data protection authorities consider that various aspects of the draft framework Decision are not in line with consolidated data protection principles. In particular, the proposal falls short of the conditions required for imposing limitations on fundamental human rights in pursuance of Art. 8 of the European Human Rights Convention given that no pressing need for such a far reaching measure could be substantiated. The draft instrument would lay down obligations in addition to those already imposed on airlines by Directive

This Working Party was set up under Article 29 of Directive 95/46/EC. It is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC.

The secretariat is provided by Directorate C (Civil Justice, Rights and Citizenship) of the European Commission, Directorate General Justice, Freedom and Security, B-1049 Brussels, Belgium, Office No LX-46 01/43.

Website: [http://ec.europa.eu/justice\\_home/fsj/privacy/index\\_en.htm](http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm)

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2004/82 (API Directive) and such obligations do not appear to be adequately grounded in terms of their necessity and proportionality. In this connection, it should be recalled that to date no thorough information is available on the proper transposition of that Directive by EU Member States and any experience as to its effectiveness is missing.

For the said reasons the European data protection authorities are of the view that prior to the final adoption of the proposal an in-depth discussion is indispensable and should include all stakeholders such as the air carriers, the reservation systems and the European Parliament. The data protection authorities reiterate their willingness to contribute to improving the text of the draft decision. When introducing additional security measures, it should be ensured that they can achieve their objective by limiting air travellers' fundamental rights only to the extent this is necessary and unavoidable. It seems that the current draft fails to strike the right balance between security demands and fundamental rights.

The European data protection authorities follow the developments in this sector with keen interest and might want to review their opinion in future to take due account of those developments.

Yours sincerely,

Peter Schaar  
Chairman of the Art. 29 WP

Francesco Pizzetti  
Chairman of the WPPJ

Enclosure: -1-

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Copies of this letter have been sent to the Vice President, Mr. Frattini, the President of the European Parliament, and the President of the LIBE Committee