

# EU/USA agreement: processing and transfer of passenger name record (PNR) data by air carriers (2007 PNR agreement)

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**PURPOSE:** to conclude the Agreement between the EU and the USA on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the United States Department of Homeland Security (DHS) (2007 PNR agreement).

**PROPOSED ACT:** Council Decision.

**BACKGROUND:** the Justice and Home Affairs Council of 23 July 2007 authorised the Presidency of the Council of the European Union to sign an agreement between the EU and the USA on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the US Department of Homeland Security (DHS). The Agreement was signed by the EU on 23 July 2007 and by the USA on 26 July 2007 and is applied provisionally as from 26 July 2007. The purpose of the Agreement is to ensure the exchange of European passenger information, known as Passenger Name Record or PNR data with the US Department of Homeland Security pursuant to which its services assess the risk a passenger may pose to American security.

**CONTENT:** the aim of the agreement is to provide a legal basis for the exchange of information relevant for law enforcement and judicial authorities between the EU and the US for the fight against terrorism and related transnational crime, including organised crime, in this case PNR data, thereby providing legal certainty for airlines, passengers and data protection authorities, whilst ensuring the protection of citizens' privacy as well as their physical security. In addition an EU agreement enables to apply this approach homogeneously throughout the EU in order to ensure respect for individuals' right to privacy and to avoid distortion of competition between airlines.

**Respecting Fundamental Rights:** the Agreement aims to prevent and combat terrorism while respecting fundamental rights, and notably the protection of personal data. It aims to ensure full respect for fundamental rights enshrined in Article 6 of the Treaty on European Union and for the principles of proportionality and necessity regarding the right to respect for private and family life and the protection of personal data as set out in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.

**Territorial application:** the UK and Ireland will take part in the adoption of the Decision. Denmark will not be bound by the Agreement.

It should be noted that in accordance with Article 218(6)(a) of the Treaty on the Functioning of the European Union, it is provided that in the case of agreements covering fields to which the ordinary legislative procedure applies, the Council shall adopt a decision concluding the agreement, **after obtaining the consent of the European Parliament.**