

EU/Canada Agreement: transfer and processing of passenger name record (PNR) data

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PURPOSE: to conclude, on behalf of the European Union, an agreement between Canada and the European Union on the transfer and processing of Passenger Name Record (PNR) data.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: Canadian legislation requires air carriers operating passenger flights to Canada to provide the Canada Border Services Agency (CBSA) with PNR data, prior to the passenger arrival to Canada to the extent such data is collected and contained in the air carriers' automated reservation and departure control systems in the normal course of their business. This legislation aims to significantly enhance CBSA's ability to conduct efficient and effective advance travel risk assessment of passengers and to facilitate bona fide travel, thereby enhancing the security of Canada in the fight against terrorism and other serious transnational crime.

The EU cooperates with Canada in the fight against terrorism and other serious transnational crime and considers the transfer of PNR data to Canada as a means to foster international law enforcement cooperation.

The EU and Canada opened new negotiations with the purpose of signing a new PNR Agreement in a manner which respects fundamental rights and the right to data protection and respect for private life.

CONTENT: under this proposal, the Commission proposes to the Council to adopt a decision approving the conclusion of the Agreement between Canada and the European Union on the transfer and processing of Passenger Name Record data.

The proposal has two main aims and components, one relating to the necessity of ensuring public security by means of the transfer of PNR data to Canada and the other to the protection of privacy and other fundamental rights and freedoms of individuals.

The specific provisions of the Agreement are as follows:

- the purposes for which PNR data are processed are spelt out clearly and precisely;
- the processing of sensitive data by Canada is prohibited under the Agreement and should Canada receive such data as part of PNR data under the Agreement, deletion is required;
- oversight of Canada's compliance with these rules shall be exercised by independent public authorities;
- individuals are notified of the use of their PNR;
- individuals may access (only) their own PNR data and are provided with the right to correction, redress and information;

- automated processing of PNR data will be based only on non-discriminatory and reliable criteria;
- the maximum retention period of five years will be combined with a requirement to delete the data after passengers' date of departure, unless a risk assessment indicates that there is a connection based on objective elements from which it may be inferred that the PNR data might make an effective contribution to address the purposes of the Agreement, in addition to the requirement for Canada to review its assessment every two years;
- any use of PNR data for other purposes than security and border control checks will be subject to prior review by a court or an independent authority;
- the onward transfers of PNR data to other government authorities will be subject to appropriate safeguards and, in case of disclosure outside Canada, limited to countries which have concluded a comparable Agreement with the EU or are subject to an adequacy decision of the Commission.