

Combating illegal immigration: obligation of carriers to communicate passenger data.

Initiative Spain

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PURPOSE : to present the Spanish initiative with a view to adopting a Council Directive on the obligation of carriers to communicate passenger data. **CONTENT :** in order to combat illegal immigration effectively, it is essential that all Member States introduce provisions laying down obligations of carriers transporting third country nationals into the territory of the Member States. In addition, in order to ensure the greater effectiveness of this objective, the financial penalties currently provided for by the Member States for cases where carriers fail to meet their obligations should be harmonised to the extent possible, taking into account the differences in legal systems and practices between the Member States. This measure forms part of the general provisions aimed at curbing migratory flows and combating illegal immigration. The freedom of the Member States to retain or introduce additional measures or penalties for carriers, whether referred to in this Directive or not, should not be affected. Member States should ensure that in any proceedings brought against carriers which may result in the application of penalties, the rights of defence and the right of appeal against such decisions can be exercised effectively. The idea is to force carriers to transmit a series of information to the authorities responsible for carrying out border checks. This information shall concern in particular : a) at the time of boarding, information concerning the people they are preparing to carry; b) information on foreign nationals carried by them to the territory of the Member States and who, on the date stipulated on the travel ticket, have not returned to their country of origin or have not continued their journey to a third country. This information must be transmitted at the latest within 48 hours of the date stipulated for the return journey or for continuing the journey to a third country. The information shall comprise the number of the passport or travel document used, nationality, first name and family name and the date and place of birth. As regards the sanctions, it is stated that Member States shall take the necessary measures to ensure that the sanctions applicable to carriers are dissuasive, effective and proportionate and that either: - the maximum amount of such sanctions is not less than EUR 5.000, or - the minimum amount of such sanctions is not less than EUR 3.000. Member States may adopt or retain, for carriers which do not comply with the obligations arising from the provisions of this Directive, other sanctions, such as immobilisation, seizure and confiscation of the means of transport, or temporary suspension or withdrawal of the operating licence. Member States shall ensure that their laws, regulations and administrative provisions stipulate that carriers against which proceedings are brought with a view to imposing penalties have effective rights of defence and appeal. The personal data shall be communicated to the authorities responsible for carrying out checks on persons at external borders for the sole purpose of facilitating the performance of such checks. After the border checks on passengers have been completed, Member States shall delete the data transmitted.