

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

Initiative Spain

2003/0809(CNS) - 29/04/2004 - Final act

PURPOSE: To combat illegal immigration by obliging air carriers to transmit data on passengers to competent authorities.

LEGISLATIVE ACT: Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data.

CONTENT: The purpose of this Directive is to improve border controls and to combat illegal immigration through the transmission of advance passenger data by carriers to the competent national authorities. In order to realise this objective the following provisions have been agreed:

- For the sake of clarity and consistency terms related to the objective of the Directive have been defined. They are: carrier (in this case passenger air transport), external borders, border control, border crossing point, personal data, processing of personal data and personal data filing system. As regards the later (i.e. personal data) the definitions relate to those set out in Directive 95/46 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
- Carriers are obliged to transmit, upon a request from the competent authorities, information concerning the passengers they will carry entering the territory of a Member State. The information must be passed on by the end of check-in. The information should comprises of: the number and type of travel document, nationality, full names, date of birth, the border crossing point of entry into the territory of the Member States, code of transport, departure and arrival time of the transportation, total number of passengers carried on that transport, the initial point of embarkation.
- Carriers who fail to transmit the requested data or who pass on faulty or fake data will face sanctions. The Directive does not prevent Member States from adopting or retaining other sanctions such as immobilisation, seizure and confiscation of the means of transport or temporary suspension or the withdrawal of the operating licence.
- The data should be transferred electronically even though in cases where this is not possible any other appropriate means should be used to forward information to the appropriate authorities. The authorities responsible for carrying out checks on persons at external borders are to save the data in a temporary file. Unless needed for exercising statutory functions, the information received should be deleted by the authorities within 24 hours after transmission. Similarly, carriers are obliged to delete, within 24 hours of the arrival of transportation, the personal data they have collected and transmitted to the border authorities. Member States may use the personal data collected for law enforcement purposes so long as it conforms to Directive 95/46.

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