



No to the generalised use of air passenger databases Europe should not be transformed from an area of freedom to a surveillance zone.

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AEDH has been watching, with great concern, the transformation of Europe from a haven of civil liberties to a surveillance zone. The number of initiatives drawn up to combat a vague, ill-defined terrorist threat has been multiplying in the European area. Such moves attempt to subject European and foreign citizens living or travelling in Europe to restrictions that go against the fundamental principles of the human rights protection. These include, among others, the use of biometric passports, the possibility of trading information between judicial and police authorities through the Treaty of Prüm system, and access to the Schengen Information System by other police organisations such as EUROPOL and EURODAC.

The recent decision by Member-State authorities to establish a European PNR (Passenger Name Record) processing system is the latest example of this trend. The plan put forward by the European Commission on 6 November¹ bears a striking resemblance to the PNR, also condemned by the AEDH, between the European Union and the United States of America.

The raison d'être of this initiative, as well as of a series of provisions included in the corresponding draft framework decision, stems from principles that are totally alien to European legal culture, founded as it is on the fundamental principles of human rights protection in general, and in particular, the protection of privacy and personal data:

- For the first time in the history of modern Europe, an explicitly repressive system applies to ALL citizens, not only those believed to be involved in illegal acts. Each individual is thus considered a "suspect". The draft framework decision provides for the collection and storage of mainly commercial PNR data of all passengers entering, leaving or transiting through the European area, so they can be analysed under the angle of a terrorist threat. A total of 19 personal data items will thus be collected.
- The draft framework decision runs counter to the main principles of legal personal data processing, such as the purpose limitation principle and the proportionality rule:
 - a) According to the draft, data of a commercial nature will be processed for purposes other than those for which they were collected, that is, for police investigation.
 - b) Moreover, the collected data shall be stored in police databases for a period of 5 years (active database) and, once this period has elapsed, for an additional 8 years (dormant database). It is difficult to understand why data on passengers of a specific flight, which have already been analysed prior to the said flight for security reasons, should still be of any interest whatsoever 13 years after the flight has landed!
- The draft framework decision also contains a series of provisions facilitating the exchange of such stored data between competent authorities of the different Member States, with no

¹ Proposal for a Council Framework Decision on the use of Passenger Name Records for law enforcement purposes— Presented by the European Commission on 6 November 2007 – COM (2007) 654 final - read [\(here\)](#)

legal guarantee whatsoever. It even provides for the transfer of such information to authorities of a third state, even if the decision does not explicitly require this state to provide an adequate level of personal data protection.

- Finally, the draft framework decision, which makes no reference to the 1995 directive on the protection of personal data, contains a series of provisions aimed at reassuring citizens that the protection of their personal data was definitely taken into account when the system was being elaborated. But the only information given to passengers on the use of their personal data and the purpose for which they will be analysed - and the impossibility of raising an objection - is hardly in accordance with the fundamental right of personal data protection as defined in the Charter of Fundamental Rights. Why? Because the only way a passenger can avoid having a record is to not travel! Who ever said "free movement of persons"?

AEDH is thus calling on civil society, human rights organisations, political parties, and the European Parliament, to react and oppose the adoption of this framework decision that infringes on basic individual rights, and which is out of proportion with its goal.

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Note to editors:

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