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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2025) 678 final
Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of the Agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

Delegations will find attached document COM(2025) 678 final.

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Brussels, 12.11.2025
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Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of the Agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

EXPLANATORY MEMORANDUM

The present proposal concerns the signing, on behalf of the European Union, of the Agreement with the Swiss Confederation on the transfer of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime ('the Agreement').

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Strengthening international cooperation on law enforcement, including on information sharing, is essential to address the threats posed by terrorism and serious transnational crimes. The latest Serious Organised Crime Threat Assessment (SOCTA) report published by Europol[1] illustrates the international dimension of the activities of most serious crime organisations. Additionally, its latest Terrorism Situation and Trend Report (TE-SAT)[2] stresses not only the direct links between transnational travel and the organization of terrorist activities and serious crime, but also the importance of effectively detecting, investigating and prosecuting other serious criminal offences for preventing and detecting terrorist offences.

Passenger name record (PNR) data is information provided by passengers and collected by and held in the air carriers' reservation and departure control systems for their own commercial purposes. The content of PNR data varies depending on the information given during the booking and check-in process and may include, for example, dates of travel and the complete travel itinerary of the passenger or group of passengers travelling together, contact details like address and phone number, payment information, seat number and baggage information.

The collection and analysis of PNR data can provide the authorities with important elements allowing them to detect suspicious travel patterns and identify associates of criminals and terrorists, in particular those previously unknown to law enforcement authorities. Accordingly, the processing of PNR data has become a widely used law enforcement tool, in the EU and beyond, to detect terrorism and other forms of serious crime, such as drug-related offences, human trafficking and child sexual exploitation, and to prevent such crime from being committed. It has also proven to constitute an important source of information to support the investigation and prosecution of cases where such illegal activities have been committed[3].

While crucial for combating terrorism and serious crime, the transfer of PNR data to third countries as well as the processing by their authorities constitutes an interference with the protection of individuals' rights with regard to their personal data. For this reason, it requires a legal basis under EU law and must be necessary, proportionate and subject to strict limitations and effective safeguards, as guaranteed by the Charter of Fundamental Rights of the EU, notably in its Articles 6, 7, 8, 21, 47 and 52. The achievement of these important objectives requires striking a fair balance between the legitimate objective to maintain public security and the right of everyone to enjoy the protection of their personal data and private life.

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1 Serious and Organised Crime Threat Assessment (SOCTA) | Europol

2 EU Terrorism Situation & Trend Report (TE-SAT) | Europol

3 See also Report from the Commission to the European Parliament and the Council on the review of Directive (EU) 2016/681 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime; COM(2020) 305 final (24.07.2020).

In 2016, the European Parliament and the Council of the European Union adopted Directive (EU) 2016/681 on the use of PNR data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime ('PNR Directive')[4]. This Directive regulates the transfer and processing of PNR data in the European Union and lays down important safeguards for the protection of fundamental rights, in particular the rights to privacy and the protection of personal data. In June 2022, the Court of Justice of the EU (CJEU) confirmed the validity and compliance of this Directive with the Charter of Fundamental Rights of the EU and the Union Treaties, in its Judgment in case C-817/19[5].

Switzerland and the Member States of the Union which are Contracting Parties to the Schengen Convention[6] have a shared responsibility to ensure internal security within a common area without internal border controls, including by exchanging relevant information. PNR data processing has demonstrated the potential to enhance the security of the Schengen area, by improving the prevention and detection of serious crime and terrorism at the external borders and by providing a risk-based data-driven approach for Member States to use within the Schengen area as a compensatory measure for the absence of internal border controls[7].

Switzerland informed of its plans to start operating a PNR system once the relevant national legislation will have entered into force. By then, Switzerland, would be capable to collect and process PNR data on flights landing or departing from its airports.

Under Union law, the transfer of any personal data from the Union to a third country may take place only if that country ensures a level of protection of personal data that is essentially equivalent to that guaranteed to those personal data within the Union. It should be noted that pursuant to the Schengen Association Agreement between the EU and Swiss Confederation of 1999, Switzerland is bound by the Union acts which constitute a development of the provisions of the Schengen acquis. Therefore, Switzerland is supposed to apply Directive (EU) 2016/680 in a similar manner as EU Member States. At the same time, the PNR Directive does not constitute a development of the Schengen acquis, hence Switzerland does not participate in the implementation of this legal instrument.

In these circumstances, namely in the absence of appropriate safeguards in relation to the specific processing of PNR data, that are to be established by means of a valid legal basis as required by EU law, Switzerland may not lawfully receive and process PNR data on flights operated by air carriers between the Union and Switzerland.

In light of this, on 6 September 2023, the Commission adopted a Recommendation, proposing that the Council authorises the opening of negotiations of an agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data for

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4 Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime (OJ L 119, 4.5.2016, p. 132–149),), hereinafter referred to as the 'PNR Directive' or 'Directive (EU) 2016/681'.

5 Judgment of the Court (Grand Chamber) of 21 June 2022 "Ligue des droits humains ASBL v Conseil des ministres", C-817/19, EU:C:2022:491. The judgement concerned a request for a preliminary ruling from the Cour Constitutionnelle of Belgium.

6 Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders. Official Journal L 239 , 22/09/2000 P. 0019 – 0062.

7 Communication from the Commission to the European Parliament and the Council "A strategy towards a fully functioning and resilient Schengen area", COM(2021) 277 final (02.06.2021), page 13.

preventing, detecting, investigating and prosecuting terrorist offences and serious crime.[8] In parallel, it also recommended the opening of negotiations of such agreements with the Iceland[9] and Norway.[10] On 4 March 2024, the Council provided its authorisation to open negotiations and adopted negotiating directives.[11]

The purpose of this Agreement is to bridge this security gap existing in the Schengen area and enable the transfer of PNR data from the Union to Switzerland in recognition of the necessity to use PNR data as an essential tool in the fight against terrorism and other forms of serious crime.

Negotiations with Swiss Confederation, as well as with Iceland and Norway, began on 21 March 2024. Following the finalization of negotiations and subsequent proposals by the Commission on 12 June 2025[12], the Council has already authorised the signing and conclusion of two PNR Agreements with Norway and Iceland on 22 September 2025. Negotiations between the EU and the Swiss confederation were concluded on 7 October 2025 with the initialling of the draft agreement text between lead negotiators.

The co-legislators have been informed throughout the negotiations process and consulted at all stages of the negotiations, notably by reporting to the Council's Working Party on Justice and Home Affairs Information Exchange (IXIM) and the European Parliament's Committee for Civil Liberties, Justice and Home Affairs (LIBE).

- **Consistency with existing policy provisions in the policy area**

The Commission first set out the broad lines of the EU's external PNR policy in a 2003 Communication[13] on the EU approach towards transfers of PNR data from the EU to third countries, which were reviewed in a Communication adopted in 2010[14]. There are currently three international agreements in force between the EU and third countries namely Australia[15], the United States[16] (2012) and the United Kingdom[17] (2020) which cover the transfer and processing of PNR data from the EU. After negotiations which followed up on Opinion 1/15 of the CJEU of 26 July 2017,[18] a new PNR Agreement with Canada was signed on 4 October 2024.[19]

At international level, an increasing number of third countries have started developing their capabilities to collect PNR data from air carriers. This trend is further prompted by Resolutions adopted by United Nations Security Council (in 2017 and 2019), requiring all States to develop the capability to collect and use PNR data[20], based on which Standards and Recommended

8 COM(2023) 509 final (6.9.2023)
9 COM(2023) 508 final (6.9.2023)
10 COM(2023) 507 final (6.9.2023)
11 OJ L, 2024/988.
12 COM/2025/282 final; COM/2025/279 final (12.6.2025) and COM/2025/294 final; COM/2025/295 final (12.6.2025).
13 COM(2003) 826 final (16.12.2003).
14 COM(2010) 492 final (21.09.2010).
15 OJ L 186, 14.7.2012, p. 4–16.
16 OJ L 215, 11.8.2012, p. 5–14.
17 OJ L 149, 30.4.2021, p. 710 – 735.
18 EU:C:2017:592.
19 OJ L, 2024/2891, 14.11.2024.
20 UNSCR 2396 (2017): "The Security Council: [..] 12. Decides that Member States shall develop the capability to collect, process and analyse, in furtherance of ICAO standards and recommended practices, passenger

Practices on PNR (SARPs) were adopted by the International Civil Aviation Organization (ICAO) in 2020, by means of Amendment 28 to Annex 9 to the Chicago Convention which became applicable in February 2021.[21]

The Union position, as established by Council Decision (EU) 2021/121, welcomes the ICAO SARPs on PNR as laying down ambitious safeguards on data protection and therewith allowing significant progress to be made at international level. At the same time, this Council Decision considered, by means of requiring Member States to register a difference, that the requirements resulting from Union law (including relevant case-law), are *more exacting* than certain ICAO Standards, and that transfers from the EU to third countries require a legal basis establishing clear and precise rules and safeguards in relation to the use of PNR data by competent authorities of a third country[22].

In this context, the negotiation and conclusion of this Agreement constitutes part of a broader effort of the Commission to pursue a consistent and effective approach regarding the transfer of PNR data to third countries, as announced in the Security Union Strategy 2020-2025[23], building on the ICAO SARPs on PNR, and in line with the Union law and case-law. Such an approach was also requested by the Council with its Conclusions of June 2021[24].

Herewith, the Commission also seeks to respond to calls from air carriers to ensure more legal clarity and foreseeability on PNR transfers to third countries[25].

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 218(5) of the Treaty on the Functioning of the European Union (TFEU) provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit a proposal to the Council. The Council shall adopt a decision authorising the signing of the agreement.

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 Switzerland and the other to the protection of privacy and other fundamental rights and freedoms of individuals. Thus, the

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name record (PNR) data and to ensure PNR data is used by and shared with all their competent national authorities, with full respect for human rights and fundamental freedoms for the purpose of preventing, detecting and investigating terrorist offenses and related travel, [..]". See also UNSCR 2482 (2019).

21 Annex 9, Chapter 9, Section D to the International Convention on Civil Aviation.

22 OJ L 37, 3.2.2021, p.6-9.

23 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Security Union Strategy, , COM(2020) 605 final (24.7.2020): [..] as a mid-term action, the Commission will launch a review of the current approach on PNR data transfer to third countries.".

24 Council Conclusions of 7 June 2021 on the transfer of Passenger Name Record (PNR) data to third countries, in particular Australia and the United States, for the purpose of combating terrorism and serious crime, Council Document 9605/21 of 8 June 2021: "*Calls on the Commission to pursue a consistent and effective approach regarding the transfer of PNR data to third countries for the purpose of combating terrorism and serious crime, building on the ICAO SARPs, and in line with the relevant requirements established under Union law*."

25 As noted by the air carriers, including in reply to the Roadmap consultation, they increasingly find themselves in a situation of "conflict of laws" between two different regulatory frameworks, available at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12531-Air-travel-sharing-passenger-name-data-within-the-EU-and-beyond-assessment-_en.

substantive legal basis is Article 16(2) and Article 87(2)(a) of the Treaty on the Functioning of the European Union.

- **Proportionality**

The Union's objectives with regard to this proposal as set out above can only be achieved by establishing a valid legal basis at Union level to ensure that appropriate protection of fundamental rights is granted to personal data transfers from the Union. The provisions of the agreement are limited to what is necessary to achieve its main objectives and strike a fair balance between the legitimate objective to maintain public security and the right of everyone to enjoy the protection of their personal data and private life.

- **Choice of the instrument**

This proposal for a Council decision is submitted in accordance with paragraph 5 of Article 218 TFEU, which envisages the adoption by the Council of a decision authorising the signing of the agreement. There exists no other legal instrument that could be used in order to achieve the objective expressed in this proposal.

The appropriate safeguards required for the specific processing of PNR data received by Switzerland from air carriers on flights operated by air carriers between the Union and Switzerland must be established by means of a valid legal basis under EU law. The present Agreement constitutes such legal basis enabling PNR data transfers.

- **Fundamental rights**

The exchange of PNR data and its processing by the authorities of a third country constitutes an interference with the fundamental rights to privacy and data protection. However, such interference is justified, also because the Agreement pursues legitimate objectives i.e. to prevent, detect, investigate and prosecute serious crime and terrorism. The Agreement includes appropriate data protection safeguards to the personal data transferred and processed, in line with EU law, notably Articles 7, 8, 47 and 52 of the Charter of Fundamental Rights of the EU.

3. BUDGETARY IMPLICATIONS

There are no budgetary implications for the Union budget.

4. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The Agreement, in full alignment with the the Charter of Fundamental Rights of the EU, the relevant caselaw of the Court of Justice of the EU and the negotiating directives, provides a legal basis, conditions and safeguards for the transfer to and processing by Switzerland of PNR data received from air carriers from the Union:

Article 1 sets out the scope and objectives the Agreement.

Article 2 includes key definitions of the Agreement, inter alia of the 'Passenger Information Unit' (PIU) of Switzerland as the designated competent authority responsible for processing PNR data and of the terms 'serious crime' and 'terrorism', in line with how these concepts have been defined in other relevant EU law instruments;

Article 3 regulates method and frequency of PNR data transfers by airlines to the Swiss PIU with a view to ensuring that PNR data transfers are kept to the minimum necessary and are proportionate to the purpose specified in the Agreement.

Article 4 provides for a common technical solution by including the possibility for Switzerland to make use of the API-PNR router set up according to Regulation (EU) 2025/13[26] and as envisaged by Article 10(c) of that Regulation.

Article 5 sets out the purpose limitation – i.e. prevention, detection, investigation and prosecution of terrorist offences and serious crime – in an exhaustive manner to all PNR processing covered by the Agreement.

Article 6 sets out the three specific modalities for the processing of PNR data received under the Agreement by the Swiss PIU.

Article 7 provides additional safeguards for carrying out 'real-time assessment' and limits automated processing of PNR data.

Article 8 provides for a prohibition to process special categories of PNR data in line with how this concept has been defined in the EU data protection acquis.

Article 9 provides for a high level of security of PNR data received under the Agreement and ensures notifications of data security breaches to the designated Swiss data protection supervisory authority.

Article 10 provides for the keeping of logs and documentation of all PNR processing.

Article 11 includes rules for restricted storage of PNR data with a view to ensuring that such data are not stored longer than what is necessary for and proportionate to the objective pursued by this Agreement. In line with the relevant caselaw of the Court of Justice of the European Union, this provision requires an objective connection between the PNR data to be retained and the objectives of the agreement, and make storage periods subject to regular reviews by the Swiss PIU.

Article 12 requires the Swiss PIU to depersonalise PNR data at the latest after 6 months.

Article 13 includes rules and conditions for the disclosure of PNR data within Switzerland, e.g. by limiting such disclosures to authorities with functions related to the purposes of the Agreement and by requiring prior approval by a judicial authority or another independent body for such disclosures.

Article 14 includes rules and conditions for the disclosure of PNR data outside Switzerland and the EU, e.g. by limiting such disclosures to third countries with which the EU has concluded a comparable agreement or for which the EU has adopted a relevant adequacy decision and by requiring prior approval by a judicial authority or another independent body for such disclosures.

Article 15 fosters police and judicial cooperation through the exchange of PNR data or the results of processing of PNR data between the Swiss PIU and the PIUs of Member States of the Union, as well as between the Swiss PIU, on the one hand, and Europol or Eurojust within their respective competences, on the other hand.

Article 16 requires Switzerland to apply the same rights and obligations as Directive (EU) 2016/680 to the processing of personal data under this Agreement and that such processing shall

[26] Regulation (EU) 2025/13 of the European Parliament and of the Council of 19 December 2024 on the collection and transfer of advance passenger information for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, and amending Regulation (EU) 2019/818.

be overseen by an independent authority established in accordance with the implementation by Switzerland of this Directive.

Article 17 includes transparency and information obligations, including a requirement to notify individuals of the disclosure of their PNR data.

Article 18 provides for an obligation for Switzerland to notify the identity of the Swiss PIU and of the national supervisory authority.

Article 19 provides for the entry into force of the Agreement.

Article 20 provides for dispute settlement and suspension mechanisms.

Article 21 provides for the possibility for either Party to terminate the Agreement at any time.

Article 22 provides for the rules for amendments of the Agreement.

Article 23 provides the joint evaluation of the implementation of the Agreement.

Article 24 contains a clause regarding the territorial application of the Agreement.

The Joint Declaration attached to the Agreement aims to clarify the framework in the context of which PNR data transfers take place between the Union and Switzerland and to express the Parties desire to enhance their cooperation on matters related to PNR policy.

- **Signing and the text of the Agreement**

The text of the Agreement is submitted to the Council together with this proposal.

The text of the Joint Declaration is submitted together with this proposal.

In accordance with the Treaties, it is for the Commission to ensure the signing of the Agreement, subject to its conclusion at a later date.

2025/0345 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of the Agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16(2), and Article 87(2), point (a) in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 4 March 2024, the Council authorised the Commission to open negotiations of an Agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data to prevent, detect, investigate and prosecute terrorist offences and serious crime ('the Agreement'). The negotiations were successfully concluded by the initialling of the Agreement on XX October 2025.

(2) The Agreement enables the transfer of PNR data by air carriers from the Union to Switzerland in full respect of the rights provided in the Charter of Fundamental Rights of the Union, in particular the right to private and family life recognised in Article 7 of the Charter, the right to the protection of personal data recognised in Article 8 of the Charter. In particular, the Agreement includes appropriate safeguards for the protection of personal data transferred under the Agreement.

(3) The Agreement fosters police and judicial cooperation between the competent authorities of Switzerland and those of the Member States of the Union as well as Europol and Eurojust, with the aim to effectively ensure internal security in the absence of internal border controls within the Schengen area.

(4) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.] OR [In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of …,] its wish to take part in the adoption and application of this Decision.].

(5) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

(6) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 and delivered its Opinion [xxx] on [xx.xx.xxxx].

(7) Therefore, the Agreement should be signed.

HAS ADOPTED THIS DECISION:

Article 1

The signing, on behalf of the Union, of the Agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime is hereby authorised, subject to the conclusion of that Agreement.[1]

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

[1] The text of the Agreement will be published together with the decision on its conclusion.