



Council of the  
European Union

Brussels, 4 February 2020  
(OR. en)

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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION authorising the opening of negotiations with Japan for an agreement between the European Union and Japan on the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and serious transnational crime

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**COUNCIL DECISION (EU) 2020/...**

**of ...**

**authorising the opening of negotiations with Japan for an agreement  
between the European Union and Japan  
on the transfer and use of Passenger Name Record (PNR) data  
to prevent and combat terrorism and serious transnational crime**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2) and point (a) of Article 87(2), in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Negotiations should be opened with a view to concluding an agreement between the Union and Japan on the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and serious transnational crime (the 'Agreement').
- (2) The Agreement should respect fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the European Union (the 'Charter'), in particular the right to respect for 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 and the right to an effective remedy and to a fair trial recognised in Article 47 of the Charter. The Agreement should be applied in accordance with those rights and principles.
- (3) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>1</sup> and delivered an opinion on 25 October 2019<sup>2</sup>.

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<sup>1</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>2</sup> OJ C 419, 12.12.2019, p. 8.

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

HAS ADOPTED THIS DECISION:

### *Article 1*

1. The Commission is hereby authorised to open negotiations with Japan for an agreement between the Union and Japan on the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and serious transnational crime.
2. The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the addendum to this Decision.

### *Article 2*

The Commission is hereby nominated as the Union negotiator.

### *Article 3*

The negotiations shall be conducted in consultation with the relevant Council Working Party and in accordance with the directives contained in the addendum to this Decision, subject to any directives which the Council may subsequently issue to the Commission. The Commission shall regularly report to the Working Party on the progress of negotiations and shall forward all negotiating documents to it without delay.

*Article 4*

This Decision is addressed to the Commission.

Done at ...,

*For the Council*

*The President*

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