



Council of the
European Union

174487/EU XXVII. GP
Eingelangt am 23/02/24

Brussels, 23 February 2024
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION authorising the opening of negotiations with the Swiss Confederation for an agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data from the European Union to the Swiss Confederation for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

COUNCIL DECISION (EU) 2024/...

of ...

**authorising the opening of negotiations with the Swiss Confederation
for an agreement between the European Union and the Swiss Confederation
on the transfer of Passenger Name Record (PNR) data
from the European Union to the Swiss Confederation
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
Article 16(2) and Article 87(2), point (a), 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 European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data from the European Union to the Swiss Confederation for the prevention, detection, investigation and prosecution of terrorist offences and serious 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'), as interpreted by the Court of Justice of the European Union, 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 and having due regard to the principle of proportionality in accordance with Article 52(1) of the Charter.
- (3) The provisions of the Agreement should be set out further to the applicable international standards on PNR data, as contained in the Convention on International Civil Aviation, namely in Annex 9 (Facilitation), Chapter 9 (Passenger data exchange systems), Section D (Passenger Name Record (PNR) data) thereto.

- (4) 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 Council¹ and delivered an opinion on 30 October 2023.
- (5) 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 (TEU) and to the Treaty on the Functioning of the European Union (TFEU), Ireland has notified, by letter of 15 February 2024, its wish to take part in the adoption and application of this Decision.
- (6) 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:

¹ 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).

Article 1

1. The Commission is hereby authorised to open negotiations with the Swiss Confederation for an agreement between the European Union and the Swiss Confederation on the transfer of Passenger Name Record (PNR) data from the European Union to the Swiss Confederation for the prevention, detection, investigation and prosecution of terrorist offences and serious 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

1. The negotiations shall be conducted in consultation with the Council Working Party on JHA Information Exchange (IXIM), subject to any directives which the Council may subsequently issue to the Commission.

2. The Commission shall report to the Council on both the conduct and the outcome of the negotiations on a regular basis and whenever requested by the Council, and shall forward the relevant documents to it as early as possible in order to allow the members of the Council reasonable time to prepare themselves properly for the forthcoming negotiations.

Where appropriate, or where requested by the Council, the Commission shall produce a written report.

Article 4

This Decision is addressed to the Commission.

Done at ...,

For the Council

The President
