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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	ANNEX to the Recommendation for a COUNCIL DECISION authorising the opening of negotiations for an agreement between the European Union and the Republic of Korea on the transfer of Passenger Name Record data from the European Union to the Republic of Korea for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

Delegations will find attached document COM(2025) 490 annex.

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ANNEX

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**to the**

**Recommendation for a COUNCIL DECISION**

**authorising the opening of negotiations for an agreement between the European Union and the Republic of Korea on the transfer of Passenger Name Record data from the European Union to the Republic of Korea for the prevention, detection, investigation and prosecution of terrorist offences and serious crime**

## **ANNEX**

### **Directives for the negotiation of an Agreement between the European Union and the Republic of Korea on the transfer of Passenger Name Record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime**

The negotiations should aim to achieve the following **general objectives**:

- (1) The Agreement reflects the necessity and importance of the processing of Passenger Name Record (PNR) data in combating serious crime and terrorism by enabling the lawful transfer of PNR data from the Union to the Republic of Korea.
- (2) In order to comply with the relevant requirements of EU law, including the Charter of Fundamental Rights of the European Union and the relevant case law of the Court of Justice of the European Union, the Agreement provides a legal basis, conditions and safeguards for the transfer to and processing by the Republic of Korea of PNR data, and ensures that an adequate level of personal data protection is provided.
- (3) The Agreement encourages and facilitates cooperation between the Member States of the Union and the Republic of Korea by establishing arrangements for timely, effective and efficient exchanges of PNR data and of the results of processing of PNR data.

The negotiations should aim to achieve the following on **substance**:

- (4) The Agreement identifies the designated Korean competent authority responsible for receiving from air carriers and further processing PNR data under the Agreement.
- (5) The Agreement specifies exhaustively and in a clear manner the PNR data elements to be transferred, in line with international standards. Data transfers are kept to the minimum necessary and are proportionate to the purpose specified in the Agreement.
- (6) The Agreement ensures that PNR data is transferred exclusively to the Korean competent authority by pushing the required PNR data into the receiving authority's system ('push method'). The frequency and the timing of such transfers do not create an unreasonable burden on air carriers and are limited to what is strictly necessary.
- (7) The Agreement ensures that air carriers are not required to collect and transfer any additional PNR data compared to what they already collect as part of their business.
- (8) The Agreement includes the obligation to ensure security of personal data through appropriate technical and organisational measures, including by allowing only authorised persons to have access to personal data and keeping records in the form of access logs. It should also include the obligation to notify the competent authorities and, wherever necessary and possible, data subjects, in the event of a personal data breach affecting data transferred under the Agreement.
- (9) The Agreement sets out the purposes of PNR data processing in an exhaustive manner, notably by establishing that PNR data is transferred and processed solely for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, based on the definitions laid down in relevant EU law instruments.
- (10) The Agreement provides that sensitive data within the meaning of Union law, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the

purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation, are not to be processed under the Agreement.

- (11) The Agreement includes safeguards for the automated processing of PNR data to ensure it is based on non-discriminatory, specific, objective, and reliable, pre-established criteria and that such automated processing is not used as a sole basis for any decisions with adverse legal effects or seriously affecting an individual. It also ensures that the databases against which PNR data are compared are only those relevant for purposes covered by the Agreement.
- (12) The Agreement provides that PNR data received under the Agreement is subject to periods of retention that are restricted and not longer than what is necessary for and proportionate to the objective pursued, that is, for the purposes of preventing, detecting, investigating and prosecuting of terrorist offences and serious crime. These retention periods ensure that, in line with the relevant case law of the Court of Justice of the European Union, PNR data can be retained under the Agreement only if an objective connection between the PNR data to be retained and the objective pursued is established. The Agreement requires that the PNR data is deleted upon expiry of the relevant retention period or rendered anonymous in such a manner that the individuals concerned are no longer identifiable.
- (13) The Agreement ensures that disclosure of PNR data by the designated Korean competent authority to other competent authorities of the Republic of Korea or to competent authorities of other States, may only take place on a case-by-case basis and under certain conditions and safeguards. In particular, such disclosures may only take place if the recipient authority exercises functions related to the fight against terrorist offences and serious crime and ensures the same protections as those set out in the Agreement and should be subject to a prior review by a court or by an independent administrative body, except in cases of validly established urgency. Onward transfers to competent authorities of other third countries are limited to those countries with which the Union has an equivalent PNR Agreement or for which the Union has adopted an adequacy decision under its personal data protection law covering the relevant authorities to which the PNR data is intended to be transferred.
- (14) The Agreement ensures a system of oversight by an independent public authority responsible for personal data protection, with effective powers of investigation, intervention and enforcement, to exercise oversight over the designated competent authorities and other competent authorities that process PNR data under the Agreement. That independent public authority has powers to hear complaints from individuals, in particular concerning the processing of PNR data relating to them.
- (15) The Agreement ensures the rights of effective administrative and judicial redress on a non-discriminatory basis, regardless of nationality or place of residence, for any person in respect of whom PNR data relating to that person is processed under the Agreement, in line with Article 47 of the Charter of Fundamental Rights of the EU.
- (16) The Agreement contains provisions to ensure enforceable rights for individuals whose personal data are processed, in the form of rules on the right to information, access, rectification and erasure, including the specific grounds that may allow for any necessary and proportionate restrictions to those rights.
- (17) The Agreement fosters police and judicial cooperation through the exchange of PNR data, or results of processing of PNR data, between the designated Korean competent

authority and the competent police and judicial authorities of Member States of the Union, as well as between the designated Korean competent authority, on the one hand, and Europol within their respective competences, on the other hand.

- (18) The Agreement shall provide for an effective dispute settlement mechanism with respect to its interpretation and application to ensure that the parties observe mutually agreed rules.
- (19) The Agreement shall include provisions on the monitoring and periodic evaluation of the Agreement.
- (20) The Agreement shall include a provision on the entry into force and application and a provision whereby a Party may terminate or suspend it, in particular where the third country no longer effectively ensures the level of protection of fundamental rights and freedoms required under this Agreement.
- (21) The Agreement is equally authentic in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish languages and will include a language clause to that effect.