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COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2025) 490 final
Subject:	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 final.

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Brussels, 15.9.2025
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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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Strengthening international cooperation on law enforcement, including 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 Europol¹ illustrates the international dimension of the activities of most serious crime organisations. Additionally, Europol's latest Terrorism Situation and Trend Report (TE-SAT)² stresses not only the direct links between the transnational travel and the organisation of terrorist activities and serious crime, but also the importance of effectively detecting, investigating and prosecuting other serious criminal offences for preventing and fighting terrorist offences.

The collection and analysis of Passenger Name Record(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. PNR data encompass 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.

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.

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, the transfer of PNR data 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 a fair balance to be struck between the legitimate objective to maintain public security and the individuals' right to enjoy the protection of their personal data and private life.

In 2010, the EU and the Republic of Korea upgraded their broader relationship to a Strategic Partnership, based on shared values and common interests. The EU-Republic of Korea Framework Agreement signed in May 2010 provides the basis for cooperation on major political and global issues. The Republic of Korea is a like-minded and strategic partner of the European Union in the fight against terrorism and other serious transnational crime. Within the United Nations, the G20 and other multilateral fora, the European Union and the Republic

¹ [Serious and Organised Crime Threat Assessment \(SOCTA\) |Europol](#)

² <https://www.europol.europa.eu/publications-events/main-reports/tesat-report>.

of Korea work closely together to improve global security frameworks as well as to enhance the security of their citizens.

On 17 December 2021, the Commission adopted an adequacy decision in relation to the transfer of personal data from the EU to the Republic of Korea between commercial operators³, concluding that the Republic of Korea ensures an essentially equivalent level of protection to the one guaranteed under the General Data Protection Regulation (GDPR).⁴ In this context, the Commission also assessed the conditions and safeguards under which Korean public authorities, including law enforcement, can access data held by those operators. Although the adequacy assessment under this decision does not cover processing of PNR data as such, it nevertheless provides evidence that the foundations for essential data protection safeguards already exist in the Republic of Korea legal framework and should therefore also provide the basis for adducing the necessary corresponding safeguards in a PNR Agreement, in particular, enforceable data subject rights, judicial redress and independent oversight.

The Republic of Korea has clearly expressed their interest to the Commission in entering into negotiations with the aim of concluding a PNR Agreement with the European Union since 2008. Contacts intensified as of August 2024, and culminated in a series of written exchanges and meetings in May and June 2025. In particular, in the latter occasions, the Republic of Korea indicated a pressing need to acquire PNR data from EU air carriers, in the light of increasing drug trafficking, which can be linked to incoming European flights.

According to the legislation of the Republic of Korea, since 2006, air carriers are required to transmit Passenger Name Record (PNR) data to the Korean Customs Service (KCS). This legislation aims at enhancing the security of the Republic of Korea by obtaining PNR data prior to a passenger's arrival or departure and therefore significantly enhances the ability to conduct efficient and effective advance travel risk assessment of passengers. In this context, the Republic of Korea has also shared relevant information both as regards the amount of scheduled flights between the EU and the Republic of Korea (approximately 12.000 in 2024) as well as regards the adherence of its legislation to the ICAO Standards on PNR.

To allow for the transfer of PNR data from the EU to the Republic of Korea to effectively fight terrorism and other forms of serious transnational crime, an international agreement is needed, providing the necessary legal basis at EU level. Such type of future agreement should provide appropriate data protection safeguards within the meaning of Article 46(2)(a) of the General Data Protection Regulation⁵, including a system of independent oversight. A future agreement should respect fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the European 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 and the right to effective remedy and fair trial recognised in Article 47 of the Charter.

For these reasons, the Commission considers it necessary to start negotiations with the Republic of Korea, which will allow the designated Korean competent authority to receive and process PNR data from the European Union, subject to appropriate safeguards. In

³ Commission Implementing Decision (EU) 2022/254 of 17 December 2021 pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council on the adequate protection of personal data by the Republic of Korea under the Personal Information Protection Act (OJ L 44, 24.2.2022, p. 1–90).

⁴ Regulation (EU) 2016/679, OJ L 119, 4.5.2016, p. 1–88.

⁵ OJ L 119, 4.5.2016, p. 1–88.

addition, such an agreement would be a means to foster law enforcement cooperation through enhancing the possibilities to exchange PNR data as well as analytical information resulting from the processing of PNR, between the Republic of Korea and EU Member States competent authorities, for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime.

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

In the European Union, 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')⁶. 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-817/19⁷.

As regards the EU's external PNR policy, the Commission first set out the broad lines of such policy in a 2003 Communication⁸, which were reviewed in a Communication adopted in 2010⁹. Three international agreements are currently in force between the EU and third countries, namely with Australia¹⁰, the United States¹¹ (2012) and the United Kingdom¹² (2020), covering 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 2017,¹³ a new PNR Agreement with Canada was signed on 4 October 2024¹⁴. In March 2024, following the Council's authorization¹⁵, the Commission also launched negotiations with Switzerland, Iceland and Norway. On 12 June 2025, these negotiations resulted in Commission proposals to sign and conclude PNR Agreements with Iceland¹⁶ and Norway¹⁷.

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 data¹⁸, based on which Standards and

⁶ 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).

⁷ 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.

⁸ COM(2003) 826 final (16.12.2003).

⁹ COM(2010) 492 final (21.09.2010).

¹⁰ OJ L 186, 14.7.2012, p. 4–16.

¹¹ OJ L 215, 11.8.2012, p. 5–14.

¹² OJ L 149, 30.4.2021, p. 710 – 735.

¹³ Opinion 1/15 (*EU-Canada PNR Agreement*) of 26 July 2017, EU:C:2017:592.

¹⁴ OJ L, 2024/2891, 14.11.2024.

¹⁵ Council Decisions (EU) 2024/947, 2024/948 and 2024/988 of 4 March 2024.

¹⁶ COM/2025/294 final; COM/2025/295 final (12.6.2025)

¹⁷ COM/2025/282 final; COM/2025/279 final (12.6.2025)

¹⁸ 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 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).

Recommended 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 2021¹⁹.

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 country²⁰. Based on preliminary discussions held at technical level, the Republic of Korea informed the Commission services that their legal and administrative framework adheres to the ICAO Standards.

In this context, the negotiation and conclusion of this Agreement with the Republic of Korea 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, building on the ICAO SARPs on PNR, and in line with the Union law. Such an approach was also requested by the Council with its Conclusions of June 2021²¹.

Herewith, the Commission also seeks to respond to calls from air carriers to ensure more legal clarity and foreseeability on PNR transfers to third countries²².

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The procedural legal basis for this recommendation is Article 218(3) and (4) of the Treaty on the Functioning of the EU.

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 the Republic of Korea and the other concerning the protection of privacy and other fundamental rights and freedoms of individuals. Thus, the substantive legal basis is Article 16(2) and Article 87(2)(a) TFEU.

• 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

¹⁹ Annex 9, Chapter 9, Section D to the International Convention on Civil Aviation.

²⁰ OJ L 37, 3.2.2021, p.6-9.

²¹ 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.*"

²² As noted by the air carriers, including in reply to the Roadmap consultation on the external dimension of the EU PNR policy, 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>.

fundamental rights is granted to transfers of personal data 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 individuals' right to enjoy the protection of their personal data and private life.

- **Choice of the instrument**

The appropriate safeguards required for the specific processing of PNR data received by the Republic of Korea from air carriers on flights operated by air carriers between the Union and the Republic of Korea 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 terrorist offences and serious crime. 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.

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

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 Republic of Korea on the transfer of Passenger Name Record (PNR) data from the Union to the Republic of Korea for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

(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 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 effective remedy and 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 fortherto the applicable international Standards on PNR, as contained in the International Convention on Civil Aviation, namely in its Annex 9 (Facilitation), Chapter 9 (Passenger Data Exchange System), Section D (Passenger Name Record (PNR) data)²³.

(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 TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

²³ [Annex 9, Chapter 9, Section D to the International Convention on Civil Aviation.](#)

(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].

HAS ADOPTED THIS DECISION:

Article 1

The European Commission is hereby authorised to negotiate, on behalf of the Union, an Agreement between the Union and the Republic of Korea on the transfer of Passenger Name Record (PNR) data from the Union to the Republic of Korea for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with [name of special committee to be inserted by the Council].

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President