

Letters



Sophie in't Veld

MEP European Parliament
Rue Wiertz 60
B-1047 Brussels
Belgium

Brussels, 28 July 2022

Ref: OUT2022-0060

Dear Ms in't Veld,

On behalf of the EDPB, I would like to thank you for the questions you raised in your letter of 28 April 2022 on the PNR Directive, more specifically on the statistical information held by the national supervisory authorities (SAs) and the EDPB on the implementation in the EU Member States, as well as their involvement in the proceedings before the Court of Justice of the European Union (CJEU).

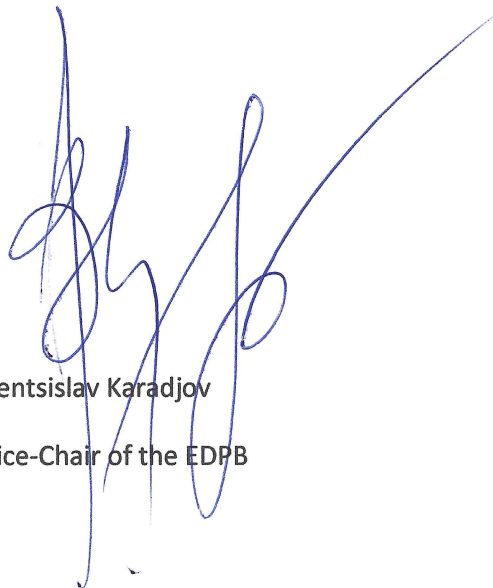
The EDPB considers statistics to be a useful tool – amongst others – to assess the fundamental legal requirements of necessity and proportionality. I would like to assure you that the SAs have been following not only the legislative process in the Member States but also the implementation process very closely. As to the referral by the Belgian Constitutional Court to the CJEU on PNR data, the EDPB has not taken part in the proceedings. However, one of the EDPB members, namely the EDPS, was invited and participated in the hearing.

In the meantime, as you know, the CJEU published its judgment in the case C-817/19 on 21 June 2022. In essence, while leaving the validity of the Directive unaffected, the Court set out strict limitations and required that the powers provided for by that Directive are interpreted restrictively. To name a few of the key findings, the CJEU set up substantial limitations for the collection of PNR data from intra-EU flights and the retention of PNR data. The CJEU also provided guidance for the automated processing of PNR data.

The CJEU has handed down an extremely important decision, which the EDPB is still in the process of analysing. Given the fact that the judgment touches upon some of the key elements of the Directive, it raises also many questions on how all Member States of the European Union, and not only Belgium, have transposed and implemented the Directive. At this stage of the analysis, it seems Member States would have to contemplate substantial amendments of their national law and practice on the processing of PNR data in order to fully follow the CJEU's interpretation.

The SAs assembled in the EDPB are committed to do their part in ensuring that Member States comply with EU law as interpreted by the CJEU.

Yours sincerely,



Ventsislav Karadjov

Vice-Chair of the EDPB