

Director of the Personal Data Protection Agency and member of the European Data Protection Board Zdravko Vukić participated in the session held on December 13, 2022 in Brussels.

At this year's last plenary session, the European Data Protection Board adopted a statement on the recent judgment C-817/19 of the Court of Justice of the European Union on the use of data from the Passenger Name Record (PNR) for the purpose of preventing, detecting, investigating and prosecuting criminal offenses of terrorism and serious criminal offenses in accordance with Directive (EU) 2016/681 of the European Parliament and the Council of April 27, 2016 on the use of data from the passenger data record (PNR) for the purpose of preventing, detecting, investigating and prosecuting terrorist offenses and serious criminal offenses .

After the Belgian Constitutional Court sent a request for an opinion on June 21, 2022, the Court of Justice of the EU issued a ruling on the PNR Directive. Although the Court found that the judgment does not affect the validity of the PNR Directive, it notes that the Directive on the use of data from the Passenger Name Record (PNR) should be interpreted in such a way as to include important restrictions on the processing of personal data in order to ensure compliance with the EU Charter and on fundamental rights (Charter).

Some of these restrictions refer to the application of the PNR system only to criminal offenses of terrorism and serious crimes, which are objectively related to the transportation of passengers by air transport, and to the non-selective application of a general storage period of five years to the personal data of all passengers.

The interpretation proposed by the EU Court significantly narrows the ways in which EU member states can process PNR data. The European Data Protection Board considers it likely that the current processing of PNR data in many, if not most, Member States is not fully compliant with the PNR Directive as interpreted by the Court of Justice of the EU.

In its statement, the European Data Protection Board calls on EU member states to take all necessary steps at legislative and/or administrative level to ensure that the transposition into national legislation and the implementation of the Directive on the use of data from the Passenger Name Record (PNR) is in accordance with the Charter as interpreted by the EU Court. In this regard, the European Data Protection Board notes that data protection authorities are fully competent to investigate compliance with EU data protection requirements at the national level.