



2022/0425(COD)

31.5.2023

AMENDMENTS

10 - 39

Draft opinion
Jan-Christoph Oetjen
(PE746.973v02-00)

Collection and transfer of advance passenger information for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, and amending Regulation (EU) 2019/818

Proposal for a regulation
(COM(2022)0731 – C9-0427/2022 – 2022/0425(COD))

AM_Com_LegOpinion

Amendment 10
Jan-Christoph Oetjen

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Given that this Regulation requires additional adjustment and administrative costs by the air carriers, the overall regulatory burden for the aviation sector should be kept under close review. Against this backdrop, the report evaluating the functioning of this Regulation should assess the extent to which the objectives of the Regulation have been met and to which extent it has impacted the competitiveness of the sector. Therefore, the Commission's report should also refer to the interaction of this Regulation with other relevant EU legislative acts, notably Regulation (EU) 2017/2226, Regulation (EU) 2018/1240 and Regulation (EC) 767/2008. The report should assess the overall impact of related reporting obligations on air carriers, identifying provisions that may be updated and simplified to mitigate the burden on air carriers, as well as actions and measures that have been or could be taken to reduce the total cost pressure on the aviation sector.

Or. en

Amendment 11
Jan-Christoph Oetjen

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) In view of the complementary nature of this Regulation in relation to

(7) In view of the complementary nature of this Regulation in relation to

Directive (EU) 2016/681, the obligations of air carriers under this Regulation should apply in respect of all flights for which Member States are to require air carriers to transmit PNR data under Directive (EU) 2016/681, namely flights, including both scheduled and non-scheduled flights, both between Member States and third countries (extra-EU flights), *and between several Member States (intra-EU flights) insofar as those flights have been selected in accordance with Directive (EU) 2016/681*, irrespective of the place of establishment of the air carriers conducting those flights.

Directive (EU) 2016/681, the obligations of air carriers under this Regulation should apply in respect of all flights for which Member States are to require air carriers to transmit PNR data under Directive (EU) 2016/681, namely flights, including both scheduled and non-scheduled flights, both between Member States and third countries (extra-EU flights), irrespective of the place of establishment of the air carriers conducting those flights.

Or. en

Amendment 12
Jan-Christoph Oetjen

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) In particular, the items of information that jointly constitute the API data to be collected and subsequently transferred under this Regulation should be those listed clearly and exhaustively in Regulation (EU) API [border management], covering both information relating to each passenger and information on the flight of that traveller. Under this Regulation, such flight information should cover information on the border crossing point of entry into the territory of the Member State concerned *only where applicable, that is, not when the API data relate to intra-EU flights*.

Amendment

(10) In particular, the items of information that jointly constitute the API data to be collected and subsequently transferred under this Regulation should be those listed clearly and exhaustively in Regulation (EU) API [border management], covering both information relating to each passenger and information on the flight of that traveller. Under this Regulation, such flight information should cover information on the border crossing point of entry into the territory of the Member State concerned.

Or. en

Amendment 13
Jan-Christoph Oetjen

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In order to ensure a consistent approach on the collection and transfer of API data by air carriers as much as possible, the rules set out in this Regulation should be aligned with those set out in the Regulation (EU) [API border management] where appropriate. That concerns, in particular, the rules on data quality, the air carriers' use of automated means for such collection, the precise manner in which they are to transfer the collected API data to the router and the deletion of the API data.

Amendment

(11) In order to ensure a consistent approach on the collection and transfer of API data by air carriers as much as possible, the rules set out in this Regulation should be aligned with those set out in the Regulation (EU) [API border management] where appropriate. That concerns, in particular, the rules on data quality, the air carriers' use of automated means for such collection, the precise manner in which they are to transfer the collected API data to the router and the deletion of the API data. ***In order to reduce the impact on air carriers, and with a view to create synergies with other reporting obligations on air carriers in Regulation (EU) 2017/2226, Regulation (EU) 2018/1240 and Regulation (EC) 767/2008 and avoid duplication, air carriers should transfer the API data at the moment of check-in of each traveller by way of interactive API in accordance with international standards, using the existing carrier gateway. Air carriers should receive an acknowledgement of receipt to the transfer of interactive API, in line with international standards.***

Or. en

Amendment 14
Josianne Cutajar

Proposal for a regulation
Recital 11

Text proposed by the Commission

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Amendment

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possible, the rules set out in this Regulation should be aligned with those set out in the Regulation (EU) [API border management] where appropriate. That concerns, in particular, the rules on data quality, the air carriers' use of automated means for such collection, the precise manner in which they are to transfer the collected API data to the router and the deletion of the API data.

possible, the rules set out in this Regulation should be aligned with those set out in the Regulation (EU) [API border management] where appropriate. That concerns, in particular, the rules on data quality, the air carriers' use of automated means for such collection, ***where technically and operationally feasible***, the precise manner in which they are to transfer the collected API data to the router and the deletion of the API data.

Or. en

Amendment 15
Josianne Cutajar

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The automatic data collection systems and other processes established under this Regulation should not negatively impact the employees in the aviation industry, who should benefit from upskilling and reskilling opportunities that would increase the efficiency and reliability of data collection and transfer as well as the working conditions in the sector.

Or. en

Amendment 16
Jan-Christoph Oetjen

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In order to enhance data quality, the router should verify whether the API

data transferred to it by the air carriers complies with the supported data formats. Where the router has verified that the data is not compliant with the supported data formats, the router should, immediately and in an automated manner, notify the air carrier concerned.

Or. en

Amendment 17
Josianne Cutajar

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) With a view to guaranteeing the fulfilment of the rights provided for under the Charter of Fundamental Rights and to ensuring accessible and inclusive travel options, especially for vulnerable groups and persons with disabilities, air carriers, supported by the Member States, shall ensure that an offline alternative for the check-in and for the provision of the necessary data by the passengers is possible at all times.

Or. en

Amendment 18
Jan-Christoph Oetjen

Proposal for a regulation
Recital 14

Text proposed by the Commission

Amendment

(14) As regards intra-EU flights, in line with the case law of the Court of Justice of the European Union (CJEU), in order to avoid unduly interfering with the relevant fundamental rights protected

deleted

under the Charter and to ensure compliance with the requirements of Union law on the free movement of persons and the abolition of internal border controls, a selective approach should be provided for. In view of the importance of ensuring that API data can be processed together with PNR data, that approach should be aligned with that of Directive (EU) 2016/681. For those reasons, API data on those flights should only be transmitted from the router to the relevant PIUs, where the Member States have selected the flights concerned in application of Article 2 of Directive (EU) 2016/681. As recalled by the CJEU, the selection entails Member States targeting the obligations in question only at, inter alia, certain routes, travel patterns or airports, subject to the regular review of that selection.

Or. en

Amendment 19
Josianne Cutajar

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) As regards intra-EU flights, in line with the case law of the Court of Justice of the European Union (CJEU), in order to avoid unduly interfering with the relevant fundamental rights protected under the Charter and to ensure compliance with the requirements of Union law on the free movement of persons and the abolition of internal border controls, a selective approach should be provided for. In view of the importance of ensuring that API data can be processed together with PNR data, that approach should be aligned with that of Directive (EU) 2016/681. For those reasons, API data on those flights should

Amendment

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only be transmitted from the router to the relevant PIUs, where the Member States have selected the flights concerned in application of Article 2 of Directive (EU) 2016/681. As recalled by the CJEU, the selection entails Member States targeting the obligations in question only at, inter alia, certain routes, travel patterns or airports, subject to the regular review of that selection.

only be transmitted from the router to the relevant PIUs, where the Member States have selected the flights concerned in application of Article 2 of Directive (EU) 2016/681. As recalled by the CJEU, the selection entails Member States targeting the obligations in question only at, inter alia, certain routes, travel patterns or airports, subject to the regular review of that selection. ***In this regard, and in order to avoid divergent practices in the Member States, the Commission shall be empowered to adopt guidelines to facilitate the development of uniform criteria and methodology for the selection of the concerned intra-EU flights.***

Or. en

Amendment 20
Jan-Christoph Oetjen

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) In order to enable the application of that selective approach under this Regulation in respect of intra-EU flights, the Member States should be required to draw up and submit to eu-LISA the lists of the flights they selected, so that eu-LISA can ensure that only for those flights API data is transmitted from the router to the relevant PIUs and that the API data on other intra-EU flights is immediately and permanently deleted.

Amendment

deleted

Or. en

Amendment 21
Jan-Christoph Oetjen

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) In order not to endanger the effectiveness of the system that relies on the collection and transfer of API data set up by this Regulation, and of PNR data under the system set up by Directive (EU) 2016/681, for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime, in particular by creating the risk of circumvention, information on which intra-EU flights the Member States selected should be treated in a confidential manner. For that reason, such information should not be shared with the air carriers and they should therefore be required to collect API data on all flights covered by this Regulation, including all intra-EU flights, and then transfer it to the router, where the necessary selection should be enacted. Moreover, by collecting API data on all intra-EU flights, passengers are not made aware on which selected intra-EU flights API data, and hence also PNR data, is transmitted to PIUs in accordance with Member States' assessment. That approach also ensures that any changes relating to that selection can be implemented swiftly and effectively, without imposing any undue economic and operational burdens on the air carriers.

deleted

Or. en

Amendment 22
Josianne Cutajar

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) When providing for the penalties applicable to air carriers under this Regulation, Member States shall take into account the technical, operational and economic feasibility of ensuring complete data accuracy. Additionally, when fines are imposed, their application and value shall be established taking into consideration the actions undertaken by the air carrier to mitigate the issue as well as its repeated failure to cooperate with national authorities.

Or. en

Amendment 23
Josianne Cutajar

Proposal for a regulation
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) When monitoring and evaluating the effective implementation of this Regulation to the benefit of authorities, travellers and air carriers, the Commission shall conduct a holistic assessment of the present Act in relation to other regulations that impact the flow of travellers' data. In this regard, the Commission shall also consider the harmonisation of the channels of transmission of the data air carriers are required to collect and transfer.

Or. en

Justification

As air carriers are already collecting and transferring travellers' data under a number of other pieces of legislation, amongst which the API, EES, ETIAS Regulations, the addition of new data sets, transmission modes and frequency patterns should be assessed and standardised to ensure a homogenous approach of the implementation of European legislation to the benefit of Member States, air carriers and passengers.

Amendment 24
Josianne Cutajar

Proposal for a regulation
Recital 26 b (new)

Text proposed by the Commission

Amendment

(26b) With a view to ensuring increased data quality and accuracy, the setting up of travel document validation systems, able to automatically verify carrier-submitted passenger data, should be considered.

Or. en

Amendment 25
Josianne Cutajar

Proposal for a regulation
Recital 26 c (new)

Text proposed by the Commission

Amendment

(26c) The EU should evaluate the possibility to include other modes of transport within the scope of this Regulation, while taking into account the particularities, business models and ticket purchase practices thereof.

Or. en

Amendment 26
Jan-Christoph Oetjen

Proposal for a regulation
Article 1 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the collection by air carriers of advance passenger information data ('API data') on extra EU flights ***and selected***

(a) the collection by air carriers of advance passenger information data ('API data') on extra EU flights.

intra EU flights;

Or. en

Amendment 27
Jan-Christoph Oetjen

Proposal for a regulation
Article 1 – paragraph 1 – point c

Text proposed by the Commission

(c) the transmission from the router to the Passenger Information Units ('PIUs') of the API data on extra-EU flights *and selected intra-EU flights*.

Amendment

(c) the transmission from the router to the Passenger Information Units ('PIUs') of the API data on extra-EU flights.

Or. en

Amendment 28
Jan-Christoph Oetjen

Proposal for a regulation
Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) *'intra-EU flight' means any flight as defined in Article 3, point (3), of Directive (EU) 2016/681;*

Amendment

deleted

Or. en

Amendment 29
Josianne Cutajar

Proposal for a regulation
Article 4 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Air carriers shall collect the API data referred to Article 4(2), points (a) to (d), of

Amendment

Air carriers shall collect the API data referred to Article 4(2), points (a) to (d), of

Regulation (EU) [API border management] using automated means to collect the machine-readable data of the travel document of the traveller concerned. They shall do so in accordance with the detailed technical requirements and operational rules referred paragraph 5, where such rules have been adopted and are applicable.

Regulation (EU) [API border management] using, **where technically and operationally feasible**, automated means to collect the machine-readable data of the travel document of the traveller concerned. They shall do so in accordance with the detailed technical requirements and operational rules referred paragraph 5, where such rules have been adopted and are applicable.

Or. en

Amendment 30
Josianne Cutajar

Proposal for a regulation
Article 4 – paragraph 3 – subparagraph 2

Text proposed by the Commission

However, where such use of automated means is not possible due to the travel document not containing machine-readable data, air carriers shall collect that data manually, in such a manner as to ensure compliance with paragraph 2.

Amendment

However, where such use of automated means is not possible due to the travel document not containing machine-readable data **or due to other technical and operational barriers**, air carriers shall collect that data manually, in such a manner as to ensure compliance with paragraph 2.

Or. en

Amendment 31
Jan-Christoph Oetjen

Proposal for a regulation
Article 4 – paragraph 7

Text proposed by the Commission

7. Air carriers shall transfer the API data both at the moment of check-in and immediately after flight closure, that is, once the travellers have boarded the aircraft in preparation for departure and it is no longer possible for travellers to board

Amendment

7. Air carriers shall transfer the API data both at the moment of check-in and immediately after flight closure, that is, once the travellers have boarded the aircraft in preparation for departure and it is no longer possible for travellers to board

or to leave the aircraft.

or to leave the aircraft. *At the moment of check-in, air carriers shall transfer the API data by way of interactive API in accordance with international standards. Air carriers shall receive an acknowledgement of receipt to the transfer of interactive API.*

Or. en

Amendment 32
Jan-Christoph Oetjen

Proposal for a regulation
Article 4 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. *The router shall verify whether the API data transferred to it in accordance with paragraph 6 complies with the detailed rules on the supported data formats. Where the router has verified that the data is not compliant with the detailed rules, the router shall, immediately and in an automated manner, notify the air carrier concerned.*

Or. en

Amendment 33
Jan-Christoph Oetjen

Proposal for a regulation
Article 4 – paragraph 9

Text proposed by the Commission

Amendment

9. The Commission is empowered to adopt delegated acts in accordance with Article 19 to supplement this Regulation by laying down the necessary detailed rules on the common protocols and supported data formats to be used for the transfers of API data to the router referred to in

9. The Commission is empowered to adopt delegated acts in accordance with Article 19 to supplement this Regulation by laying down the necessary detailed rules on the common protocols and supported data formats to be used for the transfers of API data to the router referred to in

paragraph 6.

paragraph 6 *including the use of interactive API for the transfer of API data at the moment of check-in.*

Or. en

Amendment 34
Jan-Christoph Oetjen

Proposal for a regulation
Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The router shall, immediately and in an automated manner, transmit the API data, transferred to it by air carriers pursuant to Article 4, to the PIUs of the Member State on the territory of which the flight will land or from the territory of which the flight will depart, ***or to both in the case of intra-EU-flights.*** Where a flight has one or more stop-overs at the territory of other Member States than the one from which it departed, the router shall transmit the API data to the PIUs of all the Member States concerned.

Amendment

The router shall, immediately and in an automated manner, transmit the API data, transferred to it by air carriers pursuant to Article 4, to the PIUs of the Member State on the territory of which the flight will land or from the territory of which the flight will depart. Where a flight has one or more stop-overs at the territory of other Member States than the one from which it departed, the router shall transmit the API data to the PIUs of all the Member States concerned.

Or. en

Amendment 35
Jan-Christoph Oetjen

Proposal for a regulation
Article 5 – paragraph 1 – subparagraph 3

Text proposed by the Commission

However, for intra-EU flights, the router shall only transmit the API data to that PIU in respect of the flights included in the list referred to in paragraph 2.

Amendment

deleted

Or. en

Amendment 36
Jan-Christoph Oetjen

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States that decide to apply Directive (EU) 2016/681 to intra-EU flights in accordance with Article 2 of that Directive shall each establish a list of the intra-EU flights concerned and shall, by the date of application of this Regulation referred to in Article 21, second subparagraph, provide eu-LISA with that list. Those Member States shall, in accordance with Article 2 of that Directive, regularly review and where necessary update those lists and shall immediately provide eu-LISA with any such updated lists. The information contained on those lists shall be treated confidentially. **deleted**

Or. en

Amendment 37
Jan-Christoph Oetjen

Proposal for a regulation
Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the impact of this Regulation on the competitiveness of the aviation sector and the burden incurred by businesses.

The Commission's report shall also address this Regulation's interaction with other relevant EU legislative acts, notably Regulation (EU) 2017/2226, Regulation (EU) 2018/1240 and Regulation (EC) 767/2008, with a view to assess the overall impact of related reporting obligations on air carriers, identify provisions that may be updated and simplified to mitigate the

burden on air carriers, and consider actions and measures that could be taken to reduce the total cost pressure on air carriers.

Or. en

Amendment 38
Marian-Jean Marinescu

Proposal for a regulation
Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) The interaction with other relevant legislative acts, identifying provisions that may be updated and simplified, as well as actions and measures that have been or could be taken to reduce the total cost pressure on the aviation sector.

Or. en

Amendment 39
Josianne Cutajar

Proposal for a regulation
Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The report provided for under paragraph 1 of this Article shall also encompass an assessment of the possibility to include other modes of transport within the scope of this Regulation, while taking into account the particularities, business models and ticket purchase practices thereof.

Or. en