

PROPORTIONATE MEASURES FOR SECURITY: Passenger Name Records (PNR)

› Trauma of terror incidents

- Terrorism normally low on list of passengers' personal security fears (*Transport Focus National Passenger Survey*)
- Fears dissipate quickly after incident (7/7 data)
- Users expect to be safe; inconvenience resented
- No terrorism deaths on EU transport network between July 2005 and March 2016 (but 1 daily on level crossings)

› EPF in EU's LANDSEC Expert Group



EPF said transport security measures should:

- Be proportionate (following security-risk assessment)
- Be scalable (responding to change in risk assessed)
- Avoid displacing risks elsewhere (c.f. Madrid 2004 commuter trains) or creating new targets (e.g. crowds at barriers)
- Ensure staff preparedness
- Treat users as 'eyes and ears'
- Ensure better inter-agency cooperation
- Exploit advances in digital technology

› Passenger Name Record (PNR)

- Stockholm Programme, 2010:
'PNR...for the purpose of preventing, detecting, investigating & prosecuting terrorist offences and serious crime'.
- API Data created upon booking
- Airlines provide agencies PNR data 24-48 hours before flight at close of boarding
- Directive 2016/681. National transpositions due by 5/2018

› The Belgian approach

- Belgian Act implementing PNR Directive published in Official Gazette on 25.1.2017.
- Goes further than 2016/681: also enables later extension to international rail, coach and maritime passengers
- Requires data on name, birth, email, telephone, luggage, trip, documentation, etc
- Challenged by Commission, EPF Members and sector.

› The key issues

- **Fundamental Rights:** review of all elements of 2016/681 due by 25.5.2020, including ‘necessity, proportionality and effectiveness’.
- **Practicality:** Council of Europe’s Korff Report (2015) points to *‘highly dubious reliability’* of bulk data mining associated with PNR.
- **Displacement:** Risks associated with displacing terrorist action to less-easily monitored environments (e.g. private vehicles).
- **Proportionality:** Comparative risk assessment or risk management analysis does not seem to have informed PNR implementation.
- **Utility:** Seeming lack of compatibility with ‘turn-up-&-go’ travel and generally open nature of public transport access.
- **Fairness:** High-cost liability on operators for non-compliance.
- **Inter-agency cooperation:** National agencies not obliged to collaborate (reflecting deep distrust of the least reliable).

› Has the PNR issue shifted the focus from more effective measures?

