

11.4.2016

A8-0248/55

Amendment 55

Cornelia Ernst and others

on behalf of the GUE/NGL Group

Report

A8-0248/2015

Timothy Kirkhope

Use of Passenger Name Record data (EU PNR)
(COM(2011)0032 – C7-0039/2011 – 2011/0023(COD))

Proposal for a directive

–

Proposal for rejection

***The European Parliament rejects the
Commission proposal.***

Or. en

Justification

This Directive violates the right to privacy and the presumption of innocence, as well as the core rule of law principles of proportionality and necessity, as formulated by Article 52 of the Charter of Fundamental Rights¹.

First and foremost, the European Commission has never carried out any evaluation of the immensely expansive existing EU counterterrorism measures (estimated at around 90 binding instruments), which is a direct requirement following from Article 52 of the Charter since the Commission needs to prove the necessity of this Directive for its stated aim - namely to combat terrorism - and to do so it needs to evaluate the existing measures on their efficiency and necessity. How can the commission genuinely identify the gaps in the current counterterrorism measures - justifying yet another batch of new anti-terrorism measures - without ever having carried out such an evaluation?

Secondly, since the so-called data retention judgement², the European Court of Justice has clearly and manifestly detailed the proportionality test that needs to be met vis-a-vis counterterrorism measures infringing on civil liberties of European citizens. In the paragraph 59, the Court clearly puts down the conditions of proportionate data collection (targeted collection) which, for it to be considered legal, always has to entail an element of targeting the scope of collection to either a specific geographic area, or individuals or groups somehow suspected to be connected to terrorist activity. It specifically invalidates the absence of any specifically

¹ <http://fra.europa.eu/en/charterpedia/article/52-scope-and-interpretation-rights-and-principles>

² Data Retention Directive Judgement of 8 April 2014 <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62012CJ0293&rid=1>

tailored targeted data collection, which amounts to mass bulk collection and equally infringes on the fair trial right of the presumption of innocence. What is manifestly absent in this EU PNR Directive is exactly a targeted data collection scheme, as the flight data of all EU citizens will be collected under this instrument, unconnected to any specific suspicion or investigative lead relating to terrorism activities.

Finally, it is worth noting that nowhere in this directive is it made absolutely obligatory for Member States to share relevant PNR data between them. Given that time and again after the recent terrorist attacks, it is shown that some Member States had crucial leads on the attackers and that there was a clear lack of cross-border sharing or follow-up on the investigative leads, it clearly exposes this Directive for the dangerous symbolic politics that it is, without necessarily adding to any real sense of security. In the recent tragic Brussels attacks, the Belgian judiciary and police commissariat have stated multiple times that they are drowning in an excess of data for which they have nowhere near enough manpower and human logistics to follow up on through their regular police powers. Time and time again, the EU legislators look for the 'silver bullet' of more personal data collection while in reality most of these attacks were able to be carried out due to the lack of proper police and investigative staffing, an improper following up on confirmed leads, and a lack of cooperation and sharing of already existing information.