Brussels, 27 November 2013

EU-US agreements: Commission reports on TFTP and PNR

Today the Commission adopted the Terrorist Finance Tracking Programme (TFTP) evaluation report and a report on the joint review of the US Passenger Name Record (PNR) Agreement. The Commission assessed the value of financial information data provided under the EU-US TFTP Agreement in the fight against terrorism and how PNR data has been used by US authorities for the purpose of fighting serious crime and terrorism. The Commission also adopted a Communication on a European Terrorist Finance Tracking System (TFTS), concluding that the establishment of such a system is not expected at this stage.

"The TFTP and PNR agreements regulate the transfer and use of personal data, and provide effective safeguards to protect the fundamental rights of European citizens. We have taken the allegations very seriously of possible US access to Swift financial data outside the scope of the TFTP agreement and, as promised to the European Parliament and the European citizens, we have asked the US to shed full light on this issue. I welcome the reassurances that the US Government has made, including at my meeting at the White House on 18 November, that it has not breached the TFTP Agreement and will continue to respect it fully. But the Commission will continue to carefully monitor the implementation of the EU-US agreements on data transfers in order to uphold EU citizens' rights", said Cecilia Malmström, Commissioner for Home Affairs.

Efforts will be intensified to keep the implementation of the TFTP Agreement under close scrutiny over the coming months and in the longer term. An earlier review will be conducted already in Spring 2014.

Joint report on the EU-US TFTP Agreement

The TFTP has generated significant intelligence that has helped detect terrorist plots and trace their authors, concludes the Commission in its report on the value TFTP-provided data brings to counter terrorism investigations.

Most recently TFTP-derived information has been used to investigate, for instance, the April 2013 Boston marathon bombings, threats during the London Olympics or EU-based terrorists training in Syria.

TFTP data provides key insight into the financial support networks of terrorist organisations, helping to identify new methods of terrorist financing and persons involved in the US, the EU or elsewhere. EU Member States and Europol benefit from such information and receive valuable investigative leads. Over the last three years, in response to 158 total requests made by the Member States and the EU (pursuant to Article 10), 924 investigative leads were obtained from the TFTP.

Moreover, regarding recent allegations of access to financial messaging data in the EU contrary to TFTP agreement, written reassurances were received that the US Government has not breached the agreement and will continue to fully respect it.

At this stage, the Commissioner considers that there is no need for further consultations with the US on the implementation of the TFTP agreement.

EU Terrorist Finance Tracking System (TFTS)

Further to the requests from the European Parliament and the Council, and in line with its 2011 Communication ([IP/11/877](#)), the Commission has assessed the options for establishing a European Terrorist Finance Tracking System (TFTS).

In particular, each option has been weighed in terms of safeguarding fundamental rights, necessity, proportionality and cost effectiveness, as compared to the current situation.

It concludes that the case for establishing such a system within the European Union is not clearly demonstrated at this stage, pointing out in particular to the fact that, in order to extract data on EU soil it would be necessary to create and manage a new database containing all the information of EU citizens' financial transfers.

The creation of such database would raise serious challenges in terms of the data storage, access and protection, not to mention the huge technical and financial efforts that would be needed. Any EU system would be data intrusive and would therefore require robust data protection guarantees and safeguards to be put in place. It would be costly and also technically and operationally demanding to set up and maintain.

It will be now for the European Parliament and for the EU Home Affairs Council to make the final choice on the possible creation of an EU Terrorist Finance Tracking Programme.

EU-US PNR joint-review report

The current EU-US PNR agreement on the transfer of air passengers' data for flights from the EU to the US entered into force on 1 July 2012.

Following a review by EU and US experts, the Commission found that the US authorities have been implementing the agreement in accordance with the standards and conditions it contains.

The agreement provides an efficient tool to fight serious transnational crime and terrorism, while setting clear limits on what purposes PNR data may be used for, as well as a series of strong data protection guarantees.

The joint review report published today finds in particular that US authorities respect their obligations regardig the access rights of passengers and have a regular oversight mechanism in place to guard against unlawful discrimination. The masking and deletion of sensitive data are respected. Both the sharing of data with domestic US agencies and with third countries are in line with the Agreement.

The next joint review should take place during the first half of 2015.

Useful Links

Mid-term report on the Terrorist Finance Tracking Programme (TFTP)

MEMO/13/1060

Link to Report

Joint review of the U.S. Passenger Name Record (PNR) Agreement

MEMO/13/1054

Link to Report

Communication on a European Terrorist Finance Tracking System (TFTS)

Cecilia Malmström's website

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DG Home Affairs website

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Contacts :
Michele Cercone (+32 2 298 09 63)
Tove Ernst (+32 2 298 67 64)