

LAW ON PROCESSING PASSENGER DATA IN AIR TRANSPORT FOR THE PREVENTION AND DETECTION OF CRIMINAL OFFENCES OF TERRORISM AND OTHER SERIOUS CRIMINAL OFFENCES (PNR)

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Pursuant to Article 82 paragraph 1 item 2 and Article 91 paragraph 1 of the Constitution of Montenegro, the Parliament of Montenegro of the 27th Convocation, at the Tenth Extraordinary Session in 2022, on September 29, 2022, passed the

LAW

ON PROCESSING PASSENGER DATA IN AIR TRANSPORT FOR THE PREVENTION AND DETECTION OF CRIMINAL OFFENCE OF TERRORISM AND OTHER SERIOUS CRIMINAL OFFENCES¹

I BASIC PROVISIONS

Subject Matter

Article 1

This Law shall regulate processing of passenger data in air transport for the prevention and detection of criminal offences of terrorism and other serious criminal offences, prosecution of criminal offences of terrorism and other serious criminal offences as well as locating persons sought for these criminal offences.

Criminal Offences of Terrorism and Other Serious Criminal Offences

Article 2

Criminal offences of terrorism shall be the criminal offences referred to in Articles 447, 447a, 447b, 447c, 447d, 448, 449, 449a and 449b of the Criminal Code.

¹ Official Gazette of Montenegro", no. 111/22 of 07.10.2022

Other serious criminal offences shall be criminal offences punishable by an imprisonment sentence of three years or more pursuant to the Criminal Code of Montenegro and which have the following characteristics:

- 1) criminal association and establishment of criminal organization,
- 2) trafficking in human beings,
- 3) sexual exploitation of children and child pornography,
- 4) illicit trafficking in drugs,
- 5) illicit trafficking in weapons, munitions and explosives,
- 6) corruption,
- 7) fraud, including fraud that against the financial interests of the European Union,
- 8) laundering and counterfeiting of currency,
- 9) computer-related crime or cybercrime,
- 10) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
- 11) facilitation of unauthorised crossing of the state border or unauthorised residence,
- 12) murder, grievous bodily injury,
- 13) illicit trade in human organs and tissue,
- 14) kidnapping, illegal restraint and hostage-taking,
- 15) organised and armed robbery,
- 16) illicit trafficking in cultural goods, including antiques and works of art;
- 17) counterfeiting and piracy of products,
- 18) forgery of administrative documents and trafficking therein,
- 19) illicit trafficking in hormonal substances and other growth promoters,
- 20) illicit trafficking in nuclear or radioactive materials,
- 21) rape;
- 22) crimes within the jurisdiction of the International Criminal Court,
- 23) unlawful seizure of aircrafts or ships,
- 24) sabotage,
- 25) trafficking in stolen vehicles,
- 26) industrial espionage.

Application

Article 3

This law shall be applied to airline carriers in the air space of Montenegro which depart from Montenegro and land in another country or which depart from another country and land or stopover in Montenegro.

Passenger Information Unit

Article 4

Data referred to in Article 1 of this Law shall be processed by the organisational unit of the public administration authority competent for internal affairs performing police activities (hereinafter referred to as: the police), through a separate organisational unit for

air transport passenger data processing (hereinafter referred to as: the Passenger Information Unit - PIU).

PIU shall designate a police officer responsible for passenger data protection in air transportation in accordance with this Law and the law regulating personal data protection (hereinafter referred to as: the data protection officer).

Data protection officer shall be the contact person passengers can address with regard to issues concerning personal data processing.

Data protection officer shall have access to all of the data processed by PIU.

Provided that the data protection officer considers that the passenger data processing was not in accordance with the law, he shall inform the independent authority supervising personal data protection thereof, in line with the law governing personal data protection.

Using Gender-Sensitive Language

Article 5

All terms used in this law for natural persons in the masculine gender shall mean the same terms for the feminine gender.

Definitions

Article 6

For the purposes of this Law, the following definitions shall apply:

- 1) passenger data processing in air transportation means their collection, analysis, use, transfer, exchange and keeping,
- 2) passenger is a person who has a right to be transported in an aircraft on the basis of the contract with the air carrier ;
- 3) air carrier is a legal or natural person who has been issued an operating licence or another appropriate document for performing services of passenger air transportation,
- 4) passenger name records are the records on passenger's travel requirements in air transport with regard to their travel, which contains information of each passenger necessary to enable reservations to be processed and controlled by the air carriers, as well as information on travel agents, regardless of whether these information are contained in reservation systems, departure control systems used to check passengers onto flights or equivalent systems providing the same functionalities;
- 5) travel agent is a business organisation, other legal entity or an entrepreneur who performs tourist or hospitality activity and organizes or mediates in organising travel,
- 6) frequent flyer programme is the programme of air carrier offers for building and maintaining good relations with customers who use the services of that air carrier most often and it includes rewarding those customers for their trust through the possibility of using services under special or favourable conditions,
- 7) carrier's reservation system is the internal carrier's reservation system in air transport in which PNR data are collected for the handling of reservations.

II EXCHANGE OF INFORMATION

Affairs of the Passenger Information Unit

Article 7

PIU shall perform the following affairs:

- collect, use and analyse passenger data collected by air carriers, store and transfer those data or the results of processing those data to authorities referred to in Article 12 paragraph 1 of this Law,
- exchange both PNR data in air transport and the result of processing those data with the authorities of EU Member States competent for passenger data processing (hereinafter referred to as: Foreign Passenger Information Unit- foreign PIU), authorities referred to in Article 14 paragraph 3 and Article 21 paragraph 1 and the European Union Agency for Law Enforcement Cooperation (hereinafter referred to as: Europol).

Affairs referred to in paragraph 1 of this Article shall be performed by the Passenger Information Unit on a secure location in terms of the legislation regulating information security.

PIU can carry out affairs referred to in paragraph 1 of this Article in cooperation with the authorities referred to in Article 12 paragraph 1 of this Law.

Passenger Data

Article 8

Air carrier shall submit air passenger data collected within its regular operations to PIU.

Data referred to in paragraph 1 of this Article shall be:

- 1) PNR record locator (alphanumeric or alpha code used to access a specific record on an airline's reservation system),
- 2) date of reservation or issuance of ticket,
- 3) date of intended travel,
- 4) name(s) of passenger,
- 5) address and contact information (telephone number, e-mail address),
- 6) all forms of payment information, including billing address,
- 7) complete travel itinerary for specific PNR,
- 8) frequent flyer information,
- 9) travel agent information,
- 10) travel status of passenger, including confirmations, check-in status, no-show or go-show information,
- 11) split/divided PNR information,
- 12) general remarks (including all available information on unaccompanied minors, such as: name and gender, sex, age, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent information),
- 13) ticketing field information, including ticket number, date of ticket issuance, information that it's a one-way ticket and automated ticket fare quote fields,
- 14) seat number and other seat information,
- 15) code share information (names of airlines participating in a joint flight, name of air carrier operating the flight, date of the flight),
- 16) baggage information,
- 17) number and names of other passengers from the PNR,

18) complete and accurate passenger information the air carrier will transport, submitted in line with the law regulating border control (given name, family name, type and number of travel document, country of issuance and expiry date of the travel document, nationality, date of birth and gender, name of the border crossing used to enter Montenegro, flight number, planned date, departure time and arrival time of the aircraft, total number of passengers, place of boarding and transit of passengers),

19) subsequent changes to the data referred to in items 1 to 18 of this paragraph.

Data referred to in paragraph 2 of this article shall be submitted by the air carrier without a fee.

Provided that the air carrier transfers passenger, data which are not stipulated by paragraph 2 of this Article, PIU shall permanently delete the data, without delay.

Air carrier shall submit the data referred to in paragraph 2 of this Article electronically, in line with the protocols and on the forms of the European Commission, as well as in line with the rules and procedures of the International Civil Aviation Organisation (ICAO).

Provided that data referred to in paragraph 2 of this Article, in the event of technical failure, cannot be transferred in the manner referred to in paragraph 5 of this Article, the air carrier shall transfer this data in another appropriate manner guaranteeing the same level of data security in line with the law governing personal data protection.

Provided that the flight is code-shared, the obligation to transfer the passenger data to PIU shall be on the air carrier that operates the flight.

Manner of Transferring Data

Article 9

Air carrier shall transfer data referred to in Article 8 paragraph 2 of this Law to PIU:

- 48 hours at the earliest or 24 hours at the latest prior to the scheduled flight departure time,
- immediately after flight closure, that is, once the passengers have boarded the aircraft in preparation for departure and it is no longer possible for passengers to board or leave.

In cases referred to in paragraph 1 item 2 of this Article, air carriers shall transfer only the data different to the data submitted in line with paragraph 1 item 1 of this Article or complete data, if there are no technical means to transfer only the data that are different.

Notwithstanding paragraph 1 of this Article, where access to PNR data is necessary to respond to a specific and actual threat related to criminal offences referred to Article 2 of this Law, air carriers shall, on a case by case basis, transfer data, referred to in Article 8 paragraph 2 of this Law, to a PIU, upon its request.

Manner of Work of the Passenger Information Unit

Article 10

On the basis of data referred to in Article 8 paragraph 2 of this Laws, PIU shall:

- carry out an assessment of passengers referred to in Article 3 of this Law in line with previously defined criteria to identify persons who require further examination by the competent authorities referred to in Article 12 paragraph 1 of this Law, and, where relevant, by Europol, in view of the fact that such persons may be involved in criminal offences referred to in Article 2 of this Law or for the purpose of locating persons sought for those criminal offences,

- transfer data to the authorities referred to in Article 12 paragraph 1 and Article 14 paragraph 3 of this Law to foreign PIUs, Europol and authorities referred to in Article 21 paragraph 1 of this Law, on the basis of a duly reasoned request referred to in Article 19 paragraph 1 of this Law, submitted on the basis of sufficient grounds, on a case-by-case basis,
- analyse PNR data for the purpose of updating or creating new criteria to be used in the assessments carried out in line with item 1 of this paragraph in order to identify any persons who may be involved in one or several criminal offences referred to in Article 2 of this Law or who might be persons sought for the commission of these criminal offences.

When carrying out the assessment referred to in paragraph 1 item 1 of this Article, the PIU may:

- compare data referred to in Article 8 paragraph 2 of this Law against databases relevant for the purposes of preventing and detecting criminal offences referred to in Article 2 of this Law, prosecuting these criminal offences or locating persons sought for the commission of these criminal offences;
- process PNR data against pre-determined criteria.

Assessment criteria shall be set and regularly reviewed by the PIU in cooperation with the competent authorities referred to in Article 12 paragraph 1 of this Law.

Assessment criteria must be in line with the target of PNR data assessment, proportionate to that assessment and specific and shall not be based on race, skin colour, national affiliation, social or ethnic origin, connection with a minority nation, or a minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, state of health, disability, age, property status, marital or family status, group membership or assumption of group membership, political party or other organization, as well as on other personal characteristics.

Further Examination of Passengers

Article 11

Provided that there is a possibility that a certain person might be involved in one or several criminal offences referred to in Article 2 of this Law or that the person is sought for the commission of these criminal offences on the basis of the passenger assessment referred to in Article 10 paragraph 1 item 1 of this Law based on an automated processing of data, PIU shall additionally process the processing results by non-automated means, that is, have direct insight into the records and databases to verify whether the competent authority referred to in Article 12 paragraph 1 of this Law needs to take action.

Provided that the competent authority referred to in Article 12 paragraph 1 of this Law needs to take action, following further examination referred to in paragraph 1 of this Article, PIU shall transmit processing results to this authority on a case-by-case basis.

National Competent Authorities

Article 12

For the purpose of preventing and detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences, data processed by the PIU, that is, the results of processing the data, shall be transferred to the following authorities, to further examine or undertake appropriate action: police, public administration authority competent for defence affairs, National Security Agency of Montenegro, public administration authority

competent for finance, public administration authority competent for customs affairs, competent state prosecutor's office and courts, upon their request or upon their own initiative.

The PNR data and the result of processing those data may be further processed by the competent authorities referred to in paragraph 1 of this Article only for the specific purposes of preventing and detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences.

Authorities referred to in paragraph 1 of this Article shall not take any decision that would produce an adverse legal effect on a person or significantly affect a person, only by reason of the automated processing of PNR data by PIU.

Foreign Passenger Information Unit

Article 13

PIU can transmit data being processed or the result of processing those data to foreign PIUs, upon their duly reasoned request, to further examine or undertake appropriate action within its competence, for the purpose of preventing and detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences.

Transmission of Data Upon Request

Article 14

PIU, upon a duly reasoned request, shall transmit PNR data to competent authority referred to in Article 12 paragraph 1 of this Law and the foreign PIU, if they have not been depersonalised, as well as the result of any processing of those data, if it has already been carried out, if the data is required for a specific case of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences.

Provided that data referred to in paragraph 1 have been depersonalised, they can be transmitted only if it is justifiably deemed necessary in the specific case for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences and if approved by the head of PIU.

PIU can, upon a duly reasoned request, transmit PNR data to the competent authority of the EU Member State that is not a foreign PIU, only if necessary, in urgent situations and under the conditions referred to in paragraphs 1 and 2 of this Article.

Where access to PNR data is necessary to respond to a specific and actual threat related to the criminal offence referred to in Article 2 of this Law, the PIU shall, upon a duly reasoned request of the foreign PIU, at any given time, request the data from the air carrier in accordance with Article 9 paragraph 3 of this Law, transmitted to the requesting foreign PIU.

Transmission of Data on its Own Initiative

Article 15

PIU shall transmit, on its own initiative, data and results of data processing connected to persons whose data are being processed in accordance with Article 10 of this Law, that are assessed as necessary for the authorities referred to in Article 12 paragraph 1 of this Law, foreign PIU or Europol, for the purpose of preventing or detecting criminal

offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences

Request to the Foreign PIU

Article 16

PIU can request the foreign PIU to transmit passenger data that the PIU has processed as well as the results of such processing of data, provided that the data is necessary for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences.

Exchange of data referred to in paragraph 1 of this Article shall be carried out in the manner prescribed for the international operational police cooperation.

Emergency Actions

Article 17

Notwithstanding of Article 16 paragraph 1 of this Law, in emergencies without delay, authority referred to in Article 12 paragraph 1 of this Law can submit a request to the foreign PIU for the purpose of transmitting PNR data that the PIU had processed, as well as the result of processing of those, provided that the data is required for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences.

When the request is submitted in line with paragraph 1 of this Article, a copy of such request shall be submitted to the PIU.

Exchange of Data with Europol

Article 18

PIU can, upon a duly reasoned request, transfer to Europol PNR data processed as well as the results of processing those data through the national Europol Unit, electronically, provided that the data is required for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences and if such criminal offences are under the competence of Europol.

Exchange of data referred to in paragraph 1 of this Article shall be carried out through the Europol Secure Information Exchange Network Application in the language used during the use of this application.

Request for Passenger Data Transmission

Article 19

Request for passenger data in air transport submitted by authorities referred to in Article 12 paragraph 1 and Article 14 paragraph 3 of this Law, foreign PIU, Europol and authority referred to in Article 21 paragraph 1 of this Law, shall contain:

- 1) name and surname and the position of the officer making a request on their behalf,
- 2) legal basis for the request,
- 3) purpose for requesting the data and reasons due to which the purpose cannot be achieved without the requested data or reasons that present an important impediment in achieving this purpose.

If the data referred to in paragraph 1 item 1 of this Article present classified data for certain authorities referred to in Article 12 paragraph 1 and Article 14 paragraph 3 of this Law, as well as in cases when the request is submitted by the foreign PIU, Europol or the authority referred to in Article 21 paragraph 1 of this Law, the request shall indicate only the name of the authority.

Informing the European Commission

Article 20

On a yearly basis, PIU shall submit statistical information processed in line with this Law to the European Commission and the data shall not contain any personal data in terms of the law governing personal data protection.

III TRANSFER AND EXCHANGE OF DATA WITH THIRD COUNTRIES

Transfer of Data to Third Countries

Article 21

Data referred to in Article 8 paragraph 2 of this Law and the results of processing such data can be transferred to the authority competent for processing such data of a country that is not an EU Member State, upon a duly reasoned request and only on a case-by-case basis, provided that:

- this is required for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences,
- the country agrees to transfer the data to an EU Member State, when necessary for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences,
- the country agrees to transfer the data to another third country that is not an EU Member State, with the explicit approval of the PIU, when necessary for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences,
- the conditions referred to in Article 14 paragraphs 1 and 2 of this Law have been met and
- the country meets the conditions in terms of personal data protection prescribed by the law governing personal data protection.

PIU shall inform the data protection officer each time data are transferred pursuant to paragraph 1 of this Article.

Transfer of Data Obtained from EU Member States to Third Countries

Article 22

PIU can transfer passenger data in air traffic received from an EU Member State to the country referred to in Article 21 paragraph 1 of this Law, with the previous consent of the EU Member State from which the data has been obtained.

Notwithstanding paragraph 1 of this Article, PIU can transfer data without the consent of the EU Member States from which the data was obtained provided that:

- transfer of data is necessary to respond to a specific and actual threat related to the criminal offences referred to in Article 2 of this Law in that Member State or country referred to in Article 21 paragraph 1 of this Law, and
- prior consent cannot be obtained timely.

PIU shall, without delay, inform the authority of the EU Member State responsible for giving consent referred to in paragraph 1 of this Article on the transfer of data referred to in paragraph 2 of this Article.

PIU shall draft an official note on the transfer of data referred to in paragraphs 1 and 2 of this Article for the purpose of potential subsequent checking of data transfer.

Request to a Third Country for Data Transfer

Article 23

PIU can request the processed passenger data in air transport as well as the result of processing those data, on a case-to-case basis, from the authority competent for data processing referred to in Article 8 paragraph 2 of this Law in the country referred to in Article 21 paragraph 1 of this Law, if the data is required for a specific case of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences.

Exchange of data referred to in paragraph 1 of this Article shall be carried out in the manner prescribed for the international operational police cooperation.

IV RETENTION AND DEPERSONALISATION OF DATA

Depersonalisation of Data

Article 24

Passenger data provided by air carriers to the PIU shall be retained for a period of five years after their transfer to the PIU.

Upon the expiry of the period of six months following the transfer of data referred to in paragraph 1 of this Article, data shall be depersonalised by rendering those data elements which could serve to identify directly the data subject invisible to a user.

Data referred to in paragraph 2 of this Article rendered invisible to a user shall be:

- name(s) of passengers whose data have been processed in accordance with Article 10 of this Law, including the names of other passengers on the PNR and number of travellers on the PNR travelling together,
- address and contact information (phone number, e-mail),
- all forms of payment information, including billing address, to the extent that it contains any information which could serve to directly identify the passenger to whom they relate or any other persons,
- frequent flyer information,
- general remarks to the extent that they contain any information which could serve to identify directly the passenger to whom they relate,
- data referred to in Article 8 paragraph 2 item Article 18 of this Law.

Upon the expiry of the period of six months following the transfer of data referred to in paragraph 1 of this Article, disclosure of the full data that have been depersonalised in accordance with paragraph 2 of this Article shall be permitted only where it is:

- reasonably believed that it is necessary for the purpose of preventing or detecting criminal offences referred to in Article 2 of this Law or prosecuting these criminal offences or locating persons sought for the commission of these criminal offences, and
- approved by the head of the PIU, with the previous consent of the data protection officer.

In order to obtain the approval referred to in paragraph 4 item 2 of this Article, the head of the PIU shall submit a consent request to the data protection officer, in writing.

Data protection officer shall respond to the request referred to in paragraph 5 of this Article in writing, without delay, within the period of six hours.

Notwithstanding paragraphs 5 and 6 of this Article, in case of emergency, the head of the PIU can submit an oral request to the data protection officer, to which he can respond orally.

In cases referred to in paragraph 7 of this Article, head of the PIU shall submit a consent request to the data protection officer within 48 hours, in relation to which the data protection officer shall act in accordance with paragraph 6 of this Article.

For the purpose of providing consent referred to in paragraph 4 item 2 of this Article, data protection officer shall verify the justifiability of data disclosure and act in line with the law governing personal data protection.

Disclosed passenger data in air transport shall be depersonalised once again not later than 48 hours from the given consent of the head of PIU.

Deletion of Data

Article 25

Passenger data in air transport transferred to the PIU shall be deleted permanently upon expiry of the period of five years.

Notwithstanding paragraph 1 of this Article, passenger data in air transport that have been transferred to authorities referred to in Article 12 paragraph 1 and Article 14 paragraph 3 of this Law, foreign PIU, Europol or the authority referred to in Article 21 paragraph 1 of this Law, in line with this Law, shall be retained in line with the law governing personal data protection.

Retention of Data

Article 26

Results of data processing carried out in line with Article 10 of this Law shall be retained by the PIU only as long as necessary to inform the authorities referred to in Article 12 paragraph 1 and Article 14 paragraph 3 of this Law, foreign PIU, Europol or the authority referred to in Article 21 paragraph 1 of this Law that the person whose data have been processed is involved in one or more criminal offences referred to in Article 2 of this Law or for the purpose of locating persons sought for those criminal offences (positive processing result).

When the additional verification of the positive result referred to in paragraph 1 of this Article obtained by automated data processing in line with Article 10 of this Law determines that a person is not involved in one or more criminal offences referred to in Article 2 of this Law, or not to be the person sought for those criminal offences (negative processing result), such data may be retained in order to avoid potential future false positive processing results until the data the processing of which provided this result are being retained.

Rights of Passengers

Article 27

During the processing of personal data pursuant to this Law, every passenger shall have the same right to protection of their personal data, rights of access, rectification, erasure and restriction of access to those data, as well as rights to compensation and judicial redress, pursuant to the law governing personal data protection.

Right to access data referred to in paragraph 1 of this Article shall not apply to depersonalised data.

In the course of processing PNR data, appropriate technical measures shall apply to protect personal data from accidental or illegal destruction or accidental loss, change or unauthorised disclosure to access to those data.

In cases when its possible that the right to personal data protection might be violated or that protection of such data or the privacy of the data subject might be jeopardised, PIU shall thereof inform the data subject as well as the independent authority performing supervision of the personal data protection in line with the law governing personal data protection, without delay.

The air carrier and travel agent registered in Montenegro shall, pursuant to the personal data protection law, inform the passengers on the processing of their personal data carried out in line with this Law.

Records

Article 28

PIU shall keep the records on the following:

- 1) systems and procedures of processing passenger data in air transport within its responsibility, which contains:
 - the names of PIU officers entrusted with the processing and accessing data,
 - requests of authorities referred to in Article 12 paragraph 1 and Article 14 paragraph 3 of this Law, foreign PIUs, Europol and authorities referred to in Article 21 paragraph 1 of this Law,
- 2) collection and erasure of passenger data in air transport containing the date of collection and erasure of those data,
- 3) consultation and disclosure of passenger data in air transport, which contains:
 - the purpose, date and time of such consultation or disclosure,
 - name and UIN of the person who consulted or disclosed the data and of the recipients of those data, as far as possible.

Data referred to in paragraph 1 item 3 of this Article shall be used solely for the purposes of verification within the affairs of the PIU, ensuring data integrity and protection, as well as data audit and shall be kept for a period of five years.

Personal Data Protection Supervision

Article 29

Supervision of personal data protection processed in line with this law shall be carried out by the independent authority supervising the personal data protection in line with the law governing personal data protection.

V. PENAL PROVISIONS

Article 30

A legal entity shall be imposed a fine ranging between EUR 3,000 and EUR 5,000 for a misdemeanour if:

- 1) they fail to submit air passenger data collected within its regular operations to PIU or they fail to submit the data within the prescribed deadline (Article 8 paragraphs 1 and 2 and Article 9 paragraph 1);
- 2) they fail to submit the data referred to in Article 8 paragraph 2 of this Law electronically, in line with the protocols and on the forms of the European Commission, as well as in line with the rules and procedures of the International Civil Aviation Organisation (Article 8 paragraph 5);
- 3) in the event of technical failure, they fail to transfer data referred to in Article 8 paragraph 2 of this Law in another appropriate manner guaranteeing the same level of data security in line with the law governing personal data protection (Article 8 paragraph 6), and
- 4) where access to PNR data is necessary to respond to a specific and actual threat related to criminal offences referred to Article 2 of this Law, air carriers shall, on a case by case basis, they fail to transfer data, referred to in Article 8 paragraph 2 of this Law, to a PIU, upon its request (Article 9 paragraph 3).

Responsible person in a legal entity shall be imposed a fine ranging between EUR 300 and EUR 1,000 for the misdemeanour referred to in paragraph 1 of this Article.

Entrepreneur shall be imposed a fine ranging between EUR 500 and EUR 3,000 for the misdemeanour referred to in paragraph 1 of this Article.

Security measure of prohibition to engage in activity for six months can be imposed for the misdemeanour referred to in paragraph 1.

Request for initiating misdemeanour proceedings shall be submitted by authorised police officers of PIU for the misdemeanours referred to in paragraphs 1 to 4 of this Article.

VI. TRANSITIONAL AND FINAL PROVISION

Deferred Application

Article 31

Provisions of Article 14 paragraph 3, Articles 17 and 20 and provisions of Chapter III TRANSFER AND EXCHANGE OF DATA WITH THIRD COUNTRIES of this Law shall be applied from the day of Montenegro's accession to the European Union.

Application of Certain Provisions to Countries that are not EU Member States

Article 32

Until Montenegro's accession to the European Union, provisions of Article 13, Article 14 paragraphs 1, 2 and 4 and Article 15 and 16 of this Law shall apply to the transfer and exchange of data with countries that are not EU Member States, provided that these countries meet the requirements in terms of personal data protection stipulated by the law governing personal data protection.

Deferred Application for Air Carriers from EU Member States

Article 33

Air carriers from EU Member States, until Montenegro's accession to the European Union, shall not be obliged to act in line with Article 8 of this Law, unless otherwise provided for by international treaties.

Entry into Force

Article 34

This Law shall enter into force on the day of its publishing in the Official Gazette of Montenegro.

* Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime has been transposed into this Law.

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Podgorica, 29 September 2022

The Parliament of Montenegro of 27th Convocation

The Speaker

Danijela Đurović, h.s.