

Position Paper

Brussels, 8 November 2019

Passenger Name Record - widening the scope to rail?

Summary

The EU and the railway sector have been working for many years on facilitating cross-border rail transport by focusing on improving rail interoperability, investing resources into rail infrastructure and creating a common market for rail services. Potential security-measures which impact seamless cross-border rail travelling must be of demonstrated added-value and be proportionate to the level of security gains desired.

In the context of the recent discussions in the Council on the possibility of widening the EU PNR framework to rail, CER is against a requirement to collect passenger name records and perform conformity checks between tickets and identity cards in the rail sector as this would only add another level of complexity for cross-border rail journeys, making trains more expensive without improving security in stations and on board trains. Therefore, it would represent a major blow to the ambition of the EU and railway companies to shift more passengers away from road and air to rail.

1. Background

The PNR Directive¹ came into force in May 2016 with a deadline for national transposition set on 25 May 2018. The Directive applies to (and is designed for) PNR data in air traffic². Key provisions include an obligation on air carriers to transfer the registered data for all passengers on extra-EU flights. Member States can decide to apply the same obligation also to intra-EU flights.

Member States have addressed the possibility to widen the scope of the Directive to other transport modes, including rail, during discussions in the Council Working Party on Information Exchange and Data Protection (DAPIX) under the Finnish Presidency of the Council.

In September 2019, the Presidency confirmed, during the presentation of its priorities in the area of home affairs at the European Parliament's LIBE Committee, that efforts would be made to examine the feasibility of collecting PNR data on transport modes other than aviation, in particular rail and maritime.

By May 2020, the European Commission is expected to present a report to the European Parliament and the Council on the application of the Directive and an assessment of the option to broaden the scope of the PNR data relating to all or selected intra-EU flights. In the context of this report, an assessment on whether to broaden or not the scope of the PNR Directive to rail could be included.

The aim of this paper is to inform decision-makers about the position of the Community of European Railways and Infrastructure Companies (CER), and the possible implications for passengers and railway operators, of an EU-wide PNR system applied to the railways.

2. EU citizens ask for more (cross-border) rail services

Railways are an essential means of transport and a success story for the EU economy. European rail companies transport some 9 billion passengers each year through tens of thousands of stations, compared to 900 million passengers carried by the aviation sector. As an example, Deutsche Bahn carries approximately the same number of passengers a day as Lufthansa in a whole year.

While railways have unparalleled sustainability³ and safety records⁴, the security of rail customers and the staff is also an unquestionable priority for the sector. As more and more EU citizens want to travel by rail, continued investments are aimed at making transport safe and secure.

¹ 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.

² The Directive does not cover other transport modes. However, Member States can decide to extend the Directive to other modes. Belgium decided to extend the scope of the Directive to international high-speed rail services and international bus services, when the Directive was transposed into Belgian law: *3 FEVRIER 2019. Arrêté royal relatif à l'exécution de la loi du 25 décembre 2016 relative au traitement des données des passagers, reprenant les obligations pour les transporteurs HST et les distributeurs de tickets HST*. See the text [here](#). Note that the Royal Decree is in force but not yet applied.

³ Rail is 9x less CO2 intensive than air travel for passengers. See [here](#) for more information

⁴ Rail is the safest mode of land transport. See [here](#) for more information

CER members commitment towards its customers and policy-makers over the period 2019-2024⁵ is to continue investing significant resources to increase the efficiency and quality of cross-border railway services. The *renaissance* of rail and the much needed modal-shift away from road and air is at the heart of the most pressing challenges of our times, including the fight against climate change and air pollution. Given the expected increase in rail transport volumes, daily commuters and long-distance inter-city travelers expect an improvement in the international rail offer.

Against this background, CER is concerned by the potential unintended impact of extending the scope of the PNR Directive to rail.

3. The EU PNR framework is in contradiction with the specificities of an open rail system

Rail transport is key to the EU strategy for a more sustainable transport sector, for economic and social cohesion and for connecting Europeans within and between Member States.

It is a mass transport, open-access system used by millions of commuters, leisure passenger and businesses daily, who value 'turn up and go'. This flexibility is what rail customer demand and is key to make rail transport appealing and competitive compared to other modes. High Speed rail transport connecting big city centers in a sustainable, efficient and "time saving" manner is a typical European success story which shows the potential benefits of railways to the whole society.

The specificities of rail and public transport are very different compared to other modes such as aviation and the maritime sectors. Thus, security policies and strategies like the PNR Directive, designed with having the specificities of the aviation sector in mind, are not compliant with the daily functioning of the railway system and with the travel experience that rail passengers expect when purchasing a rail service.

Longer, less attractive, rail journeys

If the railway sector would be required to systematically collect and transmit passenger data, as well as to perform conformity checks, the booking and travel experience of rail passengers would be much less attractive than today, with longer journeys and increased waiting times for passengers before boarding. To date, there is no technology allowing for frictionless checks. A few examples can serve as a proxy to illustrate potential negative impacts:

- During the temporary introduction of border controls between Copenhagen and Malmö in 2016, travel times were extended by 12 minutes, departures had to be reduced by 50 % during peak hours, and the number of passengers crossing the Øresund by rail decreased by 13 %.
- For Eurostar services, subject to the specific Channel Tunnel requirements which make it closer to an airline system rather than to a typical rail service, passengers are indeed asked to arrive at the station 45'-60' before train departure in order to allow for Schengen related ID checks and security checks. Eurostar estimates that any additional requirement to reconcile ticket and passport information would force

⁵ See [here](#) the CER Policy Agenda 2019-2024, *Customers and society first*

Eurostar to move the arrival time even earlier, thereby degrading attractiveness vis-à-vis air travel

- Deutsche Bahn has also estimated that PNR-related conformity checks could add minimum 20-30 minutes to the journey time between Frankfurt and Brussels, without taking into account indirect impacts in terms of timetable changes.

Conformity checks and stations/platforms constraints

Unlike in the air sector, which has a few hundred airports across Europe, there are tens of thousands of stations in the EU, the vast majority of which are very small, including those serving cross-border passengers.

Space constraints of the railway infrastructure is one key element that makes it impossible to adapt most of the stations and platforms to accommodate facilities for checks, which would need to process, for instance, several hundreds of people for a single train. For stations where space constraints are not limited, the significant costs that will be incurred to accommodate airport style security processes and the cost to deploy additional staff, will inevitably be passed on to customers.

This scenario will further reduce the competitiveness of cross-border rail services vis-à-vis road and air and impact the ability of railway operators to keep international railway services profitable. For instance, railway staff would need to be present at each stop of the journey or at each door of the train to verify the correspondence between the ticket and the identity card of a passenger. Furthermore, these tasks are similar to police powers which go beyond the role of the railway carriers.

Another element to keep in mind is that local, sub-urban, regional, national and international services share the same network, platforms and stations. Trains can also serve national and international passengers at the same time since railways, unlike aviation which is a point-to-point service, mostly serve several stations within a journey with national and international passengers sharing the same train. These elements make security-based traffic separation unrealistic as it is not possible to confine international passengers in a closed area of a station or of a train, without adversely impacting the services and business models.

The end of flexibility for passengers

A significant amount of passengers enjoy the flexibility given by the current system, e.g. last-minute ticket purchases or ticket exchanges, just before the train departure, or ticket purchases on-board trains.

In fact, in many EU countries passengers' data are not collected and nominative tickets or train-bound tickets are not the rule, which also allows rail customers to decide until the very last moment whether to board or not a train. Popular and flexible products such as global passes (e.g. Interrail), transferrable tickets, postpaid ticketing schemes or season tickets also provide this flexibility.

All in all, PNR data collection/transmission and related conformity checks would have serious impacts on the business model for cross-border rail services and naturally lead to decreased attractiveness of rail services, hence to reverse modal shift to more polluting modes. This is opposite to the EU objectives in terms of future mobility and the shared ambition to expand cross-border services further.

Such a system would also fail to provide the desired security benefits. In fact, the collection and transmission of PNR data is not designed to improve security in stations and on trains.

4. Protecting rail customers with the support of the EU institutions

The railway sector faces a wide range of threats, shared with other transport modes and businesses' responsible for open spaces and critical infrastructure. The threats range from daily operational problems, such as disorder and crime, like vandalism and metal theft, as well as security threats like terrorism.

Railway undertakings and infrastructure managers take their responsibility for constantly improving their security management systems and work in close cooperation with national law enforcement authorities in the assessment of the risk, the deployment of relevant measures and in the preparation of crisis management.

Also at European level, CER members take appropriate measures in line with threat levels, in coordination and agreement with law enforcement and business partners. For instance, international trains that pass through several countries can be patrolled by mixed teams made up of law enforcement personnel from several countries.

Cross-border operators have developed a strong security culture and close partnerships with security stakeholders from different countries. This means that security standards applied are already very high. It is therefore not proven that the extension of the PNR Directive to rail would improve security in stations and on board.

In line with the 2018 Action Plan on the security of rail passengers⁶ and the 2017 Action Plan to support the Protection of Public Spaces⁷, CER members are engaged in a constant exchange with EU and national decision-makers on how to improve rail and generally land transport security⁸.

These activities complement the cooperation with RAILPOL (the European Association of Railway Police Forces) and the business-driven platforms managed by CER's sister associations COLPOFER and UIC, where companies have an established EU-wide cooperation framework aimed at coordinating their security approaches at European level.

Conclusion

The 2018 Action Plan stresses that Europe needs a modern rail security system that is based on risk assessment, and that allows a prompt and proportionate response to emerging threats whilst keeping rail services accessible and open for passengers and preventing unnecessary barriers to the internal market. The Commission study⁹ on security options of high-speed and international services recognises this approach and does not include a PNR system among the suitable options for railways.

CER members will always advocate for sound impact analysis when security measures are discussed, in order to ensure that measures mitigating the security-related risks are holistic, of clear added-value and proportionated to the level of security desired, while

⁶ Brussels, 13.6.2018 COM(2018) 470 final and ANNEX. See texts [here](#) and [here](#).

⁷ Brussels, 18.10.2017 COM(2017) 612 final. See text [here](#).

⁸ Together with Member States, CER members contribute to the European Commission's work in the context of the EU Rail Passenger Security Platform (RAILSEC) and of the Expert Group on Land Transport Security (LANDSEC)

⁹ *Study on options for the security of European high-speed and international rail services*, Final report, December 2016, Steer Davies Gleave. See the text [here](#).

preserving a flexible and open railway system. For these reasons CER is against the introduction of PNR in the rail sector.

CER members stand ready to continue to work with decision-makers on this basis, as EU citizens expect rail services to be safe and secure, as well as functional and reliable.

About CER

The Community of European Railway and Infrastructure Companies (CER) brings together railway undertakings, their national associations as well as infrastructure managers and vehicle leasing companies. The membership is made up of long-established bodies, new entrants and both private and public enterprises, representing 71% of the rail network length, 76% of the rail freight business and about 92% of rail passenger operations in EU, EFTA and EU accession countries. CER represents the interests of its members towards EU policy makers and transport stakeholders, advocating rail as the backbone of a competitive and sustainable transport system in Europe. For more information, visit www.cer.be or follow [@CER_railways](https://twitter.com/CER_railways) on Twitter.

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