

Brussels
November 22, 2016

Dear Commissioner Elżbieta Bieńkowska,

Access Now is an international organisation that defends and extends the digital rights of users at risk around the world.

We would like to draw your attention to legal issues regarding the legislative debate in Belgium “on the treatment of Passenger data”. The draft law foresees the creation of a Passenger Name Records system that would apply not only to air passengers but also to international trains, boats, and bus passengers. This legislative proposal has been discussed and adopted on November 10, 2016 by one section of the Belgian Parliament and will be presented to the full house of the Parliament for a vote in the coming weeks.

If adopted, this proposal would constitute an obstacle to the internal market by restricting the fundamental freedom of movement of persons and is therefore incompatible with EU law, in particular with the Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. According to the draft proposal, operators and authorities must communicate and verify passenger informations at least 24 hours prior to travel - which means that EU citizens would effectively be unable to travel on a last-minute decision.

As Guardian of the Treaties and pursuant the powers foreseen in Article 258 of the Treaty on the Functioning of the European Union, we urge you to take all the necessary steps to bring the present violations to an end through the launch of an infringement procedure.

Sincerely,

Estelle Massé.

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