



Brussels/Kiev  
25 August, 2021

**Re: Investigations into the possible exchange of data between EU and Belarus authorities aiding the kidnapping of Raman Pratasevich and Sofia Sapega**

Dear Commissioner Johansson,

*CC: Vice-President Jourová*

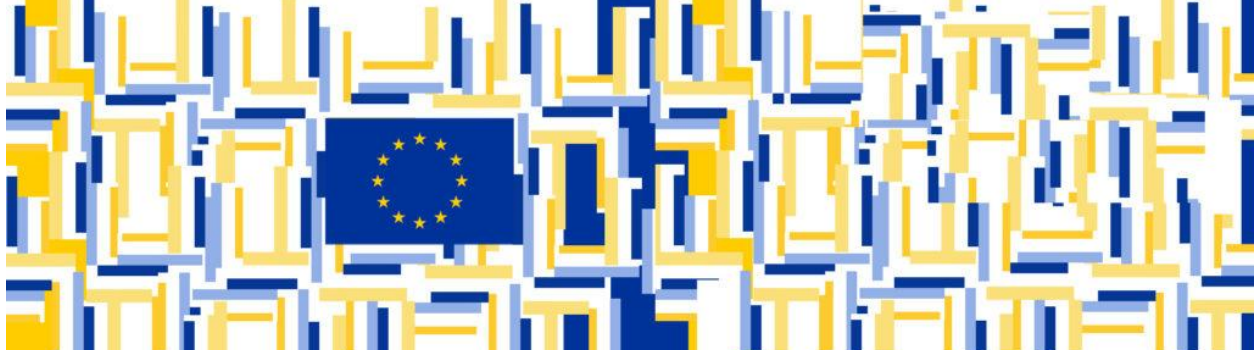
*CC: Commissioner Válean*

Access Now is calling on the European Commission to launch an investigation into the possible direct or indirect transfer of data between EU and Belarusian authorities that may have aided the kidnapping of Belarusian journalist, Raman Pratasevich, and partner, Sofia Sapega, on May 23, 2021.

The recent forced landing of Ryanair flight FR4978 that led to the couple's capture and arrest, raises serious red flags around security and safety of journalists and international passengers. Based on the scale of the plane interception operation, we are asking for the European Union to shine a light on any information that may have contributed to informing the Belarusian authorities of Raman Pratasevich's presence on board this flight, including the possible exploitation of personal information such as Passenger Name Records (PNR). As noted by [the European Parliament](#) and [EU national authorities](#), the incident requires a thorough review of whether international legal instruments may have been misused for political repression by the Belarusian regime.

**Access Now is concerned that PNR data may have been misused by authorities.** Under [the EU PNR Directive](#) and its national implementing legislations, airlines and relevant Passenger Information Units have the obligation to collect, store, and retain the personal travel records of anyone entering, travelling within, or leaving the EU. At the time of adoption, [we had warned EU policymakers](#) that a number of measures established under the EU PNR systems were privacy-invasive and inherently disproportionate, but also increased the risk of human rights abuses against the most vulnerable individuals, including journalists and political dissidents.

According to Access Now's research, there is neither a direct PNR agreement between the Republic of Belarus and the European Union, nor an intergovernmental air service agreement between Belarus and Lithuania — where the plane was bound — or Greece — where the plane originated from. According to the national PNR legislation of the Republic of Belarus, Advanced Passenger Information



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(API) and PNR notifications are only required [for flights to the Republic of Belarus](#), and not for those flights that are simply traveling *through* Belarus' airspace. Moreover, Belarus has no agreements for cooperation in criminal cases with Europol or Eurojust, which indicates that the information could not have been acquired through their databases. However, transmitting of data between Europol and Interpol, to which [Belarus is a member country](#), is provided by [the 2001 Working Arrangement](#) and contains no specification regarding the possible exemption to the exchange of PNR between the agencies.

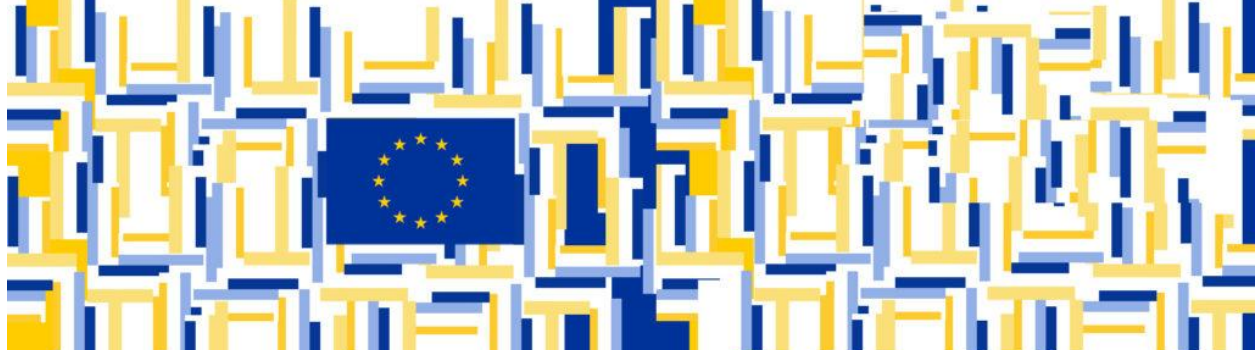
**Air service agreements lack sufficient privacy and data protection safeguards.** We would like to bring to the Commission's attention the fact that Belarus has concluded intergovernmental air service agreements [with 47 states](#), including 14 EU member states (not including Greece and Lithuania). Some of these instruments contain the provisions on information exchange but do not provide for sufficient safeguards for the rights to privacy and data protection. For instance, an [agreement on air transport](#) between Belarus and Belgium allows the Contracting Party to request airlines to provide any information as may be required to satisfy the aeronautical authorities of the other Party.<sup>1</sup> We have concerns that such agreements can be potentially used by authoritarian regimes to circumvent the limitations on the transfer of PNR data to third countries and in no way ensure that information exchanged will be protected at a level that is “essentially equivalent” to the one guaranteed in the EU.

In the light of the issues outlined above, **we ask that you help provide answers to the following questions:**

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1. Did the Lithuanian or Greek Passenger Information Units (PIUs) receive a request from Belarus to transfer PNR data to national authorities? If so, have the authorities agreed to this request? If so, under which legal basis did such transfer happen? And did any human rights or other risk assessment where conducted in relation to such a request? If yes, what was the result of this assessment?
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2. Can PNR data from intra-EU flights become available to Interpol and can this data be reached by national law enforcement agencies, including Interpol National Central Bureau (NCB) in Belarus or the Belarusian national authorities?
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<sup>1</sup> Agreement between the Government of the Republic and Belarus and the Government of the Kingdom of Belgium on air transport, 26 March 1996, article 16 (2)



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3. Will the European Commission investigate any potential data sharing between Ryanair, any EU authorities, and Belarusian authorities in connection with the incident?

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4. Will the European Commission conduct a review of other data sharing schemes that could have been compromised or misused in the situation in question?

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We look forward to hearing back from you on these issues critical to the safety of journalists, and all airline passengers, within the EU. We remain at your disposal for any questions you may have.

Sincerely,

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