Proposal to open negotiations on the Commission recommendation for a Council decision authorising the opening of negotiations for an agreement between the EU and Tunisia on the exchange of personal data between Europol and the Tunisian competent authorities for fighting serious crime and terrorism

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Claude MORAES (S&D, UK) on the recommendation, by the Commission, for a Council decision authorising the opening of negotiations for an agreement between the European Union and Tunisia on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Tunisian competent authorities for fighting serious crime and terrorism.

The report stressed the need for cooperation with Tunisia in the field of law enforcement for the European Union's security interests to be properly assessed and called on the Commission to conduct a thorough impact assessment on this issue.

Consequently, Members considered that **due caution** is needed while defining the negotiating mandate for an EU-Tunisia agreement. They called on the Commission to carry out an appropriate **impact assessment** so as to define the necessary safeguards to be integrated in the agreement.

The report insisted that the **level of protection** resulting from the agreement should be essentially equivalent to the level of protection in EU law. If such level cannot be guaranteed both in law and in practice, the agreement cannot be concluded.

In particular, the Agreement shall contain:

- strict and specific provisions imposing respect for the **principle of purpose limitation** with clear conditions for the processing of personal data transmitted;
- a clear and precise provision setting out the **data retention period** of personal data that have been transferred and requiring the erasure of the personal data transferred at the end of the data retention period;
- data subjects' right to information, rectification and erasure as provided for in other Union legislation on data protection;
- a clear definition of the **categories of offences** for which personal data shall be exchanged;
- a **monitoring mechanism** to be subject to periodic assessments.

Members insisted on the need to:

- expressly indicate that **onward transfers** of information from the competent authorities of Tunisia to other authorities in Tunisia can only be allowed to fulfil the original purpose of the transfer by Europol and should always be communicated to the independent authority, the EDPS and Europol.

To this end, an exhaustive list of the competent authorities in Tunisia to which Europol can transfer data should be drawn up. Any modification to such a list that would replace or add a new competent authority would require a review of the international agreement;

- expressly indicate that onward transfers of information from the competent authorities of Tunisia **to other countries** are prohibited and would result in the immediate ending of the international agreement.

Taking into account Tunisia's different societal characteristics and cultural background compared to the EU and the fact that criminal acts are defined differently in the EU than in Tunisia, Members considered that the transfer of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data or data concerning a person's health and sex life should only take place in **very exceptional cases and be subject to clear safeguards** for the data subject and persons linked to the data subject.

Lastly, the report stressed that the European Parliament's consent to the conclusion of the agreement will be conditional upon satisfactory involvement of the European Parliament at all stages of the procedure.