

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

2018/2061(INI) - 04/07/2018 - Text adopted by Parliament, single reading

The European Parliament adopted, by 538 votes to 110, with 24 abstentions, a resolution on the recommendation, by the Commission, for a Council decision authorising the opening of negotiations for an agreement between the European Union and Turkey on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Turkish competent authorities for fighting serious crime and terrorism.

Assessing the risks: Parliament considered that the necessity of the cooperation with Turkey in the field of law enforcement for the European Union's security interests, as well as its **proportionality**, needs to be properly assessed and called on the Commission, in this context, to conduct a thorough impact assessment.

The resolution stated that there are **major concerns** about respect for fundamental rights in Turkey, in particular as regards the freedom of expression, the freedom of religion, and the right not to be subject to torture or inhumane treatment. It stressed that a prerequisite for launching the negotiations is that Turkey fulfil its horizontal obligation of full, effective and non-discriminatory cooperation with all Member States on justice and home affairs issues, including with **Cyprus**.

Consequently, Members considered that **due caution** is needed while defining the negotiating mandate for an EU-Turkey 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.

Ensuring equivalent protection: full consistency with Articles 7 and 8 of the Charter of Fundamental Rights and with the other fundamental rights and freedoms enshrined in the Charter should be fully ensured in the receiving third country to which it is addressed. Parliament insisted that the **level of protection** resulting from the agreement should be substantially equivalent to the level of protection offered by Union legislation. If such a level of protection cannot be guaranteed, both in legislation and in practice, the agreement should not 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 clear reference to the name of the **independent supervisory authority** in charge of supervising the implementation of the international agreement;
- 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 Turkey to other authorities in Turkey 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 Turkey 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 Turkey **to other countries** are prohibited and would result in the immediate ending of the international agreement.

Sensitive data: taking into account Turkey'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 Turkey, Parliament 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 resolution stressed that the European Parliament's consent to the conclusion of the agreement shall be conditional upon satisfactory involvement of the European Parliament at all stages of the procedure.