Basic information

2018/2063(INI) INI - Own-initiative procedure	Procedure completed
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 **Subject** 1.20.09 Protection of privacy and data protection 7.30.20 Action to combat terrorism 7.30.30 Action to combat crime **Geographical area** Tunisia	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	MORAES Claude (S&D)	19/03/2018
	Shadow rapporteur METSOLA Roberta (PPE) STEVENS Helga (ECR) PETERSEN Morten (ALDE) ERNST Cornelia (GUE/NGL) TERRICABRAS Josep-Maria (Verts/ALE)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
BUDG Budgets	The committee decided not to give an opinion.	
CONT Budgetary Control	The committee decided not to give an opinion.	
AFCO Constitutional Affairs	The committee decided not to give an opinion.	

European Commission	

Commission DG	Commissioner
Migration and Home Affairs	AVRAMOPOULOS Dimitris

Key events

Date	Event	Reference	Summary
20/12/2017	Non-legislative basic document published	COM(2017)0807	Summary
14/06/2018	Committee referral announced in Parliament		
20/06/2018	Vote in committee		
27/06/2018	Committee report tabled for plenary	A8-0237/2018	Summary
04/07/2018	Decision by Parliament	T8-0298/2018	Summary
04/07/2018	Results of vote in Parliament		
04/07/2018	End of procedure in Parliament		

Technical information

Procedure reference	2018/2063(INI)
Procedure type	INI - Own-initiative procedure
Legal basis	Rules of Procedure EP 117
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/12871

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE621.030	18/05/2018	
Amendments tabled in committee		PE622.354	01/06/2018	
Committee report tabled for plenary, single reading		A8-0237/2018	27/06/2018	Summary
Text adopted by Parliament, single reading		T8-0298/2018	04/07/2018	Summary

European Commission

Document type	Reference	Date	Summary
	COM(2017)0807		

Commission document (COM)		20/12/2017	Summary

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

2018/2063(INI) - 27/06/2018 - Committee report tabled for plenary, single reading

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.

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

2018/2063(INI) - 20/12/2017 - Non-legislative basic document

PURPOSE: to open 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.

BACKGROUND: in a globalised world where serious crime and terrorism are increasingly transnational and polyvalent, Europol should therefore be able to exchange personal data with law enforcement authorities of third countries to the extent necessary for the accomplishment of its tasks.

Regulation (EU) 2016/794 establishes a legal framework for Europol. It sets out the rules for the **transfer of personal data from Europol to third countries** and international organisations. Since the entry into application of the Regulation (1 May 2017), and pursuant to the Treaty on the Functioning of the European Union (TFEU), the Commission is responsible, on behalf of the Union, for negotiating international agreements with third countries for the exchange of personal data with Europol.

Taking into account the political strategy as outlined in the European agenda on security and the potential benefits of closer cooperation in this area, the Commission considers it necessary to start negotiations in the short-term with **eight countries**, as identified in the 11th progress report towards a genuine and effective Security Union.
The 2016-2020 Europol strategy identifies the Mediterranean region as priority for enhanced partnerships. The 2017-2020 Europol external strategy also stresses the need for closer cooperation between Europol and the **Middle East/North Africa (MENA)** due to the current terrorist threat and migration-related challenges.
EU-Tunisia relations date back to 1976. EU support to the Tunisian people covers many policy areas, including accompanying the electoral process, promoting human rights, supporting democratic and socioeconomic reforms, improving security and strengthening civil society.
In the context of the revision of the European Neighbourhood Policy (ENP) three additional areas for cooperation were identified: 1) economic development for stabilisation; 2) the security dimension and 3) migration and mobility.

Based on data available as well as Europol's in-house expert knowledge, cooperation with Tunisia is needed in particular to counter the following crime phenomena:

- **terrorism**: terrorist groups operating in the region and across the borders (including in Libya and the Sahel) pose a threat to Tunisia and the EU, which have both been targeted by terrorist attacks;
- **migration-related challenges**: organised migrant smuggling activity has significantly increased in 2017, with Tunisian nationals in particular using organised smuggling networks to facilitate their irregular migration to the EU;
- **firearms trafficking**: firearms trafficking has drastically increased in the region as a result of protracted conflicts in Libya. Trafficking routes via Tunisia from Libya and the Sahel are a serious problem;
- **drug trafficking**: the Middle East and North Africa (MENA) is a major source, transit point, and consumer of illicit drugs. Tunisia appears an important transit country for Latin American cocaine bound for Europe.

CONTENT: the purpose of this **Recommendation for a Council Decision** is to obtain from the Council an authorisation from the Council for the Commission to negotiate, on behalf of the European Union, **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.

In order to respect the principle of **purpose limitation**, cooperation under the agreement shall only cover forms of crime and related criminal offences for which Europol is competent. In particular, cooperation should aim to combat terrorism and prevent radicalisation, disrupt organised crime, including trafficking of migrants, firearms and drugs, and combat cybercrime.

The agreement should respect **fundamental rights** and observe the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to private and family life, the right to the protection of personal data, and the right to effective remedy and fair trial.

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

2018/2063(INI) - 04/07/2018 - Text adopted by Parliament, single reading

The European Parliament adopted, by 541 votes to 94, with 34 abstentions, a resolution on the Commission recommendation 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.

Assessing the risks: Parliament considered that the necessity of the cooperation with Tunisia 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. 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.

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 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 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 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.

Sensitive data: 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, 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.