Basic information

2018/2064(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 Morocco on the exchange of personal data between Europol and the Moroccan 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	

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)0808	Summary
14/06/2018	Committee referral announced in Parliament		
20/06/2018	Vote in committee		
27/06/2018	Committee report tabled for plenary	A8-0238/2018	Summary
04/07/2018	Decision by Parliament	T8-0299/2018	Summary
04/07/2018	Results of vote in Parliament		
04/07/2018	End of procedure in Parliament		

Technical information

Procedure reference	2018/2064(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/8/12876

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE621.031	18/05/2018	
Amendments tabled in committee		PE622.355	01/06/2018	
Committee report tabled for plenary, single reading		A8-0238/2018	27/06/2018	Summary
Text adopted by Parliament, single reading		T8-0299/2018	04/07/2018	Summary

European Commission

Document type	Reference	Date	Summary
Commission document (COM)	COM(2017)0808	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 Morocco on the exchange of personal data between Europol and the Moroccan competent authorities for fighting serious crime and terrorism

2018/2064(INI) - 20/12/2017 - Non-legislative basic document

PURPOSE: to open negotiations for an agreement between the European Union and Morocco on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Moroccan 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.
Since 2000 the entry into force of the Euro-Mediterranean Association Agreement has marked the relations between the EU and **Morocco**. Morocco has benefited from an advanced status with the European neighbourhood policy since 2008. Among others, one objective relates to strengthening dialogue and cooperation in the areas of politics and security.
Morocco is the co-chair of the Global Counter Terrorism Forum (GCTF) and a member of the Global Coalition against Daesh.

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

- **terrorism**: terrorism poses a serious threat to both Morocco and the EU, which have been the target of terrorist attacks;
- **migration-related challenges**: Morocco remains an important partner for the EU to develop cooperation in preventing irregular migration, and flows into the EU have been increasing recently. Morocco is both a source country for irregular migration but also a significant route taken by nationals sub-Saharan African countries too;
- **firearms trafficking**: the ongoing instability in the MENA region, and in particular the conflicts in Libya, considerably increased firearms trafficking in the region;
- **drug trafficking**: Morocco is a major producer of cannabis and a key source country for cannabis products entering the EU market;
- **cybercrime**: Morocco is making progress in addressing cybercrime threats, thanks to the fact it is a priority country for EU-Council of Europe capacity-building programmes on cybercrime, including in the area of child sexual exploitation and travelling child sex offenders.

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 Morocco** on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Moroccan 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 Morocco on the exchange of personal data between Europol and the Moroccan competent authorities for fighting serious crime and terrorism

2018/2064(INI) - 04/07/2018 - Text adopted by Parliament, single reading

The European Parliament adopted, by 532 votes to 103, with 32 abstentions, a resolution on the Commission recommendation for a Council decision authorising the opening of negotiations for an agreement between the European Union and Morocco on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Moroccan competent authorities for fighting serious crime and terrorism.

Assessing the risks: Parliament considered that the necessity of the cooperation with Morocco 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-Morocco 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 Morocco to other authorities in Morocco 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 Morocco 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 Morocco **to other countries** are prohibited and would result in the immediate ending of the international agreement.

Sensitive data: taking into account Morocco'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 Morocco, 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 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 Morocco on the exchange of personal data between Europol and the Moroccan competent authorities for fighting serious crime and terrorism

2018/2064(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 the Kingdom of Morocco on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Moroccan competent authorities for fighting serious crime and terrorism.

The report stressed the need for cooperation with Morocco 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-Morocco 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;
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Members insisted on the need to:

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

Taking into account Morocco'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 Morocco, 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.