



To: Commissioner for Home Affairs and Migration Magnus Brunner

CC:

Beate Gminder, Acting Directorate General of Directorate General Home Affairs

Julian Siegl, Head of Unit HOME.D.1 on Law Enforcement Cooperation

European Parliament LIBE Committee Chair Javier Zarzalejos MEP, DROI Subcommittee Chair

Mounir Satouri and Standing Rapporteur on Egypt Tineke Strik MEP

16-01-2025

Subject: Civil society concerns over Europol-Egypt cooperation agreements

Dear Commissioner Brunner,

The European Union (EU) is currently negotiating a working agreement between Europol and Egypt, to enhance the cooperation between European and Egyptian law enforcement agencies.

In September, Commissioner Ylva Johansson declared to the press that the European Commission was close to signing an agreement between Egypt and Europol and further described Egypt as “a true strategic partner of the EU, and for stability in the region”.¹ It was further reported that she commended “Egypt for its treatment of migrants and refugees, particularly those fleeing civil war in Sudan”.

However, human rights organisations have documented numerous cases of systematic arrest of refugees and migrants, arbitrary detention, and forcible return campaigns carried out by the Egyptian authorities against Sudanese people², as well as political repression against human rights

1 Benjamin Fox, Egypt is Brussels' key 'partner' on Gaza and migration, say top EU officials, 10 September 2024 <https://archive.md/09YKY#selection-349.0-355.213>

2 Refugees Platform in Egypt (RPE), From Sudan to Egypt: Egyptian Decisions Spark High-Risk Irregular Migration Movement, 14 March 2024 <https://rpegy.org/en/editions/from-sudan-to-egypt-egyptian-decisions-spark-high-risk-irregular-migration-movement/>
UN Special Rapporteurs, Communication of 17 December 2024 to the Government of Egypt, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29577>

defenders.

We, the undersigned migrants, refugees, digital and human rights organisations, would like to share our serious concerns about the potential cooperation with Egypt in the field of law enforcement and security as well as its direct and indirect impact on people's human rights in Egypt. We are thus seeking clarification from the Commission on its handling of the negotiations and its assessment of the human rights situation in Egypt.

Europol's working agreement risks legitimising the Egyptian police's illegal practices

Although a working agreement excludes the exchange of personal data, striking such a deal between Europol and Egypt will carry a great political weight. Indeed, such a deal would risk serving to legitimise the Egyptian police as a legitimate and reliable cooperation partner for the European Union, despite well-documented involvement in human rights violations and enforcing dictatorial rule in the country.³

The UN Committee against Torture and Human Rights Committee confirmed a year ago the "consistent allegations" of "systematic use of torture and ill-treatment by police officers, prison guards" and the military, "mainly against political opponents and Government critics".⁴ Egypt has an estimated 60,000 political prisoners. The UN also pointed to the overly broad definition of terrorism which has been used to silence political dissidents.⁵ It reported that "people accused of terrorism are often subjected to arbitrary arrest, unlawful detention, torture, ill-treatment and enforced disappearance, and that court proceedings in terrorism cases often lack fundamental procedural safeguards to ensure fair trials".⁶ In addition, the death penalty has been used by Egyptian courts to quash political opposition, with an execution "spree" reported in 2021 and many remaining on death row and bearing death sentences including those who were children at the time of sentencing.⁷

This is extremely worrying considering that the EU's primary motives for establishing police cooperation with Egypt is the fight against terrorism and the "prevention of radicalisation".⁸

Commissioner Johansson's public declaration is all the more surprising, to say the least, as reports of human rights and international law violations have piled up regarding the treatment of Sudanese

UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the combined second to fourth periodic reports of Egypt, 18 December 2024, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCMW%2FCOC%2FEGY%2F61603&Lang=en

3 Human Rights Watch, World Report 2023, 'Egypt' <https://www.hrw.org/world-report/2023/country-chapters/egypt>

4 United Nations, UN Committee against Torture publishes findings on Burundi, Costa Rica, Denmark, Egypt, Kiribati, Slovenia, 24 November 2023, <https://www.ohchr.org/en/press-releases/2023/11/un-committee-against-torture-publishes-findings-burundi-costa-rica-denmark>

United Nations, UN Human Rights Committee publishes findings on Egypt, Panama, Peru, Sri Lanka, Turkmenistan and Zambia, 24 March 2023, <https://www.ohchr.org/en/press-releases/2023/03/un-human-rights-committee-publishes-findings-egypt-panama-peru-sri-lanka>

5 Ibid.

6 Ibid.

7 Amr Magdi, Egypt's Execution Frenzy Has to Stop, 28 June 2021, <https://www.hrw.org/news/2021/06/28/egypts-execution-frenzy-has-stop>

Reprieve, "The death penalty in Egypt: Ten years after the uprising", 24 May 2021,

<https://reprieve.org/uk/2021/05/24/the-death-penalty-in-egypt-ten-year-after-the-uprising/>

8 See European Commission, Recommendation for a COUNCIL DECISION authorising the opening of negotiations for an agreement between the European Union and the Arab Republic of Egypt on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Egyptian competent authorities for fighting serious crime and terrorism, COM/2017/0809 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017PC0809>

refugees and asylum-seekers in Egypt.⁹ Furthermore, the recently passed asylum law has been reported to likely contravene international human rights and refugee law, while overlooking crucial protection concerns for refugees and asylum seekers.¹⁰

Even if exchanges are limited to intelligence and strategic information (i.e. non-personal data), there is a considerable risk that such information exchange undermines accountability and justice, and would be at acute risk of facilitating and/or whitewashing further human rights violations in Egypt and in the EU (notably at its borders).

We thus request clarification on the Commission's assessment process of the necessity and proportionality of the cooperation with Egypt in the field of law enforcement for the EU's security interests, in light of the abysmal human rights record highlighted above and as requested by the European Parliament (EP) in its resolution of 4 July 2018 (para. 1).¹¹ We also note that the current Chair of the EP's Human Rights Subcommittee has also requested this clarification in a written question to the Commission.¹²

The incompatibility of any future agreement with Egypt involving personal data exchange with EU fundamental rights

We understand that the potential working agreement would only be a first step towards a deeper cooperation relation with Egyptian authorities, as the EU is pushing Egypt to start negotiating an international agreement with Europol, that would allow for the exchange of personal data.¹³ Yet, Egypt has not shown much interest in this type of agreement.¹⁴

The EU's strategy for cooperation with third countries around the Mediterranean in the fields of police and judicial cooperation, border control and migration fundamentally clashes with its fundamental rights standards (as enshrined in the Treaties). It purposefully turns a blind eye on the atrocities committed by dictatorships, authoritarian regimes and regimes committing the crime of apartheid. Instead, it places security interests above any consideration of justice, democracy and people's rights and freedoms.¹⁵

9 See Refugees Platform in Egypt (RPE) and HRW World Report 2023 (both referenced above).

10 RPE and EIPR, A regression on the legal status quo: Bill undermines basic refugees' protections, November 2011, <https://rpegy.org/wp-content/uploads/2024/11/final-En-Policy-Brief-Asylum-Bill-EIPR-RPE-.pdf>

11 European Parliament resolution of 4 July 2018 on the Commission recommendation for a Council decision authorising the opening of negotiations for an agreement between the European Union and the Arab Republic of Egypt on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Egyptian competent authorities for fighting serious crime and terrorism (COM(2017)0809 — 2018/2066(INI)) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018IP0301&qid=1730280542389>

12 https://www.europarl.europa.eu/doceo/document/E-10-2024-002718_EN.html

13 Which led to the adoption in 2018 of a Council decision authorising the opening of negotiations for an agreement on the exchange of personal data between Europol and the Egyptian competent authorities for fighting serious crime and terrorism, alongside 7 other decisions involving other countries in the MENA region. Statewatch, EU: Warnings over proposed new Europol partners in Middle East and North Africa, 14 May 2018, <https://www.statewatch.org/news/2018/may/eu-warnings-over-proposed-new-europol-partners-in-middle-east-and-north-africa/>

14 Statewatch, Egypt and Tunisia show 'little interest' in EU migration deal despite billions, 14 October 2024, <https://www.statewatch.org/about/in-the-press/egypt-and-tunisia-show-little-interest-in-eu-migration-deal-despite-billions/>

15 Statewatch, EU: Warnings over proposed new Europol partners in Middle East and North Africa, 14 May 2018, <https://www.statewatch.org/news/2018/may/eu-warnings-over-proposed-new-europol-partners-in-middle-east-and-north-africa/>

RPE, The EU should uphold human rights and accountability in negotiation of a strategic partnership with Egypt, 16 December 2023, <https://rpegy.org/en/editions/the-eu-should-uphold-human-rights-and-accountability-in-negotiation-of-a-strategic-partnership-with-egypt/>

EUobserver, Turkey's EU-funded detention centres ripe with abuse: NGO, 1 December 2022,

An international agreement would provide the same legitimisation as a working agreement, whilst raising even more serious risks of harms and grave human rights violations. We fear that this could include the use of Europol as a conduit for transnational repression by Egyptian security forces against exiled human rights defenders.¹⁶

The Parliament's position raised many important questions with regards to the political desirability of concluding agreement with Egypt, but also major concerns about respect for fundamental rights. It asked specifically that the Commission conducts an appropriate impact assessment in order "to assess in depth the risks posed by transfers of personal data to the Arab Republic of Egypt as regards individuals' rights to privacy and data protection, but also for other fundamental rights and freedoms protected by the Charter".¹⁷ However, the negotiation mandate ignored the views of the Parliament as the Council approved it a month before the Parliament could adopt its resolution.¹⁸

We wish to know whether the Commission conducted any human rights or data protection due diligence, including an impact assessment, as requested by the Parliament and, if so, when it will make that assessment public. We request that you respond to us by sharing this information and detailing what, if any, due diligence has been conducted in advance of and/or during negotiations on this working agreement. This will ensure transparent and accountable decision-making. In particular, we urge you to provide details of the Commission's plan to ensure that the level of protection, notably for data protection, privacy and anti-discrimination, resulting from any potential operational agreement with Egypt would be essentially equivalent to the level of protection in EU law, both in law and in practice from the two parties' sides. In that regard, we share the Parliament's views that if this cannot be guaranteed, such an agreement cannot be concluded.

There are substantial grounds to believe that Egypt does not meet these requirements. For instance, with regards to data protection, Egypt's 2020 first ever Data Protection Law suffered from numerous shortcomings.¹⁹ Furthermore, although the law was supposed to enter into force in October 2020, it has not been implemented at all due to the government's failure to issue the Law's Implementing Regulations (Bylaws), which means that Egypt does not currently have a legal framework in place for data protection.²⁰

We strongly believe that the EU should halt all attempts to sign any sort of police cooperation agreement with Egypt, and use its leverage with Egypt to demand reforms that protect human rights, civil liberties, justice and democracy.

We thank you for your attention and we look forward to your response. In the meantime, we remain at your disposal for any questions you may have.

Yours sincerely,

<https://euobserver.com/migration/ar865c2e6a>

16 Katherine Hearst, Egypt ramps up crackdown on exiled human rights defenders, says report, Middle East Eye, 1 October 2024, <https://www.middleeasteye.net/news/egypt-ramps-crackdown-exiled-human-rights-defenders-says-report>

17 See European Parliament resolution above

18 Statewatch, EU: Council bypasses Parliament on Europol personal data exchange deals with Middle Eastern and North African states, 18 June 2018, <https://www.statewatch.org/news/2018/june/eu-council-bypasses-parliament-on-europol-personal-data-exchange-deals-with-middle-eastern-and-north-african-states/>

19 Alaa Kulaib, Egypt's Personal Data Protection Law (PDPL) and where it stands according to the international standards, afte Egypt, 4 August 2021 <https://afteegypt.org/en/legislations-en/legislative-analysis-en/2021/08/04/24312-afteegypt.html>

20 Ibid.

Organisations

Access Now
Arab Network for Knowledge about Human Rights (ANKH)
ARCI – Associazione ricreativa e culturale italiana
Bürgerrechte & Polizei/CILIP (editorial board)
Cairo Institute for Human Rights Studies (CIHRS)
Citizen D / Državljan D
Danes je nov dan
Dawn
Digitalcourage
E.L. Foundation
Egyptian Front for Human Rights
Egyptian Human Rights Forum (EHRF)
Egyptian Initiative for Personal Rights (EIPR)
EgyptWide for Human Rights
EuroMed Rights Network
European Digital Rights
European Network Against Racism (ENAR)
Forum Tunisien pour les Droits Economiques et Sociaux
Homo Digitalis
HuMENA for Human Rights and Civic Engagement
IT-Pol Denmark
migration-control.info
National Representative Council of Eritrea
Privacy International
Red Acoge
REDWORD for Human Rights & Freedom of Expression
Refugees Platform In Egypt-RPE
Statewatch
The Regional Coalition for Women Human Rights Defenders in South West Asia and North Africa (WHRDMENA)

Individuals

Wasil Schauseil, Journalist
Muhammad al-Kashef, Advocate and human rights lawyer
Jan Tobias Muehlberg, Prof. for Privacy and Cybersecurity at Universite Libre de Bruxelles
Emilio De Capitani, affiliate Professor to Scuola Superiore S.Anna (Pisa)
Paola Regina, Lawyer EU-DIKE
Chiara De Capitani, PhD
Hossam el-Hamalawy, Researcher
Kristin Henrard, professor international law, Brussels School of Governance
Gaia Romeo, PhD researcher, Brussels School of Governance
Marie-Laure Basilien-Gainche, Professor of EU Law, University Jean Moulin Lyon 3, Institut
Universitaire de France
Mostafa Fouad, Human Rights Researcher, Legal and Policy Analyst
Halim Henish, Egyptian human rights lawyer