

Statements by the Committee on Justice
2023/24:JuU30

Subsidiarity check of the Commission's
proposal for a regulation on enhancing
police cooperation in relation to the
prevention, detection and investigation
of migrant smuggling and trafficking in
human beings, and on enhancing
Europol's support to preventing and
combating such crimes

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ANNEX 2

Reasoned opinion of the Riksdag

The Riksdag has scrutinised the Commission's proposal for a regulation on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794 (COM(2023) 754). The objective of the proposal is to enhance work to prevent migrant smuggling and trafficking of human beings and to reinforce Europol's role in the fight against migrant smuggling and trafficking in human beings. The Riksdag takes a positive view of the approach of this proposal and welcomes the fact that more effective measures should be taken than those taken today to combat the migrant smuggling and trafficking in human beings. The security issues that are dealt with in the proposed regulation are of a transnational nature and the Riksdag shares the Commission's view that they are of such a nature that they cannot be dealt with by the individual member states. To be able to prevent and combat the criminal networks that jeopardise people's lives and safety and to address the irregular migration into the EU in a comprehensive way, measures are required at EU level.

The Riksdag initially notes that this subsidiarity check is primarily an examination of suitability and that it concerns establishing at which level – at the EU level or at a national level – the proposed measure is to be implemented, and not whether the proposed measure should be taken or not (see Committee Report 2009/10:KU2 p. 13).

According to the Riksdag's assessment, large parts of the proposal have been formulated in a way that complies with the principle of subsidiarity. At the same time, the Riksdag considers that parts of the proposal is in breach with the principle of subsidiarity and that there are certain shortcomings in the Commission's assessment of the proposal's compatibility with the principle of subsidiarity. Even if cooperation between relevant EU institutions, member states and third countries is of crucial importance in the fight against migrant smuggling and trafficking in human beings, and that the objectives of the proposed regulation cannot be achieved to a sufficient extent by the member states themselves, the Riksdag raises doubts to whether this requires regulation on the level proposed by the Commission.

This applies in particular to the extension of Europol's operational mandate, above all the proposals to give the Executive Director of Europol a special mandate to propose that an operational task force be set up (Chapter 4, Article 5a, point 7) together with the deployment of staff (Chapter 4, Article 5b, point 8), and that Europol should set up a reserve pool of member states' experts to be placed at the immediate disposal of Europol for operational deployment to provide specialised support (Chapter 4, Article 5b, point 6). The Riksdag considers that Europol's operational actions and

cooperation with and support to the member states function well today and is an indispensable element of the European fight against organised crime. However, an extension of Europol's operational mandate must be proportional to the costs which would arise to cover the proposed initiatives. Furthermore, the Riksdag believes that a more in-depth analysis is required of what the above-mentioned proposals would entail if they were to be implemented.

The Riksdag also expresses its doubts about the proposal which would entail an obligation for member states to set up specialised services within their competent authorities specialising in preventing, combating and investigating smuggling and trafficking of human beings (Chapter 3, Article 7). The Riksdag considers that this part of the proposal is too far-reaching and intervenes in the competence of the member states. It must be up to the member state to determine on the more immediate measures taken and how the national authorities should be organised internally. This is particularly significant as it can mean increased costs for the member states.

In the opinion of the Riksdag, further analysis is required of the need for and the added value of regulating this area of activities, as suggested by the Commission. A thorough assessment of the necessity and the proportionality of the proposed measures should be made. In this connection, the Riksdag also regrets that the proposal is not accompanied by an impact assessment. In light of this, the Riksdag would like to stress the importance of thoroughly considering, in the continued work with the regulation, how the various parts of the proposal can be seen in relation to the principle of subsidiarity and pay due regard to the division of competences between the EU and the member states in this area.

In summary, the Riksdag considers that the proposal is in breach of the principle of subsidiarity in the parts stated above.