



EUROPEAN COMMISSION

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C(2022) 5768 final

Dear President,

The Commission would like to thank the Senát for its opinion on the proposal for a Regulation of the European Parliament and of the Council on measures against transport operators that facilitate or engage in trafficking in persons or smuggling of migrants in relation to illegal entry into the territory of the European Union {COM(2021) 753 final} and on the Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Responding to state-sponsored instrumentalisation of migrants at the EU external border {JOIN(2021) 32 final}.

The Commission appreciates that the Senát analysed these two documents and welcomes its considerations.

With regard to the Senát's concern on the 'lack of specification of the mechanisms and criteria for taking action against carriers' and the importance of 'mechanisms to ensure that the principle of ne bis in idem is respected, so that carriers are not sanctioned more than once for certain conduct, and the principle of the presumption of innocence is guaranteed', the Commission wishes to underline that the Regulation has no impact on procedures or investigations undertaken by the national authorities and does not provide for a penal procedure. Further procedural mechanisms should be developed with the implementing measures.

With regard to the information and awareness raising campaigns as an important tool in fighting misinformation, please note that the Commission has seven information and awareness raising campaigns currently ongoing in Morocco (two campaigns), Tunisia, Senegal, Western Balkans (not covering Albania), Albania and Pakistan, one campaign working with the Senegalese diaspora in the European Union, and the Infomigrants web-portal about the risks of irregular migration and migrant smuggling as well as on the relevant alternatives in order to counter the fake narratives promoted by migrant

Miloš VYSTRČIL

President of the Senát

Valdštejnské náměstí 17/4

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smugglers¹. Moreover, the Commission is currently evaluating proposals for new information and awareness raising campaigns targeting irregular migrants in third countries of origin and transit along the migratory routes to the European Union, funded by the Asylum, Migration and Integration Fund.

As a response to the instrumentalisation of people by the Belarusian regime, the European Council Conclusions of 21 and 22 October 2021 underlined that the European Union would not accept any attempt by third countries to instrumentalise migrants for political purposes. The Commission put forward concrete measures underpinned by adequate financial support, including through European Union agencies, to ensure an immediate and appropriate response in line with the European Union law and international obligations, also regarding respect for fundamental rights. On 23 November, the Commission proposed a stable and ready to use permanent framework to deal with any such situation that may arise in the future, giving better tools to Member States to protect the external borders in situations of instrumentalisation of migrants and respond rapidly to this situation, while ensuring full respect for fundamental rights. The Commission welcomes the support shown by the Czech Senate as regards European Union action in this field. The Council needs to advance and finalise its examination of the proposal for a Regulation on measures against transport operators that facilitate or engage in trafficking in persons or smuggling of migrants in relation to illegal entry into the territory of the European Union.

The Commission believes that the political dialogue with national Parliaments is essential for linking the institutions and the citizens of the European Union and looks forward to continuing this dialogue with the Senát in the future.

Yours faithfully,

*Adina-Ioana Vălean
Member of the Commission*

¹ *Previous information campaigns under the Asylum, Migration and Integration Fund targeted communities in countries of origin and transit such as Niger, Mali, Gambia, Guinea, Senegal, Ivory Coast and Tunisia.*