



EUROPEAN COMMISSION

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Herr Per WESTERBERG
Talmannen
Riksdagen
Sveriges riksdag
SE – 100 12 STOCKHOLM

Dear President,

The Commission would like to thank the Riksdag for its reasoned Opinion on the legislative proposal establishing the European Border Surveillance System (EUROSUR)¹ and would like to provide the following information in response:

The Riksdag concludes that, on the one hand, the provisions of Article 15 of the proposal are "excessively detailed" and therefore "conflict with the principle of subsidiarity", while stating, on the other hand, that "several parts of the proposal are so unclear that it is difficult to say whether it is compatible with the principles of subsidiarity and proportionality".

As outlined in the 2008 roadmap for the establishment of EUROSUR², EUROSUR consists of a set of combined measures to achieve three objectives, namely preventing irregular migration and the unacceptable loss of migrants' lives at sea as well as combating cross-border crime – notably the trafficking in human beings. By improving information exchange and inter-agency cooperation at national and European level, these measures aim to increase the situational awareness and the reaction capability and therefore the efficiency of border control authorities.

As described in the impact assessment accompanying the 2008 EUROSUR roadmap, for the development of EUROSUR "the principle of subsidiarity has been one of the main principles to be followed. Instead of aiming at setting up a new, centralised border control system at EU level replacing national systems and structures, EUROSUR explores different solutions on how to use existing national systems in combination with recently developed systems (e.g. Automatic Identification Systems, Long Range Identification and Tracking) and technical developments (e.g. unmanned aerial vehicles, satellites) to achieve the policy objectives in the most cost-efficient way".³ Making best use of existing European and national systems in the context of EUROSUR should therefore considerably improve the cooperation in the field of border surveillance at European level.

EUROSUR fully takes "into account the basic principle that the Member States are responsible for internal security and for controlling external borders. EUROSUR should

¹ COM(2011)873final of 12.12.2011 and accompanying impact assessment SEC(2011)1536, 1537 and 1538 final.

² COM(2008)68final of 13.2.2008 and accompanying impact assessment SEC(2008)151final.

³ See chapter on subsidiarity on pages 55ff of SEC(2008)151final.

therefore neither affect the division of competences nor administrative competences between the EU and Member States respectively inside the Member States, nor the respective areas of jurisdiction of Member States nor replace any existing systems".

With the aim of improving European cooperation, "EUROSUR should interlink different systems and mechanisms through a series of actions which have a true added value, while paying attention to geographical circumstances and differences between types of borders, in particular between land and maritime borders".⁴

In the impact assessment accompanying the EUROSUR legislative proposal the interaction between the national and European level was analysed further in detail:

"In line with the principle of subsidiarity, EUROSUR follows a decentralised approach, with the national coordination centres for border surveillance forming the backbone of the EUROSUR cooperation. This means that in quantitative terms most information would be managed in the national coordination centres, without Frontex being able to see this information. Only selected information of strategic relevance would be shared with and analysed by Frontex. (...) Better information sharing will help to identify targets such as boats used for irregular migration and cross-border crime more accurately and therefore allow a more targeted timely and cost-efficient use of available equipment for interception. This is an objective which cannot be sufficiently achieved by the Member States alone and which can be better achieved at Union level."⁵

The Commission considers that the establishment of EUROSUR is also proportionate, because it will "not result in the development of a new area of EU policy but it forms part of a policy aimed at reinforcing the management of the external borders of the Member States. Hence EUROSUR will constitute a new policy instrument which will streamline cooperation and enable systematic information exchange between Member States on border surveillance, something which currently does not exist at EU level".⁶

The Riksdag stated that EUROSUR should "be based on actual need".

In 2011, about 140 000 unauthorised border crossings were detected at the land and maritime external borders of the EU, of which over 96% took place at the external borders of Spain, Greece, Italy and Malta. In these four countries, the migration routes were often focused on relatively small sections of the external border, such as at Lampedusa and the Greek-Turkish land border. The challenges faced at these parts of the external border are often aggravated by a lack of coordination within and between the Member States concerned, which would be mitigated by establishing national coordination centres.

The Commission would like to draw the attention of the Riksdag also to the above mentioned impact assessments, which also analyse in detail other relevant problems faced in border surveillance, leading to different policy options.⁷ In line with the principle of proportionality and subsidiarity, and after intensive consultations of Member

⁴ Ibid.

⁵ See chapter on subsidiarity on page 11 of SEC(2011)1536final.

⁶ Ibid.

⁷ See pages 8 to 40 of SEC(2011)1536final and Annexes 4 to 7 of SEC (2011)1538final.

States and relevant EU agencies⁸, the Commission had selected a decentralised approach as basis for its legislative proposal.

For this reason, Article 15 of the legislative proposal, which deals with the reaction capability of border control authorities at national and European level and which has been quoted by the Riksdag as an example of being "excessively detailed", should not be examined on its own, but in the context of the whole legislative proposal.

The Commission would also like to underline the importance of setting up EUROSUR as quickly as possible, due to the urgent need to better protect the lives of migrants at the external borders. UNHCR estimates that about 1,500 migrants drowned in the Central Mediterranean Sea in 2011 when trying to reach Italian shores. According to internal estimates of the Spanish Guardia Civil, between 6,000 to 10,000 migrants died when trying to reach the Canary Islands in previous years. This is the main reason why the Commission proposed to make EUROSUR operational already as of October 2013.

Initially the Commission proposed that EUROSUR should be established only at the southern maritime and eastern land borders of the EU. However, the discussions in 2008-2011 showed that the improved information exchange envisaged under EUROSUR, and in particular the establishment of a European situational picture for the whole Schengen area, is of interest for all Schengen countries. This is why the Commission proposed that all Schengen countries should participate in EUROSUR, with Sweden joining EUROSUR as of October 2014.

Finally it should be noted that Sweden is already implementing measures which are very similar to those proposed in the EUROSUR legislative proposal, as part of the Baltic Sea Region Border Control Cooperation (BSRBCC) and COASTNET.⁹

I hope this clarified the issues raised in the reasoned Opinion of the Riksdag, and I look forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

⁸ This consultation took place in the framework of almost 50 expert meetings with Member States, EU agencies and industry organised by the Commission and Frontex in 2008-2011. For further details see Annex 3 of SEC(2011)1538final.

⁹ The BSRBCC shall be linked indirectly to EUROSUR, using the national coordination centres in the Member States as a hub for the information exchange and cooperation –see Articles 9 and 18 of the legislative proposal.