

Statement 2011/12:JuU29 Appendix 4

Reasoned opinion of the Riksdag

In view of the examination of the application of the principle of subsidiarity to the Commission's proposal for a Regulation of the European Parliament and of the Council Establishing the European Border Surveillance System (EUROSUR), COM(2011) 873, as presented in the statement by the Committee on Justice 2011/12:JuU29, the Riksdag considers that the parts of the proposal dealing with the measures that member states are to take at different impact levels (Article 15 in the Regulation) are excessively detailed. The goals of these measures can be achieved equally as easily if the member states are given greater scope to determine themselves in a somewhat broader framework which immediate measures are to be taken. The Riksdag thus considers that the proposal conflicts with the principle of subsidiarity.

The Riksdag has the following reflections on the above-mentioned proposal to establish EUROSUR. The Regulation proposed by the Commission on the establishment of EUROSUR contains several parts that need to be analysed further before it is possible to take a position as to whether the proposal is compatible with the principles of subsidiarity and proportionality. Since parts of the proposal are unclear and incomplete, it is not sufficiently clear that the goals of the proposed measures cannot be achieved at national level. Nor is it clear that the goals of the proposed measures can better be achieved if they are undertaken at EU level.

Furthermore, the Commission's justification as regards the issue of subsidiarity should be more detailed and should contain a clearer line of reasoning to explain how the conclusion can be reached that the proposed Regulation is compatible with the principle of subsidiarity. The same applies to the Commission's justification concerning the proposal's compatibility with the principle of proportionality.

In the light of this, the Riksdag would also like to stress how important it is that the principle of subsidiarity is followed in the continued process of establishing EUROSUR. It is important, in this connection, that the system be based on actual need. The point of departure must be that the measures taken must live up to requirements regarding proportionality, rule of law, privacy, data protection and regard for human rights. In addition to this, the benefits of the system must outweigh the costs the system entails. In the development of EUROSUR, due regard must be paid to work in progress in other relevant forums, for example at the European Maritime Safety Agency (EMSA).

Certainly, it is also stated that the purpose of EUROSUR is not to exchange personal data, but rather to exchange information on events and depersonalised objects. However, it is stated that personal data can, in exceptional cases, be included in the information submitted to the Agency by member states. In the opinion of the Riksdag, it is important that such information exchanges are thoroughly regulated. The possibility to apply for asylum must not be made more difficult. If a new border surveillance system is established, absolute respect for human rights and international protection is required.

The opinion of the Riksdag overall is that many parts of the proposal are so unclear that it is difficult to say whether it is compatible with the principles of subsidiarity and proportionality. However, as mentioned above, at this stage the Riksdag already considers that the part of the

proposal stated above (Article 15 in the Regulation) conflicts with the principle of subsidiarity.