

Commission Presents Package to Prevent and Fight Migrant Smuggling



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News

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On 28 November 2023, the European Commission presented a package to counter migrant smuggling. The package consists of the following:

- A proposal for a new Directive laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union (COM(2023) 755 final);
- A proposal for a Regulation to reinforce police cooperation and Euro-pol's role in the fight against migrant smuggling and trafficking in human beings (COM(2023) 754);
- A call to action on a global alliance to counter migrant smuggling.

The set of measures operationalise the call of Commission President *Ursula von der Leyen* in her State of the Union speech of September 2023, in which she called for strengthening all the tools at disposal of the EU to effectively counter migrant smuggling.

The proposed Directive against migrant smuggling

The proposed Directive will replace the current legal framework on facilitation of unauthorised entry, transit and residence in the EU, which stems from 2002. The main elements of the proposed Directive are the following:

- Ensuring an effective investigation, prosecution and sanctioning of organised criminal networks responsible for migrant smuggling: The proposal clarifies the smuggling offences that should be criminalised. This includes: facilitation conducted for financial or material benefit or the promise thereof; facilitation that is highly likely to cause serious harm to a person even though conducted without financial or material benefit; and public instigation of third-country nationals, for instance through digital tools or social media, to come to the EU without authorisation.
- More harmonised penalties reflecting the seriousness of the offence: The proposal introduces a definition of aggravated offences (e.g., offence committed as part of an organised criminal group, causing serious harm or endangering life or health, causing death) to which there are corresponding higher levels of criminal penalties; the maximum minimum penalties of the current framework (at least 8 years imprisonment) will be increased and scaled.
- Improving the jurisdictional reach: The proposal expands the jurisdiction of the EU Member States, including, for instance, cases of boats sunk in international waters before reaching the territorial waters of a Member State or a third country; offences committed on board of ships or aircrafts

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registered in a Member State, and offences committed by legal persons doing business but not necessarily established in the EU.

- Reinforcing the Member States' resourcing capacities: Member States would be obliged to adequately resource, sufficiently train and specialise the relevant law enforcement and judicial authorities in order to ensure effective prevention, investigation and prosecution of offenders. In addition, Member States should also work on the prevention of migrant smuggling, through information and awareness-raising campaigns, research and education programmes.
- Improving data collection and reporting: Member States will be required to collect and report statistical data on an annual basis to improve the scale, detection of cases and the response to migrant smuggling.

[The proposed Regulation reinforcing law enforcement cooperation](#)

The [proposal for the Regulation](#) specifically pursues the following objectives:

- Strengthening the coordination at EU level: the (existing) European Centre Against Migrant Smuggling at Europol will be reinforced. In addition to Europol staff, the Centre will convene seconded national experts from the EU Member States, and liaison officers from Eurojust, Frontex and the Commission. The tasks of the Centre are further defined: it will monitor trends in migrant smuggling and trafficking in human beings, produce annual reports, strategic analyses, threat assessments and situational updates, and support investigative and operational actions. It will also support Europol's Executive Director in requesting the initiation of criminal investigations.
- Improving information sharing: The proposed regulation strengthens Member States' obligations to share information, including biometrics, on migrant smuggling and trafficking in human beings with Europol. The redesigned European Centre Against Migrant Smuggling will be tasked to identify cases of migrant smuggling that may require cooperation with non-EU countries, including by exchanging personal data on a case-by-case basis.
- Reinforcing Member States' resources: The Commission proposed that Member States designate specialised services for combating migrant smuggling and trafficking in human beings, provide for the adequate resourcing of these services, connect these services to Europol's Secure Information Exchange Network Application (SIENA), and task the European Centre Against Migrant Smuggling to act as a network of specialised services.
- Reinforcing Europol: the proposal codifies and further develops the concept of operational task forces and sets out a new tool in the form of Europol deployments for operational support. Participation of third countries in operational task forces, and Europol deployments for operational support in third countries are also regulated. To fulfill these objectives, the Commission is also proposing to increase the financial and human resources of Europol.

Next steps: The proposed Directive and Regulation will now be discussed in and negotiated by the European Parliament and the Council.

[The Call to Action for global alliance against migrant smuggling](#)

On 28 November 2023, the European Commission held a [high-level international conference](#) in Brussels aiming at fostering a global alliance to counter migrant smuggling. On this occasion, the Commission launched its [call for such a global alliance](#). The call states that migrant smuggling is a criminal activity under international and European law that disrespects human life and the dignity of people in the pursuit of financial or other material profit. Consequently, a strong, united, and global response to this phenomenon is necessary from all State and non-State actors. The call sets out a series of proposals for action addressed to state governments, international organisations and online service providers. All governments should come togeth-

er on prevention, response and alternatives to irregular migration, including addressing the root causes of irregular migration and facilitating legal pathways. Looking at the work that should collectively be done, the call recommends:

- Providing a strong, united and global response to migrant smuggling;
- Ensuring concerted and coordinated action to step up the operational response to migrants smuggling at the international level;
- Ensuring follow-up at technical and political level, to take forward the work on the three key strands on prevention, response, and alternatives to migrant smuggling.

For the follow-up of the call, the Commission will set up a framework in which all global stakeholder can work closely together and which acts as a contact point. As a result, the Commission will convene technical Expert Groups with representatives from EU institutions, agencies, Member States, partner countries, international organisations and other stakeholders. The first thematic Expert Group meeting on tackling the phenomenon of digital smuggling is planned to take place in early 2024.

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