

Negative Impact Assessment for Anti-Smuggling Directive by EP Research Service



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News

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On 5 March 2025, the European Parliamentary Research Service (EPRS) **negatively evaluated** the Commission proposal for a revised directive laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union ("Facilitation Directive"). The directive is intended to renew the existing regulatory framework for preventing the facilitation of unauthorised entry, transit and residence in the Union.

The proposal for a "Facilitation Directive" was part of a legislative package to counter migrant smuggling that was tabled on 28 November 2023 (→ [eu-crim 3/2023, 257-258](#)). The package also included a proposal for a Regulation to reinforce police cooperation and Europol's role in the fight against migrant smuggling and trafficking in human beings.

The EPRS study was conducted in view of supporting the European Parliament's position on the proposal. The competent LIBE Committee criticised that the Commission proposal lacked a thorough impact assessment, which should have included, for instance, the proposal's fundamental rights implications and compliance with relevant international legal standards.

In the "targeted substitute impact assessment", the EPRS critically reviewed the existing legal framework at EU level and its shortcomings in terms of transposition and implementation as well as the objectives of the Commission proposal. It also provides a legal analysis of the key provisions of the proposed directive and particularly scrutinizes their compatibility with the principles of legality and proportionality as well as the presumption of innocence.

According to the main findings of the EPRS, the proposed directive is not consistent with either international or EU standards, is also characterised by considerable uncertainties and sets out overly harsh penalties. Furthermore, human rights are insufficiently protected. The very broad scope of application carries the risk of not only covering actual (punishable) smuggling, but also individuals and organisations that provide humanitarian aid or legitimate services.

In light of the main findings and the main deficiencies detected in the Commission proposal, the EPRS study makes a series of recommendations. It remains to be seen to what extent the LIBE committee and the European Parliament will adopt the EPRS position. The [Council adopted its position](#) on the Commission proposal on 13 December 2024.

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