Council of the European Union

Brussels, 28 October 2026
(OR. en)

15087/26
ADD 1

Interinstitutional File:
2026/0340 (COD)

MIGR 333
JAI 1355
FRONT 226
IXIM 247
SIRIS 27
COMIX 269
CODEC 2012
IA 282
LI
IS
CH
NO

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 October 2026
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2026) 1037 final
Subject:	COMMISSION STAFF WORKING DOCUMENT Subsidiarity Grid Accompanying the document Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the digitalisation of case management in the area of return, readmission and reintegration, and amending Regulations (EU) 2018/1726, (EU) 2018/1860, (EU) 2019/817 and (EU) 2019/818 of the European Parliament and of the Council

Delegations will find attached document SWD(2026) 1037 final.

Encl.: SWD(2026) 1037 final

EUROPEAN
COMMISSION

Brussels, 27.10.2026
SWD(2026) 1037 final

COMMISSION STAFF WORKING DOCUMENT

Subsidiarity Grid

Accompanying the document

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the digitalisation of case management in the area of return, readmission and reintegration, and amending Regulations (EU) 2018/1726, (EU) 2018/1860, (EU) 2019/817 and (EU) 2019/818 of the European Parliament and of the Council

{COM(2026) 1037 final} - {SEC(2026) 1037 final} - {SWD(2026) 1038 final} - {SWD(2026) 1039 final}

Subsidiarity Grid

1) Can the Union act? What is the legal basis and competence of the Unions' intended action?
1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?
The EU's legal basis to act is established under Article 79(2)(c) of the Treaty on the Functioning of the European Union ('TFEU'). Article 79(2)(c) mandates the European Parliament and the Council to adopt measures in the area of illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation. The development and implementation of efficient digital case management systems in the area of return, readmission and reintegration is a means to this end. Additionally, the proposal is based on Article 77(2) (b) and (d) of the TFEU to enable the targeted amendment of Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019. Article 77(2)(b) and (d) of the TFEU mandates the European Parliament and the Council to adopt measures concerning the checks to which persons crossing external borders are subject and any measure necessary for the gradual establishment of an integrated management system for external borders.
1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?
Shared competence as per Article 4 TFEU.
2) Subsidiarity Principle: Why should the EU act?

a) Does the proposal fulfil the procedural requirements of Protocol No. 2[1]:

Yes, for the following reasons:

- A thorough and broad consultation process was conducted with all relevant stakeholders as part of the external 'Study on the way towards a comprehensive, integrated and digitalised EU migration management system'. Such consultation process made of targeted interviews and a targeted written survey was complemented by a workshop with Member States, which took place in September 2025, an additional meeting with Member States in December 2025 and the publication of a Call for Evidence in November 2025.

- A comprehensive impact assessment accompanies the legislative proposal. Section 3 of the impact assessment addresses the question of why the EU should act. The explanatory memorandum contains a section on the principle of subsidiarity.

b) Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

Yes, an adequate justification is included in the explanatory memorandum and in the accompanying impact assessment.

Given the magnitude of the fragmentation of the current digital landscape, without EU coordination and an appropriate EU legal framework, Member States will continue developing siloed systems, leading to inefficiencies, uneven digitalisation, and higher costs. Inefficient digital management of return, readmission and reintegration processes will hinder the future implementation of common rules on return. This would also affect the proper functioning of the rules of the Pact on Migration and Asylum and have an impact on the Schengen area.

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN

c) Can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?

The problems to be addressed are cross-border by nature as they pertain to the effectiveness of return, readmission and reintegration processes, which are essential for the proper functioning of the Schengen area.

The challenges facing the EU's common system for returns, such as fragmented IT systems and limited data-sharing, cannot be effectively resolved at national level.

As explained above, given the magnitude of the fragmentation of the current digital landscape, without EU coordination and a proper EU legal framework, Member States will continue developing siloed systems, leading to inefficiencies, uneven digitalisation, and higher costs. An EU-level intervention is therefore essential to ensure the interconnection of relevant IT systems across Member States (including by leveraging EU Information Systems, such as the Schengen Information System and Eurodac), consistent data exchange, and operational efficiency across Member States. Only a coordinated approach at EU level can address in a coherent manner the cross-border complexities that Member States are currently facing e.g. as regards the insufficient sharing of data between Member States.

Member States will be able to keep and improve their current return case management systems or make use of an IT reference implementation provided by the EU. By offering this choice and building on existing digital systems, the proposed approach provides a broad degree of flexibility to Member States. This preferred course of actions has received positive views throughout the consultation process.

d) Can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?

A common framework at EU level will enhance data sharing, speed up procedures, and reduce administrative burden. A harmonised digitalised approach to return, readmission and reintegration processes at EU level will improve the overall effectiveness of the return system and align with the broader objectives of the Pact on Migration and Asylum. Eventually, coherent digitalisation efforts will support the proper functioning of the Schengen area and the sustainability of the Common European Asylum System.

A unified digital framework will strengthen the EU's position in negotiations and interactions with third countries, allowing, for instance, the EU to increase the number of readmission case management systems established with third countries and benefitting to all Member States.

EU-level efforts will create economies of scale, reduce costs, avoid duplication of efforts through system development in silos, and support evidence-based policymaking, including by increasing the reliability of data and statistics. By pooling resources and expertise, the EU can deliver more robust and scalable solutions than Member States acting individually.

The proposal clarifies the roles and responsibilities of the different stakeholders (Member States, EU agencies and the Commission) and lays down a clear governance framework for the new IT systems.

3. Proportionality: How the EU should act

a) Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?

Yes. To address the problems, identified, the proposal envisages a solution based on a partially decentralised approach, which will build on existing systems at national and EU level. For the case management of return cases, this solution will provide Member States with the flexibility to either continue developing their existing national return systems in line with the RECAMAS Model developed by Frontex or to adopt an off-the-shelf RECAMAS-based IT solution developed by Frontex. This dual approach will allow Member States to build on prior investments while ensuring convergence towards a common framework. For the case management of readmission and reintegration cases, the case management systems (iRCMS and RIAT) will continue to be provided at EU level. By building on existing systems and relying on a partially decentralised approach, the proposal does not go further than what is necessary to solve the problems identified.

b) Is the proposed action an appropriate way to achieve the intended objectives?
The initiative takes duly into account the existing governance of relevant IT systems whereby Member States are in charge of return case management systems while the EU provides readmission and reintegration case management systems. The initiative is limited to aspects that Member States cannot achieve satisfactorily on their own and where the EU can do better. Member States may keep and improve their current return systems or make use of an IT reference implementation provided by the EU. By offering this choice and building on existing digital systems, the proposed approach provides a broad degree of flexibility to Member States. To ensure that Member States make use of national systems having a minimum level of efficiency, some functional requirements are set at EU level. The management of readmission and reintegration processes require interactions with third countries' authorities or entities located in third countries. A uniform way of exchanging with third countries and external partners increases the efficiency of these processes, by facilitating a better understanding on their side (which do not have to deal with 27 different interfaces but with only one). For this reason, and building on the existing situation, IT systems to manage these processes should be provided at EU level. A regulation appears to be the most suitable legal instrument given the objective to establish a new integrated digital case management system both at national and EU level, mirroring thereby the choice made for all founding regulations of EU Information Systems (e.g. Schengen Information System or Eurodac). The initiative includes some costs to be incurred by the EU and its Member States. By building on existing digital systems, the sunk costs will be limited as existing systems are meant to be preserved, while being improved. The situation of non-EU Schengen Associated Countries and EU Member States benefitting from an opt-out on Justice and Home Affairs has been duly taken into account.