Regulation (EU) 2020/851 of the European Parliament and of the Council of 18 June 2020 amending Regulation (EC) No 862/2007 on Community statistics on migration and international protection (Text with EEA relevance)

REGULATION (EU) 2020/851 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 18 June 2020

amending Regulation (EC) No 862/2007 on Community statistics on migration and international protection

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) Regulation (EC) No 862/2007 of the European Parliament and of the Council[(2)] establishes a common and comparable legal framework for European statistics on migration and international protection.

(2) To respond to new needs within the Union for statistics on migration and international protection, and due to the fact that the characteristics of migration are subject to rapid change, there is a need to establish a framework that allows for a quick response to changing needs as regards statistics on migration and international protection.

(3) In order to support the Union in responding effectively to the challenges posed by migration and in developing human-rights-based policies, it is necessary to collect data on migration and international protection on a sub-annual basis.

(4) Statistics on migration and international protection are fundamental for the study, formulation and evaluation of a wide range of policies, particularly as regards responses to the arrival of persons seeking protection in Europe, with the aim of defining and applying the best policies.

(5) Statistics on migration and international protection are essential for having an overview of migratory movements within the Union and for Member States to be able to apply Union law properly in accordance with fundamental rights as laid down in the Charter of Fundamental Rights of the European Union (the ‘Charter’) and the Convention for the Protection of Human Rights and Fundamental Freedoms.

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(6) In order to ensure the quality and, in particular, the comparability of data provided by the Member States, and in order for reliable overviews to be drawn up at Union level, the data used should be based on the same concepts, and should refer to the same reference date or period.

(7) Data provided on migration and international protection should be consistent with the relevant statistics collected pursuant to Regulation (EC) No 862/2007.

(8) Regulation (EC) No 223/2009 of the European Parliament and of the Council[(3)] provides a reference framework for European statistics on migration and international protection. In particular, it requires Member States to comply with the principles of professional independence, impartiality, objectivity, reliability, statistical confidentiality and cost effectiveness, as well as with the quality criteria specified therein.

(9) Quality reports are essential for assessing, improving and communicating on the quality of European statistics. The European Statistical System Committee has endorsed a European Statistical System (ESS) standard for Quality Reports Structure in accordance with the provision on statistical quality laid down in Regulation (EC) No 223/2009. That ESS standard should contribute to the harmonisation of quality reporting under Regulation (EC) No 862/2007.

(10) In order to improve the efficiency of statistical production, national statistical authorities have the right to access and use, promptly and free of charge, all administrative records within their own respective public administrative systems and to integrate those administrative records with statistics to the extent necessary for the development, production and dissemination of European statistics in accordance with the provisions concerning access to, and use and integration of, administrative records laid down in Article 17a of Regulation (EC) No 223/2009.

(11) When developing, producing and disseminating European statistics, the national and European statistical authorities and, where applicable, other relevant authorities, should take account of the principles set out in the European Statistics Code of Practice, as reviewed and updated by the European Statistical System Committee on 16 November 2017.

(12) Pilot studies should take into account Union added value, establish the conditions for introducing new data collections within the scope of Regulation (EC) No 862/2007, assess the feasibility and quality of the statistics, including their cross-country comparability, as well as the costs of the related data collections. Before launching each particular pilot study, the Commission (Eurostat) should review relevant administrative sources at Union level and examine whether the required statistics could be based on those sources. Priority should be given to the examination of the number of applications and the number of rejected applications for first-time residence permits. The Commission (Eurostat) should, in close cooperation with the Member States, evaluate the results of those pilot studies and should make the results publicly available. The introduction of new data collections in the Member States should only be considered if the evaluation of the results of the pilot studies is positive. The Commission should also consult the European Data Protection Supervisor under the

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conditions for legislative consultation laid down in Regulation (EU) 2018/1725 of the European Parliament and of the Council[(4)].

(13) It is important to optimise the use of existing information and data already collected within the scope of Regulation (EC) No 862/2007. To that end, existing data sources at Union and national level, as well as ways to benefit from the frameworks for interoperability established by Regulations (EU) 2019/817[(5)] and (EU) 2019/818[(6)] of the European Parliament and of the Council, should be explored in order to assess their usage for official statistics. Such assessment should also include the implementation of the concept of interoperability at Union level in order to allow multiple organisations to use the same data in accordance with their needs and the authorisations they have.

(14) Within the scope of Regulation (EC) No 862/2007, the Commission (Eurostat) should aim to ensure the coordination of data collections being used by the relevant Union agencies and should, to that end, conclude cooperation agreements with those agencies within the framework of their respective competence.

(15) In order to achieve the objective of Regulation (EC) No 862/2007, sufficient financial resources should be allocated for the collection, analysis and dissemination of high-quality European and national statistics on migration and international protection.

(16) Where the implementation of Regulation (EC) No 862/2007 would require the national statistical system of a Member State to develop and implement new methodologies and new data collections for statistics under that Regulation, including the participation of that Member State in pilot studies and the upgrading of data sources and IT systems, a Union financial contribution should be provided to that Member State in the form of a grant in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(7)].

(17) This Regulation observes the right to respect for private and family life, to the protection of personal data and to non-discrimination as set out in the Charter. Regulation (EU) 2016/679 of the European Parliament and of the Council[(8)] and Regulation (EU) 2018/1725 apply to the processing of personal data covered by Regulation (EC) No 862/2007.

(18) In order to ensure uniform conditions for the implementation of Regulation (EC) No 862/2007, implementing powers should be conferred on the Commission in respect of setting out the practical arrangements for, and the content of, the quality reports; defining the appropriate formats for the transmission of data; specifying disaggregations; and determining, on the basis of the evaluation of the results of the pilot studies, new data collections and disaggregations. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(9)].

(19) Where the implementation of Regulation (EC) No 862/2007 would require major adaptations to the national statistical system of a Member State, the Commission should be able, in duly justified cases and for a limited period of time, to grant, by means of implementing acts, a derogation to the Member State concerned. Such major adaptations could arise, in particular, from the need to improve timeliness, to adapt the

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design of the methods of data collection, including the access to administrative sources, or to develop new tools to produce data.

(20) The effective monitoring of the application of Regulation (EC) No 862/2007 requires that it be evaluated at regular intervals. The Commission should thoroughly assess the statistics compiled pursuant to that Regulation, as well as their quality and timely provision, for the purpose of submitting reports to the European Parliament and to the Council. The Commission (Eurostat) should closely consult all actors involved in migration and international protection data collection and the main users of those statistics.

(21) Since the objective of this Regulation, namely to revise and complete the existing common rules for the collection and compilation of European statistics on migration and international protection, cannot be sufficiently achieved by the Member States but can rather, for reasons of harmonisation and comparability, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(22) Regulation (EC) No 862/2007 should therefore be amended accordingly.

(23) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council[(10)].

(24) The European Statistical System Committee was consulted,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 862/2007

Regulation (EC) No 862/2007 is amended as follows:

(1) in Article 1, point (c) is replaced by the following:

(c) administrative and judicial procedures and processes in the Member States relating to immigration, granting of permission to reside, citizenship, asylum and other forms of international protection, illegal entry and stay, and returns.;

(2) Article 2 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (j) to (m) are replaced by the following:

(j) "application for international protection" means an application for international protection as defined in point (h) of Article 2 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-

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country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted[11];

(k) "refugee status" means refugee status as defined in point (e) of Article 2 of Directive 2011/95/EU;

(l) "subsidiary protection status" means subsidiary protection status as defined in point (g) of Article 2 of Directive 2011/95/EU;

(m) "family members" means family members as defined in point (g) of Article 2 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person[12];;

(ii) points (o) to (q) are replaced by the following:

(o) "unaccompanied minor" means an unaccompanied minor as defined in point (l) of Article 2 of Directive 2011/95/EU;

(p) "external borders" means external borders as defined in point 2 of Article 2 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)[13];

(q) "third-country nationals refused entry" means third-country nationals who are refused entry at the external border because they do not fulfil all the entry conditions laid down in Article 6(1) of Regulation (EU) 2016/399 and do not belong to any of the categories of persons referred to in Article 6(5) of that Regulation;;

(b) paragraph 3 is deleted;

(3) Article 4 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (c) of the first subparagraph is replaced by the following:

(c) applications for international protection having been withdrawn during the reference period, disaggregated by explicit and implicit withdrawal as referred to in Articles 27 and 28 of Directive 2013/32/EU of the European Parliament and of the Council[14];;

(ii) in the first subparagraph, the following points are added: