Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (Text with EEA relevance)

REGULATION (EC) No 862/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 July 2007

on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) The conclusions of the Justice and Home Affairs Council of 28-29 May 2001 considered, regarding common analysis and the improved exchange of statistics on asylum and migration, that there is a need for a comprehensive and coherent framework for future action on improving statistics.

(2) In April 2003, the Commission released a Communication to the Council and to the European Parliament, setting out an Action Plan for the collection and analysis of Community Statistics in the field of migration. This included a number of important changes designed to improve the completeness and degree of harmonisation of these statistics. Under the Action Plan, the Commission aimed to propose legislation on Community statistics on migration and asylum.

(3) The Thessaloniki European Council of 19 and 20 June 2003 concluded that more effective mechanisms were needed for the collection and analysis of information on migration and asylum in the European Union.

(4) The European Parliament in its resolution of 6 November 2003[(3)] on the abovementioned Communication from the Commission noted that legislation was required to ensure the production of comprehensive statistics necessary for the development of fair and effective Community policies on migration. The resolution

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supports the Commission's plans to propose legislation for migration and asylum statistics.

(5) Enlargement of the European Union has brought an added geographical and political dimension to the scale of the phenomena associated with migration. It has also brought a further impetus to the demand for accurate, timely and harmonised statistical information. There is also an increasing need for statistical information regarding the profession, education, qualifications and type of activity of migrants.

(6) Harmonised and comparable Community statistics on migration and asylum are essential for the development and monitoring of Community legislation and policies relating to immigration and asylum, and to the free movement of persons.

(7) There is a need to reinforce the exchange of statistical information on asylum and migration and to improve the quality of Community statistical collections and outputs which have, hitherto, taken place on the basis of a series of ‘gentlemen's agreements’.

(8) It is essential that information be available, throughout the European Union, for the purposes of monitoring the development and implementation of Community legislation and policy. In the main, current practice does not sufficiently ensure, in a uniform manner, regular, timely and rapid delivery and dissemination of harmonised data.

(9) This Regulation does not cover estimates of the number of persons illegally resident in the Member States. Member States should not provide such estimates or data on such persons to the Commission (Eurostat), although they may be included in population stocks due to surveys.

(10) Wherever possible, the definitions used for the purposes of this Regulation are taken from the United Nations Recommendations on Statistics of International Migration, the United Nations Recommendations for the Censuses of Population and Housing in the ECE Region or EC legislation, and should be updated following the relevant procedures.

(11) New Community needs on statistics on migration and asylum render obsolete the provisions of Council Regulation (EEC) No 311/76 of 9 February 1976 on the compilation of statistics on foreign workers[(4)].

(12) Regulation (EEC) No 311/76 should therefore be repealed.

(13) Since the objective of this Regulation to establish common rules for the collection and compilation of Community statistics on migration and international protection cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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.

(14) Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics[(5)] constitutes the reference framework for the provisions of this Regulation. In particular, it requires conformity to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

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(15) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(6)].

(16) In particular, the Commission should be empowered to update the definitions, to decide on the groupings of data and additional disaggregations and to lay down the rules on accuracy and quality standards. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation and to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny laid down in Article 5a of Decision 1999/468/EC.

(17) The Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom of 19 June 1989 establishing a Committee on the Statistical Programmes of the European Communities[(7)], has been consulted in accordance with Article 3 of that Decision,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes common rules for the collection and compilation of Community statistics on:

(a) immigration to and emigration from the Member State territories, including flows from the territory of one Member State to that of another Member State and flows between a Member State and the territory of a third country;

(b) the citizenship and country of birth of persons usually resident in the territory of the Member States;

(c) **[**[F1]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.**]**

Textual Amendments

F1 Substituted by 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).

Article 2

Definitions

1 For the purposes of this Regulation, the following definitions shall apply:

a ‘usual residence’ means the place at which a person normally spends the daily period of rest, regardless of temporary absences for purposes of recreation, holiday, visits to

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friends and relatives, business, medical treatment or religious pilgrimage or, in default, the place of legal or registered residence;

b ‘immigration’ means the action by which a person establishes his or her usual residence in the territory of a Member State for a period that is, or is expected to be, of at least 12 months, having previously been usually resident in another Member State or a third country;

c ‘emigration’ means the action by which a person, having previously been usually resident in the territory of a Member State, ceases to have his or her usual residence in that Member State for a period that is, or is expected to be, of at least 12 months;

d ‘citizenship’ means the particular legal bond between an individual and his or her State, acquired by birth or naturalisation, whether by declaration, choice, marriage or other means according to national legislation;

e ‘country of birth’ means the country of residence (in its current borders, if the information is available) of the mother at the time of the birth or, in default, the country (in its current borders, if the information is available) in which the birth took place;

f ‘immigrant’ means a person undertaking an immigration;

g ‘emigrant’ means a person undertaking an emigration;

h ‘long-term resident’ means long-term resident as defined in Article 2(b) of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents[(8)];

i ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty, including stateless persons;

[[F1]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-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[(9)];

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[(10)];**]**

n ‘temporary protection’ means temporary protection as defined in Article 2(a) of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof[(11)];

[[F1]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)[(12)];

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

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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;**]**

r ‘third-country nationals found to be illegally present’ means third-country nationals who are officially found to be on the territory of a Member State and who do not fulfil, or no longer fulfil, the conditions for stay or residence in that Member State;

s ‘resettlement’ means the transfer of third-country nationals or stateless persons on the basis of an assessment of their need for international protection and a durable solution, to a Member State, where they are permitted to reside with a secure legal status.

2 Member States shall report to the Commission (Eurostat) on the use and probable effects of estimations or other methods of adapting statistics based on national definitions to comply with the harmonised definitions set out in paragraph 1.

[F2]3 . . . . . .

4 If a Member State is not bound by one or more of the legal texts referred to in the definitions in paragraph 1, statistics comparable with those required under this Regulation should be provided by that Member State where they can be provided under existing legislative and/or administrative procedures.

Textual Amendments

F1 Substituted by 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).

F2 Deleted by 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).

Article 3

Statistics on international migration, usually resident population and acquisition of citizenship

1 Member States shall supply to the Commission (Eurostat) statistics on the numbers of:

a immigrants moving to the territory of the Member State, disaggregated as follows:

(i) groups of citizenship by age and sex;

(ii) groups of country of birth by age and sex;

(iii) groups of country of previous usual residence by age and sex;

b emigrants moving from the territory of the Member State disaggregated as follows:

(i) groups of citizenships;

(ii) age;

(iii) sex;

(iv) groups of countries of next usual residence;

c persons having their usual residence in the Member State at the end of the reference period, disaggregated as follows: