

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 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.

⁽¹⁾ OJ C 185, 8.8.2006, p. 31.

⁽²⁾ Opinion of the European Parliament of 14 March 2007 (not yet published in the Official Journal) and Council Decision of 12 June 2007.

⁽³⁾ OJ C 83 E, 2.4.2004, p. 94.

(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 ⁽¹⁾.

(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 ⁽²⁾ 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.

(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 ⁽³⁾.

(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 ⁽⁴⁾, 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) 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 and the prevention of illegal immigration.

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 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;

⁽¹⁾ OJ L 39, 14.2.1976, p. 1.

⁽²⁾ OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and the Council (OJ L 284, 31.10.2003, p. 1).

⁽³⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁴⁾ OJ L 181, 28.6.1989, p. 47.

- (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 ⁽¹⁾;
- (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;
- (j) 'application for international protection' means application for international protection as defined in Article 2(g) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ⁽²⁾;
- (k) 'refugee status' means refugee status as defined in Article 2(d) of Directive 2004/83/EC;
- (l) 'subsidiary protection status' means subsidiary protection status as defined in Article 2(f) of Directive 2004/83/EC;
- (m) 'family members' means family members as defined in Article 2(i) of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ⁽³⁾;
- (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 ⁽⁴⁾;
- (o) 'unaccompanied minor' means an unaccompanied minor as defined in Article 2(i) of Directive 2004/83/EC;
- (p) 'external borders' means external borders as defined in Article 2(2) of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) ⁽⁵⁾;
- (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 5(1) of Regulation (EC) No 562/2006 and do not belong to the categories of persons referred to in Article 5(4) 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.

3. For the reference year 2008, the statistics supplied to the Commission (Eurostat) under this Regulation may be based on alternative (national) definitions. In such cases, Member States shall notify the Commission (Eurostat) of these alternative definitions.

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.

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;

⁽¹⁾ OJ L 16, 23.1.2004, p. 44.

⁽²⁾ OJ L 304, 30.9.2004, p. 12.

⁽³⁾ OJ L 50, 25.2.2003, p. 1.

⁽⁴⁾ OJ L 212, 7.8.2001, p. 12.

⁽⁵⁾ OJ L 105, 13.4.2006, p. 1.

(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:

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

(d) persons having their usual residence in the territory of the Member State and having acquired during the reference year the citizenship of the Member State and having formerly held the citizenship of another Member State or a third country or having formerly been stateless, disaggregated by age and sex, and by the former citizenship of the persons concerned and by whether the person was formerly stateless.

2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within 12 months of the end of the reference year. The first reference year shall be 2008.

Article 4

Statistics on international protection

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

- (a) persons having submitted an application for international protection or having been included in such an application as a family member during the reference period;
- (b) persons who are the subject of applications for international protection under consideration by the responsible national authority at the end of the reference period;
- (c) applications for international protection having been withdrawn during the reference period.

These statistics shall be disaggregated by age and sex, and by the citizenship of the persons concerned. They shall relate to reference periods of one calendar month and shall be supplied to the Commission (Eurostat) within two months of the end of the reference month. The first reference month shall be January 2008.

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

- (a) persons covered by first instance decisions rejecting applications for international protection, such as decisions considering applications as inadmissible or as unfounded and decisions under priority and accelerated procedures, taken by administrative or judicial bodies during the reference period;
- (b) persons covered by first instance decisions granting or withdrawing refugee status, taken by administrative or judicial bodies during the reference period;
- (c) persons covered by first instance decisions granting or withdrawing subsidiary protection status, taken by administrative or judicial bodies during the reference period;
- (d) persons covered by first instance decisions granting or withdrawing temporary protection, taken by administrative or judicial bodies during the reference period;
- (e) persons covered by other first instance decisions granting or withdrawing authorisation to stay for humanitarian reasons under national law concerning international protection, taken by administrative or judicial bodies during the reference period.

These statistics shall be disaggregated by age and sex, and by the citizenship of the persons concerned. They shall relate to reference periods of three calendar months and shall be supplied to the Commission (Eurostat) within two months of the end of the reference period. The first reference period shall be January to March 2008.

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

- (a) applicants for international protection who are considered by the responsible national authority to be unaccompanied minors during the reference period;
- (b) persons covered by final decisions rejecting applications for international protection, such as decisions considering applications as inadmissible or as unfounded and decisions under priority and accelerated procedures, taken by administrative or judicial bodies in appeal or review during the reference period;
- (c) persons covered by final decisions granting or withdrawing refugee status taken by administrative or judicial bodies in appeal or review during the reference period;

- (d) persons covered by final decisions granting or withdrawing subsidiary protection status taken by administrative or judicial bodies in appeal or review during the reference period;
- (e) persons covered by final decisions granting or withdrawing temporary protection taken by administrative or judicial bodies in appeal or review during the reference period;
- (f) persons covered by other final decisions, taken by administrative or judicial bodies in appeal or review, granting or withdrawing authorisations to stay for humanitarian reasons under national law concerning international protection during the reference period;
- (g) persons who have been granted an authorisation to reside in a Member State within the framework of a national or Community resettlement scheme during the reference period, where such a scheme is implemented in that Member State.

These statistics shall be disaggregated by age and sex, and by the citizenship of the persons concerned. They shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.

4. Member States shall supply to the Commission (Eurostat) the following statistics on the application of Regulation (EC) No 343/2003 and Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 ⁽¹⁾:

- (a) the numbers of requests for taking back or taking charge of an asylum seeker;
- (b) the provisions on which the requests referred to in point (a) are based;
- (c) the decisions taken in response to the requests referred to in point (a);
- (d) the numbers of transfers to which the decisions referred to in point (c) lead;
- (e) the number of requests for information.

These statistics shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.

⁽¹⁾ OJ L 222, 5.9.2003, p. 3.

Article 5

Statistics on the prevention of illegal entry and stay

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

- (a) third-country nationals refused entry to the Member State's territory at the external border;
- (b) third-country nationals found to be illegally present in the Member State's territory under national laws relating to immigration.

The statistics under point (a) shall be disaggregated in accordance with Article 13(5) of Regulation (EC) No 562/2006.

The statistics under point (b) shall be disaggregated by age and sex, and by citizenship of the persons concerned.

2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.

Article 6

Statistics on residence permits and residence of third-country nationals

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

- (a) the number of residence permits issued to persons who are third-country nationals, disaggregated as follows:
 - (i) permits issued during the reference period whereby the person is being granted permission to reside for the first time, disaggregated by citizenship, by the reason for the permit being issued and by the length of validity of the permit;
 - (ii) permits issued during the reference period and granted on the occasion of a person changing immigration status or reason for stay, disaggregated by citizenship, by the reason for the permit being issued and by the length of validity of the permit;
 - (iii) valid permits at the end of the reference period (number of permits issued, not withdrawn and not expired), disaggregated by citizenship, by the reason for the issue of the permit and by the length of validity of the permit;
- (b) the number of long-term residents at the end of the reference period, disaggregated by citizenship.

2. Where the national laws and administrative practices of a Member State allow for specific categories of long-term visa or immigration status to be granted instead of residence permits, counts of such visas and grants of status are to be included in the statistics required under paragraph 1.

3. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within six months of the end of the reference year. The first reference year shall be 2008.

Article 7

Statistics on returns

1. Member States shall supply to the Commission (Eurostat) statistics relating to:

- (a) the number of third-country nationals found to be illegally present in the territory of the Member State who are subject to an administrative or judicial decision or act stating or declaring that their stay is illegal and imposing an obligation to leave the territory of the Member State, disaggregated by citizenship of the persons concerned;
- (b) the number of third-country nationals who have in fact left the territory of the Member State, following an administrative or judicial decision or act, as referred to in point (a), disaggregated by the citizenship of the persons returned.

2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.

3. The statistics referred to in paragraph 1 shall not include third-country nationals who are transferred from one Member State to another Member State under the mechanism established by Regulations (EC) No 343/2003 and (EC) No 1560/2003.

Article 8

Additional disaggregations

1. The Commission may adopt measures relating to the definition of additional disaggregations as set out below for the following statistics:

- (a) for statistics required under Article 4 as a whole, disaggregations by:
 - (i) year of submission of the application;
- (b) for statistics required under Article 4(4), disaggregations by:
 - (i) number of persons concerned by the request, decision and transfer;

(c) for statistics required under Article 5(1)(a), disaggregations by:

- (i) age;
- (ii) sex;

(d) for statistics required under Article 5(1)(b), disaggregations by:

- (i) grounds for the apprehension;
- (ii) place of the apprehension;

(e) for statistics required under Article 6, disaggregations by:

- (i) year in which permission to reside was first granted;
- (ii) age;
- (iii) sex;

(f) for statistics required under Article 7, disaggregations by:

- (i) reason for the decision or act imposing an obligation to leave;
- (ii) age;
- (iii) sex.

2. The additional disaggregations mentioned in paragraph 1 shall be supplied only separately, and not cross-classified with the disaggregations required under Articles 4 to 7.

3. When deciding whether additional disaggregations are required, the Commission shall consider the need for this information for the purposes of developing and monitoring Community policies and shall consider the availability of appropriate data sources and the costs involved.

Negotiations on additional disaggregations that may be needed for the application of Articles 4 to 7 shall be initiated not later than 20 August 2009. The earliest reference year for the implementation of additional disaggregations shall be 2010.

Article 9

Data sources and quality standards

1. The statistics shall be based on the following data sources according to their availability in the Member State and in accordance with national laws and practices:

- (a) records of administrative and judicial actions;
- (b) registers relating to administrative actions;

- (c) registers of the population of persons or of a particular subgroup of that population;
- (d) censuses;
- (e) sample surveys;
- (f) other appropriate sources.

As part of the statistics process, scientifically based and well documented statistical estimation methods may be used.

2. Member States shall report to the Commission (Eurostat) on the data sources used, the reasons for the selection of these sources and the effects of the selected data sources on the quality of the statistics, and on the estimation methods used, and shall keep the Commission (Eurostat) informed of changes thereto.

3. At the request of the Commission (Eurostat), Member States shall provide it with all the information necessary to evaluate the quality, comparability and completeness of the statistical information.

4. Member States shall inform the Commission (Eurostat) without delay of revisions and corrections to the statistics supplied under this Regulation, and of any changes in the methods and data sources used.

5. The measures relating to the definition of the appropriate formats for the transmission of data shall be adopted in accordance with the regulatory procedure referred to in Article 11(2).

Article 10

Implementing measures

1. The measures necessary for the implementation of this Regulation laying down the rules on the appropriate formats for the transmission of data as provided for in Article 9 shall be adopted in accordance with the regulatory procedure referred to in Article 11(2).

2. The following measures necessary for the implementation of this Regulation and designed to amend its non-essential elements, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3):

- (a) updating the definitions set out in Article 2(1);

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 11 July 2007.

For the European Parliament
The President
H.-G. PÖTTERING

- (b) defining the categories of groups of country of birth, groups of country of previous and next usual residence and groups of citizenship as provided for in Article 3(1);
- (c) defining the categories of the reasons for the permit as provided for in Article 6(1)(a);
- (d) defining the additional disaggregations and the levels of disaggregations to be applied to the variables as provided for in Article 8;
- (e) laying down the rules on accuracy and quality standards.

Article 11

Committee

1. In adopting the implementing measures, the Commission shall be assisted by the Statistical Programme Committee, established by Decision 89/382/EEC, Euratom.

2. Where reference is made to this paragraph, Article 5 and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 12

Report

By 20 August 2012 and every three years thereafter, the Commission shall submit a report to the European Parliament and the Council on the statistics compiled pursuant to this Regulation and on their quality.

Article 13

Repeal

Regulation (EEC) No 311/76 is hereby repealed.

Article 14

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

For the Council
The President
M. LOBO ANTUNES