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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	9307/18
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Subject:	Draft Regulation of the European Parliament and of the Council amending Regulation (EC) No 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection (First reading) – Mandate for negotiations with the European Parliament

1. On 16 May 2018 the Commission submitted to the Council a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection.
2. With a view of advancing discussions, on 31 May 2018 the Bulgarian Presidency and the incoming Austrian Presidency launched a written consultation with the delegations on the proposal. The Presidency compromise proposal prepared taking into account delegations' comments received during this consultation was discussed at the Council Working Party on Statistics meetings on 11 July, 3 September and 26 September 2018.

3. The revised Presidency compromise proposal including a few amendments proposed at the meeting on 26 September 2018 was endorsed on 18 October 2018 through the silence procedure.
 4. COREPER is invited to agree on the compromise text as set out in the Annex, and to adopt this text as the mandate for negotiations with the European Parliament in the context of the ordinary legislative procedure of Article 294 TFEU.
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2018/0154 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EC) No 862/2007 of the European Parliament and of the Council 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,

Whereas:

- (1) Regulation (EC) No 862/2007 of the European Parliament and of the Council¹ 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 asylum and managed migration, and whereas the characteristics of migration are subject to rapid change, there is a need for a framework allowing quick response to changing needs as regards statistics on asylum and managed migration.
- (3) To support the Union in responding effectively to the challenges posed by migration, there is a need for sub-annual frequency data on asylum and managed migration.
- (4) Asylum and managed migration statistics are fundamental for the study, definition and evaluation of a wide range of policies, particularly as regards responses to the arrival of persons seeking protection in Europe.
- (5) To ensure the quality, and, in particular, the comparability, of data provided by the Member States, and 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.

¹ 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 (OJ L 199, 31.7.2007, p. 23).

- (6) Data provided on asylum and managed migration should be consistent with the relevant information collected pursuant to Regulation (EC) No 862/2007.
- (7) Regulation (EC) No 223/2009 of the European Parliament and of the Council² provides a reference framework for European statistics on migration and international protection. In particular, it requires compliance with the principles of professional independence, impartiality, objectivity, reliability, statistical confidentiality and cost effectiveness.
- (7a) In order to meet the statistical requirements under this Regulation, it is important to ensure that the necessary information gathered during the administrative procedures related to immigration and international protection are obtained for statistical purposes. In order to improve the efficiency of the statistical production, National Statistical Authorities should have the right to access and use, promptly and free of charge, all national administrative records and to integrate these administrative records with statistics, to the extent necessary for the development, production and dissemination of statistics covered under this Regulation, in accordance with the provisions laid down in Article 17a of Regulation (EC) No 223/2009 of the European Parliament and of the Council.**
- (8) When developing, producing and disseminating European statistics, the national and European statistical authorities, and, where applicable, other relevant national ~~and regional~~ 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** ~~28 September 2014~~.

² Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

- (9) 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 acting individually. Rather, for reasons of harmonisation and comparability, it can be better achieved at Union level. The EU may therefore adopt appropriate measures, in accordance with the principle of subsidiarity 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.
- (10) This Regulation guarantees the right to respect for private and family life and to the protection of personal data, as set out in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union. **Regulation (EU) 2016/679 of the European Parliament and of the Council³ and Regulation (EC) No 45/2001 of the European Parliament and of the Council⁴ should apply to the personal data covered by this Regulation.**
- (11) To ensure uniform conditions for the implementation of this regulation, implementing powers should be conferred on the Commission in respect of specifying disaggregations. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁵⁾.

³ *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)(OJ L 119, 4.5.2016, p. 1).*

⁴ *Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.01.2001, p. 1).*

⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (11a) **Where the implementation of this Regulation would require major adaptations to the national statistical systems of a Member State, the Commission should be able, in duly justified cases and for a limited period of time, to grant derogations to the Member States concerned. These major adaptations may arise in particular from the need to improve timeliness, to adapt the design of ways of collecting the data, including the access to administrative sources, or to develop new tools to produce data.**
- (12) Regulation (EC) No 862/2007 should therefore be amended accordingly.
- (13) The European Statistical System Committee has been consulted,

HAVE ADOPTED THIS REGULATION:

Article 1

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

(1) Article 4 is amended as follows:

(a) In paragraph 1, the following point (d) is added:

‘(d) persons having submitted an application for international protection or having been included in such an application as a family member during the reference period and applying for international protection for the first time.’

(b) The last subparagraph of paragraph 1 is replaced by the following:

‘These statistics shall be disaggregated by age and sex and by the citizenship of the persons concerned, and by unaccompanied minors. 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 2020.’

(c) In paragraph 2, the last subparagraph is replaced by the following:

‘These statistics shall be disaggregated by age and sex and by the citizenship of the persons concerned, and by unaccompanied minors. 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-March 2020.’

~~(d) In paragraph 3, point (a) is deleted.~~

(e) In paragraph 3, the last subparagraph is replaced by the following:

‘Statistics under points (a), (b), (c), (d), (e), (f) and (g) shall be disaggregated by age and sex and by the citizenship of the persons concerned, and, **except for point (a)**, by unaccompanied minors. In addition, for point (g), statistics shall be disaggregated by the country of residence and by the type of asylum decision. 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 2020.’

(f) In paragraph 4, point (d) is replaced by the following:

‘(d) the numbers of transfers to which the decisions referred to in points (c) and (h) lead;’

(g) In paragraph 4, the following points (f), (g) and (h) are added:

‘(f) the number of re-examination requests for taking back and taking charge of an asylum seeker;’

(g) the provisions on which the requests referred to in point (f) are based;

(h) the decisions taken in response to the requests referred to in point (f).’

(h) In paragraph 4, the last subparagraph is replaced by the following:

‘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 2020.’

(2) Article 6 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘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, by the length of validity of the permit, by age and by sex;

(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, by the length of validity of the permit, by age and by sex;

(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, by the length of validity of the permit, by age and by sex;

(b) the number of long-term residents at the end of the reference period, disaggregated by citizenship, by type of long-term status, by age and by sex.’

(b) Paragraph 3 is replaced by the following:

‘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 2020.’

(3) Article 7 is amended as follows:

(a) In paragraph 1, point (b) is replaced by the following:

‘(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, by the type of return and assistance received, and by the destination country.’

(b) Paragraph 2 is replaced by the following:

‘2. The statistics referred to in paragraph 1 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 2020.’

(4) Article 8 is deleted.

(5) Article 10 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. The Commission shall be empowered to adopt implementing acts for the purpose of specifying **the** disaggregations **indicated** in ~~line with~~ Articles 4, 5, 6 and 7 and laying down the rules on the appropriate formats for the transmission of data as provided for in Article 9. **When adopting such implementing acts, the Commission shall justify the need for this information for the purposes of developing and monitoring Union policies on migration and asylum and shall ensure that such implementing acts do not impose significant additional costs or burden on the Member States.**

These implementing acts shall be adopted in accordance with the procedure referred to in Article 11(2) **not later than 18 months before the end of the reference period.**

(b) In paragraph 2, point (d) is deleted.

(6) Article 11 is amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.'

(b) Paragraph 2 is replaced by the following:

'2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.'

(7) The following Article 11a is inserted:

'Article 11a

Derogations

- 1. If applying this Regulation, or the implementing measures adopted under it, in a Member State's national statistical system would necessitate major adaptations, the Commission may grant, by means of implementing acts, a derogation for the length of time requested by the Member State with a maximum of two years. The comparability of Member States' data and the timely calculation of the required representative and reliable European aggregates shall be ensured and the burden on Member States and respondents shall be taken into account when granting the derogation.**
- 2. For the purposes of paragraph 1, the Member State shall submit a duly justified request to the Commission within three months of the date of the entry into force of the act concerned.**
- 3. The Commission shall adopt those implementing acts in accordance with the examination procedure referred to in Article 11(2) of Regulation (EC) 862/2007.'**

Article 2

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 4 paragraphs (1) and (2) and Article 7 paragraph (1) point (b) and paragraph (2) of Regulation (EC) No 862/2007 shall apply from 1 March 2020.

Article 4 paragraphs (3) and (4) and Article 6 paragraphs (1) and (3) of Regulation (EC) No 862/2007 shall apply from 1 July 2020.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President