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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view to the adoption of a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL amending Regulation (EC) No 862/2007 on Community
statistics on migration and international protection
– Draft Statement of the Council's reasons

I. INTRODUCTION

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.

With a view of advancing discussions, on 31 May 2018 the incoming Austrian Presidency launched a written consultation with the delegations on the proposal. The Presidency compromise proposal was prepared taking into account delegations' comments received during this consultation, and was discussed at the Council Working Party on Statistics (CWPS) meetings on 11 July, 3 September and 26 September 2018.

The revised Presidency compromise proposal, that included a few amendments proposed at the CWPS meeting on 26 September 2018 was endorsed on 18 October 2018 through a silence procedure. On 31 October 2018 COREPER adopted the mandate to start interinstitutional negotiations on the revised Migration Statistics Regulation.

The first political trilogue as well technical meeting were held under the Austrian Presidency in December 2018, after which the Romanian Presidency continued an intensive schedule of political and technical meetings with the Parliament and the Commission. The compromise on the revised Migration Statistics Regulation was finalised at a technical meeting on 25 January 2018, and was later provisionally endorsed at the political trilogue held on 31 January 2019.

However, the above-mentioned compromise did not receive enough support from the delegations. Therefore, on the basis of progress achieved, the Romanian Presidency continued the discussions with a view to finding a compromise which would be acceptable to the majority of the Member States.

On 16 April 2019, on the basis of the LIBE report, the Parliament adopted its first reading position on the revised Migration Statistics Regulation.

The Finnish Presidency continued the efforts of the Romanian Presidency by further discussing the revised Migration Statistics Regulation at the CWPS meetings on 26 September and 31 October 2019. The second compromise proposal prepared by the Finnish Presidency, set out in document 13450/19, was widely supported by the delegations at the COREPER meeting on 20 November 2019.

The above-mentioned compromise proposal was presented at the political trilogue on 28 November 2019 and was provisionally endorsed with a change in recital 11.

On 28 November 2019 the above-mentioned compromise resulting from the interinstitutional negotiations, set out in document 13193/19, was submitted to the CWPS and was supported by a large majority of delegations. On 4 December 2019, COREPER confirmed the agreement reached on the revised Migration Statistics Regulation, contained in document 13193/19.

At its meeting on 9 December 2019, the LIBE Committee of the European Parliament voted on the text agreed in the trilogue. Subsequently, the Chair of the Permanent Representatives Committee received a letter from the Chair of the LIBE Committee indicating he would recommend to LIBE and Plenary, and subject to lawyer-linguist revision, to approve the agreement reached in trilogue without amendments, and containing the text of the revised Migration Statistics Regulation (doc. 15174/2/19 REV 2).

On 27 January 2020, the Council reached a political agreement on the revised Migration Statistics Regulation (15244/1/19 REV 1 + COR 1). The text of the Regulation subsequently underwent a lawyer-linguistic revision.

II. OBJECTIVE

Reliable, relevant and timely statistics is essential for policy making. The aim of this revised Regulation is to ensure the availability of such statistics in the field of migration and international protection and therefore to support the European Agenda on Migration.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

Several elements in the revised Migration Statistics Regulation needed in-depth discussions in order for an agreement to be reached: certain definitions to be used in data collection, new data to be collected, derogations from imminent data collection, financing of new data collection and the use of delegated/implemented acts.

Definitions

The Parliament proposed to change certain definitions to be used in data collection and instead of continuing to use "illegal migration" and "sex" for the purpose of data collection to start using "irregular migration" and "gender". The Council insisted on maintaining the current definitions. Such a change was not included in the Commission's proposal for a revised Regulation on Migration Statistics and after some discussions the Parliament agreed to continue using "illegal migration" and "sex" for data collection, while stressing the necessity to use the right and non-discriminatory terminology.

New data collection

The original Commission proposal for the revised Migration Statistics Regulation suggested to update the 2007 Regulation on migration statistics by introducing some changes as regards data collection on international protection, returns of illegally staying third country nationals, resettlement and residence permits.

The information on many of these new variables and disaggregations has already been collected on a voluntary basis, and the Commission aimed to provide a legal basis for the compulsory collection of these new data.

The Parliament proposed in total 91 amendments to the revised Migration Statistics Regulation. Out of these amendments, 55 amendments were tabled to increase the mandatory data collection and in addition to the Commission's proposals, to start collecting even more new data (new variables and new disaggregations) both as regards international protection, residence permits and returns, and as regards integrational migration and prevention of illegal entry and stay, the update of which were not foreseen in the original Commission proposal.

Given such a proposed significant increase in the scope of the revised Regulation, as a compromise, the Council suggested to introduce a concept of pilot studies so that first the feasibility of a number of proposed new variables and disaggregations would be tested through the pilot studies, rather than starting imminent data collection, and new data could only be collected upon a positive conclusion of pilot studies.

As a result of intense negotiations, part of Parliament's requests for new data collection was included in the imminent data collection, part was dropped (especially as regards proposed data collection which risked not to produce meaningful/useful results) and part will be first tested through the pilot studies.

Derogations

The Council requested that in cases where the implementation of the revised Migration Statistics Regulation would require major adaptations to the national statistical systems of a Member State, a possibility to grant duly justified and limited in time derogations would be foreseen in the revised Regulation. The Council indicated that such 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. The Parliament agreed that such a provision should be included in the revised Regulation and that such a derogation could be applied, on a request made to the Commission, for up to three years, with a possibility to prolong it for up to another two years.

Financing

As an additional safeguard for Member States, given the significantly increased scope of new data collection, the Council asked for the inclusion of a new Article concerning the financing, so as to ensure that Member States can receive the EU financial support for the implementation of the revised Migration Statistics Regulation. The Parliament agreed to include such a safeguard, according to which Member States would be eligible for the EU support both for developing new methodologies for statistics (including participation in the pilot studies) and for the development and/or implementation of the new data collections.

Delegating/implementing acts

The Council agreed to the Commission's proposal that within the revised Migration statistics regulation the empowerment should be given to the Commission through implementing acts, while the Parliament proposed to use delegated acts for updating definitions, specifying disaggregations and laying down the rules on accuracy and quality standards. In the course of negotiations, it was agreed that there was no need for empowerment to change definitions, therefore implementing acts could be used for the delegation of power within the revised Regulation, including for specifying disaggregations.

IV. CONCLUSION

The Council's position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament, facilitated by the Commission. Once adopted, the revised Migration Statistics Regulation will improve and expand the current data collection in the field of migration. Thanks to it, more data will be collected on international protection, residence permits, prevention of illegal entry and stay as well as on returns of illegally staying third country nationals. Also, the Regulation will give a possibility to test the feasibility of even more robust data collection in these fields through the pilot studies and therefore contributes to the implementation of the European Agenda on migration.
