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NOTE

From: Presidency
To: Working Party on Integration, Migration and Expulsion (IMEX Expulsion)
Subject: Towards improved statistics on returns
- Presidency discussion paper

Delegations will find in annex a discussion paper on the above-mentioned topic for the Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 7 June 2024.

Presidency discussion paper: Towards improved statistics on returns

Ensuring the return of third country nationals who do not have the right or no longer have the right to reside in the EU is a cornerstone of the European migration policy and key for the integrity of the Schengen area. To assess the performance of our return policy and identify priorities, concrete gaps and solutions, we need to be able to measure it. Indeed, reliable and timely statistics are essential for the study, elaboration, financing, and evaluation of a wide range of policies, with the aim of defining and implementing the most optimal ones.

Furthermore, information and analysis on return at national and European levels are essential to effectively allocate national and European resources. It is a component identified in the 2024 State of Schengen report¹ to allow proactive integrated planning, in light of migration and asylum trends.

Concerning returns, various parameters can come into play to measure this performance, the main one being the effectiveness of returns (how many of those with no right to stay in the EU are actually returned to third countries). A combination of other variables can also be considered according to the context: the link to negative asylum decisions, the respect for human rights during return procedures, the sustainability of returns (how many of those returned do not re-emigrate to the EU), the costs of returns in terms of both human and financial resources employed, the proportion of voluntary returns among whole returns, the link between readmission requests, travel documents issued and actual returns, etc. The current statistics should be further refined to allow stakeholders to obtain a comprehensive picture on a number of elements concerning the return procedures, as also highlighted in the March Schengen Barometer+.²

¹ COM(2024) 173 final

² Council Document 6692/24

1. *The existing framework and ongoing developments*

The return data collection has been conducted by the European Commission (Eurostat) since 2008, based on Regulation 862/2007 on Community statistics on migration and international protection (Article 7). It was amended by Regulation 2020/851, which introduced several changes, such as an increased frequency of data collection on returns, more statistical breakdowns, etc. In Eurostat, the main group in charge of the discussions on return statistics is the working group “Asylum and Managed Migration Statistics” (AMM), which notably addresses the data on the Enforcement of Immigration Legislation (EIL data). The implementation of the Regulation depends on the technical guidelines submitted by Eurostat and validated by Member States within AMM.

It should be noted that Regulation 862/2007 is part of a broader framework on European statistics on population, which is currently being revised: on 20 January 2023, the European Commission submitted a proposal for a Regulation on European statistics on population and housing.³ The envisaged legislation will impact Regulation 862/2007 on migration statistics with new measures regarding the scope of the Regulation, the access to administrative information sources and the harmonization of the lists of countries concerned by the relevant legislations on population statistics. However, as during the interinstitutional negotiations it was not possible to agree on the provisions on statistics on migration, discussions will have to continue under the new European Parliament term.

Eurostat, however, is not the only key player collecting return-related statistics. Frontex also collects return data since 2011 through the Frontex Risk Analysis Network (FRAN) and through the Irregular Migration Management Application (IRMA), via the Return Data Collection, since 2020. Frontex publishes separate guidelines for both FRAN and IRMA, which collect distinct data on returns. Several groups discuss return statistics under the Frontex umbrella, notably the Return Data Experts and Analysts Working Group. The data collected by Frontex is different from that collected by Eurostat, notably as regards its indicator definitions, purpose, frequency, and accessibility.

³ COM (2023) 31 final

In recent years, several calls have been made to develop and strengthen return statistics. The Operational Strategy for more Effective Returns developed by the EU Return Coordinator pays particular attention to this issue and the need to “develop analysis and situational awareness on the functioning of return, to enable proactive planning and to develop a common understanding of good performance in the return domain”.⁴ In the framework of the establishment of the Multiannual Strategic Policy for European Integrated Border Management, in its communication published in March 2023,⁵ the Commission called upon all stakeholders to work on enhancing data collection on return, readmission and reintegration to ensure a proactive planning. At political level, the call for better analysis on return has been made on several occasions in the Council.

It should be noted that concrete actions were undertaken in the past years, impacting directly or indirectly return statistics, including:

- The amendments brought in 2020 to Regulation 867/2007 allow for the development of pilot studies (Article 9a) to test the feasibility of new data collection or disaggregation, including in the field of return. The second pilot data collection on EIL statistics was conducted in 2023 (with a reference year of 2022);
- Eurostat's initiatives to improve the accuracy and comparability of the statistics produced include the proposal for a Task Force on Return Statistics, which aims to bring together the main stakeholders (Member States, Frontex and DG HOME) involved in the data production process to identify major issues and find solutions (first task force meeting is foreseen in Autumn 2024);
- In late 2023, Frontex published a roadmap on return analysis. This roadmap is still in its early stages but is aimed at enhancing the analysis of returns and the return situational picture. It would also allow for a more effective planning and implementation of measures in the field of return. To reach a comprehensive overview of the return situation, this roadmap sets goals for the short-term (2023-2024), medium-term (2025-2027) and long-term (2028 and beyond);

⁴ HOME.DDG1/PLH

⁵ COM (2023) 146 final

- The annual exercise under the Article 25a Visa Code enables the comprehensive collection of qualitative and quantitative data on readmission cooperation with the key third countries at the EU level. It brings new insights into return data collection and performance of returns;
- The regular delivery of the Schengen Barometer+ at Schengen Councils has enhanced the awareness at ministerial level regarding the need for comprehensive data to measure the effectiveness of returns and to estimate the number of return decisions to be carried out, especially in relation to negative asylum decisions;
- Coordination efforts have been initiated between the various bodies collecting data on returns. The European Union Agency for Asylum notably made the decision to stop its own return data collection as of 1 January 2023 and now relies on the data collected by Frontex in this regard;
- In March 2023, the entry into operation of the renewed Schengen Information System (SIS)⁶ introduced the alert on return to verify that the obligation of return has been complied with, and to support the enforcement of return decisions. Once interoperability goes live, the central repository for reporting and statistics (CRRS) will provide cross-system statistical data gathering from EES, VIS, ETIAS and SIS;
- The European Annual Asylum and Migration Report, that will be established under Article 9 of the Asylum and Migration Management Regulation (AMMR), will contain data on return.

⁶ The SIS is one of the European large-scale IT systems and is the largest information sharing system for security and border management.

Preparatory work for the implementation of the new Pact on Migration and Asylum is currently being carried out. Return being one of the building blocks of the Common Implementation Plan, reliable statistics on return will be central in this endeavor. Indeed, providing complete, accurate and timely data will become one of the indicators to measure progress. In any case, the work that will be undertaken to improve statistics on return will come as a positive development that will support the implementation of the Pact.

Despite the existing framework and the ongoing above-mentioned developments, transversal and systemic obstacles remain, and additional strengthening of return statistics is needed. Return is the result of complex processes driven by different practices, national legislations and operational capabilities. This poses a challenge for its representation in clear and unambiguous statistics.

2. *Persisting challenges*

The return rate (the number of third country nationals returned to third countries as a share of the number of third country nationals ordered to leave, based on Eurostat data) has been used to illustrate and to measure the effectiveness of the return process. It allows, together with the relevant contextual information, to identify general trends. However, there is a consensus among different stakeholders that the return rate alone only offers a partial representation of the effectiveness of returns. Indeed, the return rate has shown its limitations⁷.

⁷ JRC Technical Report, *How to measure the effectiveness of return*, 2021

The above-mentioned indicators (i.e. third country nationals ordered to leave and returns to third countries) have a number of limitations: data from SIS return alerts prove that a considerable proportion of return decisions issued are not enforceable; different national administrative and judicial practices might impact the number of return decisions issued, reducing comparability; only reliably recorded voluntary returns are accounted, which means that in reality the number of effective returns might be higher; discrepancies between monthly, quarterly and annual figures provided by the Member States exist; third-country nationals may leave voluntarily through another Member State as evidenced by recent statistics on SIS, etc. Because of these limitations, additional qualitative and quantitative information is needed to better measure and compare the performance of Member States in returns. In particular, the formula of calculating the aggregated return rate per Member State does not take into account the nationality of the person to return and the degree of cooperation of the main third countries that are part of the Member State caseload, provided that returns to some third countries are much easier to implement than to the others. Therefore, without looking at disaggregated data, the national return rate does not allow to identify with sufficient precision where shortcomings exist as these are influenced, by both internal and external factors, which the indicator alone cannot represent. More indicators are therefore necessary to capture a more comprehensive picture of return procedures.

Additionally, Regulation 862/2007 defines the collection of a limited amount of data in the field of return (EIL data). It is true that when it was amended in 2020, a few additional elements were added, such as the type of return and assistance received or the country of destination. Nevertheless, the mandatory data collected at the European level in the field of return remains limited, in comparison to, for example, the comprehensive and timely data collections related to asylum and legal migration policies. This results in multiple data gaps, such as for example data related to the use of alternatives to detention, detention and entry bans. The lack of some data also impacts the calculations linked to the return rate. It is also worth noting that while Article 9a of Regulation 862/2007 allows for pilot studies, which could help to further explore the collection of additional return-related statistics, the participation of Member States in such pilot studies remains relatively low.

As mentioned above, return statistics are collected by both Frontex and Eurostat, according to different timelines, indicators, guidelines and principles. The data are collected from Member States, who also operate according to various national legislations and practices, which sometimes can differ significantly (i.e. different authorities may be reporting to Frontex and Eurostat). This diffused collection can complicate data coherence and ultimately limit significantly return analysis. This is further complicated by the lack of common definitions in the field of returns (i.e. voluntary return, as the Return Directive only defines voluntary departure) or different interpretations of the existing definitions. Data discrepancies arise, leading to an uncertain situational awareness.

The European information systems, notably the SIS and the newly introduced return alert, can be an additional source of data to refine return statistics. However, the value of these figures is highly dependent on the quality of data the SIS is fed with and how the competent national authorities with the right of access use both the SIS and its data. Sufficient resources have to be allocated to ensure its use to its full potential, and in full compliance with the legal base.

At the forthcoming Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 7 June 2024, delegations are invited to share their views on the following questions:

- Do you deem as necessary to continue the discussion on return statistics in the future?
- Considering the elements mentioned above, what concrete actions are you ready to take to improve statistics on return and how can these be addressed within the existing framework/processes?
- To reach a more precise and comprehensive situational awareness and planning in the field of return, is there a need to collect data on more indicators or additional breakdowns to better measure return performance? If so, which ones?