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From:	Presidency
To:	Delegations
Subject:	Presidency discussion paper on statistics

Introduction

According to Article 48 in the Commission's proposal on Return regulation, Member States shall on a regular basis report various statistics to either the Commission or Frontex.

More specifically, Member States are required to communicate the following to the Commission (Eurostat) on a quarterly basis, cf. paragraph 1:

- a) Number of third-country nationals subject to recognised return decisions issued by another Member State;
- b) Number of third-country nationals subject to alternative measures to detention;
- c) Number of third-country nationals subject to detention.

According to paragraph 3 of the proposed Article, Member States shall – on a monthly basis – report the following data to Frontex, as well as the corresponding datasets, regarding each third country:

- a) Number of readmission applications submitted;
- b) Number of requests for confirmation of nationality and number of positive and negative replies received concerning confirmation of nationality requests;
- c) Number of requests for issuance of travel documents, number of travel documents issued by the third-country authorities and number of negative replies concerning the request of travel documents;
- d) Number of beneficiaries of reintegration assistance broken down by third country.

Examination at the Integration, Migration and Expulsion (IMEX Expulsion) Working Party

During the examination of Article 48 in the IMEX Expulsion Working Party, the Commission underlined that return and readmission data are sensitive and crucial to identify indicators that accurately reflect the current situation. The Commission also highlighted that the Return Regulation Proposal provides the opportunity to address data gaps and inconsistencies in the data, which will allow better insight into existing challenges. However, a large number of Member States expressed concern that these requirements would be disproportionately burdensome – and that they were not sufficiently justified by the indicated purposes.

Some Member States were also of the opinion that matters pertaining to migration statistics should not be regulated in the Return Regulation but rather in other instruments specifically targeted at collecting such statistics.

Reference was made to Regulation (EC) 862/2007 on Community statistics on migration and international protection, which was updated in 2021, and already regulates the collection of migration statistics, including specific statistics on return and illegal stay. The point was made by Member States that any additional requirements pertaining to migration statistics should be regulated there.

Hence, a majority of Member States suggested that Article 48 be deleted.

Subjects for discussion

The Presidency has taken due note of the points made by Member States. However, the Presidency also acknowledges that, to be able to perform concrete tasks related to this Regulation, the Commission will need to be provided with certain additional statistics.

Article 9(2) of the Presidency compromise proposal tasks the Commission to make an assessment of whether the enforcement of return decisions and removal orders are effective. Similarly, according to Article 50(1) of the Regulation, the Commission shall report regularly to the European Parliament and to the Council on the application of the Regulation.

As previously indicated, the Presidency intends to have a broader discussion on what – if any – statistics Member States should communicate to the Commission and / or Frontex as a direct offshoot of the Regulation.

The Presidency notes that the Migration Statistics Regulation is dealt with in the Statistics Working Party, and not in the IMEX Working Party. The Statistics Working Party deals with all statistics legislation, regardless of the subject field. As a consequence, if the matter of what new statistics to be communicated to Eurostat and Frontex and hence collected by the Commission is not specified in the Return Regulation, it may instead be included in the Statistics Regulation, where experts of the IMEX Working Party will not have the lead.

We would, therefore, at the JHA Counsellors meeting on 9 October, like to seek the advice from delegations on the following questions:

1. Would an obligation to communicate certain limited specific statistics be acceptable, if the purpose is clearly indicated, and if they are relevant for tasks that the Commission or Frontex have to perform due to the Regulation and for assessing the cooperation of third countries?
 2. Would an obligation to communicate specific statistics be acceptable, if the statistics were to be communicated only upon request or by longer intervals than suggested in the Commission's proposal?
 3. Do delegations have any other suggestions on how the obligation to communicate specific statistics could be facilitated for Member States (e.g. delayed application conditional on the start of operation of future IT functionalities automating the generation of statistics; selection of a limited categories of third-countries on which readmission statistics should be communicated, etc.).
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