

Luxembourg January 2023

**TECHNICAL GUIDELINES FOR THE DATA COLLECTION
UNDER ARTICLE 5 AND 7 OF REGULATION**

851/2020

**AMENDING REGULATION 862/2007– ENFORCEMENT OF
IMMIGRATION LEGISLATION
(EIL) STATISTICS**

2023 - VERSION 1.0

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INTRODUCTION

EIL Technical Guidelines (hereafter EILTG) provide details for producing and transmitting the statistics on Enforcement of Immigration Legislation (EIL statistics), as requested by the Regulation 862/2007 hereafter called the “Migration Statistics Regulation” and as amended by the Regulation 2020/851¹. EILTG includes information on the requested variables, definitions used, disaggregation and cross-classification collected under the Migration Statistics Regulation or on voluntarily basis.

EILTG has the general objective to enhance the quality of the statistics produced by using harmonised methodology between Member States.

Compliance with the guidelines: When producing the EIL statistics, Member States must assure full compliance with the present EILTG. In case of data quality issues (non-compliance with some aspects of EILTG), Member States should communicate with Eurostat to establish the actions to be taken for achieving full compliance – as soon as possible. The remaining quality issues should be explained in the national metadata information available to the public for allowing the statistical users to properly interpret the published statistics.

Contact points

Contact point at Eurostat: Eurostat has a technical contact point for EIL data collection, communicated to the data providers at the technical level. You can also use the following functional email address to find out who is the technical contact point for EIL data collection:

¹ [Regulation \(EU\) 2020/851 of the European Parliament and of the Council of 18 June 2020 amending Regulation \(EC\) No 862/2007 on Community statistics on migration and international protection](#) (Text with EEA relevance), OJ L 198, 22.6.2020, p. 1–12 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV)

ESTAT-AMM-STATISTICS@ec.europa.eu

Contact point at national level: Member States should provide the contact details of the person(s) nominated as contact points for EIL statistics².

Member States should regularly update the details of contact persons and inform Eurostat about any change. It is highly recommended that Member States nominate one main contact point and one backup contact point. However, in some countries there may be a need to have a higher number of contact points due to the involvement of various organisations in data production and provision.

EILTG version

Current version: EILTG **2023 V1.0**

This version shall be implemented as of 1st January 2023 (first reference periods: Q1 – January–March of 2023 for quarterly data collection and 2022 year for Annual data collection).

EILTG **2023 V1.0** contains updates related to the change in Schengen area, **Croatia** joined Schengen zone. Computation of Annual data on return is also clarified.

EILTG **2020 V1.0** contains updates following the discussions from the 2015 EIL Task Force (hereafter EILTF) and the new requirements from the revision of the Migration Statistics Regulation from 18 June 2020.

Data sources: administrative sources

EIL Statistics refers to third-country nationals (TCNs):

- refused entry at the external border (Refusals),,
- found to be illegally present in the Member State's territory (Apprehensions),,
- with obligation to leave the territory of the Member State (hereafter Returns).

² This list is used by Eurostat for informing the Member States on specific issues, for sending specific requests at technical level (e.g. quests for checking or revising the data), for collecting specific information (e.g. sending Questionnaires), for sending invitations to the meetings, etc.

Changes in the revised EIL guidelines (2023)

- Croatia joined the Schengen area and this required adapting the text and map
- Clarify the computation of the Annual dataset on return for when data is not provided (table Y3)

Changes in the revised EIL guidelines (2021)

EIL TG 2021 V1.0 brings the following changes:

Changes introduced by the Regulation 851/2020 amending Regulation 862/2007,

- For the statistics on Refusals, no change coming from the Regulation 2020/851. Only two aspects are newly implemented:
 1. some methodological clarifications and,
 2. merging three tables in one Y1 dataset.
- For the statistics on Apprehensions, table Y2:
 - two new categories are collected:
 - “place of apprehension” and
 - “grounds of apprehensions”.
- For the statistics on Returns, initial tables Y3
 - Quarterly statistics replace annual statistics on returns as voluntary data provision,
 - Some categories become mandatory and they are cross-tabulated: age and sex, type of return, assistance received, destination country and unaccompanied minors,
 - New tables for quarterly statistics to be collected: Y5.1, Y5.2, Y6.1 and Y6.2 (replace previous Y3_Q table),
 - Previous tables on return for annual statistics (tables Y3_A and Y4) will be still collected for 2020 reference period and there is a need of feedback from the Member States to see if annual statistics on returns could be collected from 2021 onwards.

Methodological clarifications introduced following the outcome of the 2015 EIL Task Force.

Last introduced changes:

- For Country of destination (tables Y6),
 - the transit country category was skip from data collection (difficult to capture in several countries)
 - the Unknown category was introduced (unknown if 3rd country or another country from “EU + EFTA zone”)
- For type of return and assistance received cross-tabulation,
 - Non-assisted Forced return was skip (considered not-applicable)

GENERAL REQUIREMENTS

Unit of measure

Unit of measure: “Persons”

It is necessary to avoid cases of double counting of the same person for each dataset in order to guarantee the accuracy and comparability of the data, as one of the first preconditions for data quality.

To be compliant with the unit of measure requirement:

- ✓ Each person should be counted only once in:
 - the given table within the concerned calendar year for annual data collection,
 - the given table within the concerned calendar quarter for quarterly data collection (on returns).

For example, a person refused entry at the border several times in one reference year should only appear once in the Y1 tables. Therefore, each table refers to the number of persons, not to the number of administrative decisions or acts.

- ✓ In case the enforcement decision/document was issued/implemented by the authorities to several family members, all persons being a subject of the enforcement should be covered by the EIL statistics, including the children. For example, if the decision to leave the Member State territory was issued to the entire family, all members of the family should be reported in the EIL statistics.

Reference area

Member State Territory refers to national territory of the reporting country.

EIL statistics are reported in the context of the **Member States territory** (EU+EFTA countries).

For example, the “Member State territory” is used to define the coverage of the statistics (covers the national territory only) in the statistics on refusals, and there is also the reference to the concept of “External border” in the context of EU+EFTA zone and Schengen zone.

See below the distinction between internal and external borders for more details. For the statistics on returns, the “Third country” concept refers to countries, which are not EU or EFTA members.

Data transmission

- Periodicity

Periodicity: depending on the table.

Table 1. EIL data - annual or quarterly periodicity:

Tables	Periodicity
Tables Y1 on refusals	Annual
Tables Y2 on apprehensions	Annual
Tables Y3 on returns	Annual
Tables Y5 on returns	Quarterly
Tables Y6 on returns	Quarterly

Annual periodicity refers to one calendar year as reference period.

Quarterly periodicity refers to the three months divided in four quarters of the year (Q1, Q2, Q3 and Q4). Therefore, the reference period for quarterly statistics is one of the following quarters:

- ✓ First quarter, Q1: 1 January – 31 March
- ✓ Second quarter, Q2: 1 April – 30 June
- ✓ Third quarter, Q3: 1 July – 30 September
- ✓ Fourth quarter, Q4: 1 October – 31 December

- First reference period

The first reference year available for EIL statistics is 2008 and there were some developments overtime for specific categories or datasets.

New statistics or new tables were introduced in specific years. For example, newer data collections started in 2014 with annual voluntary statistics on returns and in 2018 quarterly statistics on returns were introduced.

Table 2. First reference period.

Tables	First reference period
Tables Y1 on refusals	2008
Tables Y2 on apprehensions	2008
Table Y3 on returns	2008
Tables Y4	2014
Tables Y5 on returns	Q1 of 2021
Tables Y6 on returns	Q1 of 2021

- Deadlines for data transmission

For **Annual** statistics, the requested statistics should be provided to Eurostat:

- Within 3 months of the end of the reference year,
- Therefore, the first EIL data relating to the year X are expected by 31 March of the year X+1, at the latest.
-

For **Quarterly** statistics, the requested statistics should be provided to Eurostat:

- Within 2 months of the end of the reference quarter.
- Therefore, the deadline for Quarterly statistics of the year X is:
 - For first quarter, Q1: 31st May of year X, at the latest,
 - Second quarter, Q2: 31st August of year X, at the latest,
 - Third quarter, Q3: 30th November of year X, at the latest,
 - Fourth quarter, Q4: 28/29th February of year X+1, at the latest,

- **Data format**

From the 1st of January 2021, only the CSV – SDMX compatible format is accepted as data transmission format. The details related to the (CSV files structure and codes used) are provided and updated by Eurostat. These specifications contain mandatory requirements for the files to make possible the data processing by Eurostat.

If the data transmission does not follow the requested specifications, the data processing is not possible and these files will not be recorded as being transmitted (error in data transmission). Transmission of files with XLS, XLSM formats will be considered as error in data transmission.

- **EDAMIS as Single Entry Point**

Eurostat adopted the principle of a **Single Entry Point (SEP) for data sent to Eurostat**, implemented in **EDAMIS** application (electronic Data files Administration and Management Information System) which is an integrated environment of data transmission tools.

For all regular data transmissions, including the EIL data collection, only EDAMIS as Single Entry Point can be used for supplying data to Eurostat.

Information for the new users of EDAMIS:

- EDAMIS is accessible via internet: <https://webgate.ec.europa.eu/EDAMIS4>,
- Each user of EDAMIS should have an ECAS account to be able to access EDAMIS. More information on ECAS account here: <https://webgate.ec.europa.eu/cas/>
- The webpage of EDAMIS is providing a Help page with the user manual: <https://webgate.ec.europa.eu/EDAMIS/helpcenter/website/tools/ewp/index.htm>
- The request of receiving accessing rights should be sent to EDAMIS team (ESTAT-SUPPORT-EDAMIS@ec.europa.eu) mentioning the EIL domain and the datasets for which you would like to have rights for sending or monitoring the transmission and the [ECAS](#) username.

Data processing and data validation

Data processing and data validation at Eurostat level

All the processed files have the same data format (structure of the file and codes used) and follow same data processing steps (data validation, acceptance rules applied, etc.).

The official data workflow contain two preliminary stages of data validation:

- Structural validation (validation of the structure of the files and codes used) performed by [STRUVAL](#) application
- Content validation (validation of the file content, including total consistency and credibility checks with historical data) performed by [CONVAL](#) application.

For each of the transmitted file, the data senders will receive information (reports) if the file passed each of these stages.

- If there is an error in one of the stages, the file is not processed further and a revision of the file is expected (the file is recorded as not transmitted).
- If there is no error in the data processing, the validation report might still contain information that shows errors in the data sent (e.g. the report might contain outliers that need to be assessed manually if they represent errors).

The data sender has the obligation to check the validation report for the files sent to see if there is an error detected or if there are relevant information indicating an error.

Data processing and data validation at National level

The data providers must send the data to Eurostat in the specified format (CSV format SDMX compliant). The data must be validated before official data transmission, assuring the minimal validation requirements listed on [CIRCABC](#).³

Publication of EIL data by Eurostat

Under the Council Regulation on Community Statistics (Regulation 322/1997) and the European Statistics Code of Practice, aggregate statistical data supplied to Eurostat are intended to be published. Eurostat has a duty to treat users impartially and to ensure equality of access – that all users can access the data under the same terms and conditions. The EIL data will therefore be published in the Eurostat on-line dissemination database, on web pages (Statistics Explained article)⁴ and in other publications.

Metadata information

Reference metadata describe statistical concepts and methodologies used for the collection and generation of data, and provide information on data quality for the statistics sent to Eurostat. More information on metadata and standards used by Eurostat is available online here: <https://ec.europa.eu/eurostat/data/metadata>. Eurostat is using the [ESS MH](#) web tool⁵ for collecting, storing and disseminating the reference metadata information.

³ <https://circabc.europa.eu/w/browse/bb020544-bc9c-49e8-a955-5709d6e21353>, in case of missing access right, please contact us: ESTAT-AMM-STATISTICS@ec.europa.eu. This document will change in 2021 with the occasion of collecting the new categories/tables and because of changing the data processing flow.

⁴ http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation.

In case of missing access right, please contact us: ESTAT-AMM-STATISTICS@ec.europa.eu

⁵ <https://webgate.ec.europa.eu/estat/spe/metaconv/>.

From 2015 onwards, each **Member States should provide national metadata information** to the public in a national metadata file. The national metadata files are available online together with the data⁶.

The provision of the national metadata information to Eurostat is mandatory and it is the responsibility of the Member States to maintain accurate and updated information on the EIL statistics sent to Eurostat.

The accurate metadata availability is a critical aspect for the statistical users and it is a matter of compliance to the legal framework governing the Eurostat statistics.

TRANSVERSAL DEFINITIONS

Third-country nationals (TCNs)

Third-country nationals are defined as “any person who is not a citizen of the Union within the meaning of article 17(1) of the Treaty, including stateless persons” (article 2.1(i) of the Migration Statistics Regulation). For reporting EIL statistics, TCNs means any person who is not a citizen of the EU and EFTA countries.

The persons who are not citizens of EU + EFTA fall outside the definition of TCN if they enjoy the right of free movement under Union law, including:

- Third-country family members of Union citizens exercising their right to free movement under article 21 TFEU or Directive 2004/38/EC ,
- Third-country Family members of nationals of EEA/CH enjoying rights of free movement equivalent to Union citizens.

Citizenship

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” (article 2.1(d) of the Migration Statistics Regulation).

For EIL statistics Eurostat uses a list of countries from international classification⁷ referring to the citizenship of third-country nationals reported. Eurostat implemented ISO 3166 code list (using Alpha-2) for country codes in data collection, with minor adaptations.

There were a few changes in the list of citizenship since 2008:

- From 2011 onward, Republic of South Sudan (“SS”) has been included in the list of citizenships. The code for the country from which it has been separated remains unchanged: Sudan (“SD”),
- From 2014 onward, Croatia (“HR”) is excluded from the list of citizenships,

⁶ https://ec.europa.eu/eurostat/cache/metadata/en/migr_eil_esms.htm.

⁷ With minor changes.

- From February 2020 onwards, the United Kingdom (with the code “UK”) is included in the list of citizenships.

In case of multiple citizenships for the persons reported, the reporting country should choose the main one for the reported statistics (this decision is taken at national level).

EU+EFTA Zone

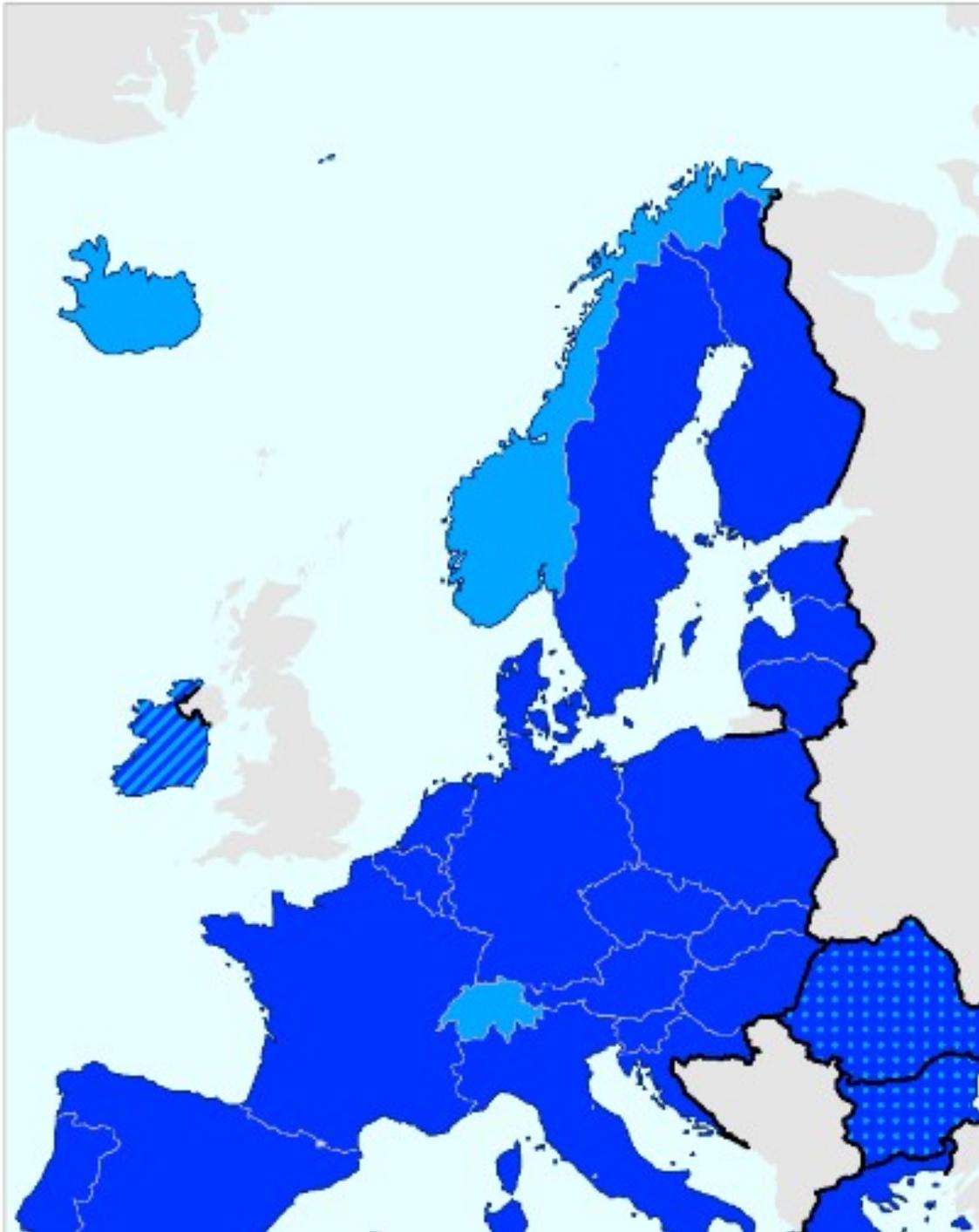
EU + EFTA zone refers to the territory covered by the countries from the following two areas together: “Schengen area” and “EU Member States non-member of the Schengen area”.

- o **Schengen area refers to the following countries** (as of June 2020): Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Croatia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland. This list contains several EU Member States and EFTA countries (Iceland, Liechtenstein, Norway and Switzerland).
- o **EU Member States non-member of the Schengen area** (as in June 2020): Bulgaria, Ireland, Cyprus, Romania.

Therefore, the following countries are part of the “EU + EFTA zone” in 2021: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Bulgaria, Ireland, Croatia, Cyprus and Romania.

Figure 1. EU + EFTA zone, EU vs. Schengen area in 2021 (DRAFT⁸)

Overview of external land and sea borders for Enforcement of Immigrat (EU/EFTA countries vs Schengen/Non-Schengen countries)



⁸ Eurostat is working on a better version of this map (available in the final version of the document)

Changes in the composition of EU and Schengen area

Since 2008, the country composition of the EU changed in 2014 (Croatia become EU Member) and 2020 (the United Kingdom become Non-EU Member).

Between 2008 and 2020, the Schengen area covers all EU Member States, with the exception of Bulgaria, Ireland, Croatia (since 2014), Cyprus, Romania and the United Kingdom. It includes also Iceland, Liechtenstein, Norway and Switzerland.

This evolution is particularly important for the definition of the external (land) border and for “EU + EFTA zone”.

Internal – External borders

The distinction between Internal and External border is specified in article 2 of the Schengen Borders Code (SBC)⁹:

“External borders means¹⁰ the Member States' land borders, including river and lake borders, sea borders and their airports, river ports, sea ports and lake ports, provided that they are not internal borders”. For Member States that are not bound by SBC, reference is made to article 2(4) of the Migration Statistics Regulation. In practice, this will mean that **for non-Schengen countries, the external border will be the same as the international border. In other words, for non-Schengen countries all borders with a foreign country (including internal EU borders) are external borders. Internal borders means¹¹: (a) the common land borders, including river and lake borders, of the Member States, (b) the airports of the Member States for internal flights, (c) sea, river and lake ports of the Member States for regular internal ferry connections.”**

According to the Schengen Borders Code, **internal borders do not change even when temporary controls are reintroduced** (e.g. on the occasion of international political summits or sports contests).

⁹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1–52 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV).

¹⁰ Source: Regulation (EC) No 399/2006, article 2(2).

¹¹ Source: Regulation (EC) No 399/2006, article 2(1).

1. STATISTICS ON TCNs REFUSED ENTRY AT THE EXTERNAL BORDER (Annual)

This table is:

- based on article 5.1(a) of the Migration Statistics Regulation
- referring to third-country nationals **refused** entry at the land, sea or air border
- collecting the following categories:
 - type of border,,
 - citizenship,,
 - grounds for refusal.

1.1. Legal framework

There are two main legal references for producing the EIL statistics on refusals: the Migration Statistics Regulation and the Schengen Borders Code (SBC).

Article 5.1(a) of the Migration Statistics Regulation:

“1. Member States shall supply to the Commission (Eurostat) statistics on the numbers of third-country nationals refused entry to the Member State's territory at the external border,”

Art. 14(5) of the Schengen Borders Code:

“Member States shall collect statistics on the number of persons refused entry, the grounds for refusal, the nationality of the persons who were refused entry and the type of border (land, air or sea) at which they were refused entry and submit them yearly to the Commission (Eurostat) in accordance with Regulation (EC) No 862/2007¹² of the European Parliament and of the Council”.

1.2. Unit of measure

Unit of measure: Persons

Double counting must be avoided in the case of multiple refusals of the same person during the reference year or in the case of refusal with multiple grounds.

1.3. Periodicity, transmission deadline and first reference period

Periodicity: Annual

Data transmission deadline: within 3 months of the end of the reference year¹³.

First reference period: 2008

1.4. Population covered

Covered categories in table Y1: third-country nationals refused entry.

¹² Amended by the Regulation 2020/851,

¹³ The EIL data relating to the year X are expected by 31 March of the year X+1, at the latest. For example, the EIL data for 2017 reference period must be provided to Eurostat by 31 March 2018.

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 6(1) of the Schengen Borders Code and do not belong to any of the categories of persons referred to in article 6(5) of that Regulation.

Specific situations

- Entering to the territory after refusal

Normally the third-country nationals refused entry are not entering to the Member State's territory. article 14(4) of the Schengen Borders Code is stating that "the border guards shall ensure that a third-country national refused entry does not enter the territory of the Member State concerned."

In practice, there are cases in which the refused person is allowed to enter the country. In these cases, the following rules apply:

- The person should be reported as refusal:
 1. if the refused person is allowed to enter to the Member State's territory for short/temporary period as part of the refusal process (e.g. for identification of the person, for arranging/waiting the transport back, for transfer to a free zone),
 2. if the initial refusal is followed by another successful legal attempt to enter to the Member State's territory this person should be included as well (this is seen as two separate events: one refusal and one successful attempt). This applies in the situation such as:
 - Making another attempt to enter the territory after completing the missing legal conditions,
 - The person is accepted to enter based on the supplementary procedure. For example, he/she is refused then he/she makes an application for requesting international protection (this application is considered another attempt to enter)
 - In the case of **asylum application done before attempting to enter at the border crossing point (BCP)** (e.g. asylum applicant going directly in asylum reception border centre), the national framework should apply (if this action is considered an attempt to cross the BCP and the refusal is recorded by the border authorities then s/he will be reported as refusal).
- Partially documented refusals can be recorded if the quality of data is assured.

Partially documented refusals refer to the situation in which the refusal is done with simplified procedure and not all the information about the person attempting to cross legally the border is recorded (e.g. the reason for refusal is not recorded). Contrary to this

simplified refusal procedure, SBC is mentioning that the refusal should be well documented/justified and give the possibility to appeal.

For EIL statistics, “Partially documented refusals” can be reported if two conditions are fulfilled:

1. the exclusion of the double counting is assured and
2. the ground of refusals is available to be reported

- Only the refusal to Entry is recorded

The reported TCNs should attempt to enter the Member State territory. The return decision and/or entry ban issued to third-country nationals who are leaving the Member States shall not be included in the statistics on refusals of entry.

- Only practical attempt to enter at BCP is recorded

General restriction/interdiction orders before practical attempt to cross the border at the BCP should not be recorded. For example, the rejected visa application should not be recorded as a refusal.

- The “Refusals to disembark” should be recorded only if there is a decision of refusal following the practical presence and intention of the TCN to cross the border at the BCP (only the refusals from practical attempts to cross the border should be recorded).

Same logic as “Refusals to disembark” is applied to the “Stowaways” (a person who secretly boards a vehicle, such as a ship, an aircraft, a train, cargo truck or bus, in order to travel without paying and without being detected), meaning that the intention of entering the country should be demonstrated by the TCN’s presence at the BCP.

- Temporary admissions should not be counted as refusals if the person enters in the Member State territory, except the case in which the temporary admission is done only for identification of the person before refusal.

Exclusion from reporting as refusal

- The person should not be reported as refusal if the initial refusal order is cancelled (e.g. refusal order is cancelled following the appeal decision). However, the cancellation can be taken into account if it is done in reasonable time and if the information is available for the statistical system,

- Illegally crossing an external borders outside of border crossing points (e.g. illegal crossing of the green line) is excluded from statistics on refusals (people are not subject to a refusal of entry according to the SBC),

- Refusal at the internal borders where border checks have been temporarily re-introduced shall not be reported as refusal of entry (not taking place at the external border),

1.5. Collected categories

Citizenship

List of countries and total.

Grounds for refusal

Article 5.1(a) of the Migration Statistics Regulation requires that the statistics on refusals shall be disaggregated by grounds for refusal in accordance with article 14(5) of SBC.

Article 14(2) of the SBC refers to “precise reasons for refusal”: “Entry may only be refused by a substantiated decision stating the precise reasons for the refusal. The decision shall be taken by an authority empowered by national law. It shall take effect immediately. The substantiated decision stating the precise reasons for the refusal shall be given by means of a standard form, as set out in Annex V, Part B, filled in by the authority empowered by national law to refuse entry. The completed standard form shall be handed to the third-country national concerned, who shall acknowledge receipt of the decision to refuse entry by means of that form.”

The Annex V (B) of SBC is referring to the following grounds:

- A. has no valid travel document(s)
- B. has a false/counterfeit/forged travel document
- C. has no valid visa or residence permit
- D. has a false/counterfeit/forged visa or residence permit
- E. has no appropriate documentation justifying the purpose and conditions of stay
- F. has already stayed for 90 days in the preceding 180-day period on the territory of the Member States of the European Union
- G. does not have sufficient means of subsistence to the period and form of stay, or the means to return to the country of origin or transit
- H. is a person for whom an alert has been issued for the purposes of refusing entry
- I. is considered to be a threat to public policy, internal security, public health or the international relations of the Member States of the EU

Refusal with multiple grounds

Although it is possible that a person is refused entry on more than one ground for refusal, the experience of the previous reference years’ data collections showed a very limited extent of the use of multiple grounds for refusal. Therefore, the principle of “one ground per refused person” is highly recommended.

In case of multiple grounds for refusal, the “higher” ground overrules the “lower” ground for refusal.

For example, if one person is refused with reason “A. has no valid travel document(s)” and reason “E. has no appropriate documentation justifying the purpose and conditions of stay”, this person will be reported one time only, with reason A.

Type of borders

There are three types of external borders: 1. Land border, 2. Air border, 3. Sea border.

Refusals at multiple borders

If the same person is refused several times in the same reference year at different borders, the first refusal should be counted, recording the ground for refusal at that time.

1.6. Collected datasets and cross-tabulations

There is one dataset covering the supply of annual data on refusals (EIL Y1):

Table Y1 Refusals at the (external) LAND border

- Disaggregation:,
- type of border: Land, Sea, Air,
 - citizenship: list of countries,
 - grounds for refusal: A-I reason from Annex V(B) of SBC.

2. STATISTICS ON TCNs FOUND TO BE ILLEGALLY PRESENT (Annual)

This table is:

- based on article 5.1(b) of the Migration Statistics Regulation,
- referring to third-country nationals **found to be illegally present** in the Member State's territory,
- collecting the following categories:
 - age,
 - sex,
 - citizenship,
 - grounds for apprehension,
 - place of apprehension.

2.1. Legal framework

Data collection for this table is based on article 5.1(b) of the Migration Statistics Regulation, referring to third-country nationals found to be illegally present in the Member State's territory under national laws relating to immigration.

2.2. Unit of measure

Unit of measure: Persons.

2.3. Periodicity, transmission deadline and first reference period

Periodicity: Annual

Data transmission deadline: within 3 months of the end of the reference year¹⁴.

First reference period: 2008

2.4. Population covered

Third-country nationals found to be illegally present refers to 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, (Art. 2(r) of the Migration Statistics Regulation).

If there is a definition in the national law for “found to be illegally present” based on which the Y2 table is compiled, the data providers should provide this definition to Eurostat via the national metadata file.

Examples of the cases to include in the statistics on apprehensions:

- Holders of an expired residence permit or visa,
- Holders of a withdrawn permit or visa,
- Rejected asylum seekers if the legal period to leave the national territory expired,
- Asylum applicants,
 - o who have received a (final) decision ending their right to stay as asylum seeker, if the legal period to leave the national territory expired,
 - o with withdrawn asylum application,
 - o who apply for asylum after they were found to be illegally present,
- Persons intercepted inside of the Member State’s territory in connection with irregular border crossing,
- Persons enjoying no right to stay in the Member State of apprehension (even though they are holding a right to stay in another Member State),
- Persons absconding from return.

The following cases shall be excluded from the statistics on apprehensions:

- Persons present on Member State territory during the period of voluntary departure (e.g. persons with return decisions which have granted a period for voluntary departure),
- Asylum applicants staying in the Member State in which they enjoy the legal right to stay pending their asylum procedure,
- Persons staying in a Member State where they enjoy a formal tolerated stay status (provided such status is considered under national law as “legal stay”),
- Holders of a fraudulently acquired permit for as long as the permit has not been revoked or withdrawn and continues to be considered as a valid permit,
- Incoming TCNs returned due to the readmission agreement if the TCN is legally staying in the Member State's territory,
- Illegal cross-borders intercepted by the border guard outside of the Member State's territory,

¹⁴ The EIL data relating to the year X are expected by 31 March of the year X+1, at the latest. For example, the EIL data for 2017 reference period must be provided to Eurostat by 31 March 2018.

- Dublin cases¹⁵ are excluded as long as the person applies for asylum **in the reporting country**.

Examples of specific cases to report based on the national framework, according to the decision taken at national level (these persons are reported if they are considered to be illegally present under the national framework):

- Persons subject to a pending application for a residence permit may be either legally or illegally staying, depending on whether they hold a valid visa or another right to stay or not,
- Applicants for the renewal of an already expired permit are illegally staying unless national law of a Member State provides otherwise,

2.5. Collected categories

Citizenship

List of countries and total.

Age

Eurostat recommends the reported age of third-country nationals to be considered as the age of the person in the moment of the recorded event: the date of apprehension.

Please note that another practice can be accepted by Eurostat with prior agreement subject to the delivery of a description of the method applied in the national metadata file (e.g. in case of database limitations),

The following disaggregation is collected:

- 0–13,
- 14–17,
- 18–34,
- 35 or more years,
- unknown,

Sex

The following disaggregation is collected:

- Males,
- Females
- and Unknown.

Grounds for apprehension

The grounds for apprehension refers to the reason for being found illegally present with the following disaggregation:

- **Illegal entry** referring to illegal border-crossing, capturing the way of entering in the Member State territory (it is not referring to the going direction of the person found to be

¹⁵ third-country nationals who are transferred from one Member State to another Member State under the mechanism established by Regulation (EU) No 604/2013 ([consolidated text](#)).

illegally present: exit/entering the Member State). Depending on the national definition, this category can include TCNs:

- avoiding the border control (passing between BCPs) or,
- using of fraudulent document to cross the border (passing through the BCP). In this case, the attempt to cross the border at a BCP was successful with fraudulent documents. The refusals are not included in this category (refusals refer to the situation in which the fraudulent documents were detected at BCP and the person is not allowed to enter in the territory).

This category includes TCNs illegally crossing the border. Depending on the national definition, this category can include TCNs:

- at the national external border,,
 - at another MS external border (illegally stay on move/secondary transit migration).
- **Overstay** referring to illegal presence after having the right to stay/travel/transit, this includes people who had a valid visa or residence permit, as well applicant for international protection who had been allowed to stay for the sole purpose of the asylum procedure and whose application was rejected.
 - **Other reason (including unknown reason)** refers to the to the third-country nationals who were found to be illegally present and for which there is no evidence of illegally crossing the border or overstaying (those cases not classified into the other two categories from above). **This category covers also the cases with an unknown situation (there is the assumption that these persons are illegally staying).**

Illegal entry and overstay for the same person

If the person had the right to stay and also crossed illegally the border, he/she is classified under the most recent situation from those two (illegal entry or overstay).

Reference period vs reason of apprehension

The reference period is referring to the moment of apprehension while the reason of apprehension is referring to the historical status of the person found to be illegally present. For example, the person crossing illegally the border in 2019 and found to be illegally present in 2021 is reported in the 2021 reference year (the year of apprehension).

Place of apprehension

Place of apprehension represents the area within the national territory in which the third-country national was apprehended, incorporating in this context three criteria:

1. proximity to the borderline (external border area vs inland area),,
2. proximity to the border crossing points (at BCP vs between BCPs),,
3. proximity to the sea or land borders.

1. Regarding the proximity to the borderline, the Member State territory is having two categories:
 - A. External border area (proximity of the external border line controlled by the Border Guard authority) and
 - B. Inland area (the rest of the territory towards the interior of the country).

EXTERNAL BORDER AREA is the area in the immediate proximity of the borderline from external border in which **Border Guard** is the main authority performing the **border control**. The Border guard has normally a dedicated area of control in the proximity of the border. In some countries, the Border guard can perform control in the inland area. The result of the inland area control should be reported in “INLAND AREA” as distinctive category below.

- **Border guard** means any public official assigned, in accordance with national law, to a border crossing point or along the border or the immediate vicinity of that border who carries out, in accordance with this Regulation and national law, border control tasks,
- **Border control**¹⁶ means the activity carried out at a border, in accordance with and for the purposes of Schengen Regulation, in response exclusively to an intention to cross or the act of crossing that border, regardless of any other consideration, consisting of
 - border checks and,
 - border surveillance,

These two activities are defining the “border control” for non-Schengen countries also.

- **Border checks** means the checks carried out at border crossing points, to ensure that persons, including their means of transport and the objects in their possession, may be authorised to enter the territory of the Member States or authorised to leave it¹⁷,
- **Border surveillance** means the surveillance of borders between border crossing points and the surveillance of border crossing points outside the fixed opening hours, in order to prevent persons from circumventing border checks¹⁸,

The **external border area** is defined in some countries by the width of the area from the border line towards the interior of the territory. For example, the reporting country can follow the definition from article 3 of the Regulation (EC) No 1931/2006 on local border traffic at the external land borders of the Member States in which “**border area**” means an area that extends no more than 30 kilometres from the border. The local administrative districts that are to be considered as the border area shall be specified by the States concerned in their bilateral Agreements as referred to in article 13. If part of any such district lies between 30 and 50 kilometres from the border line, it shall nevertheless be

¹⁶ Article 2 (10) of the Schengen Borders Code,

¹⁷ Article 2 (11) of the Schengen Borders Code,

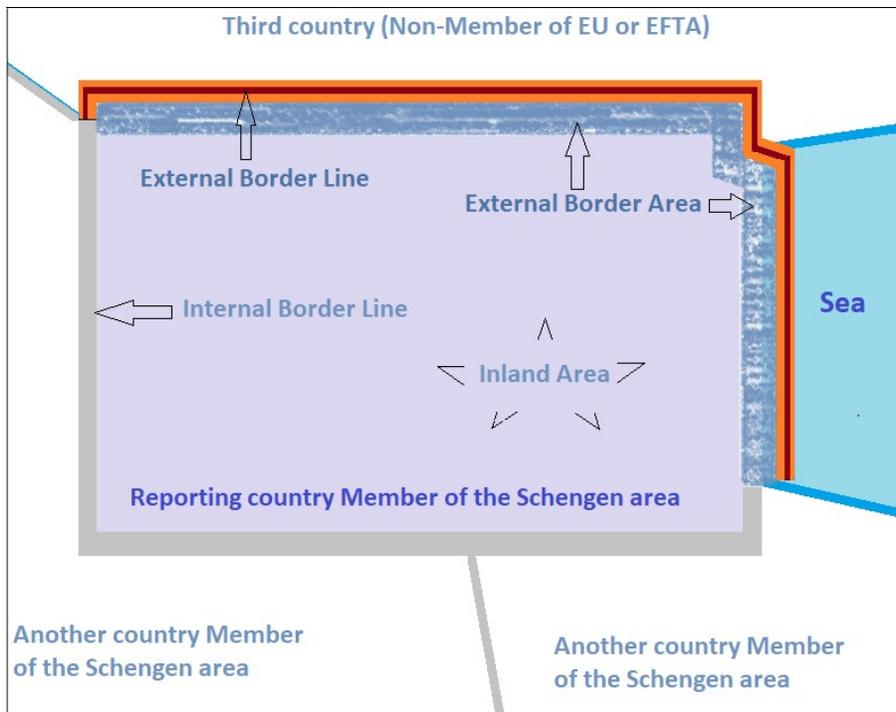
¹⁸ Article 2 (12) of the Schengen Borders Code,

considered as part of the border area.” Other countries have the national framework defining the size of the border area.

Member States should provide description of the national border area specificity in the national metadata file, referring to the way of defining the border area (e.g. describing the zone controlled by the Border and, if applicable, mentioning the distance from the borderline). In case of difficulties of defining the Border area, data providers should agree with Eurostat on an operational definition (establishing some practical criteria to delimitate the Border Area from Inland area).

INLAND AREA is the area from national territory not covered by the External Border Area (in practice, the national territory after excluding the External Border Area)

Figure 2 National territory - External border area vs Inland area for a Schengen country (DRAFT)



Regarding the proximity of the border crossing points, the Member State has two zones in the border area at external border:

- A. Border Crossing Point (BCP) at external border which means any crossing-point authorised by the competent authorities for the crossing of external borders,¹⁹
- B. External border area between BCPs referring to the external border area except the BCPs, in which the Border Guard authority performs the surveillance of borders in order to prevent persons from circumventing border checks,

Regarding the proximity of the specific border type, there are three categories:

¹⁹ Article 2 (12) of the Schengen Borders Code,

- A. Sea border referring to the border at Sea,
- B. Land borders referring to external land border with a third-country (non-Member of EU or EFTA),
- C. Air border referring to the external borders at airports.

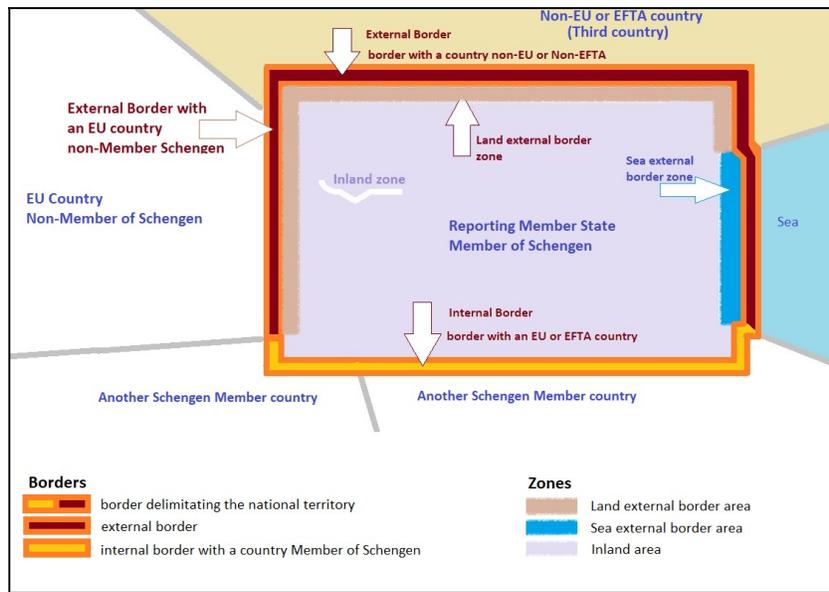
The following categories for place of apprehension are applied in the data collection:

1. External border area

- 1.1 At BCP (Sea + Land + Air border) (e.g., when exit²⁰),
- 1.2 Between BCPs at Sea (e.g., when enter or exit or unknown direction),
- 1.3 Between BCPs at Land (e.g., when enter or exit or unknown direction).

2. Inland area

Figure 3 Example of the Borders types and border vs Inland area (DRAFT)



²⁰ With fraudulent papers

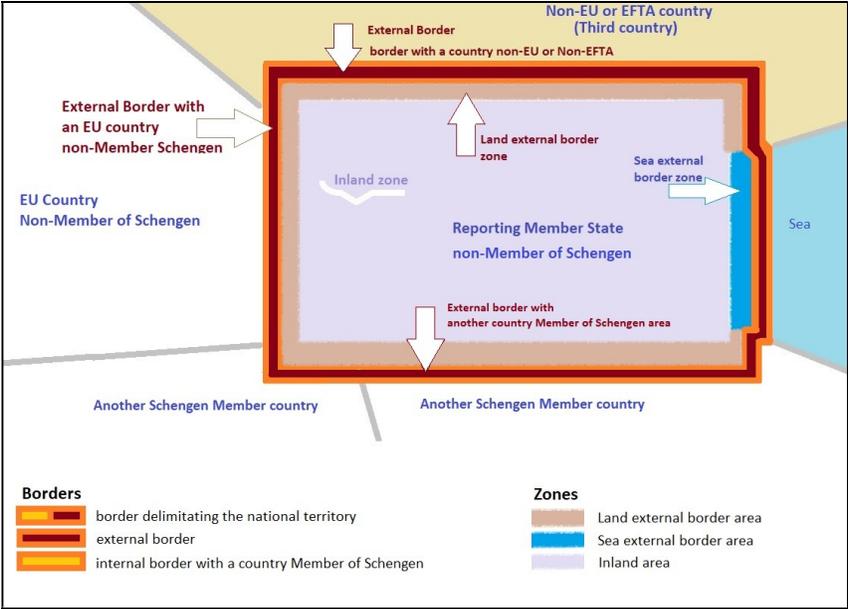


Figure 4 Example of the border type and vs the border area



Collected datasets and cross tabulations

Table Y2 TCNs found to be illegally present by citizenship, age and sex, place of apprehension and grounds of apprehension

Mandatory breakdowns:

- **Citizenship,**
Classification of citizenship is based on the ISO-3166 code list (using alpha-2) with minor changes,
- **Age:** 0–13, 14–17, 18–34, +35, unknown,
- **Sex:** males, females and unknown,
- **Grounds for apprehension:** illegal entry, overstay, other reason,
- **Place of apprehension,**
 1. External border area,
 - 1.1. At BCP (**Sea + Land + Air**) when exit,
 - 1.2. Between BCPs **at Sea** when enter or exit,
 - 1.3. Between BCPs **at Land** when enter or exit.
 2. Inland area.

Table 3. Cross-tabulation for place of apprehension and grounds of apprehension (excepting age and sex)

		Grounds of apprehension		
		Illegal entry	Overstay	Other reason or unknown
		Crossing illegally the border	Stay after expiring the right to legally enter or stay	e.g. trafficking of goods
Place of apprehension	1. External border area			
	1.1 At BCP (Sea+Land+Air)	(1)	(2)	
	1.2 Between BCPs at Sea			
	1.3 Between BCPs at Land			
	2. Inland area			

(1) at exit only, for example, one person was entering in the country via BCP with fraudulent paper and this issue was discovered at exit,

(2) at exit only, for example, one person was overstaying in one of the Member States' territory and this issue was discovered at exit,

NOTE
 Certain linguistic versions of the Migration Statistics Regulation, for instance the French and Dutch translations, do not refer to “third-country nationals found to be illegally present” but to “third-country nationals in an irregular situation” (*FR: qui se trouvent en situation illégale, NL: aantal onderdanen van derde landen dat op grond van de nationale immigratiewetgeving illegaal op het grondgebied van de lidstaat verblijft*).

It is clearly not the purpose of the Regulation to require Member States to provide an estimate of the population of third-country nationals who are in irregular situations in their territories. Only those third-country nationals who have been found/apprehended/been the object of a security or ID check/etc. should be included in this table.

The Commission has assessed the extent of this problem and undertakes a linguistic correction procedure.

3. STATISTICS ON TCNs SUBJECT TO AN OBLIGATION TO LEAVE (Quarterly)

This section refers to third-country nationals, who are subject to an obligation to leave (article 7.1(a) of the Migration Statistics Regulation) and those who have actually left the territory (article 7.1(b)) following a decision or an act under article 7.1(a), by citizenship. Such obligation to leave is called “return decision” in EU law.

General remarks

- A. EILTG on returns refers to the implementation of Directive 2008/115/EC (hereafter Return Directive). Member States **may decide not to apply this Directive** to third-country nationals who:
- (a) are subject to a refusal of entry in accordance with Article 14 of the Schengen Borders Code, or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained authorisation or a right to stay in that Member State,
 - (b) are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.

Normally these categories do not belong to the return procedure. In practice, administrative procedures at national level may be complex and based on national legal or administrative frameworks.

Therefore, Eurostat recommends the reporting of these two categories of persons in EIL statistics on returns if they are RELIABLY RECORDED. Metadata information should be provided regarding the coverage of these categories.

- B. Dublin cases should be excluded. article 7.3 of the Migration Statistics Regulation adds: “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 Regulation (EU) No 604/2013 ([consolidated text](#))”
- Dublin cases are covered by a different data collection – Dublin Statistics (see article 4.4 of the Migration Statistics Regulation).
- EIL 2015 Task Force introduced the following clarification regarding Dublin cases:
- **Exit** Dublin cases going out of the country to another MS should be excluded from the return statistics,
 - **Incoming** Dublin cases should be excluded if the person applies for asylum and receive a positive decision. Otherwise, (e.g. if the person receives negative decision) the Dublin cases should be included in return statistics.

“Return” means leaving the EU in order to move to a third country. In this context, for statistical purposes, the return covers:

- leaving the EU+EFTA area in order to move to a third country,
- However, return statistics also cover passing back, i.e. TCN who leave the national territory in order to go back to another EU or EFTA Member State where the person has the right to reside and where the movement is based on the enforcement of a bilateral agreement.

Reminder

From 2021, the returns statistics **will be collected Quarterly with Q1 2021 as a first reference period. The Quarterly statistics replaces the Annual statistics on returns for mandatory data collection.**

The return statistics for the year 2020 will be collected based on the previous guidelines (with deadline for data provision end of March 2021).

See ANNEX 2 for methodological guidelines on voluntary annual data collection on returns.

Data revision of annual return statistics remains functional in EDAMIS).

Implemented changes in EDAMIS (from 1st January 2021):

- The Annual tables Y3_A and Y4_A will remain active in EDAMIS for data transmission, including data revision.
- The quarterly table Y3_Q table will be deleted in EDAMIS and replaced by tables: Y5.1 on return decisions and Y6.1 on effective returns

Eurostat decided jointly with the Member States that the Annual data collection on return will continue on a voluntary basis starting from the 2021 reference period.

As decided by AMM Working Group in November 2020, the annual data on return will be provided on voluntary basis if possible for the reference period 2021 onwards. Eurostat will compute the annual data by summing up the quarterly data for the countries that do not provide the annual data on returns.

3.1. Statistics on decisions to leave the Member State territory (Quarterly)

This table is

- based on article 7.1(a) of the Migration Statistics Regulation
- referring to third-country nationals subject to a decision to leave the Member State territory,
- collecting the following categories:
 - citizenship,

- age and sex,
- unaccompanied minors.

3.1.1. Legal framework

Article 7.1(a) of the Migration Statistics Regulation:

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

- (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”.

3.1.2. Unit of measure

Unit of measure: Persons

Within any one reference period (quarter), each person should be counted only once in this table. In the Task Force meeting of 19 June 2007, it was stressed that it is the purpose to count the persons (even with multiple orders) per reference period, and not the number of decisions. Therefore, a person should normally be counted only once in the table, even if he/she receives several orders to leave. It is necessary to avoid cases of double counting in order to guarantee the accuracy and comparability of the data, as one of the first preconditions for data quality. However, person reported in one quarter may be reported again in another quarter.

3.1.3. Periodicity, transmission deadline and first reference period

Article 7.2 of the Migration Statistics Regulation specifies the periodicity, the deadline for data transmission and the first reference year:

The statistics on third-country nationals subject to an obligation to leave “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 2021.”

Periodicity: Quarterly

Transmission deadline: within two months of the end of the reference period

The first reference period: January to March 2021 (Q1).

3.1.4. Population covered

This table

- covers 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,
- refers to all decisions ordering return to a third-country (while some persons might be returned to another EU or EFTA Member State based on a bilateral agreement). In statistical terms, this is the TOTAL of all decisions to leave the country to be implemented

(without Dublin cases), return statistics cover also passing back, i.e. TCN who leave the national territory in order to go back to another EU or EFTA Member State where the person has the right to reside and where the movement is based on the enforcement of a bilateral agreement.

- includes also: administrative or judicial decisions or acts stating or declaring that their stay is illegal and imposing an obligation to leave the territory for those third-country nationals who are still staying legally on the territory for the limited period until the moment that the administrative or judicial decision or act on removal enters into force
- Includes negative Asylum decisions when those order the applicant to leave the country (not the case in all the MS),
- **Excludes exit Dublin cases** going out of the country to another MS,
- **Excludes incoming Dublin cases if** the person applies for asylum and receives a positive decision. Otherwise (e.g. if the person receives a negative decision), the Dublin cases should be included in return statistics if they also receive an order to leave.

3.1.5. Collected categories

Citizenship

List of countries.

Age

Eurostat recommends the reported age of third-country nationals to be considered the age of the person at the moment of the recorded event: date of issuing decision in case of the orders to leave data and date of return in case of effective return data.

Please note that another practice can be accepted by Eurostat with prior agreement and subject to the delivery of a description of the method applied in the national metadata file (e.g. in case of database limitations).

The following disaggregation is collected: 0–13, 14–17, 18–34, 35 or more, unknown.

Sex

The following disaggregation is collected: males, females and unknown.

Unaccompanied minors

“Unaccompanied minor” means an unaccompanied minor as defined in article 2 of Directive 2011/95/EU:

“‘**minor**’ means a third-country national or stateless person below the age of 18 years, article 2(k),

(l) ‘**unaccompanied minor**’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person, it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States,” article 2(l)

3.1.6. Collected datasets and cross-tabulations

Table Y5.1 Total third-country nationals who received the decision to leave the Member State territory (Quarterly)

Disaggregation:

- citizenship,
- age,
- sex.

This table refers to the total of third-country nationals who received the decision to leave the Member State territory, including the unaccompanied minors.

Table Y5.2 Total third-country nationals unaccompanied minors who received the decision to leave the Member State territory (Quarterly)

Disaggregation:

- citizenship,
- age,
- sex.

Table Y5.2 is a subset of Table Y5.1

3.2. Statistics on third-country nationals who left the Member State territory following a decision to leave (Quarterly)

- based on Article 7.1(b) of the Migration Statistics Regulation
- referring to third-country nationals who have actually left the territory (article 7.1(b) of the Migration Statistics Regulation) following a decision or an act under article 7.1(a)
- reported disaggregation by:
 - citizenship,
 - type of return,
 - assistance received,
 - by the country of destination (either a MS or a third country),
 - age,
 - sex,
 - unaccompanied minors.

3.2.1. Legal framework

Article 7.1(b) of the Migration Statistics Regulation specifies that Member States shall supply to the Commission (Eurostat) statistics relating to:

“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 country of destination.”

Article 7.2 of the Migration Statistics Regulation complements the requirements: “The statistics referred to in paragraph 1 shall be disaggregated by age and sex of the person concerned and by unaccompanied minors.”

3.2.2. Unit of measure

Unit of measure: Persons

Within any one reference period (quarter), each person should be counted **only once** in this table. In the Task Force meeting of 19 June 2007, it was stressed that the purpose is to count the persons (even with multiple returns) per reference period, and not the number of returns. Therefore, a person should normally be counted only once in the table, even if they were returned several times. It is necessary to avoid cases of double counting in order to guarantee the accuracy and comparability of the data, as one of the first preconditions for data quality.

3.2.3. Periodicity, transmission deadline and first reference period

Article 7.2. of the Migration Statistics Regulation specifies the periodicity, the deadline for data transmission and the first reference period. For the statistics on third-country nationals returned, data “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 2021.”

Periodicity: Quarterly

Transmission deadline: within two months of the end of the reference period.

The first reference period: January to March 2021 (Q1 of 2021).

3.2.4. Population covered

This category refers to **the third-country nationals returned**, who have in fact left the (national) territory following a decision to leave the territory of the Member State.

This category should cover: forced returns and assisted voluntary returns. Unassisted voluntary returns may be included where these are reliably recorded.

Return represents the movement of a person going from a host country back to a third country. According to the Return Directive approach, return means that the TCN is leaving the EU to a third country. For statistical purposes, return also covers the movement of a person going from the reporting country back to another EU or EFTA Member State based on the enforcement of a bilateral agreement

However, this table shall not include third-country nationals who are to be returned by a Member State to another Member State under Regulation (EU) No 604/2013 ([consolidated text](#)).

The Return after refusal of entry is included if the Return Directive or equivalent national legislation is implemented.

3.2.5. Collected categories

Citizenship

List of countries and Total.

Type of return and assistance received

The categories “type of return” and “assistance received” were merged in the same category to simplify the cross-tabulation between categories and to implement a used terminology in the migration area (e.g. “voluntary assisted” category).

Three categories resulted from this cross-classification:

1. Assisted voluntary returns,
2. Non-Assisted voluntary returns,
3. Enforced returns.

Table 4. Cross-classification between “type of return” and “assistance received” categories.

		Type of assistance	
		Assisted Return	Non-Assisted Return
Type of return	Voluntary Return	1. Assisted voluntary returns	2. Unassisted voluntary returns
	Enforced return	3. Assisted forced returns	Not applicable

Voluntary Return refers to the situation, in which the third-country national complies voluntarily with the obligation to return, (i.e. there is a return decision but no enforcement procedure had to be launched), and this departure is confirmed by the information from e.g. the border authority or the consulate authorities in the country of origin or other authorities such as IOM or any other organisations implementing a program to assist migrants to return to a third-country. (Definition based on article 3.8 Directive 115/2008/EC). However, persons without an order to leave who return voluntarily, leaving the territory of the Member States + EFTA should be excluded from the return statistics. This means also that the returns performed/assisted by an international organisation as IOM or a non-governmental organisation should be reported only if the persons were subject to an order to leave.

This category might include “other concluded return”, referring to the situation in which one can reasonably presume that the third-country national returned, based on some realistic assumptions (e.g. the departure is not confirmed by the information from the border authority but other elements indicate that the person returned nonetheless – e.g. other public authorities received the information through contacts with the person concerned). If the Member State decides to include other concluded returns, this decision should be mentioned in the National metadata file, including the reference to the reported number of persons with other concluded return in the “voluntary return” category.

Forced return (removal) refers to the situation in which the third-country national is subject to the enforcement of the obligation to return (the enforcement procedure has been launched). (Definition based on article 3.5 Directive 115/2008/EC).

Assisted Return refers to the situation in which the third-country national was assisted to return, e.g. he/she is the beneficiary of an assisted voluntary return and reintegration programme supporting return and, if relevant, reintegration assistance in the third-country of return. The TCN received (I) an in-kind assistance prior to departure (e.g. purchase of plane tickets) and/or (II) in-cash allowances at the point of departure/upon arrival and/or (III) an in-kind or in-cash reintegration assistance or (IV) other assistance. Please note that beneficiaries of assisted return programmes are mostly TCNs who voluntarily return but some may also have been returned by force.

Non-Assisted Return refers to the situation in which the third-country national is recorded with departure and he/she does not receive a support and assistance from the national authorities. This category includes **unknown cases** in which the third-country national is recorded with departure but the information related to the support and assistance received from the national authorities, in this context, is missing.

Country of destination

The country of destination refers to the group of countries to which the return was made, taking into account the available information.

“**EU + EFTA zone**” refers to the territory covered by the countries from the following two areas together: “Schengen area” and “EU Member States non-member of the Schengen”.

The following countries are included in the “EU + EFTA zone: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Bulgaria, Ireland, Croatia, Cyprus, Romania.

Another country from “EU + EFTA zone” refers to one of the countries of the “EU + EFTA zone”, different from the reporting country (one of the countries: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Bulgaria, Ireland, Croatia, Cyprus, Romania).

Third country refers to countries, which are not part of “EU + EFTA zone”.

Country of Citizenship is the country of nationality for the third-country national.

Other third country is the country that is not part of “EU + EFTA zone” and it is different from country of citizenship or transit country.

Unknown category refers to the situation in which the return is confirmed but the destination country is unknown. This category applies normally to non-assisted voluntary returns (there is the assumption that the destination country is known if there is an assistance involved).

Destination country categories:

1. TOTAL
 - 1.1. Another country from “EU + EFTA zone”,
 - 1.2. Third country,
 - 1.2.1. Country of Citizenship,
 - 1.2.2. Other third country,
 - 1.3. Unknown

Age

Eurostat recommends the reported age of third-country nationals to be considered as the age of the person at the moment of the recorded event: date of issuing decision in case of the orders to leave data and date of return in case of effective return data.

Please note that another practice can be accepted by Eurostat with prior agreement subject to the delivery of a description of the method applied in the national metadata file (e.g. in case of database limitations).

The Age category has the following desegregation:

- 0–13 From 0 to 13 years (0 and 13 included),
- 14–17 From 14 to 17 years (14 and 17 included),
- 18–34 From 18 to 34 years (18 and 34 included),
- equal or greater than 35 and,
- Unknown.

Sex

Males, Females and Unknown.

Unaccompanied minors

Unaccompanied minor” means an unaccompanied minor as defined in article 2 of Directive 2011/95/EU:

“**minor**” means a third-country national or stateless person below the age of 18 years, article 2(k),

(l) ‘**unaccompanied minor**’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person, it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States,” article 2(l)

3.2.6. Collected datasets and cross-tabulations

Table 1 Cross-tabulation between the “Type of return & Assistance received” and “Destination country”

		Type of return & Assistance received		
		Assisted voluntary returns	Non-Assisted voluntary returns	Assisted Forced returns
Destination Country	1.1. Another country from “EU + EFTA zone”			
	1.2. Third country			
	1.2.1. Country of Citizenship			
	1.2.2. Other third country.			
	1.3. Unknown	Not applicable*		Not applicable*

* There is the assumption that the destination country is known if there is an assistance involved.

Table Y6.1 Total third-country nationals who have actually left the territory of the Member States after receiving a decision to leave (Quarterly)

Disaggregation:

- citizenship, list of countries,
- type of return & assistance received,
 - o Assisted voluntary returns,
 - o Non-Assisted voluntary returns,
 - o Assisted Forced returns,
- by the country of destination,
 - o Another country from “EU + EFTA zone”,
 - o Third country,
 - Country of Citizenship,
 - Other third country.
 - o Unknown
- age,
 - o 0–13 From 0 to 13 years (0 and 13 included),
 - o 14–17 From 14 to 17 years (14 and 17 included),
 - o 18–34 From 18 to 34 years (18 and 34 included),
 - o equal or greater than 35 and,
 - o Unknown,
- sex, Males, Females and Unknown.

This table refers to total third-country nationals who have actually left the territory of the Member States after receiving a decision to leave, including the unaccompanied minors.

Table Y6.2 third-country nationals unaccompanied minors who have actually left the territory of the Member States after receiving a decision to leave (Quarterly)

Disaggregation:

- citizenship, list of countries,

- type of return & assistance received,
 - o Assisted voluntary returns,
 - o Non-Assisted voluntary returns,
 - o Assisted Forced returns,
- by the country of destination,
 - o Another country from “EU + EFTA zone”,
 - o Third country,
 - Country of Citizenship,
 - Other third country.
 - o Unknown
- Age:
 - o 0–13 From 0 to 13 years (0 and 13 included),
 - o 14–17 From 14 to 17 years (14 and 17 included),
- Sex: Males, Females and Unknown.

Table Y6.2 is a subset of table Y6.1

4. Questions and answers for specific cases

Apprehensions

Q1. Does the apprehension from controls at small ports or small airports (not seen as BCP’s) should be included in the reporting?

Answer: Yes, these cases should be included with place of apprehension “between BCPs”.

Q2. Does the apprehension of person coming illegally by boat intercepted in the sea will be reported in the statistics on apprehensions?

Answer: yes, if the apprehension was done in the national territory (in the sea zone belonging to the national territory).

Q3. Are the apprehensions at internal borders (border of Schengen country with another Schengen Member State) considered done at border?

Answer: these apprehensions are considered within “inland area “ (not at external border)

Q4. Will a person be counted twice in EIL statistics? Once a person will be recorded in refusals and once in the category being apprehended on illegal stay during his stay asking for international protection? In the refusal section it is stated that “if the initial refusal is followed by another successful legal attempt to enter to the Member State’s territory this person should be included as well (this is seen as two separate events: one refusal and one successful attempt).

Answer: One person can be counted several times if the topic is different. For example, one person can be refused for missing the visa one day, then same

person takes the visa and make an successfully attempt to enter in the country (legally). If the person is entering legally, we can have one of the following situations:

1. This person doesn't have problems regarding the enforcement of the immigration law (this person is not reported in the statistics on apprehensions)
2. This person violates the immigration law (e.g. this person is found with visa expired) and s/he is reported in the statistics on apprehensions.

Q5. It is specified in the guidelines that the apprehensions at the BCP refers to the situation in which the persons is going out of the country (at exit). Then, how to report the cases when the persons where detected absconded at the BCP (e.g. in the truck). This is a special category in Frontex data collection.

Answer: This situation can be considered an unsuccessfully attempt to cross the border and these persons are subject or refusal (not subject of the apprehension inside of the territory (eg. at the border zone).

Q6. All boat people intercepted outside our territorial waters fall beyond the scope of this table and will not be included [table y2 on apprehensions].

Answer: These cases are considered apprehensions outside of the national territory and therefore not reported in the statistics counting the persons found to be illegally present “ in the national territory” (table Y2).

Q7. Rejected asylum seekers who are given a temporary permit to stay (in our case mostly due to difficulties to effect the removal).

Answer: these persons are not included if they are legally staying in the moment of checking them the legal situation (e.g., temporary permission to stay). If these persons are considered illegally in relation to the permission to stay then these persons should be reported as apprehensions (e.g. if they perform activity which is not allowed by the temporary permission to stay or if they cross the limit of the territory where they are allowed to reside and free move).

Q8. On the other hand, third-country nationals who opt to apply for asylum only after being apprehended illegally in the territory (and therefore issued with a return decision) are to be included in this table.

Answer: Yes. There are considered two separated events: In the first event we have a person found to be illegally present then in the second event this person is subject of asylum procedure.

Apprehensions and returns

Q9. The issue of TCNs holding a right to stay in another MS but not having a right to stay in Malta is confusing. Such third-country nationals would be subject to a transfer to the particular MS that would have issued the permit to stay and therefore the concept of these being third-country nationals 'avoiding return' become problematic. Do the guidelines mean 'avoiding transfer'? Should these cases be included in the Y2 table Y2 since even if illegally in Malta, they still hold a valid permit to reside in the EU?

Answer: The statistics on apprehensions refers to the situation of illegality based on the national law.

- If you allow by law the free movement of the persons having a residence permit in any area of the EU+EFTA territory, then there is no case of such apprehension.
- If you find a person with no right to be present in Malta and this person is subject of the transfer to the country where he/she is considered legally, then this person should be reported since these statistics refers to the illegality under the national law (the reference area for legality is the national territory and not the EU+EFTA territory). These cases are also reported as return to another EU or EFTA country.

Annex 1: Reference to Annex V, Part B of the Schengen Borders Code Regulation (EU) 2016/399

PART B

Standard form for refusal of entry at the border

Name of State _____
Logo of State (Name of Office) _____

REFUSAL OF ENTRY AT THE BORDER
On _____ at (time) _____ at the border crossing
We, the undersigned, _____
Surname _____ First name _____
Date of birth _____ Place of birth _____
Nationality _____ Resident in _____
Type of identity document _____ number _____
Issued in _____ on _____
Visa number _____ type _____ issued by _____
valid from _____ until _____
For a period of _____ days on the following grounds: _____
Coming from _____ by means of _____ (indicate means of transport)
hereby informed that he/she is refused entry into the country pursuant to (indicate reference to the relevant provisions of the Schengen Borders Code)
following reasons:
<input type="checkbox"/> (A) has no valid travel document(s)
<input type="checkbox"/> (B) has a false/counterfeit/forged travel document
<input type="checkbox"/> (C) has no valid visa or residence permit
<input type="checkbox"/> (D) has a false/counterfeit/forged visa or residence permit
<input type="checkbox"/> (E) has no appropriate documentation justifying the purpose and conditions of stay.
The following document(s) could not be provided: _____
<input type="checkbox"/> (F) has already stayed for 90 days in the preceding 180-day period on the territory of the Member State
<input type="checkbox"/> (G) does not have sufficient means of subsistence in relation to the period and form of stay
of origin or transit

Annex 2. Voluntary annual data collection on returns

Table EIL Y3. Third-country nationals, who are subject to an obligation to leave (article 7.1(a) of Regulation 862/2007) and those who have actually left the territory (article 7.1(b)) following a decision or an act under article 7.1(a), by citizenship

1) Third-country nationals, who are subject to an obligation to leave (article 7.1(a) of Regulation 862/2007)

Article 7.1(a) of the Migration Statistics Regulation specifies the category of third-country nationals subject to an obligation to leave as:

"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"

It is important to underline here that this category refers to all decisions (so not only removals to a third country). In statistical terms this is the TOTAL of all removal decisions (without Dublin cases), as these decisions or acts refer only to an obligation to leave the (national) territory, and do not specify a reference to a possible destination country.

Are also to be included: administrative or judicial decisions or acts stating or declaring that their stay is illegal and imposing an obligation to leave the territory for those third-country nationals who are still staying legally on the territory for the limited period until the moment that the administrative or judicial decision or act on removal enters into force, within the same calendar year.

These statistics are also the required as the "Removal decisions" category for the Return Fund.

Article 7.3 of the Statistical Regulation adds:

"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 No 1560/2003."

Therefore, Dublin cases should not be included. These are covered by a different data set (see Article 4.4 of the Statistics Regulation).

These statistics are disaggregated by **citizenship, age and sex**

Within any one calendar year, each person should be counted once only in this category. In the Task Force of 19 June 2007, it was stressed that it is the purpose to count the persons (even with multiple orders) per year, and not the number of decisions. Therefore, a person should normally be counted once only in the table, even if they receive several orders to leave.

During the previous year, it has been found that, in a number of Member States, the same person may have been recorded more than once during the reference period.

Nevertheless it is necessary to avoid cases of double counting in order to guarantee the accuracy and comparability of the data, as one of the first preconditions for data quality.

Please note that in case of missing data for this category (e.g. this table is not provided), a simple aggregation of the quarterly data will be done to fill up the gap.

2) Third-country nationals who have actually left the territory (Art 7.1(b)) following a decision or an act under article 7.1(a), by citizenship

Article 7.1(b) specifies this category as:

"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."

So: this category refers to the TOTAL of all the Removals, who have in fact left the (national) territory.

As with the previous category, Dublin cases should not be included.

This category should cover: forced returns and assisted voluntary returns. Unassisted voluntary returns may be included where these are reliably recorded.

These statistics are disaggregated by **citizenship, age and sex**

Within any one calendar year, each person should be counted once only this category. It was stressed in the Task Force of 19 June 2007 and on several occasions since that, each table refers to the number of persons, not to the number of administrative decisions or acts.

During the previous year, it has been found that, in a number of Member States, the same person may have been recorded more than once during the reference period.

Nevertheless, it is necessary to avoid cases of double counting in order to guarantee the accuracy and comparability of the data, as one of the first preconditions for data quality.

Please note that in case of missing data for this category (e.g. this table is not provided), a simple aggregation of the quarterly data will be done to fill up the gap.

3) Returns to a third country:

third-country nationals who have actually left the territory to a third country following a decision or an act under article 7.1(a), by citizenship

This is a sub-category of item 2. above, covering those persons who are recorded as having returned to a third country following an order to leave. The provision of these data is not obligatory under Regulation 862/2007, but is included here as being important for the statistical users and policy makers.

This table should not include third-country nationals who are to be returned by a Member state to another Member State, in particular pursuant to Council Regulation (EC) N° 343/2003...(= Dublin cases).

These statistics are disaggregated by **citizenship, age and sex**

For reasons of transparency, in the Metadata of the EIL Y.3 template regarding the effected Returns, an identification of the concerned categories will be asked for

These categories are:

- forced returns,

- assisted voluntary returns,
- unassisted voluntary returns if reliably recorded,
- Other (to be specified).

Within any one calendar year, each person should be counted **once only** this category. It was stressed in the Task Force of 19 June 2007 and on several occasions since that each table refers to the number of persons, not to the number of administrative decisions or acts. During the previous year, it has been found that, in a number of Member States, the same person may have been recorded more than once during the reference period. Nevertheless it is necessary to avoid cases of double counting in order to guarantee the accuracy and comparability of the data, as one of the first preconditions for data quality.

Please note that in case of missing data for this category (e.g. this table is not provided), a simple aggregation of the quarterly data will be done to fill up the gap.

Additional voluntary disaggregation to the return statistics collected based on article 7.1(b) of Regulation 862/2007

LEGAL REFERENCES

The present Annex refers to the data collected on voluntary basis for statistics on third-country nationals who have actually left the EU territory (which in this document is understood to be the territory of the EU 28 + Schengen Associated States) following a decision or an act to leave the EU territory issued by a Member State or a Schengen Associated Member State. These statistics are collected within the framework of Enforcement of Immigration Legislation (EIL) Statistics (data collection under Art. 5 and 7 of Regulation 862/2007).

DATA COVERAGE

The requested statistics relate to third-country nationals who have actually left the EU territory (Art. 7.1(b) of Regulation 862/2007) following a decision or an act to leave the EU territory issued by a Member State or a Schengen Associated Member State.

Each person should be counted only once during the reference period.

Third-country national is defined as "any person who is not a citizen of the Union within the meaning of article 17.1 of the Treaty" (Art. 2(a) Directive 2011/98/EU).

TABLES AND CATEGORIES

These statistics are disaggregated by **citizenship**.

I. Table Y4.1 Third-country nationals effectively returned by type of return and citizenship

Type of return categories:

1. **Voluntary Return** refers to the situation in which the third-country national complies voluntarily with the obligation to return (i.e. no enforcement procedure had to be launched) and this departure is confirmed by the information from eg. the border authority or the consulate authorities in the country of origin or other authorities such as IOM or any other organisations implementing a program to assist migrants to return to a third-country. (Definition based on article 3.8 Directive 115/2008/EC).

2. **Enforced return**, removal refers to the situation in which the third-country national is subject to the enforcement of the obligation to return (the enforcement procedure has been launched). (Definition based on article 3.5 and 3.8 Directive 115/2008/EC).
3. **Other concluded return** refers to the situation in which one can reasonably presume that the third-country national was returned based on some assumptions (some information are missing and the departure is not confirmed by the information from the border authority).

II. Table Y4.2 Third-country nationals effectively returned by type of assistance received and citizenship

Type of assistance:

1. **Assisted Return** refers to the situation in which the third-country national was assisted to return. He/she is the beneficiary of a national or EU MS cooperative program to encourage return and to provide reintegration assistance. The TCN received (i) an in-kind assistance prior to departure (e.g. purchase of plane tickets) and/or (ii) in-cash allowances at the point of departure/upon arrival and/or (iii) an in-kind or in-cash reintegration assistance. Please note that beneficiaries of assisted return programs are mostly TCN who voluntarily return but some may also have been returned by force (Definition based on article 3.8 Directive 115/2008/EC and Asylum and Migration Glossary 2.0).
2. **Non-Assisted Return** refers to the situation in which the third-country national is recorded with departure and he/she does not receive a support and assistance from the national authorities.
3. **Unknown** refers to the situation in which the third-country national is recorded with departure but the information related to the support and assistance received from the national authorities, in this context, is missing.

III. Table Y4.3 Third-country nationals returned to a third country by type of agreement procedure and citizenship

Readmission agreement refers to the situation where an international agreement exists between the reporting country and the country of return (of the third-country national returned) under which the readmission procedure is set out.

Type of agreement procedure:

1. **Returned under EU Readmission Agreements (EURA)**
2. **Returned under other readmission agreement (s)**
3. **Returned without existing a readmission agreement**
4. **Unknown – This category is used when the information is missing**

IV. Table Y4.4 Third-country nationals returned to a third country by destination country and citizenship

Destination country categories:

1. **Country of Citizenship**

2. **Transit country** refers to the the country that is considered intermediary destination of the TCN returned on the way to the country of Citizenship
3. **Other third country**