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The exchange of statistical information in the field of asylum and migration

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1. EXECUTIVE SUMMARY

The communitarisation of asylum and migration brings new challenges to the production of Community statistics by the Commission. The 1998 Action Plan has run its course and new momentum is needed. This Commission staff working paper is meant to launch a discussion in the Council and the European Parliament on the needs of the Community for statistics and the methods to satisfy these needs. It elaborates the ideas in the Communications on asylum and a Community immigration policy of November 2000 that more and better statistics are needed to carry out the tasks which have been entrusted to the EC Institutions pursuant to Articles 62 and 63 EC Treaty.

It is in the interest of Member States and EC institutions that the present collection is maintained and, where necessary extended and fine-tuned, the comparability and availability of statistics improved and a reporting system established in accordance with their needs. It is in the interest of all involved at decision making at Community level since with reliable statistics Community policy and legislation will improve. These improvements to the data collection and dissemination will only be possible if additional resources are available.

The following key recommendations are made:

- (1) Introduce a collection of policy-relevant Community statistics in legal migration. To increase the knowledge of the scale of immigration to the EU, support the development of a Community immigration policy and establish a more comprehensive EU information system on migration, the Commission services propose the introduction of Community statistics on legal immigration similar to those collected on asylum and illegal migration.
- (2) Introduce an annual report for policy development based on statistical information. To stimulate the political debate on the nature of asylum and migration and the consequences for Community policy and legislation, a yearly report should be published, consisting of a statistical overview and a thorough analysis of the state of play in the Member States and at European level.
- (3) Establish closer co-operation with other relevant actors. The Community should work more closely together with non-EU countries. The participation of the Candidate countries, and of Norway and Iceland, in the data collections has been a particularly valuable development. This co-operation should be continued and developed further. Where appropriate, some increased collaboration with other organisations working in this domain should also take place, building on the existing roles and responsibilities of the organisations concerned.
- (4) Harmonise statistical working methods. The approach to statistics in this field should be brought in line with the rules and procedures adopted for statistics in other Community policy areas. Current restrictions on publication should be replaced by rules and methods based on the need to avoid the disclosure of confidential

information about identifiable individuals. Such approaches are widely used by statistical agencies. Restrictions on the publication of statistical data should not be based on political or operational sensitivity. Information which does not endanger individual statistical confidentiality, but which may not be published for reasons of sensitivity, should be regarded as administrative information rather than official statistics.

- (5) Enhance daily working relationships between Member States and the Statistical Office of the European Communities (Eurostat). To render more efficient the co-operation at working level, Member States should appoint liaison officers responsible for all exchange of information to and from the Commission.

To achieve these aims, this document suggests the adoption of a second Action Plan, which will be implemented in parallel to the preparation of a legal instrument laying down the roles of Member States and the Commission.

2. PREFACE

With the entry into force of the Treaty of Amsterdam, Title IV of the EC Treaty requires the Council to adopt Community measures on inter alia the crossing of external borders, asylum, refugees and displaced persons and immigration policy. The Vienna Action Plan, adopted by the Justice and Home Affairs Council of 3 December 1998¹, stated that in the field of asylum, external borders and immigration an overall priority should be to improve the exchange of statistics and information on asylum and immigration.

The purpose of this document is to highlight the conditions under which the collection of coherent and comparable statistical information can be achieved at Community level in the field of asylum and migration. It served as a background document for an expert meeting on statistics in the field of asylum and migration convened by the Swedish Presidency on 4 April 2001. Invited to this meeting were delegates of Member States, candidate countries, Norway, Iceland, USA, Canada as well as representatives from the relevant Directorates General of the Commission (DG Justice and Home Affairs and DG Eurostat), UNHCR and IGC². The meeting served to discuss the need for statistics and how to improve their quality. In addition, improving international co-operation between national authorities and international organisations was on the agenda.

¹ Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an Area of Freedom, Security and Justice, OJ C 19, 23.01.1999

² Intergovernmental Consultations on asylum, refugee and migration policies

3. INTRODUCTION

The JHA-Council of 19 March 1998 requested the Commission to draw up an Action Plan on the collection of statistics in the field of asylum and migration. The 15 April 1998 Commission Staff Working paper « the Commission's Action Plan on the extension of data collection to cover monthly migration and asylum statistics » (SEC (1998) 661) provided for a two phase approach. In the first phase the task of collecting monthly statistical data within the context of the working parties of CIREA³ and CIREFI⁴ was taken over by Eurostat, the Statistical Office of the European Communities, from the Secretariat-General of the Council. While Eurostat already undertook an annual collection of migration data in the framework of its demographic statistics, it was considered more urgent to introduce statistics on asylum and illegal migration and the Action Plan was thus limited to asylum (CIREA) and illegal migration (CIREFI). Progress reports⁵ identified guidelines regarding the degree of sensitivity of the data and the variables collected before the regular data collection commenced with data for the reference month October 1998.

The second phase commenced with data for the reference month of July 2000, when the data collection was officially extended to the candidate countries, Norway and Iceland. It was foreseen in the Action Plan that phase 1 be thoroughly evaluated before the launch of phase 2. For this purpose, the Commission submitted Evaluation reports to the Council⁶. Under the Portuguese and French Presidency, working groups approved recommendations on data collection, processing, dissemination, reporting, data confidentiality and sensitivity mentioned in the reports. Work on further improvements will be continued under the Swedish Presidency.

Community competence in the field of immigration and asylum was established by the entry into force of the Treaty of Amsterdam on 1 May 1999. From being a matter of intergovernmental co-operation under the third pillar arrangements, responsibility for developing policy and legislation was moved to the first pillar. At its special meeting in Tampere on the creation of an area of freedom, security and justice in the European Union in October 1999, the European Council agreed that the separate but closely related issues of asylum and migration call for the development of a common EU policy. It set out the components which a common EU policy should include namely partnership with countries of origin, a common European asylum system, fair treatment of third country nationals and management of migration flows.

Upon request of the European Council, the Commission submitted in November 2000 two Communications to launch a debate in the Community on long term aspects of a common EU policy. Both Communications address the issue of statistics in this perspective. The Communication on a Community immigration policy⁷ emphasises that more information is

³ Centre for Information, Discussion and Exchange on Asylum

⁴ Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration

⁵ Establishment of Eurostat's monthly data collection on migration (Implementation of the Commission's Action Plan, 13 September 1999 (SEC (1999) 1475 and Establishment of Eurostat's monthly data collection on asylum (Implementation of the Commission's Action plan, 13 September 1999 (SEC (1999) 1476

⁶ Evaluation Report on the collection of statistical data in CIREA, 23 May 2000 (SEC (2000) 876 and Evaluation Report on the collection of statistical data in CIREFI, 29 May 2000 (SEC (2000) 921)

⁷ Communication from the Commission to the Council and the European Parliament on a community immigration policy, 22 November 2000 (COM (2000) 757 final)

needed about migration flows and patterns of migration into and out of the EU. The Communication on asylum⁸ states that establishing and implementing the common European asylum system requires an in-depth analysis on the scale of migratory flows, their origins, as well as analysis of the characteristics of applications for protection and the response to them.

Following up these ideas in the Communications, this document sets out the thinking of the Commission services on statistics in relation to the development and monitoring of Community policies in the field of asylum and immigration in the coming years.

4. CHALLENGES TO THE PRESENT COLLECTION

Production of statistics (meaning the collection, storage, processing, compilation, analysis and dissemination of statistical information) on asylum and migration poses a number of challenges. In the case of an EU collection, the fact that only recently a process of harmonisation has started, brings along with it additional problems. At first glance, they look like concerns to be sorted out through technical measures. However, fundamental choices and political will are required to provide solutions.

- First and foremost, there is the question of comparability between national data. The usability of statistical data collected from different providers can be seriously limited by a lack of comparability. For example, statistics on removed aliens at present cover cases of both voluntary and forced return, both administrative orders to leave the country and escorted return, both returns to the country of origin and expulsions to another non-EU country, depending on the national practice in Member States. Consequently, no meaningful conclusion can ever be made about e.g. the number of aliens deported under escort to their country of origin in a given reference period in the EU. With a common definition on the different types of return measures agreed upon, comparing data on removed aliens will make more sense.

Full comparability may be impossible to achieve, and a realistic target may be to ensure that data are comparable enough for the main uses of statistics. The different administrative and legal arrangements concerning asylum and immigration in the Member States mean that harmonisation will be a difficult process. A distinction should be made between harmonisation of statistics and of administrative systems. Harmonisation of administrative systems facilitates, but is not essential for, the harmonisation of statistics.

Given the current limited degree of harmonisation in this domain, agreed definitions for European statistics often have to be broad enough to incorporate a variety of different national definitions. The provision of good metadata allows these different national definitions to be understood, but does little towards improving the validity of Europe-wide analysis. The choice therefore is currently between broad, composite definitions with limited comparability to encompass situations in all Member States, or tables with numerous specific categories, enhancing comparability but presenting a complex picture of the situation in practice. For example, for the table on decisions in asylum cases, various

⁸ Communication from the Commission to the Council and the European Parliament «Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum» , 22 November 2000 (COM (2000) 755 final)

categories have been introduced to ensure that, as far as is possible, residence permits with different duration, background and consequences in terms of rights can be distinguished from each other and are not subsumed under one category as 'other forms of protection than the Geneva Convention'.

Harmonisation of statistics would be improved by the adoption of EU legislation on asylum and migration. Such legislation might aim to bring about harmonisation at the level of administrative systems, or more simply, might aim to harmonise the statistical concepts and definitions used.

- A second major concern is the non-availability of data in some Member States. Member States have agreed upon the present tables, variables and their definitions for the CIREA and CIREFI collections. Nevertheless, several Member States are not able to provide certain data because they have not introduced the necessary administrative changes for that purpose. For instance, certain Member States can not provide separate return data on rejected applicants for asylum. The data these countries provide falls under a general 'returns' category, including returns of illegal migrants. The result is either a gap in the table or a footnote clarifying the lack of the specific data requested. An accurate analysis will be limited to the data of those Member States which supply data in accordance with the agreed definitions.

In addition, data may be available only after a considerable delay in some Member States. For this reason, the data in CIREA on the number of applications of unaccompanied minors is only collected on an annual basis. Rapid analysis is therefore limited to the data of those Member States that are able to deliver these data without excessive delay.

Finally, Member States do not provide regular statistics on legal migration that would be of use for policy development. At present, Eurostat undertakes an annual collection of migration data within the framework of its work on demography. However, due to the annual nature of this collection (with data collected after the reference year) and the widely differing definitions used, these data do not give information about current trends and are of little use for developing and implementing asylum and immigration policy.

- Thirdly, at the launch of phase 1 of the Action Plan, Member States imposed restrictions on the publication of data due to concerns about both statistical confidentiality and data sensitivity.

A clear distinction must be drawn between statistical confidentiality and sensitivity as these are very different concepts.

Statistical confidentiality relates to the protection of the individual person - in this context the individual asylum seeker or immigrant. Publication of statistical information should not disclose information about identifiable individuals. This is central to ethical practice in official statistics and is enforced under national and EC law⁹. Clearly there is a potential risk of disclosure occurring if detailed tables containing cells with very small counts are published. It must be acknowledged

⁹ Council Regulation (EC) 322/97 of 17 February 1997 on Community Statistics

that asylum seekers are a particularly vulnerable group who might have more reason than most people for needing to avoid identification.

Sensitivity, on the other hand, may relate to the political, policy or operational impact of the publication of information. It therefore concerns less the individual person, but rather the agency or government supplying or publishing the statistics. It may be feared for example that publication of certain information on illegal migration could in some cases interfere with operational or intelligence activities by law enforcement authorities. Unlike statistical confidentiality, sensitivity is not an established reason for the non-publication of statistical information.

An important principle to be stated is that official statistics should be publicly available. They are produced at public expense and are a vital tool for democratic review. The only acceptable reason for restricting publication of statistics is the need to protect the confidentiality of the individual. Information which does not endanger individual statistical confidentiality, but which may not be published for reasons of sensitivity, should be regarded as administrative information rather than official statistics.

Member States have laid down greatly differing rules with regard to the publication of CIREA and CIREFI data. These include a complete prohibition on publication for reasons of principle, obligations to round figures to, say, the nearest 5 or 10, to publish only limited citizenship details, or to delay publication until 1 year after the reference period.

Certain of the rules applied, such as rounding or avoiding publishing detailed citizenship information, appear to be rooted in the need to protect statistical confidentiality. However, the reasons for other restrictions, such as a total and permanent prohibition on publication of certain figures, cannot be argued to be necessary to protect confidentiality.

The net result is an complex amalgamation of restrictions, making the production of statistics by the Commission very difficult, and the meaningful EU-level analysis of statistical data almost impossible. What is needed is the agreement of common rules to protect statistical confidentiality in asylum and immigration data. There should be the working assumption that statistical information which does not breach these rules should be publishable. Information which cannot be made publicly available for reasons of sensitivity should not be regarded as statistics.

- Finally, there is the challenge that is posed by the process of communitarisation itself. The 1998 Action Plan was founded upon a general consensus between the Member States and the Commission that the collection of statistics in the field of asylum and migration should be done at the EU level by Eurostat as the Statistical Office of the European Communities. It was expected that Eurostat would play the central role in the production of statistics in this area. There is no question of this not continuing to be the case.

Communitarisation generally requires the production of statistical information with a view to the formulation, application, monitoring and assessment of the policies laid down in the EC Treaty. There is no reason why the work in this field should be done differently from the work in other Community policy areas.

Community asylum and migration statistics should become a tool for the (re)formulation, application, monitoring and assessment of policies based upon Article 62 and 63 EC Treaty. Thus, with the field of asylum and migration in the first pillar new needs are coming to the fore and a new consensus may have to be sought.

Deficiencies in the present Community collection not only present a problem for the Commission when doing research on the practice in Member States before drafting proposals for Community action, but also affect decision making by other EC institutions. This became apparent at the reading in the European Parliament of the proposal on a Council Directive on the right to family reunification¹⁰ last year. The European Parliament requested data on family reunification in the Member States in order to take a position on the proposal. The data could not be furnished because there is no reliable data available from a large number of Member States. They can not provide separate data for persons granted admission for the reason of family reunification but only general data on persons granted admission for non-asylum related reasons (i.e. there is no aggregate data about the scale of family reunification in the EU in the past years). The European Parliament amended its resolution on the proposal, requesting that the necessary data and information be made available to the Commission. The amended proposal now refers to the needs of the Commission to have access to statistical data and information in order to be able to evaluate migration flows¹¹.

This is a telling example since in legal migration no complete up-to-date and specific Community statistics is ever available due to the present 'historic' approach to collecting demographic data. In the areas of illegal migration and asylum, on the other hand, concerns with comparability and availability may make a request to Eurostat for data for the benefit of a profound understanding of the scale of the problems at hand equally challenging. Undoubtedly, the number of requests for statistical input by EC institutions will increase.

The existence and disclosure of reliable statistics on entry and admission of third country nationals in the EU should ensure a public debate that is based upon a correct factual assessment and therefore respects the interests of the persons concerned.

The Communications on asylum and migration have highlighted the interconnectedness between legislative measures on admission policies and issues such as freedom of movement of persons in the EU, control of external borders, visa policy, preventing and combating illegal migration, the fight against racism etc. Statistical information will need to be comprehensive to adequately bring all the pieces of the picture together and help legislators make the right choices for the way forward.

¹⁰ COM (1999) 638 final, 1 December 1999

¹¹ COM (2000) 624 final, 10 October 2000, recital 5: « In order to evaluate migration flows and to prepare for the adoption of measures by the Council, the Commission needs to have access to statistical data and information on the legal immigration of third-country nationals in each Member States, and in particular on the number of permits issued, and on their type and validity; to this end, Member States must regularly and rapidly make the necessary data and information available to the Commission ».

5. OBJECTIVES

To rise to the above-mentioned challenges, the way forward for the Community would be to complement the process of harmonisation in the substantive legislative domain by giving priority to developing statistics. To achieve this general goal, the following mid-term objectives could guide Community action in the coming years:

1. The Community strategy on statistics and its implementation by the Commission should be guided by the recognised needs of the EC institutions;
2. The formulation of the scope of the collection should follow the legislation adopted by the Community on the basis of Articles 62 and 63 EC Treaty within the framework set by the Tampere Conclusions;
3. Provision and analysis of statistical information should serve the need of all EC institutions, Member States and the general public. There should be adequate, timely and publicly available statistics on asylum and migration flows at the Community and national level;
4. Dissemination of statistical information collected by Eurostat should be based upon the principle that Community statistics are in the public domain;
5. Co-operation should continue with other participants in the data collection such as the Candidate countries, and Norway and Iceland. Where beneficial, collaborative activities should be developed between the Commission and international organisations active in this domain, including the OECD, UNHCR and the IGC.

Objective 1

The Community strategy on statistics and its implementation by the Commission should be guided by the recognised needs of the EC institutions.

The needs of the Community are broadly speaking to maintain and, where possible, to enhance the quality of statistics for the purpose of policy-making. Quality in statistical information¹² can be defined with reference to inter alia criteria such as reliability, accuracy, timeliness, accessibility, comparability and coherence. Below the current practice is evaluated in the light of the criteria and actions are proposed to remedy weaknesses.

Timeliness is basically dependent upon a number of technicalities. For up-to-date statistical information Member States need to deliver data within the agreed time limits and in the agreed format. Eurostat needs to process and disseminate the data in the agreed format and on time at pre-established dates.

¹² To statistical information produced by the Community certain requirements must be set. EUROSTAT operates within the legislative framework of the Council Regulation No 322/97 of 17 February 1997 on Community statistics. This Regulation requires Community statistics to be produced on the basis of uniform standards, and, in specific, duly justified cases, of harmonised methods. For instance, it aims to provide a definition at Community level of statistical confidentiality.

At present a considerable amount of data is not delivered on time by the Member States. Delays can take up to several months. Other data are not delivered at all. Delays in processing also occur because data are transmitted to Eurostat by different means (including fax) and some Member States do not use the standard format to deliver the data. The Commission will only be able to ensure timely processing if Member States systematically meet time limits and comply with agreed formats and modes of data transmission. A reason for delay in some Member States is the fact that different authorities may be responsible for providing the statistics in the same collection. The national systems for registration of applicants for asylum and migrants differ considerably in each participant state. With the help of participant states Eurostat has managed to identify most if not all of the responsible authorities for the various data collected at present. However, responsibilities or responsible officials may change. It is important that the Commission (both DG JHA and DG Eurostat) is immediately informed of changes so that the list of contact persons is updated. In some cases this has not happened and the Commission has found it impossible to contact the responsible officials.

To improve efficiency, it is considered desirable to establish in each participant state a national reference point within a *central* authority. This person, preferably at senior level, would be responsible for co-ordinating the national efforts for the delivery of statistics to Eurostat. All exchange of information between Eurostat and the participating state (on missing data, on problems with the interpretation of definitions etc) would go through this official. At the national level, there needs to be good communication and co-operation between the administrative bodies (Ministries of Justice and Home Affairs, Policy and Immigration Authorities etc) which supply the CIREA and CIREFI data, and the National Statistical Institutes which are the principle source of demographic migration data.

To further reduce delays the means of transmitting data between the providers and Eurostat and vice versa should be restricted to electronic dissemination.

Proposed action 1

When time limits are agreed upon, Member States should review existing procedures and methods for delivery of data and where necessary, improve them to systematically meet these time limits for all tables and variables as soon as possible.

Proposed action 2

Each participating state shall introduce a liaison officer working within a central authority who is responsible as the sole interlocutor for the exchange of all information between his or her administration and the Commission in the field of statistics on asylum and immigration.

Proposed action 3

The Commission and Member States should agree on appropriate methods for the electronic exchange of data. Electronic transmission should be the standard means of exchanging data and statistical outputs.

Comparability means that statistical information meets common definitions, which enable users to make a meaningful comparison of the data of the different providers and draw conclusions.

To increase comparability in statistics much work still needs to be done. It should be recognised that common definitions may not be achieved until there is a harmonised approach, but that each step towards further comparability contributes to the final aim.

Proposed action

Eurostat should, in collaboration with the Member States and independently of the legislative work programme, continue its work on improving the definitions for the collection of statistics on asylum and immigration.

Coherence means that within a collection elementary concepts can be combined reliably in more complex ways.

While the CIREFI collection consists of illegal immigration data, it does not include data on legal migration. For several reasons, including the principle of coherence, the Commission believes a collection on legal immigration data should be part and parcel of the effort of the Community to produce statistics in this field. The Tampere Conclusions acknowledged the need for approximation of national legislation on the conditions for admission and residence of third country nationals, based on a shared assessment of the economic and demographic developments within the Union. Statistical information will be essential to come to such an assessment. In the Communication on Community immigration policy the Commission proposed that this policy should be developed under a Community framework based on co-operation and exchange of information. Member States would write periodic reports to review the development and overall impact of their immigration policy over the previous period, including the number of third country nationals admitted under the various categories. Statistics produced on the basis of common definitions would help to adequately assess and compare the different needs of Member States within a Community approach. Statistics on legal residence of third country nationals would provide information on the scale of migration, underscore developments towards new admission policies, and, putting the migratory flows in perspective, thus raise understanding for more efficient management of migration flows. Statistics on short term visas; multiple Schengen visas etc would complete the picture of third country nationals' flows to the EU.

Eurostat currently collects information on an annual basis on migration directly from the National Statistical Institutes. This collection system is limited to the number of immigrants and emigrants, including, where available, by different demographic characteristics (sex, age, citizenship, country of previous/next residence) without giving any more information on the reason for migration (type of permit) or the duration of permit, the issues and requests for such permits. This existing collection varies greatly between countries in terms of sources, definition and coverage.¹³ The

¹³ For example: UK inward migration data are estimates of all persons, including UK citizens, stating an intention to take up residence for whatever purpose. No reference or check is made in the study on their visa or permit status or on any other aspect of the legality of their intention. These UK data are based on

Commission has commissioned a study on the availability in Member States of statistics on the legal entry and stay of third country nationals by different categories (such as employment, studies/vocational training etc), by different characteristics (citizenship, age etc) both for requests and issues of permits. The study should describe the problems in setting up a collection similar to the CIREA and CIREFI collections.

Proposed action

The Council and Commission shall discuss the possibilities of introducing Community statistics on legal immigration on the basis of the study on availability commissioned by the Commission. Decisions on this should also take into consideration the availability of the resources necessary to undertake this additional collection and to disseminate the data collected.

Objective 2

The formulation of the scope of the collection should follow the legislation adopted by the Community on the basis of Articles 62 and 63 EC Treaty within the framework set by the Tampere Conclusions.

The Tampere Conclusions and the Scoreboard set out the measures to be taken in the field of asylum and migration in accordance with Articles 62 and 63 EC Treaty. The Tampere Conclusions identify four components in a common EU asylum and migration policy: partnership with countries of origin; a common European asylum system; fair treatment of third country nationals and management of migration flows. The development of each of these four areas would greatly benefit from relevant statistical input. The core idea is that where statistical information is to be gathered, it should basically coincide with the categories /situations laid down in legislative or policy action. Thus, for each of these areas an information management system would complement and support the policy development. In this respect, it could also be considered to break down the statistics by sex.

New types of information could be produced to help inform and monitor policies. A discussion has to be initiated concerning priorities in terms of which types of information collection should be developed and to what timescales. It is important, however, to recognise that resources should be made available for the additional collection, processing and dissemination work. It is also necessary to decide whether these types of information should be regarded as statistics or as administrative information. A detailed and prioritised plan for the extension of the statistical activities needs therefore to be prepared.

- The CIREA collection on asylum statistics should be extended and refined on the basis of legislative proposals adopted by the Council on temporary protection, asylum procedures, reception conditions, determining responsibility for the examination of an application for asylum the refugee definition and subsidiary protection. For example, in the table on decision in asylum cases in the future a

a sample survey of international passengers. By comparison, data for France are based on administrative data on work and residence permits and do not include French citizens.

further distinction could be made between the types of negative decisions distinguished in the proposal for a council directive on asylum procedures: inadmissible, manifestly unfounded and unfounded. Further, a table could be added on reception conditions, including total number of applicants for asylum receiving assistance by type of package of aid and the total number of applicants not receiving assistance or having assistance withdrawn. With the adoption of a Community legal instrument to replace the Dublin Convention, the collection of statistical data on its application should be taken over from the Council Secretariat to enable the Commission to fulfil its role entrusted under the Treaty to monitor the implementation of Community legislation. This would also serve the purpose of adapting, where necessary, future legislation at a time when the Commission has an exclusive right of initiative. Thus, a common European asylum system would encompass a comprehensive statistical information system on all measures relating to asylum in the Member States. In this context it is noted that the obligation to draw up quarterly statistics on the work done within the context of the Eurodac Regulation¹⁴ will be implemented by the Central Unit responsible for operating the central database for the purpose of comparing fingerprints, which the Commission is currently setting up.

- The CIREFI collection on illegal migration statistics could be extended following new Community legislative action in the field of illegal migration, border controls and return within the framework of the management of migration flows. Later this year the Commission will bring forward Communications on illegal migration and return which will shed light on a Community approach. Possible extensions include data on the detection of false documents by type of document (passport, visa, residence permit) and type of border crossed (land, sea, air) and data on sanctions against the crime of smuggling and/or trafficking in human beings. A distinction could be made in the table on removed aliens according to the nature of the return action taken by the Member States (voluntary, escorted and forced escorted return) and the destination (country of origin, a third country). Moreover, the collection could be extended to cover measures taken under the Schengen Implementation Convention, such as the number and nature of measures imposed under Article 26 (carriers' liability) and Article 27 (sanctions concerning assistance to illegal entry or residence). Finally, following other provisions of the Schengen acquis the present collection could be refined by inter alia introducing a distinction between data relating to situations taking place either at external or internal borders or differentiating the reasons for refusal of entry in the present table on refused aliens.
- In the area of fair treatment of third country nationals who reside legally on the territory of the Member States of the European Union proposals by the Commission will define the conditions of admission and residence and the rights to be granted for the purpose of family reunification, study or vocational training, paid employment and self-employed economic activity. When a collection on legal immigration is set up along the lines of the CIREA and CIREFI collections, it would ideally follow the different categories laid down in proposals.

¹⁴ OJ L316, 15 December 2000, Council Regulation No 2725/2000 of 11 December 2000 concerning the establishment of Eurodac for the comparison of fingerprints for the effective application of the Dublin Convention.

- On the other hand, it is not necessary to adopt separate measures on statistics with a view to develop the external dimension of a common EU policy in this field. The existing Action Plans of the High Level Working Group testify to the usefulness of existing statistics for the purpose of greater coherence of internal and external policies of the European Union as regards the phenomena of migration. Statistical information on GNP, trade, development co-operation etc shed light on the scale and nature of the issues at stake when promoting partnerships and increasing EU co-ordination as regards the situation in specific countries of origin. This statistical information has not been specifically related to the needs in the field of asylum and migration and has often been gathered from various providers to take into account the comprehensiveness of the approach. If this approach is pursued, specific statistical measures need not be developed, although it may be necessary to develop a systematic approach to collecting administrative information on migratory flows in regions of origin in order to support the development of an external dimension.

Objective 3

Provision and analysis of statistical information should serve the needs of all EC institutions, Member States and the general public. There should be adequate, timely and publicly available statistics on asylum and migration flows at the Community and national level.

A proper information management system in the field of asylum and migration should include analysis of statistical information. Currently, annual reports produced by Eurostat on the CIREFI and CIREA collections provide a basic analysis on the situation in the different Member States and at European level. Quarterly and monthly reports include less analysis. So far, these reports have not been in the public domain.

The Commission services propose to introduce an annual report that consists of a statistical overview of the year and a thorough analysis of the state of play in the Member States and at European level as soon as possible.

The analysis would serve as the main tool for the purpose of discussing trends in asylum and migration flows and the relevant policy developments in the European Union. It should be in the public domain and inform all EC Institutions, including the European Parliament, as well as the national Parliaments and the public at large of the key statistical facts concerning admission and return of third country nationals in the European Union and what these facts mean in relation to other reference periods. Preferably, these facts would be analysed in the light of other developments, such as the political and economic situation in countries of origin and other countries of reception in the case of asylum, or, in the case of migration, the demographic and labour market developments in the EU. Each yearly report would consist of a number of standard sections (asylum, legal migration, illegal migration, EU policy developments + their possible consequences for statistics), while in a particular yearly report sections could be added to study certain aspects in more detail, e.g. upon request of the Council or the Commission, in order to ensure flexibility in addressing topical issues. The report should be on the political agenda in the Council and the European Parliament in the first half the year after the reference period in

order to enable the Community to draw timely conclusions about the need for any Community action to follow up concerns raised by the report.

This approach should meet the demands of the Council, the European Parliament and the Commission for a regular and adequate update on statistics and an analysis of statistical trends and developments. Conversely, monthly and quarterly reports could consist of nothing but statistical data, or perhaps only of data and a short statistical commentary highlighting new developments and trends etc. Discipline is needed to gain this result. Such reports require clear and preferably common confidentiality rules defining the data which can be published. An adherence by all Member States to time limits for providing data, including a strict deadline for introducing revisions and corrections early in the following year would also be a pre-requisite for completeness. To meet the agreed time limits for the publication of reports, it must be accepted that data supplied in non-agreed formats or after agreed cut-off dates may not be included. A method of preparation that includes consultation of statistical representatives of Member States has to be thought through. Also, the more thorough the analysis, the longer the delay for the report. It should therefore be envisaged to already transmit the (revised and corrected) annual data to the Member States, to the extent they for instance need to inform national parliaments earlier than the date of publication of the report.

Besides a yearly report linking data on migration and asylum flows to the EU with policy development within the Community and relevant developments abroad, the data collection of Eurostat should become a source of information for scientific research and analysis on Community statistics in this field in general. This means, first of all, that its database New Cronos should hold as much as possible data accessible to the general public. Secondly, Eurostat could, subject to resources being available, prepare some additional data and documentation in the case of requests for data in the field of asylum and migration that are in the general interest of the Community. There are likely to be increasing numbers of such ad hoc requests for data and analysis from Community and other institutions, and from academic researchers. However, additional work beyond the agreed statistical inputs to the regular reports should, as in all areas of Community statistics, take into account the availability of resources. The emphasis would need to be on the preparation of statistical reports and on the regular updating and documentation of accessible databases - thereby allowing potential data users to extract the data which they required. Regular users of the data, including institutions and academic experts might be expected to develop some level of internal expertise in extraction, analysis and presentation of the data. This way of working is found in other statistical domains.

In this context it is worth mentioning that the European Parliament is supporting the establishment of a European Migration Observatory. The subject itself, however, goes beyond the scope of this document as the Observatory would not only provide access to statistical sources but to administrative information in general.

Objective 4

Dissemination of statistical information collected by Eurostat should be based upon the principle that Community statistics are in the public domain.

As discussed in chapter 4, official statistics should be publicly available. They are produced at public expense and are a vital tool for democratic review. The only acceptable reason for prohibiting publication of official statistics is the need to protect the confidentiality of the individual. Information which does not endanger individual statistical confidentiality, but which may not be published for reasons of political, policy or operational sensitivity, falls outside of the definition of official statistics.

The EC Treaty lays down that Community decisions are taken as openly as possible and as closely as possible to the citizen. The Tampere Conclusions state that the area of freedom, security and justice should be based on the principles of transparency and democratic control and that we must develop an open dialogue with civil society on the aims and principles of this area in order to strengthen citizens' acceptance and support. Clearly, these political intentions only have true meaning if citizens have effective access to comprehensive statistical data on the basis of which they can understand the scale and nature of migration and asylum and the challenges ahead of the Community in this respect. This is not the case in the current situation. Asylum and immigration is the only Community policy area where Member States have so far refused publication of basically anonymous, non-identifiable statistical data by Eurostat. From this point of view of statistical confidentiality, there is no reason to prohibit publication for an indefinite period of time. Likewise, it does not make sense from a confidentiality point of view to have a general ban on publication of data until a revision or correction of the data has taken place by the national authorities. Such requirements set by Member States for the purpose of restricting the publication of data in the field of asylum and migration should therefore be lifted. There are concerns that this would reduce data quality. It is important that if the data are still provisional or estimated, they should be flagged as such. The publication of flagged provisional or estimated data is a common practice in official statistics.

Other current practices for restricting on the basis of the principle of protection of the individual publication need to be re-assessed. Several well established statistical methods exist for preventing the disclosure of confidential individual information whilst allowing the safe publication of some or all of the statistics in a particular table. For example, cell counts may be rounded to the nearest 5 or 10. Alternatively a cell count threshold may be set; with a rule established that any cell with a count of fewer than, say 5, is deleted and marked as suppressed. Other methods include the application of a statistical blurring to slightly change at random a proportion of the table cells, thereby reducing the likelihood of identification. These types of methods are widely and successfully used by statistical agencies.

Common publication rules based on the need to protect statistical confidentiality need to be agreed with the Member States. Council Regulation 322/97 states that, when deciding if statistical data are confidential, attention should be paid to all reasonable means which might be used to identify the individual. Clearly this broad legal definition needs to be translated into a working agreement with the Member States. After the application of these statistical confidentiality methods and rules, any information which Member States wish not to be published for sensitivity reasons, rather than because of confidentiality concerns, should not be considered as statistics. To preserve the publishability of the statistical reports, it may be necessary exclude certain data classified as administrative.

The Commission services acknowledge that there may be good reasons for Member States not to want certain information on illegal migration to be published. Data can be misused. For instance, data on where facilitators and facilitated aliens were apprehended might enable smuggling or trafficking gangs to anticipate government action. However, where non-publication is for reasons of political or operational sensitivity, these data should not be regarded as statistics. These are administrative data which should not be included within statistical activities. The question can be raised to what extent the risk of abuse of operational information by undesirable actors is sufficiently reduced by the normal delays in data delivery and dissemination.

Proposed action 1

Transmission of statistical data to Eurostat should be on the basis that statistics should be in the public domain, subject the requirement to protect individual statistical confidentiality. The Council and the Commission should agree which types of information will be regarded as statistics and therefore as being in the public domain. The collection and dissemination of administrative information will not form part of the statistical activities.

Proposed action 2

The current restrictions on the publication of statistical data shall be replaced by agreed common methods and rules designed to maximise the dissemination of statistics without endangering individual statistical confidentiality. .

Proposed action 3

No restrictions on the publication of statistical data will be based on political, policy or operational sensitivity. Information subject to such restrictions should, by definition, be regarded as administrative data.

Objective 5

Co-operation should continue with other participants in the data collection such as the Candidate countries, and Norway and Iceland. Where beneficial, collaborative activities should be developed between the Commission and international organisations active in this domain, including the OECD, UNHCR and the IGC.

Since phase 2 of the 1998 Action Plan, the CIREA and CIREFI collections have been extended to the Candidate countries, Norway and Iceland. For the Candidate countries further developments shall arguably form part of the pre-accession package. The ongoing involvement of Norway and Iceland is also extremely welcome and helps to provide a comprehensive picture of immigration and asylum in Europe. The participation of these countries in the bi-annual meetings with CIREA and CIREFI, and in future CIREA and CIREFI statistics meetings in Luxembourg, provides a good basis for further collaboration.

Bi-annual meetings with CIREA and CIREFI have also been the basis for elaborating the Transatlantic Dialogue with the USA and Canada in the field of asylum and

migration. So far, co-operation in statistics is limited to an ad hoc exchange at these meetings. In the future, a more structured exchange may be in the interests of all parties concerned. Such an exchange need of course not be limited to the USA and Canada but could ultimately include other states with similar interests in the field of asylum and migration such as Australia, New Zealand and Switzerland.

In the field of asylum and immigration certain other organisations collect statistical information or produce statistical and policy analyses of current trends. Eurostat should continue to be the prime source of Community statistics in this domain. The importance of Eurostat's role in this role will grow with the communitarisation on asylum and immigration policy.

The Commission services are willing to co-operate with other organisations working in this domain. Such co-operation should build upon the existing work of the organisations concerned.

Proposed action 1

The Candidate countries, Norway and Iceland shall be fully and appropriately informed of further developments.

Proposed action 2

The Council and the Commission should review the possibilities for improving the exchange of statistical information with the USA and Canada in the interest of developing the Transatlantic Dialogue in the field of asylum and migration.

Proposed action 3

Regular working level contacts should be established to exchange information about technical developments between the Commission and international organisations also producing statistics and analyses in the field of asylum and migration. Areas of mutually beneficial co-operation should be discussed.

6. WORKING METHODS

The 1998 Action Plan provided for two phases. The second phase was successfully launched last summer. Many recommendations of the Evaluation Reports have been implemented prior to the launch of the second phase, some still require reflection and further action. It will be a gradual process.

The objectives for a Community strategy laid down in chapter 5 require additional action. To conclude the discussion in the Council and the European Parliament on this strategy and its implementation, the Commission is willing to operationalise all necessary measures in a mini-Scoreboard.

The strategy could be implemented through a second Action Plan. This would list all the necessary measures and provide for an operational framework of action for the coming years, including a time frame. The discussion would be mainly conducted at technical level as happened during the implementation of the 1998 Action Plan, whereas decisions would be

taken at higher level. Measure for measure or in sets of measures the improvement of statistics, possible extensions of the collections and a user-friendly reporting system would come into being. As one of the purposes of this document was to increase awareness at political level of the problems a lack of reliable, comparable, comprehensive statistics can cause for policy development, a pre-requisite in this approach would be to offer the Council more opportunities for guidance and steering of the discussion at official level. Another new element would be a more pro-active approach by the Commission. As soon as new legislation on asylum and migration is adopted affecting the scope and character of the collection, this would imply a change of the statistical input. The Commission and the Member States would accordingly examine amendments for the relevant tables and definitions conform the adopted legislation, and where necessary, adopt rules on the transitional period between adoption and the deadline for transposal of the Community legislative instrument.

In parallel to this second Action Plan, Community legislation should be prepared to setting out the needs of the Community for asylum and immigration statistics, and how these needs should be met. The Action Plan would define the statistical activities to be carried out during the time required for the preparation and adoption of legislation.

A legal instrument would offer legal certainty and predictability for all parties involved. It would define inter alia the scope of the collection, the characteristics of the required information, reference periods and the time limits and modes for delivery by the Member States and dissemination by Eurostat of this information. The legal basis could be Article 284 EC Treaty, which provides that the Commission may, within the limits and under conditions laid down by the Council in accordance with the provisions of the EC Treaty, collect any information, required for the performance of the tasks entrusted to it. In many other Community policy areas, including free movement of goods and services, transport, environment and agriculture, directives or regulations have been adopted for statistical surveys where statistical information was not available in all Member States and had to be carried out on the basis of common definitions and harmonised methodologies. In many of those instruments, provisions was made for exceptions for certain States to the reference period or the scope, in order to take account of particular technical difficulties in the collection of certain types of information, provided that the quality of the statistical information was not affected. Of course, a legal instrument would not preclude the adoption of ad hoc or additional measures where the Council so desires.