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Item 3 of the provisional agenda

THE CHALLENGES OF MEASURING EMIGRATION AND REMITTANCES

Permission granted?

Outline of a system for classifying decisions regarding foreigners' right to visit and reside in a country*

Submitted by Norwegian Directorate of Immigration

Introduction

1. The objective of this note is to present for discussion the outline of an *international system for classifying decisions regarding foreigners' right to visit and reside in a country (ICDFoR)*. The need for an ICDFoR arise from the increasing interest in and demand for descriptions and analysis of the nature and effects of different national regimes for regulating international migrations, including a demand for reasonably comparable statistics on the scope

* This paper has been prepared by Eivind Hoffmann. Fourth draft 20 October 2006. Circulated for discussion. This draft has benefited from comments to earlier drafts by Harald Friedrich, Olga Chudinovskikh, Kåre Vassenden and Alf Erik Svensbraaten, who has also designed the diagramme presenting examples of units and characteristics in ICDFoR. The views expressed are those of the author and do not necessarily represent those of UDI. Comments and suggestions will be welcome. E-mail: eho@udi.no

and impact of these regimes.¹ The intended contribution of this note is to place elements that are needed for such descriptions in a systematic framework that may help to understand the respective roles of these elements and the relationships between them.

2. The purpose of an ICDFoR thus will be to serve as a common frame of reference for international communications about national regimes to regulate international migrations and their effects, including relevant statistics. Describing such regimes, their similarities and differences, as well as their development over time, will be greatly facilitated by having national references to a common framework, as will the presentation of reasonably comparable statistics, even if some degree of approximation may have to be used in many cases to form these references. This is because relevant national legislations will have logical structures that will differ to some degree from that of an ICDFoR, even if it has been given a structure with which most interested user will feel reasonably comfortable.

3. The draft outline for an ICDFoR presented in this note has been prepared on the basis of the general principles for units of observation, variables and classifications presented and discussed in *Hoffmann, 1990; ILO, 2001* and *Hoffmann & Chamie, 2002*. As presented here the ideas may be seen as a structuring and extension of the conceptual scope used when preparing the managed migration benchmark report to the *General Directors' Immigration Services Conference* workshop on managed migration in Oslo, June 2006 (*ICMPD, 2006*). As indicated above the main objective has been to provide a basis for developing reasonably comparable statistics on the regulation of international migration, but it is expected that an ICDFoR may prove to be a useful tool also for organising multinational presentations of other types of information describing the work of national immigration authorities.

Some general principles

4. All *classifications* are designed to distinguish between *units* on the basis of their differences with respect to one or more *characteristics* (or *variables*). The possible differences are represented by the *value sets* which these characteristics can take.² When constructing a value set for a variable it is necessary to ensure that the values in the set are defined to be *mutually exclusive*, i.e. it should not be possible to give a particular unit more than one value from the value set for a particular characteristics and at the same point in time (time period). The

¹ Recent expressions of this demand are (i) the overview given in *ICMPD, 2006*, and (ii) the proposal presented in *European Commission, 2006*, in particular in article 6, point 2a which states that categories for the reasons for granting a residence permit should be laid down according to certain regulatory procedures.

² A simple example is that humans (and other mammals) can be classified by the *characteristic* (variable) *sex* which (for most practical purposes) can be given a *value set* consisting of only two *values* (*male/female*). Another example is the *International Standard Classification of Occupation (ISCO)*, which represents a value set for the variable 'occupation'. ISCO, as well as corresponding national classifications, is used e.g. to distinguish between 'jobs' (the units) on the basis of differences in their 'tasks and duties' (the characteristic/variable), e.g. for the purpose of matching job seekers to job offers in an employment agency, see *ILO, 1990*.

value set must also be *exhaustive*, i.e. it must be possible to assign a value from the value set to all observable units that have the characteristic in question.

5. When developing and using a classification system for a particular set of units, e.g. decisions regarding foreigners' right to visit and reside in a country, it is important to distinguish between (i) *primary characteristics* for these units, i.e. characteristics which can be assigned to a particular type of unit without a reference to other units, and (ii) *derived characteristics*, i.e. characteristics which can only be assigned to the units of interest by defining a relationship with one or more other units.³

Basic units

6. As indicated in its title this note takes as its point of departure the need to describe in a systematic manner *decisions regarding foreigners' rights to visit and reside in a country*. Thus such decisions will be one of the basic units within an ICDFoR. Because most such decisions are made on the basis of a process that originates with an *application*⁴ and concerns (one or more) *persons* these should also be regarded as basic units within ICDFoR.

7. Certain persons will have the right to visit or to reside in another country without having to submit an application. These are persons who qualify for such rights on the basis of certain characteristics that 'automatically' lead to a person having for these rights. Thus it might be useful to think of such persons as benefiting from a particular type of *collective decisions*.⁵ The main difference between individual and collective decisions will be that the former results from an (individual) application, while the latter is granted with proof of membership in the relevant group or collective.

8. The outcome of many applications depends on information about or promises given by natural persons or institutions that serve as *references* for the persons making the applications. For many descriptive and analytical purposes the characteristics of these references may be

³ It may be fairly obvious that a *decision* will not have *sex* as a characteristic, but that you can classify by sex the persons who are affected by a decision. Similarly a person may be classified by 'occupation' through a defined relationship to a past, present or future job. (It may be the 'main' past or present job, or a secondary job during the same periods, or a future job sought or offered.)

⁴ Not all 'applications' will originate with the person(s) that the decisions will affect most directly, e.g. in the case of expulsions.

⁵ In the present context the most common example of a *positive* collective decision is the permit for short term visit granted to all holders of a passport from (or with the citizenship of) certain countries, made unilaterally or on the basis of agreements. Historic examples of *negative* collective decisions are the exclusion of Jews and Jesuits from Norway that was included in its Constitution, from 1814 to 1851 and 1956 respectively, although these were never enforced effectively.

important for statistics on the decisions. Thus these references, whether natural persons or institutions/businesses, will also be important units in ICDFoR.

9. Based on the above it is suggested to identify the following basic units in an ICDFoR, without excluding, however, that it may be useful to introduce other types of units as well:

1. Persons
2. Applications
3. Decisions (individual and collective)
4. References (institutions and natural persons)

Important characteristics of decisions and their typologies

10. Important characteristics of a decision will be *main purpose (MP)*, *duration (D)* and *type of outcome (TO)*. The first two may be characteristics of applications as well as of decisions, while TO is a characteristic that may only be observed for a *decision*.⁶ In addition it will be relevant to describe decisions in terms of the *conditions* that should be fulfilled as a prerequisite for a particular outcome, as well as in terms of the *privileges* and *obligations* that are associated with a decision of a particular type and/or related to a particular person or group of persons.

11. **The most important values for TO** will be whether it is *positive* and *negative*.⁷ Additional types of outcome may also be relevant, e.g. *withdrawn application*, *rejected application* etc., according to national circumstances.

12. **A possible typology for MP** may be the following

- (Short) visits for business or pleasure (with possible sub-categories indicating the nature of the business or pleasure)
- Asylum and related protection
- Family establishment or reunification
- Work
- Education
- Other

⁶ Note that this characteristic may be attached to other units, such as 'persons' and 'applications', only through a defined relationship between the unit of interest and the decision. For example: if we tabulate "The number of persons with negative and with positive decisions made during period T on their application for a work permit.", then 'their application' defines the relationship that exists between the unit 'application' and the persons counted in the cells of the table.

⁷ Depending on the MP both 'positive' and 'negative' outcomes may have several values, e.g. in Norway asylum applications may result in the following positive outcomes: 'refugee status', 'other protection' and 'humanitarian considerations'. 'Application rejected' and 'the merits of the application to be considered by another country party to the Dublin II agreement' may be considered to represent negative outcomes.

13. To ensure that the elements in this typology will be reasonably comparable internationally as well as exhaustive and mutually exclusive it will be necessary to agree on generic definitional descriptions for each element. These will make it possible to relate the relevant national regulations to the respective categories, if only as an approximation.

14. Because the first suggested element is '(short) visits ...' the distinction between this and the others must include a reference to one or more groups in a set of discreet values defined for the characteristic 'duration' (see below).

15. **Duration (D)** is in principle a continuous variable that represents the amount of time between two events of interest and/or between an event and a subsequent reference date. Duration may be measured (or presented) in categories for the number of days, weeks, months and/or years, depending on the objective of the analysis. The precise delineation of the categories may be specified in international agreements or statistical standards. Depending on national regulations one possible value set may be the following:

- 2 months or less (with possible subdivisions)
- 3 months to less than 6 months
- 6 months to less than 12 months
- 12 months to less than 2 years
- 2 years to less than 5 years
- 5 years to less than 10 years
- 10 years or more
- Without limit of time

16. 'Duration' may be seen as one type of variable used to describe **conditions and privileges** that are linked to decisions. Other examples of these types of variables, linked to positive decisions, are whether *multiple entries are permitted* (value set: 'yes/no') and whether a decision may be renewed or a full new application will be required. Conditions that may be linked to negative decisions may be *the time period of validity or type of new information required before a new application will be considered*.⁸

17. Among the *privileges* that may be attached to a particular type of decision may be whether or not it will be possible for a person who has been granted a particular type of decision to take up gainful employment or to apply for reunification with family members (value set for both: 'yes/no'). Waiting periods or other conditions may be associated with such privileges. Recording such characteristics of the decisions may be important for various purposes. It may for example be regarded as necessary to include all type of decisions that have been given the right to take gainful employment in the country when producing statistics designed to describe the possible impact on a national labour market of resident foreigners with valid permits. To

⁸ Typologies for the latter variable are likely to depend on national legislations. Note that 'duration' is also an important variable for describing the process leading to a decision on the basis of an application. Two different 'duration' variables of this type are indicated on the time line in the diagrammatic presentation at the end of this note.

limit such statistics to those who have been given a permit with ‘work’ as main purpose, will be to underestimate the labour supply from foreigners residing in the country.

18. The list of characteristics of decisions that will be of interest will to a large extent depend on the type of MP and whether the decision represents a positive or negative outcome of the application. Thus it may be convenient to list possible characteristics of interest separately by type of MP and for *positive decisions* and *negative decisions*, as if the latter represent separate types of basic units

19. It may for example be relevant to develop typologies for the **base for the positive** and **base for the negative decision**. At the national level these will have to be linked to the provisions in the respective national legislations and regulations, and the ICDFoR challenge will be to develop generic sets to which the respective national provisions may reasonably be referred. It seems likely that separate generic sets will have to be developed for the different MP elements and whether the decisions are positive or negative.

Important characteristics for applications and persons and their typologies

20. Logically a *decision* will be based on the information provided in an (individual) *application* (and any relevant information associated with the application) submitted by a *person*. Associated with an application will be a set of characteristics that will describe its *processing status*: with values such as ‘received’, ‘pending’ (with ‘consideration suspended’ as a separate sub-category), ‘decided’ (with sub-categories such as ‘on formal grounds’ and ‘on its merits’). Sub-categories for ‘on formal grounds’ may be ‘incomplete application’, ‘submitted too late’, ‘application should be considered by another country’ etc. Note that ‘duration’ may be a relevant variable for the time span between the events ‘received’ and ‘decided’, as well as between the date of reception and a reference date.

21. For *applicants* it will be important to record and report on the standard *demographic characteristics* (*date of birth, sex, marital status, nationality*), for which there exist standard international definitions and classifications as well as national adaptations and variants determined by national legislations. In addition it will be important to register other persons, with defined relationships to the applicant, who may have applied for the same type of permit at the same time, and the type of relationship that the applicant has to each of these persons. It also seems reasonable to regard the *type of identifying documentation*⁹ as a characteristic of the applicant (with a value set consisting of e.g. the values *no documentation/travel document/national identity card/other*), as well as characteristics describing the degree to which they are seen as authentic or to provide correct information about the applicant.

Important characteristics of references

22. The most important characteristics of *references*, whether institutions or natural persons, will be their *identifiers* and the *type of relationship (TR)* that a reference has to the applicant.

⁹ It may be as useful to regard *identifying documentation* as a separate type of unit in ICDFoR with *type* as one characteristic.

The importance of the former is mainly a function of the administrative need to ensure that certain conditions for a positive outcome is satisfied, e.g. through verification of information given about the reference from other sources. Such sources may also provide information about supplementary variables that may be of interest for descriptions and analysis, even though they have no direct influence on the outcome.¹⁰

23. Deriving characteristics of applications and decisions that are generated from registrations related to the process for handling the applications

24. The generation of the suggested characteristics of applications and decisions from the registrations that are being made in the national administrative records may be easier with some systems of registrations than with others. One example is that all descriptions of 'duration' of the administrative process will depend on the accurate registration of the dates of relevant events, and not the date at which these events were registered. Another example is that to describe the outcome of asylum applications it may be relevant to register as a variable 'Should the realities of the case be decided by another country party to the Dublin II agreement'. This is a variable which may take on two values: 'yes' and 'no'. Here 'yes' represents: 'yes, the realities have been or should be considered in another country', and 'no' represents 'no, the realities should be considered in this country'. From registrations based on this logic it will be simple to distinguish between negative decisions of an asylum application that have been based on an assessment of the realities of the case and negative decisions that have been made on the basis of Dublin II considerations, cf. footnote 8 above. A third example is the need for describing *processing status*. This is a variable that e.g. may take on the following values: 'received', 'accepted for consideration on merits', 'pending' (with 'suspended' as a sub-category), and 'decided'. For 'decided' applications the TO variable will be relevant.

Comments to the diagrammatic presentation of ICDFoR

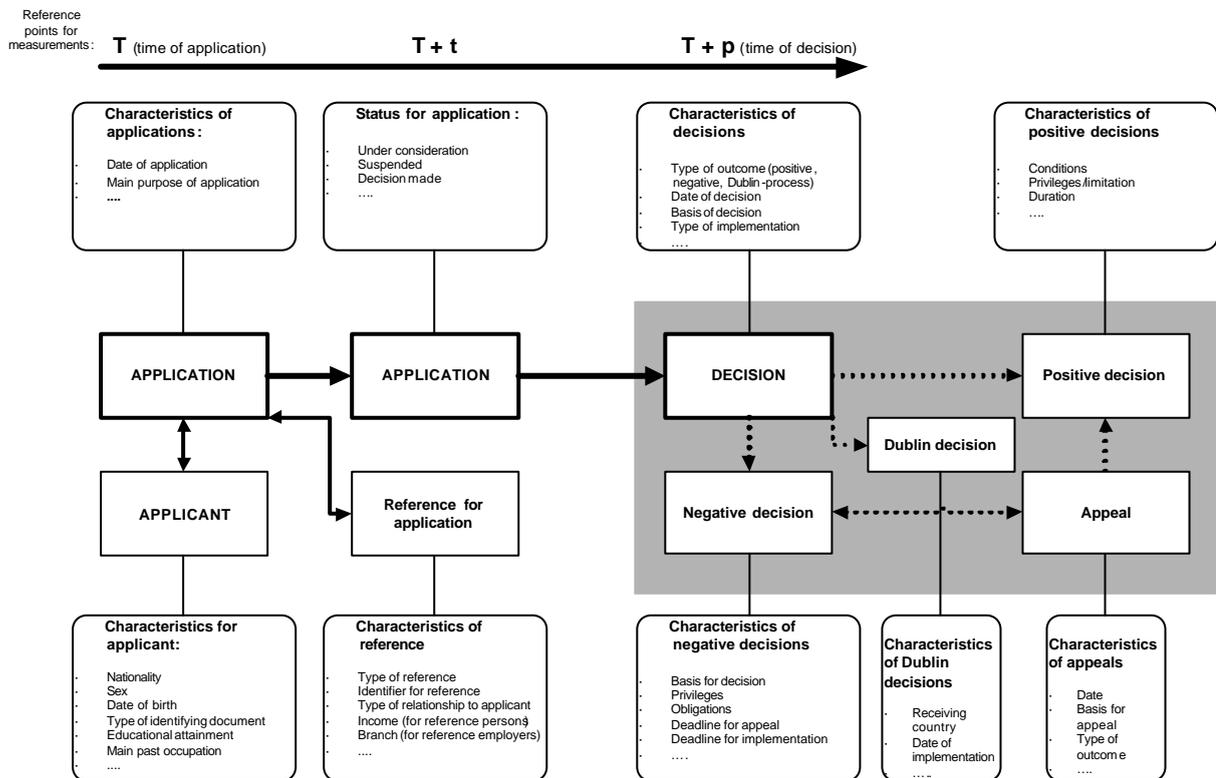
25. In the following diagrammatic presentation of ICDFoR a relationship that has to be defined for units of different types is indicated with a double-headed arrow between the boxes representing units. A single-headed arrow between boxes representing applications indicates their progress through the case processing. That primary characteristics are attached to a unit are indicated by a line between the box listing examples of such characteristics and the unit for which they are primary.

26. The time-line presents the time of application **T** as well as a reference time (e.g. end of a month) that is **t** time-units later, and the time point **p** time-units later when the processing of the application has resulted in a decision.

¹⁰ One example is the variable 'type of activity (industry)' for references when the MP is 'work'. This is information that may be of interest from a labour market perspective even if it is not considered relevant for the outcome of an application. In some countries this information may be obtained from a national register of establishments through a link provided by the identifier if it has not been collected with the application.

27. One of the variables describing an application that has been decided (converting it to a 'decision') is 'type of outcome (TO)', and the diagramme illustrates how 'decisions' with different values of TO will have different characteristics of interest.
28. Even if this diagrammatic presentation is too simplistic to adequately reflect completely an actual case processing system it should illustrate how the main elements are linked. Units representing 'appeal' and 'dublin process' have been introduced to illustrate possible ways that the basic structure may have to be extended in the case of asylum applications.
29. A more complex presentation may include the possibility that there may be more than one 'application' from same 'applicant' being processed at a particular point in time, e.g. one being for 'protection' and the other 'family related'.
30. A more complex presentation may also include references to other sources of information than the application and the immediate references, e.g. relevant information about the applicant may be obtained from other countries that are parties to the Schengen agreement (through SIS or VIS), or from records in the country where the applications is being processed.
31. An extension of the diagramme would be to include the time of arrival in the country of a person with positive decisions, and the registrations that would relate to this and subsequent events.

Diagrammatic presentation of possible units and characteristics in ICDFoR



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