EXPLANATORY MEMORANDUM (EM) ON A EUROPEAN UNION DOCUMENT

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL - Sixth Report on the progress made in the implementation of the EU-Turkey Statement

Submitted by the Home Office on 18 July 2017

SUBJECT MATTER

1. This Explanatory Memorandum (EM) relates to the Commission’s Sixth Report on the progress of the implementation of the EU-Turkey Statement between 27 February and 8 June. This report includes information on trends, delivery of results and challenges. It demonstrates that the Statement is producing tangible results despite challenging circumstances.

Current Situation

2. During this reporting period, a total of 5,303 migrants – an average of 52 persons per day – arrived from Turkey to the Greek islands. 105 fatalities or missing persons were recorded in the Aegean Sea since the Statement was agreed. While nonetheless extremely regrettable, it represents a substantial fall in fatalities compared to around 1,150 in the same period 2015-16.

3. The EU Coordinator continues ensuring the day-to-day follow-up to the Statement and the Joint Action Plan on the implementation of the EU-Turkey Statement. The Commission supports the Greek authorities in coordination, management, safety and security in the islands. Efforts to increase the rate of returns have been supported by implementation of the Commission Recommendation on making returns more effective when implementing the Return Directive.

4. As of 9 June, the European Asylum Support Office (EASO) had deployed 101 interpreters and 100 Member State experts – 99 of which were to hotspots and 85 of which were case-workers. Additionally, the European Border and Coast Guard had deployed 891 officers under the Joint Operation Poseidon, including 88 in support of the implementation of EU-Turkey Statement.

5. Europol has increased the available pool of officers from Member States with relevant experience to 278, 15 of which were deployed to the hotspots. Additionally, two officials are stationed in the European Regional Task Force in Poseidon for coordination purposes.

6. NATO, the European Border Force and Coast Guard and the Turkish Coast Guard continued active patrolling and prevention of departures from Turkey. The multilingual online information portal “InfoMigrants.net” was launched successfully in May, and information booths on Chios and Lesvos continue to
provide information. Additionally, the Reception and Identification Service is in process of establishing an information booth on the island of Kos. The Commission, the Greek authorities, EASO, the International Organisation for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) recently finalised an information provision documentation which is aimed at persons arriving irregularly to the Greek islands.

Return of all new irregular migrants from Greece to Turkey

7. The total number of migrants returned to Turkey under the EU-Turkey Statement stands at 1,798. Since the last report, 311 migrants have been returned to Turkey under the Statement, including 42 Syrians. Greece has also returned a total 579 migrants from the Greece islands voluntarily to their country of origin, in addition to 1,147 voluntary returns from the Greek mainland.

8. Returns from the Greek islands to Turkey remain significantly lower than the number of arrivals, thus continuously maintaining pressure on the hotspot facilities on the islands. However, the pace of returns has improved compared to the previous period and should increase further in the coming months with an improved capacity of the asylum system (likely to produce now more second-instance decisions), more re-apprehension operations and increasing pre-removal capacity.

9. To improve return operations, a second tripartite meeting was held between the Commission, Greece and Turkey on 5 May in Athens. The next meeting was expected in early July.

10. While Syrian nationals are returned to Turkey by plane before being transferred to the refugee camp in Islahiye for swift pre-registration with a right to freely settle in the province of their choice or remain in the refugee camp, non-Syrian nationals are returned to Turkey by boat and transferred to a removal centre in Kayseri. There they are offered the opportunity of applying for protection in Turkey. EU authorities have visited the centre and verified that the processing complies with required standards. In Kayseri, 56 persons applied for protection status. Two persons have been granted refugee status, 38 applications are pending, and nine persons have received negative decision. 707 persons have been returned to their countries of origin.

Decisions and Appeals

11. Twelve Appeal Committees currently take decisions on appeals against the first-instance decisions of the Greek Asylum Service. So far there have been 3,554 appeals against 4,418 negative first-instance decisions on admissibility and on merits. The 2,088 second-instance decisions have been taken out of these 3,554 appeal cases (i.e. in 59% of cases). Out of the 477 appeal decisions so far on admissibility, 57 second-instance appeal decisions have confirmed the first-instance inadmissibility decisions, while 420 second-instance appeal decisions have reversed the first-instance inadmissibility decisions. With regards to the 1,416 appeal decisions on merits, 1,399 second-instance decisions have confirmed the first-instance negative decisions and 1,714 reversed such negative decisions.
12. In March, the Hellenic Parliament adopted legal provisions allowing the use of rapporteurs by the Appeal Committees, as well as the secondment of such rapporteurs by EASO. Without prejudice to the independence of Appeal Committee members, the rapporteurs assist them in decision-making. So far a total of 22 rapporteurs are already assisting the Appeal Committees. However, the Appeal Committees have continued to be slow in decision-making (around 47 per week since the previous report). The Greek authorities acknowledge the importance and urgency of the matter. In addition to ensuring that the Appeal Authority is properly equipped and that appeals lodged on the islands are examined as a priority, the Greek Appeal Authority continues to improve the workflows. It is expected that such measures will contribute to increase the number of decisions and consequently the pace of effective returns from the Greek islands to Turkey.

13. In March, the Hellenic Council of State heard the cases regarding the constitutionality of the composition of the Appeal Committees and whether Turkey can be considered a safe third country for the return of two Syrian asylum seekers who had appealed against the second instance decisions confirming the first instance inadmissibility of their cases. In its decision on 8 May, which considered two of the four cases concerned, the Council confirmed that the current composition of the Appeal Committees is in line with the Constitution. The Council’s decision in the remaining two cases, concerning whether Turkey is a safe third country is still pending, and no date has been set for its delivery.

**Situation on the islands**

14. There are currently 13,968 migrants on the Greek islands, whilst there are 7,450 places in official reception facilities and a further 1,223 places under the UNCHR’s rental scheme. The Greek authorities and the Commission continued working to improve conditions in the hotspots and on the islands. In May a new pre-removal centre was opened in Kos which currently provides 224 places. By July it will be extended to 500 places. Work on pre-removal detention areas in Lesvos and Samos was expected to be completed in June, to reach a total of 996 places by the end of July. In addition, the time limit between the making and lodging of an application should be reduced. Furthermore, the coordinated and effective use of 280 Hellenic Police officers, co-financed by the European Border and Coast Guard, needs to be further developed.

15. Under the umbrella of the EU Regional Task Force, a Standing Security Working Group has been established, bringing together security experts from the Commission and EU Agencies, to advise the Hellenic authorities on key areas of risk. The permanent Greek coordinators, who have assumed their duties in all hotspots since February, remain responsible for the overall management of the hotspots and specifically address concerns over safety and public order.

16. To facilitate the return operations, the Greek government also introduced a cut-off date for applying to the Assisted Voluntary Return and Reintegration Programme to avoid any possible abuse of the programme, especially just before a return operation. In order to allow for its efficient implementation and to inform all rejected asylum seekers of the deadline for application, a targeted information brochure was distributed to the migrants concerned by the IOM.
EU financial assistance to Greece

17. Greece has made progress in starting to use its national programmes under the Asylum, Migration and Integration Fund and the Internal Security Fund. To further speed up implementation, the Commission continues to support the Greek authorities to adopt all relevant legislative, administrative and operational measures and improve coordination among stakeholders, strengthen operational capacity, and improve delivery mechanisms. In addition to the funding available under the national programmes, substantial emergency assistance from the Asylum, Migration and Integration Fund and the Internal Security Fund, amounting to €356.8 million has been provided. These funds have been used to help Greece reinforce its reception facilities and strengthen its migration, asylum and border management capacities. As of June, €249 million of Emergency Support within the EU has also been contracted to respond to the humanitarian needs of refugees and migrants in Greece.

“One for one” resettlement from Turkey to the EU

18. As of 9 June, the total number of Syrians being resettled from Turkey under the 1:1 framework increased to 6,254. In the reporting period, 2,689 were resettled to Austria, Belgium, Finland, France, Germany, Italy, Romania, Spain, Sweden, and The Netherlands. The total number of persons approved and awaiting resettlement is currently 1,458. Therefore the Commission consider that the pace of resettlement is considerably advanced compared to the returns from the Greek islands and that this pace needs to be maintained. To facilitate this pace, the Turkish authorities have provided larger lists of referrals, listing over 20,000 people. In parallel, the EU Member States have been communicating to the UNHCR their resettlement pledges, putting forward almost 25,000 pledges for 2017.

Prevention of new sea or land routes for irregular migration

19. No major re-routing of migrant flows from Turkey as a result of efforts to control flows on the East Mediterranean route has been identified, although there was small scale activity on the routes to Cyprus and Italy (i.e. 20 boats carrying a total of 1,389 migrants arrived in Italy from Turkey and two boats arrived in Cyprus carrying a total of 116 migrants). The number of irregular crossings detected at Turkey’s land borders with Bulgaria and Greece have remained low. 105 European Border and Coast Guard officers are present at the Bulgarian-Turkey Border. There is now a daily average of five illegal border crossings into Greece and two into Bulgaria.

Voluntary Humanitarian Admission Scheme

20. The Commission continues its effort to facilitate the swift finalisation of the Standard Operating Procedures for the Voluntary Humanitarian Admission Scheme with the Participating States and Turkey. The EU-Turkey Statement stipulates that the Scheme will be activated once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced.
Visa liberalisation

21. As regards to the implementation of the Visa Liberalisation Roadmap, there are still seven benchmarks that remain to be met, as highlighted in the previous Reports (issuing biometric travel documents fully compatible with EU standards; adopting the measure to prevent corruption foreseen by the roadmap; concluding an operational cooperation agreement with Europol; revising legislation and practices on terrorism in line with European standards; aligning legislation on personal data protection with EU standards; offering effective judicial cooperation in criminal matters to all EU Member States; and implementing the EU-Turkey Readmission Agreement in all its provisions). The Commission continues to encourage Turkey’s efforts to complete the delivery of all the outstanding benchmarks of the Visa Liberalisation Roadmap as soon as possible.

Facility for Refugees in Turkey

22. The Commission has continued its efforts to address the most critical needs of refugees and host communities in Turkey. The last Steering Committee meeting on 31 March acknowledged that funding coordinated by the Facility for Refugees in Turkey (“the Facility”) continues to have a significant direct impact on the ground. The Commission is working closely with the Turkish authorities and other partners to further accelerate contracting, implementation and disbursement. The Facility Results Framework was completed in March and the monitoring of Facility projects has started.

Upgrading the Customs Union

23. The Council has continued to actively work on the Commission’s proposal to open negotiations with Turkey on an upgraded bilateral trade framework. The Commission invites the Council to finalise this work to allow negotiations on an important agreement that would unleash still untapped potential in EU-Turkey trade and economic relations to start.

Accession process

24.16 Chapters have been opened so far. Technical work is continuing on Chapters on Judicial and Fundamental Rights; and Justice; Freedom and Security (Chapters 23 and 24). The EU expects Turkey to respect the highest standards regarding democracy, rule of law, and respect of fundamental freedoms which includes freedom of expression.

Humanitarian conditions inside Syria

25. Ongoing fighting and other restrictions by all parties to the conflict across Syria challenge the delivery of humanitarian aid to the estimated 3.9 million people in hard-to-reach locations and the close to 625,000 people in besieged areas. Local authorities approve assistance belatedly also in Kurdish-controlled areas of north-eastern Syria. However, humanitarian access for Turkish-based cross-border partners into north-western Syria is reportedly facing more challenges. Non-state armed opposition groups and United Nations Security Council designated-terrorist groups are placing increasing demands on non-governmental organisations. In April and May, only 10% of the people in besieged areas could
be reached by United Nations convoys. Most of the cross-border deliveries take place from Turkey and Jordan, which continue to constructively facilitate access by all possible routes. The EU is supporting lifesaving cross-border operations from Turkey to reach people in northern Syria through humanitarian partner organisations. The EU continues to urge all parties to respect obligations under international humanitarian law and to ensure that protection of civilians is the first priority including from Turkey and Jordan. This also applies to the concept of de-escalation zones across Syria, Iran and Russia, with the aim to establish zones of ceased hostilities to ensure the protection of civilians. The EU welcomes all efforts in this regard, provided that international humanitarian law is respected.

Conclusion

26. The EU-Turkey Statement has continued to deliver concrete results. The trend of much reduced irregular and dangerous crossings, and a much lower number of losses of lives in the Aegean Sea, coupled with the practical impact of projects to support Syrian refugees and host communities in Turkey under the Facility for Refugees in Turkey, has been consolidated. However, while crossings have stabilised at low levels, the push factors for migration to Europe remain. Further efforts are therefore needed to ensure the full and sustained implementation of the EU-Turkey Statement, based on continuing political determination from all sides. The Commission will continue to drive the work forward and will present its Seventh Report on the progress made in October.

SCRUTINY HISTORY

27. The Fifth Report on the Progress made in the Implementation of the EU-Turkey Statement 6925/17 was cleared by the Commons on 25 April and by the Lords on 4 April.

MINISTERIAL RESPONSIBILITY

28. The Home Office has responsibility for UK immigration and asylum policy. The Secretary of State for Foreign and Commonwealth Affairs, the Chancellor of the Exchequer and the Secretary of State for International Development will also have an interest.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

29. The Developed Administrations have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

i. **Legal basis**

30. This is an information update report from the Commission and there are no legal obligations

ii. **European Parliament Procedure**

31. This report has been sent to the European Parliament for information only.

iii. **Voting procedure**
32. Not applicable to this document as it is not a legislative proposal.

iv. Impact on United Kingdom Law
33. None. This document is not a legislative measure.

v. Application to Gibraltar
34. Not applicable as it is not a legislative measure.

vi. Fundamental rights analysis
35. This report has no direct impacts on fundamental rights. The EU has been clear that returns will be carried out in full compliance with EU and international law, and refugee protection safeguards will continue to be fully respected.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

36. It does not apply to the European Economic Area countries (Iceland, Liechtenstein and Norway)

SUBSIDIARITY

37. Previous reports have made clear that action complies with principle of subsidiarity. Given the scale of the migration crisis and the impact on all Member states, significant action is needed and action at EU level would provide greater benefits than action by individual Member States.

POLICY IMPLICATIONS

38. After more than one year of joint action, the Government welcomes evidence of consolidated results. We remain committed to implementing the EU-Turkey Statement in an effective and sustainable way, and continue to play a leading role in its implementation. This is an important opportunity to effectively manage migratory flows, tackle the issue of people smugglers, and prevent migrants from making perilous crossings.

39. We note the significant impact the Deal has had in reducing the flow of irregular migrants from Turkey to Greece. The numbers remain very low in comparison to summer 2015, in effect a reduction of 98%, and we agree with the Commission that continued efforts are needed to ensure continued delivery.

40. The Commission, EASO and Frontex as well as the UK are closely monitoring the situation in Turkey, especially as Turkey continues to be a key strategic partner in tackling migratory flows and in helping implement the deal. There has not been any evidence of deterioration in the protections or conditions available to the over 3 million refugees being hosted in the country. As part of its commitment to the Statement, Turkey has changed its policy towards Syrians and Iraqis and introduced legislation allowing Syrians and non-Syrian refugees to work. It is also providing schooling for over 500,000 Syrian children.

41. The UK has played a leading role in supporting Greece and Turkey to implement the Statement. As previously reported, in May 2016 the UK announced a package of support to Greece consisting of up to 75 expert staff, including staff to interview arriving migrants, act as interpreters and support co-ordination through
the European Commission team in Athens. The first UK staff arrived in Greece in May, and this pledge was fulfilled in January. In November 2016, we offered a second package of up to 40 expert staff over the winter period to support the inadmissibility process and ease congestion on the islands. This additional offer was fulfilled in March. In June, the UK announced that we would continue our long-running specialist deployments to the EU Commission team in Greece and provide further expert support to Greece and EASO on an on-going basis.

42. The UK is therefore the fourth biggest contributor of resources to EASO in 2016, behind only Germany, France and the Netherlands. We have worked closely with both EASO and the Greek authorities to ensure that our staff are deployed where they can add the most value.

43. Our principal commitment to date has been support to the 'light touch' admissibility interviews, which enable migrants to be returned to Turkey to have their claims for international protection processed there and, under the terms of the deal, should be applied to all arriving migrants. The process was initially only applied to Syrians due to Greek concerns over the treatment of non-Syrians in Turkey, but - in a move welcomed by the UK - was extended to Afghans, Iraqis and Eritreans in late 2016. However, Greece has recently adopted a two stage case-work procedure which also includes the eligibility process, i.e. substantive consideration of asylum claims. We are working to ensure that the implications of this change are fully understood.

44. The UK has also provided expert advice to Greece, for example on security; controlled entry/exit systems for the migrant camps; and communications to support Assisted Voluntary Return campaigns on the Greek islands. We note the introduction of a cut-off date for AVR applications by the Greek government.

45. Additionally, Border Force vessels have also provided vital search and rescue support in both the Mediterranean and Aegean since May 2015, rescuing over 12,000 migrants as part of wider efforts.

46. The UK also continues to support regional work to tackle Organised Immigration Crime (OIC) and increase joint intelligence work to target gangs that exploit people for their own gain. In December 2016, close collaboration between the UK’s OIC Taskforce, law enforcement partners in Greece, and Europol resulted in the arrest of more than 20 individuals believed to be involved in smuggling hundreds of Iranian migrants from Iran to the UK. Arresting those 20 people smugglers not only meant that the lives of hundreds of migrants were not put at risk, but a clear signal was sent to other criminal gangs that we are serious about cracking down on this activity.

47. The UK has committed to provide £276 million – in addition to our contribution via the EU budget - to the £2.5 billion Facility for Refugees in Turkey which aims to improve conditions for refugees in Turkey and thus reduce the need for onward movement, including by increasing education, meeting humanitarian needs and creating economic opportunities.

48. In addition to our humanitarian aid to Syrian refugees in the region, the UK is also one of the largest bilateral donors to the Mediterranean Migration Crisis response, having already allocated £100 million – including more than £39 million for Greece
- in humanitarian aid. The UK’s £10 million Refugee Children’s’ Fund supports the needs of vulnerable refugee and migrant children arriving in Europe. The fund includes targeted support to meet the specific needs of unaccompanied and separated children. This funding allows for the provision of shelter places for unaccompanied minors in Greece, which will reach up to 550 places over the course of the programme. These shelters provide much more than just a roof over a child’s head, they are staffed around the clock by professionals and the children are offered psychosocial support as well as legal assistance and other activities.

49. The Government also notes the state of play on Turkish – Schengen visa liberalisation, the upgrading of the Customs Union, EU relocation and resettlement schemes, and accession. The UK remains committed to driving reform, embedding stability and addressing challenges such as security and migration in the Western Balkans and Turkey. The UK will continue to support countries committed to the accession process in meeting the necessary requirements and, even though the UK does not participate in Schengen or EU relocation and resettlement schemes, we welcome work that helps to enhance responsiveness to changing migration and security pressures.

CONSULTATION

50. External consultation has not been required beyond consultation with the Devolved Administrations.

FINANCIAL IMPLICATIONS

51. The UK continues to work with the Commission to secure budgetary restraint and secure value for money in EU budget spending. In terms of UK bilateral support, work is underway to indentify the resource requirements (personnel and funding) needed to support enduring deployment.

TIMETABLE

52. This Report was presented to the European Council on 13th June. The Commission will continue to monitor the implementation of the EU-Turkey Statement and will present its Seventh Report on Progress in October.

RT HON BRANDON LEWIS MP
MINISTER OF STATE (IMMIGRATION AND INTERNATIONAL)