

EXPLANATORY MEMORANDUM (EM) ON A EUROPEAN UNION DOCUMENT

EUROPEAN COURT OF AUDITORS SPECIAL REPORT: EU RESPONSE TO THE REFUGEE CRISIS: THE 'HOTSPOT' APPROACH

Submitted by Home Office on 13 July 2017

SUBJECT MATTER

1. This Explanatory Memorandum (EM) relates to a Communication from the European Court of Auditors on the EU response to the refugee crisis: the 'hotspot' approach.
2. The Communication sets out observations on the establishment and functioning of hotspots and the effectiveness of the hotspots approach overall. The Communication also makes a number of recommendations for the Commission to assist Member States in improving the hotspot approach.

Background and purpose of hotspots

3. The 'hotspot' approach is proposed in the European Agenda on Migration and is designed to quickly identify, register and fingerprint migrants arriving in frontline Member States and then channel them into an asylum procedure or the emergency relocation scheme or coordinate their return. Funding for hotspots comes from a range of sources including the EU, EU Agencies, national authorities, international organisations and NGOs.

Audit scope and approach

4. The audit assessed the implementation of the hotspot approach between May 2015 (when the approach was first announced) and the end of summer 2016. The audit particularly focused on the establishment of hotspots and effectiveness of the hotspots approach.

Establishment of hotspots

5. In Greece, all five hotspots were assessed by the Commission as fully operational in June 2016 with reception capacity for 7,450 people. However the number of migrants arriving significantly outnumbered reception spaces: by early November the migrant population stood at 16,250. From the inception of the EU-Turkey Agreement new arrivals are required to lodge their asylum application at the hotspots, meaning the average stay at the hotspots increased leading to overcrowding. Conditions were inadequate with water shortages, inadequate access to healthcare, no separation between men and women or children. Reception conditions for unaccompanied children were particularly poor: in September 2016 there were an estimated 2,500 children in Greece, many of them held in poor

conditions at hotspots for long periods. Boys and girls were held together and in Leros and Chios, unaccompanied children were not separated from adults.

6. In Italy by the end of 2015 only two of the six planned hotspots were operational, with a further two hotspots becoming operational in the first few months of 2016. By July 2016 total capacity in the four operational hotspots was 1,600: significantly below the number of arrivals, which at regular peaks were over 2,000 per day. In June 2016, following the publication of data by the Italian Authorities, which showed that approximately 70% of migrants disembarked outside of existing hotspots, two additional hotspots were established. However, they were not operational in February 2017. A major concern is the increasing number of unaccompanied children arriving, at more than 20,000 at the end of September 2016. There is a shortage of dedicated facilities in disembarkation regions meaning that children stay too long at hotspots with inadequate facilities.

Support from EU Agencies

7. The provision of support services by the Commission and Agencies is based on requests from the Italian and Greek authorities. The agencies report that the number of experts deployed is far lower than the number needed and experts are only deployed for a limited period; the frequent rotation means a loss in efficiency. All stakeholders interviewed during the audit said experts needed to be deployed for longer periods.

8. In Greece, although arrivals have fallen, the need for EASO support has increased as the majority of migrants claim asylum on arrival. This need is not being met; in September 2016 it was estimated that 100 asylum caseworkers were needed at hotspots and only 41 had been deployed by EASO.

9. In Italy, support provided by EU agencies was considered by Italian authorities to be adequate; however the Commission considers Member State response to EASO's requests to be insufficient to respond to the number of arrivals. By the end of September 2016, 33 asylum experts (of the 74 originally envisaged) and 35 cultural mediators had been deployed.

Coordinating role played by the Commission

10. In Greece, central coordination is agreed between different national authorities, the Commission, EU Agencies and international organisations. Coordination of operations is addressed through the EU Regional Task Force; the audit found that the role of the task force is not well defined and national authorities are not present at task force meetings. Central authorities manage hotspots; however they have yet to take full responsibility. No appointed person/ authority has been given responsibility on a permanent basis and stakeholders are unclear on who has decision-making authority with regard to the sites. Stakeholders interviewed were concerned about the lack of hotspot standard operating procedures (SOPs) which have never been adopted for a number of reasons including the implementation of the EU-Turkey Agreement.

11. In Italy, national authorities showed strong ownership of the hotspot approach with a dedicated team in the Ministry of Interior responsible for the implementation. Operation coordination is ensured through the EU Regional Task Force and national authorities participate in these meetings. Local authorities are responsible for coordination and overall management of hotspots but do not have a permanent presence. State police and managing entities (often NGOs) are permanently present which the audit found leads to lack of 'focal point' for each hotspot. SOPs were officially adopted in May 2016 after several months of consultation.

Monitoring and performance measurement

12. The implementation of the hotspot approach is discussed in the European Commission's monthly report on relocation and resettlement. Progress reports are also published on the implementation of the EU-Turkey Agreement which include observations on hotspots. The audit noted that no performance monitoring framework has been established for hotspots and some important data is not shared such as the length of stay in hotspots or number of migrants registered or returned.

Effectiveness of hotspots approach

13. In Greece, migrants were being identified, registered and fingerprinted within three days of arrival and according to the Commission's data; processes have been performed correctly for almost all migrants. The EU-Turkey Agreement has contributed towards a significant reduction in the number of arrivals meaning these tasks are more manageable.

14. In Italy, according to data provided by the Italian authorities, only around one third of incoming migrants actually disembark at hotspot locations. Registration and fingerprinting rate has increased from 60% in the first half of 2015 to an average of 97% in the whole of 2016. This reflects the positive impact of hotspots and the hotspots approach in 15 other ports of disembarkation. All relevant stakeholders agreed the hotspots approach had been important in improving the situation in Italy.

Bottlenecks in follow-up procedures

15. In Greece, practically all new arrivals apply for international protection. The increase in staff needed in the Greek Asylum Service had not been planned for before the EU-Turkey Agreement came into force. In September 2016, the majority of migrants who had arrived in Greece since 20 March had still not lodged their asylum applications and there was a lack of information provided about procedures, and some prioritisation of certain nationalities over others. Furthermore, the relocation option is no longer available for newly-arrived migrants.

16. The pace of returns under the EU-Turkey Agreement has been slow; migrants applying for asylum can only be considered for return after receiving a negative asylum decision and their right of appeal being exhausted. Between the end of March 2016 to the beginning of December 2016, of the 17,000 arrivals only 748 migrants had been returned from Greek islands to Turkey.

17. In Italy, potential candidates for relocation are identified during the registration process and are then transferred to reception centres. As migrants receive more information about relocation more candidates have been identified under the hotspots approach; the main bottleneck for relocation is now the shortage of pledges from Member States. As of September 2016 only 1,196 people had been relocated from Italy (not including any unaccompanied minors), with a total of 3,809 pledges being provided by Member States to Italy. Furthermore, there is only a 20% implementation rate for return decisions (according to data from the Italian authorities) due to factors including a lack of cooperation from countries of origin for readmission.

Conclusions and Recommendations

18. Overall, the audit found that the hotspot approach has increased reception capacity and improved procedures and support in Greece and Italy, thereby improving migration management. In 2016, most migrants arriving in Greece and Italy were identified, registered and fingerprinted, with their data being checked against relevant security databases. Reception facilities were not yet adequate in either country and there was a lack of adequate accommodation and capacity to process unaccompanied minors.

19. The audit sets out several recommendations covering:

1. **Hotspot capacity:** the Commission and relevant Agencies should provide further support to Greece to address the lack of capacity in hotspots and to increase the number of hotspots.
2. **Unaccompanied minors:** The Commission, relevant Agencies and international organisation should help Greece and Italy to ensure unaccompanied minors are treated in accordance with international standards.
3. **Expert deployments:** The Commission and Agencies should ensure Member States provide more experts for longer periods.
4. **Roles and responsibilities:** The Commission, Agencies and national authorities should set out the role of the EU Regional Task Force more clearly and insist on the appointment of a single person responsible for management of each individual hotspot.
5. **Evaluation of hotspot approach:** The Commission and Agencies should evaluate the implementation of the hotspot approach by the end of 2017.

SCRUTINY HISTORY

20. None for this document. This is a new Communication on this cross-cutting area and therefore there is no previous scrutiny history.

MINISTERIAL RESPONSIBILITY

21. The Home Secretary has responsibility for UK immigration and asylum policy. The Foreign Secretary has overall responsibility for the Government's relationship with the EU and foreign Member States. The Secretary of State for International

Development has responsibility for UK development activity in third countries and within the European Union.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

22. The Devolved Administrations have been consulted in the preparation of this EM.

23. The duties of English local authorities in accommodating and looking after unaccompanied children are set out in parts 3, 4, and 5 of the Children Act 1989. The Devolved Administrations of Scotland, Wales and Northern Ireland are each responsible for their own policies and laws concerning education, health and social welfare. This covers most aspects of safeguarding and child protection. Each Devolved Administration has equivalent legislation in place which govern local authorities' (or Health and Social Care Trusts in the case of Northern Ireland) responsibilities with regard to looked after children in their respective areas.

LEGAL AND PROCEDURAL ISSUES

24.

i. Legal basis

None. This Communication is not a legislative instrument.

ii. European Parliament Procedure

The Communication has been sent to the European Parliament.

iii. Voting procedure

None. The Council is not required to vote on this report.

iv. Impact on United Kingdom Law

Not applicable to this Communication.

v. Application to Gibraltar

This Communication has no immediate impact on Gibraltar as it is not a legislative measure.

vi. Fundamental rights analysis

This is a Communication and so has no direct impact on fundamental rights. Member States and the Institutions furthermore remain bound by the Charter in their actions in this area.

APPLICATION TO THE EUROPEAN ECONOMIC AREA AND SWITZERLAND

25. Associated States (Switzerland, Norway and Liechtenstein) are participating in relocation. The Report comments on the overall EU response to the refugee crisis through the 'hotspot' approach.

SUBSIDIARITY

22. The Communication complies with the principle of subsidiarity. Asylum policy is transnational in nature and is an area of mixed competence.

POLICY IMPLICATIONS

23. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

UK support for hotspots approach

24. The Government supports the principle of hotspots and, although the UK is not participating in relocation mechanisms, swift and effective implementation of hotspots remains a UK priority. We are currently supporting EASO's co-ordination of 'hotspots' in Greece and Italy, an EU measure designed to improve border security and asylum screening capacity at parts of the EU external border most under pressure.

25. The Government's view is that hotspots should contribute to better management of the EU's external border with more focus being given to the rapid return of those without a legitimate asylum claim. We believe it is important that hotspots do not focus exclusively on facilitating relocation but fulfil this wider border security objective.

26. We encourage greater data sharing as a means to prevent crime and protect citizens in all Member States. We welcome the progress made at the Commission's recent High Level Expert Group (HLEG) on information systems and interoperability. The UK supports the three key implementation proposals set out in the HLEG's final report which include: creating a common search engine, known as the "European Search Portal", allowing Member States to consult all the information held about an individual by EU databases, provided they are entitled to see it, in a single query; for work to begin on a biometric matching service, allowing Member States to compare fingerprints and, when possible, facial images with all those held on EU systems; and work on a common identity repository, which would enable Member States to discover all the names by which an individual is known on different EU databases. We welcome these proposals and are keen to see the Commission take its recommendations forward.

27. The Government is continuing to support efforts at hotspots through the deployment of resources to Italy and Greece through the European Asylum Support Office (EASO). In support of the EU-Turkey agreement in May 2016, the previous

Home Secretary (Theresa May) announced a package of UK support to Greece consisting of up to 75 expert staff. The first UK staff arrived in Greece in early June 2016, and our pledge to send 75 expert staff was fulfilled in January 2017. In November 2016, the UK offered an additional package to Greece under the EU-Turkey deal of up to 40 extra expert staff over the winter period to support this trial, including flow management experts, caseworkers, interpreters, and returns experts to support the admissibility process and ease overcrowding on the islands. These teams include experts in supporting vulnerable groups, such as unaccompanied asylum-seeking children and those trained to tackle people trafficking. All staff have now been committed, and these 40 with the 75 already in Greece take our total commitment to 115.

28. The UK continues to work with the French, Greek and Italian authorities, as well as UNHCR and NGOs to identify minors who may be eligible to come to the UK under section 67 of the Immigration Act 2016. The UK is also working with Member States and relevant NGO partners to ensure the efficient and timely operation of the Dublin Regulation, so that unaccompanied minors with family in the UK can have their asylum claimed transferred here quickly and safely.

29. Furthermore, as part of our support to Frontex operations POSEIDON in Greece and TRITON in Italy, Border Force have committed 122 months deployment of debriefers and screeners and 24 months deployment of interpreters. Our officers help to gather information on migrants' routing and OIC groups encountered in facilitating/trafficking their journey to Europe and to help establish the nationality of migrants to facilitate the documentation and return of those with no basis of stay in Europe.

30. The UK is also offering support and advice to Italy on returns and has supported Italy in procuring charter flights. The UK notes Italy's plans to significantly increase detention capacity.

Financial support to Greece and Italy

31. The UK has contributed generously to the humanitarian response in Greece, allocating more than £39 million so far. This support has provided life-saving humanitarian assistance including food, clean water, medical assistance, safe shelter and psychosocial support for vulnerable migrants and refugees, including children.

32. In Italy, the UK provided over £1.1m for direct humanitarian assistance to people arriving by sea. This support included medical and protection services, family reunification and legal support, as well as monitoring and advice for migrants and refugees in detention.

33. The UK has established a £10 million Refugee Children's Fund to support 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 will allow for the provision of shelter places for unaccompanied minors in Greece. 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.

34. The UK has allocated £8 million to the Women and Girls Protection Fund for Europe and the Mediterranean which protects mainly female refugees and migrants in the Mediterranean region by providing shelters as a safe alternative to dangerous camp environments, providing tailor-made protection services, and strengthening national counter-trafficking mechanisms. This support will train 645 frontline staff in the identification of trafficking cases and offer enhanced protection for women and girls, and other vulnerable refugees and migrants arriving in Italy, including psychosocial support, food and hygiene kits.

35. The UK has already committed over £100m humanitarian assistance to the Mediterranean migration response. At the June European Council, the Prime Minister announced a further £75m focused on the Central Mediterranean route. This will meet the urgent humanitarian needs of migrants, facilitate voluntary returns and build the capacity of governments to manage migration.

CONSULTATION

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

IMPACT ASSESSMENT

37. The proposal does not contain reference to a full impact assessment.

FINANCIAL IMPLICATIONS

38. None directly from this communication.

TIMETABLE

38. The Commission has accepted all recommendations in the report. The Maltese Presidency circulated draft Council Conclusions which were discussed at the Asylum Counsellors meeting on 20 June 2017 and an agreement is yet to be reached.



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