EXPLANATORY MEMORANDUM (EM) ON A EUROPEAN UNION DOCUMENT

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

Submitted by the Home Office on 13 October 2017

SUBJECT MATTER

1. This Explanatory Memorandum (EM) relates to the Commission’s Seventh Report on the progress of the implementation of the EU-Turkey Statement between 9 June and 4 September. This report includes information on trends, delivery of results and challenges. It demonstrates that the Statement is producing tangible results despite challenging circumstances.

2. A summary of the key actions and their current status listed in the Report is presented in 12019/17 Annex 1. A summary of projects is presented in 12019/17 Annex 2. In line with the agreed approach on the reporting of humanitarian and development funds and projects, and to ease comparison to other updates and announcements, contributions are presented in Euros (€).

Current Situation

3. During this reporting period, a total of 7,807 migrants – an average of 93 persons per day – arrived from Turkey to the Greek islands. 113 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.

4. 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 continues to support the Greek authorities in coordination, management, safety and security in the islands. They also called for Member States to respond to the needs identified by the European Asylum Support Office (EASO) and European Border and Coast Guard (EBCGA), by providing longer staff secondments with the specific skills needed to meet shortfalls. This includes the secondment of asylum experts with vulnerability determination skills to the island hotspots to fill staffing shortfalls.

5. As of 4 September, the European Asylum Support Office (EASO) had deployed 98 interpreters and 96 Member State experts – all of which were to hotspots. 85 of these deployments were case-workers. This means an EASO shortfall of 54 experts. Additionally, the European Border and Coast Guard had deployed 888 officers under the Joint Operation Poseidon, including 35 in support of the implementation of the readmission element of the EU-Turkey Statement. This is a shortfall of 11 experts for September, 13 experts for October.
6. Europol's pool of officers from Member States with relevant experience in secondary checks stands at 278. Teams of 10 officers are deployed on rotation every three months across the Greek and Italian hotspots. Additionally, two officials are stationed in the European Regional Task Force in Poseidon for coordination purposes.

7. The EBCGA has continued to cooperate with NATO and the Greek and Turkish Coast Guards continued active patrolling and prevention of departures from Turkey. The information booths on Chios and Lesvos continue to provide information. New information booths on Samos and Kos have been launched, and the Commission has been urging the Greeks to create information booths in all of their hotspots.

Return of all new irregular migrants from Greece to Turkey

8. The total number of migrants returned to Turkey under the EU-Turkey Statement stands at 1,896. Since the last report, 97 migrants have been returned to Turkey under the Statement, from a range of nationalities. Greece has also returned a total 372 migrants from the Greece islands voluntarily to their country of origin, in addition to 929 voluntary returns from the Greek mainland, bringing the total returned to 10,029 since the scheme started in 2016.

9. 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. This is due to a backlog in processing asylum applications in the Greek islands and insufficient pre-return processing and detention capacity on Chios and Samos; even though the processing and detention on Lesvos and Kos have been increased. The Commission calls on Greece to increase registration and monitoring, as well as increase their use of EU funded joint programmes on return and work with implementing agencies such as International Organisation for Migration (IOM).

10. According to Turkish authorities, 57 persons applied for protection status. Two persons have been granted refugee status, 39 applications are pending, and nine persons have received negative decision. 831 persons have been returned to their countries of origin. Regarding Syrians, 16 were returned to Syria, 19 decided to stay in the accommodation facilities provided, and 177 Syrians chose to live outside of the accommodation facilities.

Decisions and Appeals

11. Since the Statement, there have been 5,225 negative first-instance decisions on admissibility and on merits. 2,398 second-instance decisions have been taken out of 4,160 pending appeals. Out of 556 appeal decisions so far on admissibility, 135 second-instance appeal decisions have confirmed the first-instance inadmissibility decisions, while 421 second-instance appeal decisions have reversed the first-instance inadmissibility decisions. With regards to 1,590 appeal decisions on merits, 1,560 second-instance decisions have confirmed the first-instance negative decisions and 17 reversed such negative decisions. 13 cases were granted subsidiary protection. During the reporting period, 252 appeal cases have been closed for other reasons e.g. explicit withdrawals. Specifically in the context of the EU-Turkey Statement, so far there have been 1,699 decisions - 132 on admissibility and 1,567 on merits.

12. The Greek Appeals Authority acknowledges the importance and urgency of this work and has continued to improve the workflows through better prioritisation, use of IT tools, and ensuring they have the proper equipment. Even so, decision-making is still slow (on average around 30 per week since the last Report). At the
time of this Report, the Hellenic Council of State’s decision on whether Turkey can be considered a safe third country for the return of two Syrian asylum seekers was still pending.

Situation on the islands
13. There are currently 13,372 migrants on the Greek islands, whilst there are 5,576 places in official reception facilities and a further 1,031 places under the UNCHR’s rental scheme, as well as 228 places for unaccompanied minors in accommodation run by the Greek Centre for Social Solidarity. The Greek authorities and the Commission continued working to improve conditions in the hotspots and on the islands. Improved data sharing and the use of lists has been put in place to keep shelter allocations up to date as well as reduce asylum processing backlogs.

14. The new pre-removal centre was completed in Kos increasing capacity to 500 places. Work on pre-removal detention areas in Lesvos and Samos have been completed with a capacity of 210 places. The work to increase pre-removal capacity on Chios and Samos has not yet started. The Commission invites Greece to take the necessary steps to make improvements across all of the islands. Security drills and evacuation exercises have taken place at all hotspot islands given concerns over safety and public order.

EU financial assistance to Greece
15. Greece has made progress in the gradual transition from EU Emergency Support, including under the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), to Greece’s multi-annual national programmes also under the AMIF and ISF. As of 4 September, €410 million of EU Emergency Support within the EU had been contracted to respond to the humanitarian needs of refugees and migrants in Greece. And to assist the transition, on 16 August AMIF funding was reinforced with additional funds of €28 million, bringing the total national programme AMIF and ISF to €537 million for 2014-2020. The focus of the emergency and national programmes has been on increasing reception capacity on the islands, providing shelter for unaccompanied minors, shifting from camps to rented accommodation, providing food, and work with UNHCR to ensure uninterrupted provision of services.

“One for one” resettlement from Turkey to the EU
16. As of 4 September, the total number of Syrians being resettled from Turkey under the 1:1 framework increased to 8,834. In the reporting period, 2,580 were resettled to Austria, Belgium, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Portugal, Romania, Spain, Sweden, and The Netherlands. The total number of persons approved and awaiting resettlement is currently 1,831. Therefore the Commission consider that the pace of resettlement needs to be increased in order to meet the 2017 pledges. To facilitate this pace, the Turkish authorities have provided larger lists of referrals, listing almost 23,500 people. However, 13 Member States have not yet resettled from Turkey although work is under way via the EU Delegation and UNHCR to address this.

Prevention of new sea or land routes for irregular migration
17. 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. between 9 June and 3 September, 1,363 migrants arrived in Italy from Turkey and two boats arrived in Cyprus carrying a total of 228 migrants). The number of irregular crossings detected at Turkey’s land borders with Bulgaria and Greece have remained low
but are being carefully monitored. 87 EBCGA officers are present at the Bulgarian-Turkey Border and 20 EBCGA officers at the Greece-Turkey border.

Voluntary Humanitarian Admission Scheme
18. The negotiation of the Standard Operating Procedures for the Voluntary Humanitarian Admission Scheme with the Participating States and Turkey are progressing. 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
19. 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. 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
20. 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 28 June 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. Of €2.9 billion allocated, contracts have been signed for 48 projects totalling €1.65 billion. It is expected that almost €1.4 billion will be contracted by the end of 2017. Of this Facility, €714 million is the humanitarian strand which is focused on the most vulnerable, and €1.071 billion supports non-humanitarian projects. Details of the projects are presented in 12019/17 Annex 2.

21. The humanitarian projects provide basic needs, protection, education, health, food and shelter. As of September 2017, the Emergency Social Safety Net has supported 860,000 persons and aims to support 1.3 million persons by the end of 2017. The Conditional Cash Transfer for Education project currently reaches 72,000 beneficiaries, and the Commission expects 230,000 children to benefit in the project’s first year.

22. Non-humanitarian projects aim to enhance access to employment opportunities, vocational and language training and life skills, in addition to increased hospital and school infrastructure for Syrian refugees within Turkey. Other projects focus on helping Turkish host communities cope with the pressure, through additional health and municipal infrastructure.

Upgrading the Customs Union
23. The Commission invites the Council to finalise this work to allow the start of negotiations on an important agreement that would unleash still untapped potential in EU-Turkey trade and economic relations.

Accession process
24. 16 Chapters have been opened so far. No meetings took place in this reporting period.

Humanitarian conditions inside Syria
25. 6.3 million people are internally displaced, many of them multiple times, and 13.5 million people require urgent assistance. The 2017 UN appeal for Syria amounts to €3.3 billion which has to date been matched at 35%.
26. Ongoing fighting and other restrictions by all parties to the conflict across Syria challenge the delivery of humanitarian aid to the estimated 4.5 million people in hard-to-reach locations and including 540,000 people in besieged areas. The UN believes it has reached only 13% in hard-to-reach and only 39% in besieged areas. Cross-border assistance from Turkey and Jordan remain increasingly important.

27. 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. The EU welcomes all efforts in this regard, provided that international humanitarian law is respected.

Conclusion
28. The EU-Turkey Statement has continued to deliver concrete results. It has reduced irregular and dangerous crossings and lives lost in the Aegean Sea, and seen delivery the practical impact of projects to support Syrian refugees and host communities in Turkey under the Facility for Refugees in Turkey and resettlement from Turkey. But continuous efforts and political determination are needed to ensure the full and sustained implementation of the EU-Turkey Statement. The Commission will continue to drive the work forward, including urgent work on the Greek islands, improvements to Greece’s asylum management capacity, delivery of the Facility and agreement and activation of the Voluntary Humanitarian Admission Scheme.

SCRUTINY HISTORY
29. The Sixth Report on the Progress made in the Implementation of the EU-Turkey Statement 10294/17 is still outstanding in the Commons and was cleared by the Lords on 25/07/17.

MINISTERIAL RESPONSIBILITY
30. 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
31. The Developed Administrations have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES
i. Legal basis
32. This is an information update report from the Commission and there are no legal obligations

ii. European Parliament Procedure
33. This report has been sent to the European Parliament for information only.

iii. Voting procedure
34. Not applicable to this document as it is not a legislative proposal.
iv. Impact on United Kingdom Law
35. None. This document is not a legislative measure.

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

vi. Fundamental rights analysis
37. 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

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

SUBSIDIARITY

39. 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

40. The Government welcomes evidence of continued consolidated results since the last report. 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.

41. We note the significant impact the Statement has had in reducing the flow of irregular migrants from Turkey to Greece. The numbers remain very low in comparison to summer 2015. We are aware of numbers increasing on the route from Turkey to Romania across the perilous Black Sea in recent months – around 475 people arrived in one month this summer, compared to 500 in total from 2013 to 2015 - but understand Romania, with Schengen Member support, is acting swiftly to address the rise. We agree with the Commission that continued efforts are needed to ensure continued delivery of the Statement and control other routes into Europe. We also continue to monitor arrival trends.

42. The UK has played a leading role in supporting Greece and Turkey to implement the Statement. Border Force vessels have 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. We currently have two cutters deployed in the Mediterranean; including one (HMC VALIANT) which is based in the Aegean to support the Hellenic Coastguard and Frontex Operation Poseidon. Border Force will continue providing this support function for the next three years subject to annual reviews.

43. 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. The UK provides the equivalent of 4 full time debriefers and screeners and 2 full time interpreters to support Frontex Operation Poseidon Sea. The debriefers gather information on the OIC networks operating and the
routing of the migrants; and the screeners establish migrants’ identities with the
view to help facilitate the return of those with no right of stay. Since the last
Report, in July 2017 Jamal Owda, the UK-based main subject of an organised
crime group responsible for smuggling approximately 100 Syrian migrants across
the European border each day for 16 months, was extradited to Greece after a
lengthy appeal failed. Owda had been arrested by the NCA in December 2015 as
part of a multi-agency operation led by the Hellenic Police. The extradition is
the result of continued collaboration between the UK’s OIC Taskforce and overseas
law enforcement partners.

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.

45. As previously reported, last year the UK provided 115 expert staff to Greece to
support the inadmissibility process, accelerate returns, and ease overcrowding.
And in June, the UK committed to continue our long-running specialist
deployments to the EU Commission team in Athens and to provide further expert
support to EASO in Greece on an ongoing basis. The UK was therefore the
fourth biggest contributor of resources to EASO in 2016, behind only Germany,
France and the Netherlands.

46. On returns, we note that arrivals still outpace returns. We therefore note with
interest that, since this Report was published, on 22 September the Supreme
Court in Greece ruled that Syrian refugees can be returned to Turkey as part of
the EU Turkey statement. They rejected the claims by two Syrians that Turkey is
not a safe country for them to return to; the court found deported refugees face
no threat of torture, inhumane or degrading treatment, or punishment in Turkey.
Although this does not set a binding precedent for Greece’s lower courts, it
should be influential. We are watching developments closely for impacts on the
Greek appeals committees’ speed of decision-making and reaction to
“inadmissible” decisions that come to them on appeal, with implications for
returns.

47. At the same time, we continue to assess the impact of the Greek move to a two
stage case-work procedure, which includes the eligibility process, i.e. substantive
consideration of asylum claims. As previously considered, this makes the
process more complex and significantly lengthens the end to end process. This
risks effectively reversing the original intention of the agreement, which was to
return as many migrants as possible to Turkey to have their asylum claim
considered there. We continue to strongly support and lobby for the use of ‘light
touch’ admissibility interviews as the ideal way to faster decision making.

48. 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, and they continue to
allow refugees access to work and provide schooling for over 500,000 Syrian
children.

49. The UK also continues to provide assistance aimed at law enforcement and
migration agencies in Turkey: £3.9m in 2016/17, and £3.4m in 2017/18 from the
CSSF. Our projects are aimed at strengthening border management, improving
law enforcement response to irregular migration, and supporting Turkey’s
integration policies. During her visit to Turkey in September, the Home Secretary
and Turkish Interior Minister committed to continued bilateral cooperation on migration and officials are following up further opportunities to work together.

50. The UK has also supported Turkey to establish itself as a safe third country. As part of the EU-Turkey deal, in 2016 the UK committed to provide €328m to the €3bn Facility for Refugees in Turkey (FRIT) – in addition to our contribution through the EU budget – which aims to improve conditions for refugees in Turkey and thus reduce the need for onward movement. We note the developments on the allocation of EU funding to projects under FRIT, especially for humanitarian support and long term stability. We encourage the EU to do more to communicate the benefits of the FRIT to the Turkish public, including the elements that support host communities and underline longer term integration.

51. In addition to our humanitarian aid to Syrian refugees in the region, the UK is also a major donor to the Mediterranean Migration Crisis response, having allocated £175 million – including more than £39 million for Greece - in humanitarian assistance. In Greece, the UK’s £10 million Refugee Children Fund has supported the needs of vulnerable refugee and migrant children. The fund has provided targeted support to meet the specific needs of unaccompanied and separated children, bridging a gap in the humanitarian response.

52. 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

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

FINANCIAL IMPLICATIONS

54. 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 identify the resource requirements (personnel and funding) needed to support enduring deployment.

TIMETABLE

55. This Report will be presented to the European Council on 19 October. The Commission will continue to monitor the implementation of the EU-Turkey Statement and will present its next Report in due course.

Rt Hon Brandon Lewis MP
Minister of State for Immigration