**11302/13 and ADD 1**

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**EXPLANATORY MEMORANDUM (EM) ON EUROPEAN UNION DOCUMENT**

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: 4TH ANNUAL REPORT ON IMMIGRATION AND ASYLUM (2012) 11302/13**

**COMMISSION STAFF WORKING DOCUMENT ACCOMPANYING THE DOCUMENT 11302/13 ADD 1**

Submitted by the Home Office on July 2013

**SUBJECT MATTER**

1. The European Commission has published its 4th Annual Report on Immigration and Asylum; it presents a snapshot of EU migration in 2012. The report is accompanied by a Commission Staff Working Document, which presents key statistics relating to this period and provides additional detail on the main actions undertaken at EU and Member State level for each of the commitments made in the European Pact on Immigration and Asylum and the Stockholm Programme.
2. The 4th Annual Report focuses on migration as a tool for growth, the situation with regard to asylum and international protection (including EU solidarity for Greece and the impact of the Syrian crisis) and the EU’s policy response to migratory pressures. Concluding remarks outline the Commission’s views on key challenges.

**SCRUTINY HISTORY**

1. This is the 4th Annual Report. The 3rd Annual Report (Communication from the Commission to the EP and the Council: Third Annual Report on Immigration and Asylum, document 10950/12) was cleared by the Lords’ European Union Committee (EUC) on 3 July 2012, and by the Commons’ European Scrutiny Committee (ESC) on 12 September 2012.
2. The EU Pact on Immigration and Asylum, document 10972/09, was cleared by the EUC and by the ESC on 30 June 2010. The Stockholm Programme, document 8895/10, was cleared by the EUC on 30 June 2010 and by the ESC on 8 September 2010.

**MINISTERIAL RESPONSIBILITY**

1. The Home Secretary has overall responsibility for migration and asylum policy in the United Kingdom.

**INTEREST OF THE DEVOLVED ADMINISTRATIONS**

1. The devolved administrations have been consulted in the preparation of this EM.
2. Although immigration policy is reserved to UK Government Ministers, the Scottish Government has an interest in matters such as immigration for economic purposes, integration of migrants in host communities and action against human trafficking.
3. Although Asylum and Immigration are excepted matters under Schedule 2 of the Northern Ireland Act 1988, Northern Ireland does have an interest in these issues.

**LEGAL AND PROCEDURAL ISSUES**

1. Legal basis
2. Not applicable.

ii) European Parliament procedure

1. Not applicable.

iii) Voting procedure in the Council

1. Not applicable.

iv) Impact on United Kingdom Law

14. Not applicable.

v) Application to Gibraltar

15. Not applicable.

vi) Fundamental Rights Analysis

16. No fundamental rights issues arise from this report.

**APPLICATION TO THE EUROPEAN ECONOMIC AREA**

1. Elements of the report apply to Norway, Iceland, Switzerland and Liechtenstein, which participate in the Schengen area and elements of the Common European Asylum System (CEAS) under individual Agreements concluded with the European Union and European Community.

**SUBSIDIARITY**

1. Not applicable. The objective of the report is to provide information.

**POLICY IMPLICATIONS**

1. The 4th Annual Report summarises developments in 2012 at national and EU level in the area of migration and asylum and outlines continuing work and future challenges in this area.
2. The report’s ‘snapshot’ of EU migration in 2012 notes the EU’s total population increased by 2.6% in the year to 1 January 2012, made up of a natural increase of 0.4%, with net migration contributing the remainder.
3. The Commission’s Report highlights an increase of 9.7% in asylum applications across the EU compared to 2011, primarily due to those fleeing the conflict in Syria (7% of asylum applications). Afghanistan, Russia, Pakistan and Serbia are also identified as principal countries of origin. Around 27% of applications resulted in a grant of protection at first instance. There was also a slight increase in the numbers of unaccompanied minors applying for asylum, with the largest numbers coming from Afghanistan.
4. Although statistics on illegal migration are unreliable, the proxy indicators are outlined, with the Commission’s figures showing an 8% decrease in refused entries and a 4% decrease in returns since 2011, alongside a decrease in apprehensions. With regard to trafficking in human beings, the clear majority (62%) are trafficked for sexual purposes, with a significant minority (25%) trafficked for forced labour.
5. The report highlights expected trends in the EU’s working age population over the next 50 years, and a commensurate increase in the old-age dependency ratio. While noting that it offers no panacea, the report suggests well-managed migration ‘can play a positive role’ in this regard and in alleviating shortages in specific labour market sectors.
6. The report points to the need for the EU to compete globally for talent, highlighting the role of the Global Approach to Migration and Mobility (GAMM) as a potential facilitator, and noting progress on the recast legislation on inter-corporate transferees, seasonal workers, and third-country students and researchers.
7. With regard to the GAMM, the Commission note the development of new Mobility Partnerships in the southern neighbourhood, and several regional and sub-regional dialogues, including dialogue with the countries of the Silk Route. The links between migration and development are noted, and the report highlights EU preparations for the forthcoming second UN High-Level Dialogue on Migration and Development.
8. Recent reforms to our immigration system have sought to ensure that the management of migration to the UK is focused on identifying and attracting global talent, including entrepreneurs, investors and those who possess skills which are in short supply in the labour market. These reforms have also been intended to reduce overall net migration; this has placed a premium on ensuring that migration is restricted to those who will make the greatest economic contribution.
9. In terms of the development of a coherent strategy for managing economic migration, the Government’s position is that the matching of migration policy to economic needs is best determined at national level and that labour market shortages are best met by bringing unemployed workers back into the labour market and by raising the retirement age. The UK has not opted in to EU legal migration measures on seasonal workers and intra-corporate transfers.
10. While recognising the role played by the facilitation of legal migration and mobility as part of the GAMM, the Government believes it is important to maintain the ‘balanced’ approach to GAMM implementation agreed by the EU and Member States. On this basis, the facilitation of legal migration (including highly skilled workers) under the GAMM should not be emphasised at the expense of joint efforts to prevent irregular migration and trafficking, enhance international protection, and maximise the development impact of mobility and migration.
11. More generally, I believe that the GAMM plays a useful role as the EU’s external migration policy framework, and welcome its focus on facilitating practical cooperation with third countries, although I also think more could be done to ensure a strategic approach under the GAMM, focussed on key countries of origin and transit.
12. The Government supports the use of the Mobility Partnership instrument and the UK has recently signed the new EU Mobility Partnership with Morocco. We are also playing a leading role in the development of the new Silk Routes Partnership, a key regional initiative, and we are currently working with our EU partners on a coherent approach to the UN High Level Dialogue on 3-4 October.
13. The report also highlights the role of the proposals on ‘Smart Borders’ (the ‘Entry-Exit System’ and the ‘Registered Traveller Programme’), suggesting that smarter border and visa controls will contribute to growth, particularly via tourism, while ensuring a high level of security.
14. These proposals build on elements of the Schengen agreementin which the UK does not participate. However the Government sees the value of the successful introduction of the ‘Smart Borders’ measures, which would enable better measurement and control of illegal migration.
15. With regard to integration, the report stresses the need for effective measures across the EU, involving both migrants and host societies, suggesting more could be done to ensure the integration of migrants already in the EU, and expresses concern over increasing incidents of xenophobic violence and higher unemployment rates for third country nationals compared to the EU average (21.3% compared to 10.5%). A particular emphasis is placed on the social inclusion of young people.
16. The UK has active integration programmes, designed to build common ground and promote social mobility within disadvantaged communities, including for young people.  These programmes help build shared identity at community and national level.  There are also programmes to counter hate crime and discrimination.
17. The Government is also strengthening the requirement that those seeking to live permanently in the UK or naturalise as British citizens should have knowledge of language and life within the UK. From October, applicants will need to demonstrate an ability to communicate in spoken English and will also need to pass a revised Life in the UK test, which emphasises British history, culture and democratic values.
18. In the area of International Protection, the report highlights the political agreement on the final two pieces of legislation for the second phase of the Common European Asylum System (CEAS) in March 2013 (i.e. the recast Asylum Procedures Directive and the EURODAC Regulation). The report also notes the ‘intense debate’ on solidarity in 2012 (including the Commission’s Communication on Intra-EU Solidarity) and the further development of the European Asylum Support Office (EASO), including its role in identifying and helping to address pressures at an early stage.
19. The second phase CEAS instruments were adopted in June 2013. The UK does not participate in the amended asylum Directives, including the recast Asylum Procedures Directive, but we have opted in to both the amended Dublin and EURODAC Regulations.
20. I am committed to working with the UK’s EU partners to address the challenges to the integrity of our asylum systems and helping those who are genuinely in need of protection. The Government fully supports the work of the EASO in developing practical cooperation as a measure of solidarity, and in establishing the Early Warning and Preparedness Mechanism to assist Member States in dealing with emerging pressures, and we are pleased with the progress that the EASO has made in developing these practical tools.
21. The report points towards the Greek National Action Plan on Migration and Asylum, the conflict in Syria, and relocation within the EU, notably via the EUREMA II project, as three key tests for Member States’ solidarity, and suggests that all three demonstrate ‘the need to develop further the implementation in practice of the solidarity commitments made’.
22. On Greece, the report highlights the role played by the Commission, the EASO and Member States in supporting improvements to Greece’s asylum and migration system. However, while welcoming positive developments, including the new independent asylum service, the Commission believes further work is needed, in particular with regard to the respect of human rights in detention facilities, access to asylum procedures, and on the availability of open reception facilities.
23. The Government shares the concerns raised by the Commission’s report, but also recognises the difficult circumstances in which Greece is trying to improve its asylum and migration system. We are therefore working bilaterally with Greece, as well as through the EU, to support the implementation of the revised Greek Action Plan.
24. The Government has yet to be convinced of the benefits of intra-EU relocation of beneficiaries of international protection as a tool for solidarity. In our view, relocation simply moves the problem around Europe rather than dealing with it at source, and can encourage more irregular migration to the country under pressure. For these reasons, we are not in favour of developing the EUREMA II project further or establishing a more permanent scheme in this respect.
25. On Syria, the report notes that the vast majority of those fleeing the conflict have gone to Jordan, Turkey, Lebanon and Iraq, although the EU – and in particular Sweden and Germany – has seen substantial numbers of asylum claims in this context. The report notes the EU’s development of a Regional Protection and Development Programme (RPDP) to complement immediate humanitarian assistance, as well as the provision of financial support to UNHCR to support their work in the region.
26. The Government is extremely concerned about the worsening humanitarian crisis in Syria. We are committed to working with EU and international partners, in particular the UNHCR, and with neighbouring countries, to address this situation. Alongside broader efforts to provide urgent humanitarian assistance, the UK supports EU plans to establish a RPDP to assist those fleeing the crisis and to support host communities.
27. The report also places emphasis on resettlement of refugees from third countries as an aspect of international solidarity, highlighting common EU resettlement priorities agreed in March 2012 and the negotiations on the new Union Resettlement Programme in the context of the new Asylum and Migration Fund (AMF), while noting the voluntary nature of resettlement.
28. I consider the inclusion of a voluntary EU resettlement programme within the AMF to be acceptable, and support a considerable level of involvement from the UNHCR within the decision making process. However, it is important that joint EU efforts on resettlement remain voluntary.  The UK’s Gateway programme demonstrates our own commitment to supporting UNHCR’s global efforts to provide durable solutions for some of the world’s most vulnerable refugees. We resettle an annual quota of 750 identified refugees under this programme.
29. With regard to trafficking in human beings, the report stresses the need for strong cooperation between the EU and its Member States, highlighting Nigeria and China as key source countries. The Report also notes significant developments in 2012, including the EU’s Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 and Council Conclusions on the Strategy. The Commission places particular emphasis on the external dimension, highlighting the requirement for improved cooperation with third countries of origin, transit and destination.
30. The report also notes the relevance of the mid-term report on the implementation of the Action Plan on Unaccompanied Minors (2010-2014), and the need to improve data collection, to prevent unsafe migration, to provide for reception and procedural guarantees, and to identify sustainable solutions as well as preventing the trafficking of minors.
31. The UK has implemented the EU Directive on the Prevention of Trafficking in Human Beings, which came into force in April 2013. We work closely with the EU to progress actions in relation to the EU Strategy, which closely aligns with the UK strategy published in July 2011. The UK’s priority source countries are kept under review and closely reflect those identified in the Action Orientated Paper on strengthening the external dimension in combating human trafficking. The UK plays a key role in coordinating EU anti-trafficking activity and knowledge sharing through the European Multidisci­plinary Platform against Criminal Threats (EMPACT).
32. The Government remains committed to the welfare of unaccompanied minors and to the role the EU Action Plan on Unaccompanied Minors can play regarding this commitment. We are also reviewing the Home Office’s family tracing procedures and have been actively involved in EASO’s initiatives on both family tracing and age assessment.
33. The last substantive section of the report concerns the EU’s policy response to migratory pressures, noting continuing challenges in this regard, reiterating the EU’s ‘clear aim’ to prevent and control existing pressures and the misuse of legal migration routes. The Commission places particular emphasis on the Council’s adoption of the ‘EU Action on Migratory pressures – A Strategic Response’ in April 2012. Regarding the ‘EU Action’, the report notes the need for close cooperation between the institutional actors, including the Commission and Member States, in accordance with their competencies and roles.
34. Among the developments highlighted in this area are the continued promotion of EU Readmission Agreements (EURAs), including the EU-Turkey Agreement which is now awaiting signature and ratification, the preference for voluntary returns (noting that forced returns are sometime necessary) and the existence of significant numbers of third-country nationals who cannot be returned despite a decision having been taken. The report also highlights the need to tackle abuse of Schengen visa arrangements, noting the use of the post visa liberalisation monitoring mechanism and negotiations on the new visa suspension mechanism.
35. The Government welcomes the report’s emphasis on the EU Action on Migratory Pressures, which is a key tool for ensuring that efforts to combat illegal migration are coherent and comprehensive. I particularly welcome the Commission’s emphasis on close cooperation between the institutional actors, including the Commission and Member States. In this regard, however, it is regrettable that the report fails to report progress on preventing abuse of free movement by third country nationals under Priority Area V of the EU Action. Progress on this issue since the agreement of the roadmap in April last year has been slower than we would like and the Commission’s approach to this issue is defensive and legalistic.
36. UK participation in EURAs is decided on a case-by-case basis. To date we have opted in to thirteen ratified agreements. We have also opted in to the negotiation mandate for the EU-Turkey Agreement, and remain fully supportive of its signature and ratification. However, we believe that negotiations on existing EURA mandates should be taken forward before new agreements are negotiated, and that existing agreements need to be fully recognised and better implemented. The UK also supports EU efforts to tackle abuse of EU visas, having been affected by illegal migration linked to Schengen visa liberalisation arrangements.
37. The report also highlights the role played by Frontex in analysing illegal migration routes and coordinating action on particular pressure points, including the Greece-Turkey border, and broader operational coordination with regard to border security and return. The Commission notes that implementation of the revised Regulation is now a priority for Frontex. It also notes the revised proposal on guidelines for search and rescue operations and the development of EUROSUR proposals, as well as the discussions on legislative proposals for enhanced Schengen governance that continued throughout 2012.
38. I agree with the Commission’s assessment regarding Frontex. The Agency has already made significant progress in implementing the revised Regulation, including the appointment of a Fundamental Rights Officer in September 2012 and the creation of a Consultative Forum on Fundamental Rights in October 2012. The Government sees great value in continuing participation in Frontex operations and activities; this year we have committed to participate in a number of these, including land, sea and air operations. Illegal migration is a global problem which is tackled more effectively by countries working in cooperation with each other. We know that illegal migrants often travel through Europe on their way to the UK, so strengthening the external Schengen borders also provides a direct, though unquantifiable, benefit to the security of our own borders. For that reason, in addition to our work with Frontex, we support efforts to enhance Schengen governance, and welcome recent progress towards agreement on the amendments to the Schengen Borders Code (SBC) and the new Schengen Evaluation Mechanism (SEM).
39. Furthermore, the EUROSUR Regulation, due to become operational later this year, will enable the UK to enter into bilateral or multilateral agreements to exchange information and to cooperate within the framework of the Regulation with neighbouring Member States.
40. The report concludes with a summary of key challenges faced by the EU, many of which are discussed in the body of the report (including the importance of well-managed migration and integration policies, the need to welcome diversity and harness migration as a ‘dynamic force for growth’, and the need to step up the fight against illegal migration and trafficking while ensuring the fundamental rights of migrants and asylum seekers are respected). In this context, the report also highlights the need for budgetary support, suggesting that there is an urgent need to reach agreement on the Asylum and Migration Fund (AMF) and Internal Security Fund (ISF) proposals, and noting the planned ‘policy dialogues’ with Member States, which ‘should lead to a better focus on objectives, results and impacts’.
41. I agree that there is a need to conclude and implement the AMF as soon as possible, so that National Programmes can be approved and actions launched as soon as possible once funding is available under the new Multi-annual Financial Framework. The AMF and ISF Regulations were expected to be presented to Council for adoption in June; however, it is now looking increasingly likely that adoption may be delayed until October.
42. I also agree that the policy dialogues with Member States, which provide for a discussion with senior European Commission officials on how EU Funding will support key migration and asylum policy objectives, should lead to a better focus on results and impacts, while respecting the competence of Member States with regard to national migration policy.

**IMPACT ASSESSMENT**

1. There are no costs arising directly from this report.

**FINANCIAL IMPLICATIONS**

1. There will be no direct financial implications for the UK as a result of this report.

**CONSULTATION**

1. External consultation has not been required beyond consultation with Devolved Administrations.

**TIMETABLE**

1. The 4th Annual Report will be discussed at official level at the Informal Strategic Committee on Immigration Frontiers and Asylum (SCIFA) on 9-10 July and at the Informal JHA Council on 18-19 July.

**Mark Harper MP**

**Minister of State for Immigration**

**HOME OFFICE**