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COMMISSION DECISION

of 10.2.2016

**on the Facility for Refugees in Turkey amending Commission Decision C(2015) 9500 of
24.11.2015**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular its Articles 210 (2) and Article 214 (6),

Whereas:

- (1) The Representatives of the Governments of the Member States discussed the financing of the coordination mechanism – the Facility for Refugees in Turkey- in December 2015 and in January 2016. On 3 February 2016 they agreed on a 'Common Understanding establishing a governance and conditionality framework for the Refugee Facility for Turkey between the EU Member States and the Commission' (hereinafter referred to as 'Common Understanding').
- (2) The Commission acknowledges the expressed intentions of the Member States to contribute EUR 2.000.000.000 out of a total amount of EUR 3.000.000.000. The progressive delivery of the assistance is conditional on the implementation of the understanding between the European Union and the Republic of Turkey to step up their cooperation on support of Syrians under temporary protection and migration management in a coordinated effort to address the crisis ("the EU-Turkey Joint Action Plan"). Decisions relating to and actions providing humanitarian assistance will be implemented in line with Council Regulation (EC) No 1257/96¹ and according to the principles laid down in the European Consensus on Humanitarian Aid².
- (3) The individual financial contributions from Member States will be included into the Union's budget as external assigned revenue in accordance with Article 21 (2) (b) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and repealing Council regulation (EC, Euratom) No 1605/2002³. The Commission as having the sole responsibility for implementing the Union's budget in accordance with Article 317 TFEU, shall, on behalf of the Union, be notified the contribution certificates by the Member States. These contribution certificates allow to make the commitment appropriations available upon their notification in line with Article 7 (2) of Commission Delegated Regulation (EU) No 1268/2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union⁴. The

¹ OJ L 163, 2.7.1996, p.1

² Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission ' The European Consensus on Humanitarian Aid', OJ C25, 30.1.2008, p. 1

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 362, 31.12.2012, p. 1.

individual contribution certificates will be based on a single template allowing for adaptation, where necessary, to specific needs.

- (4) In view of the Common Understanding and with the aim of ensuring a higher degree of efficiency and coordination in the implementation of the Facility for Refugees in Turkey, it is necessary to amend Commission Decision C(2015)9500 accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2015)9500 is amended as follows:

1. The recitals of Commission Decision C(2015) 9500 are amended as follows:

- Recital 9 is replaced by the following text:

'(9) The overall objective of the Facility for Refugees in Turkey is to coordinate and streamline actions financed from the Union's budget and bilateral contributions from Member States in order to enhance the efficiency and complementarity of support provided to refugees and host communities in Turkey';

- Recital 11 is replaced by the following text:

'(11) EU instruments currently used in response to the Syrian crisis, such as the European Neighbourhood Instrument (ENI)⁵, the Development Cooperation Instrument (DCI)⁶, the Instrument for Pre-Accession Assistance (IPA II)⁷, the Instrument contributing to Stability and Peace (IcSP)⁸ and funding under Council Regulation (EC) No 1257/96 concerning humanitarian aid⁹ may contribute to the Facility for Refugees in Turkey within the limits laid down in the multi-annual financial framework 2014-2020. Any humanitarian assistance under the Facility for Refugees in Turkey shall be administered and provided in full respect for humanitarian principles and the European Consensus on Humanitarian Aid¹⁰.';

- Recital 13 is replaced by the following text:

'(13) In line with the 'Common Understanding establishing a governance and conditionality framework for the Refugee Facility for Turkey between the EU Member States and the Commission' (hereinafter referred to as 'Common Understanding') agreed on 3 February 2016, the Commission acknowledges the expressed intentions of the Member States to contribute EUR 2.000.000.000 out of a total amount of EUR 3.000.000.000. The progressive delivery of the assistance is conditional on the implementation by Turkey of its commitments under the EU-

⁵ Regulation (EU) No 232/2014 of the European Parliament and of the Council establishing a European Neighbourhood Instrument, OJ L 77, 15.3.2014, p. 27.

⁶ Regulation (EU) No 233/2014 of the European Parliament and of the Council establishing a financing instrument for development cooperation, OJ L 77, 15.3.2014, p. 44.

⁷ Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession Assistance, OJ L 77, 15.3.2014, p. 11.

⁸ Regulation (EU) No 230/2014 of the European Parliament and of the Council establishing an instrument contributing to stability and peace, OJ L 77, 15.3.2014, p. 1.

⁹ OJ L163, 2.7.1996, p. 1.

¹⁰ Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission 'The European Consensus on Humanitarian Aid', OJ C25, 30.1.2008, p. 1

Turkey Joint Action Plan. Decisions relating to and actions providing humanitarian assistance will be implemented in line with Council Regulation (EC) No 1257/96¹¹ and according to the principles laid down in the European Consensus on Humanitarian Aid¹².';

- Recital 14 is deleted;

- Recital 15 becomes Recital 14 and is replaced by the following text:

'(14) As agreed in the Common Understanding, financial contributions from Member States will be included into the Union's budget as external assigned revenue in accordance with Article 21 (2) (b) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and repealing Council regulation (EC, Euratom) No 1605/2002¹³. The Commission as having the sole responsibility for implementing the Union's budget in accordance with Article 317 TFEU will, on behalf of the Union, receive individual contribution certificates from each Member State pursuant to Article 7 (2) of Commission Delegated Regulation (EU) No 1268/2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union¹⁴. The individual contribution certificates will be based on a single template allowing for adaptation, where necessary, to specific needs. Each individual Member State will send the signed contribution certificate with a contribution schedule to the Commission for acknowledgement.'

2. The Articles of Commission Decision (2015) 9500 are amended as follows:

- The title of Article 1 is replaced by the following text:

'Establishment of the Facility for Refugees in Turkey';

- Article 1 is replaced by the following text:

'This Decision establishes a coordination mechanism - the Facility for Refugees in Turkey ("the Facility") - to assist Turkey in addressing the immediate humanitarian and development needs of the refugees and their host communities, national and local authorities in managing and addressing the consequences of the inflow of refugees.';

- In Article 3 paragraph 1 is amended as follows:

'The Facility shall co-ordinate the Union and Member States' actions by setting priorities and by indicating the instruments to be used for the efficient implementation of the actions, in accordance with the mechanism set out in Article 5 of the present Decision.';

- Article 3 paragraph 2 is replaced by the following text:

¹¹ OJ L163, 2.7.1996, p. 1.

¹² OJ C25, 30.1.2008, p. 1.

¹³ OJ L 298, 26.10.2012, p. 1.

¹⁴ OJ L 362, 31.12.2012, p. 1.

'Through the Facility the provision of humanitarian, development and other assistance to refugees and host communities, national and local authorities in managing and addressing the consequences of the inflows of refugees will be coordinated.

Types of actions coordinated through the Facility may cover, *inter alia*:

- (a) The provision of humanitarian assistance to refugees;
- (b) Support contributing to integration in the labour market, access to education and social inclusion of refugees and host communities, including in terms of provision of adequate infrastructures;
- (c) Support to the national and local authorities to address the consequences of the presence of Refugees in Turkey, including in terms of migration flows management and provision of adequate infrastructures.';

- Article 4 paragraph 2 is replaced by the following text:

'EUR 1.000.000.000 out of the overall amount shall be financed from the EU budget, subject to subsequent individual financing decisions in accordance with Article 84 (2) of Regulation (EU, Euratom) No 966/2012 and in accordance with its financial rules and the requirements of the respective basic act.';

- Article 4 paragraph 3 is replaced by the following text:

'On the basis of their pledged financial contributions, Member States will provide an amount of EUR 2.000.000.000 on the basis of the breakdown of contributions based on the Gross National Income (GNI) key based on the 2015 budget';

- Article 5 paragraph 1 is replaced by the following text:

'1. The steering committee of the Facility shall:

(i) provide strategic guidance on the coordination of the assistance to be delivered. The strategic guidance shall consist in setting overall priorities, types of actions to be supported, the instruments to be used for the efficient implementation of the actions and the coordination of the actions as well as, when appropriate, conditions relating to the implementation by Turkey of its commitments under the EU-Turkey Joint Action Plan for the delivery of assistance.

(ii) permanently monitor and assess the implementation of the actions coordinated under the Facility, including respect of the conditionality requirements, having regard to the assessments carried out by the structures established with the purpose of monitoring progress in the implementation of the commitments reflected in the EU-Turkey Joint Action Plan.

(iii) examine the disbursement forecasts relating to the implementation of actions submitted by the Commission and, where appropriate, may propose that the Commission defer all or part of the call related to one or more later instalments due.

(iv) monitor contributions from Member states, according to the contribution schedule provided for in the contribution certificate of each Member State, recalling the agreed amount of EUR 2.000.000.000.

The steering committee shall be composed of two representatives of the Commission and one representative of each Member State.

As far as possible the steering committee shall provide its strategic guidance by consensus. In the event of a vote, the outcome of the vote shall be decided by a simple majority of the members.

Turkey shall be a member of the steering committee in an advisory capacity with respect to paragraph (1) (i) and (ii), so as to ensure full coordination of the actions on the ground, except when the steering committee examines strategic guidance concerning conditions relating to the implementation by Turkey its commitments under the EU-Turkey Joint Action Plan for the delivery of the assistance or monitors and assesses the respect of these conditions.

It shall be ensured that Member States and the Commission representatives in the Committee are not in a situation of conflict of interests, as defined by Regulation (EU, Euratom) No 966/2012.';

- Article 5 paragraph 2 is replaced by the following text:

'The Commission shall chair the steering committee and shall have a leading role in coordinating its work.

The Commission shall have a right to veto strategic guidance of the steering committee with the sole aim of ensuring the legality of any subsequent decision, including its compatibility with its responsibility for implementing the Union's budget. Where the Commission intends to use this right, it shall justify, upon request, why a draft decision would be inconsistent with any of the aforementioned requirements.';

- Article 5 paragraph 3 is replaced by the following text:

'Upon proposal by the Commission, the steering committee shall draw up and adopt its rules of procedure within three months of the date of adoption of this Decision.';

- In Article 6 the headings 'EU budget' and 'Member States contributions' are deleted.

- Article 6 paragraph 3 is replaced by the following text:

'Actions and measures to be coordinated under the Facility will be implemented in accordance with the financial rules applicable to the Union's budget and the requirements of the respective basic acts.';

- In Article 6 the following text is added to paragraph 4:

'In the management of the amounts coordinated under the Facility the strategic guidance provided by the steering committee referred to in Article 5 shall be fully taken into account, in particular with regard to the conditions of the delivery of the assistance.';

- Article 9 paragraph 1 is amended by the following text:

'This Facility is established as from 1st January 2016 for financial contributions under the budgetary years 2016 and 2017. It will be managed on the basis of Member States' contributions and their timing, communicated to and acknowledged by the Commission'.

3. The annex is deleted.

Done at Brussels, 10.2.2016

For the Commission
Johannes HAHN
Member of the Commission