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REPORT FROM THE COMMISSION TO THE COUNCIL

Eleventh report on the implementation of Council Regulation (EC) No 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2014

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Council Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol No 10 to the Act of Accession¹ (hereafter Green Line Regulation, GLR) entered into force on 1 May 2004. It defines the terms under which provisions of EU law apply to the movement of persons, goods and services across the Line between the areas of the Republic of Cyprus in which the government does not exercise effective control and the areas in which it does. In order to ensure the effectiveness of these rules, their application was extended to the boundary between these areas and the UK Eastern Sovereign Base Area (ESBA).²

This report covers the period 1 January – 31 December 2014.

The Commission has maintained a constructive dialogue with the relevant authorities of the Republic of Cyprus, the Sovereign Base Area (SBA) Administration on the implementation of the Regulation, as well as with the Turkish Cypriot Chamber of Commerce (TCCoC).

1. CROSSING OF PERSONS

1.1. Crossing at authorised crossing points

The Regulation provides a stable legal framework for the free movement of Cypriots, other EU citizens and third country nationals who cross the Green Line (hereafter "the Line") at authorised crossing points. There was an increase in both the number of Greek Cypriots and Turkish Cypriots crossing in 2014 compared to previous years.

According to data from the Republic of Cyprus, 589,906 (previous: 520,410) crossings by Greek Cypriots and 200,562 crossings by Greek Cypriot vehicles (previous: 183,185) were noted from the government-controlled areas to the northern part of Cyprus and 927,141 (previous: 877,759) crossings by Turkish Cypriots and 346,495 crossings by Turkish Cypriot vehicles (previous: 323,655) from the northern part of Cyprus to the government-controlled areas during the reporting period³.

The number of EU citizens other than Cypriots and third country nationals crossing the Line increased significantly. According to data from the Republic of Cyprus Police (hereafter CYPOL), during the reporting period a further 732,856 crossings took place by EU citizens other than Cypriots and by third country nationals (previous: 517,580). 77% of these crossings (565,742) occurred at the Ledra Street crossing point which continued to account for the vast majority of crossings by non-Cypriots (primarily tourists).

The figures gathered by the Turkish Cypriot community indicate an increase in the number of crossings by Greek Cypriots (i.e. 838,876) and an increase in the number of crossings by Greek Cypriot vehicles (i.e. 281,521) from the government-controlled areas to the northern part of Cyprus. They also indicate a decrease in the number of crossings by Turkish Cypriots (i.e. 1,257,530) and an increase in the number of crossings by Turkish Cypriot vehicles in the

¹ OJ L 161, 30.04.2004, p.128. Regulation as last amended by Council Regulation (EU) No 685/2013 of 15 July 2013, OJ L 196, 19.7.2013, p. 1- known as the "Green Line" Regulation.

² See 3rd recital of the Green Line Regulation.

³ The authorities of the Republic of Cyprus do not keep records for the return of Greek Cypriots to the government-controlled areas or the return of Turkish Cypriots to the northern part of Cyprus.

other direction (i.e. 484,186). There were 1,157,812 foreign nationals crossing from the government-controlled areas to the northern part of Cyprus.

The CYPOL figures mentioned above, however, do not include data on persons and vehicles crossing from the northern part of Cyprus at the *Pergamos* and *Strovia* crossings points.⁴ The ESBA reports, based on information from the Turkish Cypriot community, that 108,893 (previous: 84,551) Greek Cypriots crossed to the northern part of Cyprus and 273,607 (previously: 216,081) Turkish Cypriots crossed the Line in the other direction, while 258,348 EU citizens other than Cypriots and third country nationals crossed in both directions, through the crossing points situated within the ESBA.

In 2014, the number of CYPOL personnel working directly at the crossing points decreased to 72 (75 in 2013).

The authorities of the Republic of Cyprus did not allow the crossing to the government-controlled areas of a Turkish Cypriot bus carrying EU citizens at the Agios Dhometios crossing point on 26 February 2014. The Republic of Cyprus has informed the Commission that, while the driver had a temporary permission, it was not in possession of the Operator Licence required under Regulation No 1071/2009 and national law No 101 (I)/(2001). The Commission had already informed the Republic of Cyprus' authorities that it is neither necessary nor appropriate to require an Operator Licence concerning a bus company which is located in the areas where the acquis does not apply and made public its position⁵.

Stability, predictability of practice at the crossing points and legal certainty are essential for attaining the objectives of the Regulation.

With UNFICYP support, important steps were taken to facilitate the practice of religious worship as mentioned in the January 2015 UNSG report⁶. Religious leaders and worshippers benefited from easier crossing possibilities in both directions.

1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2014 continued to indicate a decrease in the number of migrants that irregularly crossed the Line coming from the northern part of Cyprus into the government-controlled areas. Their number amounted in 2014 to 970, while in 2013, 2012 and 2011 it had been respectively 1043, 1265 and 1311⁷. As a probable reason, CYPOL indicates the decrease in employment prospects due to the economic crisis in Cyprus, as well as the increased number of staff and patrols in line with CYPOL's strategic plan for 2012-2015 to combat irregular migration.

⁴ The GLR does not contain reporting obligations for this traffic.

⁵ Ninth report on the implementation of Council Regulation (EC) No 866/2004 of 29 April 2004 and the situation resulting from its application.

⁶ Report of the Secretary-General on UNFICYP [S/2015/17] of 9 January 2015.

⁷ In order to have a comprehensive view of the irregular migration flows across the Green Line it would be useful to have also information on the number of persons that tried to cross the Green Line but were refused entry into the government-controlled areas. However this information is not available as the Republic of Cyprus does not keep official statistics on this category of persons.

The countries of origin with the highest number of apprehended irregular migrants after having crossed the Line were Syria (619), Pakistan (58), Iran (44), Georgia (33), India (28).

Out of these 970 irregular migrants, 717 persons (74%) applied for international protection in the Republic of Cyprus, the larger part of them being Syrians (583).

Irregular migrants are normally apprehended during controls along the Line and at airports when seeking to leave Cyprus. Third country nationals seeking international protection are normally identified at police stations while applying for asylum.

CYPOL's assessment of the fact that they arrived into the government-controlled areas by irregularly crossing the Line is based on the same criteria as in previous years, primarily through pieces of information included in their documents, statements by migrants and other forms of evidence.

Based on the analysis made by CYPOL, almost all the migrants apprehended in the government-controlled areas, after having irregularly crossed the Line, had previously arrived into the northern part of Cyprus coming from the Turkish territory.

The Turkish Cypriot community informed the Commission that in the northern part of Cyprus efforts are being made to prevent irregular migration. According to the information received, in 2014, 2,160 persons⁸ (all of them arriving from the territory of Turkey) were refused entry into the northern part of Cyprus at different points of entry and 777 persons⁹ apprehended within the northern part of Cyprus, were returned to the territory of Turkey, which had been the last place they had visited before arriving to the island.

Representatives from the two communities meet regularly within a bi-communal Technical Committee on Crime and Criminal Matters (TCCCM) under UN auspices. As an extension to this committee, the two communities continue to actively use the previously established 'Joint Communications Room', which provides a forum for the exchange of information on criminal matters. Good cooperation led to the opening of criminal investigations. As also noted by the UN Secretary-General, the appointment for the first time of serving police officers as Greek Cypriot representatives to the TCCCM signalled a significant step forward in cooperation.¹⁰

CYPOL described co-operation with other relevant governmental departments and the ESBA administration as very good.

Eastern Sovereign Base Area (ESBA)

Overall, irregular migration from the northern part of Cyprus via the ESBA has slightly decreased. In 2014, 9 irregular migrants were apprehended after having crossed the Line

⁸ Nationals of Syria: 699, of Turkey: 403, of Iraq: 136, of Turkmenistan: 90, of Georgia: 33.

⁹ Nationals of Turkey: 274, of Syria: 99, of Turkmenistan: 51, of the Republic of Moldova: 36, of Nigeria: 32.

¹⁰ Report of the Secretary-General on UNFICYP [S/2015/17] of 9 January 2015.

irregularly¹¹. 1,301 persons were not allowed to cross, the vast majority being Turkish citizens. Other foreigners were primarily tourists from the USA, Russia and Australia who arrived via the northern part of Cyprus. These persons were directed to the Agios Dhometios crossing point for processing as per the Republic of Cyprus' entry requirements.¹²

Sovereign Base Area (SBA) officers continue to describe their cooperation with the Republic of Cyprus as excellent.

Away from the crossing points, the SBA Police conducts irregular, risk-based, intelligence-led patrols to counter irregular migration. These patrols are supplemented by patrols from SBA Customs and military assets.

Several "unauthorised crossing points" in or near the village of *Pergamos* used by local residents and farmers are particularly difficult to control. As mentioned in previous reports, these "unauthorised crossing points" remain an area of concern and a suitable solution in line with Article 5 (2) of Protocol No 3 to the 2003 Act of Accession should be found.¹³ The SBA has stated that staff can rapidly be deployed to the areas of the unauthorised crossing points in case of need.

2. CROSSING OF GOODS

2.1. Value of trade

Pursuant to Art 8 of the Commission Regulation (EC) No 1480/2004¹⁴, the Turkish Cypriot Chamber of Commerce (TCCoC) as well as the authorities of the Republic of Cyprus reported on a monthly basis on the type, volume and value of goods for which accompanying documents were issued. Both report on goods having crossed to the government-controlled areas through the crossing points of *Pergamos* and *Strovilia* under the authority of the SBA Administration.

According to the TCCoC, the total value of goods for which accompanying documents were issued amounted to EUR 3,911,189 (previous: EUR 4,311,615). Those figures indicate a decrease of 9,3% of the overall value of goods for which accompanying documents were issued compared to 2013.

According to reports provided by the Republic of Cyprus, the total trade value of goods with accompanying documents which crossed the Line slightly increased by 3,1% to EUR 3,520,045. The increase has been notable for plastic products, building materials, aluminium/PVC products and fresh fish. Stakeholders mention the stabilisation of the economic crisis as the main factor leading to this increase.

¹¹ These 9 irregular migrants intercepted within the ESBA were handed over to the authorities of the Republic of Cyprus and added to the overall number of persons that irregularly crossed the Line and whose breakdown by nationality is provided in Annex VII.

¹² Nationals of Turkey: 837, of USA: 66, of Russia: 58, of Australia: 50, of Ukraine: 33.

¹³ OJ L 236, 23.09.2003, p. 940.

¹⁴ Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

Although not covered by the scope of the GLR, trade from the government-controlled areas to the northern part of Cyprus increased by around 56%, from EUR 799,910 in 2013 to EUR 1,246,930 in 2014 according to figures from the Cyprus Chamber of Commerce and Industry (CCCI). Trade from the government-controlled areas to the northern part of Cyprus represents 35.4% of the trade in the opposite direction (23,4% in 2013).

The Turkish Cypriot community continues to apply a trade regime which in principle "mirrors" the restrictions of the GLR. However, this regime is not always consistently applied, making it difficult to establish sustainable trade relations. Protection of local businesses is openly stated by Turkish Cypriot stakeholders as the main reason.

2.2. Type of goods

In 2014, plastic products were the most traded item, followed by fresh fish, building materials/articles of stone and raw scrap material.¹⁵

New products such as prickly pears and ready-made concrete were introduced but had a very limited impact on the trade. All the trade across the Line was intra-island and there was no export registered to other EU Member States or third countries.

2.3. Irregularities

During the reporting period, the Republic of Cyprus brought to the Commission's attention one particular case of irregularity involving fresh fish of Turkish origin. The Commission informed TCCoC thereof. TCCoC immediately investigated the matter, sanctioned the trader and suspended him from trading across the Green Line until the end of 2014.

2.4. Obstacles and difficulties concerning the movement of goods

Obstacles to trade across the Line continue to persist and this is, in view of the Commission and Turkish Cypriot operators, a reason for the limited level of trade.

As mentioned in previous reports, the issue of Turkish Cypriot commercial vehicles crossing to the government-controlled areas is still not solved. The Commission is convinced that the solution to this issue would significantly contribute to increasing the level of trade as it would ease the transport of goods. It would furthermore strengthen the contact between Cypriot economic operators thus contributing in an important manner to enhancing trust between both communities. To date, no Turkish Cypriot commercial vehicles above 7.5 tonnes can cross the Line unless they have fully acquis-compliant documents issued by the Republic of Cyprus. The authorities of the Republic of Cyprus have informed the Commission that they put in place dispositions to facilitate obtaining roadworthiness certificates and professional driving licences for Turkish Cypriots.

Since summer 2013, the Commission has held contacts with the authorities of the Republic of Cyprus as well as with Turkish Cypriot stakeholders with a view to putting in place a

¹⁵

Annex IV.

mechanism to allow for the crossing of Turkish Cypriot commercial vehicles¹⁶. In the light of the suspension of the *acquis* in the non government-controlled areas as per Protocol No 10 to the 2003 Accession Treaty, such a mechanism could facilitate the crossing of Turkish Cypriot commercial vehicles and address safety considerations. These contacts to find a solution had not produced a result at the end of the reporting period.

As regards processed foods the authorities of the Republic of Cyprus do not allow the crossing of processed food products due to concerns raised by health services regarding the production process in the northern part of Cyprus. The Commission continues as reported previously to believe that under the Green Line Regulation there are no grounds to carry out checks of premises in the northern part of Cyprus to assess if the production takes place in line with Union rules¹⁷. Whilst the authorities of the Republic of Cyprus may take samples of the products for further analysis in line with the application of the Green Line Regulation, they should not prevent all processed food from crossing. To date, the authorities of the Republic of Cyprus still do not permit the crossing of any processed food. Discussions between the authorities of the Republic of Cyprus and the Commission need to continue in order to solve the issue.

As from summer 2013, the Commission undertook similar efforts to those consented for commercial vehicles in view of putting in place a mechanism that facilitates the crossing of processed foods and addresses public health considerations. As per commercial vehicles, discussions have not produced a result at the end of the reporting period.

As in previous years, Turkish Cypriot traders have continued to report difficulties in having their products stocked in shops and advertising their products and services in the government-controlled areas which hinders trade. Traders continue to report on a reluctance among Greek Cypriots to purchase Turkish Cypriot products. In addition, it was mentioned that traders from both communities are faced with many administrative problems when wanting to enter into business with the other community. The economic operators from both sides need to be free to engage in trade relations, based on their business requirements.

The Secretary-General of the United Nations has noted that trade is at a regrettably low level and expressed the view that encouraging trade can only have a positive effect on the objective of reunification.¹⁸

2.5. Smuggling of goods

The smuggling of goods remains widespread, reflecting the geographical pattern of the Line. Control operations take place in areas near the Line in order to tackle seasonal issues in particular such as the transport of game/wild birds or fire crackers (also via the ESBA) to the government-controlled areas.

¹⁶ Ninth and tenth annual report on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

¹⁷ Tenth annual report on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

¹⁸ Report of the Secretary-General on UNFICYP [S/2015/17] of 9 January 2015.

In 2014, the Republic of Cyprus conducted 2,627 seizures (previous: 2,873). In 2014, there has been an increase in the quantities of hand rolling tobacco and a decrease in the quantities of cigarettes seized by the Republic of Cyprus: 140.029 cigarettes and 370.794 gr. of hand rolling tobacco (previous: 175,340 cigarettes and 300,704 gr., respectively). It was reported that for most, this smuggling consists of small quantities. The smuggling is due to the price differentials and the now higher tax of the Republic of Cyprus on tobacco products. Other items seized include mainly goods violating intellectual property rights, as well as animal and dairy products. There were no criminal cases filed in the district court for smuggling. For the majority of the reported cases, an administrative penalty is imposed.

In 2014, there was an increased level of detection of goods within the ESBA. 452 seizures were operated in 2014 (previous: 351) and as previously, cigarettes and hand-rolling tobacco were the most seized items.

Concerning the traditional supply of the Turkish Cypriot population of the village of Pyla, located in the Buffer Zone (Art 4 (10) GLR), the quantities of construction materials, fish, cigarettes etc. are monitored and recorded by the ESBA administration.

2.6. Facilitation of trade

The Commission continues to seek ways of enhancing trade across the Line.¹⁹

The TCCoC continued to express a general interest in the lifting of the prohibition of trade in all live animals and animal products to the extent that these products would comply with EU rules and regulations, including dairy products. The Commission is currently looking into the request to authorise trade of farm fish. The Republic of Cyprus has repeatedly expressed its willingness to examine the possibility of expanding the list of goods that can cross to the government-controlled areas.

The Commission encourages economic operators to take advantages of business opportunities and welcomes the intense efforts undertaken by the Chambers of Commerce.

Following the UNDP having sponsored an off-island brainstorming exercise in Malta in September 2013, the Turkish Cypriot Chamber of Commerce, the Cyprus Chamber of Commerce and Industry, the Union of Chambers and Commodity Exchanges of Turkey and the Athens Chamber of Commerce and Industry created the Nicosia Economic Forum, which met twice in 2014.

2.7. Union goods taken back to the areas under the effective control of the Government of the Republic of Cyprus after passing through the areas which are not under its effective control.

The Republic of Cyprus authorities have reported that 5418 items have been taken back to the government-controlled areas after having passed through the non government-controlled areas. It has been mentioned that these crossings run smoothly and that most of the movement takes place to/from the Kato Pyrgos-Karavostasi and Astromeritis-Zhodia crossing points.

¹⁹ In 2011 the Commission lifted the obligation that potatoes traded across the Line must be grown directly from certified seed potatoes.

3. CONCLUSIONS

As stated in previous reports, the control of the Line at the authorised crossing points by the authorities of the Republic of Cyprus and the SBA and efforts deployed are satisfactory despite budgetary constraints. It is positive to note that the number of persons irregularly crossing the Line continues to decline, but the situation needs to continue to be monitored carefully. The Commission also calls on the SBA Administration to find a suitable solution to address the issue of the "unauthorised" crossing points.

The Commission continues to consider that stability, predictability and legal certainty of the requirements at the crossing points, as well as the free movement of EU citizens, are of paramount importance, and will continue to raise this matter.

In 2014, the value of trade across the Line increased slightly by 3,1% up to EUR 3,520,045 from EUR 3,411,593 according to Republic of Cyprus, while the value of goods for which accompanying documents were issued by TCCoC decreased by 9,3% from EUR 4,311,615 to EUR 3,873,782.15. Plastic products were the most traded item, followed by fresh fish, building materials/articles of stone and raw metal scrap material. The overall scale of the trade remains at a low level, in part due to the specific scope of the Regulation itself.

During the reporting period, certain obstacles to trade remained. Turkish Cypriot commercial vehicles above 7.5 tonnes and processed foods continue not to be authorised to cross by the authorities of the Republic of Cyprus. The Commission services held contacts with the relevant departments of the Republic of Cyprus and other stakeholders in view of putting in place a viable solution that would facilitate the movement of Turkish Cypriot commercial vehicles and the crossing of processed foods while addressing safety and public health issues. No outcome was reached at the end of the reporting period neither on commercial vehicles nor with regard to the issue of processed foods.

Overall, and while the Green Line Regulation continues to provide a workable basis for allowing the passage of persons and goods to and from the government-controlled areas of the Republic of Cyprus, the Commission continues to be concerned that trade is at a low level. Hence, there seems to be no evidence that economic interdependence between the two communities has increased. The Commission considers that removing the abovementioned obstacles to trade shall help significantly increase trade across the Green Line. Against this background, the Commission relies on the effective cooperation of the Republic of Cyprus and the SBA to ensure effective implementation of Council Regulation (EC) No 866/2004. The Commission will continue to monitor the implementation of the Regulation.