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REPORT FROM THE COMMISSION TO THE COUNCIL

Thirteenth 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 2016

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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 2016.

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 crossings 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 the number of Turkish Cypriots and of Greek Cypriots crossing in 2016 compared to previous years.

According to data from the Republic of Cyprus, 613,111 (previously: 534,879) crossings by Greek Cypriots and 244,929 crossings by Greek Cypriot vehicles (previously: 189,027) were noted from the government controlled areas to the northern part of Cyprus and 1,138,670 (previously: 1,055,130) crossings by Turkish Cypriots and 413,208 crossings by Turkish Cypriot vehicles (previously: 382,621) 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 decreased. According to data from the Republic of Cyprus Police (hereafter CYPOL), during the reporting period 385,426 crossings took place by EU citizens other than Cypriots and third country nationals (previously: 491,860).

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.

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 *Strovilia* crossings points.⁴ For these, the ESBA reports that 125,457 (previously: 115,335) Greek Cypriots crossed to the northern part of Cyprus and 429,807 (previously: 389,412) Turkish Cypriots crossed the Line in the other direction, while 295,042 EU citizens other than Cypriots and third country nationals crossed in both directions, through the crossing points situated within the ESBA.

In 2016, the number of CYPOL personnel working directly at the crossing points remained 69, as in 2015.

The figures gathered by the Turkish Cypriot community indicate an increase in the number of crossings by Greek Cypriots (i.e. 980,724) and an increase in the number of crossings by Greek Cypriot vehicles (i.e. 346,609) from the government controlled areas to the northern part of Cyprus. They also indicate an increase in the number of crossings by Turkish Cypriots (i.e. 1,762,498) and an increase in the number of crossings by Turkish Cypriot vehicles in the other direction (i.e. 728,049). There were 1,253,446 foreign nationals crossing from the government controlled areas to the northern part of Cyprus.

No incidents concerning crossings were reported in 2016. However, to date, Turkish Cypriot busses carrying EU citizens are still not permitted by the authorities of the Republic of Cyprus to cross into the government controlled areas.

Although not falling under the scope of the Green Line Regulation, the abolition in 2015 of certain requirements for crossing into the northern part of Cyprus via the Green Line, as a result of an unilateral Confidence Building Measure (CBM) by the Turkish Cypriot community, continued to have a positive impact on the number of crossings in 2016.

With UNFICYP support, the practice of religious worship continued to be facilitated as mentioned in the January 2017 UNSG report⁵. However, increased difficulties in obtaining permits for religious services in the non government controlled areas were reported.

1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2016 indicated an increase in the number of migrants that irregularly crossed the Line from the northern part of Cyprus into the government controlled areas. Their number amounted in 2016 to 1499, while in 2015, 2014, 2013 and 2012, it had been respectively 1,290, 970, 1,043 and 1,265. The countries of origin with the highest number of irregular migrants apprehended after having crossed the Line were Syria (704), Somalia (217), Pakistan (141), Cameroon (60) and Iran (46). Out of these 1499 irregular migrants, 87% applied for international protection in the Republic of Cyprus (1310). The majority of these were Syrians (702).

Irregular migrants are normally apprehended during controls along the Line and at airports when seeking to leave Cyprus or at police stations when requesting international protection.

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

⁵ Report of the Secretary-General on UNFICYP [S/2017/20] of 9 January 2017.

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 this assessment, almost all the migrants apprehended in the government controlled areas, after having irregularly crossed the Line, had previously arrived in the northern part of Cyprus from the territory of Turkey.

The Turkish Cypriot community confirmed once more to the Commission that efforts are being made in the northern part of Cyprus to prevent irregular migration. According to the information received, in 2016, 2,482 persons⁶ were refused entry into the northern part of Cyprus and 616 persons⁷ apprehended within the northern part of Cyprus were returned to the territory of Turkey, which was 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.

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 decreased slightly. In 2016, 4 irregular migrants were apprehended after having crossed the Line irregularly.⁸ 1,296 persons were not allowed to cross the Line, the vast majority being Turkish citizens (566). Other foreign nationals from the USA, Russia, Iran and Syria, who arrived via the northern part of Cyprus.⁹ These persons were directed to the Agios Dhometios crossing point for processing as per the Republic of Cyprus' entry requirements.

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 risk-based, intelligence-led patrols to counter irregular migration. These patrols are supplemented by patrols from SBA Customs and military assets.

⁶ Nationals of Syria: 611, of Turkey: 496, of Turkmenistan: 111, of Iran: 109, of Iraq: 55.

⁷ Nationals of Turkey: 251, of Nigeria: 40, of Syria: 37, of Turkmenistan: 27, of the Republic of Moldova: 26.

⁸ These 4 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 SWD(2017)261, Table VII.

⁹ Nationals of Turkey: 566, of USA: 66, of Russia: 60, of Iran: 35, of Syria: 31.

Several "unauthorised crossing points" in or near the village of *Pergamos*, which are 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.¹⁰ 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 1480/2004¹¹, the Turkish Cypriot Chamber of Commerce (TCCoC) and 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 5,017,714 (previously: EUR 3,933,918). Those figures indicate a significant increase of 27.55% in the overall value of goods for which accompanying documents were issued compared to 2015. Potato trade represents the major part of the overall increase.

According to reports provided by the Republic of Cyprus, the total trade value of goods with accompanying documents which crossed the Line increased significantly by 21.06% to EUR 4,374,968.06 (previously: EUR 3,619,736). This increase partially reflects the economic recovery, but is largely due to potato trade.

Although not covered by the scope of the GLR, trade from the government controlled areas to the northern part of Cyprus increased slightly by around 3.09%, from EUR 1,314,271 in 2015 to EUR 1,354,947 in 2016 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 30.97 % of the trade in the opposite direction (36.3% in 2015).

The Turkish Cypriot community continues to apply a trade regime that in principle "mirrors" the restrictions of the GLR. Protection of local businesses is openly stated by Turkish Cypriot stakeholders as the main reason for this. This regime is not always consistently applied.

2.2. Type of goods

In 2016, plastic products was the most traded item, followed by fresh fish, building materials and potatoes.¹²

New products, such as waste vegetable oil, were introduced. All the trade across the Line was intra-island.

¹⁰ OJ L 236, 23.09.2003, p. 940.

¹¹ Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

¹² SWD(2017)261, Table IV.

2.3. Irregularities

During the reporting period, no cases of irregularities were reported.

2.4. Obstacles and difficulties concerning the movement of goods

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

As mentioned in previous reports¹³, the issue of Turkish Cypriot commercial vehicles crossing to the government controlled areas is still not resolved and, 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 the process for Turkish Cypriots to obtain roadworthiness certificates and professional driving licences. The Commission is convinced that a solution to the 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. No developments took place during the reporting period on this issue.

As reported in previous years, the authorities of the Republic of Cyprus still 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 there are no grounds under the Green Line Regulation to carry out checks of premises in the northern part of Cyprus in order to assess if production takes place in line with Union rules.¹⁴ 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. As with commercial vehicles, no developments took place during the reporting period on this issue.

During the reporting period, the authorities of the Republic of Cyprus continued to apply the same requirements that they apply to processed foods to trade of materials for contact with food. The Commission is looking into this matter.

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 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 wishing to enter into business with the other community. Economic operators from both sides need to be free to engage in trade relations, based on their business requirements.

¹³ See for instance the ninth, tenth, eleventh and twelfth annual reports on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

¹⁴ Tenth annual report on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

Problems concerning the pressure put by Greek Cypriot producers on Greek Cypriot traders of potatoes coming from the northern part of Cyprus were resolved with the help of the authorities of the Republic of Cyprus.

2.5. Smuggling of goods

The smuggling of goods remains widespread and it reflects the geographical pattern of the Line. Control operations are taking 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.

In 2016, the Republic of Cyprus conducted 1852 seizures (previously: 2,689). In 2016, there has been an increase in the quantities of cigarettes and a decrease in the quantities of hand-rolling tobacco seized by the Republic of Cyprus: 257,785 cigarettes and 374,133 gr. of hand-rolling tobacco (previously: 244,457 cigarettes and 399,283 gr., respectively). It was reported that, in most cases, this smuggling consists of small quantities. The smuggling is due to the price differentials and the higher tax on tobacco products in the Republic of Cyprus. Other items seized mainly include goods violating intellectual property rights, as well as agricultural and animal and dairy products. There was one criminal case filed in the district court for smuggling. For the majority of the reported cases, an administrative penalty is imposed.

In 2016, the number of seizures of smuggled goods within the ESBA (277) decreased (previously: 351). As in 2015, 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.¹⁵

In July 2015, the Commission adopted a proposal for amending the Green Line Regulation. The objective of the proposal is to establish the manner in which the control mechanism for goods covered by a name registered under Regulation (EU) No 1151/2012 would be applied in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.¹⁶ This proposal for amendment was still pending at the end of the reporting period. The proposal is based on the Common Understanding on a temporary solution for Halloumi/Hellim, to be implemented pending the reunification of Cyprus, reached under the guidance of President Juncker during his visit to Cyprus on 16 July 2015¹⁷.

¹⁵ In 2011 the Commission lifted the obligation that potatoes traded across the Line must be grown directly from certified seed potatoes.

¹⁶ COM/2015/0380 final - 2015/0165 (NLE).

¹⁷ http://europa.eu/rapid/press-release_MEX-15-5402_en.htm

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 comply with EU rules and regulations, including dairy products. Currently, the Commission is scrutinising 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 advantage of business opportunities and welcomes the intense efforts undertaken by the Chambers of Commerce.

In the framework of an EU-funded project, the Turkish Cypriot Chamber of Commerce and the Cyprus Chamber of Commerce and Industry continue to successfully implement the project "Leading by Example". This programme provides young Greek Cypriots and Turkish Cypriots with the possibility of an internship in a company on the other side of the Green Line. The project aims at contributing to dialogue, trust, cooperation, and reconciliation between civil societies, including the business communities, throughout Cyprus.

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 reported that 4,352 items were taken back to the government controlled areas after having passed through the non government controlled areas. It was 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.

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. The number of persons irregularly crossing the Line increased and the situation needs to be monitored carefully. The Commission urges the SBA Administration to find a suitable solution and to deploy the necessary human resources to address the issue. The Commission continues to consider that stability, predictability and legal certainty of the requirements at the crossing points, and the free movement of EU citizens are of paramount importance.

In 2016, the value of trade across the Line increased by 21.06% to EUR 4,374,968.06 from EUR 3,619,736, while the value of goods for which accompanying documents were issued increased by 27.55% from EUR 3,933,918 to EUR 5,017,714. Plastic products were the most-traded item, followed by fresh fish, building materials and potatoes. The trade in the latter represents the major part of the total increase.

The Cyprus Chamber of Commerce and Industry and the Turkish Cypriot Chamber of Commerce continued their close cooperation and advocacy towards a solution to the Cyprus issue, which, in their views, will bring economic benefits to both communities.

During the reporting period, certain obstacles to trade remained. Turkish Cypriot commercial vehicles above 7.5 tonnes and processed foods are still not authorised to cross the Line by the authorities of the Republic of Cyprus. No developments on this issue took place in 2016.

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, with the exception of potatoes, trade in all other products is at a low level. The Commission considers that removing the above-mentioned obstacles to trade would help to significantly increase trade across the Green Line and hopes that the work of the two Chambers to enhance contacts between the two business communities will lead to increased economic ties.

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.