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REPORT FROM THE COMMISSION TO THE COUNCIL

Fifteenth 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 2018

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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 the Green Line Regulation or 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 2018.

During the reporting period, the Commission has maintained constructive dialogue with the relevant authorities of the Republic of Cyprus and 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 Greek Cypriots and a decrease in the number of Turkish Cypriots crossing in 2018 compared to previous years.

According to data from the Republic of Cyprus Police (hereafter CYPOL), 1,014,340 (previously: 646,569) crossings by Greek Cypriots and 486,040 crossings by Greek Cypriot vehicles (previously: 267,467) were recorded from the government controlled areas to the northern part of Cyprus, while 1,076,667 (previously: 1,140,682) crossings by Turkish Cypriots and 417,629 crossings by Turkish Cypriot vehicles (previously: 435,882) from the northern part of Cyprus to the government controlled areas were recorded during the reporting period³. Both the significant increase in the number of Greek Cypriots crossing and the slight decrease in the number of Turkish Cypriots crossing were attributed mainly to the reduction in value of the Turkish lira against the euro during 2018.

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 third recital of the Green Line Regulation.

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

The number of EU citizens other than Cypriots and third country nationals crossing the Line continued to increase. During the reporting period 1,129,293 crossings by EU citizens other than Cypriots and by third country nationals took place (previously: 822,318).

The CYPOL figures mentioned above do not include data on persons and vehicles crossing from the northern part of Cyprus at the Pergamos and Strovilia crossing points, which are under the authority of the UK Eastern Sovereign Base Area (ESBA). For these, the ESBA reports that 236,156 (previously: 140,913) crossings by Greek Cypriots and 133,270 crossings by Greek Cypriot vehicles (previously: 59,852) to the northern part of Cyprus were recorded. At the same time 471,690 (previously: 457,314) crossings by Turkish Cypriots and 292,099 crossings by Turkish Cypriot vehicles (previously: 272,090) in the other direction were recorded.⁴

Two new crossing points Deryneia and Lefka-Apliki became operational on 12 November 2018.⁵

In 2018, the number of CYPOL personnel working at the crossing points was increased to 95 from 69 due to the deployment of 26 officials to the crossing points Deryneia and Lefka-Apliki.

The figures gathered by the Turkish Cypriot community in 2018 indicate an increase in the number of crossings by Greek Cypriots to 1,633,076 (previously: 1,066,284) and Greek Cypriot vehicles to 731,215 (previously: 392,300) from the government controlled areas to the northern part of Cyprus. They also indicate a slight decrease in the number of crossings by Turkish Cypriots to 1,759,837 (previously: 1,796,353) but an increase in the number of Turkish Cypriot vehicles to 794,474 (previously: 782,656) in the other direction. According to the statistics provided, 1,814,194 EU citizens other than Cypriots and third country nationals crossed from the government controlled areas to the northern part of Cyprus (previously: 1,546,475).

No incidents concerning crossings were reported in 2018. 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.

The United Nations Peacekeeping Force in Cyprus (UNFICYP) continued to facilitate the practice of religious worship by both communities.⁶ UNFICYP noted an increase in the number of approvals for religious services that it was asked to facilitate in the northern part of Cyprus in comparison with the same period in 2017.

⁴ Statistics for EU citizens other than Cypriots and third country nationals are not available for the current reporting period.

⁵ Commission Implementing Regulation (EU) 2015/1472 of 26 August 2015, OJ L 225, 28.8.2015, p. 3-4.

⁶ Report of the Secretary-General on UNFICYP [S/2019/37] of 11 January 2019, para. 31.

1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2018 indicated a substantial increase in the number of migrants who irregularly crossed the Line from the northern part of Cyprus into the government controlled areas. In 2018, 4,451 irregular migrants crossed the Line in this way; the equivalent figures for 2017, 2016 and 2015 were 1,686, 1,499 and 1,290. The main countries of origin of irregular migrants were Syria (1573), Cameroon (472), Pakistan (444), Bangladesh (391) and Iraq (328). This sharp increase in migration is a rising concern for the authorities of the Republic of Cyprus.

Out of the 4,451 irregular migrants, 95% (4,233) applied for international protection in the Republic of Cyprus. The country of origin with the highest number of applicants was Syria (1,571); it was reported by the authorities of the Republic of Cyprus that the number of successful asylum applications increased substantially compared to 2017.

CYPOL was able to identify persons by using the same criteria as in previous years, primarily through information included in their travel documents and statements by the migrants concerned. According to 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 Turkey.

The Turkish Cypriot community confirmed that efforts had continued in the northern part of Cyprus to prevent irregular migration. In 2018, 3,773 persons⁷ were refused entry into the northern part of Cyprus and 870 persons⁸ who had been apprehended within the northern part of Cyprus were returned to Turkey, from where they had arrived on the island.

Representatives from the two communities met within a bi-communal Technical Committee on Crime and Criminal Matters (TCCCM) under UN auspices. As an extension to this committee, the two communities continued to use a 'Joint Communications Room', which provides a forum for the exchange of information on criminal matters.

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

Eastern Sovereign Base Area (ESBA)

Irregular migration from the northern part of Cyprus via the ESBA increased. In 2018, 18 irregular migrants were apprehended after having crossed the Line irregularly.⁹ 1,248 persons were not allowed to cross, of whom the highest number were Turkish citizens (277). In accordance with the relevant provisions of Protocol 3 to the Act of Accession of the Republic of Cyprus, the ESBA authorities refused to allow foreign nationals from the USA, Ukraine,

⁷ Nationals of Turkey: 380, of Syria: 411, of Turkmenistan: 708, of Iran: 284, of Iraq: 333, other: 1,657.

⁸ Nationals of Turkey: 373, of Pakistan: 85; of Nigeria: 58, of Syria: 54, of Turkmenistan: 20, other: 280.

⁹ Out of the 18 irregular migrants intercepted within the ESBA, 12 applied for asylum and were handed over to the authorities of the Republic of Cyprus. These are added to the overall number of persons who irregularly crossed the Line and whose breakdown by nationality is provided in Staff Working Document SWD(2019) 290, Table VII.

Russia, Argentina and Bosnia and Herzegovina who arrived via the northern part of Cyprus, to cross the Green Line.¹⁰ These persons were directed to crossing points outside the ESBA to undergo checks as per the Republic of Cyprus' entry requirements.

Sovereign Base Area (SBA) officers continued to describe their co-operation with the Republic of Cyprus as excellent.

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

Four "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.¹¹ The SBA 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

Under Article 4 of the Green Line Regulation, goods may be introduced from non-government controlled areas into government controlled areas, provided that they meet the criteria set out in Article 4¹² and are accompanied by a document issued by the Turkish Cypriot Chamber of Commerce. Pursuant to Article 8 of Commission Regulation (EC) No 1480/2004¹³, the Turkish Cypriot Chamber of Commerce 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 had been issued.

According to the TCCoC, the total value of goods for which accompanying documents had been issued amounted to EUR 5,405,121 (previously: EUR 5,697,695). Those figures indicate a decrease of 5.1 % in the overall value of goods for which accompanying documents had been issued compared to 2017.

According to statistics provided by the Republic of Cyprus, the total trade value of goods with accompanying documents which crossed the Line increased by 1.4% to EUR 4,856,892 (previously: EUR 4,790,964).

Although not covered by the scope of the GLR, trade from the government controlled areas to the northern part of Cyprus decreased significantly by around 14.3%, from EUR 1,343,524 in

¹⁰ Nationals of USA: 55, of Ukraine: 96, of Russia: 63, of Argentina: 27, of Bosnia and Herzegovina: 29.

¹¹ OJ L 236, 23.09.2003, p. 940.

¹² Paragraph 1 of Article 4 sets out that the goods need to be wholly obtained in the areas not under effective control of the Government of the Republic of Cyprus or have undergone their last, substantial, economically justified processing or working in an undertaking equipped for that purpose in the areas not under the effective control of the Government of the Republic of Cyprus.

¹³ Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

2017 to EUR 1,151,723 in 2018 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 23.7% of the trade in the opposite direction (28% in 2017).

The Turkish Cypriot community continued to apply a trade regime that in principle "mirrors" the restrictions of the GLR. Turkish Cypriot stakeholders identified the protection of local businesses as the main reason for this. This regime is, however, not always consistently applied.

2.2. Type of goods

In 2018, plastic products were the most traded item, followed by fresh fish, construction materials, and waste or scrap products.¹⁴ The trade in potatoes was sharply reduced due to a poor harvest.

New products, such as wet wipes, scrap batteries, plastic water tanks and industrial stainless steel ovens were introduced. All the trade across the Line was intra-island.

2.3. Irregularities

The Customs and Excise Department of the Republic of Cyprus consulted the Commission, on whether a container filled with a substance declared as "thinner" which had been traded across the Green Line fulfilled the criteria of origin in Article 4(1) of the GLR.¹⁵ Having analysed the issue, the Commission advised the customs authorities that the mixture fell within the terms of Article 4(1). However, the Commission also concluded that it was highly likely that the provisions of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures had been violated, as the container had not complied with the rules concerning labelling of hazardous substances. The Commission shared its assessment with the TCCoC, which informed the producer of the rules applicable to trade in this type of product.

2.4. Obstacles and difficulties concerning the movement of goods

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

As mentioned in previous reports¹⁶, the issue of Turkish Cypriot commercial vehicles crossing to the government controlled areas is still not solved 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 have put in place dispositions to facilitate the

¹⁴ Staff Working Document SWD(2019) 290, Table IV.

¹⁵ Article 2(4) of Commission Regulation 1480/2004 provides that the authorities of the Republic of Cyprus shall inform the Commission services of cases of reasonable doubt as to the compliance of the goods with the origin criteria.

¹⁶ See for instance the ninth, tenth, eleventh, twelfth, thirteenth and fourteenth annual reports on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

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. Consequently, the Commission is assessing potential EU support on transport safety.

As reported in previous years, the authorities of the Republic of Cyprus do not allow the crossing of processed food products and materials for contact with food due to concerns raised by health services regarding the production process in the northern part of Cyprus. During the reporting period, the Commission confirmed to the Republic of Cyprus that these products are permitted under the applicable legal framework to cross the Green Line and should not be banned by the authorities of the Republic of Cyprus. While they may take samples of the products at crossing points for further analysis, in line with the application of the Green Line Regulation, they should not prevent all processed food from crossing. The Commission proposed implementing a mechanism that facilitates the crossing of processed foods and materials for contact with food while addressing additional safety considerations. Further discussions requested by the Commission to find a solution had not taken place by the time this Report was prepared. The Commission remains concerned with regard to the correct implementation of the Green Line Regulation and will consider how to approach the matter further.

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 hinder 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 wishing 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.

2.5. Smuggling of goods

The smuggling of goods remained widespread, reflecting the difficulty of controlling irregular movements across the Line.

In 2018, the Republic of Cyprus made 1,711 seizures of smuggled goods (previously: 1,334). In 2018, there was an increase in the quantities of cigarettes and hand-rolling tobacco seized by the Republic of Cyprus at the Green Line: 469,870 cigarettes and 587,513 gr. of hand-rolling tobacco (previously: 203,290 cigarettes and 440,259 gr.). The substantial increase was attributed to the reduction in value of the Turkish lira against the euro during 2018. There was also a significant increase of 45% in the smuggling of goods which violated intellectual property rights compared to 2017. Other items seized included alcohol, pesticides, agricultural products and animal and dairy products. One prosecution was brought in the District Court for smuggling. Cases of smuggling of small quantities of cigarettes were usually dealt with through the imposition of an administrative penalty and forfeiture.

In 2018, the ESBA authorities recorded an increase in the number of seizures of smuggled goods within the ESBA; 555 seizures were made, compared to 432 in 2017. As in 2017, cigarettes and hand-rolling tobacco were the items seized most frequently.

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.were monitored and recorded by the ESBA administration.

2.6. Facilitation of trade

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

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.¹⁷ 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 2015.¹⁸

With a view to facilitating the crossing of fresh fish, the authorities of the Republic of Cyprus extended the opening hours for veterinary inspection of fresh fish at the Agios Dhometios crossing point. Checks will take place on weekdays between 07:30 to 15:00 (end of checks).

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. 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 Cyprus Chamber of Commerce and Industry and the Turkish Cypriot Chamber of Commerce.

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 3,093 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 and from the Kato Pyrgos-Karavostasi and Astromeritis-Zhodia crossing points.

¹⁷ COM/2015/0380 final - 2015/0165 (NLE).

¹⁸ http://europa.eu/rapid/press-release_MEX-15-5402_en.htm

2.8. Goods contained in the personal luggage of persons crossing the Green Line

During the reporting period, the ESBA authorities consulted the Commission on the movement of fuel for personal consumption across the Green Line. According to Article 6(1) of the GLR, goods contained in the personal luggage of persons crossing the line shall be exempt from turnover tax and excise duty as well as from other duties provided they have no commercial character and their total value does not exceed EUR 260 per person. The Commission confirmed to the authorities of the ESBA and the Republic of Cyprus that for fuel contained in plastic containers a case-by-case analysis is needed to establish whether the fuel at each crossing is for commercial purposes, and if it is not, whether its value exceeds EUR 260 per person. At the same time, the GLR does not envisage any checks to be performed on the fuel contained in the standard tanks of the vehicles crossing the Line and there are no grounds therefore to refuse or limit these crossings.

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 was satisfactory. The two crossing points Lefka-Apliki and Deryneia became operational. The number of persons irregularly crossing the Line increased substantially; the matter is a rising concern for the Republic of Cyprus and the situation needs to be monitored carefully. The Commission urges the SBA Administration to deploy the necessary human resources 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, and the free movement of EU citizens are of paramount importance.

In 2018, the value of trade across the Line increased by 1.4% to 4,856,892 EUR from 4,790,964 EUR, while the value of goods for which accompanying documents were issued decreased by 5.1 % from EUR 5,697,695 to EUR 5,405,121. Plastic products were the most-traded item, followed by fresh fish, construction materials and waste or scrap products.

The Cyprus Chamber of Commerce and Industry and the Turkish Cypriot Chamber of Commerce continued their close co-operation with a view to bringing economic benefits to both communities.

During the reporting period, certain obstacles to trade remained. The Republic of Cyprus continued not to authorise the crossing of Turkish Cypriot commercial vehicles above 7.5 tonnes; no developments took place in 2018. Equally, the Republic of Cyprus does not allow the crossing of processed food products and materials for contact with food. The Commission confirmed to the Republic of Cyprus that these products are permitted under the applicable legal framework to cross the Green Line and should not be banned by the authorities of the Republic of Cyprus. The Commission proposed implementing a mechanism that facilitates the crossing of processed foods and materials for contact with food while addressing additional safety considerations. No further contacts to find a solution had taken place by the time this Report was prepared. The Commission remains concerned with regard to the correct

implementation of the Green Line Regulation and will consider how to approach the matter further.

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 in general is at a low level. The Commission considers that removing the obstacles to trade mentioned in this report would help significantly to increase trade across the Green Line. The Commission 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 continues to rely on the co-operation 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.