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REPORT FROM THE COMMISSION TO THE COUNCIL

Ninth report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2012

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INTRODUCTION

Council Regulation (EC) 866/2004 on a regime under Article 2 of Protocol 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 2012.

During the reporting period, the Commission did not propose any changes to the GLR nor amended the implementing rules.

The Commission has maintained a constructive dialogue with the relevant authorities of the Republic of Cyprus and the Sovereign Base Area (SBA) Administration on the implementation of the Regulation.

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 a visible decrease in both the number of Greek Cypriots and Turkish Cypriots crossing in 2012 compared to previous years.

According to data from the Republic of Cyprus, 481,732 (previous: 621,406) crossings by Greek Cypriots and 154,778 crossings by Greek Cypriot vehicles (previous: 210,877) were noted from the government-controlled areas to the northern part of Cyprus and 850,362 (previous: 937,789) crossings by Turkish Cypriots and 280,358 crossings by Turkish Cypriot vehicles (previous: 348,225) 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 also decreased significantly. According to data from the Republic of Cyprus Police (hereafter: CYPOL), during the reporting period a further 530,014 crossings were effected by EU citizens other than Cypriots and by third country nationals (previous: 634,218). 67% of these

¹ OJ L 161, 30.04.2004, p.128. Regulation as last amended by Council Regulation (EC) No 587/2008 (OJ L 163, 24.6.2008, 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 (see Annex VII)

crossings (354,713) occurred at the Ledra Street pedestrian crossing which continued to account for the vast majority of crossings by non-Cypriots (primarily tourists).

The figures gathered by the Turkish Cypriot community indicate the same decreasing trend in the number of crossings, i.e. 658,117 crossings by Greek Cypriots and 233,682 crossings by Greek Cypriot vehicles from the government-controlled areas to the northern part of Cyprus and 1,398,866 crossings by Turkish Cypriots and 516,852 crossings by Turkish Cypriot vehicles in the other direction. In addition, there were 1,107,672 foreign nationals other than Cypriots 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 at the *Pergamos* and *Strovilia* crossings points, from the northern part of Cyprus into the ESBA.⁴ No detailed statistics are kept by the ESBA Administration for these two crossing points. However, the ESBA estimates, based on information from the Turkish Cypriot community, that 48,807 (previously: 84,407) Greek Cypriots crossed to the northern part of Cyprus and 315,683 (previously: 450,408) Turkish Cypriots crossed to the government-controlled areas, while 84,801 EU citizens other than Cypriots and third country nationals crossed in both directions, through the crossing points situated within the ESBA.

In 2012, the number of CYPOL personnel working directly at the crossing points was increased to 80 (77 in 2011).

The vast majority of the crossings took place smoothly but incidents were reported during the reporting period. Those incidents have been a source of concern to the Turkish Cypriot community.

In March 2012, the same Turkish-Cypriot bus, which was not allowed to cross with EU tourists on board during the past reporting period, was again stopped at the Agios Dhometios crossing point, while carrying British citizens residing in Kyrenia who were travelling to Larnaca. The bus had a roadworthiness certificate issued by the Republic of Cyprus and the professional driving licence. However, the authorities of the Republic of Cyprus also requested a tourist operator licence. The Commission informed the Republic of Cyprus authorities that it is neither necessary nor appropriate to require a tourist operator licence concerning a bus company which is located in the areas where the *acquis* does not apply. This issue has not yet been solved.

In early 2012, the Commission received claims of a change of practice at the crossing points concerning the requirements for driving licences towards third country nationals' spouses of Turkish Cypriot citizens, who are no longer able to drive in the Republic of Cyprus if they do not carry a driving licence from their country of origin. The Commission raised the issue with the Republic of Cyprus authorities to assess whether there is a change of policy, which would require a notification to the Commission as stated in the GLR.⁵

During the reporting period, the Commission also noted that the Republic of Cyprus authorities issued a *Note Verbale* to reiterate their position concerning the legal points of entry and exit to and from Cyprus which in the view of the Commission did not represent accurately the content of the GLR.

As stated on several occasions, the Commission attaches great importance to the free movement of EU citizens and their families across the Green Line.

⁴ The GLR does not contain reporting obligations for this traffic

⁵ GLR Article 10

1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2012 indicate a slight decrease in irregular migration across the Line from the northern part of Cyprus to the government-controlled areas. In 2011, 1,265 irregular migrants (previous: 1,311) were apprehended within the government-controlled areas.⁶ 19 irregular migrants entered directly into the government-controlled areas (previous: 1) and 13 persons (previously: 18) entered via the ESBA, bringing the total number of apprehended irregular migrants to 1,297 (previous: 1,330). As a probable reason, CYPOL indicated 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 new strategic plan for 2012-2015 to combat irregular migration. The majority of irregular migrants apprehended were citizens of Syria, Iran and Georgia (Annex VI). 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.

Out of 1,265 irregular migrants, 542 (42,8%) persons applied for asylum in the Republic of Cyprus. During the reporting period, there was a significant increase of citizens of Syria who applied for asylum.

CYPOL's assessment of the entry route of irregular migrants into the government-controlled areas is based on the same criteria as in previous years, primarily through documents (ID card, passport, visas, entry/exit stamps from Turkey or a "visa" or a "residence permit" of the "TRNC", other supportive documents such as driving licence, statements by migrants but also other evidence such as the absence of identification documents, Turkish bank notes).

Most irregular migrants arrive in the government-controlled areas via Turkey and the northern part of Cyprus.

According to information received from the Turkish Cypriot community, 41 irregular migrants were apprehended in the northern part of Cyprus, 39 of them being Syrians. 2,072 were refused entry into the northern part of Cyprus at different points of entry.⁷ During the reference period, 741 persons were "deported" from the northern part of Cyprus.⁸

No direct co-operation exists on police and immigration issues between the Republic of Cyprus and the Turkish Cypriot community. However, representatives from the two communities meet regularly within the framework of a bi-communal Technical Committee on Crime and Criminal Matters under UN auspices.⁹ As an extension to this committee, the two communities have also established a mechanism for information sharing and joint initiatives, namely a 'Joint Communications Room', where UNFICYP police has an on-going presence, and which operates on a six days-a-week basis. Both sides have demonstrated willingness through these mechanisms to enhance communication between the respective police forces, and to cooperate and assist each other by exchanging information on cases involving abduction, apprehended persons, illegal drugs, and stolen property.¹⁰

⁶ This figure excludes the number of persons not allowed to cross the Green Line as the Republic of Cyprus does not keep official statistics on those. However, CYPOL estimates that in 2012, around 2500 persons were not allowed to cross into the government-controlled areas.

⁷ Turkey: 807, Syria: 438, Turkmenistan: 117, Iraq: 83, Pakistan: 69

⁸ Turkey: 318, Pakistan: 93, Moldova: 71, Turkmenistan: 65, Syria: 46

⁹ This Committee is one of seven specialised committees formed as confidence building measures between the two Communities with the support of the UN and is a direct result of an agreement reached between the two Cypriot leaders on 21 May 2008.

¹⁰ Report of the Secretary-General on the United Nations operation in Cyprus, 7 January 2013

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

Eastern Sovereign Base Area (ESBA)

Overall, irregular migration via the ESBA has decreased during the reporting period. SBA officers continue to describe the cooperation between the Republic of Cyprus and SBA Customs and Immigrations in this area as excellent. During the reporting period, 1,014 persons were not allowed to cross, the majority being Turkish citizens who are living in the northern part of Cyprus. Other foreigners were tourists from Iran, Russia and Israel who arrived via the northern part of Cyprus. These persons were directed to the Nicosia crossing point Agios Dhometios for processing per Republic of Cyprus entry requirements.¹¹

A total of 13 irregular migrants were apprehended within the ESBA¹², of whom 5 had crossed to the government-controlled areas legally but stayed on after their visas had expired. The remaining 8 entered the island in the northern part of Cyprus and crossed the Line irregularly. 5 facilitators¹³ were also arrested by the SBA.

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* (located partly in the SBA and partly in the northern part of Cyprus), which are still used by local residents and farmers, are particularly difficult to control. As mentioned in previous Green Line reports, these "unauthorised crossing points" remain an area of concern and the issue should be addressed without delay. The Commission brought up the issue of the "unauthorised crossing points" with the SBA, calling on SBA officers to find a suitable solution in line with the requirements of Article 5 (2) of Protocol No 3 to the 2003 Act of Accession.¹⁴ The SBA indicated that it is looking at implementing different options to tackle the issue.

2. CROSSING OF GOODS

2.1. Value of trade

Pursuant to Art 8 of the Commission Regulation (EC) 1480/2004¹⁵, the Turkish Cypriot Chamber of Commerce (hereafter: 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 reports include 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 reports of the TCCoC, the total value of goods for which accompanying documents were issued in 2012 amounted to €9,584,410 whereas the value of goods actually traded was €8,945,347.¹⁶ In 2012, the Green Line trade was three times lower than in 2011. This substantial decrease is explained by the fact that the sale of electricity from the northern part of Cyprus to the government-controlled areas, which was the result of exceptional circumstances, stopped in March 2012. For the year 2012, the sale of electricity amounted to

¹¹ i.a: Turkey: 478, Iran: 40, Russia: 40, Israel: 34

¹² Uzbekistan: 3, Iraq: 2, India: 2, Iran: 1, Egypt: 1, Moldavia: 1, Sri Lanka: 1, China: 1, Vietnam: 1

¹³ Greek Cypriots: 4, Iran: 1

¹⁴ OJ L 236, 23.09.2003, p. 940

¹⁵ Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

¹⁶ See Annexes I, II and III of this report

€4,748,881 (53% of the trade). The sale of electricity, even if lower than in 2011, had an impact on the Green Line trade in 2012.

Without taking into account the sale of electricity, according to the TCCoC, the total value of goods for which accompanying documents were issued amounted to €4,835,528 whereas the value of goods actually traded was €4,196,465. Those figures indicate a significant decrease of regular Green Line trade of 22% compared to 2011.

According to reports provided by the authorities of the Republic of Cyprus, the total trade value of goods, including electricity, which crossed the Line decreased by 303% to €8,788,890. The total trade value of goods (without taking into account the sale of electricity) which crossed the Line significantly decreased by 17% from €4,827,454 in 2011 to €4,040,018. This is mainly due to a decrease in trade of scrap copper, building materials and fresh fish which may be explained by the economic crisis (near interruption of construction and closure of restaurants). The overall decrease in trade could also indicate a decrease in economic interdependence between the two communities.

Although not covered by the scope of the GLR, trade from the government-controlled areas to the northern part of Cyprus decreased by around 50%, from €2,272,493 in 2011 to €1,014,067 in 2012 according to figures from the Cyprus Chamber of Commerce and Industry (CCCI). In 2011, the trade from the government-controlled areas to the northern part of Cyprus was uncharacteristically high due mainly to the purchase of electrical equipment as part of an EU-funded project. Trade from the government-controlled areas to the northern part of Cyprus therefore represents 11.3% of the trade in the opposite direction (7.85% in 2011). However, when taking into account the Green Line trade without the sale of electricity, trade from the government-controlled areas to the northern part of Cyprus represents 24% of the trade in the opposite direction (46% in 2011).

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 the Turkish Cypriot community as the main reason.

2.2. Type of goods

In 2012, after electricity, plastic products were the most traded item, followed by building materials/articles of stone and fresh fish.¹⁷

New products such as passion fruits, celery, beetroot and fibre optic cables were introduced during the reporting period but had a very limited impact on the trade.¹⁸

During this reporting period, all the trade across the Line was intra-island trade and there was no export registered either to other EU Member States or third countries.

2.3. Irregularities

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

2.4. Obstacles and difficulties concerning the movement of goods

Obstacles to trade across the Line continue to persist and this is also reflected in the 22% decrease of trade.

¹⁷ See Annex IV of this report

¹⁸ The new products represented 0.26% of the overall Green Line trade

As mentioned in previous reports, the issue of Turkish Cypriot lorries crossing to the government-controlled areas is not yet satisfactorily solved. In the view of the Commission, the facilitation of circulation of commercial Turkish Cypriot vehicles would contribute to the economic development of the Turkish Cypriot community. The Commission services started technical talks with the competent authorities of the Republic of Cyprus in early 2012 in order to address the issue and find viable arrangements that can notably address road safety concerns. Despite concrete proposals from the Commission to apply more proportionate means to address road safety issues such as on the road checks, no progress can be reported. Therefore, no Turkish Cypriot commercial vehicles above 7.5 tons can cross the Line unless they have documents issued by the Republic of Cyprus. The authorities of the Republic of Cyprus informed the Commission that they put in place dispositions to facilitate obtaining roadworthiness certificates and professional driving licences for Turkish Cypriots.

In August 2012, the Commission was informed that a consignment of 180 tons of potatoes was blocked at the crossing point for further pesticide checks by the Republic of Cyprus Ministry of Health, which wanted to put the potatoes in quarantine, despite the fact that the consignment had the required EU phytosanitary certificates issued by an independent expert. Following intervention from the EU expert, the Commission and the TCCoC, the issue was resolved.

As in 2011, some problems emerged in 2012 around foodstuffs and especially around processed food. The authorities of the Republic of Cyprus do not allow processed food products to cross due to concerns raised by health services concerning the production process in the northern part of Cyprus. The Commission has informed the authorities of the Republic of Cyprus that, while they could take samples of the products for further analysis, they should not prevent all processed food products from crossing. To date, processed food products are still not permitted to cross.

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. These difficulties possibly reflect a widespread reluctance among Greek Cypriots to purchase Turkish Cypriot branded products and such pattern constitutes an obstacle to trade. In addition, it was mentioned that traders from both communities are faced with many administrative hurdles 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, without facing any pressure.

2.5. Smuggling of goods

Smuggling of goods across the Line remains at the same level in 2012 as that in 2011 and the Republic of Cyprus authorities conducted 1,305 seizures (previous: 1,538). The SBA conducted 218 seizures at the official crossing points of *Pergamos* and *Strovilia*. However, the smuggling of goods remains widespread, reflecting the geographical pattern of the Line which lends itself to clandestine activity along its whole length. 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. Other items seized include mainly cigarettes and tobacco, animal and dairy products as well as counterfeit handbags and textiles. The number of criminal cases filed in the district court for smuggling was nine in 2010 and zero in 2011 and 2012. For the majority of the reported cases, an administrative penalty is imposed instead of legal proceedings.

Most goods were detected at authorised crossing points but also around Pyla, the Sovereign British bases, Potamia and the buffer zone near Zodia.

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. The ESBA noted a notable increase in the amount of hand rolling tobacco, which probably exceeds demand. The ESBA indicated its intention to raise the issue with the Turkish Cypriot community in Pyla.

2.6. Facilitation of trade

The Commission continues to seek ways of enhancing trade across the Line. In 2011 the Commission lifted the obligation that potatoes traded across the Green Line must be grown directly from certified seed potatoes. In 2012, no trade of potatoes not grown directly from certified seed potatoes took place but the first consignment was traded in early 2013.

The TCCoC also expressed 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. In particular, the TCCoC would be interested in commencing trade of farm fish and whey for non-human consumption shortly. The Commission is currently looking into those requests. 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 continued to express its concern to the Republic of Cyprus concerning the movement of goods from the government controlled-areas through the northern part of Cyprus and back into the government controlled-areas through the Limnitis crossing point. Since the GLR is the exclusive legal tool regulating any movement of goods and persons across the Line, the Commission will prepare an amendment to the GLR in order to bring this practice in line with EU law. Following fruitful consultation with all concerned parties, this issue is now close to being resolved, by the tabling of the above-mentioned proposal. [This proposal was tabled on 13/05/2013].

3. CONCLUSIONS

As stated in previous reports, the control of the Line at the authorised crossing points is satisfactory. During the reporting period the number of apprehended irregular migrants seems to confirm a downward trend but the irregular crossing of third country nationals still remains an area of concern. The Commission assesses that further strengthening of the surveillance of the Line between the crossing points conducted by the Republic of Cyprus and the ESBA Administration would be important to help tackle irregular migration and smuggling. The Commission also calls on the ESBA Administration to find a suitable solution to address the issue of the "unauthorised" crossing points.

The Commission noted with concern a few incidents which took place at the crossing points in early 2012 and will continue to liaise with the authorities of the Republic of Cyprus on any developments which could concern a change of policy.

In 2012, the value of trade across the Line was three times lower than in 2011. This sharp decrease is due to the fact that the sale of electricity from the northern part of Cyprus to the government controlled areas, which was agreed in July 2011, stopped in March 2012. Without taking into account the sale of electricity, the regular Green Line trade decreased significantly and for the fourth time in a row since the coming into force of the GLR in 2004 (by 17% down €4,827,454 in 2011 to €4,040,018) due partly to the economic recession. The most traded products were, apart from electricity, plastic products, building materials and stone articles and fresh fish. The overall scale of the trade still remains limited, in part due to the restricted scope of the Regulation itself.

During the reporting period, certain obstacles to trade remained. Turkish Cypriot commercial vehicles, in particular lorries above 7.5 tons and buses, can only move freely across the whole island if licences and certificates are obtained in the government-controlled areas. The Commission services have had talks with the relevant departments of the Republic of Cyprus to find a viable solution to this issue. However, no progress can be reported at this stage. No further progress can be reported yet either with regard to other difficulties as reported in point 2.4.

It appears that smuggling of goods across the Line has decreased but remains widespread.

The movement of goods from the government-controlled areas through the Limnitis crossing point via the northern part of Cyprus and back into the government-controlled areas is not in line with EU law and requires an amendment to the Green Line Regulation. This amendment is in the course of adoption. .

Overall, 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. However, the Commission is concerned by the decrease of both the crossings of persons and the trade volume, which is linked, to the economic crisis but could also indicate a decrease in economic interdependence between the two communities. Against this background, the Commission relies on the effective cooperation of the Republic of Cyprus to ensure effective implementation of Council Regulation (EC) 866/2004. The Commission will continue to monitor the implementation of the Regulation.