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REPORT FROM THE COMMISSION TO THE COUNCIL

Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application

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INTRODUCTION

Council Regulation (EC) 866/2004 on a regime under Article 2 of Protocol 10 to the Act of Accession[1] (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 has been extended to the boundary between these areas and the UK Eastern Sovereign Base Area (ESBA).[2]

This report covers the period 1 May 2009 - 30 April 2010 but the next report will cover the period from 1 May to 31 December 2010 in order to align the reporting period with the calendar year (i.a. to use annual statistics). During the reporting period the Commission did not propose any amendments to the Regulation and did not take any new Decisions on implementing measures.

The Commission has maintained a constructive dialogue with the relevant authorities of the Republic of Cyprus and the Sovereign Base Area (SBA) Administration, at working level, with regard to 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 slight fall in the number of Greek Cypriots and Turkish Cypriots crossing compared with the previous year. According to data from the Republic of Cyprus, 670,910 (previous: 730,310) crossings by Greek Cypriots in 175,671 vehicles (previous: 193,909) were noted from government-controlled areas to the northern part of Cyprus and 1,185,073 (previous: 1,287,126) crossings by Turkish Cypriots in 424,537 vehicles (previous: 451,334) from the northern part of Cyprus to the government-controlled areas during the reporting period.[3] However, the number of non-Cypriot EU citizens and third country nationals crossing the line increased by 66%. According to data from the Republic of Cyprus Police (hereafter: CYPOL), during the reporting period a further 1,228,880 crossings were effected by non-Cypriot EU citizens and third country nationals (previous 739,097). 72% of these crossings (889,081) occurred at the Ledra Street pedestrian crossing point which opened in April 2008. The Ledra Street crossing point accounted for the vast majority of crossings by non-Cypriots (primarily tourists) during the period.

These figures are broadly in line with those gathered from the Turkish Cypriot community i.e. 630,116 crossings by Greek Cypriots in 202,352 vehicles from the government-controlled

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1 OJ L 161, 30.4.2004, 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).

areas to the northern part of Cyprus and 1,489,466 crossings by Turkish Cypriots in 564,791 vehicles from the northern part of Cyprus to the government-controlled areas.

The above mentioned CYPOL figures, however, do not include data on persons and vehicles crossing at the *Pergamos* and *Strovilia* crossing points, from the northern part of Cyprus into the SBA.[4] No detailed statistics are kept by the SBA administration for these two crossing points. However SBA estimates, based on information from Turkish Cypriot sources, report 97,395 Greek Cypriots crossed to the northern part of Cyprus and 556,382 Turkish Cypriots crossed to the SBA. There is no information as to whether these Turkish Cypriots travelled onwards from the SBA to the government-controlled area.

The number of CYPOL personnel working directly at the crossing points fell from 67 in 2008 to 63 in 2009 and to 59 in 2010. No major incidents were reported as regards daily crossings.

1.2. Illegal migration across the Green Line and asylum

CYPOL figures from May 2009 to April 2010 indicate a 54% decrease in illegal migration across the Line from the northern part of Cyprus to the government-controlled areas. 2,546 illegal migrants were apprehended within the government-controlled areas (excluding those refused crossing at Green Line crossing points) down from 5,560 illegal immigrants in the previous period. 11 persons directly entered the government-controlled areas and 16 persons entered via the Eastern SBA, bringing the total number of apprehended illegal migrants to 2,573. CYPOL indicated as a probable reason the decrease in employment prospects due to the economic slowdown in Cyprus. The majority of illegal immigrants apprehended were citizens of Syria, Iran, Georgia, Pakistan, Bangladesh, Republic of Moldova[5] as well as the occupied Palestinian territory (Annex VIII). Illegal migrants are normally apprehended during controls along the Green 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 entry route of illegal migrants into the government-controlled areas is based on the same criteria as in previous years, primarily through documents (visas, passport entry/exit stamps from Turkey or a "visa" or a "residence permit" of the “TRNC”), statements made by the immigrants but also other evidence such as Turkish Cypriot newspapers and Turkish bank notes.

1,311 persons applied for asylum in the Republic of Cyprus. New asylum procedures enabled the shortening of the process from six to three months. However, no person who entered government-controlled areas during the period has been granted refugee status.[6]

Most illegal migrants arrive in government-controlled areas via Turkey and the northern part of Cyprus (four airlines from 11 airports in Turkey; ferries from four ports in Turkey to Kyrenia and Famagusta). CYPOL also reported cases of migrants arriving in the Republic of Cyprus on fishing and speedboats (reportedly involving payments of up to €2,000 to people smugglers).

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

5 Henceforth Moldova

6 Several persons who entered the government-controlled areas during the previous reporting reporting period were granted refugee status during the current reporting period.

According to information from the Turkish Cypriot community, 72 illegal Syrian immigrants were apprehended in the northern part of Cyprus. 2 Syrian citizens were refused permission to cross the Line into the northern part of Cyprus at official crossing points. During the reference period, 619 persons were "deported" from the northern part of Cyprus.[7]

The Latakia (Syria) – Famagusta ferry ran at irregular intervals, i.e. 16 times between 15 April and 04 October 2009. During this period approximately 1,600 persons (75% Syrian citizens) used this to reach the northern part of Cyprus, avoiding transit through Turkey. The Republic of Cyprus authorities suspect that a large number of illegal immigrants used this route. The ferry link restarted in June 2010. The authorities continue to urge the Syrian Government to close the ferry link since the operation of the port of Famagusta has been declared illegal by the Government of the Republic of Cyprus.

Precise data are not available for persons sent back from crossing points, but CYPOL estimates 2,000 during the period.

No direct co-operation exists on police and immigration between the Republic of Cyprus and the Turkish Cypriot community. However, the two sides meet within the framework of a bi-communal technical committee on crime and criminal matters under UN auspices, the office of which is located in the buffer zone at Nicosia airport. It is a mechanism for information sharing and joint initiatives on crime and criminal matters. During the reporting period, one case was jointly treated.

CYPOL described co-operation with other relevant governmental departments and the SBA administration as very good. 316 cases of illegal employment were detected in joint "labour inspections" with the Ministry of Labour and Social Insurance.

The CYPOL Aliens and Immigration Department employs 315 officers who have 36 vehicles at their disposal. In addition, two fully operational helicopters are available for surveillance flights. At crossing points ultra-violet equipment is available as well as connections to central Government databases (e.g. “Stop-List”, Civil Registry, Vehicles Registration, etc.) and connections to the CYPOL intranet system and the internet.

Control operations along the Line include regular day and night air and land patrols. Land patrols (mobile and on foot) are carried out by officers from local police stations which have jurisdiction at areas in the vicinity of the Line[8] Additionally, officers from the CYPOL Aliens & Immigration Department and CYPOL Divisional Squads patrol the Line daily. A Special CYPOL Squad from Larnaka Police Division is permanently present in the vulnerable area of Pergamos–Pyla (see infra under ESBA). The CYPOL Aviation Unit carried out approximately 115 hours helicopter patrol flights across the Line during the period. Both land and air patrols are coordinated by CYPOL Headquarters.

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7 Turkey: 351, Syria:104, Moldova: 57, Iran: 12, Nigeria: 10

8 The time spent by local police stations on land patrolling along the “green line” during a 24 hour-period is approximately 120 man/hours.

As the Line is not considered an external border, purchase of equipment is not eligible for funding under the External Border Fund[9] However, CYPOL staff participate in all FRONTEX[10] training programmes e.g. on detection of forged personal documents.

Eastern Sovereign Base Area (ESBA)

In general, illegal immigration via the ESBA has decreased during the period. SBA officers describe cooperation between the Republic of Cyprus and SBA Customs and Immigration in this area as excellent. During the reporting period, 1,174 persons were refused crossing, the majority being Turkish citizens. Other foreigners were tourists from the USA, Australia, Iran, Russia, Israel, Belarus and Serbia who entered via Tymbou/Ercan airport in the northern part of Cyprus and were not aware of Republic of Cyprus entry requirements[11]

A total of 17 illegal immigrants were apprehended within the ESBA, of whom six entered the government-controlled areas legally but stayed on after their visas expired[12]. The remaining 11 entered the island through the northern part of Cyprus and crossed the Line illegally[13]. Four of them entered the northern part of Cyprus through Tymbou/Ercan airport.

Away from the crossing points, the SBA Police conducts irregular, risk-based, intelligence-led patrols to counter illegal migration. These patrols are supplemented by patrols from SBA Customs and military assets. The SBA Customs service currently has approximately 40 operational staff working a 24/7 shift pattern 365 days a year to cover the two approved crossing points at Pergamos and Strovilia.

Between 1 May 2009 and 31 March 2010, 385 patrols have been carried out along the SBA - Green Line area. Normally, patrols are several times a day. SBA Customs have thermal imaging equipment (cameras, recording devices, covert vehicles) to detect movement across the Line. This equipment is deployed on a regular basis in a variety of high risk locations. Equipment is also available to detect traces of narcotics and explosives. Drug detection dogs are also deployed at crossing points. Ultra-violet passport readers are used at checkpoints.

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. This issue needs to be urgently addressed by the SBA in line with the requirements of Article 5 (2) of Protocol No 3 to the 2003 Act of Accession.[14]

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9 Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme "Solidarity and Management of Migration Flows", OJ L 144 of 6.6.2007, p.22

10 European Agency for the Management of Operational Cooperation at the External Borders

11 Turkey: 958, USA: 38, Australia: 31, Iran: 27, Russia: 14, Israel: 12, Belarus: 12, Serbia: 10

12 Egypt: 2, Syria:1, Nepal: 2, China: 1

13 Palestine: 4, Syria: 2, Iraq: 3, Egypt:1, India: 1

14 OJ L 236, 23.9.2003, p. 940

2. CROSSING OF GOODS

2.1. Value of trade

Pursuant to Art 8 of the Commission Regulation (EC) 1480/2004[15], 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 from the TCCoC, the total value of goods for which accompanying documents were issued in the period amounted to €6,267,082 whereas the value of goods actually traded was €5,579,720.[16]

According to the reports provided by the authorities of the Republic of Cyprus, the total trade value of goods which actually crossed the Line decreased by 16.8% (€878,702) to €5,232,328[17], compared to €6,111,030 in the previous period, primarily due to a considerable fall in potato trade. In previous reporting periods since 2007, potatoes were the largest single component of Green Line trade (up to 30% of overall trade). However, due to weather problems and non-availability of certified seed potatoes for the second crop this figure dropped to 14% during this reporting period.

May and June 2009 were saw the highest trade volume (€726,836 and €891,830), with first crop seed potatoes being the main trade product during these two months, i.e. 40% and 47% respectively of the monthly trade volume. The trade volume dropped sharply to €342,033 in August and fluctuated between €240,000 and €480,000 until April 2010.

Although not covered by the scope of the GLR, trade from the government-controlled areas to the northern part of Cyprus decreased to €708,196 in the reporting period (down from €1,095,060), according to figures from the Cyprus Chamber of Commerce and Industry. Trade from government-controlled areas to the northern part of Cyprus therefore represents 13.5% of the trade in the opposite direction (17.9% in the previous reporting period). However, it is estimated that Turkish Cypriots purchased goods worth €43 million in the wholesale and retail sector in the government-controlled areas, in 2009, bringing them to the northern part of Cyprus as part of their personal luggage. The same amount was spent by Greek Cypriots in the wholesale and retail sector in the northern part of Cyprus.[18]

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 side as the main reason. On several occasions, Greek Cypriot traders were not permitted to bring products into the northern part of Cyprus through the Green Line. Their objections to this treatment were reported to the Commission via the Cyprus Chamber of Commerce and Industry.

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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

17 0.09% of Republic of Cyprus total imports (€5,654 million in 2009, source Statistical Service of Cyprus)

18 Source: Economic Interdependence Project - Peace Economics Consortium, Nicosia

2.2. Type of goods

From May 2009 to April 2010 stone articles such as marbles, bricks and stone were the most traded items, followed by vegetables, fresh fish and building materials.[19] The trade in fresh fish which was introduced only during the previous reporting period grew by almost 150% from €307,000 to €760,000.

97% of the trade volume across the Line was intra-island trade. As of December 2009, metal scrap (copper, aluminium, steel) worth €41,206 was sold to the United Kingdom and steel scrap to India for a trade value of €86,470. These transactions required the involvement of a company registered in the government-controlled areas for intra-EU transactions and third country export formalities. The Turkish Cypriot Chamber of Commerce reported that in the case of intra-EU transactions VAT payments were due twice, in the government-controlled areas as well as in the Member State of final destination of the goods. The Commission is currently analysing the issue.

2.3. Irregularities

During the reporting period, 24 cases of irregularities involving a total trade value of €34,110 were reported by the Republic of Cyprus authorities which represents less than 1% of the total value of Green Line trade. The goods concerned were not allowed to cross the Line. In three cases, fresh fish was confiscated and destroyed as the consignments did not meet food safety standards and were unfit for human consumption. In one of these cases, the vehicle and boxes were considered as not being according to EU packaging regulations (total related trade value €2,016). Generally, according to EU procedures, non-compliant consignments of animal products such as fish are returned to the veterinary departments of the country of origin. Since no such department is recognized in the northern part of Cyprus, the fish in question was confiscated and destroyed at the checkpoint. Consideration should be given to returning such irregular consignments to the Turkish Cypriot Chamber of Commerce in future.

In six cases of scrap transport, the carrier had not obtained waste management permits from the competent Republic of Cyprus Environmental Department. Six transports of stones and glass were not accompanied by the necessary documentation, while in eight cases construction materials were not labelled according to CE marking requirements.

In the above-mentioned cases of construction materials the Turkish Cypriot Chamber of Commerce indicated inconsistencies in the treatment of partial consignments. It was noted that partial consignments of construction materials were refused due to missing CE markings while other partial deliveries of the same lot were allowed to cross.

2.4. Still existing obstacles and difficulties concerning the movement of goods

Obstacles to trade across the Green Line persist. The Republic of Cyprus authorities consider the issue of professional driving licences and roadworthiness certificates mentioned in previous reports as settled. The Republic of Cyprus authorities require driving licence and roadworthiness certificate for lorries to be obtained in the government-controlled areas, free of charge, but the Turkish Cypriot Chamber of Commerce does not consider this requirement justified and points to the fact that in 2009 and 2010 out of more than 3,000 Turkish Cypriot lorry drivers only 48 applied for the driving licence test, of which 39 passed. No applications

[19] See Annexes IV and V of this report

were filed for roadworthiness certificates. As a result, Turkish Cypriot commercial vehicles and in particular lorries and busses above 7.5 tonnes can still not move freely throughout the island. The Republic of Cyprus authorities do not recognize documents as for private passenger vehicles. This causes an economic disadvantage for Turkish Cypriot transport companies since for transports above 7.5 tonnes they have to mostly use trucks registered in government-controlled areas which (with a Turkish Cypriot car insurance) can circulate freely also in the northern part. Facilitation of access for Turkish Cypriot lorries and busses to the government-controlled areas would contribute to a better balanced economic development of the transport sector in the northern part of Cyprus.

No progress can be reported either with regard to other trade. As in previous years, Turkish Cypriot traders continued to report difficulties in having their products stocked in shops and advertising their products and services in the press in the government-controlled areas. These difficulties reflect a widespread reluctance among Greek Cypriots to purchase Turkish Cypriot branded products and as such constitute a psychological barrier to trade.[20] Smuggling of goods across the Line has decreased but remains widespread reflecting the geographical nature 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 particular mainly seasonal issues such as the transportation of game/wild birds or fire crackers (also via the ESBA) to the government-controlled areas. Other items seized include cigarettes, alcohol, commercial quantities of fresh fish and snails as well as counterfeit textiles. However, according to Republic of Cyprus authorities, the volume of smuggling has decreased due to reduced price differentials. CYPOL as well as ESBA patrols along the Line are dual function: anti-smuggling as well as illegal immigration controls. The number of criminal cases filed in district courts for smuggling was 12 in 2008, 11 in 2009 and 7 in 2010 (until March). Most goods were detected at authorized crossing points: Pyla, SBA, buffer zone near Zodia and Potamia.

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 SBA administration. The Turkish Cypriot neighbouring village of Pergamos is divided by the Green Line and those Turkish Cypriots living on the SBA side seek the same treatment as Pyla with regard to the 'movement of goods' across the Line but this is not allowed under the GLR which only refers to Pyla.

2.5. Facilitation of trade

The Commission continues to seek ways of enhancing trade across the Green Line. A Commission decision lifting the prohibition of the Green Line regulation to allow trade in additional new agricultural products, with the main focus being on dairy products (milk and cheese, yoghourt, whey), could be envisaged if the results of the mission of independent experts checking whether dairy products can meet EU requirements is favourable. Other products for which the Turkish Cypriot Chamber of Commerce has indicated interest are fish from fish farms and snails.

The Commission is also examining the possibility of amending the implementing rules[21] of the GLR by lifting the obligation that potatoes must be grown directly from certified seed

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[20] Cf Hatay, Mullen, Kalimeri, "Intra-island trade in Cyprus – Obstacles, oppositions and psychological barriers", Prio Cyprus Centre 2008.

[21] Article 3(1) Commission Regulation (EC) 1480/2004 of 10 August 2004.

potatoes. This would allow trade of second crop potatoes produced under the control of the independent phytosanitary experts appointed by the Commission to provide the necessary assurance with regard to the identity and the health status of this second crop.

As mentioned above under point 2.3, certain consignments with construction materials were refused crossing the Line due to missing CE markings. Many Turkish Cypriot traders were not familiar with the new (December 2009) Republic of Cyprus procedure, for getting their products CE-certified. The Commission organized a study tour to Brussels for representatives of the Turkish Cypriot Chamber of Commerce to receive more information on CE marking requirements and a TAIEX[22] seminar in Nicosia to provide detailed information on CE markings to Turkish Cypriot traders. Concerning language requirements for accompanying documents, the Cyprus Market Surveillance Authority agreed to accept documents in English or English translations of Turkish originals.

Under the auspices of the USAID-funded EDGE project, various actions are planned to facilitate Green Line trade. These include a bi-communal Arbitration Center, business facilitation events and detailed trade analyses to discover further trade potential.

3. CONCLUSIONS

Control of the Green Line at the authorised crossing points is satisfactory. During the reporting period the number of apprehended illegal immigrants fell by more than 50% from the previous year's level but the illegal 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 Sovereign Base Area Administration would be important to help tackle the problem of illegal migration. The Republic of Cyprus remains careful to avoid any measures which could lead to the Line taking on the appearance of an external border.

The unauthorised crossing points in the SBA areas remain an area of concern. This issue needs to be urgently addressed by the SBA.

During the current reporting period the value of trade across the Line decreased for the first time since the coming into force of the GLR in 2004 (by 17% down to €5,232,328 compared to €6,111,030 in the previous reporting period). The main reason for this decrease is the fall in the potato trade. Excluding the trade in potatoes (amounting to some €700,000), Green Line trade was stable. The most traded products were stone articles, vegetables, fresh fish and building materials. The overall scale of Green Line trade still remains limited, in part due to the restricted scope of the Regulation itself.

Obstacles to trade remain. Turkish Cypriot commercial vehicles, in particular lorries above 7.5 tonnes and buses, cannot move freely across the island. No further progress can be reported with regard to other non-tariff trade barriers.

Finally, it appears that smuggling of goods across the Line has decreased but still remains widespread.

[22] EU Technical Assistance and Information Exchange instrument

The overall conclusion is that 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 will continue to monitor the implementation of the Regulation.