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REPORT FROM THE COMMISSION TO THE COUNCIL

Eighth 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 2011

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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 January – 31 December 2011.

During the reporting period, the Commission did not propose any changes to the GLR but 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 at working level, on the implementation of the Regulation.

1. IMPLEMENTING MEASURES

On 31 May 2011 the Commission adopted Regulation No 531/2011 amending the implementing rules of the GLR.[3]

The Commission's decision lifted the obligation that potatoes traded across the Green Line (hereafter "the Line") must be grown directly from certified seed potatoes. This allows trade of potatoes produced from farm saved seeds grown as the first offspring of certified seed potatoes under the control of independent phytosanitary experts appointed by the Commission to provide the necessary assurance with regard to the identity and the health status.

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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 Regulation No 1480/2004 laying down specific rules concerning goods arriving from the areas not under the effective control of the Government of Cyprus in the areas in which the Government exercises effective control.

2. CROSSING OF PERSONS

2.1. 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 Line at authorised crossing points. There was a slight increase in the number of Greek Cypriots crossing and a decrease in the number of Turkish Cypriots crossing.

According to data from the Republic of Cyprus, 621,406 (previous: 596,578) crossings by Greek Cypriots in 210,877 vehicles (previous: 170,315) were noted from the government-controlled areas to the northern part of Cyprus and 937,789 (previous: 1,097,676) crossings by Turkish Cypriots in 348,225 vehicles (previous: 378,475) from the northern part of Cyprus to the government-controlled areas during the reporting period.[4]

The number of EU citizens other than Cypriots and third country nationals crossing the Line decreased slightly. According to data from the Republic of Cyprus Police (hereafter: CYPOL), during the reporting period a further 634,218 crossings were effected by EU citizens other than Cypriots and third country nationals (previous: 664,566). 67 % of these crossings (424,992) occurred at the Ledra Street pedestrian crossing which opened in April 2008. The Ledra Street crossing point continued to account for the vast majority of crossings by non-Cypriots (primarily tourists).

The figures are broadly in line with those gathered from the Turkish Cypriot community i.e. 694,633 crossings by Greek Cypriots in 248,962 vehicles from the government-controlled areas to the northern part of Cyprus and 1,450,566 crossings by Turkish Cypriots in 553,913 vehicles in the other direction. In addition, there were 1,101,942 foreign nationals crossing from the government-controlled areas to the northern part of Cyprus.

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 ESBA.[5] No detailed statistics are kept by the ESBA Administration for these two crossing points. However ESBA estimates, based on information from the Turkish Cypriot community, that 84,407 Greek Cypriots crossed to the northern part of Cyprus and 450,408 Turkish Cypriots crossed to the government-controlled areas through the crossing points situated within the SBA.

In 2011, the number of CYPOL personnel working directly at the crossing points was increased from 73 in 2010 to 77.

The overall assessment of the crossings of persons is positive. However, a few incidents were reported during the reporting period. On 9 October 2011, a Turkish-Cypriot bus carrying Latvian tourists was not allowed to cross the Line at the Agios Dhometios

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[4] 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)

[5] The GLR does not contain reporting obligations for this traffic.

crossing point where it had previously crossed many times. According to the bus driver, he was told at the crossing point that only Turkish Cypriots could cross on a Turkish Cypriot registered bus. The tourists were taken to the Ledra Palace crossing point where they crossed on foot and where a bus from the government-controlled areas was hired for them to be able to complete their tour. While the Republic of Cyprus authorities have informed the Commission that the necessary documents were not in order, the bus driver has informed the Commission that he has been allowed to cross many times since while carrying Turkish Cypriots and has lodged an official complaint to the Commission.

The miscommunication, that Turkish Cypriots will no longer be able to cross if they do not carry a Republic of Cyprus ID card which affected only few Turkish Cypriots on specific days, was swiftly resolved.

The above-mentioned incidents have been a source of concern to the Turkish Cypriot community and were raised by the Commission with the authorities of the Republic of Cyprus to assess whether there is a change of policy, which would require a notification to the Commission as stated in the GLR.[6] The authorities of the Republic of Cyprus have informed the Commission that there is no change of policy regarding the crossing of persons, noting that the proportion of incidents is insignificant in comparison to the overall number of crossings.

2.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2011 indicate a further decrease in irregular migration across the Line from the northern part of Cyprus to the government-controlled areas. In 2011, 1,311 irregular migrants (previous: 1,855) were apprehended within the government-controlled areas (excluding those who were not allowed to cross at Green Line crossing points[7]). One irregular immigrant entered directly the government-controlled areas and 18 persons entered via the Eastern SBA, bringing the total number of apprehended irregular migrants to 1,330. CYPOL indicated as a probable reason the decrease in employment prospects due to the economic crisis in Cyprus as well as the work of the Republic of Cyprus authorities' to combat irregular migration. The majority of irregular immigrants apprehended were citizens of Syria, Iran and Georgia (Annex VIII). Irregular immigrants are normally apprehended during controls along the Line and at airports when seeking to leave Cyprus. Third country nationals seeking international protection are normally identified at police stations while applying for asylum.

CYPOL's assessment of the entry route of irregular 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 by immigrants but also other evidence such as no ID documents, Turkish Cypriot newspapers and Turkish bank notes).

Out of 1,311 irregular migrants, 417 (31.8%) persons applied for asylum in the Republic of Cyprus.

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6 GLR Article 10

7 The Republic of Cyprus does not keep official statistic on the number of persons not allowed to cross the Green Line. However, CYPOL estimates that in 2011, around 2220 persons were not allowed to cross into the government-controlled areas.

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

According to information from the Turkish Cypriot community, 16 irregular migrants were apprehended in the northern part of Cyprus, all of them Syrians. 2,267 were refused permission to cross the Line into the northern part of Cyprus at official crossing points.[8] During the reference period, 860 persons were "deported" from the northern part of Cyprus.[9]

The Latakia (Syria) – Famagusta ferry service was terminated in September 2010. So far the crisis in Syria has not affected Cyprus and the number of irregular migrants from Syria has decreased.

Precise data is not available for persons refused to cross at the crossing points.

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 within the framework of a bi-communal technical committee on crime and criminal matters under UN auspices. The Technical Committee on Crime and Criminal Matters is one of seven specialized 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. 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 day-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]

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

Eastern Sovereign Base Area (ESBA)

In general, irregular immigration via the ESBA has decreased during the reporting period. SBA officers continue to describe cooperation between the Republic of Cyprus and SBA Customs and Immigration in this area as excellent. During the reporting period, 1,163 persons were not allowed to cross, the majority Turkish citizens who are living in the northern part of Cyprus. Other foreigners were tourists from Australia, the USA, Brazil, Iran, and Russia who crossed 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]

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8 Turkey: 979, Syria: 204, Turkmenistan: 167, Georgia: 88, Iraq: 74

9 Turkey: 543, Syria :44, Moldova: 64, Iran: 53, Nigeria: 10

10 Information provided by UNFICYP

11 i.a: Turkey: 900, Iran: 39, Australia: 33, USA: 30, Brazil: 19, Russia: 19.

A total of 18 irregular migrants were apprehended within the ESBA[12], of whom 9 had crossed to the government-controlled areas legally but stayed on after their visas had expired. 3 facilitators were also arrested by the SBA. The remaining 6 entered the island in the northern part of Cyprus and crossed the Line irregularly.

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. The SBA is conducting increased patrols in these areas with a double function, to control bird trapping and to deter people from crossing illegally. As mentioned in previous Green Line reports, these "unauthorised crossing points" remain an area of concern. As in previous years, 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.[13]

3. CROSSING OF GOODS

3.1. Value of trade

Pursuant to Art 8 of the Commission Regulation (EC) 1480/2004[14], 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 2011 amounted to €29,954,867 whereas the value of goods actually traded was €29,402,577[15]. The Green Line trade in 2011 was five times higher than in 2010. This substantial increase is explained by the sale of electricity from the northern part of Cyprus to the government-controlled areas, which was the result of exceptional circumstances. The sale of electricity, which amounted to €24,085,775 (82% of the trade), was agreed between the Presidents of the Cyprus Chamber of Commerce and Industry (hereafter: CCCI) and the TCCoC following the explosion at the Mari naval base in July 2011, which destroyed large parts of the nearby Vasiliko power plant. The sale of electricity had a major impact on the Green Line trade in 2011. In order to correctly portray the regular Green Line trade, this report will feature the trade with and without the sale of electricity.

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12 Egypt: 6, Nigeria: 2, Syria: 2, Georgia: 2, Sri Lanka: 3, India:1, Bangladesh: 1, Nepal:1.

13 OJ L 236, 23.09.2003, p. 940

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

15 See Annexes I, II and III of this report

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 €5,869,092 whereas the value of goods actually traded was €5,316,803.

According to reports provided by the authorities of the Republic of Cyprus, the total trade value of goods which crossed the Line increased by 560% to €28,923,500. The total trade value of goods (without taking into account the sale of electricity) which crossed the Line decreased by 6.5% from €5,173,233 in 2010 to €4,827,454 primarily due to a decrease in stone articles such as marbles, bricks and building materials which may be explained by the economic crisis and the slow down of the construction sector. The trade of vegetables also went down, with a further decrease of the potatoe trade. Until 2010, potatoes were the largest single component of Green Line trade (up to 30% of overall trade). In 2011, the potato trade represented less than 1% of the overall Green Line trade. This was mainly due to a surplus production of potatoes in government-controlled areas which negated the need to buy potatoes from the northern part of Cyprus..

Although not covered by the scope of the GLR, trade from the government-controlled areas to the northern part of Cyprus more than doubled, reaching €2,272,493 in 2011 (previous: €1,090,086) according to figures from the CCCI. The main reason for this significant increase is the supply of items manufactured in the government-controlled areas towards an EU funded project in the northern part of Cyprus. Trade from the government-controlled areas to the northern part of Cyprus therefore represents 7.85% of the trade in the opposite direction (21% in 2010). 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 46% of the trade in the opposite direction.

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.

3.2. Type of goods

In 2011, following electricity, scrap raw metal was the most traded item, followed by fresh fish and plastics.[16]

New products, other than electricity, such as pomegranate and decorative pebbles, were introduced during the reporting period but with very limited impact on the trade.[17]

99.66% of the trade volume across the Line was intra-island trade. The remaining 0.34% was sold to India in form of iron and steel scrap for a trade value of €93,850 (in 2010: €123,788). These transactions required the involvement of a company registered in the government-controlled areas for intra-EU transactions and third country export formalities. During the reporting period, no items were traded to other EU Member States (in 2010: €17,693).

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16 See Annexes IV of this report

17 Decoration pebble and pomegranate trade only represented 0.4% of the overall Green Line trade.

3.3. Irregularities

During the reporting period, four cases of irregularities involving a total trade value of € 2,590 (0.008% of the overall Green Line trade) were reported by the Republic of Cyprus authorities. The goods concerned were not allowed to cross the Line for various administrative reasons (documents missing, materials not labelled according to CE marking requirements).

3.4 Remaining obstacles and difficulties concerning the movement of goods

Obstacles to trade across the Line continue to persist. As mentioned in previous reports, the issue of Turkish Cypriot lorries crossing to the government-controlled areas is not yet satisfactorily solved. However, the Commission services are currently in technical talks with the competent authorities of the Republic of Cyprus in order to address the issue and explore ways of finding viable arrangements that will address inter alia road safety concerns.

Some problems emerged around foodstuff. The authorities of the Republic of Cyprus did not allow certain products (e.g. bread) to cross, due to concerns raised by health services concerning the production process in the northern part of Cyprus. Following clarifications from the Commission, the goods in question have been crossing without any problems.

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 government-controlled areas which hinder trade. These difficulties possibly reflect a widespread reluctance among Greek Cypriots to purchase Turkish Cypriot branded products and such attitude constitutes an obstacle to trade. However, trade between the two communities other than the Green Line trade is several times higher. According to estimations from the TCCoC, Turkish-Cypriots' purchased goods worth € 120 million in the government-controlled areas as part of their personal luggage.

Smuggling of goods across the Line decreased in 2011 and the Republic of Cyprus' authorities conducted 1,538 seizures (previous: 545). The SBA conducted 281 seizures at the official crossing points of *Pergamos* and *Strovilia*. However, the smuggling of goods 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 particularly tackle seasonal issues such as the transport of game/wild birds or fire crackers (also via the ESBA) to the government-controlled areas. Other items seized include cigarettes and tobacco, animal products as well as counterfeit handbags and textiles. However, according to the Republic of Cyprus authorities, the volume of smuggling decreases due to reduced price differentials. CYPOL as well as ESBA patrols along the Line are dual function: anti-smuggling as well as irregular immigration controls. The number of criminal cases filed in district court for smuggling was 11 in 2009, nine in 2010 and none in 2011.

Most goods were detected at authorised crossing points: Pyla, SBA, the 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.

3.4. Facilitation of trade

The Commission continues to seek ways of enhancing trade across the Line. A Commission Decision lifting the prohibition of the GLR to allow trade of additional agricultural products, with the main focus being on dairy products (milk and cheese, yoghourt, whey) could be envisaged once the necessary conditions laid down in the recommendations of the assessment missions carried out by independent experts have been fulfilled. During the reporting period, the Commission lifted the obligation that potatoes traded across the Green Line must be grown directly from certified seed potatoes. However, it is still too early to assess whether the Commission Decision had a positive impact on the Green Line trade.

Other products for which the TCCoC has indicated interest are farmed fish and snails. Furthermore, there is a general interest in the lifting of the prohibition of trade in all live animals and animal products to the extent these products would 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 was informed by the authorities of the Republic of Cyprus of the arrangements put in place for the *sui generis* movement of goods from the government controlled-areas through the non-controlled areas and back into the government controlled-areas through the Limnitis crossing point (which was opened in October 2010). The Commission informed the Republic of Cyprus authorities that this practice needs to be brought in line with EU law by amending the GLR, which is an exclusive legal tool regulating any movement of goods and persons across the Line.

4. 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 SBA Administration would be important to help tackle irregular migration. The Commission is concerned about a few incidents which took place at the crossing points in October and December 2011 and will continue to liaise with the authorities of the Republic of Cyprus on any developments which could concern a change of policy.

In 2011, the value of trade across the Line was five times higher than in 2010. This substantial increase is due to the sale of electricity from the northern part of Cyprus to the government controlled areas which amounted to €24,085,775. Without taking into account the sale of electricity, regular Green Line trade decreased for the third time in a row since the coming into force of the GLR in 2004 (by 6.5% down to €4,827,454

compared to € 5,173,233 in 2010). The most traded products were, after electricity, scrap raw metal, fresh fish, plastics and stone articles. The overall scale of the trade still remains limited, in part due to the restricted scope of the Regulation itself. A positive development to be noted is the agreement between the Presidents of the CCCI and TCoCC for the supply of electricity from the non-government controlled to the government controlled areas, following the regrettable explosion at the naval base in July 2011. The agreement gave a boost to the Green Line trade and constituted in itself a confidence building measure.

During the reporting period, certain obstacles to trade remained. Turkish Cypriot commercial vehicles, in particular lorries above 7.5 tons and buses, can only cross the whole island if driving licences and roadworthiness certificates are obtained in the government-controlled areas. Technical talks have been initiated between the Commission services and the relevant departments of the Republic of Cyprus to find a viable solution to this issue. No further progress can be reported yet with regard to other non-tariff trade barriers.

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 requires a regularisation by an amendment to the Green Line Regulation.

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.