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REPORT FROM THE COMMISSION TO THE COUNCIL

Seventh 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 May until December 2010

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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]

The usual reporting period in previous years covered the period of 1 May of a given year until 30 April of the following year. For practical reasons, it was decided to align the reporting period with the calendar year (i.a. to use annual statistics). This report covers therefore the period 1 May 2010 to 31 December 2010 instead of 1 May 2010 to 30 April 2011. For the purpose of comparison, previous figures from 1 May 2009 to 31 December 2009 were used.

During the reporting period the Commission did not propose any amendments to the Regulation and did not take any new Decisions on implementing measures.

On 14 October 2010 a new crossing point between Kato Pyrgos and Karavostasi[3] (also known as Limnitis/Yesilirmak crossing point) was opened by the leaders of both communities with the participation of Commissioner Füle and UN representatives. The EU contribution to the upgrading of the road between these two villages amounted to €2,5 million.

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, thus continuing the trend observed during the previous reporting

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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 Crossing points as indicated in annex 1 of the Green Line Regulation

period. According to data from the Republic of Cyprus, 415,155 (previous: 489,487) crossings by Greek Cypriots in 120,673 vehicles (previous: 126,029) were noted from government-controlled areas to the northern part of Cyprus and 738,337 (previous: 825,824) crossings by Turkish Cypriots in 254,070 vehicles (previous: 300,132) from the northern part of Cyprus to the government-controlled areas during the reporting period.[4]

However, the number of non-Cypriot EU citizens and third country nationals crossing the line decreased by 56%, which is a sharp reversal of the trend observed in the previous report. According to data from the Republic of Cyprus Police (hereafter: CYPOL), during the reporting period a further 449,861 crossings were effected by EU citizens other than Cypriots and third country nationals (previous 1,014,275). 68% of these crossings (303,820) occurred at the Ledra Street pedestrian crossing point which opened in April 2008. The Ledra Street crossing point continued to account for the vast majority of crossings by non-Cypriots (primarily tourists) during the period.

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 Turkish Cypriot sources, report some 66,000 Greek Cypriots crossed to the northern part of Cyprus and 416,000 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. Due to the opening of the new Limnitis crossing point (14/10/2010) this number was increased to 73. No major incidents were reported as regards daily crossings.

1.2. Irregular migration across the Green Line and asylum

CYPOL figures from May to December 2010 indicate a further decrease in irregular migration across the Line from the northern part of Cyprus to the government-controlled areas. During these eight months, 1,196 irregular migrants were apprehended within the government-controlled areas (excluding those who were not allowed to cross at Green Line crossing points**).** During the previous 12 months reporting period 2,546 irregular immigrants were apprehended.[6] No irregular immigrants directly entered the government-controlled areas and 13 persons entered via the Eastern SBA, bringing the total number of apprehended irregular migrants to 1,209. CYPOL indicated as a probable reason the decrease in employment prospects due to the economic slowdown in Cyprus. The majority of irregular immigrants apprehended were ia. citizens of Syria, occupied Palestinian territory and Iran (Annex VIII). Irregular 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.

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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.

6 No figures were available on an eight months basis for May to December 2009

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 "Turkish Republic of Northern Cyprus" ("TRNC") statements made by the immigrants but also other evidence such as no ID documents, Turkish Cypriot newspapers and Turkish bank notes.

617 (59,6%) persons applied for asylum in the Republic of Cyprus. Asylum procedures established during the previous reporting period enabled the shortening of the process from six to three months. No person who crossed to the government-controlled areas during the reporting period has been granted refugee status[7].

Most irregular migrants arrive in government-controlled areas via Turkey and the northern part of Cyprus. CYPOL also reported cases of irregular migrants or irregularly arriving in the Republic of Cyprus on fishing and speedboats disembarking usually in the open coastal regions north of Famagusta.

The Latakia (Syria) – Famagusta ferry ran at irregular intervals, i.e. 14 times between 7 June and 16 September 2010. During this period some 491 persons (vast majority Syrian citizens) used this to reach the northern part of Cyprus. The Republic of Cyprus authorities suspect that a large number of irregular immigrants used this route. The authorities continue to urge the Syrian Government to close the ferry link since the the port of Famagusta has been declared closed by the Government of the Republic of Cyprus.

Precise data are not available for persons sent back from crossing points

No direct co-operation exists on police and immigration 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 office of which is located in the buffer zone at the former Nicosia airport. The Technical Committee on Crime and Criminal Mattes 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. It is a mechanism for information sharing and joint inititiatives on crime and criminal matters.

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 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, 953 persons were not allowed to cross, the majority being Turkish citizens who are living in the non government controlled areas. Other foreigners were tourists from Canada, Ukraine, the USA, Australia, Russia, Iran and Jordan who entered via the northern part of Cyprus. These persons were

[7] Several persons who entered the government controlled areas during the previous reporting period were granted refugee status during the current reporting period

directed to the Nicosia crossing point 'Agios Dometios' to process for Republic of Cyprus entry requirements[8]

A total of 13 irregular immigrants were apprehended within the ESBA[9], of whom eight had entered the government-controlled areas legally but stayed on after their visas had expired. The remaining 5 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. 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.[10]

2. CROSSING OF GOODS

2.1. Value of trade

Pursuant to Art 8 of the Commission Regulation (EC) 1480/2004[11], 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 the government-controlled areas through the crossing points of *Pergamos* and *Strovilia* under the authority of the SBA Administration.

According to reports from the Turkish Cypriot Chamber of Commerce (TCCoC), the total value of goods for which accompanying documents were issued in the period amounted to €5,312,798 whereas the value of goods actually traded was €4,503,793.[12]

According to the reports provided by the authorities of the Republic of Cyprus, the total trade value of goods which actually crossed the Line continued to further decrease by 1.5% from €3,920,930 in the previous period to €3,861,834 [13], primarily due to an almost complete fall-out 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 very wet weather in spring 2010 and the non-availability of certified seed potatoes for the second crop a small consignment of potatoes (€166,320) was traded in November. Accordingly, the potato trade accounted for only 4% of the overall trade volume during this reporting period.

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8 i.a: Turkey: 721, Canada: 51, Ukraine: 24, USA: 23, Australia: 12, Russia:10, Iran:7, Jordan:7

9 China: 3, Nigeria: 3, India: 2, Pakistan:1, Bangladesh: 1, Nepal: 1, Iran: 1, Turkey: 1

10 OJ L 236, 23.9.2003, p. 940

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

12 See Annexes I, II and III of this report

13 0.06% of Republic of Cyprus total imports (6,461 million in 2010, source Statistical Service of Cyprus)

Although not covered by the scope of the GLR, trade from the government-controlled areas to the northern part of Cyprus increased significantly to €728,578 in the reporting period (up from €408,414) during the same period in 2009, according to figures from the Cyprus Chamber of Commerce and Industry. Trade from government-controlled areas to the northern part of Cyprus therefore represents 19% of the trade in the opposite direction (10% in the previous period).

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.

2.2. Type of goods

From May 2010 to December 2010 stone articles such as marbles, bricks and stone were the most traded items followed by fresh fish and building materials.[14]

96% of the trade volume across the Line was intra-island trade. The remaining 4% were sold to the United Kingdom in form of metal scrap (copper, aluminium, steel) worth €17,693 and to India in form of steel scrap for a trade value of €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.

2.3. Irregularities

During the reporting period, 9 cases of irregularities involving a total trade value of €15,900 were reported by the Republic of Cyprus authorities. The goods concerned were not allowed to cross the Line for various administrative reasons (quantity or nature of goods not according to documents or documents missing).

In two cases, considerable quantities of pesticides were detected in vegetables to be traded across the line. The European Commission immediately informed the Turkish Cypriot Chamber of Commerce of these incidents. According to the latter measures will be undertaken to prevent similar incidents in future.

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

Obstacles to trade across the Green Line continue to persist. As reported in the previous report, the issue of Turkish Cypriot lorries crossing into the government-controlled areas is not yet satisfactorily solved. In the view of the Commission, the liberalisation of circulation of commercial Turkish Cypriot vehicles would contribute to the economic development of the Turkish Cypriot community. However, the Republic of Cyprus authorities have expressed *inter alia* concerns as to aspects of road safety, but have also indicated their willingnes to cooperate with the Commission to search for a viable solution

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

[14] See Annexes IV and V of this report

Cypriot branded products and as such continues to constitute a psychological barrier to trade. However, trade between the two communities other than Green Line trade is several times higher but reliable figures were not available for the reporting period. Smuggling of goods across the Line has further 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 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 courts for smuggling was 12 in 2008, 11 in 2009 and 9 in 2010 (during the current reporting period). It was noted that smuggling of cigarettes increased in December 2010 when cigarettes prices in the government-controlled areas were increased by 50 Euro Cents.

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.

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 once the necessary conditions laid down in the recommendations of the assessment missions carried out by independent experts have been fulfilled. Other products for which the Turkish Cypriot Chamber of Commerce has indicated interest are pomegranates, fish from fish farms and snails.

During the reporting period, the Commission has also started the procedure for an amendment to the implementing rules[15] of the GLR to lift the obligation that potatoes must be grown directly from certified seed potatoes. This would allow trade of potatoes produced from farm saved seeds grown as the first offspring of certified seed potatoes 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.

3. CONCLUSIONS

As already stated in previous reports, control of the Green Line at the authorised crossing points is satisfactory. During the reporting period the number of apprehended irregular immigrants 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 Sovereign Base Area Administration would be important to help tackle the

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

problem of irregular 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. As was already stressed in previous reports, this issue needs to be urgently addressed by the SBA.

During the current reporting period the value of trade across the Line slightly decreased for the second time in a row time since the coming into force of the GLR in 2004 (by 1.5% down to €3,861,834 compared to €3,920,930 in the previous equivalent period) since the global economic crisis is still affecting also the Cypriot economy. Another reason for this decrease is the fall-out in the potato trade. Excluding the trade in potatoes Green Line trade was stable. The most traded products were stone articles, 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.

During the reporting period, certain obstacles to trade remained. Turkish Cypriot commercial vehicles, in particular lorries above 7.5 tonnes and buses, can only move freely across the whole island if driving licences and roadworthiness certificates are obtained in the government controlled areas. No further progress can be reported yet with regard to other non-tariff trade barriers.

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

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.