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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

Subject: REPORT FROM THE COMMISSION TO THE COUNCIL
Fourteenth report on the implementation of Council Regulation (EC) No
866/2004 of 29 April 2004 and the situation resulting from its application
covering the period 1 January until 31 December 2017

Delegations will find attached document COM(2018) 488 final .

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REPORT FROM THE COMMISSION TO THE COUNCIL

Fourteenth report on the implementation of Council Regulation (EC) No 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2017

{SWD(2018) 352 final}

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Council Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol No 10 to the Act of Accession¹ (hereafter the Green Line Regulation or GLR) entered into force on 1 May 2004. It defines the terms under which provisions of EU law apply to the movement of persons, goods and services across the line between the areas of the Republic of Cyprus in which the government does not exercise effective control and the areas in which it does. In order to ensure the effectiveness of these rules, their application was extended to the boundary between these areas and the UK Eastern Sovereign Base Area (ESBA).²

This report covers the period 1 January – 31 December 2017.

During the reporting period, 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, as well as with the Turkish Cypriot Chamber of Commerce (TCCoC).

1. CROSSING OF PERSONS

1.1. Crossing at authorised crossing points

The Regulation provides a stable legal framework for the crossings of Cypriots, other EU citizens and third country nationals who cross the Green Line (hereafter "the Line") at authorised crossing points. There was an increase in the number of Turkish Cypriots and of Greek Cypriots crossing in 2017 compared to previous years.

According to data from the Republic of Cyprus Police (hereafter CYPOL), 646,569 (previously: 613,111) crossings by Greek Cypriots and 267,467 crossings by Greek Cypriot vehicles (previously: 244,929) were recorded from the government controlled areas to the northern part of Cyprus, while 1,140,682 (previously: 1,138,670) crossings by Turkish Cypriots and 435,882 crossings by Turkish Cypriot vehicles (previously: 413,208) from the northern part of Cyprus to the government controlled areas were recorded during the reporting period³.

The number of EU citizens other than Cypriots and third country nationals crossing the Line increased substantially. During the reporting period 822,318 crossings by EU citizens other

¹ OJ L 161, 30.04.2004, p.128. Regulation as last amended by Council Regulation (EU) No 685/2013 of 15 July 2013, OJ L 196, 19.7.2013, p. 1 - known as the "Green Line" Regulation.

² See third recital of the Green Line Regulation.

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

than Cypriots and by third country nationals took place (previously: 385,426). The significant increase in crossings by EU citizens other than Cypriots and third country nationals was attributed to a general increase in tourism on the island.

The CYPOL figures mentioned above do not include data on persons and vehicles crossing from the northern part of Cyprus at the *Pergamos* and *Strovilia* crossing points, which are under the authority of the UK Eastern Sovereign Base Area (ESBA). For these, the ESBA reports that 140,913 (previously: 125,457) crossings by Greek Cypriots and 59.852 crossings by Greek Cypriot vehicles (previously: 49.694) to the northern part of Cyprus were recorded. At the same time 457,314 (previously: 429,807) crossings by Turkish Cypriots and 272.090 crossings by Turkish Cypriot vehicles (previously: 246.474) in the other direction were recorded. Moreover, 415,051 (previously 295,042) EU citizens other than Cypriots and third country nationals crossed the Line.

In 2017, the number of CYPOL personnel working at the crossing points remained 69, as in 2016.

The figures gathered by the Turkish Cypriot community indicate in 2017 an increase in the number of crossings by Greek Cypriots to 1,066,284 (previously 980,724) and Greek Cypriot vehicles to 392,300 (previously: 346,609) from the government controlled areas to the northern part of Cyprus. They also indicate an increase in the number of crossings by Turkish Cypriots to 1,796,353 (previously: 1,762,498) and Turkish Cypriot vehicles to 782,656 (previously: 728,049) in the other direction. According to the statistics provided, 1,546,475 EU citizens other than Cypriots and third country nationals crossed from the government controlled areas to the northern part of Cyprus (previously: 1,253,446).

No incidents concerning crossings were reported in 2017. However, to date, Turkish Cypriot busses carrying EU citizens are still not permitted by the authorities of the Republic of Cyprus to cross into the government controlled areas.

Work continued on construction of infrastructure to allow the opening of two new crossing points at Lefka-Apliki and Deryneia.

The United Nations Peacekeeping Force in Cyprus (UNFICYP) continued to facilitate the practice of religious worship by both communities.⁴ However, UNFICYP noted with concern a decline in the number of applications for religious services that it was asked to facilitate in the northern part of Cyprus and a decline in the number of approvals for such services in comparison with the same period in 2016.

1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2017 indicated an increase in the number of migrants who irregularly crossed the Line from the northern part of Cyprus into the government controlled areas. In 2017, 1,686 irregular migrants crossed the Line in this way, while in 2016 the number was 1499, and in 2015 the number was 1,290. The countries of origin with the highest number of

⁴ Report of the Secretary-General on UNFICYP [S/2018/25] of 9 January 2018, paras. 24-25.

irregular migrants apprehended having crossed the Line were Syria (753), Pakistan (119), Somalia (111), Cameroon (98) and Turkey (74). Out of the 1,686 irregular migrants detected, 90% (1,519) applied for international protection in the Republic of Cyprus. The majority of these applicants were Syrians (744).

Irregular migrants are normally apprehended during controls along the Line or at airports when seeking to leave Cyprus. In some cases, irregular migrants have gone to police stations in order to request international protection.

CYPOL was able to identify persons who had irregularly crossed the Line into the government controlled areas by using the same criteria as in previous years, primarily through information included in their travel documents and statements by the migrants concerned. According to this assessment, almost all the migrants apprehended in the government controlled areas after having irregularly crossed the Line had previously arrived in the northern part of Cyprus from Turkey.

The Turkish Cypriot community confirmed that efforts had continued in the northern part of Cyprus to prevent irregular migration. In 2017, 2,858 persons⁵ were refused entry into the northern part of Cyprus and 645 persons⁶ who had been apprehended within the northern part of Cyprus were returned to Turkey, which was the last state they had visited before arriving on the island.

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

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

Eastern Sovereign Base Area (ESBA)

Overall, irregular migration from the northern part of Cyprus via the ESBA decreased slightly. In 2017, 2 irregular migrants were apprehended after having crossed the Line irregularly.⁷ 1,263 persons were not allowed to cross, of whom the majority were Turkish citizens (379). The ESBA authorities also refused to allow foreign nationals from the USA, Ukraine, Russia, Iran and Georgia, who arrived via the northern part of Cyprus, to cross the Green Line.⁸ These persons were directed to the Agios Dhometios crossing point to undergo checks as per the Republic of Cyprus' entry requirements.

⁵ Nationals of Turkey: 421, of Syria: 348, of Turkmenistan: 279, of Iran: 119, of Iraq: 152.

⁶ Nationals of Turkey: 261, of Syria: 118, of Turkmenistan: 18, of the Republic of Moldova: 11, of Nigeria: 38.

⁷ These 2 irregular migrants intercepted within the ESBA were handed over to the authorities of the Republic of Cyprus and added to the overall number of persons that irregularly crossed the Line and whose breakdown by nationality is provided in SWD(2018) [update], Table VII.

⁸ Nationals of USA: 104, of Ukraine: 90, of Russia: 55, of Iran: 31, of Georgia: 28.

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

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

Four "unauthorised crossing points" in or near the village of *Pergamos*, which are used by local residents and farmers, are particularly difficult to control. As mentioned in previous reports, these "unauthorised crossing points" remain an area of concern and a suitable solution in line with Article 5 (2) of Protocol No 3 to the 2003 Act of Accession should be found.⁹ The SBA stated that staff can rapidly be deployed to the areas of the unauthorised crossing points in case of need.

2. CROSSING OF GOODS

2.1. Value of trade

Under Article 4 of the Green Line Regulation, goods may be introduced from non-government controlled areas into government controlled areas, provided that they meet the criteria set out in Article 4¹⁰ and are accompanied by a document issued by the Turkish Cypriot Chamber of Commerce. Pursuant to Article 8 of Commission Regulation (EC) No 1480/2004¹¹, the Turkish Cypriot Chamber of Commerce (TCCoC) and the authorities of the Republic of Cyprus reported on a monthly basis on the type, volume and value of goods for which accompanying documents had been issued. Both reported on 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 the TCCoC, the total value of goods for which accompanying documents had been issued amounted to EUR 5,697,695 (previously: EUR 5,017,714). Those figures indicate an increase of 13.55 % of the overall value of goods for which accompanying documents had been issued compared to 2016.

According to reports provided by the Republic of Cyprus, the total trade value of goods with accompanying documents which crossed the Line increased by 9.5 % to EUR 4,790,964 (previously: EUR 4,374,968.06). The main part of this increase was comprised by construction materials. The general increase was attributed to the ongoing economic recovery.

Although not covered by the scope of the GLR, trade from the government controlled areas to the northern part of Cyprus decreased slightly by around 0.8 %, from EUR 1,354,947 in 2016 to EUR 1,343,524 in 2017 according to figures from the Cyprus Chamber of Commerce and

⁹ OJ L 236, 23.09.2003, p. 940.

¹⁰ Paragraph 1 of Article 4 sets out that the goods need to be wholly obtained in the areas not under effective control of the Government of the Republic of Cyprus or have undergone their last, substantial, economically justified processing or working in an undertaking equipped for that purpose in the areas not under the effective control of the Government of the Republic of Cyprus.

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

Industry (CCCI). Trade from the government controlled areas to the northern part of Cyprus represents 28.04 % of the trade in the opposite direction (30.97 % in 2016).

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

2.2. Type of goods

In 2017, plastic products were the most traded item, followed by construction materials, fresh fish, waste or scrap products and potatoes.¹²

New products, such as vetches, printed catalogues, made-up textile for awnings and olives were introduced. All the trade across the Line was intra-island.

2.3. Irregularities

During the reporting period, the Republic of Cyprus brought to the Commission's attention one particular case of irregularity concerning a shipment of tomatoes, samples of which were tested by the the State General Laboratory confirming presence of pirimiphos-methyl above the permitted limit. The Commission informed the TCCoC thereof, which immediately requested from the producer all necessary measures to ensure full compliance with the requirements of the *acquis* and reminded all traders of vegetables and fruits of these requirements.

2.4. Obstacles and difficulties concerning the movement of goods

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

As mentioned in previous reports¹³, the issue of Turkish Cypriot commercial vehicles crossing to the government controlled areas is still not solved and, to date, no Turkish Cypriot commercial vehicles above 7.5 tonnes can cross the Line unless they have fully *acquis*-compliant documents issued by the Republic of Cyprus. The authorities of the Republic of Cyprus have informed the Commission that they have put in place dispositions to facilitate the process for Turkish Cypriots to obtain roadworthiness certificates and professional driving licences. The Commission is convinced that a solution to the issue would significantly contribute to increasing the level of trade as it would ease the transport of goods. It would furthermore strengthen the contact between Cypriot economic operators thus contributing in an important manner to enhancing trust between both communities. Consequently, the Commission has prepared a concept for a project on transport safety.

¹² SWD(2018), Table IV.

¹³ See for instance the ninth, tenth, eleventh, twelfth and thirteenth annual reports on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

As reported in previous years, the authorities of the Republic of Cyprus still do not allow the crossing of processed food products due to concerns raised by health services regarding the production process in the northern part of Cyprus. The Commission continues, as reported previously, to believe that there are no grounds under the Green Line Regulation to carry out checks of premises in the northern part of Cyprus in order to assess if production takes place in line with Union rules.¹⁴

Whilst the authorities of the Republic of Cyprus may take samples of the products for further analysis, in line with the application of the Green Line Regulation, they should not prevent all processed food from crossing. No developments took place during the reporting period on this issue.

During the reporting period, the authorities of the Republic of Cyprus continued to apply the same requirements that they apply to processed foods to trade of materials for contact with food. The Commission continues to look into this matter.

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. Traders continue to report on a reluctance among Greek Cypriots to purchase Turkish Cypriot products. In addition, it was mentioned that traders from both communities are faced with many administrative problems when wishing to enter into business with the other community. The economic operators from both sides need to be free to engage in trade relations, based on their business requirements.

2.5. Smuggling of goods

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

In 2017, the Republic of Cyprus made 1,334 seizures of smuggled goods (previously: 1,852). In 2017, there was a decrease in the quantities of cigarettes and an increase in the quantities of hand-rolling tobacco seized by the Republic of Cyprus: 203,290 cigarettes and 440.259 gr. of hand-rolling tobacco (previously: 257,785 cigarettes and 374,133 gr.). It was reported that, in most cases, this smuggling consist of small quantities. The smuggling is attributable to price differentials and the higher tax applied on tobacco products in the government controlled areas. There was an increase of smuggling in alcohol and agricultural products. Other items seized included goods violating intellectual property rights, pesticides and animal and dairy products. One prosecution was brought in the District Court for smuggling. Cases of smuggling of small quantities of cigarettes were usually dealt with through the imposition of an administrative penalty and forfeiture.

¹⁴ Tenth annual report on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

In 2017, the ESBA authorities recorded an increase in the number of seizures of smuggled goods within the ESBA; 432 seizures were made, compared to 277 in 2016. As in 2016, cigarettes and hand-rolling tobacco were the items seized most frequently.

Concerning the traditional supply of the Turkish Cypriot population of the village of Pyla, located in the Buffer Zone (Art 4 (10) GLR), the quantities of construction materials, fish, cigarettes etc.were monitored and recorded by the ESBA administration.

2.6. Facilitation of trade

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

In July 2015, the Commission adopted a proposal for amending the Green Line Regulation. The objective of the proposal is to establish the manner in which the control mechanism for goods covered by a name registered under Regulation (EU) No 1151/2012 would be applied in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.¹⁵ This proposal for amendment was still pending at the end of the reporting period. The proposal is based on the Common Understanding on a temporary solution for Halloumi/Hellim, to be implemented pending the reunification of Cyprus, reached under the guidance of President Juncker during his visit to Cyprus on 16 July 2015.¹⁶

The TCCoC continued to express a general interest in the lifting of the prohibition of trade in all live animals and animal products, to the extent that these products comply with EU rules and regulations. The Commission continues to look into the request to authorise trade of farmed fish. The Republic of Cyprus has repeatedly expressed its willingness to examine the possibility of expanding the list of goods that can cross to the government controlled areas.

The Commission encourages economic operators to take advantage of business opportunities and welcomes the intense efforts undertaken by the Cyprus Chamber of Commerce and Industry and the Turkish Cypriot Chamber of Commerce.

2.7. Union goods taken back to the areas under the effective control of the Government of the Republic of Cyprus after passing through the areas which are not under its effective control.

The Republic of Cyprus authorities reported that 3,899 items were taken back to the government controlled areas after having passed through the non government controlled areas. It was mentioned that these crossings run smoothly and that most of the movement takes place to and from the Kato Pyrgos-Karavostasi and Astromeritis-Zhodia crossing points.

3. CONCLUSIONS

As stated in previous reports, the control of the Line at the authorised crossing points by the authorities of the Republic of Cyprus and the SBA was satisfactory. The number of persons irregularly crossing the Line increased and the situation needs to be monitored carefully. The Commission urges the SBA Administration to deploy the necessary human resources to address the issue of the "unauthorised crossing points". The Commission continues to consider that stability, predictability and legal certainty of the requirements at the crossing points, and the free movement of EU citizens are of paramount importance.

¹⁵ COM/2015/0380 final - 2015/0165 (NLE).

¹⁶ http://europa.eu/rapid/press-release_MEX-15-5402_en.htm

In 2017, the value of trade across the Line increased by 9.5 % to 4,790,964 EUR from EUR 4,374,968, while the value of goods for which accompanying documents were issued increased by 13.55 % from EUR 5,017,714 to EUR 5,697,695. Plastic products were the most-traded item, followed by construction materials, fresh fish, waste or scrap products and potatoes. The trade in construction materials represents the major part of the total increase.

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

During the reporting period, certain obstacles to trade remained. The Republic of Cyprus continued not to authorise the crossing of Turkish Cypriot commercial vehicles above 7.5 tonnes or of processed foods. No developments took place in 2017.

Overall, and while the Green Line Regulation continues to provide a workable basis for allowing the passage of persons and goods to and from the government controlled areas of the Republic of Cyprus, the Commission continues to be concerned that trade in general is at a low level. The Commission considers that removing the obstacles to trade mentioned in this report would help significantly to increase trade across the Green Line. The Commission hopes that the work of the two Chambers to enhance contacts between the two business communities will lead to increased economic ties.

Against this background, the Commission continues to rely on the co-operation of the Republic of Cyprus and the SBA to ensure effective implementation of Council Regulation (EC) No 866/2004. The Commission will continue to monitor the implementation of the Regulation.