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## PROPOSAL

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Delegations will find attached document COM(2020) 239 final.

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## **REPORT FROM THE COMMISSION TO THE COUNCIL**

**Sixteenth 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 2019**

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### **Sixteenth 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 2019**

Council Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol No 10 to the Act of Accession<sup>1</sup> (hereafter the Green Line Regulation) 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).<sup>2</sup>

This report covers the period 1 January – 31 December 2019.

During the reporting period, the Commission has maintained 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 both the number of Greek Cypriots and of Turkish Cypriots crossing in 2019 compared to the previous year.

According to data from the Republic of Cyprus Police (hereafter CYPOL), 2,399,269 (previously: 1,014,340) crossings by Greek Cypriots and 1,266,457 crossings by Greek Cypriot vehicles (previously: 486,040) were recorded from the government controlled areas to the northern part of Cyprus, while 1,295,689 (previously: 1,076,667) crossings by Turkish Cypriots and 503,520 crossings by Turkish Cypriot vehicles (previously: 417,629) from the northern part of Cyprus to the government controlled areas were recorded during the reporting period.<sup>3</sup> The very significant increase in the number of Greek Cypriots crossing was attributed to individuals going shopping in the northern part of Cyprus to take advantage of the favourable exchange rate of the euro against the Turkish lira during 2019. The substantial increase in traffic led to considerable queues at some crossing points.

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<sup>1</sup> 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.

<sup>2</sup> See third recital of the Green Line Regulation.

<sup>3</sup> 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.

The number of EU citizens (other than Cypriots) and third country nationals crossing the Line continued to increase. During the reporting period 1,515,717 crossings by EU citizens (other than Cypriots) and by third country nationals took place in both directions (previously: 1,129,293).

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. For these, the ESBA reported that 418,728 (previously: 236,156) crossings by Greek Cypriots and 259,586 crossings by Greek Cypriot vehicles (previously: 133,270) to the northern part of Cyprus were recorded. At the same time 530,335 (previously: 471,690) crossings by Turkish Cypriots and 351,836 crossings by Turkish Cypriot vehicles (previously: 292,099) in the other direction were recorded. Moreover, 991,542 EU citizens (other than Cypriots) and third country nationals crossed the Line in both directions.

In 2019, the number of CYPOL personnel working at the crossing points was 93.

The figures gathered by the Turkish Cypriot community in 2019 indicate an increase in the number of crossings by Greek Cypriots to 2,406,561 (previously: 1,633,076) and Greek Cypriot vehicles to 1,205,194 (previously: 731,215) 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 2,090,189 (previously: 1,759,837) and Turkish Cypriot vehicles to 930,165 (previously: 794,474) in the other direction. According to the statistics provided, 2,149,528 EU citizens (other than Cypriots) and third country nationals crossed from the government controlled areas to the northern part of Cyprus (previously: 1,814,194).

It was widely reported that on 27 November 2019 the Council of Ministers of the Republic of Cyprus adopted amendments to the Ministry of Interior's code for implementation of the Green Line Regulation. Nevertheless, the authorities of the Republic of Cyprus have assured the Commission that no changes whatsoever were made in practice to implementation of the Regulation during the reporting period. The Commission will continue to follow this issue closely.

A number of protests were held at crossing points in the government-controlled areas during the reporting period.

Turkish Cypriot buses carrying EU citizens are still not permitted by the authorities of the Republic of Cyprus to cross into the government controlled areas unless they have fully *acquis*-compliant documents issued by the Republic of Cyprus.

The United Nations Peacekeeping Force in Cyprus (UNFICYP) continued to facilitate the practice of religious worship by both communities.<sup>4</sup> UNFICYP noted a decrease in the number of approvals for religious services that it had been asked to facilitate in the northern part of Cyprus in comparison with the same period in 2018.

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<sup>4</sup> Report of the Secretary-General on UNFICYP [S/2020/23] of 7 January 2020, para. 37.

## 1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2019 indicated a substantial increase in the number of migrants who irregularly crossed the Line from the northern part of Cyprus into the government controlled areas. In 2019, 7,409 irregular migrants crossed the Line in this way; the equivalent figures for 2018, 2017 and 2016 were 4,451, 1,686 and 1,499. The main countries of origin of irregular migrants were Syria (2,000), Cameroon (1,126), Bangladesh (953), Pakistan (950) and Nigeria (328). This sharp increase in irregular migration is a serious concern for the authorities of the Republic of Cyprus.

Out of the 7,409 irregular migrants, 98% (previously 95%) applied for international protection in the Republic of Cyprus. The country of origin with the highest number of applicants was Syria (1,996).

CYPOL was able to identify persons 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 June 2019, a “visa” was introduced for Syrian citizens and more immigration personnel were recruited. In 2019, 3,978 persons<sup>5</sup> were refused entry into the northern part of Cyprus. 1,452 persons<sup>6</sup> who had been apprehended within the northern part of Cyprus were deported.

Representatives from the two communities met within a bi-communal Technical Committee on Crime and Criminal Matters (TCCCM) under UN auspices. As an extension to this committee, the two communities continued to use a ‘Joint Communications Room’, which provides a forum for the exchange of information on criminal matters. In the course of reporting period, three exchanges of criminal suspects between the two communities were facilitated by UNFICYP.<sup>7</sup>

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

### *Eastern Sovereign Base Area (ESBA)*

Irregular migration from the northern part of Cyprus via the ESBA increased. In 2019, 33 migrants were apprehended after having crossed the Line irregularly.<sup>8</sup> 1,392 persons were not

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<sup>5</sup> Nationals of Turkey: 422, of Syria: 352, of Turkmenistan: 225, of Iran: 528, of Iraq: 245, other: 2,206.

<sup>6</sup> Nationals of Turkey: 403, of Syria: 128, of Pakistan: 258; of Nigeria: 112, of Turkmenistan: 28, other: 523.

<sup>7</sup> Report of the Secretary-General on UNFICYP [S/2020/23] of 7 January 2020, para.25. .

<sup>8</sup> Out of the 33 irregular migrants intercepted within the ESBA, 15 applied for asylum and were handed over to the authorities of the Republic of Cyprus. These are added to the overall number of persons who irregularly crossed the Line and whose breakdown by nationality is provided in Annex, Table VII.

allowed to cross, of whom the highest number were Turkish citizens (147). In accordance with the relevant provisions of Protocol 3 to the Act of Accession of the Republic of Cyprus, the ESBA authorities refused to allow foreign nationals, mainly from the USA, Ukraine, Russia, and Australia, who arrived via the northern part of Cyprus, to cross the Green Line.<sup>9</sup> These persons were directed to crossing points outside the ESBA to undergo checks as per the Republic of Cyprus' entry requirements.

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 conducted risk-based, intelligence-led patrols to counter irregular migration. These patrols were supplemented by patrols from SBA Customs and military personnel. During the reporting period, new surveillance technology was installed along the course of the ESBA boundary where it constitutes the Green Line. The ESBA also began the process to recruit significant numbers of personnel for deployment at the crossing points and for surveillance of the Green Line.

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.<sup>10</sup> The SBA authorities increased surveillance of the "unauthorised crossing points" during the reporting period.

## **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 4<sup>11</sup> and are accompanied by a document issued by the Turkish Cypriot Chamber of Commerce. Pursuant to Article 8 of Commission Regulation (EC) No 1480/2004<sup>12</sup>, the Turkish Cypriot Chamber of Commerce 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.

According to statistics provided by the TCCoC, the total value of goods for which accompanying documents had been issued amounted to EUR 6,313,011 (previously:

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<sup>9</sup> Nationals of USA: 90, of Ukraine: 135, of Russia: 83, of Australia: 37.

<sup>10</sup> OJ L 236, 23.09.2003, p. 940.

<sup>11</sup> 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.

<sup>12</sup> Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

EUR 5,405,121). Those figures indicate an increase of 17% in the overall value of goods for which accompanying documents had been issued compared to 2018.

According to statistics provided by the Republic of Cyprus, the total trade value of goods with accompanying documents which actually crossed the Line increased by 12% to EUR 5,464,237 (previously: EUR 4,856,892).

Although not covered by the scope of the Green Line Regulation, trade from the government controlled areas to the northern part of Cyprus decreased significantly by around 35%, from EUR 1,151,723 in 2018 to EUR 748,237 in 2019 according to figures from the Cyprus Chamber of Commerce and Industry (CCCI). Trade from the government controlled areas to the northern part of Cyprus represents 13.7 % of the trade in the opposite direction (23.7 % in 2018).

The Turkish Cypriot community continued to apply a trade regime that in principle "mirrors" the restrictions of the Green Line Regulation. Turkish Cypriot stakeholders identified the protection of local businesses as the main reason for this. Moreover, goods can only be traded from the government controlled areas to the northern part of Cyprus once an "import permit" has been issued. This trade regime regime is, however, not always consistently applied.

## **2.2. Type of goods**

In 2019, the nature of traded products remained largely stable. Plastic products continued to be the most traded item, followed by fresh fish, construction materials and wooden furniture.<sup>13</sup> The trade in potatoes remained low due to another poor harvest in the northern part of Cyprus.

New products, such as prefabricated containers, hotel slippers and electrical cables, were introduced.

## **2.3. 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 reports<sup>14</sup>, 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

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<sup>13</sup> Annex, Table IV.

<sup>14</sup> See for instance the ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and fifteenth annual reports on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.



contribute to increasing the level of trade as it would ease the transport of goods. It would furthermore strengthen contact between Cypriot economic operators thus contributing in an important manner to enhancing trust between both communities. The Commission will continue to engage with the authorities of the Republic of Cyprus and the Turkish Cypriot community with a view to identifying a solution to this issue.

As reported in previous years, the authorities of the Republic of Cyprus do not allow the crossing of processed food products and materials for contact with food due to concerns raised by health services regarding the production process in the northern part of Cyprus. These concerns were explained in a letter sent by the Republic of Cyprus on 23 May 2019, citing the duty of safeguarding public health and reiterating the Government's readiness to continue co-operating with the Commission on the matter. The Commission has confirmed to the Republic of Cyprus that these products are permitted under the applicable legal framework to cross the Green Line and should not be banned by the authorities of the Republic of Cyprus. While they may take samples of the products at crossing points for further analysis, in line with the application of the Green Line Regulation, they should not prevent all processed food from crossing. The Commission proposed implementing a mechanism that facilitates the crossing of processed foods and materials for contact with food while addressing additional safety considerations. The Commission regrets that discussions requested by the Commission to find a solution did not take place during the reporting period. The Commission remains deeply concerned with regard to the correct implementation of the Green Line Regulation concerning processed food and will pursue this matter further with the authorities of the Republic of Cyprus.

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 hinder 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; for example, Turkish Cypriots trading across the Green Line encounter difficulty in opening accounts with banks in the government-controlled areas. The economic operators from both sides need to be free to engage in trade relations, based on their business requirements.

#### **2.4. Smuggling of goods**

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

In 2019, the Republic of Cyprus made 2,315 seizures of smuggled goods (previously: 1,711), an increase of 35%. This increase in detections was attributed to more targeted and unannounced inspections. There was a significant increase in smuggling of agricultural and dairy products. On the other hand, in 2019 there was a decrease in the quantities of cigarettes and hand-rolling tobacco seized by the Republic of Cyprus at the Green Line: 311,980 cigarettes and 302,863 gr. of hand-rolling tobacco (previously: 469,870 cigarettes and



587,513 gr.). There was also a decrease in detections of goods violating intellectual property rights. Other items seized included alcohol, cars, fuel, medicines and pesticides. Seven prosecutions were 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.

In 2019, the ESBA authorities recorded an increase in the number of seizures of smuggled goods within the ESBA; 653 seizures were made, compared to 555 in 2018. The increase in detections was attributed to the deployment of new surveillance technology along the ESBA boundary and improved intelligence analysis. As in 2018, 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) Green Line Regulation), the quantities of construction materials, fish, cigarettes etc. were monitored and recorded by the ESBA administration.

## **2.5. 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.<sup>15</sup> 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.<sup>16</sup>

Some Turkish Cypriot consignors of fresh fish continued to report difficulties with meeting the deadlines set for veterinary inspections of fresh fish at the Agios Dhometios crossing point. The authorities of the Republic of Cyprus proposed looking into the establishment of a notification mechanism to alert the veterinary authorities to the imminent arrival of a consignment.

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 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. However, no developments took place during the reporting period.

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

<sup>16</sup> [http://europa.eu/rapid/press-release\\_MEX-15-5402\\_en.htm](http://europa.eu/rapid/press-release_MEX-15-5402_en.htm)

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.

**2.6. 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 3,217 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**

The control of the Line at the authorised crossing points by the authorities of the Republic of Cyprus and the SBA remained satisfactory. The number of persons irregularly crossing the Line increased substantially; irregular migration represents a serious concern for the Republic of Cyprus. 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.

In 2019, the value of trade across the Line increased by 12% to EUR 5,464,237 from 4,856,892 EUR, while the value of goods for which accompanying documents were issued increased by 17% from EUR 5,405,121 to EUR 6,313,011. Plastic products continued to be the most traded item, followed by fresh fish, construction materials and wooden furniture.

The Cyprus Chamber of Commerce and Industry and the Turkish Cypriot Chamber of Commerce continued to co-operate 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; no developments took place in 2019. Equally, the Republic of Cyprus still does not allow the crossing of processed food products and materials for contact with food due to concerns raised by health services regarding the production process in the northern part of Cyprus. The Commission has confirmed to the Republic of Cyprus that these products are permitted under the applicable legal framework to cross the Green Line and should not be banned by the authorities of the Republic of Cyprus. The Commission proposed implementing a mechanism that facilitates the crossing of processed foods and materials for contact with food while addressing additional safety considerations. The Commission regrets that no substantive discussion of this issue took place with the authorities of the Republic of Cyprus during the reporting period. The Commission remains deeply concerned with regard to the correct implementation of the Green Line Regulation concerning processed food and will pursue this matter further with the authorities of the Republic of Cyprus.

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.