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Seventeenth 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 2020

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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) 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 2020.

During the reporting period, Cyprus was seriously affected by the outbreak of the Covid-19 pandemic which disrupted all aspects of daily life on the island, including movement of persons and goods across the Green Line.

During 2020, the Commission maintained constructive dialogue with the relevant authorities of the Republic of Cyprus (RoC) 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 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 a very substantial decrease in both the number of Greek Cypriots and of Turkish Cypriots crossing in 2020 compared to the previous year.

According to data from the RoC Police (hereafter CYPOL), 397,717 (previously: 2,399,269) crossings by Greek Cypriots and 176,769 crossings by Greek Cypriot vehicles (previously: 1,266,457) were recorded from the government controlled areas to the northern part of Cyprus, while 382,370 (previously: 1,295,689) crossings by Turkish Cypriots and 225,735 crossings by Turkish Cypriot vehicles (previously: 503,520) from the northern part of Cyprus to the government controlled areas were recorded during the reporting period.³

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.

² See third recital of the Green Line Regulation.

³ The RoC authorities 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 also decreased. During the reporting period, 106,624 crossings by EU citizens (other than Cypriots) and by third country nationals took place in both directions (previously: 1,515,717).

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 90,955 (previously: 418,728) crossings by Greek Cypriots and 53,604 crossings by Greek Cypriot vehicles (previously: 259,586) to the northern part of Cyprus were recorded. At the same time 236,346 (previously: 530,335) crossings by Turkish Cypriots and 155,955 crossings by Turkish Cypriot vehicles (previously: 351,836) in the other direction were recorded. Moreover, 136,726 EU citizens (other than Cypriots) and third country nationals crossed the Line in both directions.

In 2020, the number of CYPOL personnel working at the crossing points was 76, compared to 93 in 2019.

The figures gathered by the Turkish Cypriot community in 2020 indicate a decrease in the number of crossings by Greek Cypriots to 495,448 (previously: 2,406,561) and Greek Cypriot vehicles to 278,338 (previously: 1,205,194) from the government controlled areas to the northern part of Cyprus. They also indicate a decrease in the number of crossings by Turkish Cypriots to 685,671 (previously: 2,090,189) and Turkish Cypriot vehicles to 361,363 (previously: 930,165) in the other direction. According to the statistics provided, 335,934 EU citizens (other than Cypriots) and third country nationals crossed from the government controlled areas to the northern part of Cyprus (previously: 2,149,528).

This large reduction in crossings was attributed to the suspension of several crossing points for certain periods, as well as restrictions imposed at other crossing points when open due to the outbreak of Covid-19. Moreover, the lockdowns introduced by both communities at various times as a result of the pandemic, and the consequent reduction in social and economic activity, also deterred persons from crossing the Green Line.

Following the outbreak of Covid-19 in Cyprus, the RoC Council of Ministers decided on 29 February 2020 to suspend temporarily the operation of four crossing points, namely Ledra Street, Deryneia, Astromeritis-Zodhia and Lefka-Apliki. On 21 June 2020, these crossing points were re-opened, with the exception of Ledra Street which remained suspended until the end of the reporting period. On 21 June, the RoC Government announced that only Cypriot citizens and persons in possession of residence permits issued by the RoC would be allowed to cross at the crossing points other than Ledra Street, provided that they carried a negative test for Covid-19 taken within 72 hours of the crossing. Moreover, certain groups of persons would be allowed to cross provided that they presented a negative Covid-19 test only upon their first crossing, namely: Greek Cypriot and Turkish Cypriot workers; Turkish Cypriot students; enclaved Greek Cypriots; and Cypriot citizens crossing to receive medical treatment in the government controlled areas. Diplomats and staff of international organisations were also permitted to cross. The RoC reported that it also authorised crossings of persons falling outside these criteria on a humanitarian basis.

The Turkish Cypriot community also imposed several restrictions at crossing points. In March, the Strovilia and Kato Pyrgos-Karavostasi crossing points were suspended. From March until June, other crossing points were suspended for all persons save for Turkish Cypriots. From June, these restrictions were gradually reduced for certain categories of persons, who were required to carry a negative test for Covid-19 taken within 72 hours of the crossing. From September, most persons crossing the Green Line were required to undergo quarantine. In December, a complete prohibition on crossings of persons who had recently visited certain countries was imposed, while Turkish Cypriots who had recently visited these countries were instead subject to quarantine.

The introduction of restrictions at crossing points led to demonstrations in both communities.⁴

The Commission notified the RoC that temporary restrictions may only be used in exceptional circumstances to respond to situations seriously affecting public policy or public security, and as a measure of last resort. Furthermore, temporary restrictions should last only as long as the circumstances that led to them persist and must at all times be proportionate and compatible with the *acquis*. The Commission will continue to monitor the restrictions very closely with a view to ensuring that any measures taken to protect public health are proportionate and compatible with the *acquis*.

On 27 November 2019, the RoC Council of Ministers adopted Decision No 88.638 entitled “Management of increased migration flows – Amendment of the Code for the Implementation of Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol 10 to the Act of Accession (Green Line – Crossing of persons)”. The RoC has reported that no changes were made in practice to implementation of the Regulation as a result of this Decision. On 23 January 2020, the Commission sent a letter to the RoC authorities concerning this Decision. On 28 May 2020, Decision No 88.638 was repealed by Decision No 89.486 of the RoC Council of Ministers.

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

The United Nations Peacekeeping Force in Cyprus (UNFICYP) continued to facilitate the practice of religious worship by both communities. UNFICYP facilitated thirteen requests for religious services in the northern part of Cyprus before the outbreak of the Covid-19 pandemic in March.

1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2020 indicated a decrease in the number of migrants who irregularly crossed the Line from the northern part of Cyprus into the government controlled areas. In 2020, 4,857 irregular migrants crossed the Line in this way; the equivalent figures for 2019,

⁴ Report of the Secretary-General on UNFICYP [S/2020/682] 10 July 2020, paras 4,6; Report of the Secretary-General on UNFICYP [S/2021/4] 8 January 2021, para 7

2018 and 2017 were 7,409, 4,451 and 1,686. The main countries of origin of irregular migrants were Syria (1,265), Cameroon (610), Bangladesh (438), Pakistan (433) and Jordan (407). Irregular migration remains a serious concern for the RoC authorities.

Out of the 4,857 irregular migrants, 81.5% (previously 98%) applied for international protection in the Republic of Cyprus. The country of origin with the highest number of applicants was Syria (1,144).

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 2020, 2,147 persons⁵ were refused entry into the northern part of Cyprus. 1,162 persons⁶ 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 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, the exchange of seven criminal suspects between the two communities was facilitated by the Joint Communications Room with the support of UNFICYP.⁷

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

Eastern Sovereign Base Area (ESBA)

During the reporting period, the ESBA authorities did not suspend either crossing point under their authority as a result of the pandemic, but put in place restrictions on crossings which mirrored those put in place by the RoC.

Irregular migration from the northern part of Cyprus via the ESBA increased. In 2020, 66 migrants were apprehended after having crossed the Line irregularly.⁸ 133 persons were not allowed to cross, of whom the highest number were Turkish citizens (53). 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 Russia and the USA,

⁵ Nationals by country: Turkey: 465; Nigeria: 191; Cameroon: 132; Iran: 123; Pakistan:106; other: 1130.

⁶ Nationals by country: Syria: 588; Turkey: 227; Nigeria: 73; Pakistan: 39; Turkmenistan: 20; other: 215.

⁷ Report of the Secretary-General on UNFICYP [S/2021/4] 8 January 2021, para 21.

⁸ Out of the 66 irregular migrants intercepted within the ESBA, 58 applied for asylum and were handed over to the RoC authorities. 5 of these persons had permission to reside in the RoC but crossed illegally to evade Covid-19 restrictions. These are added to the overall number of persons who irregularly crossed the Line whose breakdown by nationality is provided in Annex, Table VII.

who arrived via the northern part of Cyprus, to cross the Green Line.⁹ 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, more personnel were deployed to undertake surveillance of the Green Line, an intelligence unit dedicated to boundary surveillance was created and two new specialist vehicles were deployed.

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 3 to the Act of Accession should be found.¹⁰ During the reporting period, three of the four "unauthorised crossing points" were suspended by the Turkish Cypriot community for some months following the outbreak of the Covid-19 pandemic, while the ESBA authorities deployed a road checkpoint at the remaining "unauthorised crossing point".

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 4¹¹ and are accompanied by a document issued by the Turkish Cypriot Chamber of Commerce. Pursuant to Article 8 of Commission Regulation (EC) No 1480/2004¹², the Turkish Cypriot Chamber of Commerce and the RoC authorities 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 4,974,335 (previously: EUR 6,313,011). Those figures indicate a decrease of 21% in the overall value of goods for which accompanying documents had been issued compared to 2019.

⁹ Nationals of Russia: 13; USA: 12.

¹⁰ OJ L 236, 23.09.2003, p. 940.

¹¹ 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 RoC 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 RoC.

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

According to statistics provided by the Republic of Cyprus, the total trade value of goods with accompanying documents which actually crossed the Line decreased by 14% to EUR 4,693,898 (previously: EUR 5,464,237).

Although not covered by the scope of the Green Line Regulation, trade from the government controlled areas to the northern part of Cyprus decreased by around 7%, from EUR 748,237 in 2019 to EUR 694,281 in 2020 according to figures from the Cyprus Chamber of Commerce and Industry. Trade from the government controlled areas to the northern part of Cyprus represents 14.8 % of the trade in the opposite direction (13.7 % in 2019).

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 2020, the nature of traded products remained largely stable. Plastic products continued to be the most traded item, followed by fresh fish, construction materials and prefabricated containers.¹³

New products, such as hand disinfectant and soap, were introduced.

2.3. Obstacles and difficulties concerning the movement of goods

Trade in goods across the Green Line was affected by the suspension of some crossing points and restrictions imposed at others. In order to allow trade to continue, traders from both communities established a system of "contactless" trade, whereby the seller left the goods in the buffer zone between the two crossing points from where they were collected by the buyer, who then submitted them for inspection by the RoC authorities.

Other 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 reports¹⁴, 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 RoC authorities 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. A solution to the issue would significantly contribute to increasing the level of trade as it would ease the

¹³ Annex, Table IV.

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

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 RoC and the Turkish Cypriot community with a view to identifying a solution to this issue.

As reported in previous years, the RoC authorities 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. The Commission has confirmed to the RoC that these products are permitted under the applicable legal framework to cross the Green Line and should not be banned by the RoC authorities. 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 regrets that again no progress whatsoever was made during the reporting period in resolving this issue. The Commission remains deeply concerned with regard to the correct implementation of the Green Line Regulation regarding processed food and will pursue this matter further with the RoC authorities.

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

Smuggling of goods persisted, reflecting the difficulty of controlling irregular movements across the Line.

In 2020, the Republic of Cyprus made 494 seizures of smuggled goods (previously: 2,315), a decrease of 79%. This decrease in seizures reflected the general reduction in movement of persons as a result of the pandemic. There was a notable decrease in smuggling of agricultural products, as well as in goods violating intellectual property rights. There was also a decrease in the quantities of cigarettes and hand-rolling tobacco seized by the RoC at the Green Line: 78,620 cigarettes and 103,135 gr. of hand-rolling tobacco (previously: 311,980 cigarettes and 302,863 gr.). 7,660 electronic cigarette cartridges and 135,525 gr. of narghile tobacco were also seized. 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 2020, the ESBA authorities also recorded a decrease in the number of seizures of smuggled goods within the ESBA; 138 seizures were made compared to 653 in 2019.

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.

During the reporting period, the Commission undertook discussions with the RoC authorities. It also held discussions with the Turkish Cypriot Chamber of Commerce on measures to put into effect 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. The Commission is making all efforts to adopt measures in this regard in 2021.

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 Commission encourages economic operators to take advantage of business opportunities and welcomes the 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 RoC authorities reported that 1,673 items were taken back to the government controlled areas after having passed through the non government controlled areas. It was mentioned that crossings had decreased due to restrictions implemented at the crossing points.

3. CONCLUSIONS

As a result of the temporary suspension of certain crossing points and temporary restrictions imposed at other crossing points in view of the Covid-19 pandemic, the number of persons crossing the Green Line dropped sharply in 2020. The Commission reiterates that temporary restrictions may only be used in exceptional circumstances to respond to situations seriously affecting public policy or public security, and as a measure of last resort. Furthermore, temporary restrictions should last only as long as the circumstances that led to them persist and must at all times be proportionate and compatible with the *acquis*. The Commission will continue to monitor very closely this issue with a view to ensuring that any measures taken to protect public health are proportionate and compatible with the *acquis*.

The number of persons irregularly crossing the Line decreased in 2020. Irregular migration nevertheless continues to represent a serious concern for the Republic of Cyprus.

In 2020, the value of trade across the Line decreased by 14% to EUR 4,693,898 from EUR 5,464,237, while the value of goods for which accompanying documents were issued decreased by 21% from EUR 6,313,011 to EUR 4,974,335. Plastic products continued to be the most traded item, followed by fresh fish, construction materials and prefabricated containers.

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.

The restrictions at crossing points posed an obstacle to trade, which was partly alleviated by the introduction of “contactless” trade. Moreover, certain other obstacles to trade persisted. The RoC continued not to authorise the crossing of Turkish Cypriot commercial vehicles above 7.5 tonnes. Furthermore, the RoC 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 RoC that these products are permitted under the applicable legal framework to cross the Green Line and should not be banned by the RoC authorities. The Commission regrets that again no progress was made during the reporting period in resolving those issues. 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 RoC authorities.

Overall, 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.