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

**Tenth report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2013**

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## REPORT FROM THE COMMISSION TO THE COUNCIL

### **Tenth report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2013**

#### **INTRODUCTION**

Council Regulation (EC) 866/2004 on a regime under Article 2 of Protocol 10 to the Act of Accession<sup>1</sup> (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 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 2013.

During the reporting period, the Council, upon a proposal from the Commission, amended the GLR in order to allow EU goods taken out of the areas under the effective control of the Government of the Republic of Cyprus to be taken back into those areas after passing through the areas of the Republic of Cyprus not under the effective control of the Government<sup>3</sup>.

The Commission has maintained a constructive dialogue with the relevant authorities of the Republic of Cyprus, 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 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 an increase in both the number of Greek Cypriots and Turkish Cypriots crossing in 2013 compared to previous years.

According to data from the Republic of Cyprus, 520,410 (previous: 481,732) crossings by Greek Cypriots and 183,185 crossings by Greek Cypriot vehicles (previous: 154,778) were noted from the government-controlled areas to the northern part of Cyprus and 877,759 (previous: 850,362) crossings by Turkish Cypriots and 323,655 crossings by Turkish Cypriot

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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 July 2013, OJ L 196, 19.7.2013, p. 1- known as the "Green Line" Regulation.

<sup>2</sup> See 3<sup>rd</sup> recital of the Green Line Regulation.

<sup>3</sup> Council Regulation (EU) No 685/2013 of 15 July 2013, OJ L 196, 19.7.2013, p. 1.

vehicles (previous: 280,358) from the northern part of Cyprus to the government-controlled areas during the reporting period<sup>4</sup>.

The number of EU citizens other than Cypriots and third country nationals crossing the Line decreased slightly. According to data from the Republic of Cyprus Police (hereafter CYPOL), during the reporting period a further 517,580 crossings were effected by EU citizens other than Cypriots and by third country nationals (previous: 530,014). 69.64% of these crossings (360,469) occurred at the Ledra Street crossing point which continued to account for the vast majority of crossings by non-Cypriots (primarily tourists).

The figures gathered by the Turkish Cypriot community indicate an increase in the number of crossings by Greek Cypriots (i.e. 723,904) and a decrease in the number of crossings by Greek Cypriot vehicles (i.e. 210,937) from the government-controlled areas to the northern part of Cyprus. They also indicate a decrease in the number of crossings by Turkish Cypriots (1,313,633) and crossings by Turkish Cypriot vehicles in the other direction (i.e. 432,824). There were 968,066 foreign nationals crossing from the government-controlled areas to the northern part of Cyprus.

The CYPOL figures mentioned above, however, do not include data on persons and vehicles crossing at the *Pergamos* and *Strovilia* crossings points, from the northern part of Cyprus into the ESBA.<sup>5</sup> No detailed statistics are kept by the ESBA Administration for these two crossing points. However, the ESBA reports, based on information from the Turkish Cypriot community, that 84,551 (previous: 48 807) Greek Cypriots crossed to the northern part of Cyprus and 216,081 (previously: 315,683) Turkish Cypriots crossed to the government-controlled areas, while 124,323 EU citizens other than Cypriots and third country nationals crossed in both directions, through the crossing points situated within the ESBA.

In 2013, the number of CYPOL personnel working directly at the crossing points decreased to 75 (80 in 2012).

The vast majority of the crossings took place smoothly. Fewer incidents than last year were reported, but they remain a source of concern to the Turkish Cypriot community.

The Commission received claims in early 2013 of a change of practice at the crossing points concerning the requirements for driving licences towards third country nationals' spouses of Turkish Cypriot citizens, who were informed that they were no longer able to drive in the government controlled areas if they did not carry a driving licence from their country of origin. The Commission raised the issue with the Republic of Cyprus authorities to assess whether there is a change of policy, which would require a notification to the Commission under Art 10 GLR. The authorities of the Republic of Cyprus have informed the Commission that third country nationals can drive in the government-controlled areas as long as they are

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<sup>4</sup> 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.

<sup>5</sup> The GLR does not contain reporting obligations for this traffic.

holders of a valid driving licence from their country of origin or an international driver licence.

As stated on several occasions, the Commission attaches great importance to the stability of practice at the crossing points and to the free movement of EU citizens and their families across the Green Line.

With UNFICYP support, important steps were taken to facilitate the practice of religious worship. Religious leaders benefited from easier crossing possibilities in both directions.

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

CYPOL figures for 2013 continued to indicate a decrease in irregular migration across the Line from the northern part of Cyprus to the government-controlled areas. In 2013, 1043 irregular migrants (previous: 1,265) were apprehended within the government-controlled areas.<sup>6</sup> 4 irregular migrants entered directly into the government-controlled areas (previous: 19) and 37 persons (previous: 13) entered via the ESBA, bringing the total number of apprehended irregular migrants to 1084 (previous: 1,297). As a probable reason, CYPOL indicates the decrease in employment prospects due to the economic crisis in Cyprus, as well as the increased number of staff and patrols in line with CYPOL's strategic plan for 2012-2015 to combat irregular migration. The countries of origin with the highest number of apprehended irregular migrants after having crossed the Green Line were Syria, Pakistan and Iran (Annex VII). Irregular migrants are normally apprehended during controls along the Line and at airports when seeking to leave Cyprus. Third country nationals seeking international protection are normally identified at police stations while applying for asylum.

Out of 1043 irregular migrants, 491 persons (47%) applied for asylum in the Republic of Cyprus. During the reporting period, there was again an increase of citizens of Syria who applied for asylum (337 in 2013, 294 in 2012).

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 pieces of information included in their documents, statements by migrants and other forms of evidence..

Based on the analysis made by CYPOL, most irregular migrants apprehended after having crossed the Line arrived in the northern part of Cyprus coming from the Turkish territory.

According to information received from the Turkish Cypriot community, 25 irregular migrants were apprehended in the northern part of Cyprus, 14 of them Syrians. 2,267 persons<sup>7</sup> were refused entry into the northern part of Cyprus at different points of entry and 637 persons were returned<sup>8</sup>.

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<sup>6</sup> This figure excludes persons not allowed to cross the Line, as the Republic of Cyprus does not keep official statistics on those. However, CYPOL estimates that in 2013 around 2000 persons were not allowed to cross into the government-controlled areas.

<sup>7</sup> From Syria: 485, Turkey: 473, Turkmenistan: 82, Iraq: 66, Georgia: 30.

<sup>8</sup> Turkey: 229, Moldova: 61, Syria: 47, Iran: 21, Nigeria: 8.

No direct co-operation exists on police and immigration issues between the Republic of Cyprus and the Turkish Cypriot community. However, representatives from the two communities meet regularly within a bi-communal Technical Committee on Crime and Criminal Matters under UN auspices. As an extension to this committee, the two communities have also established a 'Joint Communications Room', which provides a forum for the exchange of information on criminal matters. Good cooperation led to the opening of criminal investigations.<sup>9</sup>

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

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

Overall, irregular migration via the ESBA has slightly increased during the reporting period. SBA officers continue to describe their cooperation with the Republic of Cyprus as excellent. During 2013, 1,042 persons were not allowed to cross, the majority being Turkish citizens living in the northern part of Cyprus. Other foreigners were tourists from USA, Iran, Russia and Australia who arrived via the northern part of Cyprus. These persons were directed to the Agios Dhometios crossing point for processing per Republic of Cyprus entry requirements.<sup>10</sup>

A total of 37 illegally staying foreigners were arrested within the ESBA<sup>11</sup>, of whom 25 had crossed to the government-controlled areas legally, but stayed on after their visas had expired. 11 entered the island by the northern part of Cyprus and crossed the Line irregularly. 3 facilitators were also arrested by the SBA.

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* 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>12</sup> The SBA has informed that higher levels of staff availability during the reporting period have allowed them to increase the level of land patrols on the Green Line and the "unauthorised crossing points" and to rapidly deploy staff to these in case of need.

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<sup>9</sup> Report of the Secretary-General on the United Nations operation in Cyprus, 30 December 2013.

<sup>10</sup> Turkey: 716, USA: 55, Iran: 42, Russia: 39, Australia: 25.

<sup>11</sup> Vietnam: 9, Egypt: 6, Somalia: 3, Moldova: 3, India: 3, Philippines: 3, Georgia: 2, Syria: 2, Comoros: 2, Ukraine: 1, Russia: 1, Sri Lanka: 1, Sudan: 1.

<sup>12</sup> OJ L 236, 23.09.2003, p. 940.

## **2. CROSSING OF GOODS**

### **2.1. Value of trade**

Pursuant to Art 8 of the Commission Regulation (EC) 1480/2004<sup>13</sup>, the Turkish Cypriot Chamber of Commerce 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 report 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 were issued amounted to EUR 4,311,615 (previous: EUR 4,835,528) whereas the value of goods actually traded was EUR 3,836,845 (previous: EUR 4,196,465). Those figures indicate a further decrease of Green Line trade of 8.5% compared to 2012. This figure is substantially lower than the EUR 6,267,082 figure of the peak period of trade (1.5.2009-30.4.2010).

According to reports provided by the Republic of Cyprus, the total trade value of goods which crossed the Line decreased by 15,55% to EUR 3,411,593. Decrease has been notable for building materials, aluminium/PVC products, wooden products/furniture and vegetables. Stakeholders mention the economic crisis as the main factor leading to this decrease. It was also mentioned that many operators consider that the administrative burden necessary to engage in Green Line trade is disproportionate to the benefit obtained.

Although not covered by the scope of the GLR, trade from the government-controlled areas to the northern part of Cyprus decreased by around 21%, from EUR 1,014,067 in 2012 to EUR 799,396 in 2013 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 23,4% of the trade in the opposite direction (11,3% in 2012).

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 Turkish Cypriot stakeholders as the main reason.

### **2.2. Type of goods**

In 2013, plastic products were the most traded item, followed by fresh fish, raw scrap material and building materials/articles of stone.<sup>14</sup> There was an increase in the value of plastic products trade (bottles, caps and containers, bags, boxes, cases).

New products such as locust beans, galvanized stands, plastic bag handles, stained glass, cornstalk, scrap iron, cables, dynamos, electric engines, metal hangers and sweet and cayenne peppers were introduced but had a very limited impact on the trade. All the trade across the Line was intra-island and there was no export registered to other EU Member States or third countries.

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<sup>13</sup> Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

<sup>14</sup> Annex IV.

Trade of honey from the areas not under the effective control of the Government became possible in early 2013, although no consignment was traded since all the production was absorbed by the local market.

### **2.3. Irregularities**

The Republic of Cyprus authorities reported 8 cases of irregularities concerning different vegetables. Irregularities consisted of (a) quantities in excess of those declared (4 cases), (b) Turkish products (2 cases), and (c) products that were not declared and did not have a certificate of origin (2 cases). The authorities of the Republic of Cyprus destroyed the products or excess quantities in question and applied a pecuniary sanction. During the reporting period, the Republic of Cyprus brought to the Commission's attention one particular case involving carrots. The Commission informed TCCoC thereof. TCCoC investigated the matter and suspended the trader from trading across the Green Line for six months.

The Republic of Cyprus also wrote to the Commission expressing concerns on the origin and amounts of fresh fish being traded across the Green Line, including allegations of cases where the fish in question would not have been caught in the Mediterranean. The Commission raised this matter with TCCoC, which took measures to further ensure that fresh fish traded across the Green Line comes exclusively from vessels included in the list of compliant vessels referred to in Commission Decision 2007/330/EC<sup>15</sup>.

### **2.4. Obstacles and difficulties concerning the movement of goods**

Obstacles to trade across the Line continue to persist and this is also reflected in the decrease of trade.

As mentioned in previous reports, the issue of Turkish Cypriot commercial vehicles carrying goods and passengers crossing to the government-controlled areas is not yet solved. In the view of the Commission, the facilitation of circulation of commercial Turkish Cypriot vehicles would contribute to the economic development of the Turkish Cypriot community. No progress could be reported last year. To date, no Turkish Cypriot commercial vehicles above 7.5 tons 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 put in place dispositions to facilitate obtaining roadworthiness certificates and professional driving licences for Turkish Cypriots. Since summer 2013, the Commission has held contacts with the authorities of the Republic of Cyprus as well with Turkish Cypriot stakeholders. In the light of the suspension of the acquis in the non government controlled areas as per Protocol 10 to the 2003 Accession Treaty, a mechanism could facilitate the crossing of Turkish Cypriot commercial vehicles and address safety considerations. These efforts had not produced a result at the end of the reporting period.

Problems around processed foods persisted in 2013. The authorities of the Republic of Cyprus do not allow processed food products to cross due to concerns raised by health services

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<sup>15</sup> Commission Decision of 4 May 2007 (2007/330/EC), OJ L 123, 12.5.2007, p. 30.

concerning the production process in the northern part of Cyprus. The Commission had informed the authorities of the Republic of Cyprus that there are no grounds under the Green Line Regulation to carry out checks other than those provided for in that Regulation, in particular to carry out checks of premises in the areas to assess if production takes place in line with Union rules. While they could take samples of the products for further analysis, they should not prevent all processed food products from crossing. To date, processed food products are still not permitted to cross. As from summer 2013, the Commission undertook similar efforts to those consented for commercial vehicles in view of putting in place a mechanism that facilitates the crossing of processed foods and addresses safety considerations. Discussions have not produced a result at the end of the reporting period.

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. These difficulties possibly reflect a widespread 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 wanting 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 remains widespread, reflecting the geographical pattern of the Line. Control operations take place in areas near the Line in order to tackle seasonal issues in particular such as the transport of game/wild birds or fire crackers (also via the ESBA) to the government-controlled areas.

In 2013, the Republic of Cyprus conducted 2,873 seizures (previous: 1,305). In 2013, there has been a substantial increase in the quantities of cigarettes and hand rolling tobacco seized by the Republic of Cyprus: 175,340 cigarettes and 300,704 gr. of hand rolling tobacco (previous: 48,939 cigarettes and 49,380 gr., respectively). It was reported that for most, this smuggling consists of small quantities. Other items seized include mainly goods violating intellectual property rights, as well as animal and dairy products. There were no criminal cases filed in the district court for smuggling. For the majority of the reported cases, an administrative penalty is imposed.

The SBA have made changes to the Customs Ordinance to enhance powers available to their officers, allowing them to stop and search vehicles suspected of using unofficial routes to cross the Green Line. Together with higher levels of staff availability, this has resulted in an increased level of detection of goods. 351 seizures have been operated in 2013 (previous: 217).

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 ESBA administration. The ESBA has fixed



new values for the amounts of cigarettes and hand rolling tobacco destined to the traditional supply of Turkish Cypriot inhabitants of Pyla.

## **2.6. Facilitation of trade**

The Commission continues to seek ways of enhancing trade across the Line. The first consignment of potatoes not grown directly from certified seeds was traded in early 2013.<sup>16</sup>

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 would comply with EU rules and regulations. An attempt to allow the trade of whey for transformation into biogas in the government-controlled areas could not materialise because the nature of the measures to be taken during transformation in the existing facilities would have rendered the operation unfeasible and economically unjustifiable. The Commission is currently looking into the request to authorise trade of farm 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.

In September, UNDP sponsored an off-island brainstorming exercise in Malta bringing together 60 prominent Cypriot civic, business and political leaders. The three-day event reached consensus on the need to create new opportunity for intercommunal business cooperation in order to demonstrate the benefits of a settlement.

## **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 have reported that 5091 items have been taken back to the government-controlled areas after having passed through the non government-controlled areas. It has been mentioned that most of this movement takes place to/from the Kato Pyrgos-Karavostasi and Astromeritis-Zhodia crossing points. In a few instances, the intervention of the veterinary service was necessary before the goods were allowed to be taken back.

## **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 of the SBA and efforts deployed are satisfactory despite budgetary constraints. The irregular crossing of third country nationals remains an area of concern, and the Commission assesses that strengthening of the surveillance of the Line between the crossing points conducted by the Republic of Cyprus and the SBA Administration would be important to help tackle irregular migration and smuggling. The Commission also calls on the SBA Administration to find a suitable solution to address the issue of the "unauthorised" crossing points.

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<sup>16</sup> In 2011 the Commission lifted the obligation that potatoes traded across the Line must be grown directly from certified seed potatoes.

The Commission noted that a few incidents took place at the crossing points in early 2013. The Commission continues to consider that stability and predictability of the requirements at the crossing points is of paramount importance, and will continue to raise this matter with the relevant authorities of the Republic of Cyprus.

In 2013, the value of trade across the Line decreased significantly and for the fifth time in a row since the coming into force of the GLR in 2004 (by 15,55% down to EUR 3,411,593 from EUR 4,040,018, according to figures provided by the Republic of Cyprus) greatly due to the economic recession. Plastic products were the most traded item, followed by fresh fish, raw scrap material and building materials/articles of stone. The overall scale of the 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 tons and buses, can only move freely across the whole island if acquis-compliant licences and certificates are obtained in the government-controlled areas. The Commission services held contacts with the relevant departments of the Republic of Cyprus and other stakeholders in view of putting in place a viable solution to this issue that facilitates the movement of Turkish Cypriot commercial vehicles across the Line while addressing safety issues. However, no outcome was reached at the end of the reporting period on this matter nor with regard to the issue of processed foods.

The movement of goods from the government-controlled areas through the Limnitis crossing point via the northern part of Cyprus and back into the government-controlled areas has been regularised.

Overall, 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. Although the increase in the number of crossings is a welcomed development, the Commission remains concerned by the decrease of the trade volume, which is linked to the economic crisis. There is no evidence that economic interdependence between the two communities has increased. Against this background, the Commission relies on the effective cooperation of the Republic of Cyprus and the SBA to ensure effective implementation of Council Regulation (EC) 866/2004. The Commission will continue to monitor the implementation of the Regulation.