



Council of the
European Union

Brussels, 5 August 2016
(OR. en)

11646/16

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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	4 August 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2016) 494 final
Subject:	REPORT FROM THE COMMISSION TO THE COUNCIL Twelfth 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 2015

Delegations will find attached Commission document COM(2016) 494 final.

Encl.: COM(2016) 494 final



EUROPEAN
COMMISSION

Brussels, 4.8.2016
COM(2016) 494 final

REPORT FROM THE COMMISSION TO THE COUNCIL

Twelfth 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 2015

{SWD(2016) 281 final}

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Twelfth 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 2015

Council Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol No 10 to the Act of Accession¹ (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).²

This report covers the period 1 January – 31 December 2015.

During the reporting period, the Commission amended Annex I to the GLR introducing two new crossing points in Deryneia and Lefka-Apliki³.

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 the number of Turkish Cypriots and a slight decrease in the number of Greek Cypriots crossing in 2015 compared to previous years.

According to data from the Republic of Cyprus, 534,879 (previous: 589,906) crossings by Greek Cypriots and 189,027 crossings by Greek Cypriot vehicles (previous: 200,562) were noted from the government-controlled areas to the northern part of Cyprus and 1,055,130 (previous: 927,141) crossings by Turkish Cypriots and 382,621 crossings by Turkish Cypriot vehicles (previous: 346,495) from the northern part of Cyprus to the government-controlled areas during the reporting period⁴.

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 3rd recital of the Green Line Regulation.

³ Commission Implementing Regulation (EU) 2015/1472 of 26 August 2015, OJ L 225, 28.8.2015, p. 3-4.

⁴ The authorities of the Republic of Cyprus do not keep records for the return of Greek Cypriots to the government-controlled areas or the return of Turkish Cypriots to the northern part of Cyprus.

The number of EU citizens other than Cypriots and third country nationals crossing the Line decreased significantly. According to data from the Republic of Cyprus Police (hereafter CYPOL), during the reporting period 491,860 crossings took place by EU citizens other than Cypriots and by third country nationals (previous: 732,856). 71% of these crossings (351,299) occurred at the Ledra Street crossing point which continued to account for the vast majority of crossings by non-Cypriots (primarily tourists).

The CYPOL figures mentioned above, however, do not include data on persons and vehicles crossing from the northern part of Cyprus at the *Pergamos* and *Strovilia* crossings points.⁵ The ESBA reports that 115,335 (previous: 108,893) Greek Cypriots crossed to the northern part of Cyprus and 389,412 (previously: 273,607) Turkish Cypriots crossed the Line in the other direction, while 258,810 EU citizens other than Cypriots and third country nationals crossed in both directions, through the crossing points situated within the ESBA.

In 2015, the number of CYPOL personnel working directly at the crossing points decreased to 69 (72 in 2014).

The figures gathered by the Turkish Cypriot community indicate an increase in the number of crossings by Greek Cypriots (i.e. 907,329) and an increase in the number of crossings by Greek Cypriot vehicles (i.e. 313,498) from the government-controlled areas to the northern part of Cyprus. They also indicate an increase in the number of crossings by Turkish Cypriots (i.e. 1,589,339) and an increase in the number of crossings by Turkish Cypriot vehicles in the other direction (i.e. 642,043). There were 1,164,131 foreign nationals crossing from the government-controlled areas to the northern part of Cyprus.

No incidents concerning crossings were reported in 2015. 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.

During the reporting period, the authorities of the Republic of Cyprus have introduced enhanced controls at the crossing points in light of the global security situation.

Although not falling under the scope of the Green Line Regulation, certain requirements to cross into the northern part of Cyprus via the Green Line have been abolished as an unilateral Confidence Building Measure (CBM) in May 2015 decided by the Turkish Cypriot community.

With UNFICYP support, the practice of religious worship continued to be facilitated as mentioned in the January 2016 UNSG report⁶. Religious leaders and worshippers continued to benefit from easier crossing possibilities in both directions.

⁵ The GLR does not contain reporting obligations for this traffic.

⁶ Report of the Secretary-General on UNFICYP [S/2016/11] of 6 January 2016.

1.2. Irregular migration across the Green Line and asylum

CYPOL figures for 2015 indicated an increase in the number of migrants that irregularly crossed the Line coming from the northern part of Cyprus into the government-controlled areas. Their number amounted in 2015 to 1,290, while in 2014, 2013 and 2012 it had been respectively 970, 1,043 and 1,265⁷. As a probable reason for the increase, CYPOL indicates asylum seekers coming from Syria.

The countries of origin with the highest number of apprehended irregular migrants after having crossed the Line were Syria (757), Pakistan (111), Somalia (63), India (50) and Georgia (38).

Out of these 1,290 irregular migrants, 1,049 persons (81%) applied for international protection in the Republic of Cyprus, the majority of them being Syrians (745).

Irregular migrants are normally apprehended during controls along the Line and at airports when seeking to leave Cyprus or at police stations when requesting for international protection.

CYPOL's assessment of the fact that they arrived into the government-controlled areas by irregularly crossing the Line 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 this assessment, almost all the migrants apprehended in the government-controlled areas, after having irregularly crossed the Line, had previously arrived into the northern part of Cyprus coming from the Turkish territory.

The Turkish Cypriot community informed the Commission that in the northern part of Cyprus efforts are being made to prevent irregular migration. According to the information received, in 2015, 3,181 persons⁸ were refused entry into the northern part of Cyprus and 642 persons⁹ apprehended within the northern part of Cyprus, were returned to the territory of Turkey, which had been the last place they had visited before arriving to 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 actively use the previously established 'Joint Communications Room', which provides a forum for the exchange of information on criminal matters.

⁷ In order to have a comprehensive view of the irregular migration flows across the Green Line it would be useful to have also information on the number of persons that tried to cross the Green Line but were refused entry into the government-controlled areas. However this information is not available as the Republic of Cyprus does not keep official statistics on this category of persons.

⁸ Nationals of Syria: 1,802, of Turkey: 325, of Iraq: 184, of Iran: 136, of Turkmenistan: 76.

⁹ Nationals of Turkey: 233, of Syria: 82, of Turkmenistan: 36, of the Republic of Moldova: 41, of Nigeria: 15.

CYPOL described co-operation with other relevant 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 has slightly decreased. In 2015, 7 irregular migrants were apprehended after having crossed the Line irregularly¹⁰. 1,353 persons were not allowed to cross, the vast majority being Turkish citizens. Other foreign nationals were from Russia, the USA, Syria and Iran who arrived via the northern part of Cyprus.¹¹ These persons were directed to the Agios Dhometios crossing point for processing as per the Republic of Cyprus' entry requirements.

Sovereign Base Area (SBA) officers continue to describe their cooperation with the Republic of Cyprus as excellent.

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.¹² The SBA has 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

Pursuant to Art 8 of the Commission Regulation (EC) No 1480/2004¹³, the Turkish Cypriot Chamber of Commerce (TCCoC) as well as the authorities of the Republic of Cyprus reported on a monthly basis on the type, volume and value of goods for which accompanying documents were issued. Both 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 3,933,918 (previous: EUR 3,911,189). Those figures indicate a

¹⁰ These 7 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(2016) 281, Table VII.

¹¹ Nationals of Turkey: 484, of Russia: 65, of USA: 60, of Syria: 38, of Iran: 31.

¹² OJ L 236, 23.09.2003, p. 940.

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

slight increase of 0.58% of the overall value of goods for which accompanying documents were issued compared to 2014.

According to reports provided by the Republic of Cyprus, the total trade value of goods with accompanying documents which crossed the Line slightly increased by 2.8% to EUR 3,619,736 (previous: EUR 3,520,045). The increase has been notable for plastic products, building materials/articles of stones and raw metal scrap. Stakeholders mention the stabilisation of the economic situation as the main factor leading to this increase.

Although not covered by the scope of the GLR, trade from the government-controlled areas to the northern part of Cyprus increased by around 5.4%, from EUR 1,246,930 in 2014 to EUR 1,314,271 in 2015 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 36.3% of the trade in the opposite direction (35.4% in 2014).

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 2015, plastic products was the most traded item, followed by fresh fish and building materials/articles of stone.¹⁴

New products such as textile were introduced. All the trade across the Line was intra-island and there was no export registered to other EU Member States or third countries.

2.3. Irregularities

During the reporting period, no cases of irregularities were reported.

However, the Republic of Cyprus wrote to the Commission enquiring on the origin and amounts of fruit and vegetables traded across the Green Line. The Commission raised this matter with TCCoC, which confirmed that the amounts traded are effectively produced in the northern part of Cyprus.

2.4. Obstacles and difficulties concerning the movement of goods

Obstacles to trade across the Line continue to persist and this is, in view of the Commission and Turkish Cypriot operators, a reason for the limited level of trade.

As mentioned in previous reports¹⁵, the issue of Turkish Cypriot commercial vehicles crossing to the government-controlled areas is still not solved and to date, no Turkish Cypriot

¹⁴ SWD(2016) 281, Table IV.

¹⁵ See for instance the ninth, tenth and eleventh annual report on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

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 put in place dispositions to facilitate obtaining roadworthiness certificates and professional driving licences for Turkish Cypriots. 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. The Commission has been informed by the Republic of Cyprus that a solution is being foreseen.

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 under the Green Line Regulation there are no grounds to carry out checks of premises in the northern part of Cyprus to assess if the production takes place in line with Union rules¹⁶. 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. As for commercial vehicles, the Commission has been informed by the Republic of Cyprus that a solution for this issue is being foreseen.

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 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.

In 2015 the Commission received complaints from Turkish Cypriot producers about the alleged refusal by the relevant authorities of the Republic of Cyprus to allow trade of materials, notably plastics, for contact with food. The Commission raised the issue with the the authorities of the Republic of Cyprus and was informed that they apply the same requirements to these products as they do to processed foods.

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.

¹⁶ Tenth annual report on the implementation of the Council Regulation EC No 866/2004 and the situation resulting from its application.

In 2015, the Republic of Cyprus conducted 2,689 seizures (previous: 2,627). In 2015, there has been an increase in the quantities of hand rolling tobacco and cigarettes seized by the Republic of Cyprus: 244,457 cigarettes and 399,283 gr. of hand rolling tobacco (previous: 140,029 cigarettes and 370,794 gr., respectively). It was reported that for most, this smuggling consists of small quantities. The smuggling is due to the price differentials and the higher tax of the Republic of Cyprus on tobacco products. Other items seized include mainly goods violating intellectual property rights, agricultural as well as animal and dairy products. There was one criminal case filed in the district court for smuggling. For the majority of the reported cases, an administrative penalty is imposed.

In 2015, there was a decreased level of detection of goods within the ESBA. 351 seizures were operated in 2015 (previous: 452) and as previously, cigarettes and hand-rolling tobacco were the most seized items.

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.

2.6. Facilitation of trade

The Commission continues to seek ways of enhancing trade across the Line.¹⁷

In July 2015 the Commission adopted a Proposal to the Council to amend the Green Line Regulation 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 control¹⁸. 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 2015¹⁹. At the end of the reporting period, the proposal is pending in the Council.

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, including dairy products. Currently, the Commission is scrutinising 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

The Commission encourages economic operators to take advantages of business opportunities and welcomes the intense efforts undertaken by the Chambers of Commerce.

¹⁷ In 2011 the Commission lifted the obligation that potatoes traded across the Line must be grown directly from certified seed potatoes.

¹⁸ COM/2015/0380 final - 2015/0165 (NLE).

¹⁹ http://europa.eu/rapid/press-release_MEX-15-5402_en.htm

In the framework of an EU funded project, the Turkish Cypriot Chamber of Commerce and the Cyprus Chamber of Commerce and Industry are implementing the project "Leading by Example". This programme provides young Greek Cypriots and Turkish Cypriots with the possibility of an internship in a company on the other side of the Green Line. The project aims at contributing to the dialogue, trust, cooperation, and reconciliation between civil societies, including the business communities, throughout Cyprus.

In the framework of this project, the Chambers also organised a bi-communal High Level Event in July 2015 with the participation of both leaders, who shared their vision for a post settlement economy of Cyprus, and explained that a comprehensive solution will bring economic benefits to both communities on the island, contributing to the stability in the region.

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 6,280 items have been taken back to the government-controlled areas after having passed through the non government-controlled areas. It has been mentioned that these crossings run smoothly and that most of the movement takes place to/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 and efforts deployed are satisfactory despite budgetary constraints. The number of persons irregularly crossing the Line increased and the situation needs to be monitored carefully. The Commission also continues to call on the SBA Administration to find a suitable solution 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, as well as the free movement of EU citizens, are of paramount importance.

During the reporting period, the Commission amended Annex I to the GLR introducing two new crossing points in Deryneia and Lefka-Apliki. The opening of the new crossing points will be financially supported by the Commission.

In 2015, the value of trade across the Line increased slightly by 2.8% up to EUR 3,619,736 from EUR 3,520,045 according to Republic of Cyprus, while the value of goods for which accompanying documents were issued by TCCoC increased slightly by 0.58% from EUR 3,911,189 to EUR 3,933,918. Plastic products were the most traded item, followed by fresh fish and building materials/articles of stone. Despite the slight increase in 2015, the overall scale of the trade remains at a low level, in part due to the specific scope of the

Regulation itself, and is substantially lower than the EUR 6,151,989 figure of the peak period of trade in 2008.

The Cyprus Chamber of Commerce and Industry and the Turkish Cypriot Chamber of Commerce continued their close cooperation and advocacy towards a solution to the Cyprus issue, which in their views, will bring economic benefits to both communities.

During the reporting period, certain obstacles to trade remained. Turkish Cypriot commercial vehicles above 7.5 tonnes and processed foods continue not to be authorised to cross by the authorities of the Republic of Cyprus. The Commission was informed by the Republic of Cyprus that a solution to these issues is being foreseen.

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 is at a low level. The Commission considers that removing the abovementioned obstacles to trade shall help significantly increase trade across the Green Line. The Commission hopes that the positive climate in the current round of settlement negotiations and the work of the two Chambers to enhance contacts between the two business communities leads to increased economic ties.

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) No 866/2004. The Commission will continue to monitor the implementation of the Regulation.