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**COMMUNICATION FROM THE COMMISSION**

**Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April  
2004 and the situation resulting from its application**

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### Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application

#### Introduction

The Council Regulation (EC) 866/2004 of 29 April on a regime under Article 2 of Protocol 10 to the Act of Accession<sup>1</sup> (hereafter: Green Line Regulation, GLR) has been in force since 1 May 2004. It defines the terms under which the provisions of the 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 of the Republic of Cyprus does not exercise effective control and the areas in which it does.

This report covers the period 1 May 2007 - 30 April 2008.

#### 1. AMENDMENTS TO THE GREEN LINE REGULATION

Following a proposal made by the Commission on 10 April 2008, on 16 June 2008 the Council adopted a Regulation amending the Green Line Regulation to further facilitate trade on the island of Cyprus.<sup>2</sup>

The amending Regulation, the impact of which will be examined in next year's Green Line Report, provides for a general lifting of duties on agricultural products originating in the northern part of Cyprus when being traded across the Line. Furthermore, the total maximum value of goods contained in the personal luggage of persons crossing the Line is increased from €135 to €260 so as to encourage the economic development of the Turkish Cypriot community. Goods up to this amount can now be introduced free of customs, excise duties and taxes across the Line into the government-controlled areas of the Republic of Cyprus. This rule does not apply to cigarettes and alcohol. Finally, the amendments regulate in a transparent way the temporary introduction of goods (for up to six months) from the northern part of Cyprus into the government-controlled areas.

#### 2. IMPLEMENTING MEASURES

On 4 May 2007, the Commission adopted a Decision lifting prohibitions on the movement of certain animal products on the island of Cyprus under Council Regulation (EC) No 866/2004 and laying down conditions for the movement of those products. This Commission Decision determines conditions for trade in honey and fresh fish across the Line.<sup>3</sup>

On 29 September 2007, the Commission adopted a Decision on the appointment of phytosanitary experts to carry out inspections in the areas of the Republic of Cyprus not under the effective control of the Government.

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<sup>1</sup> OJ L 161, 30.4.2004, p. 128. Regulation as last amended by Council Regulation (EC) No 587/2008 (OJ L 163, 24.6.2008, p.1).

<sup>2</sup> OJ L 163, 24.6.2008, p. 1. Council Regulation EC No 587/2008 of 16 June 2008 amending Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol 10 to the Act of Accession concerning rules on goods, services and persons crossing the Green Line in Cyprus.

<sup>3</sup> Commission Decision 2007/330/EC of 4 May 2007, OJ L 123, 12.5.2007, p. 30.

On 18 October 2007, the Commission adopted a Decision on the appointment of independent experts to carry out inspections and take samples to allow the movement of certain animal products across the Line in Cyprus. This Commission Decision appoints independent experts for the purpose of carrying out inspections of fishing vessels and taking honey samples in the northern part of Cyprus in order to allow trade in honey and fresh fish across the Line.<sup>4</sup>

### **3. CROSSING OF PERSONS**

According to Art 2 of the Green Line Regulation the Republic of Cyprus “*shall carry out checks on all persons crossing the line with the aim to combat illegal immigration of third country nationals and to detect and prevent any threat to public security and public policy. Such checks shall also be carried out on vehicles and objects in the possession of persons crossing the [Green] Line*” whereas Art 3 states that “*effective surveillance shall be carried out by the Republic of Cyprus all along the Line, in such a way as to discourage people from circumventing checks at the crossing points.*”

#### **3.1. Crossing at official crossing points**

The Regulation provides for a stable legal framework for the free movement of Cypriots, other EU citizens and third country nationals who cross the Line at the crossing points. According to the available data, 633,163 (last year: 788,823) Greek Cypriots crossed from the government-controlled areas to the northern part of Cyprus and 1,162,739 (last year: 1,348,215) Turkish Cypriots crossed from the northern part of Cyprus to the government-controlled areas during the reporting period.<sup>5</sup> Monitoring of the impact of the amendment to the Republic of Cyprus Penal Code, penalising any illegal use of property (referred to in last year's Green Line Report), on the crossings of Turkish Cypriots revealed that the number of crossings has again stabilised.

On 3 April 2008, the sixth crossing point across the Line was opened at Ledra Street / Lokmaci in the centre of the old town of Nicosia. More than 106,500 people (amongst these more than 41,000 other EU citizens and third country nationals) used this crossing by the end of the month.

The number of Republic of Cyprus Police (hereafter: CYPOL) personnel working directly at the crossing points was decreased from 61 (2006) to 54 (2007), before rising again to 67 (2008).

No major incidents were reported as regards the daily crossing of people at the check points. As well as this, following agreement in one of the technical committees set up by the leaders of the two communities on 21 March 2008 (Committee on economic and commercial matters), cars rented in the northern part of Cyprus can now enter the government-controlled areas through the Line.

#### **3.2. Illegal migration across the Green Line**

The number of third country nationals crossing the Line illegally remains an area of serious concern. In the reporting period, according to the data submitted by the authorities of the Republic of Cyprus, the total number of detected (or apprehended) illegal immigrants more than doubled (increase from 2919 to 5844), reaching the highest level ever.

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<sup>4</sup> Commission Decision C(2007)4666 of 18 October.

<sup>5</sup> According to the authorities of the Republic of Cyprus, no records are kept for the return of Greek Cypriots to the government-controlled areas and for the return of Turkish Cypriots to the northern part of Cyprus (see Annex VII). These figures do not include, though, the persons crossing at Pergamos and Strovilia crossing points, both under the authority of the SBA Administration.

CYPOL reported that out of these 5844, 5710 illegal immigrants entered the government-controlled areas across the Line, whereas 128 entered via the Sovereign Base Area<sup>6</sup> and only 6 directly into the government-controlled areas. CYPOL reported also the following main countries of origin of illegal immigrants: Syria (37 %), West Bank (16 %) and Iran (9 %). A large number of third country nationals illegally entering later apply for asylum (3470 out of 5844).<sup>7</sup>

The assessment of the entry route into the government-controlled areas by CYPOL is based on:

- documents – figures from CYPOL indicate that 47 % of those illegal immigrants who are reported to have entered the government-controlled areas across the Line (2683 out of 5710) had either a Turkish or a Turkish Cypriot entry or exit stamp (33 % and 13 % respectively), a visa issued by Turkey which is also valid for the northern part of Cyprus (1%) or a 'visa' or a 'residence permit' of the 'TRNC' (0.2 %) in their passports;<sup>8</sup>
- statements by the immigrants themselves, items found in their possession which link them to the northern part of Cyprus or Turkey and presumption based on country of origin;
- an additional factor was a direct ferry link between Latakia in Syria and Famagusta in the northern part of Cyprus. According to information from Republic of Cyprus authorities, 560 illegal immigrants (mostly Palestinians from Iraq) were identified as having used this direct ferry link, thus avoiding transit through Turkey; press reports indicate also frequent interceptions of small boats carrying illegal immigrants.

According to the Republic of Cyprus authorities, the part of the Line most vulnerable to illegal migration is in the Sovereign Base Area. The SBA Police, SBA Customs and Immigration Department and UK military resources work together to combat illegal migration. The SBA Customs and Immigration Department recruited 10 new officers, the number of operational teams working at the Line was increased from 3 to 5, additional trainings in customs and training controls were carried out, various technical assets were procured and the SBA authorities continue to share intelligence and maintain a good cooperation with the Turkish Cypriot community. According to information from the latter, 4,234 third country nationals were refused entry to the northern part of Cyprus in 2007 and 1,030 in the first four months of 2008; 244 illegal immigrants were detained in 2007 and 150 in the first four months of 2008; 1,155 persons were deported (via Turkey) in 2007 and 488 in the first four months of 2008.

The Commission has maintained a constructive dialogue with the relevant authorities of the Republic of Cyprus and the Sovereign Base Area Administration at working level. Several meetings were held focusing in particular on the problem of illegal migration across the Line and offering the opportunity to discuss the measures to be taken in the near future. On this occasion, the representatives of the Republic of Cyprus updated the Commission on measures taken during the reporting period. These measures included using the staff of local Police Stations and of the Aliens and Immigration Department of the Police Headquarters<sup>9</sup> and a helicopter<sup>10</sup> for the surveillance of the Line.

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<sup>6</sup> Hereafter: SBA

<sup>7</sup> See Annex VI

<sup>8</sup> See Annexes VI and VIII

<sup>9</sup> In total, a minimum total of 110 man hours per day were used for patrolling the Line between the crossing points (by 241 officers, including local police staff). This does not appear to be an increase compared to the last reporting period.

<sup>10</sup> During the reporting period, one helicopter carried out in total 90 hours of patrols of the Line.

With regard to the surveillance of the Line, over the reporting period, the Republic of Cyprus remained reluctant to take any measure which possibly could lead to the Line taking on the appearance of an external border. No exchange of information with the Turkish Cypriot community took place.

In view of the worryingly high numbers of illegal immigrants, the Commission is of the opinion that the surveillance of the Line between the crossing points conducted by the Republic of Cyprus pursuant to Art 3 GLR and by the Sovereign Base Area Administration pursuant to Art 2 (5) GLR needs substantial strengthening. The Commission recommends that in particular the authorities of the Republic of Cyprus take concrete steps without delay in order to comply with their obligation as regards the surveillance of the Line as defined in the Green Line Regulation also in view of the future participation of Cyprus in the Schengen area. While the Green Line does not constitute an external border, the surveillance obligations of the Republic of Cyprus on the government-controlled side of the Line should be met effectively while at the same time minimising any hindrance to contacts between the two Communities.

#### **4. CROSSING OF GOODS**

##### **4.1. Value of trade**

Pursuant to Art 8 of the Commission Regulation (EC) 1480/2004<sup>11</sup>, the Turkish Cypriot Chamber of Commerce (hereafter: TCCoC) reported on a monthly basis on the type, volume and value of goods for which it has issued accompanying documents.

The authorities of the Republic of Cyprus also communicated the type, volume and value of goods that have crossed the Line in monthly reports to the Commission. Those reports included goods that entered the government-controlled areas through the crossing points of *Pergamos* and *Strovia*, which are under the authority of the SBA Administration.

According to reports from the TCCoC, the total value of goods for which accompanying documents were issued in the reporting period amounted to €5,471,461 whereas the value of goods actually traded was about €4,473,408.<sup>12</sup>

In comparison to the previous reporting period, figures show again an increase in the total value of goods crossing the Line. According to the reports provided by the authorities of the Republic of Cyprus, the total trade value of goods which actually crossed the Line increased by almost a third to €4,473,408, compared to €3,380,805 in the previous reporting period. It should be noted, though, that trade in potatoes accounted for almost 30% of the overall trade value and is the main component of the increase in Green Line trade.<sup>13</sup>

In January 2008, goods worth more than €700,000 crossed the Line. This was the highest level recorded since the GLR came into force. The main component was Turkish Cypriot potatoes, worth about €350,000.

Although not covered by the scope of the GLR, it may be noted that trade from the government-controlled areas to the northern part of Cyprus amounted to a value of €1,015,340 in the reporting period (thereof €626,533 between February and April 2008) compared to €1,027,688 in the previous one according to figures from the Cyprus Chamber

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

<sup>12</sup> See Annexes I, II and III

<sup>13</sup> See section 4.4. below

of Commerce and Industry. Trade from the government-controlled areas to the northern part of Cyprus therefore remained about the same and amounts to less than a quarter of the trade in the opposite direction.<sup>14</sup>

The Turkish Cypriot community applies a trade system, which, in principle, "mirrors" the restrictions of the Green Line Regulation. It, for instance, mirrors Art 6 (1) GLR in the sense that goods contained in the personal luggage of persons crossing the Line from the government-controlled areas to the northern part of Cyprus are exempt from 'turnover tax', 'excise duty' and 'other duties', provided these goods have no commercial character and their total value does not exceed €135. This regime is not always consistently applied. In the autumn of 2007, for instance, Turkish Cypriots shopping in the government-controlled areas were facing major problems in bringing back their shopping items across the Line and Turkish Cypriot potato growers were largely banned altogether from bringing back potato seeds bought from Greek Cypriot traders.

#### **4.2. Type of goods**

The figures on the types of traded goods show a limited number of new products crossing the Line into the government-controlled areas. As in the previous reporting period, vegetables and wooden products and furniture constituted the main groups of products traded.<sup>15</sup>

Trade across the Line during the reporting period was with three exceptions solely for the purpose of intra-island trade. In May 2007, two consignments of copper and aluminium scrap crossed the Line and were subsequently shipped to the UK and at the beginning of February 2008, a small consignment of citrus fruits crossed the Line and was then flown to Germany to be exhibited at a trade fair. Following a consignment of Cyprus Delights (confectionery) in December 2005 and one of aluminium scrap in April 2007, these consignments were the only known cases where goods crossed the Line and were subsequently subject to an intra-community transaction with other Member States. However it is thought that some Turkish Cypriot potatoes, which originally were destined for consumption in Cyprus, were repacked in the government-controlled areas and sold abroad.

#### **4.3. Irregularities**

Since May 2007, ten cases of irregularities have been reported in which the goods were not allowed to cross the Line. Reasons for non-allowance included the supplier refusing to pay the relevant duties, products not according to marking requirements, vegetables found unfit for human consumption and the non-production of the obligatory accompanying documents.

Beside these irregularities directly at the Line, phytosanitary experts appointed by the Commission detected forged plant passports for potato seeds of EU origin. All potatoes grown from these potato seeds were subsequently banned from trade in order to protect European consumers.

#### **4.4. Positive developments concerning movement of goods**

During the reporting period, some positive developments need to be noted which gradually lifted some barriers which previously used to limit trade across the Line. These developments include:

- Continued 'Round Table Meetings' of the three chambers (Cyprus Chamber of Commerce and Industry, CCCI, TCCoC, and Cyprus Turkish Chamber of Industry, CTCI).

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<sup>14</sup> Statistics on credit card expenditure suggest, though, that Turkish Cypriots spent several millions of Euro in the supermarkets and other stores in the government-controlled areas.

<sup>15</sup> See Annexes IV and V

- The 'Cyprus Producer Network', a network of TC and GC producers, established with the aim of increasing cooperation and collaboration and providing technical assistance, training and advice to ease the constraints to Green Line trade, carried out seminars on both sides of the Line, initiated a bi-communal survey, is about to launch an interactive website and carried out business-to-business meetings in various product sectors. This project, which is funded by UNDP-ACT (US funded), also aims at improving cooperation and collaboration between the participating chambers (CTCI, TCCoC and CCCI).
- In previous reporting periods, difficulties had been encountered as far as the temporary crossing of goods was concerned. These difficulties will be overcome by the respective amendments of the GLR.<sup>16</sup>
- In the past, the Commission had received complaints from Turkish Cypriot traders regarding delays in clearing of goods crossing the Line including particularly consignments of potatoes. Following measures implemented by the authorities of the Republic of Cyprus, these complaints have been dealt with.
- Starting in September 2007, more than 2878 tons of potatoes, worth more than €1,318,480, destined (only) for consumption in the government-controlled areas, successfully crossed the Line without major obstacles. The SBA Administration has found a practical arrangement with the Republic of Cyprus authorities to carry out the required phytosanitary checks. This seems to work satisfactorily.

#### **4.5. Still existing obstacles and difficulties concerning the movement of goods**

Despite these positive developments, several obstacles for trade across the Green Line continue to exist.

Turkish Cypriot commercial vehicles and in particular lorries and buses still cannot move freely through the island. The Republic of Cyprus does not accept roadworthiness certificates of commercial vehicles<sup>17</sup> or professional driving licenses<sup>18</sup> issued by the Turkish Cypriot community (although it does accept roadworthiness certificates for passenger cars). The Government had proposed legislation aiming at facilitating TC lorries to transport goods across the Line by reducing limitations on TC professional driving licences. Neither in the previous nor in the present legislative term, Parliament had taken a decision on the issue (although still pending) after protests from the Greek Cypriot truck driver organisation. Whereas on the issue of roadworthiness certificates the Government proposed to empower a Turkish Cypriot NGO (KAR-IS) to issue these certificates on its behalf. This proposal was not taken up by the Turkish Cypriot community. Neither was a separate proposal by the Government (in cooperation with CCCI) to assist Turkish Cypriot lorry and bus drivers in obtaining the normal roadworthiness certificates. More flexibility on both sides would enhance economic co-operation between both communities across the Line.

Turkish Cypriot traders continued to report difficulties in stocking supermarkets and advertising their products and services in the press in the government-controlled areas. In this context it needs to be noted that Turkish Cypriot participation in Cyprus' International Trade Fair has been steadily decreasing, from 53 Turkish Cypriot traders in 2005, 16 in 2006 to only 3 last year. This year there was no Turkish Cypriot participation at all.

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<sup>16</sup> See section 2. above

<sup>17</sup> Of all Turkish Cypriot lorries with a maximum gross weight exceeding 3.5 tons

<sup>18</sup> In case of all Turkish Cypriot lorries with a maximum gross weight equal to or exceeding 7.5 tons



Finally, smuggling of goods across the Line remains widespread. Several informal "crossing points" in or near the village of *Pergamos* (located partly in the SBA and partly in the northern part of Cyprus) used by local residents and farmers as well as the traditional supply (Art 4 (10) GLR) of the Turkish Cypriot population of the village of *Pyla* (located in the Buffer Zone) are particularly difficult to control. The problem of smuggling of goods underlines the need for an effective surveillance of the Line by the Government of the Republic of Cyprus and for strict supervision by the Sovereign Base Area Administration of the nature and quantity of the goods supplied to the Turkish Cypriot population of *Pyla*.

#### **4.6. Facilitation of trade**

The following measures have been taken to facilitate trade in certain products:

##### *Potatoes*

In January 2008, the Commission organised together with the TCCoC a seminar aiming to raise awareness amongst the Turkish Cypriot traders for the potato registration required for Green Line trade.

Potatoes are not subject to tariffs but each lorry needs to be accompanied by a Report of Phytosanitary Inspection, issued by independent phytosanitary experts in accordance with Annex III of Commission Regulation (EC) No 1480/2004<sup>19</sup>. In order to facilitate potato trade across the Line, the Commission ensured the permanent presence of these experts during the main harvest season (mid April until mid June). During other periods, their availability was guaranteed within a few working days (up to now, all of Turkish Cypriot requests for the presence of a phytosanitary expert were fulfilled).

The Commission has appointed additional independent phytosanitary experts in light of the recent demand for their services.

##### *Citrus fruits*

A small consignment of citrus fruits crossed the Line in early February 2008 to be exhibited in Germany. The annual pre-harvest inspection in autumn 2007, again carried out by independent Member States' experts appointed by the Commission, confirmed the positive results of previous checks.

##### *Honey and fish*

As reported above, on 4 May 2007, the Commission adopted a Decision lifting prohibitions on the movement of certain animal products on the island of Cyprus under Council Regulation (EC) No 866/2004 and laying down conditions for the movement of fresh fish and honey across the Green Line.<sup>20</sup>

The Commission appointed independent experts from Member States who, in accordance with Annexes I and II of the Commission Decision, inspected Turkish Cypriot fishing vessels from and collected samples of honey in the production chain for subsequent analyses in specific EU laboratories.

## **5. CONCLUSIONS**

The Green Line Regulation continues to provide a stable legal framework for the free movement of Cypriots and other EU citizens who cross the line at the crossing points. The

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<sup>19</sup> Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

<sup>20</sup> Commission Decision 2007/330/EC of 4 May 2007, OJ L 123, 12.5.2007, p. 30.

opening of a new pedestrian crossing point at Ledra Street/Lokmaci in the old town of Nicosia further facilitates people-to-people contacts between the two communities.

However, the number of third country nationals crossing the Line illegally remains an area of serious concern. In the reporting period, the total number of detected (or apprehended) illegal immigrants doubled, reaching the highest level ever. The Commission is of the opinion that the surveillance of the Line between the crossing points conducted by the Republic of Cyprus and the Sovereign Base Area Administration needs substantial strengthening without delay. However, the Republic of Cyprus remains reluctant to take any measure which possibly could lead to the Line taking on the appearance of an external border.

As regards goods crossing the Green Line, in comparison to the previous reporting period, reported figures show again an increase in the total value of goods crossing the Line. According to the reports provided by the authorities of the Republic of Cyprus, the total trade value of goods which actually crossed the Line increased by almost a third and was about €4,473,408, compared to €3,380,805 in the previous reporting period. It should be noted, though, that almost 30 % accounted for trade in potatoes.

The overall scale of Green Line trade still remains rather limited, not least due to the restricted scope of the Regulation. In the current reporting period very few new products were introduced. Only in three cases, goods crossed the Line and were subsequently subject to an intra-community transaction with another Member State.

Tangible positive developments have taken place concerning the movement of goods. However, several reported cases confirm that there are still many obstacles to the further development of Green Line trade. Turkish Cypriot commercial vehicles and in particular lorries and buses still cannot move freely across the island since compromise solutions have been either rejected or delayed by one or the other community. In addition, Turkish Cypriot traders continued to report difficulties in stocking supermarkets and advertising their products and services in the press in the government-controlled areas. Finally, it appears that smuggling of goods across the Line remains widespread.

The Commission has carried out various measures aiming at facilitating trade across the Line, particularly trade in potatoes, citrus fruits and honey and fish.

The overall conclusion is that the Green Line Regulation continues to provide a workable basis for allowing the passage of persons and goods to the government-controlled areas of the Republic of Cyprus. The Commission will continue to monitor the implementation of the Regulation.