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Smuggling and human trafficking across the green line.

Facilitator:



Knowledge partner:



Support by:



British
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Nicosia

Report on Smuggling and Trafficking of Persons Across the Green Line

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The current Report forms part of the Deliverables of the project entitled ‘Smuggling and Trafficking across the Green Line’ which is implemented by UCLan Cyprus in 2021-22.¹ The project’s overall objective is to examine, detect, and understand the criminal activities of smuggling and trafficking persons across the UN-controlled buffer zone, also known as “Green Line”. This will enhance the sustainability of efforts to curb various illegal activities, in particular smuggling of illicit goods, smuggling of persons and human trafficking. An ancillary objective is to enhance the capacities of relevant stakeholders who engage in the prevention, detection, investigation, and prosecution of criminal activities across the Green Line.

The team’s aim in implementing the project is twofold:

- (i) to expand the knowledge and the applicability of the law and relevant institutional framework in combating smuggling and trafficking of persons;
- (ii) to promote awareness and provide training to frontline workers, law and order professionals, NGOs, students, the general public and other stakeholders. In doing so, we aspire to create a pool of confident practitioners and/or researchers that can recommend, apply and inform their communities about the dangers and the extent of perceived/reported criminality. We also aspire to promote awareness through specialised trainings, focus groups and other activities.

Having in mind all the above, the current report aims at enhancing the academic literature on human smuggling and trafficking and smuggling of goods across the Green Line. The second aim is to report on the activities of the project. In doing so, the report is divided in two parts. The first part of the current report will provide a brief literature on the phenomena examined by the project. The second part will report on the activities of the project which were completed with the support of the knowledge partners of UCLAN Cyprus: ICLAIM² and Step Up Stop Slavery.³

Brief historical background of the island of Cyprus:

¹Smuggling and Human Trafficking across the Green Line < <https://htsproject.uclancyprus.ac.cy/> > last accessed on 14/02/2022

²Interdisciplinary Centre for Law, Alternative and Innovative Methods (ICLAIM)
<<https://www.iclaimcentre.org/>> last accessed on 08/01/2022

³Step Up Stop Slavery <<https://www.stepupstopslavery.org/>> last accessed on 08/01/2022



Map 1: The island of Cyprus⁴

The island of Cyprus is situated in the Eastern Mediterranean surrounded by three continents. Following a long British reign, 97% of the island gained its independence in 1960.⁵ While the Republic of Cyprus (RoC) was born with the first light on 16th August 1960,⁶ the English administration retained 3% of the island's territory.⁷ What became known as the Sovereign Base Areas (SBAs) is used as a military base, as a refuge (up to 2003) for migrants, as the home of many families, and is administered by its own Governor with its legislative frameworks and courts.⁸

Three years after independence, a constitutional crisis arose. Intra-state and inter-state violence grew ominously and all attempts to restore peace failed. As a result, the United Nations Security Council unanimously adopted Resolution 186 (1964), which recommended

⁴ Map published by the Sovereign Base Areas Administration < www.sbaadministration.org/index.php/maps > accessed on 21/03/2018

⁵ The Cyprus Act 1960, Section 2; *R (on the application of Tag Eldin Ramadan Bashir and others) v Secretary of State for the Home Department* [2018] UKSC 45; Klearchos Kyriakides, 'The 1960 Treaties and the search for security in Cyprus' (2009) 11 *Journal of Balkan and near Eastern Studies* 427

⁶ The Cyprus Act 1960, Section 1; Klearchos Kyriakides, 'The 1960 Treaties and the search for security in Cyprus' (2009) 11 *Journal of Balkan and near Eastern Studies* 427

⁷ Nasia Hadjigeorgiou 'Sovereign Base Areas (SBA), *Max Planck Encyclopaedia of International law* < <https://opil.ouplaw.com/view/10.1093/law-epil/9780199231690/law-9780199231690-e2261> > last accessed on 20/12/2021

⁸ *R (on the application of Tag Eldin Ramadan Bashir and others) v Secretary of State for the Home Department* [2018] UKSC 45; Sovereign Base Areas, The SBA Administration (SBAA) < <https://www.sbaadministration.org/index.php/administration> > last accessed on 20/12/2021. For a legal appraisal of the status of the SBAs under EU law, see S. Lulhé Shaelou, 'The principle of territorial exclusion in the EU: SBAs in Cyprus – a special case of sui generis territories in the EU' in D. Kochenov (ed.), *EU Law of the Overseas: Outermost Regions, Associated Overseas Countries and Territories, Territories Sui Generis* (Kluwer Law International, The Netherlands, 2011) 153-175. Post Brexit, see S. Lulhé Shaelou and Katerina Kalaitzaki, 'Of bits and pieces of EU law in territories: the many shades of European integration' in D. Fromage (ed.) (Re-)defining Membership: Differentiation in and outside the European Union (OUP, 2022, forthcoming)

the establishment of the United Nations Peacekeeping Force in Cyprus (UNFICYP) on the island. UNFICYP'S mandate is to use its best efforts to:

1. Prevent a recurrence of fighting;
2. Contribute to the maintenance and restoration of law and order;
3. Contribute to a return to normal conditions.⁹

In 1974, Turkey invaded and occupied the northern geographical part of Cyprus, and the Security Council adopted several resolutions expanding UNFICYP's mandate, including supervising the enforcement of the *de facto* ceasefire line that came into effect on 16 August 1974 and maintaining a Buffer Zone between the lines of the Cyprus National Guard and the Turkish and Turkish Cypriot forces.¹⁰ Ever since the abovementioned events, the ceasefire line which is referred to as the "Green Line" has separated the two parts of the island. Among others, the island is inhabited by Greek Cypriots and Turkish Cypriots which make up about 80% and 18% of the overall population, respectively.¹¹ Since Turkey's 1974 military invasion and the *de facto* division of the island, Turkish Cypriots primarily reside in the north of the island that remains under the military, economic and political control of Turkey, despite having declared itself as the independent 'Turkish Republic of Northern Cyprus' ('TRNC').¹² In compliance with the UN Security Council Resolution 541 (1983), the 'TRNC' has not been recognised by any state, except Turkey.¹³

The Republic of Cyprus acceded to the European Union (EU) on 1st May 2004, and even though the whole of the Republic of Cyprus is part of the European Union, in the parts where the government of the Republic of Cyprus does not exercise effective control, the EU *acquis* is suspended, in line with Protocol 10 to the 2003 Act of Accession.¹⁴ Despite the fact

⁹ UN Security Council, Security Council Resolution 186 (1964) [The Cyprus Question], 4 March 1964, S/RES/186 (1964)

¹⁰ Ibid

¹¹ European Commission, 'Cyprus- Population: demographic situation, languages and religions' (European Commission, 30/11/2021) < https://eacea.ec.europa.eu/national-policies/eurydice/content/population-demographic-situation-languages-and-religions-15_en > last accessed on 23/12/2021

¹² *Cyprus v. Turkey*, 25781/94, Council of Europe: European Court of Human Rights, 10 May 2001, < <https://www.refworld.org/cases,ECHR,43de0e7a4.html> > last accessed on 23/12/2021; UN Security Council, *Security Council resolution 541 (1983) [Cyprus]*, 18 November 1983, S/RES/541 (1983), < <https://www.refworld.org/docid/3b00f16528.html> > last accessed on 23/12/2021; UN Security Council, *Security Council resolution 550 (1984) [Cyprus]*, 11 May 1984, S/RES/550 (1984), < <https://www.refworld.org/docid/3b00f15b24.html> > last accessed on 23/12/2021

¹³ UN Security Council, *Security Council resolution 541 (1983) [Cyprus]*, 18 November 1983, S/RES/541 (1983), < <https://www.refworld.org/docid/3b00f16528.html> > last accessed on 23/12/2021; UN Security Council, *Security Council resolution 550 (1984) [Cyprus]*, 11 May 1984, S/RES/550 (1984), < <https://www.refworld.org/docid/3b00f15b24.html> > last accessed on 23/12/2021

¹⁴ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded - Protocol No 10 on Cyprus, *Official Journal L 236*, 23/09/2003 P. 0955 – 0955; Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded - Protocol No 3 on the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus *Official Journal L 236*, 23/09/2003 P. 0940 – 944; See also S.

that the non-government-controlled areas are outside the EU's *acquis*, the rights of the Turkish Cypriots as EU citizens should not be affected.¹⁵ It is also important to mention that the line is not an external border to the EU and is subject to Council Regulation 866/2004.¹⁶

The Green Line Regulation:

Council Regulation (EC) No. 866/2004 on a regime under Article 2 of Protocol No 10 to the Act of Accession entered into force on 1 May 2004.¹⁷ The so-called Green Line Regulation sets out the terms under which persons, goods and services can cross the line from the non-government-controlled areas into the government-controlled areas and *vice versa*.¹⁸ To ensure the effectiveness of the rules contained within the Green Line Regulation, their application was extended to the boundary between these areas and the Eastern Sovereign Base Area.¹⁹ In practice, what we refer to as the Green Line is in reality two lines, about 180km long spanning the island. In 2019 alone, there were 3.7 million crossings by people who were shopping or socialising across the Green Line. Approximately 2.4 million were Greek Cypriot crossings to the northern geographical part and 1.3 million Turkish Cypriot crossings to the southern geographical part.²⁰

The policing of the Green Line requires an agreement between the two sides as to the population and territory that each police force should be protecting, and a willingness between the two to communicate with each other so that information exchange can take

Laulhé Shaelou, *The EU and Cyprus: principles and strategies of full integration* (vol. 3, Studies in EU External Relations, Brill/Martinus Nijhoff Publishers, Leiden, 2010).

¹⁵ European Union: Council of the European Union, *Council Regulation (EC) No 2007/2004 of 26 October 2004 : Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union*, 26 October 2004, No 2007/2004, <<https://www.refworld.org/docid/4847e8022.html>> last accessed on 23/11/2021; see S. Laulhé Shaelou, *The EU and Cyprus: principles and strategies of full integration* (vol. 3, Studies in EU External Relations, Brill/Martinus Nijhoff Publishers, Leiden, 2010); see also S. Laulhé Shaelou, 'Market Freedoms, EU fundamental rights and public order: views from Cyprus', (2011) 30(1) *Yearbook of European Law* 298 (OUP) 298-357.

¹⁶ Ibid

¹⁷ European Union: Council of the European Union, *Council Regulation (EC) No 2007/2004 of 26 October 2004 : Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union*, 26 October 2004, No 2007/2004, <<https://www.refworld.org/docid/4847e8022.html>> last accessed on 23/11/2021. See 1. S. Laulhé Shaelou, *The EU and Cyprus: principles and strategies of full integration* (vol. 3, Studies in EU External Relations, Brill/Martinus Nijhoff Publishers, Leiden, 2010); see also S. Laulhé Shaelou, 'Market Freedoms, EU fundamental rights and public order: views from Cyprus', (2011) 30(1) *Yearbook of European Law* 298 (OUP) 298-357

¹⁸ Ibid

¹⁹ European Union: Council of the European Union, *Council Regulation (EC) No 2007/2004 of 26 October 2004 : Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union*, 26 October 2004, No 2007/2004, third recital <<https://www.refworld.org/docid/4847e8022.html>> last accessed on 23/11/2021

²⁰ European Commission, Report from the Commission to the Council: Sixteenth report on the implementation of Council Regulation (EC) No 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2019 <https://ec.europa.eu/info/sites/default/files/com_2020_239_f1_report_from_commission_en_v4_p1_1079_406.pdf> last accessed on 23/12/2021

place. Thus, particular emphasis is given to the collaboration between the *de jure* and *de facto* authorities, which is not forthcoming because of concerns that cooperation will be misconstrued as recognition or a 'Taiwanisation' of the 'TRNC'. An example of the reluctance in cooperation even on criminal matters was seen in the infamous case of *Guzelyurtlu and others v. Cyprus and Turkey*.²¹ The case originates in the murder of three Turkish Cypriots, committed in the Republic of Cyprus. The authorities of the Republic initiated an investigation and identified eight suspects, who had all fled to the 'TRNC'. Simultaneously, an investigation was initiated by the 'TRNC' who initially arrested the suspects. Nevertheless, what could have led to a conviction of murderers came to an impasse when the 'TRNC' refused to surrender the suspects to the Republic of Cyprus, and the Republic of Cyprus refused to surrender the evidence to the 'TRNC'. The refusal of cooperation led to the release of the suspects who have not been tried for murder. Consequently, the victims' relatives lodged an application with the European Court of Human Rights (ECtHR), complaining under Articles 2 and 13 ECHR (the right to life and the right to an effective remedy, respectively). In January 2019, the Grand Chamber of the ECtHR delivered a judgment confirming that the two respondent states had an obligation to cooperate in order to carry out an effective investigation into the victims' deaths. Although legally speaking the *Guzelyurtlu* case was rather straightforward, it was politically controversial as cooperation between police forces of different states is inextricably connected with international recognition of these states. Ultimately, the Grand Chamber held that the Republic of Cyprus did not violate the procedural right to life, as it had done everything that was reasonably expected of it, but Turkey had acted in violation of Article 2 by blatantly ignoring all attempts at communication, and requests for the extradition of the suspects to the areas under the Republic's control.²²

Regarding the mechanism for policing the Green Line, the Technical Committee on Crime and Criminal matters, one of the 12 bi-communal technical committees, which was established to promote better collaboration on everyday matters between Greek Cypriots and Turkish Cypriots, formed the Joint Communications Room (JCR) in 2009.²³ The JCR with the help of the UN facilitates the exchange of information between the two parties, what has been referred to as 'engagement without recognition'.²⁴ In summary, the two law enforcement agencies have no direct or official communication with each other. Rather, the mechanism allows them to share information and make requests for assistance through UNFICYP. Between June 2009 and 31 December 2018, there were 633 requests for assistance from the Republic of Cyprus police and 388 from the 'TRNC'.²⁵ Over the years, the JCR has:

²¹ *Guzelyurtlu and others v. Cyprus and Turkey* [GC] Application No 36925/07, Council of Europe: European Court of Human Rights. 29 January 2019

²² *Guzelyurtlu and others v. Cyprus and Turkey* [GC] Application No 36925/07, Council of Europe: European Court of Human Rights. 29 January 2019

²³ United Nations. UN Cyprus Talks: On Criminal Matters (United Nations, 2021) <
<https://uncyprustalks.unmissions.org/criminal-matters> > last accessed on 23/12/2021

²⁴ Ker-Lindsay, James, and Eiki Berg. 2018. 'Introduction: A Conceptual Framework for Engagement with de facto States', *Ethnopolitics*, 17: 335-42; Nasia Hadjigeorgiou and Dina Kapardis, 'Police Cooperation in Cases of Unrecognised Secessions: The Joint Communications Rooms in Cyprus' (2022, forthcoming)

²⁵ Nasia Hadjigeorgiou and Dina Kapardis, 'Police Cooperation in Cases of Unrecognised Secessions: The Joint Communications Rooms in Cyprus' (2022, forthcoming).

1. Facilitated information exchange in a range of crimes including smuggling of illegal arms and drugs; burglaries, car thefts, sexual assaults; child abductions and murder investigations.
2. Helped locate and return missing persons who crossed the Green Line.
3. Became involved in domestic violence cases and family and child custody disputes.²⁶

The most common example of a failure to cooperate between the two sides involves situations where one side issues a warrant for a national of the other side and requests that this person be located and returned.²⁷ In such cases, both sides refuse to comply because of domestic legal provisions that prevent them from extraditing their 'own nationals'. More illustrative, the Republic of Cyprus does not extradite Greek Cypriots or Turkish Cypriots, but it can extradite and in fact has extradited Turks to the 'TRNC' through the JCR.²⁸ The 'TRNC' does not extradite Turkish Cypriots or Turks.

Crossing of Persons and Smuggling:

Regarding the crossing of Cypriots, other EU citizens and third-country nationals, the regulation provides for their movement through authorised crossing points.²⁹ Nevertheless, the latest figures of the seventeenth report of the European Commission on the implementation of the Regulation show considerable unauthorised movement of persons across the Green Line.³⁰ This movement refers to the criminal phenomenon of smuggling. Human smuggling involves the provision of a service, typically transportation and fraudulent documents to an individual who voluntarily seeks to gain illegal entry into a foreign country.³¹ This should be distinguished from human trafficking, which is involuntary and the victims are exploited through means of coercion and control. It is possible the crime may start as human smuggling but quickly turn into human trafficking.

²⁶ Nasia Hadjigeorgiou and Dina Kapardis, 'Police Cooperation in Cases of Unrecognised Secessions: The Joint Communications Rooms in Cyprus' (2022, forthcoming); United Nations. UN Cyprus Talks: On Criminal Matters (United Nations, 2021) < <https://uncyprustalks.unmissions.org/criminal-matters> > last accessed on 23/12/2021

²⁷ Nasia Hadjigeorgiou and Dina Kapardis, 'Police Cooperation in Cases of Unrecognised Secessions: The Joint Communications Rooms in Cyprus' (2022, forthcoming)

²⁸ United Nations operation in Cyprus: Report of the Secretary-General (6 July 2018, S/2018/676), para. 23.

²⁹ European Commission, Report from the Commission to the Council: Sixteenth report on the implementation of Council Regulation (EC) No 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2019 < https://ec.europa.eu/info/sites/default/files/com_2020_239_f1_report_from_commission_en_v4_p1_1079_406.pdf > last accessed on 23/12/2021; see S. Laulhé Shaelou, *The EU and Cyprus: principles and strategies of full integration* (vol. 3, Studies in EU External Relations, Brill/Martinus Nijhoff Publishers, Leiden, 2010)

³⁰ European Commission, Report from the Commission to the Council: 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 < https://ec.europa.eu/info/sites/default/files/com_2021_273_f1_green_line_report.pdf > last accessed on 23/12/2021

³¹ Ibid

The EU's House Affairs Commissioner, Ylva Johansson, said in September 2021 that the latest figures show that virtually all migrants in Cyprus rely on criminal rings to get to the island, while the Ministry of Interior during a joint press conference with the Commissioner attributed the phenomenon to the inability to exercise effective control on the Green Line.³² In Cyprus, up until the end of September 2021, there has been a rise in arrivals of migrants by around 47% compared to the year before.³³ In 2020, 6026 arrivals were reported in the government-controlled areas, 5413 after having crossed the Green Line and 613 directly by boat, compared to approximately 4100 arrivals through the Green Line and by boat in the same period the previous year.³⁴ The Republic of Cyprus has made plans to try and stop smuggling and trafficking across the Green Line by introducing the Green Line Watch. The initiative will involve bolstering police measures along the Buffer Zone.³⁵ Although no final decisions have been made, media portals report the initiative as a programme that would bolster police measures along the Buffer Zone. According to the same source, there will be co-operation between law enforcement and local authorities but also a neighborhood watch model.³⁶ The programme will also include the mapping of the dividing line and the crossings in order to draft an immediate response plan and training monitors.³⁷

The local authorities in the 'TRNC' confirmed that efforts had continued in the northern part of Cyprus to prevent irregular migration. In 2020, 2,147 persons were refused entry into the northern part of Cyprus. 1,162 persons who had been apprehended within the northern part of Cyprus were deported.³⁸ 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 the 'Joint Communications Room' (JCR), which provides a forum for the exchange of information on criminal matters. In the course of the reporting period of 2020, the exchange of seven

³² Initial Statement by the Minister of the Interior, Mr. Nicos Nouris, at the Press Conference with the European Commissioner for Home Affairs, Ms Ylva Johansson (2021) <<https://www.pio.gov.cy/en/press-releases-article.html?id=22976#flat>> last accessed on 23/12/2021

³³ European Commission, Report from the Commission to the Council: 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 <https://ec.europa.eu/info/sites/default/files/com_2021_273_f1_green_line_report.pdf> last accessed on 23/12/2021; EU: we must find a way to stop people-smuggling <<https://cyprus-mail.com/2021/09/30/eu-we-must-find-a-way-to-stop-people-smuggling/>> last accessed on 23/12/2021; Reliefweb, 'Med: Commissioner Visits Cyprus, MED 5 Declares Pact "Unacceptable", Rescues and Arrivals Continue as Do Interceptions and Returns' (ECRE, 1 October 2021) <<https://reliefweb.int/report/cyprus/med-commissioner-visits-cyprus-med5-declares-pact-unacceptable-rescues-and-arrivals>> last accessed on 23/12/2021

³⁴ Ibid

³⁵ CyprusMail, 'Green Line Watch to combat smuggling' (Cyprus Mail. George Psyllides, 22 July 2015) <<https://cyprus-mail.com/2015/07/22/green-line-watch-to-combat-smuggling/>> last accessed on 23/12/2021

³⁶ Ibid

³⁷ Ibid

³⁸ European Commission, Report from the Commission to the Council: 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 <https://ec.europa.eu/info/sites/default/files/com_2021_273_f1_green_line_report.pdf> last accessed on 23/12/2021

criminal suspects between the two communities was facilitated by the JCR with the support of UNFICYP. The victims in the 'TRNC' are extremely vulnerable due to the lack of protection mechanisms and absence of a comprehensive legal framework to protect and assist them. This puts the victims on spot for traffickers that take full advantage of these vulnerabilities.³⁹

As was expected, the phenomenon of smuggling of persons does not only affect the Republic of Cyprus. Dhekelia Garrison, one of the two SBAs, directly abuts the north along a corridor of farmland, abandoned homes and fields that offer secluded routes for smugglers or for migrants to cross. Then migrants take the well-known by now route and cross the dividing Buffer Zone into the Republic of Cyprus. In 2020 the Eastern Sovereign Base Area 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.⁴⁰ Nevertheless, despite the measures in place due to the pandemic, and having in mind that migrants do not actually use the crossing points to cross the Line, irregular migration from the northern part of Cyprus via the SBAs increased.⁴¹ In 2020, 66 migrants were apprehended after having crossed the Line irregularly. To tackle the phenomenon of smuggling, the SBA authorities have hired additional officers and procured detection equipment to stop irregular migration.⁴² An intelligence unit dedicated to boundary surveillance was created and two new specialist vehicles were deployed. Away from the crossing points, the SBA Police conducted risk-based, intelligence-led patrols to counter irregular migration.⁴³

The phenomenon of human smuggling is legally regulated by the United Nations Convention against Transnational Organised Crime which is the only globally binding instrument against transnational organised crime.⁴⁴ The Convention aims to assist the signatory parties to translate their commitments into actions by setting up standards while establishing frameworks of mutual assistance, extradition, and fostering law enforcement cooperation.⁴⁵ The Convention has been supplemented by 3 Protocols, one of which is the Protocol against Smuggling of Migrants by Land, Sea and Airport.⁴⁶ The Protocol came into force in January 2004 and deals with the growing problem of organised criminal groups who smuggle

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² European Commission, Report from the Commission to the Council: 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 <
https://ec.europa.eu/info/sites/default/files/com_2021_273_f1_green_line_report.pdf> last accessed on 23/12/2021

⁴³ Ibid

⁴⁴ United Nations Convention against Transnational Organized Crime and the Protocols *resolution / adopted by the General Assembly*, 8 January 2001, A/RES/55/25

⁴⁵ Ibid

⁴⁶ UN General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000

migrants, often at high risk for migrants and at great profit for the offenders. Apart from preventing and combating the smuggling of migrants, the Protocol also aims at promoting cooperation among State parties, while protecting the rights of migrants and preventing their exploitation.⁴⁷ It should be noted that the Republic of Cyprus, the United Kingdom and Turkey are all members of the Convention and the Optional Protocol.⁴⁸

Smuggling of Goods:

Alongside human smuggling, smuggling of goods is another persistent phenomenon, reflecting the difficulty of controlling irregular movements across the Green Line.⁴⁹ In 2020, the Republic of Cyprus made 494 seizures of smuggled goods, a decrease of 79% compared to last year. This decrease in seizures reflects the general reduction in movement of persons as a result of the pandemic, but remains, nevertheless, substantial.⁵⁰ There was a notable decrease in smuggling of agricultural products, as well as in goods violating intellectual property rights and the quantities of cigarettes and hand-rolling tobacco seized by the Republic of Cyprus at the Green Line. The most prominent smuggled products seem to include tobacco, agricultural products, alcohol, cars, fuel, medicines and pesticides. While there is a considerable violation of the framework regulating the movement of goods across the Green Line, in 2020, only seven prosecutions were brought before the competent courts of the Republic of Cyprus. Cases of smuggling of small quantities of cigarettes were usually dealt with through the imposition of an administrative penalty and forfeiture.⁵¹

In 2020, the Eastern Sovereign Base Area authorities reportedly also recorded a decrease in the number of seizures of smuggled goods within the SBA; 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 also by the SBA Administration.⁵² Therefore, while human smuggling happens through the long 'unpoliced' parts of the Buffer Zone, smuggling of goods actually happens through the check points as well.

Human Trafficking:

- **Republic of Cyprus**

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ European Commission, Report from the Commission to the Council: 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 <
https://ec.europa.eu/info/sites/default/files/com_2021_273_f1_green_line_report.pdf> last accessed on 23/12/2021

⁵⁰ Ibid

⁵¹ Ibid

⁵² Ibid

Human trafficking debates in Cyprus have prominently focused on sexual exploitation. However, other forms of exploitation also take place. Most illustrative, are forced labour and sham marriages, which have become a matter of intense political debate and subject to legislative amendment because they are perceived as a means of facilitating illegal migration. Other forms of exploitation include illegal child adoption cases and harvesting of organs. The Republic of Cyprus appears to provide a comprehensive legal framework to tackle these phenomena. The most prominent development involves the adoption of the Law for the Prevention and Combating of Trafficking and Exploitation of Persons and Protection of Victims of 2014 (Law 60(I)/2014)⁵³ and its subsequent amendment in 2019.⁵⁴ Nevertheless, it should be noted that while the 2014 Law and its subsequent amendments are the core of anti-trafficking legislation, they are only part of the wider legislative framework. That said, national frameworks such as, but not limited to, the Aliens and Immigration Law (Cap. 105), the Criminal Code (Cap. 154) and the Law on the Minimum Guarantee Income (Law 109(I)/2014) complement and assist in the prevention, combating and protection either directly or indirectly. In addition, Law 91(I)/2014 on the Prevention and Combating, Exploitation of Children and Child Pornography Law can be said to complement Law 60(I)/2014 by providing for offences against minors who are victims of trafficking.

Accordingly, with regards to the Republic of Cyprus, anti-trafficking efforts lack effective implementation of individual legislative acts and coordination amongst state authorities that have different tasks and scope of work defined under the legal framework. Theoretically, the legislative amendments address concrete legislative gaps in the fight against human trafficking, including the extension of the non-punishment provision, the introduction of more severe sentences for the perpetrators of such offences (especially concerning minors) and the criminalisation of the use of sexual services of victims of human trafficking. For instance, the 2019 amendment is an attempt to enhance prosecution and conviction rates, by introducing a strict liability offence for the use of sexual services of victims of human trafficking.⁵⁵ Nevertheless, due to the limited conviction rates in Cyprus and the time-consuming legal proceedings, there are still no concrete cases on the above amendment.⁵⁶

As a matter of fact, for the effective implementation of the legislation and its subsequent legislative amendments, there must be a commitment at the institutional and policy framework level. To examine the effectiveness and the institutional commitments, one should look into 1) anti-trafficking co-operation apparatuses prescribed by law (such as the National Co-ordinator, the National Referral Mechanism, the Multidisciplinary Coordinating Group and the Bi-communal Joint Contact Room operation) and 2) the work of the Cypriot authorities tasked with anti-trafficking responsibilities (such as the Police Office for

⁵³ Law for the Prevention and Combating of Trafficking and Exploitation of Persons and Protection of Victims of 2014 (Law 60(I)/2014)

⁵⁴ Prevention and Combatting of Trafficking and Exploitation of Persons and Protection of Victims (Amendment) Law (Law 117(I)/2019)

⁵⁵ Ibid, article 19(a) and (b)

⁵⁶ Nasia Hadjigeorgiou, Demetra Loizou, Fezile Osum, Andrea Manoli, 'Determinants of Anti-Trafficking Efforts: Cyprus Case Study' (forthcoming, 2022, British Institute of International and Comparative Law) < <https://www.biiicl.org/projects/determinants-of-anti-trafficking-efforts> > last accessed on 23/12/2021

Combating Trafficking in Human Beings, legal professionals, front-line workers, Social Insurance Services, NGOs etc). In this regard, special attention should be paid to the process followed to identify and refer potential victims to the respective authorities.

- **Areas not under the effective control of the government of the Republic of Cyprus**

Turkish Cypriot civil society organisations (CSOs) and researchers report that sex and labour trafficking are common in the northern part of Cyprus.⁵⁷ The hotline established by the Cyprus Turkish Bar Association under the EU funded Justice for Human Trafficking Victims Project⁵⁸ received complaints from 320 persons (39 female and 282 male) in the past one and a half year. The cases involved labour and sex trafficking; the former mostly seen in construction, agriculture, domestic work and service sectors whereas the latter seen in the nightclubs, privately owned apartments or hotels. Although it has been widely known among the public since the end of the 2000s that women are forced into commercial sex in nightclubs, that are identified as the venues for sex trafficking, the phenomena were ignored by the local authorities in the areas not under the effective control of the government of the Republic of Cyprus for a very long time.

Until 2020, human trafficking had not even been defined as a crime under the local legal framework. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (The Palermo Protocol) was adopted by the 'TRNC Parliament' on 9 April 2018 and after a short period of time, a draft legal proposal to amend the Criminal Law was brought before the 'Law Committee' by Republican Turkish Party (CTP) women MPs. The draft legal proposal could not be approved by the Parliament at that time due to the change in the government and later, with the newly established government, it was again brought to the Committee. At the end of 2019, relevant CSOs became involved, the proposal was redeveloped and sent to Parliament. The amendment to the law was adopted on 9 March 2020 and came into force on 23 March 2020. The amendment is a two-line provision criminalising trafficking⁵⁹ and there is no provision on protection and assistance for victims, nor is any institutional framework set up or even mentioned in the law. Article 254B of the Criminal Law follows the definition of human trafficking provided under the Palermo Protocol, with the crime carrying a maximum sentence of 10 years imprisonment. Under the law, the consent of the victim must be disregarded by the Court if the elements of human trafficking are present in the case. Further, Article 254B introduces heavier penalties if the victim is a child (14 years imprisonment) and if the crime is committed by a civil servant (16 years imprisonment).

⁵⁷ Kıbrıs Türk Barolar Birliği, 'İnsan Ticareti Mağdurları için Adalet Projesi Kapanış Etkinliği ve Basın Toplantısı' (2021) <<https://www.kibristurkbarolarbirligi.org/2021/08/05/insan-ticareti-magdurlari-icin-adalet-projesi-kapanis-etkinligi-ve-basin-konferansi/>> last accessed on 02/02/2022; TRNC Ministry of Interior, 'TRNC Workshop on Night Clubs Final Report' (2018); Universal Patient's Rights Association, 'In-depth Research to Determine the Condition of Marginalised Groups Regarding Patients' Right in the northern part of Cyprus' (2021), p.55-p.70, < <https://www.ehd.eu/en/in-depth-research-report/> > accessed 01/07/2020.

⁵⁸ Kıbrıs Postası, 'İnsan Ticareti Mağdurları için Adalet Projesi Tamamlandı' (2021) < https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n387959-insan-ticareti-magdurlari-icin-adalet-projesi-tamamlandi>

⁵⁹ [Chapter 154] Criminal Law, Article 254B. Please visit the link to reach the English version of the legal amendment: https://patcyprus.org//file/criminal-code-amendment-en-31-march_250.pdf

Finally, the amendment provides an immunity of the victims from being prosecuted from crimes under the Aliens and Immigration law.

Although human trafficking is finally criminalised, there had been reportedly no single conviction up until today. The lack of protection mechanism for the victims in the 'TRNC' as well as the corruption and lack of political will to combat human trafficking seem to be one of the main reasons human trafficking is so widespread in the northern geographical part of the island.⁶⁰

The implications of the Green Line for Human Trafficking:

Human trafficking across the Green Line was flagged up as a serious issue that had to be dealt with by the UN Secretary-General in 2005, four years before the establishment of the JCR, and was reiterated as a key concern in 2006.⁶¹ It is one of a handful of crimes that were expressly named when establishing the JCR. Yet, it has remained an unresolved issue and has been highlighted by the UN Secretary-General in both 2017 and 2020.⁶² As can be understood from the information above, human trafficking is a well-organised crime that has been taking place for decades in Cyprus. The gap in the literature prevents us from analysing how its demand from one side of the Green Line feeds supply from the other, and vice versa. In a report which Dr Nasia Hadjigeorgiou, Dr Demetra Loizou, Ms Fezile Osum and Ms Andrea Manoli wrote for the British Institute of International and Comparative Law on Determinants of Anti-Trafficking Efforts in Cyprus,⁶³ the frozen conflict and the perpetuation of the Green Line was reported as one of the major factors that hinder more sustained and effective efforts to address this. Anecdotal evidence shows that individuals who are exploited in the northern part of the island cross to the Republic irregularly via smugglers and seek protection there.

Preliminary observations:

While the present Report aims at providing an overview of the phenomena and report on the activities of the project, the team will offer some preliminary observations which will be analyzed further in the Handbook. The Handbook will provide recommendations and best practices following the information that was received during the lifetime of the project.

⁶⁰ Nasia Hadjigeorgiou, Demetra Loizou, Fezile Osum, Andrea Manoli, 'Determinants of Anti-Trafficking Efforts: Cyprus Case Study' (forthcoming, 2022, British Institute of International and Comparative Law) <<https://www.biicl.org/projects/determinants-of-anti-trafficking-efforts>> last accessed on 06/02/2022

⁶¹ Report of the Secretary-General on the United Nations operation in Cyprus (27 May 2005, S/2005/353), para. 23; Report of the Secretary-General on the United Nations operation in Cyprus (23 May 2006, S/2006/315), para. 24; Report of the Secretary-General on the United Nations operation in Cyprus (4 June 2007, S/2007/328), para. 38.

⁶² Report of the Secretary-General on the United Nations operation in Cyprus (10 July 2017, S/2017/586) para 15 <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2017_586.pdf> last accessed on 11/01/2022; United Nations operation in Cyprus: Report of the Secretary-General (7 January 2020, S/2020/23), para 9 <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2020_23.pdf> last accessed on 11/01/2022

⁶³ Nasia Hadjigeorgiou, Demetra Loizou, Fezile Osum, Andrea Manoli, 'Determinants of Anti-Trafficking Efforts: Cyprus Case Study' (forthcoming, 2022, British Institute of International and Comparative Law) <<https://www.biicl.org/projects/determinants-of-anti-trafficking-efforts>> last accessed on 23/12/2021

The first observation is related to the formal indicators v reality. Whereby it seems that especially in the Republic of Cyprus there is a relatively solid legislative and institutional framework, it does not necessarily mean that it translates into concrete actions on the ground. This lack of concrete actions is frequently blamed on corruption and political unwillingness in the Republic of Cyprus and the 'TRNC' but we should try to look beyond these problems or at least think of how best to avoid them or minimise their impact.

Pull/push factors are also very important to (research and) understanding the evolving and ever-changing nature of human trafficking and smuggling. Specifically, there must be greater clarity on how pull/push factors both within and outside Cyprus have a direct impact on the volume of human trafficking and smuggling, the profile of individuals being trafficked and smuggled, and the methods/avenues employed by smugglers and traffickers to respond to efforts to curb these criminal activities both in Cyprus and beyond. Where individuals come from, the type of exploitation that they are exposed to, their age and gender need to form part of the response. So, it is not merely distinguishing between men/women/children, there are many more distinctions and nuances that need to be taken into consideration here in making up the profile of the victims. Furthermore, data (or the lack thereof) indicates that the absence of consistent and effective cooperation as between the Republic of Cyprus and the 'TRNC' authorities regarding activities in their areas of respective control and across the Green Line, contributes to the lack of understanding on the full extent of the problem and the profile of the victims at any given time. In this respect, the work of the SBA authorities should be highlighted in the design and development of good practices and recommendations, which will form a core part of the Handbook.

APPENDIX ON THE REPORTING OF THE PROJECT ACTIVITIES

The project completed the following activities to achieve its objectives outlined at the beginning of this report: ⁶⁴

Launch event of preventing, detecting, investigating and prosecuting smuggling and trafficking of persons across the Green Line: A network of stakeholders, which included frontline workers such as NGOs and professionals, came together to provide a sustainable framework in which outreach and dissemination has taken place. A number of specialists delivered seminars while participants shared their insights and knowledge of modern human trafficking and economic crime through smuggling and ways in which such criminal activities can be avoided/combated, drawing best practices from other countries and suggesting ways forward in Cyprus through facilitated focus groups. The outcomes of the event focused on improving the prevention, detection, investigation and prosecution of smuggling of illicit goods, persons and human trafficking, adopting a holistic multi-disciplinary approach, of relevance to the whole of Cyprus through the Green Line.⁶⁵

The following seminars were delivered:

⁶⁴ UCLAN Cyprus, 'Smuggling and Trafficking across the Green line' < <https://htsproject.uclancyprus.ac.cy/> >

⁶⁵ <https://htsproject.uclancyprus.ac.cy/smuggling-and-trafficking-across-the-green-line-launch-event/>

1.1 'Policing across the Green Line '- Dr Nasia Hadjigeorgiou, Assistant Professor in Transitional Justice and Human Rights, Deputy Head, School of Law, UCLan Cyprus and ICLAIM Resident Expert

1.2 'Smuggling of Persons and Goods across the Green Line: A prevailing phenomenon – ' Ms. Andrea Manoli, Lecturer in Foundations of English and Cypriot Law, School of Law, UCLan Cyprus, SHT Project Coordinator and ICLAIM Researcher (up to January 2022)

1.3 'Combatting Human Trafficking in Cyprus: Law and Practice – 'Dr Demetra Loizou, Lecturer in International Criminal Law, School of Law, UCLan Cyprus and ICLAIM Resident Expert, and Ms Fezile Osum, Research Scholar, School of Law, UCLan Cyprus and ICLAIM Researcher

They were followed by a focus group and a brainstorming session chaired by Prof. Stéphanie Laulhé Shaelou, Professor of European Law and Reform and Head, School of Law, UCLan Cyprus and ICLAIM Founder.

The following trainings were delivered:

1.1 Webinar on 'Human Trafficking and the Buffer Zone in Cyprus'⁶⁶

1.2 CPD Online Training on 'Strategic Litigation in the field of Human Trafficking'⁶⁷

1.3 Webinar on 'Mapping Human Smuggling and Trafficking across the Green Line'⁶⁸

1.4 Webinar on 'The Green Line Regulation and Smuggling of Illicit Goods'⁶⁹

1.5 CPD Online Training on 'Becoming Trauma Informed Professionals'⁷⁰

The **Handbook of Good Practices** and methods of investigation to assess and tackle criminal activities and economic crimes across the Green Line was prepared as a free online resource in which various resources are gathered and collected as a one-stop-shop to be accessed by all interested stakeholders.⁷¹ The Handbook of Good Practices and methods seeks to investigate, identify, assess and tackle criminal and illicit activities of relevance to smuggling and human trafficking across the Green Line. The Handbook also embeds several recommendations to provide a more effective response to the phenomena of human trafficking and smuggling.

The Digital Platform was launched where academics and other stakeholders can share their research/blog posts to create an ongoing network that aims to offer practical guidance to

⁶⁶ <https://htsproject.uclancyprus.ac.cy/webinar-on-human-trafficking-and-the-buffer-zone-in-cyprus-dr-nasia-hadjigeorgiou/>

⁶⁷ <https://htsproject.uclancyprus.ac.cy/online-training-strategic-litigation-in-the-field-of-human-trafficking-prof-stephanie-laulhe-shaelou-catherine-meredith-anthony-vaughan-grainne-mellon/>

⁶⁸ <https://htsproject.uclancyprus.ac.cy/mapping-human-smuggling-and-trafficking/>

⁶⁹ <https://htsproject.uclancyprus.ac.cy/green-line-regulation-and-smuggling-of-goods/>

⁷⁰ <https://htsproject.uclancyprus.ac.cy/becoming-trauma-informed-professionals/>

⁷¹ Available at <https://htsproject.uclancyprus.ac.cy/category/outputs/>

law and order professionals, other frontline workers and young people in line with Cypriot, EU, UN and other policies/frameworks.⁷² The online platform consists of the following:

1. Resource Centre
2. Members of the Editorial Team
3. Discussion Forum
4. Events/Activities
5. Outputs (in English, Turkish and the Greek Language)
6. Network

Finally, the **Report on smuggling and trafficking of persons across the Green Line embedding a set of recommendations** provides research and data on smuggling of goods and smuggling and trafficking of persons across the Green Line.

Throughout the lifespan of the project, the team of researchers disseminated information to keep stakeholders engaged and updated with the activities and outputs of the project.

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⁷² <https://htsproject.uclancyprus.ac.cy/>