

# DECISIONS

## COMMISSION DECISION (EU) 2023/829

of 17 April 2023

**on relief from import duties and VAT exemption on importation granted for goods to be distributed or made available free of charge to persons fleeing the military aggression in Ukraine and to persons in need in Ukraine**

*(notified under document C(2023) 2490)*

**(Only the Dutch, Estonian, French, German, Latvian, Lithuanian, Polish, Romanian and Slovak texts are authentic)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods <sup>(1)</sup>, and in particular Article 53, first paragraph, thereof,

Having regard to Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty <sup>(2)</sup>, and in particular Article 76, first paragraph, thereof,

Whereas:

- (1) On 24 February 2022, Russia started an unprovoked and unjustified military aggression against Ukraine. As a result, millions of people fled from Ukraine, and Member States in the EU have granted temporary protection <sup>(3)</sup> to around 4 million persons. The inflow of persons fleeing the military aggression in Ukraine continues to pose a challenge for the Member States concerned when it comes to ensuring sufficient humanitarian assistance and meeting the primary needs of those persons.
- (2) On 24 February 2022, Ukraine requested assistance in accordance with Article 16(1) of Decision No 1313/2013/EU of the European Parliament and of the Council <sup>(4)</sup> regarding civil protection supplies.
- (3) As an expression of solidarity and support, Member States and the international community have responded by supplying humanitarian assistance goods to be distributed to persons fleeing the military aggression and arriving in the Union and to other persons affected by the military aggression in Ukraine.
- (4) On 1 July 2022, Commission Decision (EU) 2022/1108 <sup>(5)</sup> was adopted. That Decision grants, in respect of certain Member States, relief from import duties and exemption from value added tax ("VAT") on importation of goods to be distributed or made available free of charge to persons fleeing the military aggression in Ukraine and to persons in need in Ukraine, from 24 February 2022 until 31 December 2022.

<sup>(1)</sup> OJ L 292, 10.11.2009, p. 5.

<sup>(2)</sup> OJ L 324, 10.12.2009, p. 23.

<sup>(3)</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2022, p. 1).

<sup>(4)</sup> Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

<sup>(5)</sup> Commission Decision (EU) 2022/1108 of 1 July 2022 on relief from import duties and VAT exemption on importation granted for goods to be distributed or made available free of charge to persons fleeing the war in Ukraine and to persons in need in Ukraine (OJ L 178, 5.7.2022, p. 57).

- (5) On 25 November 2022, the Commission consulted Member States regarding whether an extension of the validity of the measures laid down in that Decision was necessary. Following that consultation, requests to apply, or continue to apply, those measures were made by Estonia, Latvia, Lithuania, Luxembourg, the Netherlands, Austria, Poland, and Romania, on 2 December 2022, by Slovakia on 5 December 2022, and by France on 30 December 2022 ('requesting Member States').
- (6) As the humanitarian crisis caused by the Russian invasion of Ukraine is ongoing, and is having major consequences not only for Ukraine, but also for a number of Member States, it constitutes a disaster affecting the territory of a number of Member States within the meaning of Title II, Chapter XVII, Section C, of Regulation (EC) No 1186/2009 and of Title VIII, Chapter 4, of Directive 2009/132/EC.
- (7) It is therefore appropriate to authorise the requesting Member States to grant relief from import duties chargeable on goods imported for the purposes set out in Article 74 of Regulation (EC) No 1186/2009 and an exemption from VAT chargeable on goods imported for the purposes set out in Article 51 of Directive 2009/132/EC by, or on behalf of, State organisations, as well as charitable or philanthropic organisations approved by the competent authorities of the requesting Member States. Considering the unprecedented situation, it is appropriate to authorise the requesting Member States to grant relief from import duties and VAT exemption for goods for humanitarian assistance imported to be released for free circulation also by State organisations or other charitable or philanthropic organisations that are approved and carry out similar activities in another requesting Member State where the goods are intended to be used. In order to respond to Member States' requests to provide assistance to persons who have remained in Ukraine and are seriously affected by the military aggression, it is also necessary to authorise further transfer of those goods to Ukrainian State organisations or charitable or philanthropic organisations approved by the Ukrainian competent authorities for the distribution of those goods free of charge to persons in need in Ukraine. In addition, it is appropriate to authorise the requesting Member States to grant relief from import duties chargeable on goods imported for the purposes set out in Article 74 of Regulation (EC) No 1186/2009 and an exemption from VAT chargeable on goods imported for the purposes set out in Article 51 of Directive 2009/132/EC where they are imported for release for free circulation by, or on behalf of, disaster-relief agencies in order to meet their needs during the period they provide disaster relief to persons fleeing the military aggression in Ukraine.
- (8) In order to monitor importations for which relief from import duties or VAT exemption is granted, the requesting Member States should inform the Commission of the nature, quantities and value of the goods admitted free of import duties and VAT for distribution, or made available free of charge, to persons fleeing the military aggression in Ukraine, of the organisations they have approved for the distribution, or making available, of those goods and of the measures taken to prevent the goods from being used for purposes other than addressing the needs of the persons fleeing the military aggression in Ukraine.
- (9) In order to ensure compliance with the conditions laid down in this Decision, prevent irregularities and protect the financial interests of the Union and of the Member States, the requesting Member States should ensure the application of risk management and pertinent customs control measures with respect to the release for free circulation and use, and the subsequent transfer to Ukraine, of goods for which relief from import duties or VAT exemption is granted. Measures taken should be reported to the Commission within the deadline laid down in this Decision.
- (10) Taking into consideration the challenges that the requesting Member States face, relief from import duties and exemption from VAT should be granted in respect of importations made from 1 January 2023. The relief and the exemption should remain in place until 31 December 2023.
- (11) On 16 January 2023, the Member States were consulted in accordance with Article 76, first paragraph, of Regulation (EC) No 1186/2009 and Article 53, first paragraph, of Directive 2009/132/EC,

HAS ADOPTED THIS DECISION:

*Article 1*

1. Goods shall be admitted free of import duties within the meaning of Article 2(1), point (a), of Regulation (EC) No 1186/2009 and exempted from value added tax (VAT) on the imports within the meaning of Article 2(1), point (a), of Directive 2009/132/EC, where the following conditions are fulfilled:

(a) the goods are intended for one of the following uses:

- (i) distribution free of charge by the bodies and organisations referred to in point (c) for the benefit of the persons fleeing the military aggression in Ukraine;
- (ii) being made available free of charge for the benefit of the persons fleeing the military aggression in Ukraine while remaining the property of the bodies and organisations referred to in point (c);

(b) the goods satisfy the requirements laid down in Articles 75, 78, 79 and 80 of Regulation (EC) No 1186/2009 and Articles 52, 55, 56 and 57 of Directive 2009/132/EC;

(c) the goods are imported for release for free circulation by, or on behalf of, State organisations including State bodies, public bodies and other bodies governed by public law or by, or on behalf of, charitable or philanthropic organisations approved by the competent authorities of the requesting Member States where the goods are intended to be used.

2. Goods referred to in paragraph 1 of this Article may also be admitted free from import duties within the meaning of Article 2(1), point (a), of Regulation (EC) No 1186/2009, and exempted from VAT upon importation within the meaning of Article 2(1), point (a), of Directive 2009/132/EC, in a requesting Member State other than the requesting Member State where the goods are intended to be used, provided that the goods are imported for release for free circulation by a State organisation, or other charitable or philanthropic organisation, that is approved by the competent authorities and carries out similar activities in the Member State where the goods are intended to be used.

3. The transfer of the goods between the two Member States shall be subject to prior notification by an approved charitable or philanthropic organisation to the competent authorities of the requesting Member State granting the import duty relief and VAT exemption.

4. Subject to prior notification to the competent authorities of the requesting Member State granting the relief from import duties, organisations benefiting from the relief from import duties and VAT exemption in accordance with paragraphs 1 and 2 may transfer goods referred to in paragraph 1, for which relief from import duties and VAT exemption has been granted, to Ukrainian State organisations, or charitable or philanthropic organisations approved by the Ukrainian competent authorities, for distribution of the goods free of charge to persons in need in Ukraine.

5. Subject to Articles 75 to 80 of Regulation (EC) No 1186/2009 and Articles 52 to 57 of Directive 2009/132/EC, goods shall also be admitted free of import duties within the meaning of Article 2(1), point (a), of Regulation (EC) No 1186/2009 and exempted from VAT upon importation within the meaning of Article 2(1), point (a), of Directive 2009/132/EC where they are imported for release for free circulation by, or on behalf of, disaster relief agencies in order to meet their needs during the period they provide disaster relief to persons fleeing the military aggression in Ukraine.

*Article 2*

Member States shall report information regarding the nature, quantities and value of the goods they have admitted free of import duties and VAT pursuant to Article 1 to the Commission on a monthly basis, on the fifteenth day of the month following the reporting month.

By 31 March 2024, Member States shall communicate the following information to the Commission:

- (a) a list of organisations approved by the competent authorities in the Member States as referred to in Article 1(1), point (c);
- (b) the following consolidated information regarding the goods admitted free of import duties and VAT pursuant to Article 1:
  - (i) the customs declaration number;
  - (ii) the acceptance date of the customs declaration;
  - (iii) the customs procedure code;
  - (iv) the requesting Member State or the destination country where the goods were intended to be used;
  - (v) the Combined Nomenclature code;
  - (vi) the Integrated Tariff of the European Communities code (TARIC);
  - (vii) the net mass;
  - (viii) the supplementary unit, if applicable;
  - (ix) the value of the goods;
  - (x) the duty rate;
  - (xi) the VAT rate;
  - (xii) the amount of uncollected duties and VAT;
  - (xiii) the origin of the goods;
  - (xiv) the titles of bodies and organisations referred to in Article 1(1), point (c);
- (c) the measures taken to ensure compliance with Articles 78, 79 and 80 of Regulation (EC) No 1186/2009 and with Articles 55, 56 and 57 of Directive 2009/132/EC and, as appropriate, risk management and customs control measures taken pursuant to Article 46 of Regulation (EU) No 952/2013 of the European Parliament and of the Council <sup>(9)</sup>, with regard to goods falling within the scope of this Decision.

*Article 3*

Article 1 shall apply to importations into Estonia, France, Latvia, Lithuania, Luxembourg, the Netherlands, Austria, Poland, Romania and Slovakia from 1 January 2023 to 31 December 2023.

*Article 4*

This Decision is addressed to the Republic of Estonia, the French Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, Romania and the Slovak Republic.

<sup>(9)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

It shall apply from 1 January 2023.

Done at Brussels, 17 April 2023.

*For the Commission*  
Paolo GENTILONI  
*Member of the Commission*

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