

COMMISSION IMPLEMENTING DECISION (EU) 2022/714**of 5 May 2022****granting a derogation allowing Belgium, Bulgaria, Cyprus, Lithuania, the Netherlands and Finland to use means other than electronic data-processing techniques for the exchange and storage of information for the Import Control System 2 in relation to goods in postal consignments***(notified under document C(2022) 2760)***(Only the Bulgarian, Greek, French, Lithuanian, Dutch, Finnish and Swedish texts are authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 6(4) in conjunction with Article 8(2) thereof,

After consulting the Customs Code Committee,

Whereas:

- (1) Article 6(1) of Regulation (EU) No 952/2013 requires that all exchanges of information between customs authorities and between economic operators and customs authorities, and the storage of such information, as required under the customs legislation, be made using electronic data-processing techniques.
- (2) Article 6(4) of Regulation (EU) No 952/2013 provides for adopting decisions in exceptional cases to allow one or several Member States to derogate from using electronic data-processing techniques for the exchange and storage of information if such derogation is justified by the specific situation of the requesting Member State and is granted for a specific period of time.
- (3) Commission Implementing Decision (EU) 2019/2151 ⁽²⁾ establishes the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code ('the work programme'). The work programme lists the electronic systems to be developed and the dates on which those systems are expected to become operational. The work programme specifies the implementation and dates of deployment of the Import Control System 2 ('ICS2') in accordance with Articles 6(1), 16, 46, 47 and 127 to 132 of Regulation (EU) No 952/2013.
- (4) In accordance with the work programme, Member States were to be ready from 15 March 2021 to deploy ICS2 in order to collect entry summary declarations from the postal operators and express carriers for goods transported by air, and they were to grant economic operators the possibility to connect to the system and to lodge entry summary declarations using that system by 1 October 2021.
- (5) In accordance with Article 127 of Regulation (EU) No 952/2013 and Article 183(1), point (c), of Commission Implementing Regulation (EU) 2015/2447 ⁽³⁾, the postal operators established in the Union are to lodge entry summary declarations by using ICS2 from 1 October 2021.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 168).

⁽³⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

- (6) Postal operators in the Union, which receive post from non-Union postal operators, depend on those operators for the timely collection and exchange of electronic advance data in order to fulfil the obligations under Implementing Regulation (EU) 2015/2447. However, postal operators from certain third countries are not yet technically ready to comply with the requirements for the collection and the international exchange of electronic advance data, which apply to them under the Universal Postal Union Convention. Therefore, they still fail to capture, fully or partially, electronic data and thus do not communicate them to the postal operators established in the Union. Postal operators in the Union could instead re-use the data collected for customs declaration purposes and communicate that data to ICS2 through automated process. However, not all postal operators in the Union have established such an automated process of re-use.
- (7) Due to the lack of electronic advance data, which is the pre-arrival or pre-loading declaration information, typically contained in the customs form, from certain postal operators established in third countries, postal operators established in the Union are required to manually key in the data into ICS2 at the time of physical arrival of postal consignments, where they have not established an automated process to re-use and communicate the data to ICS2 which are collected for customs declaration purposes, in accordance with Article 139(5) Regulation (EU) No 952/2013. When such manual process concerns a high proportion of postal consignments, it may cause a significant disruption in the international postal supply chain.
- (8) Despite the obligation to submit entry summary declaration data electronically for all postal consignments as from 1 October 2021, according to the information received by the customs authorities of Belgium, Bulgaria, Cyprus, Lithuania, the Netherlands and Finland, the volume of the postal consignments for which no electronic advance data is available in order to lodge entry summary declarations through ICS2 in these Member States was above 15 % of the total number of postal consignments received in the month preceding the date of application of this Decision. This creates disruption and bottlenecks in the flow of goods arriving by post in those Member States despite the ongoing efforts of the latter to comply with the legal obligations with regard to the electronic exchange of ICS2 related data.
- (9) These exceptional circumstances caused by the lack of technical readiness of the non-Union postal operators' systems justify the requests for a derogation in accordance with Regulation (EU) No 952/2013, which were submitted by Bulgaria, Cyprus and Lithuania on 21 December 2021, by the Netherlands on 23 December 2021, by Belgium on 5 January 2022 and by Finland on 14 January 2022. Such derogations should temporarily allow those Member States to use means other than the electronic data-processing techniques for the exchange and storage of information in relation to goods in postal consignments for which the non-Union postal operators do not communicate electronic advance data to the Union postal operators and for which the Union postal operators cannot re-use the customs declarations' data for lodging entry summary declarations through ICS2.
- (10) In implementing this Decision, the customs authorities of Belgium, Bulgaria, Cyprus, Lithuania, the Netherlands and Finland will need to notify the Commission about the progress made by their respective postal operators in providing the entry summary declarations data for the postal consignments through ICS2 within one month following the notification of the Decision.
- (11) Since the obligation to submit entry summary declaration data electronically for all postal consignments took effect on 1 October 2021, this Decision should apply retroactively from that date and until 30 June 2022,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 6(1) of Regulation (EU) No 952/2013, the customs authorities of Belgium, Bulgaria, Cyprus, Lithuania, the Netherlands and Finland may allow their postal operators to lodge entry summary declarations for goods in postal consignments by using means for the exchange and storage of information other than electronic data-processing techniques, provided that all of the following conditions are met:

- (a) no electronic advance data were communicated for those goods by a postal operator who is established outside the customs territory of the Union and provides international services governed by the Universal Postal Union Convention;

- (b) the volume of the postal consignments concerned exceeded 15 % of the total number of postal consignments received during the month preceding the date of application of this Decision;
- (c) when the Member State concerned allows the use of means other than electronic data-processing techniques as provided for above, the national postal operator does not yet have the technical capacity to re-use and communicate to the Import Control System (ICS2) the data collected for the purpose of the customs declaration for release for free circulation.

Article 2

Customs authorities of Belgium, Bulgaria, Cyprus, Lithuania, the Netherlands and Finland shall notify the Commission within 1 month from the date of notification of this Decision of the progress made from the date of application of this Decision by their national postal operators to provide entry summary declaration data for goods in postal consignments to the customs authorities by using ICS2.

Article 3

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Cyprus, the Republic of Lithuania, the Kingdom of the Netherlands and the Republic of Finland.

It shall apply from 1 October 2021 until 30 June 2022.

Done at Brussels, 5 May 2022.

For the Commission
Paolo GENTILONI
Member of the Commission
