

COMMISSION DECISION (EU) 2023/375**of 16 February 2023****on relief from import duties and VAT exemption granted for goods imported to Lithuania in 2021 and 2022 to deal with the migration crisis***(notified under document C(2023) 1032)***(Only the Lithuanian text is 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 ⁽¹⁾, 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 ⁽²⁾, and in particular Article 76, first paragraph thereof,

Whereas:

- (1) In June 2021, the number of third country nationals and stateless persons crossing the border between Lithuania and Belarus in an unauthorised manner started to increase. This was caused by the Belarussian regime's disregard for international law, fundamental rights, and human rights through the instrumentalisation of migrants which had an immense impact on Lithuania as a neighbouring country creating strong pressure and exceptional challenges in dealing with border protection, reception, and accommodation of third country nationals and stateless persons. By the beginning of August 2021, there were over 55 times more persons registered who had crossed the border of Lithuania from Belarus in an irregular manner than during all of 2020. The increased number of third country nationals and stateless persons crossing the border between Lithuania and Belarus in an unauthorised manner led Lithuania to declare a nationwide state of emergency on 2 July 2021.
- (2) On 15 July 2021, Lithuania requested assistance in accordance with Article 15(1) of Decision No 1313/2013/EU of the European Parliament and of the Council ⁽³⁾ in dealing with the emergency situation. 19 Member States and a third country participating in the Union Civil Protection Mechanism responded to Lithuania's request for assistance. The assistance offered consisted of the provision of heating systems and air conditioners, camp beds, electric generators, container houses (residential and sanitary), tents and appropriate floors, lighting kits, tables, chairs, blankets, pillows, sleeping bags, mattresses, lockers, warehouse tents, food rations and other in-kind assistance.
- (3) On 13 October 2021, Lithuania submitted a request, which was amended on 15 April 2022 and 6 June 2022, to grant relief from import duties and exemption from value added tax (VAT) regarding goods imported to Lithuania to be distributed or made available free of charge to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as to applicants for international protection.

⁽¹⁾ OJ L 292, 10.11.2009, p. 5.

⁽²⁾ OJ L 324, 10.12.2009, p. 23.

⁽³⁾ 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).

- (4) Pending notification of the Commission's decision, Lithuania authorised the suspension of import duties chargeable on goods as referred to in Article 76, second paragraph, of Regulation (EC) No 1186/2009 and the suspension of VAT chargeable on goods as referred to in Article 53, second paragraph, of Directive 2009/132/EC.
- (5) Lithuania confirmed that the first importation of goods to be distributed or made available free of charge to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as to applicants for international protection, took place on 12 August 2021.
- (6) Lithuania informed the Commission that the goods were imported for release for free circulation by the State Border Guard Service of Lithuania and that the distribution and making available free of charge of imported goods to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as to applicants for international protection, were performed by designated State organisations.
- (7) The humanitarian crisis requiring urgent assistance from the other Member States and third countries in order to protect a high number of third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as applicants for international protection, especially during autumn and winter, and the extreme challenges it causes to Lithuania, constitute a disaster within the meaning of Chapter XVII, Section C, of Regulation (EC) No 1186/2009 and of Title VIII, Chapter 4, of Directive 2009/132/EC.
- (8) It is therefore appropriate to grant Lithuania both a relief from import duties chargeable on goods imported for the purposes described in Article 74 of Regulation (EC) No 1186/2009 and an exemption from VAT chargeable on goods imported for the purposes described in Article 51 of Directive 2009/132/EC.
- (9) In order to monitor importations for which the relief from duties and the VAT exemption are granted and to ensure the correct application of this measure, taking into account that another similar measure, namely Commission Decision (EU) 2022/1108 ⁽⁴⁾, applies from 24 February 2022, Lithuania should be required to inform the Commission of the nature and quantities of the goods admitted free of import duties and VAT with a view to them being distributed or made available free of charge to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as to applicants for international protection and to inform it of the measures taken to prevent the goods from being used for purposes other than for the benefit of such persons.
- (10) 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, Lithuania should report to the Commission within the deadline established by this Decision the risk management and pertinent customs control measures applied in accordance with Article 46 of Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽⁵⁾ with respect to the release for free circulation and use of goods for which the relief from customs duties or the VAT exemption is granted.
- (11) Taking into consideration the extreme challenges that Lithuania faces, both a relief from import duties and an exemption from VAT should be granted in respect of importations made to Lithuania from 12 August 2021 to 31 July 2022, as requested by Lithuania on 6 June 2022.
- (12) On 25 November 2022, 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,

⁽⁴⁾ 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⁾ 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).

HAS ADOPTED THIS DECISION:

Article 1

Goods imported for release for free circulation by the State Border Guard Service of Lithuania 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 designated State organisations to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as to applicants for international protection;
 - (ii) being made available free of charge to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner, as well as to applicants for international protection, by designated State organisations, while remaining the property of those organisations;
- (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.

Article 2

By 1 March 2023 at the latest, Lithuania shall communicate to the Commission the following information:

- (a) consolidated information regarding the goods admitted free of import duties and exempted from VAT pursuant to Article 1:
 - (i) customs declaration number;
 - (ii) acceptance date;
 - (iii) Combined Nomenclature code;
 - (iv) Integrated Tariff of the European Communities code;
 - (v) net mass;
 - (vi) supplementary unit, if applicable;
 - (vii) value of goods;
 - (viii) duty rate;
 - (ix) VAT rate;
 - (x) amount of uncollected duties and VAT;
 - (xi) origin of goods;
 - (xii) the titles of the organisations referred to in Article 1, point (a) (ii), with respect to goods made available to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as to applicants for international protection;
- (b) a list of designated State organisations in charge of distributing and making available goods benefiting from the relief from duties and the VAT exemption to third country nationals and stateless persons who have crossed the border between Lithuania and Belarus in an unauthorised manner as well as to applicants for international protection;
- (c) 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;
- (d) the risk management and, where appropriate, customs control measures undertaken by Lithuania pursuant to Article 46 of Regulation (EU) No 952/2013, with regard to the goods falling within the scope of this Decision.

Article 3

Article 1 shall apply to importation of goods to Lithuania made from 12 August 2021 to 31 July 2022.

Article 4

This Decision is addressed to the Republic of Lithuania.

It shall apply from 12 August 2021.

Done at Brussels, 16 February 2023.

For the Commission
Paolo GENTILONI
Member of the Commission
