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Minister Andrzej ADAMCZYK
Ministerstwo Infrastruktury ul.
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Sent per email to
kancelaria@mi.gov.pl

Dear Minister,

Thank you for your letter of 9 May in which you enquire about certain interpretation issues arising from the Agreement between the European Union and Ukraine on the Carriage of Freight by Road (“the Agreement”) of 29 June 2022.

In particular, you make reference to control activities exercised by Ukrainian authorities, which required permits from Polish road haulage operators for transport operations between Member States other than Poland, on the one hand, and Ukraine on the other hand. You further mention that in your view, transports performed between any Member State and Ukraine by a road haulage operator established in any Member State constitute transports that have been temporarily liberalized under the Agreement.

We would like to first note that the Agreement is an international agreement between the European Union and Ukraine, not between Ukraine and individual Member States. The Parties to this Agreement are clearly defined in the beginning of the agreement, which reads “*THE EUROPEAN UNION (...) of the one part, and UKRAINE, of the other part, hereinafter referred to individually as a "Party" and collectively as the "Parties"*”. Individual Member States are not Parties to this Agreement.

Article 47 of the Treaty on European Union confirms explicitly the single international legal personality of the Union. The international legal personality of the Union therefore enables it to act internationally and engage in legally binding commitments with third partners. According to Article 216(2) of the Treaty on the Functioning of the European Union, such agreements will then be binding upon the Member States.

Bearing this in mind, Article 3, point (1) of the Agreement defines the ‘party of establishment’ as “*the Party in which the road haulage operator is established*”. This means either the European Union or Ukraine, as these are the only Parties to the Agreement. It is irrelevant for the purposes of the Agreement whether a road haulage operator is established in Poland, Sweden or Germany - only that it is established in the EU.

Article 3, point (5) further defines ‘bilateral international carriages’ as “*laden journeys with a vehicle, from the territory of the Party of establishment to the territory of the other Party, and vice-versa, with or without transit through the territory of a third country*”. Again, the territories of the Parties are either the territory of the European Union or the territory of Ukraine.

Consequently, the important thing is that the point of departure or arrival is in the territory of the EU (“the Party”), Therefore, a Polish road haulage operator is entitled to carry a journey from a point of departure in, for example, Sweden to a point of arrival in Ukraine (and back). It does not matter, for the purposes of the Agreement, whether this operator starts from Poland or from other Member States of the EU, and through how many other Member States he/she has travelled before departing to Ukraine, since from the point of view of the Agreement, the EU is considered as one single territory.

Therefore, I can confirm that for the transport operations of Polish hauliers from the territory of the European Union into Ukraine and back, no permits are necessary, as these operations are covered by the Agreement.

Please note that we have also communicated this position to the Ukrainian authorities.

Finally, I would take this opportunity to remind you that Member States also have the duty to ensure, with the appropriate means, that Ukrainian hauliers are able to exercise their rights arising from the Agreement, in particular the right to carry out the transport activities expressly covered by the Agreement.

In addition, I would like to underline that the Agreement does not contain any specific rules on environmental requirements.

I trust this is helpful in clarifying the issue, and that it will allow the continued full and correct implementation of the Agreement, which we consider of crucial importance to the mutual interests of the European Union and Ukraine as well as to the efficiency of the Solidarity Lanes.

I remain hopeful that these clarifications will be also helpful in addressing the current situation at Dorohusk/Jagodzin border crossing and will provide the legal certainty for all haulage operations covered by the Agreement. I count on your personal involvement in finding, together with the Ukrainian side, an effective solution to the current blockade which impedes the proper functioning of the Agreement and operations of the Solidarity Lanes. The European Commission stands ready to provide further explications if necessary and to assist Poland and Ukraine in finding common and correct understanding of the Agreement.

Yours faithfully,


Adina VALEAN