



EUROPEAN COMMISSION
Directorate General for Mobility and Transport

Directorate D – Logistics, maritime and land transport and passenger rights
Unit D3 – Land transport

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MOVE D3/PD 6147039

Mr Jan Buczek
President of the Association of
International Road Carriers (ZMPD)
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**Subject: Problems encountered by Polish, Lithuanian, Latvian and Estonian road haulage companies in Italy
Your letter of 16 May 2016 to Commissioner Violeta Bulc**

Dear Mr Buczek,

I refer to your letter of 16 May 2016 to Commissioner Violeta Bulc, where you draw the attention of the Commission to problems encountered by Polish, Lithuanian, Latvian and Estonian road haulage companies in Italy. Namely, the Italian authorities would, in certain cases, re-classify bilateral intra-EU transport operations as operations to/from third countries.

We have contacted the Italian authorities in this respect. The Italian authorities claim that they do not have a general approach regarding this type of situation, but rather make a case by case assessment of each transport operation. They also claim that they face frequent violations by hauliers, which try to use their Community licences not for intra-EU journeys, but rather for journeys between Italy and third countries. They have often found that the driver has two consignment notes. The first one, which is to be shown to the inspectors, indicates an intra-EU journey and the second, i.e. the original which is found in the cabin by the control officers, indicates a journey from Italy to a third country. The Italian authorities claim that it is only in such cases that they require the third country permit.

In order to decide on possible further steps in this procedure, we need to have more concrete data on the specific instances in which Polish, Lithuanian, Latvian and Estonian road haulage companies encountered such problems in Italy.

I would first like to draw your attention to the fact that, as stated by the Court of Justice of the EU, although a State's action consisting in an administrative practice contrary to the requirements of Community law can amount to a failure to fulfil obligations for the purposes of Article 258 TFEU, that administrative practice must be, to some degree, of a consistent and general nature¹.

Secondly, with regard, in particular, to a complaint concerning the implementation of a national provision, proof of a Member State's failure to fulfil its obligations requires production of evidence different from that usually taken into account in an action for failure to fulfil obligations concerning solely the terms of a national provision and, in those circumstances, failure to fulfil obligations can be established only by means of sufficiently documented and detailed proof of the alleged practice of the national administration for which the Member State concerned is answerable². Otherwise, the existence of a practice which infringes EU legislation cannot be established.

I would therefore ask you to provide us with the following information on several concrete cases where the Italian authorities re-classified an intra-EU operation as a third country operation:

1. The date, time and place where the control by the Italian authorities took place;
2. An identification of the transport company, truck and driver concerned;
3. Detailed information on the type of transport operation involved, in particular:
 - The type of goods transported;
 - The destination of the goods (e.g. all goods destined to a third country, only part of the goods destined to a third country);
 - The consignees of the goods (e.g. all goods destined to the same consignee in a third country, all goods destined to several consignees in a third country, only part of the goods destined to one single consignee in a third country, only part of the goods destined to several consignees in a third country, etc.);
 - The place(s) of unloading of the goods, as indicated in the CMR consignment note(s);
 - Any further evidence which would clearly indicate to the Italian authorities that all of the goods transported would be unloaded/delivered in a Member State of the EU;
4. Documentary evidence of the infringement detected and registered by the Italian authorities, if available.

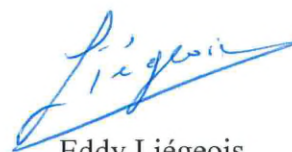
I would be grateful to receive the information above at your best convenience. On that basis, we will decide on possible further action with the Italian authorities.

¹ Judgment of the Court of 12 May 2005, C-287/03, Commission/Belgium, ECLI:EU:C:2005:282, p 29

² Judgment of the Court of 9 July 2015, C-87/14, Commission/Ireland, ECLI:EU:C:2015:449, p. 23.

Please note that this letter is also being sent to Mr Erlandas Mikėnas, Mr Valdis Trėziņš and Mr Toivo Kuldkepp, who co-signed your letter to Commissioner Bulc.

Yours sincerely,



Eddy Liégeois
Head of Unit