Commission Implementing Regulation (EU) 2020/1727 of 18 November 2020 amending Implementing Regulation (EU) 2015/2447 as regards certain rules on Authorised Economic Operators

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1727

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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 41 thereof,

Whereas:

(1) In order to ensure, for the purpose of granting the status of authorised economic operator, a uniform implementation of the criterion laid down in Article 39(a) of Regulation (EU) No 952/2013 ('the Code') on the absence of any serious or repeated infringements of customs legislation and taxation rules including no record of serious criminal offences, relating to the economic activity of the applicant, certain provisions of Article 24 of Commission Implementing Regulation (EU) 2015/2447[(2)] need to be clarified. First, it is necessary to clarify that, as regards infringements, the criterion is fulfilled where no administrative or judicial authority has taken a decision concluding that one of the persons described in point (b) of Article 24(1) has committed such infringements over the previous three years. The facts giving rise to the infringements must have occurred in the previous three years, even though the administrative or judicial authority might in some cases conclude on those facts after those three years have elapsed. Second, it is necessary to clarify that the relevant serious or repeated infringements of customs legislation and taxation rules are those related to the economic activity of the persons described in point (b) in that Article. Third, it is necessary to clarify which persons other than the applicant must, depending on the organisational structure of the applicant, be assessed with respect to the criterion.

(2) Implementing Regulation (EU) 2015/2447 should therefore be amended accordingly.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1727. (See end of Document for details)*

Article 1

Amendments to Implementing Regulation (EU) 2015/2447

Article 24 of Implementing Regulation (EU) 2015/2447 is amended as follows:

(1) paragraph 1 is replaced by the following:

1. The criterion laid down in Article 39(a) of the Code shall be considered to be fulfilled if,
   a there is no decision taken by an administrative or judicial authority concluding that one of the persons described in point (b) has committed, over the last three years, a serious or repeated infringements of customs legislation or taxation rules in relation to his-her economic activity; and
   b none of the following persons has a record of serious criminal offence in relation to his/her economic activity including the applicant's economic activity, where applicable:
      (i) the applicant,
      (ii) the employee(s) in charge of the applicant's customs matters, and
      (iii) the person(s) in charge of the applicant or exercising control over its management.;

(2) paragraph 3 is replaced by the following:

3. Where the person referred to in paragraph 1(b) (iii), other than the applicant is established or has his/her residence in a third country, the customs authority competent to take the decision shall assess the fulfilment of the criterion referred to in Article 39(a) of the Code on the basis of the records and information that are available to it.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 November 2020.

For the Commission

The President

Ursula VON DER LEYEN