

JTM/05

Medtaget arkivet, den 14/4-15



EUROPEAN COMMISSION
Cabinet of Commissioner Violeta BULC

Head of Cabinet

Brussels, **13 AVR. 2015**
JF/bp D(2015)1608159

H.E. Mr Jeppe TRANHOLM-MIKKELSEN
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Permanent Representation of Denmark
to the European Union
Rue d'Arlon 73
B - 1000 Brussels

Your Excellency, *Jeppe*

Please find enclosed the letter sent by Commissioner for Transport Violeta Bulc to Mr Magnus Heunicke, Minister for Transport, with the kind request to forward it to him.

Yours sincerely,

*May I also use this opportunity
to congratulate you for new post.*

C. Jager

Marjeta JAGER

13 AVR. 2015

Brussels,
JF/ev D(2015)1608159

Mr Magnus HEUNICKE
Minister for Transport
Frederiksholmes Kanal 27 F
DK - 1220 Copenhagen

Subject: Implementation of Directive 2012/34/EU in Denmark

Dear Minister,

I am contacting you concerning the implementation of Directive 2012/34/EU in Denmark. My services are closely following the preparatory works for implementation of this Directive in Member States and I am pleased to see that these works are well advanced in Denmark, and that the proposals have recently been discussed in Parliament.

You will be aware that a meeting between your services and DG MOVE took place on 3 October 2014 to discuss two specific aspects related to the implementation of Directive 2012/34/EU which are of specific concern to my services, notably the involvement of the Danish transport authority in determining charges for intermodal terminals and the envisaged change in the organisational set-up of the regulatory body.

In this meeting my services have underlined that the involvement of the Danish transport authority in determining charges for intermodal terminals provided for in Danish legislation (right of approval) is not in compliance with Union law. According to Directive 2012/34/EU the determination of such charges is the sole responsibility of the operator of a service facility. Only the regulatory body shall be entitled to control the determination of charges and, if required, take action against the operator of the service facility.

Concerning the envisaged change in the organisational set up of the Danish regulatory body, under which the functions of secretariat are to be provided by the national transport authority, my services have highlighted the importance of ensuring that the independence requirements of Article 55 of Directive 2012/34/EU are complied with.

According to these requirements the regulatory body needs to be in its organisational, functional, hierarchical and decision-making terms legally distinct and independent from any other public or private entity.

I welcome the fact that according to the proposals of the draft law implementing Directive 2012/34/EU submitted to the Danish Parliament, the Danish transport authority should no longer be involved in the setting of charges for intermodal terminals.

At the same time, I remain concerned about the envisaged changes in the organisational set-up of the regulatory body. I note that this aspect has also been addressed during first reading discussions on the draft proposal in the Danish Parliament, and that concerns were raised by some Members of Parliament on whether the envisaged new set-up would fulfil the independence requirements of Directive 2012/34/EU.

I also remain concerned that the transport authority should perform the functions of secretariat of the regulatory body. According to the information provided by your services, the functions of the secretariat involve preparation of decisions to be adopted by the board of the regulatory body. As my services highlighted at the meeting with your services in October 2014, it is crucial that also the secretariat enjoys an appropriate level of independence to be able to perform its task in full independence of any other public or private entity, and in particular of any entity that is subject to control of the regulatory body, such as the transport authority.

In view of the foregoing, I kindly invite you to inform me on how Denmark intends to ensure independence of the regulatory body as required under Directive 2012/34/EU.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, sweeping initial 'V' followed by several smaller, connected loops and a final flourish.

Violeta BULC