

## **Position of the Union of Entrepreneurs and Employers (ZPP) regarding the Regulation of the Minister of Development and Technology on the Ban on the Import of Agricultural Products from Ukraine**

- On April 15, 2023, the Regulation of the Minister of Development and Technology on the Ban on the Import of Agricultural Products from Ukraine was published in the Official Journal of the Republic of Poland.
- The products covered by the ban are grains, sugar, hay, seeds, hops, flax and hemp, fruits and vegetables, processed fruit and vegetable products, wine, beef and veal, milk and dairy products, pork, lamb and goat meat, eggs, poultry meat, ethyl alcohol of agricultural origin and bee products.
- According to the Union of Entrepreneurs and Employers, closing Polish borders to Ukrainian food will have long-term negative consequences for trade between our countries. It will fail to utilize this potential for the Polish economy.
- The ZPP's position is that the ban on Ukrainian transit goods also deprives Polish entrepreneurs and all of us of the chance to create a global food distribution center in Poland. It is an essential step towards building Polish economic sovereignty throughout Europe and taking the initiative away from the largest economies in the Union.
- There is a risk that Russia will use the growing grain crisis not to renew the grain agreement with Ukraine, which expires on May 18 this year and allows Ukraine to transport grain by sea. Russia is interested in further destabilizing our neighbor's economic situation and exacerbating tensions between EU countries and Ukraine.
- International law experts point to the inconsistency of the Polish government's decision with EU law. Today, importers and exporters affected by restrictions on importing goods from Ukraine may be able to claim compensation for resulting losses.
- According to the Union of Entrepreneurs and Employers, the mechanisms that would solve the current pathological situation in the Polish agricultural market are the introduction of a deposit mechanism for imported goods, the rationalization of control systems for imported food quality, and allowing only those goods, that meet the highest quality standards in the Community to be exported to the EU.

On April 15, 2023, the Official Journal of Laws of the Republic of Poland published a regulation by the Minister of Development and Technology regarding the ban on the import of agricultural products from Ukraine. According to the content of the law, a ban on the import of agricultural products listed in the

annex to the regulation from the territory of Ukraine to the territory of the Republic of Poland is established until June 30, 2023. The banned products include grains, sugar, dried fodder, seeds, hops, flax and hemp, fruits and vegetables, products from processed fruits and vegetables, wines, beef and veal, milk and dairy products, pork, lamb and goat meat, eggs, ethyl alcohol of agricultural origin and bee products.

The Union of Entrepreneurs and Employers negatively reacts to the content of the regulation, stating that the drastic measures adopted were designed only with a short-term perspective in mind. The long-term effects of the decision will destabilize the food trade in the region and have negative consequences for the supply of food to consumer markets. The imposed ban will also be a destabilizing factor in the agricultural market and a source of tension in Poland's relations with the European Commission.

We understand the urgent need to help Polish agricultural enterprises, which have found themselves in a difficult situation due to the uncontrolled inflow of agricultural raw materials from Ukraine. Especially since the problems today are concentrated - as was previously the case - in the grain production sector and other categories of products, with particular emphasis on poultry meat. The economically, legally, and politically unprepared broad ban is contrary to the interests of our country.

The Union of Entrepreneurs and Employers was surprised by the information that the transit of all categories of goods listed in the regulation is also subject to the ban. Considering practical and economic aspects, we negatively assess both the import and transit bans. It is precisely transit that allows Poland to use its potential as a link between Eastern Europe and ports in the EU, with a unique role for Gdańsk. Poland can therefore act as an intermediary for Ukrainian agricultural products, placing them on the global market. It is the responsibility of state institutions to organize transit in such a way that it does not lead to the destabilization of the domestic agricultural market. The lack of transparency in the Polish government's decision may affect our country's economic relations. We believe the planned visit to Poland by the Ukrainian Minister, responsible for the agricultural economy, will allow for a compromising solution to the transit problem. Moreover, the legal transit of Ukrainian grain through Poland has recently become a source of income for many Polish enterprises. Today, with one decision, we can deprive ourselves of the chance to become a kind of hub that could reap long-term profits from cooperation with Ukraine.

Creating the right environment to transit Ukrainian goods through Poland is complex. In achieving the necessary scale, an important role is played by rail transportation, which requires the use of transshipment terminals. Poland has appropriate infrastructure in this area and can still handle additional orders. In the longer term, managing transit and increasing its scale will require investment in infrastructure and rolling stock in Poland. Domestic and foreign capital companies are keenly interested in this direction, and our conversations indicate that agricultural producers from western Ukraine would like to conduct transit through Poland permanently. In this context, importing agricultural products from Ukraine is also an opportunity to develop the domestic economy. Poland can build a supply chain and

infrastructure (warehouses, port expansion, storage facilities) to allow us to be present in international markets. We can aspire to trade grains on a global scale beyond the EU.

The selection of product categories included in the regulation is also absurd, with particular consideration given to wine, which plays a marginal role in Polish-Ukrainian trade. Russia could also use the growing grain crisis not to extend the existing grain agreement, which allows Ukraine partial transport of grain by sea until May 18 of this year. Russia will undoubtedly use the situation to destabilize the economic situation of our neighbor further. The lack of the possibility to export Ukrainian grain by waterway may translate into an even more significant oversupply of grain in Europe, disrupting the region's price situation for a long time. It is also a threat to the food supplies of countries currently dependent on imports of Ukrainian grain, and thus a return to the situation at the beginning of Russia's armed invasion of Ukraine.

The Polish government should demand the application of EU safeguard measures, which involve the implementation of temporary import restrictions to protect the European industry from sudden increases in imports that could cause serious harm to European producers. However, the European Commission makes such decisions, and the use of protective measures is limited and subject to regular assessment. International law experts point out the inconsistency of the decision taken by the Polish government with EU law. Importers and exporters affected by restrictions on importing goods from Ukraine may seek compensation for resulting losses.

The Union of Entrepreneurs and Employers, in their statement from March 30, already indicated that a critical mechanism for improving the problematic situation would be the introduction of a deposit system for Ukrainian grain exported to Poland. The export of Ukrainian agricultural products is usually carried out by companies specializing in exports, which have the necessary capital to secure the proper transit of goods. Using a temporary system of security deposits would allow for the continued clearing of Ukrainian grain corridors, which is necessary for the context of the Russian invasion, while also securing the interests of Polish farmers. The deposit would be refunded immediately after the grain leaves the territory of Poland. This solution would eliminate the risk of paying further compensation to Polish producers in the future, initiate a process of price stabilization on the Polish market, and ensure continuity of export for Ukrainian agricultural companies. We understand that from a purely technical perspective, the term "temporary deposit" does not appear in the nomenclature adopted in the Union Customs Code. However, the situation could lead to developing a parallel solution with a similar scope that would relieve Poland and other countries bordering Ukraine without any reputational and economic damage as it is happening today.

With real support from the European Union, Poland should also implement effective control mechanisms to ensure that only goods from farms meeting the stringent standards applicable in the Community are sold on the territory of the EU. This requirement should apply to all product categories imported by EU



member states. The problems currently glaringly present in the grain market are already visible in the poultry sector.

Organizing the import of Ukrainian grain into Poland also requires clarification, as it raises many legal questions. We need to unravel the path that led to the pathological situation in the agricultural product market to proceed to implement steps as far-reaching as the regulation in question. Otherwise, thousands of enterprises will become prisoners of the condition they were entangled in by influential players who bend the law and the ill-conceived decision of the European Union to introduce duty-free trade in food with Ukraine without creating parallel redistributive mechanisms to relieve the countries in our region.

The Union of Entrepreneurs and Employers understands the intentions of the legislator. However, it cannot accept the form of their enforcement, which would have negative consequences for both the Polish and Ukrainian sides, undermining the good relations that have been achieved thanks to Poland's engagement in helping war-torn Ukraine.