

## COMPARATIVE ANALYSIS OF CUSTOMS LEGISLATION IN THE REPUBLIC OF MOLDOVA AND THE EUROPEAN UNION

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***Abstract:** Customs law regulates the economic relations of foreign trade between different states and the way in which goods and individuals cross the border. In order to facilitate international trade, states simplify customs procedures and harmonize the legislative of customs. The interests of the Republic of Moldova, are closely linked to the customs system and accession to the European Union. That is why understanding the two customs systems and harmonizing them is a step towards an easy transition into the European Union's customs system.*

***Key words:** customs, law, European Union, international trade.*

***JEL Classification:** F13, F53, K12.*

### 1. Introduction

In a traditional interpretation, the customs legislation of many countries, including the Republic of Moldova, represents a combination of norms that regulate the legal relations in the customs field:

- a) which are associated with the circulation of goods and vehicles over the customs border (customs and control, customs and payments, tariff regulation, etc.);
- b) associated with the institutional organization of legal mechanism in the customs domain;
- c) responsible for stopping the crimes in the customs field and the procedure for documenting customs disputes.

In the case of the European Union Custom Law the definition from above may be applied only partially, because the legal regulation of the customs service is the object of constitutional and administrative law of the European Union Member States and this does not refer to the level of the European Community. Also, the subject of the national criminal and administrative legislation of the EU constituent entities is the responsibility for customs offenses, although the provisions of the Maastricht Treaty opens a perspective on harmonizing the customs domain.

### 2. Literature review

Many foreign and domestic scientists are concerned with studying the legislation of European Union and its Customs part. Of the total number of studies, a few have the object of research – European Custom Law. L. M. Entin (2009) carrying out a general study of European Union law, and pointing out that customs law is one of the exclusive competences of the European Union. M. Romanova, V. Abramovich, T. Tsehanovich (2006) with object of study was the customs legislation of the European Union in the context of its historical development and specific features. S. S. Zhamkochyan (2001) is also focusing on European Custom Law.

### 3. Customs law of the Republic of Moldova

In accordance with Article Nr. 4 of the Customs Code (2000) of the Republic of Moldova, the territory of the Republic of Moldova is a unique customs territory including territory, the inner waters, territorial waters and airspace above them.

The Republic of Moldova is an active participant in international trade because, "all persons benefit from equal rights to introduce and remove goods and means of transport from the Republic of Moldova", Law Nr. 1569 (2002).

Since 1994, the Republic of Moldova has become a full member of the World Customs Organization, where was contributed to a continuous and stable improvement of customs activity, and being appropriated by modern technologies that are applied on worldwide market.

For example, at the request of the Republic of Moldova, the World Customs Organization (WCO) has successfully presented a virtual international workshop on mutual recognition of the Authorized Economic Operator (AEO-MR) on 2 - 4 December 2020 to the Customs Service in Moldova. The workshop was supported by the Regional Office of Capacity Building (ROCB) for the European Region. Two renowned WCO experts from Malaysia and Italy have been established as key specialists for efficiently conducting of data.

The AEO concept was implemented in the Republic of Moldova in 2014, constituting a condition of the Moldova-Europe Association Agreement under the WCO safety framework for the insurance and facilitation of global trade.

Spring Legislative of the customs conduct rules for the customs authorities of the Republic of Moldova are consists from: the Constitution of the Republic of Moldova, the Customs Code of the Republic of Moldova, the Combined Nomenclature of the goods, the Fiscal Code, the decision on the flag, the povelion and the marks of the customs bodies, law on economic areas Free, Law on Currency Regulatory, Law on Licensing by Licensing of Matching Activity, as well as the legislative and normative acts of the Republic of Moldova in the field of customs activity, including the rules governing social relations in the process of declaring the goods.

The historical evolution of the legal regulations on the customs declaration procedure is directly linked to both international and national regulations, and conducting a research on the development of the entire normative framework also holds the course of the customs system of the Republic of Moldova.

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Receiving the sovereignty of the Republic of Moldova, on 4 September 1991, and the entry into force of the President's Decree no.189 of 03.09.1991 "on the subordination of the customs institutions located in the territory of the Republic of Moldova" (1991), representing the start for the first legal regulations on the creation of National Customs System. The decree in question had the passage of all customs structures in the territory, composed at that time in Customs Ungheni, Customs Leuseni and Customs Internal Chisinau, under the management of the Government of the Republic of Moldova. Also, the State Department for Customs Control was created, which It has as the main objectives of activity as ensuring the exercise of control over the passage of persons and goods across the border, the creation of the control centers and border crossing points, the formation of the customs system of statistics and the settlement of the customs charges.

With the actions described above, the following measures had been undertaken: by Government Decision No.496 of 06.09.1991, on the establishment of customs crossing points and controls (1991). Thus, Ungheni and Leuseni customs offices were reorganized, with four new customs offices at the border with Romania: Sculeni, Costești, Cahul and Giurgiulesti. The basis of the activity of 22 Customs Control Points at the Border of the Republic of Moldova with Ukraine, legalized activity by signing on 20.03.1993 of the Agreement between the Government of the Republic of Moldova and the Cabinet of Ministers of Ukraine. The first express regulations on the customs declaration are stipulated in the 1993 Customs Code, subsequently repealed by Law no.1149-XIV, more precisely in Chapter X, entitled "Declaration of goods and objects".

The Republic of Moldova besides national legislation also joined the World Customs Organization (WCO), which implies the link in national rules with international standards, or at least the lack of normative conflicts. Conventions to which the Republic of Moldova adhered are:

- The Convention on Temporary Admission, adopted in Istanbul on 26 June 1990 (RM acceded by RM Law no. 253 of 05.12.2008). Entered into force on 2 May 2009.
- Issuing association and guaranteed association of temporary admissions (ATA and CPD cards), according to the Convention, is designated by the Government of Government no. 495 of 14.08.2009.
- The Convention on the creation of the Customs Collaboration Council, concluded in Brussels on 15 December 1950 (RM acceded by Parliament's Decision no.164-XIII of 30.06.1994).
- The International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Suppression of Customs Offered at Nairobi on 9 June 1977 (RM joined RM Law No. 275-XV of 21.06.2001).
- The International Convention on the Harmonized System of Description and Coding of Goods, concluded in Brussels on 14 June 1983 (RM joined RM Law No.112-XV of 22.04.2004).

The national interests of the Republic of Moldova involve the accession to the European Union, which provides for the interconnection of national customs legislation with Union law, which is why several agreements have been laughed at Customs legislation with the EU and the UN:

### **UN Economic Commission for Europe**

- The International Convention on the Harmonization of Border Checks, concluded in Geneva on 21 October 1982 (RM joined Cruice RM no. 215-XVI of 23.10.2008). Entered into force on 3 March 2009.
- The Customs Convention relative to the international transport of goods under the coverage of T.I.R. carnets. (T.I.R. Convention), concluded in Geneva on 14 November 1975 (RM joined Parliament Decision no.1318-XII of 02.03.1993).
- The Relative Convention on the International Transportation Agreement on the roads (C.M.R.), concluded in Geneva on 19 May 1956 (RM joined Parliament Decision no.1318-XII of 02.03.1993).

### **EU**

- Protocol on mutual assistance between the administrative authorities in the customs matters of the Partnership and Cooperation Agreement between the European Communities and their Member States, on the one hand, and the Republic of Moldova, on the other hand, signed in Brussels on 28 November 1994.

For example, the International Convention on the Harmonized System of Description and Coding of Goods (Brussels, 14 June 1983) provides:

- The goods nomenclature established by the Convention is applied by most of the world;
- 98% of all international trade is based on the Convention, which, at the same time, simplifies the collection, contraction and analysis of statistical data on international trade;
- The harmonized system can be applied to all goods;
- The document is multifunctional, ie it can be used in different areas: (1) commercial and transport statistics, (2) trade policy, (3) Origin rules, (4) economic analysis, (5) monitoring supervised goods (1983) .

In the Republic of Moldova, as in the European Union there are free zones, free areas, in order to achieve the objectives assumed, preferential regimes are granted to stimulate entrepreneurial activity.

### **4. Customs Right of the European Union**

The establishment of the European Economic Community in 1957 was the prologue of the creation of the customs union between member countries. The main points of this statement were the following: the liberalization of trade through the abolition of customs duties between member countries and the establishment of a common customs tariff towards third countries that are not the part of the customs union, this phase ended on 01 July 1968.

The Community will be based on a customs union, which will cover the entire trade in goods and will involve the prohibition of tariffs for the import and export of products made between Member States of the European Community as well as other similar charges. In July 1968, the cancellation of all tariff barriers as well as restrictions on the volume of trade between the Member States of the MOI formed community took place.

The previously described phase, new and new areas that had not been foreseen to be directly related to the realization of the single market had been incorporated as its components such as such areas such as public procurement, intellectual and industrial property, energy resources, fiscal policy, Payment system, consumer protection, competitive policy, etc.

In 1958, the European Community started a new project of finalizing the European Single Market. "The White Paper for the Perfection of the Internal Market" provided for Nr. 282 legislative measures for the creation of an internal market for all member countries, in which, from 01 January 1993, interborder control activities were canceled. The action was the main step towards the economic integration of the 12 founding Member States. As a result, the unification of national markets in a single market, without commercial barriers and customs duties.

The free movement of goods means removing control at borders between Member States. As a result, there is a total lack of staff employed at the inter-community border. The only products that are ad-hoc verified at different points are drugs and weapons because they are commodities that are subject to international priority control, and furthermore is an economic monopoly domain. But new barriers arise by non-recognition by some states of national rules in certain economic areas. The European Commission has to resolve approximately 300 calls in this area annually. Since 1997, the Member States of the European Union must inform the Commission whenever they refuse the recognition of the rules belonging to other States.

The single market offers citizens the opportunity to supply the necessary goods in any of the Member States of the European Union, with the omission of the Customs Fee and without objection to the fulfillment of customs formalities. In order to avoid fraud in the case of excise products, there are a number of limits in terms of "own consumption", for example: 800 cigarettes, 90 liters of wine, 110 liters of beer, 20 liters of appetizers and 10 liters of hard drinks. These limits may be exceeded if the person presents truthful evidence that the given goods are intended for personal consumption and will not be part of the trade.

Reform since 1989 on V.A.T. consisted of the exemption of obligations regarding the payment of V.A.T. Within the customs point of each state by which the product passed, the rule being that V.A.T. will only be paid once, only to the tax authority in the state in which the product is imported. This meant that companies will be exempt from a total of 60 million customs documents that were drawn up annually for such operations.

"Most companies trading across borders have found that big savings are possible through the abolition of the prepayment of V.A.T. on cross-border imports and the elimination of charges for customs formalities" (1996).

In the single market, quality control is based on the principle of mutual recognition: if a product is recognized as congruent with the quality requirements of a member country, it is automatically accepted in any other Member State, its qualitative features being recognized as satisfactory marketing. This principle ensures the preservation of European diversity as well as the various traditions of member countries, with the presence of the variety of products that are arranged at the choice of the final consumer.

Art.48 of the Treaty of Rome provided for the creation of the conditions for the free movement of persons in the Community. This meant the abolition of discrimination based on nationality in terms of employment, the level of salaries and working conditions. Exceptions were foreseen only in the case of civil servants or in cases justified by national security interest (1958).

## **5. Conclusion**

According to the Constitution of the Republic of Moldova, the country is inalienable, sovereign and indivisible. Which means that the legislation is unique for the whole territory of the country and the customs law is not an exclusion.

The European Union at the same time represents a union of states, first of all from a customs point of view, which includes the free movement of goods and goods between the

Member States, the fact requires the need for a more sophisticated customs code, as well as the elaboration of the different way Customs laws, and not lastly the order of priority.

Because the interests of the Republic of Moldova are related to the accession to the European Union, it is necessary to harmonize the two customs norms systems.

Recommendations for improving Custom Law of Republic of Moldova:

- Improve Custom Law for better harmonization with European Union Law;
- Promote Custom Law reformation;
- Simplification of Customs clearance with European trade partners;
- Support Custom Services management.

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