

THE ROLE OF CUSTOMS ADMINISTRATIONS IN PREVENTING SMUGGLING OF CULTURAL HERITAGE

Роль таможенных органов в пресечении контрабанды культурных ценностей

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Recently, along with the expansion of drug trafficking and arms smuggling, the volume of illegal movement of cultural values has increased enormously. Nowadays it is considered to be a global problem that is too big for any one country to tackle alone.

The illicit export of cultural heritage can rob a country of its national treasures, and can often cause irreparable damage to a country's history and cultural identity [1, p. 61]. Cultural heritage smuggling diminishes national patrimony and steadily deprives the society of experiencing some of the most significant and precious cultural treasures [2].

Given the importance of cultural heritage to societies, as well as the fact that a portion of the proceeds obtained illegally through the trafficking of artworks and antiques is often used to finance international organized crime and even terrorism [3, p. 37], States are putting up a strong fight against this criminally-linked phenomenon in particular by calling upon all law-enforcement agencies including Customs administrations.

Generally, the whole international combating process is based on 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, developed by UNESCO. The Convention defines the term "cultural property" ("property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science..." [4]), sets out a range of preventive measures (eg. evaluating and registering national heritage, establishing a system of export licences, etc.), establish restitution provisions [1, p. 61] and outlines the necessity of international collaboration in this sphere.

Obviously, the Convention is not the only possible protective legislative tool. It is followed by other conventions and regulations in this area, adopted by various authorities such as the Council of Europe, the International Institute for the Unification of Private Law, the European Union [1, p. 61] and so on. Moreover, each country develops its own national laws concerning cultural heritage.

All these documents provide a great number of suppressive measures to stop the illicit exportation and importation of cultural objects. They can be divided according to their specificity into Customs-related and joint ones.

Customs-related measures fall within the sole competence of Customs. They can be both national (or regional – for the members of Customs or economic unions, etc.) and international. National measures are developed and carried out by national Customs agency. They are primarily connected with capacity-building and training.

Very often cultural module is incorporated into the training program of Customs officers. It involves recognizing cultural goods, knowledge about cultural legislation and information on its handling. Customs officers are not expected to be experts but they should know when alarm bells should start ringing.

The Dutch experience in the sphere of Customs training is seemed to be one of the most interesting, where special Cultural Goods Officers are designated. They liaise between Customs officers and the Cultural Heritage Inspectorate (the part of the Ministry of Education, Culture and Science). In addition to standard program combined with cultural module, they have training sessions in heritage institutions to experience cultural objects in situ and get acquainted with experts at these institutions [1, p. 62].

Another protective vector, which is widely used in most countries as one of the basic tools of Customs control, is the use of risk management systems. Concerning cultural objects Customs officers are often provided with Red Lists formed by international organizations or other law-enforcement agencies on the basis of which risk profiles are shaped.

International measures are implemented under the auspices of the World Customs Organisation.

With a view to protecting cultural heritage, the WCO is encouraging effective cooperation and partnership with other international organizations and law enforcement agencies such as the International Council of Museums, UNESCO and INTERPOL, aimed at exchanging information and preventing this illegal activity. To accomplish this mission the WCO relies on the competencies and daily efforts of Member Customs administrations, as well as on its Regional Intelligence Liaison Offices. An example of these cooperative efforts is the CENcomm based electronic information exchange platform codenamed ARCHEO, managed by the WCO. This network is dedicated to the prevention of cultural heritage fraud and brings together professionals and experts committed to the protection of cultural heritage through facilitating the identification of suspected items with the goal of maximising efficient and effective enforcement in this area [2].

Joint measures include measures based on “Customs – Other Government Services” cooperation.

The best example of joint measure is the system of export licences or certificates based on the cooperation between Customs administrations and agencies, responsible for the development and coordination of State policy in the cultural sphere (eg. Ministry of Culture). Export licence or certificate is a document needed to export a cultural object which should be submitted to a Customs officer on the border. Despite the fact that in different countries they may be obtained free or at a fee, electronically or in paper form, they have a single function to legalize the export procedure, to verify that the object wasn't stolen and it is protected for the future.

Joint measures can also take a form of operations led by Customs and another interested authority. For instance, Customs – police Operation Pandora II, a regional initiative led by the Spanish Guardia Civil and Europol [1, p. 63] with a common action phase from 17 to 23 November 2016 against theft and illicit trafficking of cultural goods that resulted in the seizure of 3,561 works of art and artefacts [5].

Summarizing all mentioned above and recognizing the fact that cultural heritage has universal value for all and should be preserved for future generations [3, p. 39], each country ought to build an exact model of how the illicit trade in cultural objects can be stopped, because while not being the country of cultural values export, the State will probably be the country of cultural values import. Consequently, it turns out that no nation is immune to this problem, which can be tackled only through intensive cooperation and mutual contribution.

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CORRUPTION AS A GLOBAL PROBLEM OF MODERN SOCIETY

Коррупция как глобальная проблема современного общества

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Corruption is one of the global problems of our time, which has become one of the most pressing and difficult problems for all countries of the world, including the Republic of Belarus.

It is one of the major problems that Customs authorities face. They are often cited as an example among the most corrupted agencies. The problem of fighting corruption cannot be solved by a country alone, it requires coordinated countermeasures. This implies closer international cooperation in the fight against corruption.

The notion “corruption” is defined as the use by an employee of the public service of his or her official position for mercenary and criminal purposes. Corruption, both in Customs and in other state bodies, is viewed as illegal and unfair actions by officials. In all its manifestations, corruption has an impact on all spheres of society, because of corruption, people's trust in the government decreases.

Considering that Customs authorities play an important role in revenue collection, as well as in ensuring national security, controlling goods and vehicles that are crossing the border, the corruption activity in the Customs authorities can seriously damage the country's economic and political stability.

Nowadays corruption can take different forms such as bribery, extortion, protectionism, illegal distribution of public resources, illegal privatization, unreasonable provision of soft loans and orders, illegal financing of political parties and public organizations, etc.

The level of corruption depends on numerous factors and the most important of which are the level of democracy in the country, the structure of the economy, the welfare of the population and the degree of social inequality, as