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THE CONCEPT OF CUSTOMS TERRITORY AND CUSTOMS BORDER WITHIN THE FRAMEWORK OF ECONOMIC ACTIVITIES IN THE REPUBLIC OF MOLDOVA

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Abstract

The conceptual individualization of the terms customs territory and customs border are of particular importance from the point of view of budget revenue accumulation for the Republic of Moldova, which carries out its economic and trade activities. The aim of the research: to study the regulatory framework that identifies the customs territory of the Republic of Moldova, highlighting how it influences the import and export processes, as well as trade relations with other states, and to identify similarities and differences between the customs territory and customs border of the Republic of Moldova and the European Union. This comparison illustrates the particularities that may affect trade and cross-border relations, taking into account the geographical position of the Republic of Moldova between the European area and neighboring countries. The result of the analysis of the legal framework provides an in-depth study of the impact of the customs territory and the customs border on the Republic of Moldova, while highlighting the specific aspects that conceptualize and shape these vital components of the economic infrastructure of the republic. Thus, customs border and customs territory are two fundamental concepts for defining and exercising the state sovereignty of a country. Therefore, analyzing how the customs territory influences the trade landscape of the Republic of Moldova is crucial for understanding economic, regional and international dynamics. Thus, the customs border and customs territory are essential concepts for the definition and exercise of state sovereignty of the Republic of Moldova, but also for its integration into the European and international economic and trade space.

Keywords: customs territory, customs border, export-import operations, state sovereignty, European integration.

Introduction

The customs territory and the customs border are of particular importance, in terms of the accumulation of budgetary revenues for the Republic of Moldova, a country located at the crossroads of Eastern and Central Europe, which carries out its economic and commercial activities (Armeanic A., Cojocaru V. 2024, p. 109). In light of the above, we propose to study the regulatory framework that identifies the customs territory of the

Republic of Moldova, highlighting the way in which it influences import and export processes (Armeanic A., Cojocaru V. 2024, p. 16), as well as trade relations with other states, and to identify the similarities and differences between the customs territory and the customs border of the Republic of Moldova and those of the European Union. This comparison illustrates the particularities that may affect trade exchanges and cross-border relations, given the geographical positioning of the Republic of Moldova between the European space and neighboring states. The result of the analysis of the legal framework provides an in-depth analytical perspective on the impact of the customs territory and the customs border on the Republic of Moldova, highlighting, at the same time, the specific aspects that conceptualize and shape these vital components of the economic infrastructure of the republic. Therefore, the customs border and the customs territory are two fundamental concepts for the definition and exercise of the state sovereignty of a country (Armeanic A., Cojocaru V. 2024, pp. 21-22).

The state border of the Republic of Moldova is the natural or conventional line that marks the external limits of the territory over which the Republic of Moldova exercises its exclusive sovereignty on land, in the aquatic, underground, and aerial sectors and that passes, in a straight line, from one border sign to another or, where the state border is not marked on the ground with border signs, from one coordinate point to another. The state border is established and amended by organic law, in accordance with international treaties to which the Republic of Moldova is a party, respecting the unanimously recognized principles and norms of international law (LAW No. 215 of 04-11-2011 on the state border of the Republic of Moldova // Legal act). The total length of the state border of the Republic of Moldova is 1906 km, of which 955 km is on land and 951 km is on water. The western part of the Republic of Moldova borders Romania, and the eastern part borders Ukraine (Border Police of the Republic of Moldova).

The territory of the Republic of Moldova is a single customs territory that includes land, inland waters, territorial waters and the airspace above them. Free zones and customs warehouses may be located on the territory of the Republic of Moldova. Free zones and customs warehouses are part of the customs territory of the Republic of Moldova (hereinafter referred to as the customs territory), in which the respective customs regime is applied. The state border of the Republic of Moldova, the perimeter of customs warehouses constitute the customs border of the Republic of Moldova (hereinafter referred to as the customs border). The customs territory is the geographical area within which national customs legislation is applied and the powers of the customs authorities are exercised. This territory includes the land territory, airspace, territorial waters, exclusive economic zone and continental shelf of the Republic of Moldova, as well as free zones and other special areas established on the national territory (CODE No. 95 of 24-08-2021 CUSTOMS CODE // Legal act).

Therefore, analyzing how the customs territory influences the trade landscape of the Republic of Moldova is crucial for understanding economic, regional and international dynamics.

Materials and methods

National customs legislation establishes the rules and procedures that define the expansion and management of the customs territory. International agreements to which the Republic of Moldova is a party, including those with the European Union, can influence and shape this expansion, having significant consequences on economic and trade relations (Armeanic A., Cojocaru V. 2024, pp. 22).

Therefore, the customs border and customs territory are essential concepts for defining and exercising the state sovereignty of the Republic of Moldova, but also for its integration into the European and international economic and trade space.

Customs norms and legal norms establish a complex of rights and obligations, as well as the responsibility of subjects in customs and legal relations. This regulatory framework includes:

The Customs Code of the Republic of Moldova, which is the framework regulatory act in the customs field and which establishes the principles, rules and customs procedures applicable on the customs territory (CODE No. 95 of 24-08-2021 CUSTOMS CODE // Legal act).

Related laws, which complement and detail specific aspects of the customs territory, such as: Law on free zones, Law on the fiscal and customs regime of enterprises resident in industrial zones, Law on the legal regime of the state border, Law on the legal regime of border waters, Law on the legal regime of airspace, Law on the legal regime of the continental shelf and the exclusive economic zone, Law on the legal regime of movable cultural property, etc.

International agreements and treaties, to which the Republic of Moldova is a party or to which it has acceded, and which have a direct impact on the definition of the customs territory. These include: the Association Agreement between the European Union and the Republic of Moldova, the CIS Free Trade Agreement, the Deep and Comprehensive Free Trade Area Agreement (DCFTA), the Agreement on Trade Facilitation and Customs Cooperation between the Republic of Moldova and Turkey, the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures, the Istanbul Convention on Temporary Admission, the Nairobi Convention on Mutual Administrative Assistance for the Prevention, Investigation and Punishment of Customs Offences, the Agreement on the Liberalization of the Transport of Goods with Ukraine by the End of 2025, etc. (Sîrghii V. 2022, pp. 17-20).

Approval procedures for changes to the customs territory of the Republic of Moldova are regulated, with the aim of: ensuring transparency and uniform coherence of the legal framework in force. The government and institutions specialized in the customs field are involved in the decision-making process. An assessment of the economic, security and social impact is carried out before approving any significant change. Consultation with stakeholders and the public may also be an integral part of this process. For example, here we can mention (Sîrghii V. 2022, pp. 48-50).

Administration of free zones, established on the territory of the Republic of Moldova, in full compliance with the commitments assumed by our country in the process of accession to the World Trade Organization (WTO). Goods produced in these zones, exempted on the basis of tariff and fiscal provisions from the payment of certain customs duties and taxes, will be subject to appropriate customs procedures in the event of their entry into the customs territory of the Republic of Moldova, including by applying the customs tariffs and taxes in force.

Establishing a preferential customs regime for goods originating in the Transnistrian region, based on the Additional Protocol to the Chisinau Memorandum of 2005, signed between the Republic of Moldova and the Russian Federation. This protocol provides that goods originating in the Transnistrian region may benefit from the preferential customs regime of the Republic of Moldova, if they are accompanied by certificates of origin issued by the competent authorities of the Republic of Moldova and if they comply with the rules of origin established by national legislation and international agreements to which the Republic of Moldova is a party.

Implementing the Association Agreement between the European Union and the Republic of Moldova, which involves a gradual integration of the Republic of Moldova into the internal market of the European Union and a harmonization of national customs legislation with that of the European Union. This agreement also implies increased customs cooperation between the Republic of Moldova and the Member States of the European Union, as well as participation in joint initiatives to facilitate trade and secure the logistics chain.

In this context, the customs territory of the Republic of Moldova is a dynamic concept, which adapts to economic, political and social changes, both at the national and international levels (Nastas A., Cernomoreț S. 2023, p.43).

From another point of view, the customs border is an imaginary line that separates two or more customs areas, that is, areas where the same rules and customs tariffs apply to the import and export of goods. The customs border has an important role in regulating trade and travel, as it determines which goods and which persons can pass from one customs area to another and under what conditions (Armeanic A., Cojocaru V. 2024, p. 21).

Results and discussion

Making an inroad through the customs mechanisms of the European Union (EU), we note that it is a political and economic union formed by 27 Member States, which operates as a Customs Union. This has determined that the Member States apply the same customs tariffs on imports and follow the same trade rules in relations with third countries. In this context, there are no customs controls or restrictions on the movement of goods, services and people in the Member States (https://single-market-economy.ec.europa.eu/single-market_en?prefLang=ro).

The customs border at the EU border is the line that delimits the European customs area from that of countries or regions that are not part of the EU. This border is formed by the external borders of the EU Member States, as well as the external borders of some associated territories.

In accordance with the applicable conventions and treaties, territories located outside the territories of the Member States, including their territorial and internal waters and their airspace, are considered part of the customs territory of the Union, such as Monaco or Akrotiri and Dhekelia.

Therefore, the customs border at the EU border has the following characteristics and functions, such as:

Control at entry into the EU: At the EU's external borders, there is a rigorous control of goods and persons entering the EU. This control is essential to ensure compliance with EU rules and regulations, including those on customs tariffs, health and safety standards, environmental protection, intellectual property rights, etc. Customs control at entry into the EU is carried out by checking documents, goods and luggage, as well as by applying security measures such as scanning or physical inspection.

Customs Union: The EU operates as a Customs Union, which means that Member States apply the same customs tariffs on imports and follow the same trade rules in their relations with third countries. Therefore, customs controls at external borders ensure the uniform application of these rules, thus avoiding distortions of competition or customs fraud. For example, if a third country exports a product to the EU, it will be subject to the same customs tariff, regardless of the Member State it enters. Also, if a product is imported into the EU and then re-exported to another third country, it will not be subject to a new customs tariff, but only to the original one.

Customs Information System (CIS): it is an IT system that facilitates the rapid and efficient exchange of information between Member States and customs authorities, contributing to the management of the flow of goods and people at external borders. CIS comprises several components, such as the Import Control System (ICS), which allows customs authorities to identify and control high-risk goods before their arrival in the EU, or the Computerized Transit System (NCTS), which allows the monitoring and tracing of goods transiting the EU under a special customs procedure (Nastas A., Cernomoreț S. 2024, p.291).

The customs border between EU Member States is the line that delimits the customs area of each Member State from that of the other Member States. This border is different from the customs border at the EU border, as there are no customs controls or restrictions on the movement of goods and people between Member States. This is due to the fact that Member States are part of the European Single Market, which involves four fundamental freedoms: the free movement of goods, people, services and capital. The customs border between Member States has the following characteristics and functions (Sîrghii V., Armeanic A. 2019, pp.67-69):

a) Harmonization of rules: In order to ensure the proper functioning of the Single Market, Member States must comply with a common set of rules and standards in areas such as competition, consumer protection, the environment, public health, etc. These rules are established at EU level, through legislation or through cooperation between Member States. This avoids differences or barriers that could hinder the free movement of goods and people between Member States.

b) Market surveillance: To check compliance with common rules and prevent risks to health, safety or the environment, there is a market surveillance system at EU and Member State level. This system involves monitoring and controlling the quality and conformity of products circulating on the internal market, as well as applying corrective measures or sanctions in the event of irregularities. For example, if a product is considered dangerous or non-compliant, it can be withdrawn from the market or banned from being marketed in the EU.

c) Customs cooperation: Although there are no customs controls at the EU's internal borders, there is customs cooperation between Member States, aimed at preventing and combating fraud and other cross-border crime. This cooperation is based on the exchange of information, mutual assistance and coordination between national customs authorities, as well as on the support provided by EU agencies and bodies, such as the European Anti-Fraud Office (OLAF) or the European Police Agency (Europol).

d) Elimination of Customs Controls: Customs controls have been largely abolished between EU member states. This allows the free movement of goods and people between these states, facilitating trade and travel.

e) Free Movement of Goods: The key principle of the Customs Union is the free movement of goods. Thus, goods produced in one member state can be freely traded in any other member state, without customs restrictions or controls. Initially, the concept of free movement was intended to allow the working European population to travel and settle freely in any EU state, but it did not eliminate border controls within the Union. A significant change occurred in 1985, in Schengen (a small village in Luxembourg), with the signing of the Agreement on the gradual abolition of checks at their common borders, followed by the signing of the Convention implementing that agreement in 1990. Implementation of the Schengen Agreements began in 1995, initially involving seven EU countries. Born as an intergovernmental initiative, the developments brought about by the Schengen Agreements have now been incorporated into the body of rules governing the EU.

f) Schengen Area: Most EU Member States are part of the Schengen Area, where internal border controls have been abolished. This makes travel between these countries easier and allows people to travel without being subject to checks at the internal borders of the Schengen Area. The borderless Schengen Area guarantees free movement for over 425 million EU citizens, as well as for non-EU citizens living or visiting the EU as tourists, exchange students or for business (any person legally present in the EU). The free movement of people allows every EU citizen to travel, work and live in an EU country without any special formalities. The Schengen Area reinforces this freedom by allowing citizens to move within it without being subject to border controls. The Schengen Area currently includes most EU countries, with the exception of Cyprus and Ireland. Bulgaria and Romania became the newest Member States to join the Schengen Area as of 31 March 2024; anyone crossing internal air and sea borders will no longer be subject to checks. However, a unanimous decision on the lifting of checks on persons at internal land borders is expected to be taken by the Council later. In addition, non-EU countries such as Iceland, Norway, Switzerland and Liechtenstein have also joined the Schengen Area.

One of the main objectives of the Schengen Area is to protect its citizens by increasing cooperation between police forces, customs authorities and external border control authorities of the Member States. These innovative forms of cooperation have been implemented to compensate for any possible security deficit caused by the abolition of internal border controls.

In the field of law enforcement cooperation, the Schengen Area facilitates:

- Improving communication systems between police forces.
- Cross-border monitoring of criminals.
- Cross-border surveillance of suspects.
- Mutual operational assistance.
- Direct exchange of information between police authorities.

This represents a significant benefit in the efforts to combat terrorism and serious and organised crime, including human trafficking and illegal migration.

Conclusions

When we talk about the customs border of the Republic of Moldova, this is the line that delimits the Moldovan customs space from that of neighboring countries or regions. This border is different from the customs border at the EU border, because the Republic of Moldova is not part of the EU Customs Union, but has bilateral or multilateral trade agreements with the EU and other countries or organizations.

The customs border of the Republic of Moldova has the following characteristics and functions (Sîrghii V., Armeanic A. 2019, pp.67-69):

• Control at entry and exit from the RM: At the external borders of the Republic of Moldova, there is a control of goods and persons entering or leaving the country. This control is necessary to ensure compliance with national rules and regulations, as well as those provided for in trade agreements with external partners. Customs control at entry and exit from the RM is carried out by checking documents, goods and luggage, as well as by applying security measures, such as scanning or physical inspection.

• Association Agreement with the EU: The Republic of Moldova has an Association Agreement with the EU, which entered into force in 2016, and which aims to intensify trade and political relations, as well as promote the convergence of rules with those of the EU. The Association Agreement includes a Deep and Comprehensive Free Trade Area (DCFTA), which involves the elimination or reduction of customs tariffs and other trade barriers between the Republic of Moldova and the EU, as well as the adoption of common standards in areas such as competition, intellectual property, health and safety, etc. Therefore, the customs border between the Republic of Moldova and the EU is more simplified and transparent than that between the Republic of Moldova and other third countries.

• Situation of Transnistria: Transnistria is a separatist region in the east of the Republic of Moldova, which is not internationally recognized and which is not under the control of the Moldovan authorities. Transnistria has its own customs border, which does not coincide with that of the Republic of Moldova, and which is supervised by Russian peacekeeping forces. Transnistria has a different trade regime than the Republic of Moldova, as it is part of the Eurasian Economic Community, which is a customs union formed by Russia, Belarus, Kazakhstan, Armenia and Kyrgyzstan. This creates difficulties and tensions at the customs border between the Republic of Moldova and Transnistria, as well as between the Republic Moldova have different characteristics, depending on the degree of integration into the European customs and economic space. The EU is a Customs Union that ensures a unitary and preferential treatment of goods and persons entering or leaving its territory, using modern control and information exchange tools. The Republic of Moldova, although it has a strategic partnership with the EU, based on the Association Agreement, is not part of the Customs Union and must comply with certain customs rules and procedures at the border with the EU. This situation creates certain difficulties and challenges for trade and cross-border movement, especially in the context of the unresolved conflict in the Transnistrian region. To reduce these obstacles and facilitate the integration of the Republic of Moldova into the European space, more intensive customs cooperation and harmonization of customs rules and practices with those of the EU are necessary.

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