



Investigation of Transnational Crimes in the Field Of Customs: Novelties of Directive (Eu) 2017/1371

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Abstract

Transnational crimes in the customs area constitute a major challenge for national economies, being closely linked to the national security of states and international security as a whole. These criminal activities mainly include smuggling, tax evasion, trafficking in prohibited goods, narcotics, waste, works of art, archaeological sites, etc. These crimes, in addition to their direct impact on state revenues and legitimate trade, can seriously undermine public order and finance criminal and terrorist networks. Likewise, environmental crimes, such as trafficking in hazardous substances and toxic waste, are an ever-growing challenge that requires close international and inter-institutional cooperation to be addressed effectively. The fight against these crimes in Albania is a shared responsibility between the customs administration and law enforcement agencies such as the State Police, the Special Prosecution Office Against Corruption and Organized Crime (SPAK), the Prosecutor's Offices of General Jurisdiction, the Courts of all levels, etc. The National Environment Agency (AKM), the National Food Authority (AKU), etc. also play a very important role. This cooperation is vital to combat transnational crimes and to prevent the mutual passage of illegal and socially dangerous goods across the borders of our countries. The Albanian Customs Administration, through controls, based on customs information and risk analysis, is a key actor in the detection of illegal activities and in the protection of the interests, fiscal, environmental and not only of our country. This study analyzes inter-institutional and international cooperation in the fight against transnational crimes in the customs field, including trafficking in narcotics, human beings, smuggling of hazardous waste, etc. In Albania, this cooperation includes examining the role of the customs administration, prosecutors' offices and courts in the criminal prosecution of these crimes. The study also examines the challenges of harmonizing Albanian legislation with international norms and practices and mainly with the innovations of Directive (EU) 2017/1371, and provides recommendations for improving the effectiveness of justice institutions and strengthening the capacities of the customs administration.

Keywords: Transnational crimes, National security, International security, Smuggling, Trafficking, Hazardous waste, Customs administration, Organized crime, Customs control, Legislation

1. Introduction

1.1 The Phenomenon of Transnational Customs Crime in Albania

Transnational customs crime in Albania constitutes a significant and growing problem, which has a direct impact on national security, economic development and respect for the law. This phenomenon has taken on increasingly larger dimensions, due to Albania's geographical position as a key connecting point between East and West, as well as the passage of numerous goods through its borders.

Customs crimes constitute a significant challenge for Albanian authorities, directly affecting the economy and national security. In the customs area, the main challenges include smuggling, tax evasion and corruption. According to INSTAT data, in the period 2004-2021, the average annual crime rate in Albania was around 146 crimes per 100,000 inhabitants, with an increase in 2021 to 196 crimes per 100,000 inhabitants. (ndiqparate.al)

One of the most common types of transnational crime is smuggling, which involves the passage of prohibited goods, or which aims to evade fiscal and customs obligations. This includes goods such as cigarettes, alcohol, weapons and narcotic substances, which are often illegally passed through ports, land and sea borders. The smuggling of dangerous goods, such as chemicals and toxic waste, poses a direct threat to public health and the environment.

Tax evasion is another form of customs crime, where individuals and companies try to avoid customs and fiscal obligations by hiding goods or manipulating customs documentation. This has serious consequences for the state budget and for competition in the free market, creating unfair conditions for businesses operating legally.

Similarly, drug trafficking and human trafficking are worrying phenomena that are closely related to customs activities. Albania, as a developing country with a strategic geopolitical position, is often a gateway for these items and individuals, which are used, or which pass into the hands of individuals or criminal organizations that violate international and national laws to fulfill their criminal objectives.

To combat these crimes, the Albanian Customs Administration has improved control systems such as in the scanning of imports and exports, but also with the improvements made to the IT systems used by the Customs Administration such as "ASYCUDA", "RAPEX" (Rapid Alert System for Dangerous Non-Food Products), "SEED" (Shared Electronic Environment for Declaration). The WCO Customs Enforcement Network (CEN), is another IT system of the World Customs Organization (WCO), which is used by the Customs Administration for international assistance in the fight against customs crimes and trafficking in illegal goods. In this context, international cooperation is essential. Albania cooperates closely with organizations such as Europol, Interpol and the World Customs Organization (WCO), as well as with other countries in the region to exchange information and coordinate operational actions. Also, the establishment of joint investigative units and the support of the Inter-Agency Maritime Operational Center (QNOD) for maritime border surveillance are important steps to combat transnational crimes.

A key aspect of the fight against these crimes is the proactive investigation of suspected trafficking and smuggling activities. This process includes the use of intelligence, risk analysis, and advanced techniques for monitoring and controlling goods crossing the border, enabling the detection and prevention of the passage of illegal and dangerous goods.

2. Existing Legislative Framework and Addressing Issues in the Fight Against Transnational Crime.

The fight against transnational crime in the customs area requires a strong and harmonized legal framework, both at the national and international levels. This legislative framework should provide opportunities for the identification, prevention and prosecution of crimes that include smuggling, drug trafficking, tax evasion, environmental crimes, etc. In Albania, this framework has had particular progress in recent years, this also in function of the obligations that our country has on the harmonization of legislation with the European Union and international standards in all respective chapters. However, there are still some challenges and issues that require immediate addressing.

The fight against transnational crime in the customs area represents a complex challenge that requires an integrated approach between advanced legislation, institutional cooperation and international engagement. The Customs Code of the Republic of Albania, harmonized with the legislation of the European Union, constitutes a fundamental instrument for the prevention of fiscal evasion and smuggling, as well as for the strengthening of control over goods crossing national borders. However, its implementation remains challenging due to the lack of technical and human capacities of the customs administration. Improving customs controls requires specialized training, technological investments and sufficient resources to follow international best practices. At the same time, a key role is played by the Criminal Procedure Code of the Republic of Albania, which provides the legal framework for the investigation and

prosecution of transnational crimes, including structures such as the Special Prosecutor's Office against Corruption and Organized Crime (SPAK), the Court against Corruption and Organized Crime (GJKKO), Prosecutor's Offices and Courts of General Jurisdiction. Despite efforts for inter-institutional cooperation, full coordination between the customs administration and other law enforcement agencies is often lacking, which affects the effectiveness of investigations.

To address the problems presented and to increase the efficiency in the fight against transnational crimes in the customs area, it is necessary for Albania to continue to improve legislation and strengthen inter-institutional and international cooperation. An important part of this process is to increase the capacities of the customs administration and justice institutions to successfully cope with the threats of customs and environmental crimes that affect national and international security.

3. Innovations of Directive (EU) 2017/1371 on the Fight against Transnational Crime in the Customs Field.

Directive (EU-2017/1371) of the European Parliament and of the Council (www.europarl.europa.eu) adopted on 5 July 2017, is of particular importance in the fight against transnational crime and in improving international and inter-institutional cooperation in the field of investigation and prosecution of financial crimes, including customs crimes. This directive is an important step in strengthening the capacities of the Member States of the European Union to combat crimes that affect not only financially, but also directly the customs sector, focusing on actions that affect public finances and international security. It creates a stronger and more harmonized legal framework, offering greater opportunities for the investigation and prosecution of criminal activities such as tax evasion and smuggling, which seriously damage the economic and institutional system of the EU countries.

One of the main innovations of the Directive (EU-2017/1371) is the expansion of the scope of criminal offences considered as "serious crimes", including not only tax evasion, smuggling of prohibited goods and tax avoidance, but also other actions that harm economic systems and legal trade. This expansion of the scope of serious tax crimes aims to better capture the transnational and multiple nature of these crimes, allowing for a better treatment of those crimes that cross national borders and have consequences in several countries at the same time. The Directive also sets out clear and detailed criteria for the classification of these crimes, based not only on the economic damage they cause, but also on the impact and transnational nature of the criminal acts that occur beyond the borders of a country.

Another important element of the Directive is the importance of cooperation between the Member States of the European Union and international organisations, such as Europol (www.europol.europa.eu) and Interpol (www.interpol.int). This cooperation is vital to more effectively address transnational crimes, which are often organised on a global scale and involve criminal networks operating in several countries. The Directive emphasises that Member States must improve the exchange of information and coordinate investigations to prevent and combat crimes that infringe customs and financial law. This exchange of information must be rapid and efficient, enabling investigations to proceed more quickly and to achieve measurable results in stopping crimes. This close cooperation encourages the use of the possibilities offered by technology for the exchange of data and for the analysis of the information collected, thus increasing the efficiency of investigations and the prevention of criminal activities.

Another important aspect of the Directive (EU- 2017/1371) is the use of advanced technologies and data analysis to improve the surveillance of goods and prevent illegal activities. The Directive encourages the use of information and data management systems to improve the control and monitoring operations of goods crossing the borders of the European Union. The use of advanced systems for the surveillance of goods such as ASYCUDA, SEED, etc., enable greater transparency and better control in customs processes, enabling faster identification of illegal and suspicious goods. These technologies also offer the opportunity to analyze the data collected more deeply and quickly, helping to uncover and prevent criminal activities, such as illegal trafficking of goods and evasion of customs duties.

Another advantage of this directive is the strength of the sanctions and punitive measures that it provides for, to ensure that criminal offences are met with serious consequences. The directive requires a tough sanctions regime that includes severe penalties and the possibility of confiscation of assets obtained from crime. This system aims to increase the effectiveness of sanctions, preventing such illegal acts in the future. This is necessary to have a deterrent effect on individuals and criminal groups that may engage in activities that harm the economy and public security. The use of sanctions is a key tool to crack down on organised crime and to prevent the recurrence of illegal acts.

Although Directive (EU) 2017/1371 provides a comprehensive and coordinated framework for the fight against transnational crime in the customs and financial area, its effective implementation requires continuous commitment and close cooperation from Member States and international agencies. To be effective, this Directive needs to be implemented in a coordinated manner, ensuring that national laws and practices of law enforcement institutions comply

with EU requirements. This will enable the challenges of transnational crime to be addressed more effectively and create a safe and secure environment for citizens and institutions of the European Union.

In summary, Directive (EU) 2017/1371 represents a coordinated and joint effort by the Member States of the European Union to combat transnational crime in the customs area, by establishing a legal and operational framework that strengthens international cooperation, the use of modern technologies, and punitive measures to prevent and combat financial and customs crime. Its success depends on effective implementation and the ongoing commitment of all parties involved.

4. Customs Administration and Law Enforcement Agencies' Actions against Transnational Crime

Transnational crimes pose a serious challenge for customs administration and law enforcement agencies, requiring coordinated actions and effective interventions to prevent and punish them. Below are some examples of successful operations aimed at cracking down on these illegal activities:

1. Operation against cigarette smuggling with the ship "Era 1" (2014) In 2014, the Albanian authorities finalized a significant operation against cigarette smuggling in the country's territorial waters. The ship "Era 1" was seized off the coast of Vlorë, transporting around 3,000 packages of smuggled cigarettes, worth millions of euros. This operation was carried out thanks to the close cooperation between the Customs Administration, the Border Police and other law enforcement agencies, proving the effectiveness of border controls and the importance of inter-institutional coordination in the fight against smuggling.
2. Dismantling the criminal drug trafficking network "Los Blancos" (2018) As part of an international operation conducted in 2018, Albanian authorities, in cooperation with the US Drug Enforcement Administration (DEA) and Europol, dismantled a powerful criminal network known as "Los Blancos". This group was involved in drug trafficking from Latin America to Europe, using Albania as a transit hub. The operation demonstrated the importance of international cooperation in the fight against drug trafficking and the role of Albanian institutions in stopping such criminal activities.
3. Seizure of over 1.3 tons of cocaine at the Port of Durrës (2018) Another successful operation was carried out in March 2018, when Albanian authorities seized a quantity of over 1.3 tons of cocaine at the Port of Durrës. The narcotic substance was hidden in a banana container that had arrived from Colombia. This operation was carried out by the State Police and the Customs Administration, in cooperation with international partners. This case marked one of the largest drug seizures in the history of Albania and demonstrated the importance of strict customs controls and the ability of the authorities to prevent the introduction of narcotics into the European market.

These cases demonstrate the commitment and efficiency of the customs administration and law enforcement agencies in addressing transnational crimes. Coordinated actions, inter-institutional cooperation and commitment to law enforcement remain key factors in the fight against smuggling, trafficking in narcotics and other crimes of a transnational nature.

5. Conclusions

In conclusion, the fight against transnational crimes in the customs area is a complex challenge that requires close coordination between national and international institutions. Crimes such as smuggling, trafficking in counterfeit goods, tax evasion and money laundering harm not only the state economy, but also national and international security. European Union legislation, including the European Union Customs Code and the directives on the fight against fraud, constitute a powerful instrument for addressing these challenges.

In this context, Albania has established a structured legal framework, including the Customs Code, Law No. 9917, dated 19.05.2008, "On the Prevention of Money Laundering and Financing of Terrorism", the Law on National Security, to guarantee a safe and orderly management of international trade. Also, the role of institutions such as SPAK and law enforcement agencies, such as customs and the police, is essential for the investigation and prosecution of these crimes.

Tackling these crimes requires the use of advanced technologies, such as ASYCUDA and SEED, to modernize customs administration and improve the efficiency of information exchange. Inter-institutional and international cooperation, facilitated by organizations such as Europol and Interpol, is essential to combat such crimes that cross national borders.

Finally, sanctions and punitive measures, such as fines and criminal penalties, are necessary to create a fair and effective system to prevent and punish criminal activities. This requires a permanent commitment and close cooperation between all institutions to maintain security and stability at the national and international levels.

6. Recommendations

To improve the fight against transnational crimes in the customs area and to optimize efforts in the implementation of national and international legislation, some relevant recommendations can be given to institutions:

1. **Improving Inter-Institutional Cooperation:** Institutions such as Customs, Police, SPAK and tax authorities should strengthen cooperation and coordination between them to help identify and prevent criminal activities. An integrated and automated information exchange system would enable faster and more efficient responses.
2. **Improving Technology and Infrastructure:** The use of advanced systems such as ASYCUDA and SEED should continue to be developed and improved to increase efficiency in customs data management and to combat corruption. The implementation of more advanced technologies, such as data analysis and artificial intelligence, can help identify suspicious activities and prevent customs crimes.
3. **Increasing Training Capacities:** Continuous training of customs and other authorities on proactive investigation methods and the use of new technologies is essential. This will enable them to act more quickly and effectively against customs crimes and help identify illegal activities.
4. **Strengthening International Partnerships:** Cooperation with international agencies such as Europol and Interpol should be strengthened to tackle cross-border crimes. Active participation in international information systems such as RAPEX and other security systems can help to tackle these crimes more effectively.
5. **Increasing Penalties and Crime Control:** Sanctions and punitive measures should be made tougher to increase the effectiveness of preventing customs crimes. Implementing stronger and fairer punitive measures for those who violate the law would contribute to creating a safe and fair environment for businesses and individuals.
6. **Continue Reform and Enforcement of Legislation:** Efforts should continue to improve national legislation, ensuring that international laws and directives, such as those of the EU, are rigorously implemented. Strict enforcement of the Customs Code of the Republic of Albania and other laws to combat customs crimes is key to maintaining the integrity of international trade.
7. **Further Information Exchange:** The implementation of advanced systems for the exchange of information between customs authorities and law enforcement agencies is essential to prevent smuggling and tax evasion. The use of digital platforms and automated systems will improve the efficiency and transparency of customs procedures.

With these recommendations, responsible institutions can improve the fight against transnational crimes in the customs area and create a more secure and efficient system for managing international trade and protecting economic and national interests.

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- International Convention on the Harmonization and Simplification of Customs Procedures (Revised Kyoto Convention) – One of the key documents that sets standards for best practices in customs procedures. World Customs Organization
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Standards for Combating Smuggling of Goods – Directive on practices for preventing customs crime. WCO Revenue Programme

The Customs Code of the Republic of Albania, adopted in 2014, is in line with the customs legislation of the European Union (UCC - Regulation No. 952/2013), helping to facilitate trade and strengthen controls on prohibited and dangerous goods. In addition, Directive (EU) 2017/1371 on the protection of the EU's financial interests and international instruments such as the Revised Kyoto Convention and the SAFE Regulation of the World Customs Organization (WCO), provide a framework for strengthening cooperation between customs authorities and law enforcement agencies to combat customs crimes across their spectrum

WCO and EU Customs Training Manuals – Practical guidelines and standards for customs authorities. WCO Instruments and Tools

World Customs Organization (WCO) Directives