

THE DEVELOPMENT OF CUSTOMS LAW IN THE SCOPE OF EURASIAN INTEGRATION

Anna F. Algazina

Dostoevsky Omsk State University, Omsk, Russia

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The subject. The paper is devoted to the main trends of the Russian customs law at the present stage.

The purpose of the paper is to determine the place of customs law in the system of Russian law and to identify the features of its impact on the development of integration within the EAEU.

The methodological basis for the study: general scientific methods (analysis, synthesis, comparison, description); private and academic (interpretation, formal-legal).

Results, scope. Despite all the variety of social relations that make up the subject of customs law, their core is the relationship associated with the management of customs authorities, regulated by the rules of administrative law. In this regard, the allocation of customs law as an independent branch of law, in our opinion, is premature.

Further development of integration within the EAEU has necessitated the development and adoption of a new codified legal act regulating public relations in the field of customs.

Analysis of the provisions of the customs code of the EAEU revealed the following innovations, confirming the thesis on the simplification of regulation in the sphere of customs affairs:

- reduction of terms of performance of separate customs operations;
- priority of electronic Declaration form;
- improvement of the Institute of customs control;
- further development of the Institute of authorized economic operators.

Conclusions. Customs law is a sub-branch of administrative law at present. A natural consequence of the integration processes is the transformation of the domestic customs law into an alloy of international law, integration law (acts of the EAEU) and national law.

1. Introduction

The term “customs law” is used in three main aspects. This term is used to denote the relevant branch of Russian legislation, the branch of legal science and academic discipline. At the same time, there is no consensus in Russian legal science on the issue of the place of customs law in the system of Russian law, in connection with which an appeal to this issue seems to be highly relevant.

The agreed policy of the EAEU implies the development and implementation of joint actions of the Member States in order to achieve a balanced economic development in various areas of public relations, the most important of which is the field of customs. The inevitable consequence of integration processes on the basis of the post-Soviet space is the complication of the system of sources of customs law and its transition from an element of the system of exclusively national law to a certain fusion of international law, integration law (acts of the EAEU) and national law.

Entered into force on January 1, 2018. Customs Code of the Eurasian Economic Union is the result of deepening the degree of regional economic integration within the EAEU.

2. Place of customs law in the system of Russian law

The approaches to determining the place of customs law in the system of Russian law that have emerged in science can be divided into three groups. Proponents of the first approach

considered customs law as a sub-sector, and even the Institute of Administrative Law [1, p. 19-20; 2, p. 23; 3, p. 14].

The essence of the second approach is reduced to the recognition of customs law as an independent complex branch of law. [4, p. 63]. The first group of scientists considers customs law as an independent leg and legislation [5, p. 7].

Proponents of the first of these points of view proceed from the generality of the subject and method of legal regulation of customs and administrative law. The basis of the division of branches of law legal science traditionally puts such criteria as the subject and method of legal regulation. It is customary to single out two major method of legal regulation – the imperative and the dispositive, which correspond to the two main blocks of legal branches - public and private law [6, p. 21]. Unlike the method, the subject matter of each industry is a unique phenomenon.

The subject of customs law includes a significant number of groups of public relations. A very successful attempt to classify social relations included in the subject of customs law was made by A.G. Chernyavsky: “The first group is relations in the field of customs policy; the second is relations and principles related to the movement of goods and vehicles across the customs border; the third is relations characterizing the status of customs procedures; fourth, relations in the field of customs and tariff regulation; the fifth is relations in the field of collection of customs payments (federal customs revenues); the sixth is relations connected with the determination of the customs procedure; the seventh is relations in the field of customs control; eighth - relations in the field of customs statistics; the ninth - relations connected with smuggling and other crimes in the field of customs; the tenth is relations connected with violations of customs rules and responsibility for them; eleventh - relations arising in connection with the proceedings on violations of customs regulations; the twelfth - the relations arising in connection with the consideration of cases of violations of customs regulations” [7, p. 51].

In legal science and the institute of customs payments it is also proposed to include in the subject of financial law [8, p. 93].

Authors who believe that the allocation of customs law as a separate branch of law is justified rely on the concept of “integrated branches of law”.

One of the authors of this concept was V.K. Reicher, who considered that the “main” branches of law are distinguished strictly by objective criteria, and “complex” by objective and subjective criteria. [9, p. 190]. Later, based on this concept, S.S. Alekseev built the theory of “doubling the legal structure”, according to which complex branches of law are secondary entities that are superimposed on the main branches of law and the content of which is largely covered by the main branches of law [10, p. 28].

It seems reasonable position of the authors, noting the lack of theoretical and practical grounds for the selection of privileged (primary) branches and secondary branches of law [11, p. 5].

It is reasonable to consider the customs law as a sub-branch of administrative law and an independent branch of legislation.

3. Regional economic integration as a factor in influencing the development of customs law.

Integration processes have an important impact on the development of the law of countries participating in this process.

As a criterion for the effectiveness of integration in the legal literature it is proposed to consider the degree of harmonization and unification of the rights of members of the regional community [12, p. 19; 13, p. 118].

On May 29, 2014, the Treaty on the Eurasian Economic Union was signed in Astana. The Eurasian Economic Union is an international organization of regional economic integration with international legal personality. The bodies of the EAEU are the Higher Eurasian Economic

Council, the Eurasian Intergovernmental Council, the Eurasian Economic Commission, the Court of the Eurasian Economic Union.

The integration association has passed the stage of the free trade zone, having created the Customs Union in 2010. Then, in 2012, agreements were signed that formed the basis of the Common Economic Space, and on this basis it was decided to create a full-fledged economic union. Currently, five Member States are members of the EAEU: Russia, Kazakhstan, Belarus, Armenia and Kyrgyzstan.

The competence of the Union is determined by the Treaty on its creation and international treaties concluded between the Member States on matters related to the functioning and development of the Union. The activity of the EAEU is based on certain guidelines that can be divided into three groups. The first group includes generally recognized principles of international law, including the principles of the sovereign equality of member states and their territorial integrity. The second group of principles is connected precisely with the protection of national interests. The last group of principles concerns the effective development of economic relations.

Regional economic integration is evolving through the implementation of a coordinated, coherent policy in the sectors of the economy defined by the Treaty on the EAEU and international treaties within the Union.

Coordinated policy EAEC involves the development and implementation of joint action by Member States to achieve a balanced development of the economy of the Member States in the following areas: the functioning of a single customs territory, the common markets approx drugs, foreign trade policies of the Union, customs and tariff regulation and non-tariff regulation, the implementation of technical regulation, the application of sanitary, veterinary-sanitary and quarantine phytosanitary measures [14, p. 52].

The logical consequence of integration processes is the transformation of domestic customs law into a fusion of international law, integration law (acts of the EAEU) and national law.

4. Features of the Customs Code of the EAEU as the regulatory framework of the unified customs regulation within the Eurasian Economic Union.

Customs Code of the European Economic Union, replacing the Customs Code of the Customs Union, entered into force on January 1, 2018

The adoption of this codified regulatory legal act is aimed at further simplifying and speeding up the administrative procedures mediating the movement of goods across the customs border.

Analysis of the provisions of the EAEU Customs Code allows us to highlight the following innovations, confirming the thesis on the simplification of regulation in the field of customs:

- reduction of the time required to complete certain customs operations. For example, the deadline for registration or a decision to refuse to register a customs declaration has been shortened in two. In accordance with Art. 111 of the EAEU Customs Code specified period is not more than 1 hour of working time of the customs authority since the submission of the customs declaration, if a shorter period is not established by the legislation of the Member States on customs regulation.

Also significantly accelerated the release of goods: by virtue of Art. 119 of the EAEU Customs Code as a general rule, the release of goods must be completed by the customs authority within 4 hours from the date of registration of the customs declaration. In accordance with Customs Code of the Customs Union this period was one working day following the day of registration of the customs declaration;

- priority of the electronic form of declaration. Art. 104 of the EAEU Customs Code explicitly provides that the main form of customs declaration is electronic. The written form of customs declaration is allowed only in exceptional cases, for example, in relation to goods for

personal use; in respect of goods sent by international mail. Art. 179 of the Customs Code of the Customs Union, by contrast, established the equivalence of the two forms of customs declaration;

- Improving the institution of customs control. The concept of “measures to ensure the conduct of customs control” has been introduced in the EEU Customs Committee; among them are:

- 1) to conduct an oral survey;
- 2) request, demand and receive documents and (or) information necessary for customs control;
- 3) to appoint a customs examination, take samples and (or) samples of goods;
- 4) to identify goods, documents, vehicles, premises and other places;
- 5) use technical means of customs control, other technical means, water and aircrafts of customs authorities;
- 6) to apply customs escort;
- 7) to establish the route for the transport of goods;
- 8) to keep records of goods under customs control, customs operations with them;
- 9) to involve a specialist;
- 10) to involve specialists and experts from other state bodies of the member states;
- 11) to demand the performance of cargo and other operations in relation to goods and vehicles;
- 12) to carry out customs surveillance;
- 13) to check the availability of a system of accounting of goods and record keeping of goods.

The list of forms of customs control is reduced. When conducting customs control, customs authorities apply the following forms of customs control:

- getting explanations;
- verification of customs, other documents and (or) information;
- customs inspection;
- customs inspection;
- personal customs inspection;
- customs inspection of premises and territories;
- customs check.

Thus, a part of the customs control tools was transformed from forms of control into measures that ensure the implementation of customs control. Thus, the legislator stressed the importance and priority it is the means of customs control that are named in the list of forms of customs control.

- further development of the institution of authorized economic operators. Under the authorized economic operators are commonly understood as legal entities engaged in the activity of moving goods across the customs border of goods and recognized by the national customs authority to meet the standards of security of foreign economic activity. This institution is a reflection of the degree of state confidence in economic entities engaged in foreign economic activity. [15, p. 39-41]. The novelty of the EAEU Customs Code is the differentiation of the legal status of authorized economic operators into three depending on the type of certificate they receive and the simplifications provided : authorized economic operators having certificate of the first type (designed for the customs representative and carrier) ; authorized economic operators having a certificate of the second type (designed for owners of temporary storage warehouses) ; authorized economic operators having certificates of the third type (combines the simplifications provided for the first and second types).

The appearance in the of the EAEU Customs Code of the legal definition of the term “special simplifications” deserves a positive assessment. According to Art. 437 of the EAEU Customs Code with special simplifications are understood as features of performing certain

customs operations and carrying out customs control and other features of applying the provisions to the code, depending on the type of certificate of the authorized economic operator.

5. Conclusions.

Despite all the diversity of social relations that form the subject of customs law, their core is formed by relations connected with the management activities of customs bodies regulated by administrative law. In this regard, the allocation of customs law as an independent branch of law, in our opinion, is premature. The consideration of customs law as a subsector of administrative law seems reasonable.

Integration processes have an important impact on the development of the law of countries participating in this process. The logical consequence of integration processes is the transformation of domestic customs law into a fusion of international law, integration law (acts of the EAEU) and national law.

Further development of integration within the EAEU necessitated the development and adoption of a new codified legal act regulating social relations in the field of customs.

Analysis of the EAEU Customs Code provisions allows to distinguish the following innovations confirming thesis of simplifying adjustment in the customs area:

- reduction of the time required for individual customs operations;
- priority of the electronic declaration form;
- improving the institution of customs control;
- further development of the institution of authorized economic operators.

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INFORMATION ABOUT AUTHOR

Anna F. Algazina – PhD in Law, senior lecturer, Department of State and Municipal Law
Dostoevsky Omsk State University
55a, Mira pr., Omsk, 644077, Russia
e-mail: anna_masalab@mail.ru
ORCID: 0000-0003-3429-1910

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