

THE CUSTOMS SYSTEM, CUSTOMS PROCEDURES AND PRACTICES WITH FOREIGN AND DOMESTIC GOODS, Tonka Jokić, 2007, Institute of Public Finance, Zagreb, 583 pp.

Review*

The procedures for assessing and collective public revenue, including, then, customs duty, are considered some of the most sensitive procedures in the legal system of every state, above all because, unlike other legal procedures, they involve every citizen during their lifetimes, in spite of or even expressly against their wills.

Hence a book in which the numerous and diverse customs procedures are dealt with in detail, giving examples of application, is an invaluable contribution to the Croatian customs procedural law.

The book concerned, is the work of Tonka Jokić written in Croatian language under the title “Carinski sustav – carinski postupci i postupanja sa stranom i domaćom robom”. A graduate lawyer, she has spent the whole of her working life in the customs service. Thanks to her outstanding knowledge of customs procedures and the many issues that appear in the implementation of them, Tonka Jokić has written a work that can with full justice be considered fundamental for a study of the Croatian customs system.

What does the work contain?

In the first chapter – Bases of the customs system – the author, as well as giving a survey of the Croatian customs system, describes the sources of customs law and explains concepts from customs regulations, thus facilitating the understanding of the chapters to come. Particularly worthwhile is the author’s explanation of concepts such as authorised business entity, which is still new for the customs law of the EU, and which, in the process of harmonisation, we have already built into the terminology of Croatian customs law.

The second chapter – Base for the calculation of the debt – contains a detailed description of the basic elements pursuant to which the customs debt is calculated. This includes the tariff, the origin of the goods and the customs value of the goods. Along with each of the elements described the author gives the national statutory regulations and byelaws, as well as instruments of the customs body (such as binding opinions) and international

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agreements that govern these elements. Apart from that, along with individual examples (that relate to determination of the origin of goods) the forms that are used in the procedure for establishing the customs debt are given.

As well as customs duty, value added tax and up to eight excises are also levied on the traffic of goods across the customs border, the elements of which the author has also described.

In Chapter Three – Procedures with goods that are brought into the customs area of the Republic of Croatia – which is also the longest chapter, the author describes the path and possible procedures with goods that are brought into the customs area of the country. These goods can have applied to them the transit procedure, the procedure of release to the market, the postal traffic procedure and the passenger traffic procedure. The rights and duties of participants in each of these procedures are described in detail and explained with examples from practice. As well as this, parts of international agreements and conventions are quoted, as well as parts of national laws and regulations that relate to a given customs procedure.

The fourth chapter, entitled Customs procedures with economic consequences, deals with procedures “in which certain production or service economic activities are carried out” (p. 271). Thus the procedure of customs warehousing is applied to the service of storing domestic and foreign goods, and the procedure of internal production is applied to imported goods that are processed in the area of Croatia and after that exported or released to the market, a procedure that is exceptionally complex.

Furthermore, if domestic goods are exported for finishing, processing, repair, assembly and so on, the procedure of external production has to be applied.

If, though, foreign imported goods are processed in the Croatian customs area and then released to the market, but at a lower customs rate (for it has changed its kind and condition through the processing), the process of customs supervised processing has to be employed.

The temporary import procedure is a procedure that is applied only to certain goods, including means of transport that are introduced into the Croatian customs area for a certain purpose. According to the provisions of this procedure, such goods are provisionally exempted from the payment of customs and taxation, and no commercial restraints or prohibitions are applied to them. The conditions in which this procedure is applied are the mandatory export of such goods in a given period of time and the unchanged state of the goods except for the usual depreciation because of normal wear and tear.

In the fifth chapter – Other customs allowed procedures or use of goods – the author explains and describes the difference between the concept of the customs allowed procedure or use of goods and the concept customs procedure. For all goods that are brought into the Croatian customs area are subject to a certain manner of procedure and use even before they are involved in a given procedure. Such goods, for example, even before being involved in a given customs procedure, can be brought into a free zone or a free warehouse, re-exported from the Croatian customs area, destroyed, or ceded to the government.

The sixth chapter – The export procedure – contains a description of procedures undertaken during export. These procedures are applied above all to domestic goods, i.e.,

to goods that are obtained or produced in the area of the country or in its territorial waters. In addition, these procedures are applied to foreign goods if they are imported into the Croatian customs area as object of the procedure of internal production or temporary import.

The export procedure is initiated with the submission of, as a rule, the UCD/United Customs Declaration.

The author has devoted particular attention to the numerous specific features of this procedure and has appended in connection with them declaration forms and other written documents the application of which in this procedure is mandatory.

In chapter seven – Security for payment of the customs debt – we are concerned with the instruments used by the Customs Administration to make sure of the collection of the customs debt, along with the amounts of the mandatory customs and other dues that are collected on cross-border goods traffic. Instruments that are available are cash deposits, bills of exchange and bank guarantees. The essential thing about each of these instruments is that it must be sufficient to ensure the collection of the debt.

A customs debt is incurred either in the regular customs procedure or because of failure to comply with the customs law relations obligations (for example, because of improper procedure or use of the goods in the free zone, removal of goods from customs supervision and so on).

The author has not failed to give examples explaining cases in which a customs debt is not incurred, although a given customs procedure has been carried out on the goods. For example, when goods are for some reason destroyed during a procedure or if the procedure cannot be concluded or if the goods have been naturally lost.

The eighth chapter – Protection of intellectual property rights – contains a review of the new obligations of the customs body, the consequence of the Republic of Croatia's having joined the WTO and accepted the SAA with the EU and its members.

In this new obligation the customs body acts as an agent for it “enables contact between the rights holder with the importer or the possessor of the goods and with the actual suspect goods” (p. 48). The court of jurisdiction has to pass final decisions about whether intellectual property rights have been infringed on, and the customs body only temporarily halts the conduct of the requested customs procedure.

Customs misdemeanours and felonies is the title of the ninth chapter. In this the author describes the procedure for handling customs offences.

The misdemeanour procedure is in the first instance handled by the Customs Misdemeanours Council of the customs house in the area of which the offence has been committed, while in the second instance it is handled by the Superior Misdemeanour Court. The legal basis pursuant to which a misdemeanour procedure is carried out is found in the Misdemeanours Law and the Customs Law. The procedure for customs felonies (more serious offences) is conducted by the court of jurisdiction.

In the ninth chapter, entitled Application of commercial and foreign currency regulations in customs procedures, two essential laws are separately described, laws the provisions of which must be taken into consideration during the conduct of any kind of cus-

toms procedure. These are the Commerce Law and the Foreign Currency Operations Law. The separate treatment of these regulations indicates the complexity of customs procedures and the need for persons who are authorised to carry out customs procedures to be broadly and soundly acquainted with the regulations.

The eleventh and last chapter – Application of the General Administrative Procedure Law and the Universal Tax Law in customs procedures – has been written bearing in mind the fact that customs procedures are in essence administrative procedures, to which, however, the regulations of administrative procedures are, because of their special nature, applied only subsidiarily. Similarly, the provisions of the Universal Tax Law are legally relevant in the conduct of customs regulations unless the customs regulations decide otherwise.

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This book by Tonka Jokić, *The Customs System and Customs Procedures and Practices with Foreign and Domestic Goods*, is a work in which we can find answers to almost every question related to Croatian customs procedural law. The author found it possible to write such a book because the whole of her working life has been tightly connected with customs law. She has not only applied it, but taken part in its creation, and in recent times in its harmonisation with the *acquis*.

The book is written in a simple and perspicuous style. The legal institutes from the area of customs law are described in a scope that corresponds to the needs of the branch. She has shown the broad area of customs procedural law in such a way that it can be used by people with great legal expertise, or by those who have yet to acquire it.

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