

Union legal framework for customs infringements and sanctions

2013/0432(COD) - 13/12/2013 - Legislative proposal

PURPOSE: to establish a framework for breaches of the Unions Customs legislation and provide for penalties applicable where they are infringements.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: despite the fact that customs legislation is fully harmonised, its enforcement and the lawful imposition of sanctions lie within the ambit of Member States' national law.

A Project Group established by the Commission with 24 Member States, under the Customs 2013 Program analysed the 24 national regimes for customs infringements and related sanctions and reported back to the Commission.

Several substantial differences were noted regarding Member States' customs infringements and sanctions systems.

Within the European Union, the different enforcement of customs legislation makes the effective management of the customs union harder. For economic operators, the differences in the treatment of infringements of Union customs legislation have an impact on the level playing field, thus providing an advantage for those who breach the law in a Member State with lenient legislation for customs sanctions.

A major overhaul of this Code was carried out in Regulation (EC) No 450/2008 (Modernised Customs Code), now recast and repealed by [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council laying down the Union Customs Code (UCC).

This harmonised customs legislation needs to be strengthened with common rules regarding its enforcement. The need to take some steps in this direction has already been pointed out by the European Parliament in two reports, one from [2008](#) and another from [2011](#).

IMPACT ASSESSMENT: the impact assessment concludes that the preferred option is a legislative measure that would identify customs obligations to which special protection should be given through the establishment of non-criminal sanctions for any breaches of such obligations.

CONTENT: the proposal sets a common legal framework for the treatment of customs infringements and sanctions. It aims to bridge the gap between different legal regimes through a common platform of rules and thus contribute to an equal treatment between economic operators in the EU, as well as the effective protection of the Union's financial interests and law enforcement in the field of customs.

Specifically, the proposal:

- includes a common list of different infringements (strict liability, committed with negligence and committed with intent) that breach the rules of the Union Customs Code;
- establishes a common scale of effective proportionate and dissuasive sanctions linked to the infringements and sets out relevant circumstances that should be taken into account by the competent authorities from Member States when determining the type and level of sanctions for customs infringements;
- defines certain cases where behaviour falling within the categories defined as strict liability infringements shall not be considered as such when they are due to an error on the part of the competent customs authorities;
- deals with the liability of persons playing a relevant role in the commission of customs infringements with intent (including legal persons), stating an equivalent treatment to that of the persons committing the infringement to those inciting, aiding or abetting these infringements;
- includes some necessary procedural provisions in order to avoid overlap of sanctions for the same facts and persons: the time limit within the competent authorities must initiate the procedure against the person responsible of the infringement; the possibility of suspending the sanctioning proceeding in those cases where criminal proceedings are being carried out with regard to the same facts; territorial competence by defining which Member State is considered competent to deal with the case when the infringement involves more than one Member State.