**CUSTOMS ETHICAL ISSUES: THE CASE OF THE REPUBLIC OF MACEDONIA**

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**Abstract**

Customs administrations throughout the world perform a number of vitally important tasks on behalf of their respective Governments. Fulfilling that task Customs officers face a range of ethical issues regarding professional integrity.Integrity can be defined as a positive set of attitudes which foster honest and ethical behavior and work practices. It involves developing and maintaining a positive set of attitudes and values which give effect to an organizations aims, objectives, and the spirit of its integrity strategy. It is therefore a prerequisite for the proper functioning of a Customs administration. Customs administrations play a key role in trade facilitation, revenue collection, community protection and national security. The lack of integrity and presence of corruption can severely limit Customs capacity to effectively accomplish its mission. It can distort trade and investment opportunities, undermine public trust in government administration and ultimately jeopardize the well being of all citizens.

The subject of the study is the presence of ethical issues regarding professional integrity in Customs administration. The goals of the study are to detect and analyze the current situation and identify solutions which fit the culture, needs, resources and operating environment of the country. To achieve the goals of the study quantitative and qualitative data collection methods were used. The collected data refers to the number of internal inspections in the Customs administration of the Republic of Macedonia, number of internal investigations, disciplinary procedures and criminal charges for the period of 2006-2014. The results of the study provide an introduction to the nature of the corruption problem in customs and describe some important considerations to take into account when framing an effective anticorruption strategy for customs.

Keywords: customs, Customs administration, ethical issues, integrity, corruption

INTRODUCTION

Broadly speaking, integrity can be defined as a positive set of attitudes which foster honest and ethical behavior and work practices.

Integrity is more than simply the absence of corruption. Rather it involves developing and maintaining a positive set of attitudes and values which give effect to an organizations aims, objectives, and the spirit of its integrity strategy. It is therefore a prerequisite for the proper functioning of a Customs administration. The special position of the Customs authorities within the international trade supply chain, both in terms of its regular contact with financial and goods movements, and the application of specific legal powers, requires a high degree of professional integrity on the part of Customs officials.

To assist Customs authorities to instill a high degree of integrity at all levels within their administration, the World Customs Organization (WCO) has produced a number of helpful tools for use by its members. In addition, WCO has spent a considerable amount of time promoting the concept of integrity within Customs. These efforts resulted in the adoption by WCO members of what is now known as revised Arusha Declaration on Integrity in Customs. The Declaration commits Customs administrations to maintain a high standard of integrity throughout their management and operational spheres by the introduction of national integrity programmes.

Integrity in customs also play its part from a trade facilitation perspective. A Customs administration suffering from a lack of integrity will normally be less effective and certainly inefficient resulting in little or no trade facilitation due to mismanagement, bad governance and flourishing corruption. It thus remains imperative or all stakeholders in the international trade environment to fully support all efforts to introduce a culture of integrity throughout the goods supply chain.

CUSTOMS PROFESSIONAL INTEGRITY: THE CASE OF THE REPUBLIC OF MACEDONIA

In many developing countries, high levels of corruption drastically reduce the effectiveness of key public sector agencies. Customs administrations are no exception and are frequently cited as among the most corrupt of all government agencies. Given the vitally important role customs plays in revenue collection, trade facilitation, national security, and the protection of society, the presence of corruption in customs can severely limit a nation's economic and social prospects and national development ambitions.

Attempts to deal with corruption in the past have often been frustrated by well-intentioned but totally ineffective calls for the adoption of industrial countries' standards of administrative honesty, effectiveness, and efficiency or, perhaps, the adoption of quick fix solutions designed to work around rather than deal with the problem. Recourse to pre-shipment inspection services has at times been inspired by such motives. To effectively tackle the problem of corruption in customs, a comprehensive and sustainable approach that addresses the underlying causes and consequences is required. There are no quick fix solutions. Rather, a pragmatic and situation-specific approach is necessary-one that draws on the lessons learned from previous efforts around the world and that takes into account the fundamental issues of motive and opportunity.

The Republic of Macedonia, as a developing country, has developed a significant problem of corruption in almost all spheres of society, with emphasis on the public administration, including the Customs Authority as an integral part of the public administration.

The goal of the government to fight against corruption and to strengthen the professionalism and integrity of the customs officers was frame worked in 2006. As a result of the government’s aim to fight against corruption, the main activities to achieve this goal were undertaken in 2007.

One of the strategic objectives for creation of highly professional and well trained personnel is effected through trainings and vocational qualification of the customs officials. Within 2007 various activities for advanced vocational training of the customs officials were carried out on regular basis.

In the context of the afore-mentioned, in March 2007, the Customs Administration passed a Strategy on Training and professional development of the customs officials. The Strategy establishes the basic principles of the training and professional development training policy, and the roles and responsibilities of all participants in the training process in relation to the European Integration Process are particularly emphasized. New manners and methods for performance of the trainings are suggested, such as the e-learning and trainings for targeted groups of participants by application of interactive methods of training.

In February 2007 an Internal Act on Assessment of the Working Capabilities and the Procedures for Hiring Personnel by Public Announcement at the Customs Administration was adopted. Thus, the criteria from the Conventions and Recommendations of the International Labour Organization (ILO), The Revised Arusha Declaration of the Customs Cooperation Council, the Law on Customs Administration and the Law on Prevention of Corruption, regarding employment, as well as the EU standards were fulfilled. On grounds of this Act, the Customs Administration for the first time provides equal opportunities for all candidates, rule of law, integrity protection, eradication of the possibilities for corruption and reduction of the discretionary rights. The choice and the selection is made on grounds of previously set criteria and standards, by assessment of the performance capabilities, depending on the special conditions for the working post, that is carried out by a specially formed Commission. On grounds of this Act, in 2007, procedures for hiring of 200 customs officials were carried out.

In order to evaluate and promote the professional knowledge, Operational Guidelines for the Evaluation System of the Operation of the Customs Officials was adopted in October 2007.

Within the framework of the activities for establishment of a sustainable system for prevention of the corruption, in March 2007, in cooperation with the experts engaged by the CAFAO MAK a Study on the position of the Customs Administration in the fight against corruption and the misuse of official powers was elaborated.

In order to implement the strategic objectives for prevention of the corruption more efficiently, the Customs Administration adopted the Revised Arusha Declaration (a brochure published, distributed and presented to its employees) and adopted a Strategy for Integrity and Fight Against Corruption in the second half of 2007. Both were harmonized in the spirit and the objective of the Revised Arusha Declaration, as well as the Action Plan with deadlines for the implementation of the objectives of the Strategy.

In October 2007, the Customs Administration and the Trades Union signed a Code of Conduct of the Customs Administration. The Code determines the basic principles of conduct and operation during the execution of the working tasks: personal responsibility, compliance with the law, neutrality, public relations, presents, prizes and other kinds of profits, avoiding conflict of interests, political activities and professional conduct in money related matters, confidentiality and utilization of official information, use of professional equipment and official identification, working environment, duties and disciplinary liability.

Within the framework of the activities undertaken for systematic actions against corruption, records on criminal cases against actual and former customs officials was established in 2007, as well as records on investigation and disciplinary procedures against customs officials. At the same time, a practice is introduced (which shall be transformed into written procedures in 2008) of investigation of the entire operation of the employees, where misuse the official powers has been determined, bringing criminal charges against employees who by misusing their official position have damaged the budget, bringing a Demand for compensation with a ban for disposal of property, against the employees who damaged the budget, informing the State Commission for prevention of Corruption about the employees who are to submit a questionnaire for declaration of their property, informing the Public Revenue Office about all doubts regarding the origins of the property of the employees and disclosure of names of those employees against whom irrevocable rulings were passed, but also those who have been rewarded for special results achieved in their work.

In order to strengthen the cooperation in the field of fight against corruption among the institutions, by the end of 2007 a Memorandum on Cooperation with the State Commission for prevention of corruption, the State Public Prosecutor’s Office, the Public Revenues Administration, State Audit Administration, the Court Council, the Financial Police, the Administration for Money Laundry Prevention and the MOI was concluded.

REPRESSION OF THE ABUSE OF OFFICIAL DUTY AND THE CONFLICT OF INTERESTS

1. INTERNAL INSPECTIONS

Table number 1. INTERNAL INSPECTIONS

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Organizational Unit** | **Number of Inspections** | | | | |
| **2010** | **2009** | **2008** | **2007** | **2006** |
| Customs Headqarters | 53 | 35 | 17 | 2 | / |
| Customs House Skopje | 14 | 8 | 9 | 10 | 16 |
| Customs House Kumanovo | 5 | 4 | 2 | 1 | 1 |
| Customs House Shtip | 3 | 4 | 8 | 9 | 2 |
| Customs House Bitola | 10 | 2 | 5 | 6 | 2 |
| Customs House Gevgelija | 1 | 5 | 5 | 5 | 1 |
| **Total** | **86** | **58** | **46** | **33** | **22** |

Source: Annual Reports of the Customs Administration of the Republic of Macedonia 2006-2010

During 2010, in all organizational units of the Customs Administration 86 inspections were conducted (compared to the 58 in 2009; 46 in 2008, 33 in 2007, and 22 in 2006). The annexed Table shows that in the Customs Headquarters, in 2010, 53 inspections were conducted, and in this same year special attention was paid to the regularity in the operation of the Customs Headquarters, compared to 2009 when only 35 inspections were conducted, 17 inspections were conducted in 2008, and the mere 2 inspections that were carried out during 2007. Based on the findings from the conducted inspections, the internal investigations for disciplinary liability, as well as the undertaking of investigative measures and investigations against perpetrators of customs offences and criminal acts are continued.

1. INTERNAL INVESTIGATIONS

During 2010, the Communications and Coordination Department submitted 142 complaints to the Sector for Professional Responsibility that were received through the Customs Hotline (197). From the total of 142 complaints, it was acted on 16 and internal investigations were conducted and final reports were prepared, while in 66 cases after the undertaking of the activities for confirmation of the truthfulness of the allegations in the complaints, it was determined that they were groundless. The remaining 60 complaints were inspected but there was no ground for action due to their distrusting nature regarding the perpetration of a criminal act by a customs officer, a corruptive behavior by a customs officer or a serious violation of the rules for good order and discipline.

In 2010, 112 internal investigations were conducted (compared to the 127 in 2009, 140 in 2008, 240 in 2007, and 71 in 2006), and 27 cases were determined to be disciplinary infringements and irregularities (compared to the 52 in 2009, 70 in 2008 and 87 in 2007). Compared to 2007 and 2006, when in the Customs Headquarters not even one internal investigation was carried out, in 2009, 44 investigations were conducted and in 2008, 20 investigations were conducted, while in 2010, there were even 65 internal investigations in the Customs Headquarters.

Table number 2. INTERNAL INVESTIGATIONS

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Organizational Unit** | **Number of Inspections** | | | | |
| **2010** | **2009** | **2008** | **2007** | **2006** |
| Customs Headqarters | 65 | 44 | 20 | / | / |
| Customs House Skopje | 18 | 24 | 33 | 65 | 23 |
| Customs House Kumanovo | 15 | 24 | 22 | 29 | 17 |
| Customs House Shtip | 3 | 11 | 18 | 57 | 7 |
| Customs House Bitola | 5 | 12 | 25 | 27 | 14 |
| Customs House Gevgelija | 6 | 12 | 22 | 62 | 10 |
| **Total** | **112** | **127** | **140** | **240** | **71** |

Source: Annual Reports of the Customs Administration of the Republic of Macedonia 2006-2010

1. DISCIPLINARY PROCEDURES

In 2010, according to the received proposals for initiation of a procedure for establishing liability for violation of the good order and discipline, 21 disciplinary procedures were initiated (99 in 2009). In that same year, the following decisions were passed: 10 decisions for termination of the employment with a notice of dismissal, 16 decisions for termination of a procedure due to absence of responsibility or out datedness of disciplinary liability, 13 decisions for fines by 15% of the last month salary in a period of six months and a written warning. For unsatisfactory work results of the customs officers, 85 decisions were passed for decreasing the salary by 15% for the current month[[1]](#footnote-2).

In 2010, there was only one suspension of a customs officer for criminal acts related to the performance of the official duty (16 in 2009)[[2]](#footnote-3).

1. CRIMINAL CHARGES

In 2010, the Customs Administration brought 5 criminal charges against 4 customs officers: one criminal charge against a former employee in the Customs Administration for giving a false statement, one criminal charge against a customs officer for negligence of duties, 3 criminal charges against an employee and a former employee in the Customs Administration for assisting smuggling. In the same period of time, in collaboration with the Ministry of Internal Affairs, a criminal charge was brought against a customs officer for a committed criminal act –cybercrime with abuse of official duty and one criminal charge was brought against a customs officer for embezzlement[[3]](#footnote-4).

In August 2010, with the application of special investigative measures, a criminal charge was brought against a female customs officer for perpetrated criminal act – receiving bribe. In collaboration with the Financial Police one criminal charge was brought against 3 customs officers for abuse of official duty. In collaboration with the Organized Crime Department within Ministry of Internal Affairs and the Financial Police Directorate, one criminal charge was brought against 4 persons, one of them a customs officer suspected of assisting smuggling and abusing official duty[[4]](#footnote-5).

From the total of 216 recorded criminal cases against 182 customs officer (former and present employees), including December, 2010, 81 first degree verdicts were returned, 57 of them were final sentences, while 24 are still in procedure before the Courts of Appeal. The Supreme Court returned the cases, aged 3 to 7 years, in procedure for discussion in 24 instances. In the Primary Courts 20 cases are in judicial proceedings. The criminal cases against 27 persons are still in a phase of court investigation, and the cases against 17 persons are in a phase of submission of a bill of indictment. The Customs Administration has no information on 47 cases regarding the phase of the procedure for the submitted criminal charges against former and present customs officers.[[5]](#footnote-6)

CONCLUSION

Customs plays a central role in every international trade transaction and is often the first window through which the world views a country. The implications of corruption in customs on a nation's capacity to benefit from the expansion of the global economy are obvious. Data obtained from the World Bank's Investment Climate Surveys indicate that 40 percent of firms included in the 80-country survey rate Customs/Trade regulation as a major or moderate constraint to business investment (World Bank 2003). As business and investment decisions by multinational companies are increasingly subjected to international competition, the presence of widespread corruption in customs can act as a major dis-incentive to foreign investment. In addition, corruption in customs takes on new significance in the current environment of heightened concern about the security of international trade. Sophisticated systems and procedures designed to detect weapons of mass destruction will offer little protection if they can be circumvented simply by bribing customs officials.

In many developing countries, customs' collections continue to represent a large portion of government revenue. Figures provided by the WCO suggest that in many countries customs collects over 50 percent of all government revenue (WCO 2003a), and delays in the processing of imports and exports can cause significant losses, increase the cost of doing business, affect the competitiveness of a country's firms, and scare away foreign investment. The presence of widespread corruption can, therefore, destroy the legitimacy of a customs administration and severely limit its capacity to contribute to government objectives.

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