



2013/0432(COD)

22.3.2016

AMENDMENTS

11 - 37

Draft opinion
Franck Proust
(PE576.978v01-00)

Directive of the European parliament and of the Council on the Union legal framework for customs infringements and sanctions

Proposal for a directive
(COM(2013)0884 – C8-0033/2014 – 2013/0432(COD))

Amendment 11
Anne-Marie Mineur

Proposal for a directive

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Proposal for rejection

The Committee on International Trade calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to propose that the Commission proposal be rejected.

Or. nl

Amendment 12
Tiziana Beghin

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) Consequently, customs infringements and sanctions follow 28 different sets of legal rules. As a result of that, a breach of Union customs legislation is not treated the same way throughout the Union and the sanctions that may be imposed in each case differ in nature and severity depending on the Member State that is imposing the sanction.

Amendment

(2) Consequently, customs infringements and sanctions follow 28 different sets of legal rules. As a result of that, a breach of Union customs legislation is not treated the same way throughout the Union and the sanctions that may be imposed in each case differ in nature and severity depending on the Member State that is imposing the sanction, ***leading to losses of revenue for the Member States and trade distortions.***

Or. it

Amendment 13
Tiziana Beghin

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) That disparity of Member States' legal systems affects not only the optimal management of the customs union, but also prevents that a level playing field is achieved for economic operators in the customs union because it has an impact on their access to customs simplifications and facilitations.

Amendment

(3) That disparity of Member States' legal systems affects not only the optimal management of the customs union, but also prevents that a level playing field is achieved for economic operators in the customs union, ***who are already subject to different sets of rules in the 28 Member States***, because it has an impact on their access to customs simplifications and facilitations.

Or. it

Amendment 14
Anne-Marie Mineur

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) A list of behaviour which should be considered as infringing ***Union customs*** legislation and give rise to sanctions should be established. Those customs infringements should be ***fully*** based on the obligations stemming from the customs legislation with direct references to the Code. This Directive does not determine whether Member States should apply administrative or criminal law sanctions in respect of those customs infringements.

Amendment

(6) A list of behaviour which should be considered as infringing ***national and Union*** legislation and ***may*** give rise to sanctions should be established ***for each Member State***. Those customs infringements should be based ***in part*** on the obligations stemming from the customs legislation with direct references to the Code. This Directive does not determine whether Member States should apply administrative or criminal law sanctions in respect of those customs infringements, ***that being a matter for Member States themselves***.

Or. nl

Amendment 15
Tiziana Beghin

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) In order to facilitate the investigation of customs infringements, the competent authorities should be allowed to temporarily seize any goods, means of transport or any other instrument used in committing the infringement.

Amendment

(17) In order to facilitate the investigation of customs infringements, the competent authorities should be allowed to temporarily seize any goods, means of transport or any other instrument used in committing the infringement **and use an early warning system to notify the other competent authorities of the 28 Member States of the infringement.**

Or. it

Amendment 16

Anne-Marie Mineur

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Since this Directive aims to provide for a list of customs infringements common to all Member States and for the basis for effective, dissuasive and proportionate sanctions to be imposed by Member States in the area of the customs union, which is fully harmonised, those objectives cannot be sufficiently achieved by the Member States based on their different legal traditions, but can rather, by reason of the scale and effect, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

Amendment

deleted

Or. nl

Amendment 17
Franck Proust

Proposal for a directive
Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive covers the obligations of the Union, in accordance with World Trade Organisation (WTO) agreements, representing its Member States.

Or. fr

Amendment 18
Tiziana Beghin

Proposal for a directive
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Trade Facilitation

In accordance with the WTO agreement on trade facilitation, the Member States shall work together to set up an early warning system which can be used to notify the 28 Member States without delay of investigations into customs infringements and of established infringements in such a way as to facilitate trade, prevent illegal goods from entering the internal market and improve the effectiveness of checks.

Or. it

Amendment 19
Franck Proust

Proposal for a directive

Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Trade facilitation

In accordance with the WTO Trade Facilitation Agreement, Member States shall coordinate amongst themselves to establish a European Trade Facilitation Agency responsible for: coordinating key performance indicators regarding customs sanctions (analysis of number of appeals, recidivism rate); disseminating best practice among customs services (efficiency of controls and sanctions, reduction of administrative costs); passing on the experiences of economic operators and creating a link; monitoring how customs services perform their activities; performing statistical work on infringements committed by companies from third countries (thus directing the work of the customs towards so-called at-risk countries).

Or. fr

Amendment 20
Marine Le Pen

Proposal for a directive
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that legal persons are held liable for customs infringements committed for their benefit by any member of their staff if that individual can be deemed to have been exploited by the legal person concerned and that person has derived substantial benefit over a sufficiently long period of time.

Amendment 21
Marine Le Pen

Proposal for a directive
Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall also ensure that legal persons are held liable where the lack of supervision or control by a person referred to in paragraph 1a has made possible the commission of a customs infringement for the benefit of that legal person by a person under the authority of the person referred to in paragraph 1a.

Or. fr

Amendment 22
Tiziana Beghin

Proposal for a directive
Article 9 – point a

Text proposed by the Commission

Amendment

(a) where the customs infringement relates to specific goods, a pecuniary fine **from 1 % up to 5 %** of the value of the goods;

(a) where the customs infringement relates to specific goods, a pecuniary fine **of 5%** of the value of the goods;

Or. it

Amendment 23
Tiziana Beghin

Proposal for a directive
Article 9 – point b

Text proposed by the Commission

Amendment

(b) where the customs infringement is not related to specific goods, a pecuniary fine from EUR **150** up to EUR 7 500.

(b) where the customs infringement is not related to specific goods, a pecuniary fine from EUR **2 500** up to EUR 7 500.

Or. it

Amendment 24
Marielle de Sarnez

Proposal for a directive
Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The amounts of the fines applicable shall be reviewed by the Commission, together with the competent authorities of the Member States, five years after the entry into force of this Directive. The aim of the review procedure shall be to ensure that the amounts of fines applied under the Customs Union are more convergent, with a view to harmonising the operation thereof.

Or. fr

Amendment 25
Tiziana Beghin

Proposal for a directive
Article 10 – point a

Text proposed by the Commission

Amendment

(a) where the customs infringement relates to specific goods, a pecuniary fine **up to** 15 % of the value of the goods;

(a) where the customs infringement relates to specific goods, a pecuniary fine **of** 15 % of the value of the goods;

Or. it

Amendment 26

Franck Proust

**Proposal for a directive
Article 10 – point a**

Text proposed by the Commission

a) where the customs infringement relates to specific goods, a pecuniary fine **up to** 15 % of the value of the goods;

Amendment

a) where the customs infringement relates to specific goods, a pecuniary fine **of between 5% and** 15 % of the value of the goods **or of the duties evaded**;

Or. fr

Justification

In the case of high-value cargoes (e.g. oil or commodities), fines based on the value of the goods concerned may be huge. Member States must therefore be given the option of issuing fines based either on the value of the goods concerned or on the amount of customs duties which should have accrued to them.

**Amendment 27
Tiziana Beghin**

**Proposal for a directive
Article 10 – point b**

Text proposed by the Commission

(b) where the customs infringement is not related to specific goods, a pecuniary fine **up to** EUR 22 500.

Amendment

(b) where the customs infringement is not related to specific goods, a pecuniary fine **of** EUR 22 500.

Or. it

**Amendment 28
Marielle de Sarnez**

**Proposal for a directive
Article 10 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

The amounts of the fines applicable shall be reviewed by the Commission, together

with the competent authorities of the Member States, five years after the entry into force of this Directive. The aim of the review procedure shall be to ensure that the amounts of fines applied under the Customs Union are more convergent, with a view to harmonising the operation thereof.

Or. fr

Amendment 29
Franck Proust

Proposal for a directive
Article 11 – point a

Text proposed by the Commission

a) where the customs infringement relates to specific goods, a pecuniary fine **up to** 30 % of the value of the goods;

Amendment

a) where the customs infringement relates to specific goods, a pecuniary fine **of between 10% and** 30 % of the value of the goods **or of the duties evaded**;

Or. fr

Justification

In the case of high-value cargoes (e.g. oil or commodities), fines based on the value of the goods concerned may be huge. Member States must therefore be given the option of issuing fines based either on the value of the goods concerned or on the amount of customs duties which should have accrued to them.

Amendment 30
Tiziana Beghin

Proposal for a directive
Article 11 – point a

Text proposed by the Commission

(a) where the customs infringement relates to specific goods, a pecuniary fine **up to** 30% of the value of the goods;

Amendment

(a) where the customs infringement relates to specific goods, a pecuniary fine **of** 30% of the value of the goods;

Or. it

Amendment 31
Tiziana Beghin

Proposal for a directive
Article 11 – point b

Text proposed by the Commission

(b) where the customs infringement is not related to specific goods, a pecuniary fine *up to* EUR 45 000.

Amendment

(b) where the customs infringement is not related to specific goods, a pecuniary fine *of* EUR 45 000.

Or. it

Amendment 32
Tiziana Beghin

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Each year the Commission shall publish details of the sanctions imposed by the 28 Member States for the customs infringements referred to in Articles 3 to 6 of this Directive. In addition, economic operators found to have committed repeated customs infringements as referred to in Article 5 of this Directive shall have their names included in a public list forwarded to the competent customs authorities throughout the Union.

Or. it

Amendment 33
Maria Arena

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure compliance with Regulation No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences. Infringements of Article 33 (Chapter VII) of that Regulation shall be subject to the sanctions provided for in Article 11(1) of this Directive.

Or. fr

Amendment 34
Marielle de Sarnez

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The amounts of the fines applicable shall be reviewed by the Commission, together with the competent authorities of the Member States, five years after the entry into force of this Directive. The aim of the review procedure shall be to ensure that the amounts of fines applied under the Customs Union are more convergent, with a view to harmonising the operation thereof.

Or. fr

Amendment 35
Maria Arena

Proposal for a directive
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The fact that the goods concerned are

subject to prohibitions, quantitative restrictions or surveillance measures on grounds of, in particular, public morality, public policy or public security, or the protection of health and life of humans as referred to in Article 24(2) of Regulation (EU) 2015/478 of the European Parliament and of the Council on common rules for imports shall be considered an aggravating factor.

Or. fr

Amendment 36
Marielle de Sarnez

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

Member States shall co-operate and exchange any information necessary for the proceedings concerning an act or omission constituting a customs infringement referred to in Articles 3 to 6, in particular in case more than one Member State has started proceedings against the same person in connection with the same facts.

Amendment

Member States shall co-operate and exchange any information necessary for the proceedings concerning an act or omission constituting a customs infringement referred to in Articles 3 to 6, in particular in case more than one Member State has started proceedings against the same person in connection with the same facts. *The objective of cooperation between Member States shall be to increase the effectiveness of customs checks on goods and to harmonise procedures within the Union.*

Or. fr

Amendment 37
Marielle de Sarnez

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

The Commission shall, by [1 May 2019], submit a report on the application of this Directive to the European Parliament and the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.

Amendment

The Commission shall, by [1 May 2019], submit a report on the application of this Directive to the European Parliament and the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. ***The report shall incorporate performance criteria demonstrating progress made as regards strengthening the Customs Union and convergence of procedures.***

Or. fr