



# **Proposal for a Directive of the European Parliament and of the Council on the Union legal framework for customs infringements and sanctions**

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# Overview:

- 1. Current situation in the Member States**
- 2. The context**
- 3. Some preliminary considerations**
- 4. Main features of TAXUD's proposal**



# Current situation in the MS

(based on the Main findings of the Report by 24 MS)

- **16 out of 24 Member States provide for both criminal and non-criminal sanctions.**
- **8 out of 24 Member States only have criminal sanctions**
- **Financial thresholds: between 266 and 50.000 euros**
- **Strict liability infringements (in 11 out of 24 MS)**

# Current situation in the MS (2)

(based on the Main findings of the Report by 24 MS)

- Time limits to initiate a sanction procedure, to impose a customs sanction and to execute it; from 1 to 30 years. (1 MS does not foresee any time limit at all).
- Legal Persons' liability: in 15 out of 24 Member States.
- Settlement :15 out of 24 Member States have this procedure for customs infringements

## An example

- **Company X lodged an export declaration at the customs office of export 2 days after the goods were loaded in the export container.**

Sanctions	MS	Type
Criminal	9	a) Pecuniary from 1250 EUR to 1.800.000 EUR
	2 (from the 9)	b) Imprisonment
Non criminal	15	Pecuniary from 393 to 500.000 EUR
No sanction	1	
Settlement	15	



# The context

**(other EU texts with direct impact on the customs sanctions)**

**1. The "PIF Directive" (proposal for a Directive on the fight against fraud to the Union's financial interests) COM (2012) 363**

**2. Council Regulation (EC, Euratom) N° 2988/95 on the protection of the ECs financial interests, OJ L 312, 23.12.1995**

**3. Regulation EU N° 952/2013 of .10.2013(UCC)**



# Some preliminary considerations

**1. The "cross border" dimension of customs infringements**

**2. The need for co-operation between the MS justified mainly by:**

- The need to have common reference(= common language) on which the cooperation is based

- The "spill over" effect to other policy sectors (eg. Agriculture, environment VAT) and the pivotal role of customs

- "ne bis in idem" principle



# **Main features of TAXUD's proposal (1)**

## **1. The aim and objectives**

**. Bridge the gap between different legal regimes in order to achieve a more uniform and effective application of EU customs law in every part of the EU through:**

- a common "nomenclature" of behaviours that must be considered infringements of the Union's customs rules**
- a common framework for imposing sanctions to these infringements**





## **Main features of TAXUD's proposal (2)**

### **1. The legal instrument**

**a Directive which Member States will have to transpose in their national legislation (flexibility, respect of the different legal system, time for transposition).**

### **2. A common list of infringements stemming from the UCC obligations (Art. 3 to 6)**

**-strict liability infringements**

**-infringements committed with negligence**

**-infringements committed with intent**

## **Main features of TAXUD's proposal (3)**

### **3. An "approximation" of customs sanctions**

- A common scale of effective proportionate and dissuasive sanctions (Art. 9 to 11)
  - ✓ *The type of sanction : pecuniary*
  - ✓ *The criteria: value of the goods or specific amount*
- The relevant circumstances to take into account by the competent authorities (Art. 12)

## **Main features of TAXUD's proposal (4)**

### **4. Liability of legal persons (Art. 8)**

### **5. Some procedural aspects (Art. 13 to 15) on:**

- limitation period for proceedings concerning a customs infringement (Art. 13)
- suspension of the proceedings where criminal proceedings have been initiated against the same person in connection with the same facts (Art.14)
- Jurisdiction in case more than one MS is involved and territorial competence (Art.15)

## **Main features of TAXUD's proposal (4)**

**6. Co-operation between customs authorities (Art. 16)**

**7. Seizure as temporary measure (Art. 17)**

- of the goods
- means of transport
- and any other instrument used to commit the infringement



## **Conclusion**

**The proposal is balanced, flexible, respectful of the differences and based on "common features" between MS, as identified in the Report by 24 MS in July 2010.**

**It certainly can be further improved through your constructive co-operation, assuming you share the same objectives as the COM!**

**THANK YOU FOR THE ATTENTION!**