

RANGE OF BODIES CARRYING OUT STATE ADMINISTRATION IN THE FIELD OF CUSTOMS

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Описываются органы государственного управления в области таможенного дела. Рассматриваются вопросы осуществления контроля в связи с их функциональной ролью в государстве. По мнению автора, необходимо совершенствовать национальное законодательство в части управления в сфере таможенного дела, чтобы избежать нежелательных последствий в условиях членства в Евразийском экономическом союзе.

This article analyzes the bodies involved in the management in the field of customs. These issues are explored in the context of recent developments in the Republic of Belarus as the law of the Member State of the Eurasian Economic Union. The author considers some aspects related to the need to exercise control in the field of customs affairs, on the basis of their functional role in the state. In the author's opinion, the need for further improvement of national legislation, since it can lead to undesirable consequences in terms of the existence of the Eurasian Economic Union.

Ключевые слова: государственное управление; государственное управление в области таможенного дела; органы государственного управления; таможенные органы.

Keywords: state management; state management in the field of customs; state administration bodies; customs.

Introduction. State management in the field of customs is a separate kind of special governance on par with the management of information, taxes, emergency, labor and social security, finance, economics, etc. This is a separate part of the (industry activities) of the special public administration. The term “special” emphasizes that it is part of the republican system of government, at a lower level compared to the control exercised by the President of the Republic of Belarus and the Council of Ministers of the Republic of Belarus and is the industry or function as properly emphasized in the scientific literature in administrative law [5, p. 25; 6, p. 211–213; 2, p. 312–325; 1, p. 47–48].

In other words, such control is specialized on specific areas of activity. This view derives from the analysis of art. 106 of the Constitution of the Republic of Belarus [12], art. 24 Law of the Republic of Belarus of July 23, 2008. “On the Council of Ministers of the Republic of Belarus” [7], the Decree of the President of the Republic of Belarus on May 5, 2006 № 289 “About structure of the Government of the Republic of Belarus” [13], the Law of the Republic of Belarus “On Customs regulation in the Republic of Belarus” [8].

Special public administration designed to implement the republican bodies of state management, i.e. ministries and state committees and their subordinate bodies.

Main part. State management in the field of customs is a separate special activities carried out by the customs authorities. Based on p. 3 art. 1 of the Law of the Republic of Belarus of January 10, 2014 № 129-Z “On Customs Regulation in the Republic of Belarus” the general management of customs carries President of the Republic of Belarus and defines the state customs policy, the central governmental authority implementing the state customs policy and manage directly customs affairs, is the State Customs

Committee of the Republic of Belarus (SCC). It provides the objectives for customs purposes in the field of customs affairs and uniform application of customs legislation and EAEC on customs regulation legislation of the Republic of Belarus by all customs authorities in the territory of the Republic of Belarus [8]. In this regard, we believe that p.10 of the 10 art. of the provision of the SCC must be set out in a new version: “...SCC carries out *direct* management of customs and organizations subordinate to the State Customs Committee, oversees and coordinates their activity” [11].

The Council of Ministers of the Republic of Belarus exercises direct control in the field of customs, it follows from the analysis of the Law of 23 July 2008. “On the Council of Ministers of the Republic of Belarus” [7], but is not directly secured. We believe that such a clarification is necessary to carry out in p.11 “The powers of the Council of Ministers in the economic sphere”, based on article content, otherwise provide a separate article dealing with legal relations according to “The powers of the Council of Ministers of the Republic of Belarus in the field of customs”.

The scientific literature has already been noted that the management of fields and spheres – it is the prerogative of the President of the Republic of Belarus and the Council of Ministers, which is confirmed by the Law of the Republic of Belarus of July 23, 2008 № 424-Z “On the Council of Ministers of the Republic of Belarus” [7], according to which the competence of the Council of Ministers of the Republic of Belarus is divided into the exercise of the powers in the appropriate fields.

In the science of administrative law it is accepted to distinguish between the spheres and fields of administration. In each sphere it is included a set of similar fields of relevant government management [1, p. 463; 10, p. 416]. These fields are combined in specific sphere, based on the generality implemented

special functions, the similarity in the direction of activity. In turn, the field is an activity that is carried out sectoral or functional system, headed by the central governmental authority.

It is worth noting that science and the law terms “the sphere of state administration” and “the field of state administration” is often portrayed as identical, but this is not quite true [4, p. 100–102].

Therefore, it is necessary to formulate an interim conclusion that the Law of the Republic of Belarus of July 23, 2008 № 424-Z “On the Council of Ministers of the Republic of Belarus” [7] need to bring certain provisions of uniformity due to the fact that the scope and field of state control – not identical concepts.

A feature of administrative activity in the field of customs affairs is the fact that it is carried out by the authorized bodies: the SCC, customs and public institutions that are created to ensure that the functions entrusted to the customs authorities [3, p. 253]. However, the government in the field of customs affairs characterized supradepartmental, as a result of the SCC supervises the activities of central government bodies. This control is reduced to comply with the prohibitions and restrictions on the movement of goods across the customs border of the Customs Union in accordance with the Customs Code of the Customs Union, international agreements and national legislation. In order to comply with customs conventions such as the Basel Convention, CITES and other international agreements, SCC oversees the government and organizations in the movement of different categories of goods across the customs border. When implementing the functions of customs and exchange control, SCC coordinates the activities of other central government bodies and organizations in the movement of goods, currency values, controls the movement of currency by banks under the leadership of the National Bank of Belarus. Banking instructions regarding the implementation of foreign exchange transactions and currency movement across the customs border are largely based on customs legislation.

SCC are subject to customs and public institutions belonging to the system of customs bodies of the Republic of Belarus. SCC creates, reorganizes and liquidates customs in coordination with the President of the Republic of Belarus.

SCC is authorized to create a subordinate customs laboratories, research institutions, data-processing centers and other organizations that are not in the system of the customs authorities, whose activities contribute to fulfill the functions entrusted to the customs authorities.

At the local level is carried out under consideration of customs control in the face of their administrations.

Custom offices are public bodies with legal personality, which are formed in accordance with the Regulations of the Customs on the basis of the provisions of the Model Customs, which is approved by the order of the State Customs Committee. Customs subject only to the SCC. They are not subject to territorial public authorities.

Customs carry out public nature of the problem, some of the customs policy objectives of the state, they [Custom offices] independent of the local needs, but coordinate their activities with the local executive and administrative bodies on certain issues [9].

Customs of the Republic of Belarus carry out their activities in accordance with international treaties, the Eurasian Economic Commission decisions, the Constitution of the Republic of Belarus [12], the Law of the Republic of Belarus “On Customs Regulation in the Republic of Belarus” [8], the decrees of the President of the Republic of Belarus, decisions of the Council of Ministers of the Republic of Belarus, regulations SCC orders of the chief of customs. In this regard, the Customs shall implement the executive and administrative activities.

Customs and customs offices as a single element of the system of customs authorities directly and indirectly to perform legal acts on customs matters, as noted earlier. A feature of administrative activity is the publication of customs chief Customs orders, his authorized deputies, as well as the activities of the department of organizational and administrative documents, whose main task is to coordinate the activities of the customs offices on these issues.

Consequently, administrative documents are the orders of the chief of the customs and his deputies, organizational documents – statutes, regulations, rules, regulations, SCC letters, telephone messages and SCC faxes, and to the background information document could be considered memoranda, and memos, minutes, reports, letters, telephone messages and faxes on behalf of the customs or customs post and so on.

It can be concluded on this basis that the executive and administrative activities are carried out as a guide customs inspectors and customs in the face of customs inspector. Consequently, management is carried out on behalf of the state as the leadership of the customs authorities and the customs inspector.

Government institutions that are included in the customs authorities subordinate to the State Customs Committee, created, reorganized and liquidated by the decision of the President of Belarus. These institutions carry out their activities on the basis of statutes approved by the SCC, taking into account the specifics of the tasks: to create optimal conditions for the implementation of foreign trade, educational and research activities.

Consequently, the state customs authorities are special government. They are part of the system of government, but perform specific tasks and functions, and have the special nature of the authority. They ensure the implementation of the customs legislation, as a result, to protect the economic interests and are involved in national security.

Conclusion. To summarize this article, we formulate the following conclusions.

1. The Council of Ministers of the Republic of Belarus exercises *direct* control in the field of customs,

it follows from the analysis of the Law of 23 July, 2008 “About the Council of Ministers of the Republic of Belarus”, however not directly fixed.

Taking into account the need to define data relationships, express the need to reflect these changes in the Law of the Republic of Belarus “On Customs Regulation in the Republic of Belarus”, namely, “the Council of Ministers of the Republic of Belarus carries out direct management of customs”.

We offer clarify art.11 of the Law of July 23, 2008. “On the Council of Ministers of the Republic of Belarus”, “The powers of the Council of Ministers of the Republic of Belarus in the economic sphere”. Otherwise, provide a separate article dealing with legal relations according to “The powers of the Council of Ministers in the field of customs”.

We believe that in the Law of the Republic of Belarus of July 23, 2008 № 424-Z “On the Council of Ministers of the Republic of Belarus” is also

necessary to bring certain provisions of uniformity due to the fact that the spheres and fields of public administration are the concepts, that are not identical.

2. We believe that the p.10 of the art.10 of the Regulation of the SCC must be set out in a new version: “...SCC carries out direct management of customs and organizations subordinate to the State Customs Committee, supervises and coordinates their activities”.

In paragraph 10 of Article 10 of the Regulation on the SCC “...SCC is responsible for general management of customs and organizations subordinate to the State Customs Committee, oversees and coordinates their activity”, which in our view is contrary to both the Constitution of Belarus and the Law of the Republic of Belarus “On Customs Regulation in the Belarus”, due to the fact that the general guidance provides only the President of the Republic of Belarus.

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