

ABSTRACT

of the dissertation for the degree of Doctor of Philosophy (PhD)

in the 6D030100 - "Jurisprudence" major

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on the topic "Organizational and legal framework for the activities of the customs authorities of the Republic of Kazakhstan to ensure national security in the conditions of participation in the EAEU"

Relevance of the research topic. Modern processes of globalization and international economic integration have a significant impact on the development of states, affecting many aspects of their life - economic, political, legal, social, cultural, etc. The Eurasian Economic Union, as an international organization of regional economic integration, has led to fundamentally new mechanisms for the legal regulation of foreign economic relations on the territory of its member states. The importance of the participation of the Republic of Kazakhstan in the EAEU is reflected in such strategic documents as the National Development Plan of the Republic of Kazakhstan until 2025, the Concept of the Foreign Policy of the Republic of Kazakhstan for 2020-2030, the Concept of the Legal Policy of the Republic of Kazakhstan until 2030, etc. External negative political and economic factors, the very nature of the integration association, which has a number of supranational powers and is characterized by close economic ties between member states, a single customs territory and the absence of customs control at internal borders, leads to a number of challenges and threats to the national security of the Republic of Kazakhstan. In this regard, these documents clearly indicate that the membership of Kazakhstan in the Union should ensure the promotion and protection of national interests in international integration, compliance with the criteria of economic security in foreign economic activity, as well as maintaining a balance between participation in integration processes and issues that should remain in national jurisdiction.

The issues of ensuring the national interests and national security of the Republic of Kazakhstan in the conditions of participation in the Eurasian Economic Union are closely related to the observance of the target orientation of the functioning of the integration association and the solution of the tasks of ensuring equal national and economic security of each of the member states of the Union. An important role in solving the problem under consideration is played by the customs authorities of the EAEU participants. Ensuring the national, economic security and protection of sovereignty by the customs authorities of the Republic of Kazakhstan within their competence is one of the main tasks enshrined in the customs legislation of the EAEU and the Republic of Kazakhstan. Implementing its functions, the customs participates in ensuring economic, public, military, environmental and other types of national security. The importance of the customs authorities, which play an important role in replenishing the state budget and, thereby, ensuring the preservation of stability in the state, and the need to "put things in order at customs", he emphasized in his speech at a meeting of the Mazhilis of the Parliament of the Republic of

Kazakhstan on January 11, 2022 in connection with the current tense public and political situation the Head of State K.K. Tokayev.

At the same time, in modern conditions, there is a transformation of the functions of customs authorities towards maintaining a balance of "national security - creating favorable conditions for participants in foreign economic activity", as well as in the direction of ensuring not only the national security of the Republic of Kazakhstan, but also the security of the regional association as a whole and its states members in the national interest. The efficiency of the functions of the customs authorities in the implementation of the tasks enshrined in the legislation depends on many organizational and legal factors, among which the institutional organization of the customs service occupies a significant place. In 2014, during the administrative reform, the customs and tax authorities were merged into a single body - the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan. Customs authorities, in accordance with the Code on Customs Regulation, are state revenue bodies, having acquired a fiscal nature and having lost the law enforcement status that they had in accordance with the Law of the Republic of Kazakhstan "On Law Enforcement Service". At the same time, the analysis of the Methodology for rating the effectiveness of the activities of state revenue departments, approved by the Order of the Chairman of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan, the Strategic Plan of the state revenue authorities of the Republic of Kazakhstan for 2020-2022 shows that the assessment of the effectiveness of functioning and the development of strategic areas of activity is not carried out in all spheres of the customs block.

Thus, the importance of issues of ensuring national security in today's complex socio-political realities in the context of Kazakhstan's participation in the Eurasian Economic Union, the significant role of customs authorities in this, the lack of analysis of the effectiveness of customs authorities as state revenue authorities determine the relevance of the chosen research topic.

The degree of scientific development of the research topic. In the scientific literature, the Institute of National Security was considered in various sectoral and specific aspects in the works of foreign and domestic scientists: K.S. Ainabek, J. Baldwin, R.O. Bugubaeva, A.I. Verusha, V.N. Veryutina, N.I. Vidritskaya, I.N. Glebov, S.V. Gruzdov, Sh.M. Zhandosova, N.Sh. Zhempiisova, M.Yu. Zelenkov, D.V. Iroshnikov, I.B. Kardashova, M.Yu. Kiyko, E.V. Kirichek, V.A. Kolokoltsev, I.O. Krasnova, Yu.V. Kuchinskaya, V.L. Manilov, A.R. Mikhailenko, M.V. Myasnikovich, N.S. Nizhnik, A.V. Opalev, A.A. Prokhozhev, V.V. Puzikov, Yu.P. Puzanov, A.S. Rogov, A.A. Samokhin, B.U. Seitkhozhin, K.E. Smagulov, O.N. Smolin, A.G. Tishchenko, F.N. Udychak, Yu.G. Fedotova, K. Holmes, S.Yu. Chapchikov, E.T. Shakhman, G.Z. Shcherbakovsky, A.V. Shobodoeva, E.G. Shukshina.

The study of the issues of the legal nature of integration associations, the legal status of the Eurasian Economic Union and the features of supranational law was carried out in the works of: E.B. Abdrasulov, A.S. Airapetyan, L.P. Anufrieva, K.A. Bekyashev, P.I. Boltochko, D. Bowett, A.S. Bugaeva, V.V. Voynikov, M.V.

Ganeeva, S.Yu. Glazyev, M.M. Daulenov, E.B. Dyachenko, S.K. Idrysheva, A.S. Irzhanov, A.S. Ispolinov, P.A. Kalinichenko, A.Ya. Kapustin, D.G. Kolos, V.Yu. Lukyanova, A.V. Makarov, G.A. Mashimbayeva, E.V. Millerov, T.N. Neshataeva, E.Zh. Oralova, P. Pescator, R.A. Petrov, J. Pollak, M. Rozmus, N.T. Sagimuldina, R.K. Sarpekov, M.A. Sarsembaev, V.Kh. Seitimova, A. Skrbik, N.A. Sokolova, A.E. Suglobov, A.N. Talalaev, V.V. Telnov, I.V. Teneneva, I. Topa, M. Waltzak, M.N. Urda, K.L. Chaika, V.E. Chirkin, S.V. Sheveleva, V.V. Shishkov, O.N. Shpakovich, V.M. Shumilov, L.V. Shchur-Trukhanovich, K.V. Entin, M.L. Entin.

The works of: M. Adamiv, S.T. Alibekov, S. Anishevsky, E.I. Antonova, T.I. Belousova, S.L. Blau, O.G. Bobrova, D.S. Vlasenko, S.N. Garmonnikov, P.P. Glushchenko, R.V. Davydov, O.M. Dolidovich, K. Ketners, M. Kidd, Yu.G. Kislovsky, V.V. Kovarda, A.Yu. Kozhankov, D.G. Korovyakovsky, W. Crandell, N.B. Kuroptev, R.A. Laptev, A.S. Loginova, G.V. Matvienko, G.A. Menzyuk, M. Petersane, M. Polner, J.G. Popkova, R.Yu. Pochekaev, R.A. Rogov, L.M. Satanova, A.Yu. Solomein, V. Sroka, E.N. Starovoitova, I.E. Tkachenko, N.A. Tynnikova, A.S. Khludneva, A.I. Shaltykov, T. Yasui are devoted to the organizational and legal foundations of the activities of customs authorities, international customs legal relations.

Despite the development of certain aspects of the dissertation research, the issues of the role and importance of customs authorities, the organizational and legal foundations of their activities in ensuring the national security of the Republic of Kazakhstan in the conditions of its membership in the Eurasian Economic Union were practically not considered in domestic legal science. There is also no systematic and comprehensive analysis of the effectiveness of the functioning of customs authorities as state revenue authorities in fulfilling their tasks to ensure national, including economic security and protection of sovereignty. The foregoing determines the definition of the object, subject, main goals and objectives of the research work.

The goal and tasks of the dissertation research is a systematic and comprehensive study of the organizational and legal foundations of the activities of the customs authorities of the Republic of Kazakhstan to ensure national security in the conditions of participation in the Eurasian Economic Union and the development on this basis of theoretical provisions and practical recommendations for improving the legal regulation of the functioning of the customs authorities of the Republic of Kazakhstan on ensuring both national and regional security within the framework of an integration association.

To achieve this goal, it is necessary to solve the following **tasks**:

- reveal the concept and essence of the category of national security and consider it from the standpoint of ensuring the national interests of the Republic of Kazakhstan;
- identify the main threats and challenges to the national security of the Republic of Kazakhstan as a member of the Eurasian integration;
- to characterize the main elements of the mechanism for ensuring the national security of the Republic of Kazakhstan in the conditions of the EAEU;

- determine the place of customs authorities in the system of national security bodies of the Republic of Kazakhstan;
- to analyze the competence and powers of the customs authorities to ensure the national security of the Republic of Kazakhstan in the conditions of membership in the EAEU;
- reveal the main areas of cooperation and interaction between the customs authorities of the EAEU Member States to ensure national security;
- substantiate, on the basis of foreign experience, the role and importance of the institutional organization of customs authorities in activities to ensure national security;
- develop the main directions for improving the organizational and legal regulation of the activities of the customs authorities of the Republic of Kazakhstan to ensure national security in the conditions of participation in the Eurasian Economic Union.

The object of the research is a complex of public relations in the field of activities of the customs authorities of the Republic of Kazakhstan to ensure the national security of the Republic of Kazakhstan.

The subject of the research is the national legislation, the legislation of the EAEU and international legal acts that determine the functioning and institutional organization of the activities of the customs authorities; foreign experience in organizing customs authorities to ensure the national security of the state.

Research methodology. Achieving the goal of the dissertation research and solving the tasks set is based on general scientific and special legal methods. As general scientific methods of research, the dialectical method of cognition, analysis of processes and regulatory material, synthesis, modeling in the construction of the author's organizational and legal structure of state revenue bodies, forecasting, and generalization were used. The reliability of the obtained results is confirmed by the use of statistical methods of information processing (statistics of the collection of customs duties and taxes, etc.), sociological methods (questionnaires for participants in foreign economic activity).

As special legal methods, the formal legal method was used to describe, generalize and systematize the basic concepts and institutions used in the dissertation; historical and legal method in the analysis of the transformation of the concept of national security, a review of the history of the development of the customs service of Kazakhstan; comparative legal method as a tool for identifying common and differences in integration processes in the European and Eurasian space, the organizational and legal basis for the activities of the customs authorities of foreign states, members of the EAEU, the legal framework for the activities of the customs authorities of the Member States of the Union.

The theoretical basis of the research was the fundamental scientific works of domestic and foreign scientists in the field of national security theory, integration law, supranational law, customs law, international customs law, research on the institutional and organizational and legal foundations of the activities of customs

authorities of foreign states. The work uses scientific articles and applied research on the selected issues.

The empirical basis of the research was the data of the international ratings of the World Bank, statistical data of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan, analytical materials and reviews of the Eurasian Economic Commission, the World Customs Organization, and analysis of the survey of participants in foreign economic activity.

The normative basis of the research was the provisions of international treaties, including those concluded within the framework of the EAEU, regulatory legal acts of the Union, laws and by-laws of the Republic of Kazakhstan and foreign states.

The scientific novelty of the dissertation research lies in a comprehensive study of the organizational and legal foundations for the activities of the customs authorities of the Republic of Kazakhstan as state revenue bodies in the implementation of the tasks of ensuring the national security of Kazakhstan in the conditions of membership in the Eurasian Economic Union. In the dissertation work, on the basis of research, the mechanism for ensuring the national security of the Republic of Kazakhstan in the conditions of the Union is determined and the place and role of customs authorities in the mechanism and system of bodies for ensuring the national security of the Republic of Kazakhstan is shown.

The author summarized foreign experience of the institutional organization of customs authorities and its impact on the effectiveness of activities to ensure the national security of states. As a result of the study, the dissertation proposed the main directions for improving the organizational and legal regulation of the activities of the customs authorities of the Republic of Kazakhstan to ensure national security and the author's vision of the structure of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan.

Provisions for defense:

1. The transformation of the “national security” category in Kazakhstan took place along with political transformations and, accordingly, national priorities and interests in a given historical period. In the Soviet era, the concept of security was associated with state security, where the defense of communist ideology and the Soviet system came to the fore. With the independence of the Republic of Kazakhstan, when the country faced the task of maintaining sovereignty, constitutional order and territorial integrity, national security was defined as the state of protection of the country's national interests from real and potential threats. The paper notes that in the current Law "On the National Security of the Republic of Kazakhstan" the direction of the legal protection of objects of national security is changed in the direction, first of all, of ensuring the security of a person, citizen, society, and then the state. However, the definition of this concept, enshrined in Article 1 of the Law, does not exactly correlate with the preamble in terms of the priority of national security objects. In this connection, based on the modern understanding of the essence and content of national security, its author's definition is proposed: *“The national security of the Republic of Kazakhstan is the state of*

protection of the individual, society and national interests of the Republic of Kazakhstan from real and potential external and internal threats, ensuring the dynamic development of a person and citizen, society and state”.

2. The dissertation research identified the main threats and challenges to the national security of the Republic of Kazakhstan, due to the participation of the state in the Eurasian Economic Union, arising from its legal nature, including the threat of limiting sovereignty; challenges and threats to economic interests; threats to economic, public, military security associated with the spread of cross-border crimes, especially smuggling, due to the common external customs border and the absence of internal customs borders. Considering the issues of limiting sovereignty in the context of the participation of the state in integration international organizations, the dissertation presented the relationship between sovereignty and supranationality in the context of integration processes within the EU and the EAEU. The paper noted that the challenges and threats to the economic interests and economic security of the Republic of Kazakhstan are caused, on the one hand, by the heterogeneity of the socio-economic development of the member states of the Union, and on the other hand, are associated with economic sanctions against the Russian Federation and Belarus, which have intensified against the backdrop of Russian- Ukrainian conflict. Common external customs borders and a common customs territory is a factor that increases the threats from the spread of transnational crime, in particular economic smuggling and smuggling of objects withdrawn from circulation or objects whose circulation is limited. The author of the dissertation identified differences in legal instruments for combating cross-border crime in the context of open borders in the EU and the EAEU.

3. In the course of the research, an idea was formed about the mechanism for ensuring the national security of the Republic of Kazakhstan in the conditions of membership in the EAEU and the place of customs authorities in the system of national security authorities as a basic institutional element of the mechanism for ensuring the national security of the Republic of Kazakhstan was determined. The participation of Kazakhstan in the Union determined the domestic and international (at the level of the integration association) levels of the national security mechanism, consisting of bodies, the legal framework and tools for ensuring national security.

In order to determine the place and role of the customs authorities of the Republic of Kazakhstan in the mechanism for ensuring national security, a comparative analysis of the administrative and legal status of the customs authorities of the EAEU participants was carried out, performing almost identical tasks and functions enshrined in the customs legislation of the Union and the national customs legislation of the states. The main tasks of the customs authorities of the EAEU Member States are to protect national security, ensure, within their competence, the protection of sovereignty and economic security, which implies that the customs authorities are national security authorities within their competence. These tasks and functions are provided by the law enforcement status of customs authorities, except for the customs authorities of Kazakhstan, which, as state revenue authorities, are of a fiscal nature. Thus, the institutional organization of the customs authorities of the

Republic of Kazakhstan, in the opinion of the dissertator, does not fully contribute to the implementation of the tasks and functions to ensure national security assigned to them by the customs legislation of the EAEU and the Republic of Kazakhstan.

4. The competence and powers of the customs authorities to ensure the national security of the Republic of Kazakhstan in the conditions of membership in the EAEU are determined through the analysis of the key functions of the customs authorities directly aimed at protecting the national security of the Republic of Kazakhstan and the EAEU member states - the fiscal function, the implementation of customs control, export control, security rights to objects of intellectual property in the customs territory of the EAEU. These functions are interconnected and are aimed at ensuring several types of national security at once - economic, public, military, environmental, etc. The paper substantiates that at the present stage there has been a transformation of the functions of customs authorities in connection with participation in the EAEU and in order to maintain balance "ensuring national security - promoting foreign economic activity". The single economic space and, accordingly, the implementation of common processes (for example, the mechanism for crediting and distributing the amounts of import customs duties), the single customs territory determines the impact of the effectiveness of the performance of the functions of the customs authorities of each member of the integration association on ensuring the national security of all members of the Union.

5. Unified customs regulation on the territory of the EAEU determines the importance of effective interaction between the customs authorities of the Member States to fulfill the tasks of ensuring national security. The Customs Code of the EAEU, in contrast to the Customs Code of the Customs Union, significantly expands the ways of interaction between customs authorities (in the Customs Code of the Customs Union, interaction was limited only to the implementation of mutual administrative assistance), regulates certain methods of cooperation in sufficient detail (the norms of the Customs Code of the Customs Union had a reference character to international treaties of the member states of the Customs Union), in addition, a number of innovations of the Customs Code of the EAEU greatly simplify the implementation of interaction between customs authorities (submission to customs authorities of preliminary information, including in the form of an electronic document, the possibility of obtaining by customs authorities the information necessary for performing customs operations from information systems of customs authorities, as well as from information systems state bodies (organizations) of the Member States; implementation of customs declaration in electronic form, etc.).

The author of dissertation states a sufficient level of regulatory, technological and organizational support for the interaction of the customs authorities of the EAEU member states, at the same time, a number of problems are identified related to the different level of provision of information and communication technologies to the customs services of the Union countries.

6. Based on foreign experience, the role and importance of the institutional organization of customs authorities in the implementation of tasks to ensure the national security of the state is shown. The author notes that the specific functional

purpose, relative independence, purposeful nature of the activities of the customs authorities, functioning as independent state bodies, make them the most common and effective in the world. An analysis of the activities of the customs services of Singapore, Germany, South Korea, included in this group and located on the top lines of the world rankings, allows us to state that this type of institutional organization of the customs authorities ensures the equal performance of all the main functions of the customs authorities aimed at ensuring economic, social, environmental, military and other types of national security.

The functioning of customs and tax authorities in a single body of state revenues causes an ambiguous assessment of scientific experts and practitioners. The paper concludes that significant differences in the principles of work and the functional purpose of the customs and tax authorities cause the inefficiency of a complete merger of these two services. Therefore, for the full implementation of not only fiscal, but also specific functions characteristic of the customs service, a “reasonable” integration is required, primarily of the information infrastructure and auxiliary bodies (personnel management, body budget, logistics) while maintaining a certain independence of the two services for ensuring not only economic (in the implementation of the fiscal function), but also other types of national security.

7. The study of the level of efficiency of the functioning of the customs authorities of the Republic of Kazakhstan through the tools of internal (assessment of higher authorities) and external (international ratings, assessment of participants in foreign economic activity, etc.) assessment allowed the author to conclude that there are some shortcomings in their activities to ensure the national security of the Republic of Kazakhstan in terms of membership in the Union. Based on the world's positive experience, the following areas for improvement were identified: increasing the efficiency of the implementation of the control functions of the customs authorities, directly aimed at ensuring national security; improvement of the institutional organization of the activities of customs authorities; improvement of infrastructure and technical support; improvement of mechanisms for cooperation between customs authorities and participants in foreign economic activity, etc.

In order to study the problems that need to be addressed in order to increase the efficiency of the activities of the customs authorities of the Republic of Kazakhstan in order to fulfill their tasks, including ensuring national security, the dissertator conducted a survey of participants in foreign economic activity, which revealed the following:

- insufficient level and quality of interaction between customs authorities and the business community, which is expressed in the low quality of the content of the official resources of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan, dissatisfaction with the quality of work of customs officials and the speed of feedback;

- Gaps in software, legal support and technical failures in the functioning of the information system "Astana - 1", imperfection of the risk management system during customs control;

- shortcomings in the work of the Electronic Declaration Center as a structural subdivision of the State Revenue Committee.

The dissertation emphasizes that the institutional organization of the customs authorities directly correlates with the main goals and objectives and the functional orientation of the activities of these authorities.

The theoretical significance of the dissertation research lies in the systematization, generalization and deepening of the theoretical provisions of the organizational and legal foundations for the functioning and activities of the customs authorities of the Republic of Kazakhstan to ensure national security in the context of membership in the Eurasian Economic Union. The conclusions and recommendations set out in the dissertation give an idea of the effectiveness of the implementation of tasks to ensure the national security of the Republic of Kazakhstan by the customs authorities as state revenue bodies and can serve as the basis for further research in this area.

The practical significance of the dissertation research lies in the fact that the dissertation proposals made on the topic of the research, as well as the results of the survey of participants in foreign economic activity, can be used by the state revenue authorities of the Republic of Kazakhstan to improve their institutional and functional organization of activities, to establish open and transparent relationships between customs authorities and business -community, as well as mutually beneficial cooperation between the customs authorities of the EAEU member states.

A number of provisions of the dissertation can be taken into account when developing the Methodology for rating the effectiveness of the state revenue departments and the Priority areas for development and strategic goals of the state revenue bodies of the Republic of Kazakhstan.

The materials of the dissertation work can be applied in the educational process in the preparation and teaching of the disciplines "Customs Law", "Customs Law of the EAEU", etc.

Approbation of the results of the work. The main provisions, conclusions and proposals set forth in the dissertation research are reflected in articles published in: 1) the journal included in the Web of Science Core Collection and Scopus databases - "Legal nature and transformation of the national security concept in the context of global challenges of the present (on the example of the Republic of Kazakhstan)" // International Journal of Electronic Security and Digital Forensics, Vol. 14, no. 3, 2022; 2) journals recommended by Committee for Quality Assurance in the Sphere of Education and Science of the Ministry of Education and Science of the Republic of Kazakhstan - Eurasian Law Journal, 2018, 2019; Bulletin of the Eurasian National University named after L.N. Gumilyov. Law series, 2019; Bulletin of the Law Enforcement Academy, 2019; Bulletin of the Institute of Legislation and Legal Information of the Republic of Kazakhstan, 2019; 3) articles published based on the results of international scientific and practical conferences - "Relevant problems of improving legislation and law enforcement", Moscow, December 2017; "International Justice and Strengthening Integration Processes", organized by the EAEU Court, Minsk, October 2018; "Modern youth and the challenges of extremism

and terrorism in Russia and abroad", Gorno-Altai, 2019; international practical conferences organized by the Kazakh-American Free University;

4) foreign scientific journal "Modern Russia and the world: development alternatives" (Resources of "soft power": experience of use by state and non-state actors)", Barnaul, 2018.

The results of the survey conducted by the author of the dissertation among participants in foreign economic activity were familiarized in the Department of State Revenues for East Kazakhstan Region of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan.

Structure and volume of dissertation research. The structure and volume of the dissertation research are determined by the purpose, objectives and logic of the research work and consists of an introduction, three sections, including eight subsections, a conclusion, a list of references and an appendix.