

# The role and importance of customs representation to the customs control system in the Republic of Bulgaria

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## Abstract

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The complex nature of foreign trade operations and related customs formalities are some of the prerequisites giving rise to the need for customs representation to form part of the customs process. Such representation is a necessary part of international supply chains, as the requisite professional knowledge in the sphere of customs compliance serves to protect the interests of both the economic operators involved and the state represented by the customs administration. The services provided by the customs representatives facilitate the smooth passage of the consignments through the relevant customs formalities, lead to a reduction in the time for customs clearance and, through consultation, lead to increasing the wellbeing of the economic operators who trust them. At the same time, customs administrations generally have a trustworthy and predictable partner: the customs representative who understands the customs formalities and actively assists in fulfilling the tasks and objectives assigned to them. In the context of the Republic of Bulgaria, customs representatives play an important role in customs procedures and participate in a substantial part of import, export and transit operations.

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## 1. Introduction

The complex nature of foreign trade operations and related customs formalities are some of the main prerequisites giving rise to the need for customs representation to form part of the customs process. Traders cannot and need not know in detail the customs legislation and technological specifics of control on the goods imported or exported by them, especially if trading with third countries is not their main activity. At the same time, a good knowledge of customs procedures is important for conform with the law and derive maximum economic benefit from each foreign trade transaction by reducing or saving customs duties, shortening the time limits for customs clearance of goods and minimising the costs associated with the delivery of goods. Customs representatives are therefore a necessary part of international retail chains as their professional knowledge of customs control can help to protect the interests of both the economic operators involved and the state represented by the customs administration.

The object of this article is the status of customs representatives as part of the customs processes and especially its manifestation in the Republic of Bulgaria; the subject is the role and importance of customs representation to the customs control system; and the purpose is to characterise the features of customs representation and to identify its place in the different customs processes (import, export, transit) in the Republic of Bulgaria, outlining also some of its main benefits.

In order to achieve this goal, the author:

- draws out the main features of customs representation as an independent activity
- presents the historical development of customs representation in the Republic of Bulgaria
- analyses the activities of customs representatives in the Republic of Bulgaria by individual customs procedures: import, export and transit of goods.

## 2. Customs representation

Representation, as a process, is part of civil law and is associated with the implementation of pre-arranged actions between two persons, in which one of them represents the other before a third party. The representative may act in their own name (indirectly) or on behalf of the client (directly), but always on account of and in favour of the latter. In this regard, customs representation should be defined as a ‘purposeful activity in which one person (represented importer or exporter) is represented by another person (a representative) in their dealings with the customs control authorities’.

From a normative point of view, this type of representation is legally regulated in Article 5, Item 6 of the Union Customs Code (UCC)<sup>1</sup>, promulgated in 2013, where a customs representative is defined as ‘any person appointed by another person to carry out the acts and formalities required under the customs legislation in his or her dealings with customs authorities’.

In the national customs legislation in force in the Republic of Bulgaria, customs representation is defined in Article 18, Paragraph 1 of the Customs Act (Customs Act, 1998), according to which ‘any person may be represented before the customs authorities for performing the actions and formalities laid down herein and in the statutory instruments for the implementation of this act’.

The common European and national customs legislation applicable in the Republic of Bulgaria does not impose significant restrictions on the conditions that persons who are representatives in a given customs procedure have to meet. Article 18, Paragraph 2 of the UCC provides that the representative shall be ‘a person established within the customs territory of the Union’, except in cases expressly specified<sup>2</sup>. However, taking into account that representation expresses its essence through human activities, it could be stated that individuals appointed to act as customs representatives should at least have legal capacity<sup>3</sup>.

Globally, customs representation is developing and manifesting itself in a number of forms, but the prevailing practice is to carry it out in two ways: by a person specialised or approved by the respective customs administration (customs representative or customs agent) or by any other person, who has and can prove their representative authority in a specific customs procedure (proxy). ‘Proxies’ may also include the trader’s employees (e.g. from a specialised department in their enterprise), the carrier of the goods, or a close person or an acquaintance who the importer or exporter is inclined to trust (Bozhinova & Tomeva, 2010, p. 150).

There are more commonalities than differences between the two entities of customs representation thus outlined. Importantly, both entities are admitted to a specific customs procedure by explicit authorisation by the represented client and their representative power extends within the authorisation itself. Their powers may be specified in terms of type of activity (e.g. import, export, transit, administrative, expert), specific customs regime, specific consignment, or duration and/or territorial validity of the representative power. Generally, customs legislation does not envisage different procedures for representatives compared to those that would be applied to the holder of the respective foreign trade operation—an object of customs control. Practically, this means that their rights and obligations in a customs procedure are the same and that they stem from the legal framework for carrying out the relevant procedure.

The customs representative shall draw up the customs declaration, present the goods and all necessary documents for verification and, if necessary, secure the customs duties in accordance with the provisions in force.

The differences between customs proxies and customs representatives (agents) are mainly shown in the way their activities are organised. The activities of customs representatives are professional, as they set up specialised enterprises through which they provide various services to their clients. Customs proxies do not have to meet such requirements and they usually lack substantial professional competence in customs matters. This circumstance often makes it necessary for customs proxies to use the services of customs representatives for consultations and document handling in relation to certain customs procedures, which they subsequently carry out on their own before the control authorities.

Although in the EU, member states customs representation is an unregulated profession, in many countries, such as the USA, Canada, Australia, New Zealand, China and Turkey, it is still a profession requiring licensing (a license is required to carry out the activity).

On the one hand, this means that in these countries there are restrictions on the choice of persons who can assist the economic operators in the customs clearance of the goods they trade in. On the other hand, prerequisites are created for building sound relations between the customs control authorities and their clients, which benefits all parties involved in the customs process.

Customs representation also brings certain benefits to the customs administration. The customs control legal framework is made up of legislative Acts at international, regional and national levels. Knowing it well is a challenge, but it is a prerequisite for carrying out foreign trade transactions and operations.

Taking into account the specialised focus of the actions of customs representatives and their practical experience in customs procedures, it is assumed that customs administrations generally consider them as reliable and trustworthy partners. Proper document handling for a specific customs procedure is a prerequisite for quickly and professionally completing the process. This creates conditions for avoiding conflicts and disputes, the smooth passing of international traffic of goods through customs clearance and ensuring conformity with the law.

As in all relationships with the interested parties, customs should also have regular, constructive communication with customs representatives, as they are often the first line of contact between customs and traders. Besides preparing documents and submitting them in writing or electronically, and calculating and often the paying duties, taxes and charges, customs representatives play an important role in facilitating the communication between the customs and other public authorities and the importers/exporters. Standards 8.5 and 1.3 of the Revised Kyoto Convention contain specific provisions for customs administrations to specify and maintain consultative relationships with the trade, and to provide for third parties, such as customs representatives, to participate in their formal consultations with trade (World Customs Organization, 2018, p. 35).

In order for a customs representation to be established, it should be distinguished as a legal fact. To this end, the client delegates power of representation through authorisation to a person of their choice (natural or legal). Authorisation is seen as a basic and irreversible condition for a person to be admitted to a customs procedure as a representative of a particular economic operator (exporter or importer). In this way, the client expresses their will and consent as to who shall represent him before the control authorities regarding the customs clearance of the goods they trade in.

According to Article 18 of the UCC, customs representation can be<sup>4</sup>:

- direct, when the representative takes action in the name of and on behalf of another person, or
- indirect, when the representative takes action in their own name but on behalf of another person and subsequently settles his or her relationships with that person.

Direct representation is most commonly used as the customs representative does not bear any risks related to the activity of the represented person. Indirect representation is less common and is mainly used where customs representatives have organised their activity well and who enjoy a high level of trust as regards their clients.

Representation, including customs representation, is an activity turned into a business for the purpose of obtaining an economic benefit (profit). This leads to the conclusion that it is a systematically practised profession (Bachvarova, 2006, p. 202). In addition to the activities directly related to the representation of the client before the third party, a customs representative may also act as a trade intermediary. This embodiment is economically justified when they provide ancillary services to their client, such as:

- finding clients for the goods they import or export
- assisting in securing the necessary transport (freight forwarding)
- taking out insurance in their capacity of an insurance agent.

In these cases, the payment for the ancillary services is in the form of a commission. There must be equality in the interests of the client and their customs representative, and the latter cannot derive a benefit to the detriment of the former.

As already stated, the customs legislation in force in the EU enables economic operators to choose whether to represent themselves before the customs authorities on their own or to use the services of customs representatives. In most cases, their decision depends on:

- the complexity of foreign trade operations
- the available knowledge and experience in that field
- the time required for the customs clearance of the goods
- the aggregate cost related to the customs clearance of the goods
- the possibility of simultaneous access to additional services (insurance, freight forwarding, cargo handling, bank guarantees, obtaining specific documents from competent authorities, assistance in applying for import quotas, etc.).

In case difficulties arise in the customs clearance of a foreign trade operation, economic operators usually seek assistance from customs representatives. In order to choose the right representative, who will maximally meet the specific requirements and expectations of a given economic operator, they should search for information from the branch organisations<sup>5</sup>, partners and friends, as well as meet with different customs representatives. The information sought should answer at least the following questions:

1. How long has the customs representative been in the business (what experience do they have)?
2. In which area did they specialise (import, export, transit, special procedures, excise duties, Intrastat)?
3. What additional services do they provide (insurance, freight forwarding, warehousing, bank guarantee, etc.)?
4. Are they inclined to explain in detail the procedures they perform (it is important so that the client understands properly the customs process)?
5. Do they have customer references or any recognition in the field?
6. How do they guarantee to exercise promptly and correctly their representative powers?
7. What is the total cost of the service offered?

This choice is not always easy and the price that will eventually be paid to the customs representative should not be the leading criterion. Practice has proven that good consultation and consistent process management yield better results. At the same time, it should be considered that certain responsibilities are also transferred to the customs representatives, which economic operators can claim under the contracts concluded with them (Grainger, 2016, p. 25).

### **3. Development of customs representation in the Republic of Bulgaria**

From an historical perspective, the status of the customs representative was established in the Republic of Bulgaria in the early 20th century. During this period, the country opened to international trade, which, also due to the country's good geographical location, began to develop rapidly (Mladenov, 2000, p. 11). The Customs Act, which came into force in 1906, was the first to introduce the legal regulation of the activities of 'customs commissioners'. It provided that they could act on behalf of their clients by interceding in writing and verbally with the customs and other administrative institutions in cases concerning the correct application of the customs legislation. Persons entitled to such intermediation had to fulfill requirements related to their professional knowledge, social status, and personal moral and ethical qualities.

In the years before the Second World War, the customs legislation of the Republic of Bulgaria was changed and improved many times so that it could better meet the needs of business and the state. At the same time, the texts referring to the activities of customs representatives were changed and supplemented, extending their powers as well as their responsibilities.

In 1948, in accordance with the changes occurring in the political and socio-economic life of the country, a new Customs Act was adopted, which significantly restricted and narrowed the possibilities for carrying out foreign trade activities. There were no provisions in its texts governing the functioning of customs representatives, which practically terminated their existence as legal entities.

The post-1989 democratic changes in the country led to the economy's orientation towards the principles of the free market, and the participation of local businesses in international trade was revived. Despite the new Customs Act adopted in 1990 to meet the newly created conditions for trade, the status of customs representative was not restored. Only in 1999, with a view to applying for and launching EU accession negotiations, Bulgaria's customs legislation was unified with that of the European Community and customs representation was restored. A licensing regime was introduced, and those wishing to work as customs representatives had to meet certain requirements related primarily to their professional background and experience. The competent authorities to issue licences for customs agents were the Ministry of Finance along with the national customs administration of Bulgaria, the latter exercising direct control over their activity. During the years in which this licensing regime was in operation, more than 250 licences for customs agents of Bulgarian natural and legal persons were issued.

On 1 January 2007, Bulgaria became a full EU member state and from that moment on it applied directly the common customs regulations applicable throughout the community. The changes that occurred in trading with the other EU member states and the structural reforms carried out at the Customs Agency had an impact on the territorial scope and number of customs offices in the country. These changes, in turn, affected the business of the economic operators and hence the number of customs agents in the country.

At the beginning of 2013, the customs representation regime in the European Union was liberalised and the prior approval of persons wishing to develop professionally in this field was no longer required. This, on the one hand, reduces the administrative burden in the sector, but on the other hand implies the admission of insufficiently prepared persons to the customs processes. In practice, the market for

such services is expected to regulate which customs representatives can serve the foreign trade activity of the economic operators in EU member states. Ideally, customs brokers should have experience not only in the sphere of customs but also in facilitating international trade, supply chains, financing and financial operations, security issues and compliance with the requirements of import and export of goods (Gwardzińska, 2014, p. 68).

In recent years, there have been global changes in our society towards its informatisation. These changes have a significant impact on the ways, means and methods that are applicable in administering the processes related to international trade. From a technological point of view, many of the customs representation activities have already been transferred to a new electronic environment. This in turn creates new types of relationships, both between customs representatives and their clients, and between customs representatives and the respective third parties and institutions before which they exercise their powers.

At present customs authorisation in Bulgaria is implemented through the specially designed electronic Customs Agency's Identification and Access Management System (BCA IAM). In order to start the authorisation process, it is also necessary for the economic operator (client) and the person acting as customs representative to be registered in this system. An additional prerequisite for working well with BCA IAM is that both parties need to have valid Qualified Electronic Signatures (QES) and valid EORI numbers<sup>6</sup>.

The customs representation authorisation process involves the following players:

- **Authorising person:** this is a person already registered in the BCA IAM, who delegates some of their business profiles to another registered person
- **Authorised person:** this is a person already registered with the BCA IAM, who receives some of the business profiles of another registered person.

Authorisation is always initiated by the authorising person and is called an authorisation request, which the authorised person can accept or reject.

## 4. Customs representation in the Republic of Bulgaria

Under the current market conditions, customs representation in the Republic of Bulgaria develops mainly with regard to the importation, exportation and transit of goods from and to third countries. Individual customs representatives also provide services to their clients with regard to excise duty on goods, as well as intra-community trade between the member states of the European Union.

Customs procedures for introducing and importing goods are important for the overall customs control process, since all its functions are manifested in them. It is not just about raising funds for the national and EU budgets, but also about protecting the economic and personal interests of the Union's businesses and population. The strict adherence of customs representatives to these procedures is a prerequisite for the proper and effective customs clearance of the foreign trade transactions they are entrusted with by their clients. Import procedures are applied in a certain logical sequence and customs representatives' familiarity with the procedures serves to certify their professional competences and skills. Ignoring any of them may lead to damaging the client's interests, which consequently may also affect the customs representatives themselves.

Although most of the foreign trade of the Republic of Bulgaria is with other EU member states, the country is also open to other trading partners. This is evidenced by the diversity and number of customs regimes used under which the goods imported from third countries and their value are placed. The data presented in Table 1 illustrate this diversity, outlining the place and importance of customs representation in the country.



Table 1: Processed customs declarations (SADs) by import customs regimes in 2018  
(Customs Agency, 2019)

Customs regime (Code)*	Type of representation						Total	
	Code 1 – Declarant		Code 2 – Direct representation		Code 3 – Indirect representation			
	Number of SADs	Value	Number of SADs	Value	Number of SADs	Value	Number of SADs	Value
		(million €)**		(million €)**		(million €)**		(million €)**
40	54,851	1,496.35 €	330,690	7,025.40 €	3,975	294.40 €	389,516	8,816.15 €
42	1,438	35.40 €	1,930	38.12 €	****	*	3,368	73.52 €
45	262	*	4,045	430.13 €			4,307	430.13 €
49	*	*	69	0.54 €			69	0.54 €
51	712	28.15 €	1,680	397.20 €	*	*	2,392	425.35 €
53	317	1.74 €	1,033	9.08 €			1,350	10.82 €
61	597	8.75 €	4,536	64.41 €	45	0.10 €	5,133	73.26 €
63	*	*	182	2.40 €			182	2.40 €
68	*	*	10	0.96 €			10	0.96 €
71	3501	231.91 €	8585	565.22 €	266	40.68 €	12,086	837.81 €
<b>Total:</b>	<b>61,678</b>	<b>1,802.30 €</b>	<b>352,760</b>	<b>8,533.46 €</b>	<b>4,286</b>	<b>335.18 €</b>	<b>418,413</b>	<b>10,670.94 €</b>

Selection according to a code entered in the section ‘Type of representation’ of box No.14 of SAD

Note:

\*Codes, used in box No. 37 of SAD, first sub-division:

40 – Simultaneous release for free circulation and home use of goods which are not the subject of a VAT–exempt supply

42 – Simultaneous release for free circulation and home use of goods which are the subject of a VAT–exempt supply to another Member State and, when applicable, an excise duty suspension

45 – Release of goods for free circulation and home use for either VAT or excise duties and their placing under the tax warehouse procedure

49 – Entry for home use of Union goods in the context of trade between parts of the customs territory of the Union in which the provisions of Directive 2006/112/EC are applicable and parts of that territory in which those provisions do not apply, or in the context of trade between the parts of that territory where these provisions do not apply. | Entry for home use of goods in the context of trade between the Union and the countries with which it has formed a customs union

51 – Inward processing procedure

53 – Import under temporary admission procedure

61 – Re–importation with simultaneous release for free circulation and home use of goods which are not the subject of a VAT–exempt supply

63 – Reimportation with simultaneous release for free circulation and home use of goods which are the subject of a VAT–exempt supply to another Member State and, when applicable, an excise duty suspension

68 – Re–importation with partial entry for home use and simultaneous entry for free circulation and placing of goods under a warehousing procedure other than a customs warehousing procedure

71 – Placing of goods under the customs warehousing procedure

\*\*Declared values in box No. 46 of SAD

\*\*\*Protected data, since a specific statistical unit may be identified (art. 25, para. 2, p. 2 and 3 of the Law on Statistics)

In 2018, the regimes with codes 40 (93.09%), 71 (2.89%), 61 (1.23%) and 45 (1.03%) were the most applied based on customs declarations submitted by the economic operators. Other regimes had a negligible share compared to the four main regimes thus outlined. In terms of this study, it is of interest how these regimes operate and, in particular, what the involvement of customs representatives in this process is:

**Regime 40.** Simultaneous release for free circulation and home use of goods that are not the subject of a VAT-exempt supply: this regime promises to become a leading one, as it is linked to the final importation of goods into the country's territory as part of the EU customs territory. The total number of customs declarations lodged in 2018 for this procedure was 389,516, which represents 93.09 per cent of all import customs declarations lodged. It seems that importers of goods prefer to use the services of customs representatives rather than clear their shipments themselves at the customs. 85.92 per cent of declarations were lodged by customs representatives (84.90% direct representation and 1.02% representation) and only 14.08 per cent of economic operators arranged for the customs clearance of goods themselves. In terms of value, goods with a valuation for customs purposes amounting to EUR 8,816.15 million were placed under this regime, which in turn represents 82.62 per cent of the imported goods cleared at the customs, of which customs representatives cleared 83.03 per cent (79.69% in direct representation and 3.34% in indirect representation).

**Regime 71.** Placing of goods under the customs warehousing procedure: this regime involves placing goods in customs warehouses without the imposition of customs duties and subsequently placed under another customs regime. In 2018, a total of 12,086 customs declarations were lodged in Bulgaria for this procedure, which is 2.89 per cent of the total number of import customs regimes in operation. Under this regime, economic operators also preferred to use the services of customs representatives, with the latter processing 73.23 per cent of the SADs lodged for the procedure (71.03% in direct representation and 2.20% in indirect representation), and 26.77 per cent of the economic operators arranging for the customs clearance of goods themselves. In terms of value, goods with a valuation for customs purposes of EUR 837.81 million were placed under this regime, which in turn represented 7.85 per cent of the imported goods in the country, of which customs representatives cleared 72.32 per cent (67.46% in direct representation and 4.86% in indirect representation).

**Regime 61.** Re-importation with simultaneous release for free circulation and home use of goods which are not the subject of a VAT-exempt supply: this regime involves the return of goods to the customs territory of the country after they have been temporarily exported to third countries. In 2018, a total of 5,133 customs declarations were lodged in Bulgaria for this procedure, which is 1.23 per cent of the total number of import customs regimes in operation. Under this regime, customs representatives processed 89.25 per cent of the SADs lodged for the procedure (88.37% in direct representation and 0.88% in indirect representation), and 10.75 per cent of the economic operators arranged for the customs clearance of goods themselves. In terms of value, goods with a valuation for customs purposes of EUR 73.26 million were placed under this regime, which in turn represents 0.69 per cent of the goods imported in the country, of which customs representatives cleared 88.06 per cent (87.92% in direct representation and 0.14% in indirect representation).

**Regime 45.** Release of goods for free circulation and home use for either VAT or excise duties and their placing under the tax warehouse procedure: this regime involves the placing of excise goods in customs warehouses without being imposed excise duties and VAT on. In 2018, a total of 4,307 customs declarations were lodged in Bulgaria for this procedure, which is 1.03 per cent of the total number of export customs regimes in operation. The economic operators here also preferred to trust the customs representatives, with the latter processing 93.92 per cent of the SADs lodged under the regime (only in direct representation), and only 6.08 per cent of the economic operators arranged for the customs



clearance of goods themselves. In terms of value, goods with a valuation for customs purposes amounting to EUR 430.13 million were placed under this regime, which in turn represents 4.03 per cent of the goods imported in the country.

The data presented above show that customs representatives play an important role in import operations carried out in the territory of the Republic of Bulgaria. Of the total 418,413 customs declarations lodged in 2018 on importation of goods, customs representatives processed 85.33 per cent (84.31% in direct representation and 1.02% in indirect representation) and only 14.67 per cent of the economic operators chose to clear their imports to the customs administration themselves. In terms of value, goods from third countries with a valuation for customs purposes amounting to EUR 10,670.94 million were imported into the country, with customs representatives clearing 83.11 per cent of these goods (79.97% in direct representation and 3.14% in indirect representation). In terms of this analysis, it should be noted that in 2018 some import customs regimes remained unused in Bulgaria<sup>7</sup>. This can be defined both as a consequence of their specifics and as lack of interest in applying these regimes by the economic operators.

The customs procedures applied in the EU for the exportation of goods can be classified as benign, which is a consequence of the Union's liberal policy on foreign trade regimes. At the same time, a number of mechanisms are used to control this process to protect the internal market from unwanted or fictitious exports of goods. The customs procedures for the exportation of goods are an element of the EU foreign trade policy and knowing them well and applying them properly enables customs representatives to actively assist their clients in expanding their market positions in third countries.

The dynamism of export operations gives rise to various difficulties for exporters, some of which are related to their customs clearance. Along with their commitment to undertake this clearance, customs representatives can also take on the role of foreign trade advisers to their clients. The knowledge they have of international retail chains and of the transportation, insurance and financial risks involved in building them can significantly assist economic operators in optimising their foreign trade activities. They can advise exporters on the specifics of the respective foreign trade operation and thus help them to achieve more favourable economic terms in carrying it out. Besides, customs representatives can also offer their clients ancillary services, such as securing transportation for their goods, taking out cargo insurance for the duration of its transportation and providing a guarantee for re-exporting non-union goods. The basic and ancillary services offered by the customs representatives provides everything the importers need for the successful implementation of their foreign trade marketing strategies.

The Republic of Bulgaria is an export-oriented country, maintaining foreign trade relations with the other EU member states and with third countries. Bulgarian exporters can apply flexible export strategies, which is evidenced by their use of all normatively stipulated export customs regimes. The data presented in Table 2 confirm this, outlining the place and importance of customs representation in the country in the context of export customs procedures.

Table 2: Processed customs declarations (SADs) by import customs regimes in 2018 (Customs Agency, 2019)

Customs regime (code)*	Type of representation						Total	
	Code 1 – Declarant		Code 2 – Direct representation		Code 3 – Indirect representation		Number of SADs	Value (million €)**
	Number of SADs	Value (million €)**	Number of SADs	Value (million €)**	Number of SADs	Value (million €)**		
10	9,929	58.77 €	271,332	6,084.36 €	1,567	33.76 €	282,828	6,176.89 €
11			****	*			*	*
21	*	*	1,130	30.01 €	*	*	1,130	30.01 €
22			*	*			*	*
23	*	*	2,448	31.29 €			2,448	31.29 €
31	762	55.20 €	8,166	989.38 €	57	0.46 €	8,985	1,045.04 €
<b>Total:</b>	<b>10,691</b>	<b>113.97 €</b>	<b>283,076</b>	<b>7,135.04 €</b>	<b>1,624</b>	<b>34.22 €</b>	<b>295,391</b>	<b>7,283.23 €</b>

Selection according to a code entered in the section ‘Type of representation’ of box No.14 of SAD

Note:

\*Codes, used in box №37 of SAD, first sub-division:

10 – Permanent export

11 – Export of compensating products obtained from equivalent goods under the inward processing procedure before entering import goods for the procedure

21 – Temporary export under the outward processing procedure

22 – Temporary export other than that referred to under code 21

23 – Temporary export for return in the unaltered state

31 – Re-export

\*\*Declared values in box №46 of SAD

\*\*\*Protected data, since a specific statistical unit may be identified (Art. 25, Para. 2, p. 2 and 3 of the Law on Statistics)

In 2018, the regimes with codes 10 (95.75%) and 31 (3.04%) were the most applied among the export customs regimes based on customs declarations lodged by economic operators. The other regimes used had a negligible share compared to the two main regimes thus outlined. In terms of this study, the way in which these regimes operate, and particularly what the involvement of customs representatives in this process is, are of interest:

**Regime 10.** Permanent export: this regime is the most applied among export regimes as it relates to the final export of goods from the territory of the country as part of the EU customs territory. The total number of customs declarations lodged in 2018 for this procedure was 282,828, which represents 95.75 per cent of total export customs declarations. Similar to final imports (regime 40), economic operators here also preferred to use the services of customs representatives rather than clear their consignments themselves. The share of these declarations lodged by customs representatives is 96.49 per cent (95.94% direct representation and 0.55% indirect representation) and only 3.51 per cent of declarations were lodged by the economic operators themselves. In terms of value, goods with a valuation for customs purposes amounting to EUR 617,689 million were placed under this regime, which in turn represents 84.81 per cent of the goods cleared for export from the country, of which customs representatives cleared 99.05 per cent (98.50% in direct representation and 0.55% in indirect representation).

**Regime 31.** Re-export: this regime is linked to the final taking out of non-Union goods outside the EU customs territory after being placed under a special regime in that territory. The total number of customs declarations submitted in 2018 for this procedure was 8,985, which represents 3.04 per cent of all export customs declarations throughout the year. Following the trend developed so far, under this regime economic operators preferred to use the services of customs representatives rather than clear their own consignments. The share of these exports cleared by customs representatives is 91.51 per cent (90.88% direct representation and 0.63% indirect representation) and only 8.49 per cent of declarations were lodged by the economic operators themselves. In terms of value, goods with a valuation for customs purposes of EUR 1,045.04 million were placed under this regime, which in turn represented 14.35 per cent of the cleared goods for export from the country, of which customs representatives cleared 94.71 per cent of these goods (94.67% in direct representation and 0.04% in indirect representation).

The data presented above are similar to the state of customs representation in the Republic of Bulgaria when importing goods, thus leading to the generalisation that customs representatives also play a key role in the export operations carried out in the country's territory. Of the total 259,391 customs declarations submitted for export of goods in 2018, customs representatives processed 96.38 per cent (95.83% in direct representation and 0.55% in indirect representation) and only 3.62 per cent of declarations were lodged by the economic operators themselves. In terms of value, goods to third countries with a valuation for customs purposes amounting to EUR 7,283.23 million were exported, and 98.43 per cent of those goods were cleared by customs representatives (97.96% in direct representation and 0.47% in indirect representation).

The transit of goods has its own specific features and effects on the activities of customs representatives. The presence of a risk of diverting the goods from a regime is a possible hypothesis in which responsibility can be borne by both the holder of the procedure and their representative when they are also the responsible person (guarantor) for this transit. However, the proper organisation and application of the transit regime is a challenge for the declarant as they need to be well acquainted with both the nature of the foreign trade transactions they are processing, and the customs formalities involved. These specifics allow customs representatives to assist their clients also as persons responsible for the transit by taking on their behalf the comprehensive guarantee required by the customs authorities (100% of potential customs duties and other public receivables that may become due for the goods in transit).

The transit regime can be started both by a customs declaration (SAD) and by an international guarantee document, such as the TIR and ATA Carnets. By its nature, it can be defined as ancillary as it usually precedes an import customs procedure or ends a special one through re-export. Direct transit is the only independently applied procedure, where after entering the customs territory of the Union goods are transported to the customs office of exit where they leave that territory (e.g. goods from a third country that are shipped to another third country but are transported across the territory of an EU member state). In terms of customs representation, it is important to take into account the status of the customs office where the customs representatives serve their client, since this also determines their actions:

- Customs office of departure, from which the goods leave, and the transit operation is started: here the customs representatives can start the transit and assume the role of a responsible person in cases where SAD is used.
- Transit customs office, through which goods only pass: here the role of customs representatives is limited, as the processing of a transit operation that has started is of the exclusive competence of the customs authorities.
- Customs office of destination, where the goods arrive and the procedure ends: customs representatives prepare the documents for presenting the goods to the customs authorities and assist their clients in placing the goods under an import customs procedure.

Due to the lack of information in the transit documents (customs declarations or international guarantee documents) about the presence of customs representation, it is not possible to accurately measure its place in the transit processes. However, given the nature of transit as a regime and its features discussed above, it can be said that customs representatives also play an important role here and are a key factor in starting and completing the transit. This is due to the import and export data presented above and the fact that transit as a regime serves these processes at their beginning or end. This leads to the conclusion that, from a spatial, technological and logical point of view, the involvement of customs representatives in the transit of goods is justified, as well.

## 5. Conclusion

In conclusion, it can be summarised that customs representation in the Republic of Bulgaria is essential for achieving efficiency in relation to foreign trade with third countries. This applies both to the economic operators themselves and to the customs administration in its capacity as a controlling authority. The services provided by customs representatives facilitate the smooth passage of the consignments through the relevant customs formalities, lead to a reduction in the time for customs clearance and, through consultation, lead to increasing the wellbeing of the economic operators who trust them. At the same time, customs administrations have a relatively trustworthy and predictable partner in the customs representatives who know the customs formalities and actively assist in fulfilling the tasks and objectives assigned to it.

The data analysed in this article clearly show that customs representatives in the Republic of Bulgaria play an important role in customs procedures and participate in a substantial part of the import, export and transit operations in the country. In 2018, customs representatives processed 85.33 per cent of import declarations, which in terms of value represents 83.11 per cent of the total imports from third countries (EUR 8,868.62 million). In the same year, they processed 96.38 per cent of export declarations, which in terms of value represents 98.43 per cent of the total exports to third countries (EUR 7 168.88 million). The conclusion is that economic operators in the Republic of Bulgaria prefer to rely on customs representatives in their dealings with the customs authorities.

The transition to an information society is strongly reflected in the activities of all those involved in international trade. This, in practice, predetermines the need for the establishment and development of specialised information systems to mediate the activities of customs representatives in relation to their involvement in foreign trade operations. The knowledge of specialised software applications available in the market in the country and the free online data resources provided by the Directorate General Taxation and Customs Union (DG TAXUD) are an important prerequisite for the proper organisation of their activities. At the same time, their contacts with the control authorities in the new electronic environment have their own requirements for aligning with the type and format of the transferred data. The features of customs representation in an information environment thus outlined contribute to it being more efficient and, hence, to better protecting the interests of their clients.

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## Notes

- 1 (Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, 2013)
- 2 This condition is not required for persons who make declaration for transit or temporary admission regimes or declare goods in rare cases and if the customs authorities consider declaring admissible.
- 3 Legal capacity means the ability of a legal entity, through personal actions, to acquire or lose specific rights and to assume specific responsibilities. The law also links legal capacity with the possibility to conclude deals.
- 4 (Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, 2013)
- 5 Two such organisations operate in the Republic of Bulgaria – National Organization of Customs Agents and the Bulgarian Union for Customs and Foreign Trade Services.
- 6 EORI number – Economic Operators Registration and Identification number (valid only to the customs information systems in the EU member states).
- 7 In 2018 no submitted declarations were registered for the following import customs regimes:
  - 01 – Free circulation of goods simultaneously redispached in the context of trade between parts of the customs territory of the Union in which the provisions of Directive 2006/112/EC are applicable and parts of that territory in which these provisions do not apply, or in the context of trade between the parts of that territory where these provisions do not apply
  - 07 – Free circulation with simultaneous placing of goods under a warehousing procedure other than a customs warehousing procedure
  - 43 – Simultaneous release for free circulation and home use of goods subject to specific measures connected with the collection of an amount during the transitional period following the accession of new member states
  - 48 – Entry for home use with simultaneous release for free circulation of replacement goods under the customs outward processing procedure prior to the export of the temporary export goods
  - 54 – Inward processing in another member state (without their being released for free circulation in that Member State)
  - 76 – Placing of goods under the customs warehousing procedure in order to obtain payment of special export refunds prior to exportation
  - 77 – Manufacturing of goods under supervision by the customs authorities and under customs control (within the meaning of Article 5(27) of the Code prior to exportation and payment of export refunds
  - 78 – Entry of goods for a free zone

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