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# Customs security in the context of the activities taken by the National Revenue Administration in Poland<sup>1</sup>

## Introduction

The two basic dimensions of the state are security and development. Security is a condition that provides a sense of certainty and a guarantee of its preservation, as well as a chance for improvement,<sup>2</sup> while development is a process of transition from a given state or form to more complex or, in some way, more perfect states or forms.<sup>3</sup> In general terms, it should be treated as a process of the quantitative and qualitative transformations that stem from specific events. Both dimensions are closely related: without an adequate level of safety, there are no conditions for development, whereas without development, there can be no adequate potential to ensure safety. Safety is a multi-faceted concept. One of its aspects is the economic dimension. Such an approach to security may concern many areas of economic activity on both the micro and the macroeconomic scale.

Admittedly, the issues related to the international trade of goods and – consequently, to customs security – are of particular significance. Protecting the supply chain against the influx of goods that give rise to unfair competition is vital for

<sup>1</sup> The research has been co-funded by the statutory funds of the Faculty of Law, Administration and International Relations of Andrzej Frycz Modrzewski Krakow University.

<sup>2</sup> P. Bączek, *Zagrożenia informacyjne a bezpieczeństwo państwa polskiego*, Wydawnictwo Adam Marszałek, Toruń 2006, pp. 11–14.

<sup>3</sup> *Słownik języka polskiego PWN*, <https://sjp.pwn.pl/sjp/rozwoj;2517638.html> [accessed: 14.04.2020].

businesses; still, this type of security is equally important for society as a whole, as it protects it against the import of goods that do not comply with the standards, or pose a threat to life and health, and to the state, which protects the national budget against the loss of revenue from unpaid customs and tax duties. A number of customs security initiatives are being undertaken at both the EU and the national levels.

The goal of this paper is to indicate the role and activities of the National Revenue Administration viewed as a guardian of security. The research hypothesis has been formulated as follows: the National Revenue Administration, having regard to the significance of the protective function performed to safeguard public security, undertakes effective measures aimed at minimising threats and providing protection, and, thereby, plays a pivotal role in providing customs security.

The research rests heavily on the descriptive analysis, preceded by a review of the subject literature, and secondary legislation. The area covered in the paper is topical. So far, the current research on the role of customs security, which is one of the economic dimensions of public security, has not been known to a wider audience. The conclusions presented in this paper are substantive and are of a cognitive nature. Thus they are a clear attempt to address the existing research gap in the field of enquiry in question.

## Security in the context of economic interests

According to the Dictionary of the National Security Bureau, “security” is the theory and practice of providing means for survival and/or existence, and pursuing one’s own interests by an entity – in particular, by seizing opportunities, taking up challenges, reducing risks, and counteracting all the different threats posed to the entity and its interests.<sup>4</sup> From a purely lexical perspective, it is defined as a condition where there is no threat, characterised by peace and a sense of certitude.<sup>5</sup> Its comprehensive and multidimensional character allows one to distinguish between different types of security. Depending on the type of the entity at stake, it is possible to single out a number of types: individual security; group security; national security – including state and territorial security, which refers to all the local tiers, such as the voivodeship, county, or commune; international security – both regional and global – including interstate security – based on alliances and/or coalitions – and transnational security. Having said this, in terms of the subject matter, it is possible to distinguish as many types, fields, sectors or areas as there are possible spheres of activity of a given entity.<sup>6</sup> An intrinsic component of security is public security. Public security is, above all, a constitutional value, as ensuring security is the

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<sup>4</sup> *(Mini)Słownik BBN: Propozycje nowych terminów z dziedziny bezpieczeństwa*, <https://www.bbn.gov.pl/pl/bezpieczenstwo-narodowe/minislownik-bbn-propozy/6035,MINISLOWNIK-BBN-Propozycje-nowych-terminow-z-dziedziny-bezpieczenstwa.html> [accessed: 14.04.2020].

<sup>5</sup> *Uniwersalny słownik języka polskiego*, PWN, Warszawa 2006, p. 23.

<sup>6</sup> *Ibidem*.

fundamental task of the state and its authorities,<sup>7</sup> and one of the basic foundations of a prosperous and well-functioning society.<sup>8</sup> It concerns both the state organisation and every single person in a given area. It refers to the environment in which a given community functions. It includes protection against attacks on life, health and property, safety in transport and communication, sanitary and epidemiological protection, protection against fire, legal, information, architectural and environmental protection, and as well as technological protection, and social safety, not to mention the feeling of safety at mass events and public gatherings.<sup>9</sup> The protective capacity is further enforced by the judicature, the special services, other types of services, guards and inspections specialising in the protection of public safety and maintaining order, rescue and civil protection services, crisis management units, border services, and other institutions that have been tasked with direct or indirect protection of public security.<sup>10</sup>

Public security cannot be discussed without taking into account its economic dimension. The economic potential of security constitutes the grounds for assessing the power, effectiveness and international position of a country.<sup>11</sup> The concept of economic security, despite being commonly used, lacks a homogenous definition of its essence. This is confirmed by numerous definitions. According to one of them, it is a situation in which there are no threats to the unimpeded functioning of the economy.<sup>12</sup> Another one states that it is the totality of all factors and determinants that ensure the independence of the national economy, its stability and sustainability, as well as those that guarantee its capacity to develop<sup>13</sup> by means of the appropriate use of internal factors of development, and the ability to effectively oppose the external pressure that could lead to developmental disruptions.<sup>14</sup> Yet another definition suggests that the undisturbed functioning of economies may be defined as maintaining the primary growth indicators, as well as ensuring the comparative balance with economies of other states,<sup>15</sup> or the capacity of the economic system to make effective use of the internal and external factors of

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<sup>7</sup> Cf. Section 5 of the Constitution of the Republic of Poland of 2 April 1997, Journal of Laws of the Republic of Poland, No. 78, item 483 as amended.

<sup>8</sup> S. Choenni, E. Leertouwer, 'Public Safety Mashups to Support Policy Makers' in K.N. Andersen, E. Francesconi, A. Grönlund, T.M. van Engers (eds.), *Electronic Government and the Information Systems Perspective, First International Conference, EGOVIS 2010, Bilbao, Spain, 31 August–2 September 2010*, Springer-Verlag, Berlin–Heidelberg 2010, p. 234.

<sup>9</sup> W. Fehler, 'Bezpieczeństwo publiczne', *Spółeczeństwo i Polityka*, 2009, No. 4 (21), p. 37.

<sup>10</sup> *Potencjał ochronny*, <https://www.bbn.gov.pl/pl/bezpieczenstwo-narodowe/system-bezpieczenstwa-n/bezpieczenstwo-publiczn/5977,Potencjal-ochronny.html> [accessed: 14.04.2020].

<sup>11</sup> *Potencjał gospodarczy*, <https://www.bbn.gov.pl/pl/bezpieczenstwo-narodowe/system-bezpieczenstwa-n/bezpieczenstwo-gospodar/5979,Potencjal-gospodarczy.html> [accessed: 16.04.2020].

<sup>12</sup> K. Żukrowska, 'Pojęcie bezpieczeństwa i jego ewolucja', in K. Żukrowska, M. Grącik (eds.), *Bezpieczeństwo międzynarodowe. Teoria i praktyka*, SGH – Oficyna Wydawnicza, Warszawa 2006, p. 21.

<sup>13</sup> K.A. Kłosiński, 'Światowe determinanty bezpieczeństwa ekonomicznego', in T. Guz, K.A. Kłosiński, P. Marzec (eds.), *Bezpieczeństwo ekonomiczne państw*, Wydawnictwo Polihymnia, Lublin–Tomaszów Mazowiecki, 2006, p. 41.

<sup>14</sup> Z. Stachowiak, 'Bezpieczeństwo ekonomiczne', in W. Stankiewicz (ed.), *Ekonomika obrony*, Akademia Obrony Narodowej, Warszawa 1994, p. 189.

<sup>15</sup> K.M. Książkowski, *Bezpieczeństwo ekonomiczne*, Dom Wydawniczy Elipsa, Warszawa 2011, p. 32.

development, which can guarantee that its course is uninterrupted.<sup>16</sup> An interesting point of reference has been put forward by K. Raczkowski, who looks at the notion of economic security against the backdrop of the state and trade. With regard to the state, he believes in a relatively endo- and exogenously balanced state of functioning of the national economy, in which the risk of imbalance is maintained in designated and acceptable organisational and legal norms and principles of social coexistence.<sup>17</sup> However, when it comes to trade, he argues that it is a non-inertial system of relative balance of conducting economic activity in an uninhibited and regulated way, having regard to the freedom of will of its participants and the necessity of maintaining the current volume of risk by exercising limited confidence in economic and legal relations between partners, the domestic environment, and the surroundings in which the given entity operates.<sup>18</sup> Economic security refers to a great number of areas of life and belongs to the basic needs of every person and society. The economic development of each country is highly dependent on international trade, as it exposes countries to a plethora of security and safety risks that originate from trading.

In view of the emerging challenges posed by the growth of civilisation and the advancing processes of globalisation and regionalisation, the area of customs is becoming increasingly significant for economic security. In EU customs legislation, elements of security were first introduced in the aftermath of the 2001 terrorist attacks in the United States. An important document which introduced modern security standards in the supply chain and thus helped to intensify the involvement of customs authorities in safeguarding economic security of individual countries is the SAFE Framework of Standards to Secure and Facilitate Global Trade.<sup>19</sup> The WCO SAFE Framework contains standards for information exchange between customs administrations of different countries (the Customs-to-Customs pillar), as well as those regarding the partnership between customs authorities and economic operators – participants of international supply chains (the Customs-to-Business pillar). The necessity to strengthen security was also reflected in a change in the role that the European Union has envisaged for customs administrations, e.g. according to the Union Customs Code, it is the customs authorities that are the guardians of the security of trade in goods.<sup>20</sup>

It is difficult to find a definition of customs security in the subject literature. According to the author, the term should be understood as a process which is the

<sup>16</sup> I. Jaźwiński, 'Determinanty kształtowania polskiego bezpieczeństwa gospodarczego. Wybrane aspekty', *Przegląd Strategiczny*, 2011, No. 1, p. 59.

<sup>17</sup> K. Raczkowski, 'Percepcja bezpieczeństwa ekonomicznego i wyzwania dla zarządzania nim w XXI wieku', in *idem* (ed.), *Bezpieczeństwo ekonomiczne. Wyzwania dla zarządzania państwem*, Wolters Kluwer, Warszawa 2012, p. 81.

<sup>18</sup> *Idem*, 'Współczesny model tetrarchii zarządzania a bezpieczeństwo ekonomiczne obrotu gospodarczego', in *idem* (ed.), *Bezpieczeństwo ekonomiczne obrotu gospodarczego. Ekonomia, prawo, zarządzanie*, Wolters Kluwer, Warszawa 2014, p. 38.

<sup>19</sup> [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/safe\\_package.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/safe_package.aspx) [accessed: 4.05.2020].

<sup>20</sup> Cf. Point 16 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, O.J. L 269 of 10.10.2013.

result of all the activities aimed at ensuring security or minimising the customs risk<sup>21</sup> in the course of crossing the customs borders by goods, services, persons, or vehicles. Managing customs security is an organised activity that makes use of the available human, financial, information and technical resources in order to reduce potential threats. Threats to customs security have international and global ramifications and various sources. These can be external, i.e. they can cause disruptions to the supply chain; and they can be internal, i.e. those which involve the use of the supply chain for criminal activities, e.g. smuggling of weapons of mass destruction or the use of a vehicle as a weapon, as a result of which it poses a threat to the environment – to human health and life, to infrastructure, to the economy, or to the sense of security in the society.<sup>22</sup> The increased significance of customs security results mainly from a rise in the volume of world trade; the growing share of developing countries in international trade; greater specialisation of individual countries in industrial production; trade liberalisation, manifested in the reduction of tariffs and non-tariff barriers; the introduction of new rules in international trade, e.g. on the protection of intellectual property rights; the proliferation of regional trade agreements (e.g. within the World Trade Organisation); the introduction of new models for transport and logistics; the escalation of international organised crime and terrorism; and the greater awareness of the problem of health and environmental protection.<sup>23</sup>

Customs security is of particular importance for the following reasons:

- fiscal: illegal trade in goods generates losses to national budgets, caused by unpaid taxes;
- social: a key issue in this area is health, since the marketing of dangerous goods poses a threat to health, and in many cases also to the lives of potential consumers;
- economic: protecting traders operating in the legitimate capacity and complying with the law from unfair competition. Each actor in the international supply chain (manufacturer, exporter, freight forwarder, entities providing warehousing and storage, customs agent, carrier, importer) should pay particular attention to the risks that may arise at each stage of the transaction, for instance, in relation to goods, documents, business partners or IT systems.

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<sup>21</sup> In the European Union, customs risk has been defined as the likelihood and the impact of an event occurring, with regard to the entry, exit, transit, movement or end-use of goods moved between the customs territory of the Union and countries or territories outside that territory and to the presence within the customs territory of the Union of non-Union goods, which would prevent the correct application of Union or national measures; compromise the financial interests of the Union and its Member States; or pose a threat to the security and safety of the Union and its residents, to human, animal or plant health, to the environment or to consumers. Cf. Article 5(7) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, *op. cit.*

<sup>22</sup> M. Donner, C. Kruk, *Supply Chain Security Guide*, World Bank, Washington 2009, p. 8.

<sup>23</sup> Cf. P. Gordhan, 'Customs in the 21<sup>st</sup> century', *World Customs Journal*, 2007, No. 1, pp. 41–50.

## National Revenue Administration: a guardian of customs security

Customs security is derived from a number of elements, and a key role in this respect has been assigned to customs authorities, which, by holding full competence within the supervision and control of all the goods that transited across the border, secure and facilitate trading. In Poland, activities in this area are carried out by the National Revenue Administration (NRA).<sup>24</sup> The mission of the NRA is to ensure stable, effective and sustainable public finances, as well as provide a high quality of services itself.<sup>25</sup> The catalogue of NRA tasks includes, among other things, the implementation of revenue from taxes, customs duties, protection of the interests of the State Treasury and the EU customs territory, service and support for the taxpayer in the proper performance of tax duties, as well as the economic operator in the proper performance of customs duties.<sup>26</sup> A more detailed list of tasks of the customs and tax control administration includes a number of objectives in the area of the trading of goods in international commerce, such as the implementation of the customs policy resulting from the membership in the EU customs union; the implementation of revenues from customs duties and other charges related to the import and export of goods; placing goods under customs procedures and regulating the status of goods related to their import and export; recognising, detecting and combating fiscal crimes and offences; and preventing these incidents and prosecuting their perpetrators.<sup>27</sup> The NRA ensures the state's financial security and the protection of the security of the European Union's customs territory by combating the grey economy, cracking down on economic crime, including tax fraud, and enforcing non-tariff requirements. The tasks that concern customs security are carried out by the NRA with regard to:

- economic operators: the NRA protects supply chains against the influx of goods which constitute unfair competition, including the infringement of intellectual property rights, trademarks or patent rights. Infringements of intellectual property rights have an adverse impact on businesses. They result in, among other things, lower incomes due to the lower demand for legal goods, additional costs generated by proceedings and investigations related to cases of infringements

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<sup>24</sup> Ustawa z dnia 16 listopada 2016 r. o Krajowej Administracji Skarbowej [The National Revenue Administration Act of 16 November 2016], Journal of Laws of the Republic of Poland of 2016, item 1947. The NRA became operational on 1 March 2017 and was created as a result of the reform of the administration structure of customs, taxation, as well as fiscal control. Until 28 February 2017, the field structure comprised three independent pillars: the Customs Service (16 customs chambers, 45 customs offices, 143 customs branches); the tax administration (16 tax chambers, 400 tax offices); the tax control (16 tax control offices, 8 local TCO centres). The reformed structure consists of 16 revenue administration regional offices, 16 customs and tax control offices (CTCOs), together with 45 CTC regional offices and 143 customs branches, as well as 400 tax offices.

<sup>25</sup> Cf. Annex to the Order of the Minister of Finance of 25 July 2017 on the priorities for actions and development of the National Revenue Administration for years 2017–2020, Journal of Laws of the Minister of Development and Finance, item 144, p. 5.

<sup>26</sup> Cf. Section 1 (2) of the National Revenue Administration Act of 16 November 2016, *op. cit.*

<sup>27</sup> Cf. Section 2, *ibidem*.

of intellectual property rights, and finally, they may undermine the reputation of the trademarks concerned;

- the society: the role of the NRA is to verify whether the goods imported into the territory of the country meet the mandatory quality standards, as well as to check whether the items or equipment pose a threat to the life, safety and health of the citizens. A safe product is one that poses no risk to consumers or a negligible risk associated with its use, deemed acceptable in normal use and providing a high level of consumer safety and health protection<sup>28</sup>. At present, due to labour costs and policies of many companies geared towards a maximum reduction of production costs, numerous goods are produced in countries where safety standards are not complied with. In this case, the task of the NRA is to detect, in the course of inspections, and not to allow hazardous goods to enter the market. This applies not only to non-conformities in terms of the construction or material of the product, but also to non-compliances in labelling, lack of user manuals or incorrect information provided by manufacturers;
- the environment: the goal of the NRA is to protect against the predatory trade in endangered species and against the import of harmful substances and microorganisms. Environmental protection is of paramount importance, nevertheless, it is often overlooked and considered an insignificant obligation of the NRA. The activities are predominantly focused on: 1) animals and plants at risk of extinction and 2) waste shipment. At present, in most cases, dead specimens, finished products (chiefly handbags, shoes) and tourist souvenirs are seized. Apart from smuggling of a tourist character, there is illicit trade carried out purposefully by organised crime groups, for whom such operations are a source of high profits;<sup>29</sup>
- the state budget and the EU budget: the customs authorities constitute the initial, as well as the final “official contact point” for goods which are subject to customs and tax duties on imports, thus, their role is to protect the state budget against loss of revenue from duties payable. Since 80% of the customs revenue is transferred to the Union budget, and only 20% is retained by Member States by way of collection costs<sup>30</sup>, providing fiscal security by the NRA is critical not only at the national level. Losses to the state budget due to uncollected duties result, among other factors, from activities of organised crime groups. They are involved in carousel fraud, smuggling of goods, aggressive tax optimization, not registering as taxpayers and economic operators as well as non-disclosure of sources of income for taxation purposes<sup>31</sup>. The NRA guarantees the efficient

<sup>28</sup> Cf. Article 2 of Directive 2001/95/EC of the European Parliament and the Council of 3 December 2001 on general product safety, O.J. L 011 of 15.01.2002.

<sup>29</sup> J. Świerczyńska, ‘Bezpieczeństwo i ochrona rynku jako priorytetowy obszar działania europejskiej służby celnej’, in J. Rymarczyk, M. Domiter, W. Michalczyk (eds.), *Przemiany strukturalne i koniunkturalne na światowych rynkach*, t. 2, Wrocław 2014, pp. 229–230 (Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu, No. 369).

<sup>30</sup> Article 2 of Council Decision of 26 May 2014 on the system of own resources of the European Union, No 2014/335/EU, Euratom, L 168.

<sup>31</sup> Ministry of Finance, *Kierunki działania i rozwoju Krajowej Administracji Skarbowej na lata 2017–2020* [Priorities for actions and development of the National Revenue Administration for years 2017–2020], Annex to the Disposition of the Minister of Finance of 21 May 2019, item 61, p. 10.

functioning of state structures and stimulates economic growth by means of optimization of the generated budget revenues. Therefore, safeguarding the budget against loss of income is of key importance and imposes a special responsibility on the NRA.

- The National Revenue Administration protects not only the customs territory of the Republic of Poland, but also, to the same extent as the customs authorities of other Member States, the territory of the entire European Union. It ought to be stressed that this organisation provides day-to-day services to and is responsible for the external border of the European Union. At present, the external frontier of the Union in Poland is the border with Russia, Belarus, Ukraine, the sea border and border customs branches at airports. On the land external border of the Union, which is 1185 km in total, officers serve in 18 customs branches at road border crossings and four branches located at railway crossings. Officers from 12 branches at sea border crossing points are responsible for enforcing security at the sea border. Air traffic is handled by 15 border customs branches.<sup>32</sup> The section of the border that is entrusted to the NRA is characterised by a very high volume of traffic (see Table 1, and Table 2). Therefore, it is vital to ensure the proper flow of traffic while maintaining a high level of control effectiveness. Only in this way can threats be minimized and a high level of security ensured.

Table 1. Border traffic of persons in 2019

Section of the border	total	including	
		from Poland	to Poland
Russia	3,466,814	1,729,001	1,737,813
Belarus	8,814,753	4,506,344	4,308,409
Ukraine	21,737,666	10,843,216	10,894,450
Sea	168,684	95,987	72,697
Air	20,204,025	10,066,232	10,137,793
Total EU's external border	54 391 942	27 240 780	27 151 162

Source: Komenda Główna Straży Granicznej [Polish Border Guard Headquarters], *Informacja statystyczna za 2019 r.* [Statistical Bulletin for 2019], Warszawa 2020, p. 1, <https://www.strazgraniczna.pl/pl/granica/statystyki-sg/2206,Statystyki-SG.html> [accessed: 30.04.2020].

Table 2. Border traffic of road vehicles in 2019

Section of the border	total	passenger cars	buses	heavy goods vehicles	other vehicles
Russia	1,921,795	1,757,863	21,657	114,230	28,045
Belarus	4,080,523	2,832,597	91,183	1,120,489	36,254
Ukraine	5,059,375	4,087,857	163,624	753,004	54,890
Sea	14,025	–	–	–	14,025
Air	136,453	–	–	–	136,453
Total EU's external border	11,212,171	8,678,670	276,464	1,987,921	269,116

Source: Komenda Główna Straży Granicznej, *Informacja statystyczna za 2019 r.*, *op. cit.*, p. 4.

<sup>32</sup> <https://granica.gov.pl/przejsciam.php> [accessed: 30.04.2020].



The NRA, which acts as a guardian of the market, carries out its tasks primarily through a set of activities performed by Customs and Tax Control officers.<sup>33</sup> Its organisational structure encompasses the Tactical and Operational Activities Division, which is a specialised unit entrusted with tasks of a higher degree of complexity and risk, including operational security. Seven Operational Security Groups are planned to be established in 2020 and will be tasked with the support of operational activities, e.g. during the apprehension of suspects, throughout the search of the places where smuggled goods are stored, or for the dismantling of illegal factories that manufacture excise goods.<sup>34</sup>

The main tool used by the officers who work in customs security is the institution of customs and tax control. Its nature is determined by numerous sources of law: both on the international level – mostly by a variety of agreements made within the World Trade Organisation and the World Customs Organisation, the EU law, as well as national legislation. Over the years, the way in which customs control is organised has changed fundamentally. Traditional forms of control, based on stopping the means of transport, checking relevant documents and performing on-site searches of cargo are gradually being replaced with less intrusive techniques based on the gathering and exchange of information with the use of IT technologies. The NRA undertakes control activities when they are required by law, or when the results of risk assessment clearly indicate the need to carry them out. The scope of customs and tax control refers to compliance with the following regulations: tax law, customs law and other regulations related to import and export of goods in trade between the customs territory of the European Union and third countries, laws regulating the organization and operation of gambling, foreign exchange law pertaining to restrictions and obligations for residents and non-residents and conditions for foreign exchange permits granted on their basis, as well as conditions for running a currency exchange, type of fuel in vehicle tanks or other means of transport, postal consignments, export and import of goods subject to restriction from/to the territory of Poland.<sup>35</sup> The current regulations have provided the controllers with broad competences, whereas numerous obligations have been imposed on the entities under control. They concern not only the inspected entity itself, but also those entities associated with it – such as e.g. employees, co-workers, entities keeping or storing relevant tax books or documents. An inspection of an item may be carried out also when it is held by an entity other than the entity under control.<sup>36</sup> What should also be noted is the diverse nature of NRA's duties. These are related to the following areas:<sup>37</sup>

- 1) documentation (e.g. allowing access to the documents covered by the inspection – including electronic documents – even if they are confidential; releasing the documents for inspection or providing an official translation of documents drawn up in a foreign language);

<sup>33</sup> Cf. Section 1 (3) of the National Revenue Administration Act of 16 November 2016, *op. cit.*

<sup>34</sup> <https://www.infosecurity24.pl/nowe-grupy-realizacyjne-kas> [accessed: 7.05.2020].

<sup>35</sup> Cf. Section 54 of the National Revenue Administration Act of 16 November 2016, *op. cit.*

<sup>36</sup> Cf. Section 73, *ibidem*.

<sup>37</sup> Cf. Section 72, *ibidem*.

- 2) goods, equipment, means and products (e.g. making the goods available and allowing examination of the goods and possible sampling);
- 3) providing suitable conditions for performing controls (a separate room, a place for storing documents, providing explanations).

The costs of the activities that facilitate the inspections to be performed (e.g. unloading, presentation and reloading of goods) are covered by the holder of the controlled goods. The catalogue of powers exercised by the officers is very extensive and includes, among others, carrying out searches of goods and means of transport with a variety of techniques, including technical apparatuses and dogs; interrogating and searching persons; running convoys and safekeeping of goods; and applying official seals.<sup>38</sup>

Many of the activities undertaken by the NRA require inter-organisational cooperation, which is considered to be the foundation of public safety management.<sup>39</sup> The NRA not only cooperates with the customs authorities of the Member States of the European Union,<sup>40</sup> but also with numerous other institutions. The currently operative legal solutions offer a wide array of possibilities and forms of cooperation. The actions that are undertaken can be divided into: internal general measures (mutual assistance and cooperation with customs services of other countries; use of information technology in operations; cooperation in customs law enforcement), and measures targeting specific customs offences (e.g. import of funds into the European Union; trade in goods infringing intellectual property rights; trade in narcotic drugs and precursor substances, cybercrime; trade in dangerous and harmful goods, i.e. those that may be detrimental to the broadly-conceived health and safety of people, and to the environment or public security). The cooperation is primarily grounded on a quick and flexible exchange of information.

- Customs security at the international level, relies on strong cooperation with:
- the European Police Office (Europol): areas of collaboration: drug trafficking, trade in goods infringing intellectual property rights, illicit trade in tobacco products, money laundering, cybercrime. A good example of effectiveness of this cooperation are the outcomes of the Silver Axe III operation – as a result of this 4-week operation consisting in the control of seaports, airports and land borders, as well as the internal markets, in July 2018, in collaboration with the NRA, 26 tonnes of illegal plant protection products were seized<sup>41</sup>. Another instance is NRA's 2019 seizure of 16,000 litres of illegal fuel and arrest of 14 persons, in an operation executed jointly with the Slovak services. Over 80 companies were involved in the fraud.<sup>42</sup>

<sup>38</sup> Cf. Section 64, *ibidem*.

<sup>39</sup> W.L. Waugh, G. Streib, 'Collaboration and Leadership for Effective Emergency Management', *Public Administration Review*, No. 66, 2006, pp. 131–140.

<sup>40</sup> The basis for cooperation is the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on mutual assistance and cooperation between customs administrations, made in Brussels on 18 December 1997; Journal of Laws of 2008, item 31, with the exception of the specific forms of cooperation provided for in Title IV of the Convention.

<sup>41</sup> <https://www.zywnosc.com.pl/operacja-silver-axe-iii/> [accessed: 6.05.2020].

<sup>42</sup> <https://www.europol.europa.eu/newsroom/news/blow-to-fuel-fraudsters-59-arrests-in-europe> [accessed: 6.05.2020].

- the European Anti-Fraud Office (OLAF): this involves carrying out joint customs operations and special checks to combat smuggling of strategically important goods and fraud in the so-called certain risky areas or on identified trade routes. An example of these efforts is participation in joint operations, e.g. Cerberus (the aim of the operation was to combat organised crime, money laundering and financing terrorism – the effect: 87 seizures amounting to €6,4 million)<sup>43</sup>. Other operations: Baltica,<sup>44</sup> Magnum,<sup>45</sup> and Barrel.<sup>46</sup>
- the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex): here, the goal of the cooperation is to improve the integrated management of the external frontiers of the EU countries by facilitating and enhancing the effectiveness of application of the Union measures related to the management of external borders;
- the European Union Agency for Criminal Justice Cooperation (Eurojust): it mainly concerns the exchange of information as part of activities aimed at combating transnational organised crime. An example of effective cooperation with the agency are the results of the international operation, carried out in 2018 in collaboration with the NRA, targeting the illegal market of pyrotechnics and explosives. With the support of Eurojust, 35 persons were charged, and 80 tonnes of explosives were seized.<sup>47</sup>

However, at the national level, it is vital to cooperate with the General Veterinary Inspectorate to perform veterinary control of animals and products of animal origin, among other areas; the General Sanitary Inspectorate with regard to the border sanitary control of food, materials and products intended to come into contact with food; the Main Inspectorate of Plant Health and Seed Inspection for phytosanitary control of plants and plant products; the Agricultural and Food Quality Inspection with regard to quality control of agricultural and food products); the Border Guard (joint centres for cooperation between border services, police and the NRA at the borders, whose main task is to gather and exchange information relevant to ensuring public safety and order, as well as to detect crime).

Efficient cooperation facilitates seizures of goods that may pose a health and safety risk before they are released. This is the most desirable form of activity in the process of ensuring customs security. The statistics of successful detections confirm the effectiveness of the cooperation (see Table 3, and Table 4).

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<sup>43</sup> [https://ec.europa.eu/anti-fraud/media-corner/news/20-12-2017/jco-cerberus-olaf-french-and-spanish-customs-launch-large-scale\\_en](https://ec.europa.eu/anti-fraud/media-corner/news/20-12-2017/jco-cerberus-olaf-french-and-spanish-customs-launch-large-scale_en) [accessed: 6.05.2020].

<sup>44</sup> [https://ec.europa.eu/anti-fraud/media-corner/press-releases/olaf-coordinated-joint-customs-operation-baltica-results-seizure-13\\_en](https://ec.europa.eu/anti-fraud/media-corner/press-releases/olaf-coordinated-joint-customs-operation-baltica-results-seizure-13_en) [accessed: 6.05.2020].

<sup>45</sup> [https://ec.europa.eu/anti-fraud/policy/joint-customs-operations/magnum\\_en](https://ec.europa.eu/anti-fraud/policy/joint-customs-operations/magnum_en) [accessed: 6.05.2020].

<sup>46</sup> [https://ec.europa.eu/anti-fraud/policy/joint-customs-operations/barrel/barrel\\_en](https://ec.europa.eu/anti-fraud/policy/joint-customs-operations/barrel/barrel_en) [accessed: 6.05.2020].

<sup>47</sup> [https://www.lodzkie.kas.gov.pl/izba-administracji-skarbowej-w-lodzi/wiadomosci/aktualnosci/-/asset\\_publisher/wtP3/content/miedzynarodowa-akcja-sluzb-wymierzona-w-nielegalny-rynek-materialow-pirotechnicznych-i-wybuchowych?redirect=http%3A%2F%2Fwww.lodzkie.kas.gov.pl%2Fizba-administracji-skarbowej-wlodzi%3Fp\\_p\\_id%3D101\\_INSTANCE\\_Jd68%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3D\\_118\\_INSTANCE\\_Y3yS\\_\\_column-1%26p\\_p\\_col\\_count%3D1](https://www.lodzkie.kas.gov.pl/izba-administracji-skarbowej-w-lodzi/wiadomosci/aktualnosci/-/asset_publisher/wtP3/content/miedzynarodowa-akcja-sluzb-wymierzona-w-nielegalny-rynek-materialow-pirotechnicznych-i-wybuchowych?redirect=http%3A%2F%2Fwww.lodzkie.kas.gov.pl%2Fizba-administracji-skarbowej-wlodzi%3Fp_p_id%3D101_INSTANCE_Jd68%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3D_118_INSTANCE_Y3yS__column-1%26p_p_col_count%3D1) [accessed: 6.05.2020].

Table 3. Goods originating in criminal activities, divided by the place of seizure, in 2019

Section of the border	Total (value in PLN)	including				
		vehicles	alcohol	cigarettes	tobacco	other goods
Russia	3,189,219	676,000	4,091	1,770,227	457,906	280,995
Belarus	32,477,601	6,751,600	11,199	4,771,473	69,961	20,873,370
Ukraine	34,437,707	11,671,747	33,943	9,934,992	7,086	12,789,940
Sea	2 494 403	1 007 000	–	–	–	1 487 403
Air	2 550 279	–	88	24 867	4 489	2 520 835
Total EU's external border	75 149 210	20 106 347	49 319	16 501 559	539 442	37 952 544

Source: Komenda Główna Straży Granicznej, *Informacja statystyczna za 2019 r., op. cit., p. 35.*

Table 4. Goods originating in criminal activities, divided by the type of items, in 2019

Type of goods	Value (in PLN)
Motor vehicles	40,294,293
Drugs	42,883,018
Weapons and ammunition	635,822
Cultural objects	2,100
Commercial goods	181,663,720
including:	
cigarettes	95,100,775
tobacco	57,116,549
alcohol	516,730
other goods	28,929,666
TOTAL	265,478,953

Source: Komenda Główna Straży Granicznej, *Informacja statystyczna za 2019 r., op. cit., p. 36.*

The complete knowledge of who sends what to whom and where from is vital; however, this does not imply that the customs and tax control is the “absolute control of everything.” Highly qualified officers, effective methods, modern tools based on information technologies allow to concentrate control measures in the areas where the risk of fraud is high. As a consequence, this translates into a higher level of security. Of the practical solutions geared towards the raising the level of security, several e-Services merit particular mention. These include an innovative IT system to support the protection of Polish borders using X-ray equipment (an effective solution for the analysis of images from X-ray equipment used for screening large goods); *digital border* – a mechanism that enables the management of a participant in the supply chain at border crossings with the use of automatic vehicle identification and traffic control mechanisms; *e-Notice*, which allows to notify of the intention of arrival at the border and submitting advance data on goods for the purposes of preliminary preparation of the clearance, thereby reducing the waiting

time at the border crossing point, as well as allowing the use of the submitted data at subsequent stages of the customs clearance procedure); *e-Movement* – which allows the movement of goods subject to excise duty using electronic documents.<sup>48</sup> Moreover, a solution of major importance which has enhanced the effectiveness of controls is SENT, the monitoring system for road and rail freight transport,<sup>49</sup> which has been in use since 2017. This tool enables close monitoring and control of transported goods, primarily the sensitive goods (fuels, ethyl alcohol, dried tobacco). The handling of goods transport operations in the SENT register is possible thanks to the *e-Carriage* service. In 2018, the system was expanded with the GEO module, which transmits location data of transported goods (each carrier is obliged to equip their vehicles with a locator). Due to the fact that a selected group of goods are monitored, it has become possible to seal the borders and, in turn, increase the level of customs security.

The activities undertaken in the area of customs security should be carried out at many levels and ought to be based on an entire range of tools available to the NRA. It is critical that these activities are supported by state-of-the-art technologies that offer a capacity for improved protection. It is, thus, necessary in the future to further develop the environment which will be used to provide public electronic services associated with the collection of duties and to ensure the security of freight flows.

## Conclusions

Each entity involved in the management of public security plays a number of specific roles. Under Polish law, the National Revenue Administration performs a preventive function, one related to coordination and control, and one that pertains to information and support. It influences the level of public security not only by performing its statutory tasks, but also by undertaking its own initiatives and cooperating effectively with other entities. The tools at its disposal allow it to identify, detect, prevent and combat those activities that are illegal and dangerous to the market. The economic, technological and civilisation conditions – such as free movement of goods and people, new and increasingly complex supply chains, as well as competitive pressure and deepening economic differences between individual economies and the resulting disparities in the quality of life – serve as an impulse for abuse in the area of customs and tax regulations, and the role of the NRA is to minimise and eliminate the emerging threats.

The National Revenue Administration, having regard to the significance of the protective function for public security, undertakes a series of effective measures geared towards minimising threats and ensuring protection. As such, it plays a key

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<sup>48</sup> Electronic Services Portal of the Customs Service, <https://puesc.gov.pl/en/web/puesc/strona-glowna> [accessed: 6.05.2020].

<sup>49</sup> Ustawa z dnia 9 marca 2017 r. o systemie monitorowania drogowego i kolejowego przewozu towarów [The Road and Rail Transit of Goods Monitoring System Act of 9 March 2017], Journal of Laws of the Republic of Poland of 2017, item 708, consolidated text found in the Journal of Laws of 13 December 2018, item 2332.

role in providing customs security. The NRA takes actions to safeguard the state budget against the loss of revenue from public levies, and, at the same, protects the market by ensuring that only “safe” goods are marketed, i.e. those which are not detrimental to human life and health, do not harm the natural environment, do not pose a threat to economic operators. The activities undertaken in the area of customs security are, indeed, performed on an ongoing basis and, in practical terms, this implies a major challenge, as it involves a series of interdependent activities (controls, taking samples, laboratory testing, interpretation of results, risk assessment, or decisions). The efficiency of the NRA has been acknowledged by the Poland’s score in the World Bank’s *Doing Business 2020* ranking,<sup>50</sup> where the country got the first place in the category including customs-related issues.

To conclude, it must be noted that the activities undertaken by the National Revenue Administration are not only needed but are, indeed, a prerequisite condition for ensuring security. It is undisputed that efficient cooperation of the NRA with other agencies translates into a smaller number of dangerous goods on the market and, in turn, an higher level of consumer protection, along with the elimination of rogue traders, and, consequently, an advancement in the field of public security.

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<sup>50</sup> *Doing Business* is an annual report which provides a description and comparison of conditions for business activity across 190 countries. It analyses regulations affecting operations of companies in such aspects as obtaining permits, paying taxes or trading across borders.

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## *Bezpieczeństwo celne w kontekście działań polskiej Krajowej Administracji Skarbowej* *Streszczenie*

Bezpieczeństwo celne, będące jednym z elementów ekonomicznego wymiaru bezpieczeństwa publicznego, ma wieloaspektowy charakter i jest istotne dla przedsiębiorców, społeczeństwa i państwa. Na poziomie krajowym zadania z tego zakresu realizuje m.in. Krajowa Administracja Skarbowa. Wskazanie na jej rolę oraz działania jest celem artykułu. Hipoteza badawcza została sformułowana następująco: Krajowa Administracja Skarbowa, mając na uwadze znaczenie funkcji ochronnej dla bezpieczeństwa publicznego, podejmuje skuteczne działania, których celem jest minimalizowanie zagrożeń i ochrona, pełniąc tym samym istotną rolę w zapewnianiu bezpieczeństwa celnego. Struktura artykułu obejmuje dwie części oraz podsumowanie. W pierwszej omówiono istotę bezpieczeństwa w aspekcie interesów ekonomicznych, druga odnosi się do roli i działań Krajowej Administracji Skarbowej jako strażnika bezpieczeństwa celnego. W podsumowaniu przedstawiono wnioski płynące z rozważań zawartych w artykule. W badaniach wykorzystano analizę opisową, poprzedzoną przeglądem źródeł literaturowych i aktów unijnego i krajowego prawodawstwa wtórnego.

**Słowa kluczowe:** bezpieczeństwo celne, bezpieczeństwo ekonomiczne, bezpieczeństwo publiczne, Krajowa Administracja Skarbowa w Polsce, zarządzanie bezpieczeństwem

## *Customs security in the context of the activities taken by the National Revenue Administration in Poland* *Abstract*

Customs security, arguably one of the key factors of the economic dimension of public security, has a multifaceted character: it is crucial for economic operators, the society, and the state. At the national level, activities in this regard are performed by, among others, the National Revenue Administration. The goal of this paper is to discuss its role and activities. The research hypothesis has been formulated as follows: the National Revenue Administration, having regard to the significance of its protective function for public security, undertakes effective measures aimed at minimising threats and ensuring protection, and, as such, plays a key role in providing customs security. The paper has been structured as follows: the first part looks at the essence of security from the perspective of economic interests; the second part refers to the role and select activities of the National Revenue Administration as a guardian of customs security. A relevant summary follows, outlining the conclusions drawn from the considerations presented. The research was based on the descriptive analysis, preceded by a review of the subject literature, as well as an in-depth analysis of domestic and EU secondary legislation.

**Key words:** customs security, economic security, public safety, National Revenue Administration in Poland, safety management



## *Die Zollsicherheit im Zusammenhang mit der Tätigkeit der polnischen Nationalen Finanzverwaltung*

Die zollrechtliche Sicherheit, die eine der Elemente auf der wirtschaftlichen Ebene der öffentlichen Sicherheit ist, hat den multidimensionalen Charakter und ist wichtig für die Unternehmer, die Gesellschaft und den Staat. Auf nationaler Ebene nimmt die Aufgaben in diesem Bereich u. a die nationale Finanzverwaltung wahr. Der Artikel zeigt ihre Rolle und Tätigkeiten. Die Forschungshypothese wurde formuliert, wie folgt: die nationale Finanzverwaltung, in der Erwägung der Bedeutung der schützenden Funktion für die öffentliche Sicherheit, nimmt wirksame Maßnahmen vor, deren Ziel die Minderung von Risiken und der Schutz ist, sie spielt also eine wichtige Rolle bei der Gewährleistung der zollrechtlichen Sicherheit. Die Struktur des Artikels umfasst zwei Teile und eine Zusammenfassung. Im ersten Teil wurde das Wesen der Sicherheit im Aspekt der wirtschaftlichen Interesse erörtert, der zweite bezieht sich auf die Rolle und Tätigkeiten der nationalen Finanzverwaltung Polens als Hüter der zollrechtlichen Sicherheit. In der Zusammenfassung wurden die sich aus dem im Artikel enthaltenen Überlegungen ergebenden Schlussfolgerungen dargestellt. In den Untersuchungen nutzte man die beschreibende Analyse, der eine Übersicht der Literaturquellen und Akte der sekundären Rechtsvorschriften auf der EU- und nationalen Ebene vorausgeht.

**Schlüsselwörter:** zollrechtliche Sicherheit, wirtschaftliche Sicherheit, öffentliche Sicherheit, Nationale Finanzverwaltung in Polen, Sicherheitsmanagement

## *Таможенная безопасность в контексте деятельности Национальной налоговой администрации Польши* *Резюме*

Таможенная безопасность, являющаяся одним из элементов экономического измерения общественной безопасности, носит многогранный характер и имеет существенное влияние на предпринимателей, общество и государство. На государственном уровне, задачи в этой сфере, в частности, возложены на Национальную налоговую администрацию. В статье рассмотрена роль и деятельность этого органа. Для нужд работы была сформулирована следующая исследовательская гипотеза: Национальная налоговая администрация, учитывая важность защитной функции для общественной безопасности, принимает эффективные меры, направленные на минимизацию угроз и защиту государства, тем самым выполняя важную роль в обеспечении таможенной безопасности. Статья состоит из двух частей и выводов. В первой части обсуждена сущность безопасности в аспекте экономических интересов, во второй – речь идет о роли и деятельности Национальной налоговой администрации – стоящей на стражи таможенной безопасности. В исследовании использовался описательный анализ, которому предшествовал обзор научной литературы и правовых актов Европейского Союза и национального законодательства.

**Ключевые слова:** таможенная безопасность, экономическая безопасность, общественная безопасность, Национальная налоговая администрация Польши, управление безопасностью

