

EU Customs Policy Development and its Legal Limits in The Slovak Republic

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Summary: The aim of this paper is to identify the process of shaping the customs policy of the European Union, its legal framework, and the limits of the competences of a Member State, using the Slovak Republic as an example. The authors base their analysis on the provisions of the EU Treaties and on national legislation implementing European norms. The paper identifies key areas of EU policy-making that restrict the sovereign powers of the Slovak Republic and highlights the practical implications of these limitations for the functioning of the customs administration. In conclusion, the authors propose recommendations to enhance the coordination between EU and Slovak customs policies, including *de lege ferenda* proposals related to measures that could improve the effectiveness of customs policy implementation in the Slovak Republic.

Keywords: Customs policy, EU Customs Code, Constitutional limits, Customs law

Citation: CAKOCI, K., KUKO, P. EU customs policy development and its legal limits in the Slovak Republic. *European Studies – the Review of European law, Economics and Politics*, 2025, vol. 12, no. 1, pp. 243–259, DOI: 10.2478/eustu-2025-0010.

Acknowledgement: This work was supported by the Agency for the Promotion of Research and Development under Contract No. APVV-23-0158.

1. Introduction

The European Union is one of the most important political and economic groupings, integrating countries with similar political and legal systems. For

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the purpose of the EU to be effective, it is necessary, that certain policies must be created directly at the EU level. One such area is customs policy. Historically, the creation of customs policy was considered the *domaine reserve* of individual states, i.e., a means of regulating the import and export of goods. For the creation of European Communities,¹ however, it was necessary for member states to transfer their powers in the area of customs policy to an international organization² that brought together the member states. However, the creation of a customs union did not only involve the abolition of all customs duties in trade between individual member states and the introduction of a single customs tariff at the common border. With such limited objectives, the customs union would not have been very stable (Walsh, 2016, p. 57). In addition to removing the fundamental obstacles of a uniform customs policy, it was necessary to prevent any deviation from uniform customs administration in trade. Until the decision in the „van Gend & Loos“³ case, the European Economic Community was perceived as a typical international organization with specific powers in the area of (among other things) customs policy. This decision is considered groundbreaking in the context of confirming the existence of another, new, legal-political system, which is today's European law.

1.1. Methodology of research

In line with the set objective, the authors of the paper set out to verify the following hypothesis and research question:

Hypothesis: The customs policy of the European Union is implemented uniformly throughout the whole Union.

In order to confirm or reject the above hypothesis, a research question was also formulated in relation to the achievement of the objective defined by the authors, as follows: “To what extent and in what way is the Slovak Republic, as a member state, limited in the implementation of its customs policy?”

The authors' research is based on legal analysis using several interconnected methods of scientific examination of law and political processes. This involves an analytical method that will be used to identify and analyze the legal provisions of primary and secondary EU law that determine the scope and content of customs

¹ The European Coal and Steel Community and the European Economic Community

² At the time The European Coal and Steel Community

³ Court of Justice. (1963). *Judgment of the Court of Justice in Case 26/62. N.V. Algemene Transport- en Expeditie Onderneming van Gend & Loos vs Nederlandse administratie der belastingen*. Available at: <https://curia.europa.eu/juris/document/document.jsf?jsessionid=C1F38FB246696F189F82635405736C27?text=&docid=87120&pageIndex=0&doclang=sk&mode=lst&dir=&occ=first&part=1&cid=1674527>.

policy (in particular Articles 30 and 31 TFEU, Regulation No. 952/2013 – Union Customs Code, and the draft new Customs Code of 2023). A comparative method will be used to compare constitutional provisions and limits on the exercise of customs policy in the Slovak Republic with the systems of other Member States (e.g., the Czech Republic, Hungary, Poland). The aim will be to identify differences in the scope of national autonomy and in implementation mechanisms. The historical method will be used to explain the development of customs policy from the Treaty of Rome (1957) to the present and to capture the transformation trends from non-binding acts (recommendations, directives) to binding norms (regulations). To interpret the objectives and purpose of EU legal norms in the area of customs policy, particularly from the perspective of their compliance with the principles of the internal market, consumer protection, and environmental sustainability, a teleological method will be used. The authors of the paper will also examine the interconnections between EU institutions (the European Commission, the Council of the EU, the European Parliament) and bodies such as the Directorate-General for Taxation and Customs Union (hereinafter referred to as DG TAXUD) and their competences in relation to the customs policy-making process. At the conclusion of the research, the authors will propose a conclusion, confirmation, or rejection of the established hypothesis based on a normative analysis and the identified problems.

2. Legal framework for the development of customs policy

The term “customs policy” itself is not legally defined in primary law, even though it is a commonly used term in European Union law. For the purposes of defining customs policy, it is necessary to refer to *soft law*⁴ documents, which serve as a political framework for the adoption of binding acts or as a supporting source for the interpretation of European law. The term customs policy refers to the definition of the scope of activities in which customs administrations may act to achieve current objectives at the national level that are consistent with EU objectives⁵. Based on the above, we can therefore de-

⁴ Soft law is understood as rules contained in a non-binding form; their violation does not result in the application of international liability. See on it: MALENOVSKÝ, J. *Mezinárodní právo veřejné, jeho obecná část a poměr k jiným právním systémům, zvláště k právu českému*. 5. vyd. Brno: Doplněk a Masarykova univerzita Brno, 2008, p. 237.

⁵ European Parliament. *Report on the proposal for a regulation establishing the Union Customs Code and the European Union Customs Authority*. A9-0065/2024. [online]. Available at: https://www.europarl.europa.eu/doceo/document/A-9-2024-0065_EN.html

fine “European customs policy as the set of rights, obligations, and powers defined in secondary law, which are implemented by the individual customs administrations of the EU Member States in order to achieve predefined trade and policy objectives.”

The purpose of customs policy, on the other hand, is clear, unlike its definition. EU customs policy protects the internal market, ensures compliance with regulations, and facilitates international trade. Within the protection of the internal market, the purpose of customs policy in the context of the challenges set out in the proposal for a new Customs Code from 2023 is to protect small and medium-sized enterprises and consumers. Ensuring compliance with legislation, customs policy is in the context of the aforementioned draft new Customs Code a tool for protecting the environment, which is standardly classified as one of the European Commission’s priorities. Given the planned expansion of the powers of customs administrations, environmental protection policy will be an essential part of the effective implementation of customs services.

Before analyzing EU primary law, which forms the basis for customs policy, it is appropriate to look at the historical development of customs policy since the 1960s. The original primary law, i.e. the Treaty of Rome (1957), contained only one provision relating to the formulation of customs policy (Article 27). The content of that article was the assumption that Member States would take the necessary steps to approximate their provisions of laws, regulations, or administrative measures relating to customs matters on the basis of recommendations from the Commission. Since the development of customs policy was defined in recommendations, it was not possible to speak of a common customs policy. In Community law, as in European law, recommendations are non-binding and it is therefore up to each Member State to decide whether to implement them in its legal order. As a result of that, no real harmonization of customs provisions or customs policies was possible in this way.

Given the need for a common customs policy, the General Agreement on Tariffs and Trade (1963) was adopted in a directive establishing common customs duties on goods from third countries. We believe that the General Agreement on Tariffs and Trade remains a fundamental element of European customs policy in today’s EU. Despite the adoption of the customs tariff agreement, Member States were unable to implement a unified customs policy to the extent planned by the then Commission of the European Communities. This is also documented in the 1977 Communication of the Commission to the Council and the European Parliament on the State of the Customs Union of the European Economic Community (hereinafter referred to as the Communication). According to the Communication: *„there was in practice no alternative to the directive (...) while leaving the national authorities responsible for the choice*

of the form and means to be used, was the Community legal form most suited to the intended purpose.“⁶

In addition to the above, the Commission also identified a problem in the objectives set on the basis of the customs policy at the time. According to the Communication, the objectives in most binding acts were insufficiently precise and Member States often implemented them inadequately.⁷ Based on the above, it was necessary to adopt a new method for creating customs policy, namely regulations. It can be said that since the 1980s, the content of customs policy has been expressed almost exclusively in regulations that are directly applicable in Member States.

Historically, Council Regulation (EEC) No. 2913/92 of October 12, 1992, establishing the Community Customs Code, can be considered a landmark legislative act. The Community Customs Code replaced 105 existing regulations and directives.⁸ However, this code lacked transparency, was incomprehensible due to the absence of a preamble, and the interpretation was difficult.⁹ The first common customs code should be considered groundbreaking in the context of the creation of a common customs policy. In view of the above-mentioned legislative problems and the accession treaties (2003, 2005), the Community was forced to adopt a new (modernized) customs code. Applying the historical and teleological methods, it can be concluded that the other customs codes contained the basic frameworks of European customs policy set out in the first Customs Code and therefore, for the purposes of this paper, it is not necessary to discuss them in detail.

Regarding to the legal framework on the basis of which customs policy is developed, its fundamental limits are identified in the primary law of the European Union. It is then appropriate to refer to secondary legislation (regulations and directives) as well as implementing and delegated acts, the significance of which lies in clarifying European customs policy. In order to develop European

⁶ Commission of the European Communities. *Communication of the Commission to the Council and to the European Parliament on the State of the Customs Union of the European Economic Community (COM(77)210 final)*. [online]. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:51977DC0210&rid=4>

⁷ Commission of the European Communities. *Communication of the Commission to the Council and to the European Parliament on the State of the Customs Union of the European Economic Community*. [online]. Available at: (COM(77)210 final). <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:51977DC0210&rid=4>

⁸ WALSH, T. The establishment and application of the DNA of customs law and practice. *World Customs Journal*, 2015, vol. 15, no. 2, pp. 3–22. [online]. [https://worldcustomsjournal.org/Arc_hives/Volume%2015%2C%20Number%202%20\(Sep%202021\)/1922%2001%20WCJ%20v15n2%20Walsh.pdf](https://worldcustomsjournal.org/Arc_hives/Volume%2015%2C%20Number%202%20(Sep%202021)/1922%2001%20WCJ%20v15n2%20Walsh.pdf)

⁹ Ibidem.

policy, it is necessary for Member States to give up some of their rights to the EU. Under Article 7(2) of the Constitution of the Slovak Republic¹⁰, the Slovak Republic may transfer some of its powers to the EU. Based on this legislation, European norms are binding in the Slovak Republic.

Primary EU law consists of the Treaty on European Union,¹¹ the Treaty on the Functioning of the European Union¹² (hereinafter also referred to as TFEU) and a number of treaties on accession to the European Union. For the purposes of European policy-making, the most important source is the TFEU, which regulates the powers of the EU. For the sake of completeness, it should be added that the EU does not have the so-called power of powers, i.e. the power to determine what is and what is not within its competence.¹³ For the success of policies developed directly by the EU, it is most appropriate to classify them as exclusive competences. For example, according to Article 128 TFEU, the EU has full exclusive competence for the issue of new banknotes. Relative exclusive powers are those powers that are available to the EU, which has them in their entirety, but their exercise must be carried out through national authorities. Customs policy within the meaning of Article 3(1)(a) is one of the (relative) exclusive powers of the EU. Based on the inclusion of the customs union among the exclusive powers, it is clear that the main and sole creators of EU customs policy will be the EU institutions and bodies.

The development of customs policy is clearly defined in Articles 30 and 31 TFEU, which prohibit customs duties between Member States and stipulate that the Common Customs Tariff shall be determined by the Council on a proposal from the Commission. The development of customs policy between Member States is explicitly prohibited by primary law in Article 30. In relation to third countries, customs policy is based on the Common Customs Tariff, which prevents Member States from imposing other or additional customs duties on goods imported into the EU.

In terms of secondary law, it is necessary to mention the “*lex generalis*” of European customs law, Regulation (EU) No. 952/2013 of the European Parliament and of the Council of October 9, 2013, laying down the Union Customs Code (hereinafter referred to as the Customs Code). The content of the Customs Code essentially constitutes the current EU customs policy, which is based on model for importing goods and services from third countries for a fee (customs duty). The draft of the new Customs Code changes the basic framework of

¹⁰ Zákon č. 460/1992 Zb. Ústava Slovenskej republiky, v z. n. p.

¹¹ In slovak legal order published as Oznámenie MZV SR 185/2004 Z. z.

¹² In slovak legal order published as Oznámenie MZV SR 486/2009 Z. z.

¹³ MAZÁK, J., JÁNOŠÍKOVÁ, M. *Základy práva Európskej únie. Ústavný systém a súdna ochrana*. Bratislava: Wolters kluwer (Iura Edition), 2009, pp. 42.

customs policy, particularly in the context of protecting the European economy from unfair trade practices (especially) by Asian trading companies (European Commission, 2025).¹⁴ As mentioned above, delegated and implementing acts are also an important source of secondary law, the purpose of which is to supplement customs policy in order to ensure its effective implementation. A good example of the completion of European customs policy is Commission Implementing Regulation (EU) 2020/761¹⁵, which regulates the system of managing tariff quotas based on licenses. Tariff quotas are one of the most significant limits on the creation of independent customs policies by Member States.

2.1. The process of customs policy-making

Several EU institutions and bodies are involved in the development of European customs policy, as expressed in the proper legislative process. The most important institutions include the European Commission, the European Parliament, and the Council of the European Union. The most important body involved in the development of European customs policy is DG TAXUD. We will demonstrate the process of customs policy development using the example of the ongoing adoption of the new Customs Code presented in 2023. Given the complexity of adopting certain secondary legislation, it is not possible to predict when it will be adopted, and therefore the authors will point out both possibilities for its adoption, i.e., after the second or third reading.

The European Commission is considered to be the “driving force” behind the legislative process, as it is the only institution with the power to initiate proposals. When developing customs policy, the European Commission conducts public consultations, impact assessments, and institutional negotiations in order to assess the consequences of adopting a new customs policy. Once a proposal (Customs Code) has been approved by the College of Commissioners, it is submitted to the European Parliament and the Council of the European Union..¹⁶ If necessary, after the successful adoption of the act, the European Commission may issue delegated (Article 290 TFEU) or implementing acts (Article 291 TFEU).

¹⁴ European commission. *Commission preliminarily finds Temu in breach of the Digital Services Act in relation to illegal products on its platform*. [online]. Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1913

¹⁵ Commission Implementing Regulation (EU) 2020/761 of 17 December 2019 laying down rules for the application of Regulations (EU) No 1306/2013, (EU) No 1308/2013 and (EU) No 510/2014 of the European Parliament and of the Council as regards the management system of tariff quotas with licences

¹⁶ European commission. *Better regulation toolbox*. [online]. Available at: https://commission.europa.eu/law/law-making-process/better-regulation/better-regulation-guidelines-and-toolbox/better-regulation-toolbox_en

The activities of the European Commission are followed up by DG TAXUD, which is authorized to draft legislative acts in the field of customs union, thereby directly participating in the process of customs policy-making. In addition, it has a wide range of powers related to the uniform application of customs law in Member States.

With the revision of primary law (in particular by the Treaty of Lisbon), the European Parliament has become an important player in the development of European customs policy through its influence on legislation. The European Parliament acts as a co-legislator in the ordinary legislative procedure. After receiving a proposal from the European Commission, the Parliament is required to discuss it in committees in order to familiarize itself with the possible consequences of the proposed changes and any amendments. The most important parliamentary committee for customs policy-making is the Committee on International Trade, which has an influence on acts relating to customs administration, the fight against customs fraud, and the digitization of customs processes.¹⁷

In addition to the European Parliament, the Council of the European Union also acts as a co-legislator and is an equal institution in the adoption of secondary acts. In the area of customs policy, the most important body is the Economic and Financial Affairs Council (hereinafter referred to as ECOFIN). When formulating customs policy, ECOFIN decides by qualified majority. This is one of the most important protective mechanisms when adopting policies that could jeopardize the interests of Member States.

Other EU bodies that influence European customs policy include the European Economic and Social Committee (EESC) and the European Committee of the Regions, both of which are consultative bodies. The EESC is an advisory body authorized to issue non-binding opinions on European Commission proposals regarding their impact on employers, employees, and civil society.¹⁸ The European Committee of the Regions also has an advisory function, but given its membership, it draws attention to the territorial impact of customs measures.

Based on the aforementioned powers of individual institutions and bodies of the European Union, the process of creating European customs policy is divided into six phases, which are distinguished as obligatory and facultative.¹⁹ The first

¹⁷ European parliament. *Report on the proposal for a regulation establishing the Union Customs Code and the European Union Customs Authority. A9-0065/2024*. [online]. Available at: https://www.europarl.europa.eu/doceo/document/A-9-2024-0065_EN.html

¹⁸ HÖNNIGE, C., PANKE, D. Is anybody listening? The Committee of the Regions and the European Economic and Social Committee and their quest for awareness. *Journal of European Public Policy*, 2015, vol. 23, no. 4, pp. 624–642. [online]. DOI: <https://doi.org/10.1080/13501763.2015.1066839>.

¹⁹ van GRUISEN, P., CROMBEZ, C. The Commission and the Council Presidency in the European Union: Strategic interactions and legislative powers. *European Journal of Political Economy*, 2021, vol. 70, no. 2 [online]. Available at: <https://doi.org/10.1016/j.ejpoleco.2021.102040>.

stage is the initiation of the legislative process for the creation of customs policy at the level of the European Commission, which derives this right from Article 17(2) of the TEU. As mentioned above, the legislative proposal itself is prepared by DG TAXUD. After approval by the European Commission, the proposal is submitted to the European Parliament and the Council of the EU.

The second stage is the so-called first reading in the European Parliament. At the beginning, the President of the EP assigns the proposal to the responsible committee, which in the case of customs policy is the Committee on International Trade, which may approve it or propose amendments. The third stage is the first reading in the Council of the EU, which examines the proposal together with the EP's opinion. Unlike the EP, the Council of the EU votes on customs policy issues by a qualified majority in accordance with Article 16(3) TEU and Article 238 TFEU.

The fourth stage is the so-called second reading in the EP, in which the Parliament can approve or reject the position of the Council of the EU, or submit new amendments. This is the most important stage of the entire legislative process, as it involves the harmonization of two often conflicting or at least inconsistent positions. On customs issues, the European Parliament usually advocates the digitization of customs processes, data protection, and alignment with digital single market policies.²⁰ It should be noted that this is the last mandatory stage of the legislative process, as it is at this stage that a proposal may be adopted or rejected. In the case of customs policy, it is natural that the legislative process continues to the fifth and sixth final stage, given its complexity and conflicting views.

The fifth stage involves the conciliation committee, which is convened if the Council of the EU and the EP fail to reach agreement but there is still interest in adopting the final act. The conciliation committee consists of an equal number of representatives from both institutions, with Commission representatives acting as mediators. The committee's task is to prepare a joint text, which is sent to both institutions for approval. According to Article 294(10-12) TFEU, the Conciliation Committee has six weeks to reach an agreement. The final sixth stage is the third reading, during which the EP and the Council of the EU vote on the compromise proposal. If it is accepted, it is published.

The current draft of the new Customs Code from May 2023 is in its fourth phase, whereas, by comparison, the Customs Code submitted in 2012 was adopted after the first reading, i.e., after the third phase.

²⁰ European parliament. *Report on the proposal for a regulation establishing the Union Customs Code and the European Union Customs Authority*. A9-0065/2024. [online]. Available at: https://www.europarl.europa.eu/doceo/document/A-9-2024-0065_EN.html

3. Legal limits of European customs policy in the Slovak Republic

The Slovak Republic became part of the European Community in 2004 and naturally also became part of the customs union, which has been one of the fundamental elements of European integration since its inception in the post-war order of Europe. The customs union ensures the free movement of goods and services between European Union member states. A uniform customs policy, created at the level of European institutions, is applied in relation to third countries. Like other Member States, the Slovak Republic can only implement customs policy through EU institutions, in particular the European Commission and the Council of the EU, and has no autonomous powers in its formulation.²¹

The legal basis for the lawful transfer of powers in the field of customs policy to an entity other than the Slovak Republic is set out in Article 7(2) of the Constitution of the Slovak Republic. In practice, this means that the Slovak Republic does not create customs policy, but only implements and enforces it. At the national level, it is authorized exclusively to ensure the implementation of EU customs policy. To this end, Act No. 652/2004 was adopted during the accession process, which was repealed by Act No. 35/2019 Coll. on Financial Administration. The framework for the implementation of customs policy at the national level is completed by the Customs Act No. 199/2004 Coll.

The term “limits of European customs policy” also refers to the limits of national decision-making on key issues related to its implementation. From the perspective of national law, these limits include: the inability to change customs rates, restrictions on customs quotas, a ban on additional customs duties, and the obligation to respect the customs union. Defining the limitations of European customs policy in EU Member States is relatively problematic, given the inconsistent regulation of processes related to its implementation and the lack of harmonization or inconsistency of provisions contained in primary and secondary law.

The basis for limiting customs policy can be abstracted from the Accession Treaty, which is part of primary law and is referred to in practice (according to the place of adoption) as the Athens Treaty (2003).²² Article 27 of the Treaty

²¹ CRAIG, P., de BÚRCA, G. *EU Law: Text, Cases and Materials (7th ed.)*. Oxford: Oxford University Press, 2020, pp. 107–118.

²² Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the

regulates customs duties that are part of the common customs tariff applied by the European Community in trade relations with third countries as a *domaine réservé* of European customs policy. In addition to the above article, the Athens Treaty also limits Member States in the scope of cash and survivor benefits, as well as old-age and health insurance benefits, so that individual Member States must bear all costs *per se*. In the context of the proposed new Customs Code, it is therefore necessary to point out the establishment of the European Customs Agency (hereinafter also referred to as EUCA), whose employees will have the legal status of employees of a European agency, which will be obliged to pay all benefits without the participation of individual Member States.

The Athens Treaty specifically limits the powers of fisheries management. The acceding states have designated customs offices that will be responsible for implementing European fisheries policy. The Slovak Republic has designated all customs offices in the territory of the Slovak Republic as authorities with powers to implement fisheries policy. Compared to other Member States neighbouring the Slovak Republic, this is a non-standard decision, as the Republic of Hungary has designated only the customs office in Budapest, the Czech Republic the customs office in Prague and the Republic of Poland the customs office in Gdansk. The most significant limitation on the creation of a sovereign customs policy by Member States contained in the Treaty of Athens is the independent determination of the customs value of goods. The practical consequence of this limitation is that the customs value of goods is determined by the Member State in whose territory the goods enter the customs union.

In addition to the limits specified in primary law that affect the Slovak Republic, there are further limits in secondary EU law, i.e. the Customs Code. In terms of practical application, there are three types of limits in the implementation of European customs policy, which can be divided into the impossibility of changing import or export rates and conditions, customs quotas created at the level of European institutions, and the third limit being the performance of customs controls.

The most significant of these limits is the inability of the Slovak Republic to set its own customs tariffs or import and export conditions. Customs duties and preferential regimes are set out in the Common Customs Tariff²³. The level of

Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic on the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union.

²³ COMMISSION IMPLEMENTING REGULATION (EU) 2025/1926 of 22 September 2025 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical

customs duties is decided by the Council of the EU on a proposal from the European Commission. An example of preferential regimes are free trade agreements concluded by the Commission, which are binding on all Member States.²⁴ Customs quotas are defined as an exception to the normal state of affairs, as they allow the complete or partial suspension of normal customs duties on imported goods for the duration of the measure.

The third limitation is the actual performance of customs controls by the authorities of an EU Member State. According to EU customs policy, national authorities must carry out controls in accordance with European legislation. Another limitation is Article 46 of the Customs Code, according to which national customs authorities are authorized to verify the accuracy of the information in customs declarations, but the scope and methods of customs controls are coordinated within the EU *customs risk management framework*. In practice, this means that customs officers carry out checks on goods but cannot (arbitrarily) apply a procedure that differs from that which would be chosen by customs officers in another Member State in a comparable case. For the sake of completeness, Walsh argues that customs control policy is at the discretion of individual Member States. He refers to this power as executive federalism.²⁵ We believe that so-called executive federalism will cease to exist if the draft new Customs Code is adopted in the form presented by the Commission in May 2023. This is confirmed by the fact that, under Title XII of the draft new Customs Code, as the newly created European Customs Authority will take over the powers of coordination and enforcement of customs controls.

4. Conclusion

EU customs policy is one of the most striking examples of the transfer of sovereignty from Member States to the supranational level, not only in legal terms but also in institutional and practical terms. In the more than sixty years since the Treaty of Rome was signed, customs policy has transformed from a relatively narrow economic agenda into a comprehensive set of legal norms, instruments,

nomenclature and on the Common Customs Tariff.

²⁴ OVÁDEK, M., WILLEMYNS, I. International Law of Customs Unions: Conceptual Variety, Legal Ambiguity and Diverse Practice. *European Journal of International Law*, 2019, vol. 30, no. 2, pp. 361–389. DOI: <https://doi.org/10.1093/ejil/chz028>

²⁵ WALSH, T. The establishment and application of the DNA of customs law and practice. *World Customs Journal*, 2021, vol. 15, no. 2, pp. 3–22. [online]. Available at: [https://worldcustomsjournal.org/Archives/Volume%2015%2C%20Number%202%20\(Sep%202021\)/1922%2001%20WCJ%20v15n2%20Walsh.pdf](https://worldcustomsjournal.org/Archives/Volume%2015%2C%20Number%202%20(Sep%202021)/1922%2001%20WCJ%20v15n2%20Walsh.pdf)

and institutional procedures that fundamentally influence the functioning of the internal market, international trade, consumer protection, and the EU's environmental and security interests.

From the perspective of legal developments, it is clear that the basis for the creation of EU customs policy has been a gradual transition from non-binding acts (recommendations and directives) to binding norms, in particular regulations, which are binding and have direct effect in all Member States. This shift was not merely a technical adjustment to the legislative framework but reflects a broader trend towards strengthening integration and deepening the Union's powers in areas that have a fundamental impact on the functioning of the single market. From the adoption of the Common Customs Tariff in 1963 to the Union Customs Code of 2013, there has been a consistent effort to create a uniform, efficient, and transparent customs administration system that eliminates differences between Member States and ensures a level playing field for all participants in trade relations.

In terms of the institutional framework, customs policymaking is based on a system of balance between supranational and national actors. The European Commission plays a key role as the initiator of legislative proposals and as the guarantor of the supervision of the implementation of European customs law. Its role is complemented by DG TAXUD, which provides technical and expert support for the legislative process and ensures the uniform application of customs regulations in the Member States. The co-legislative institutions – the European Parliament and the Council of the European Union – also play an important role, ensuring democratic legitimacy and political balance in the adoption of secondary legislation. This multi-level system, while ensuring legitimacy and expertise, also poses challenges in terms of coordination, efficiency, and legal certainty.

Based on the research conducted, it can be concluded that the answer to the research question: “To what extent and in what way is the Slovak Republic, as a member state, limited in the implementation of customs policy?” The answer can be:

The Slovak Republic has retained a certain degree of autonomy in the area of the organizational structure of customs administration, domestic procedural regulation, and supervision, but in a material sense, the content of customs policy is determined by EU law. This state is a consequence of the inclusion of the customs union among the exclusive competences of the EU under Article 3(1)(a) TFEU. From the perspective of the constitutional framework, such a transfer of powers is in accordance with Article 7(2) of the Constitution of the Slovak Republic, which explicitly allows for the transfer of some sovereign powers to the EU.

From a practical point of view, however, full harmonization of customs policy faces several limitations. In relation to the Slovak Republic, it can be said that

the implementation of customs policy is limited mainly by the inability to set its own customs rates, introduce additional duties, independently determine customs quotas, or decide on the customs value of goods. Its role is to ensure the effective implementation and enforcement of customs administration in accordance with European legislation. Other problems include the low level of interconnection between customs authorities and economic operators, insufficient interoperability of information systems, and incomplete participation in joint European projects aimed at digitizing customs operations.

From an application perspective, it is therefore necessary to strengthen the capacities of Slovak customs authorities not only in relation to the performance of national duties, but also in relation to participation in joint European initiatives such as the ICS2 (Import Control System 2)²⁶ or CCN/CSI (Common Communication Network / Common Systems Interface) systems. These platforms enable more effective exchange of information between Member States, identification of risks, and combating customs fraud, which is a long-standing problem in EU customs policy.

From a legislative point of view, it is desirable that Slovak legislators consistently take into account the principles of legal certainty, proportionality, and effectiveness when transposing or adapting secondary EU acts. These principles are particularly important when implementing delegated and implementing acts of the Commission, which often regulate the technical details of customs procedures. In this context, it is necessary that national legislation does not duplicate legal obligations or impose additional administrative burdens on businesses.

From the perspective of *de lege ferenda* proposals, three main directions for further development can be recommended:

Strengthening of institutional coordination between the Ministry of Finance of the Slovak Republic, the Financial Administration of the Slovak Republic, and the Permanent Representation of the Slovak Republic to the EU in the area of customs policy. More effective coordination would enable timely identification of upcoming changes in European legislation and involvement in the drafting of European legal acts as early as the preparatory consultation stage.

Support for the digitization and automation of customs processes, which is one of the key pillars of the proposed new EU Customs Code (2023). Digitization will reduce the administrative burden, increase transparency, and shorten the time needed to complete customs formalities. The Slovak Republic should adopt

²⁶ The Import Control System 2 (ICS2) is an advanced cargo information system designed to improve security in international freight transport and the associated supply chain. All economic operators (EOs) that transport goods to or through the EU must declare security and safety data in the system via an Entry Summary Declaration (ENS). ICS2. Based on the ENS, all goods are subject to security and safety risk analysis and better targeted controls.

a national strategy in this area that is harmonized with the European customs data strategy to ensure the interoperability of systems and uniform access to data.

Strengthening professional training and professionalization of customs officials. European customs policy is increasingly intertwined with areas such as environmental standards, protection of intellectual property, sanction regimes, and security policy. The Financial Administration of the Slovak Republic – Customs Administration should therefore pay greater attention to the ongoing professional training of its employees and improve their language and analytical skills.

In conclusion, it can be said that Slovak customs policy, although part of the EU's single legal framework, retains an important role in the implementation, control, and enforcement of customs law. The effective functioning of EU customs policy depends not only on legislative measures at EU level, but also on the quality and capacity of the national authorities that apply these standards. The future success of EU customs policy therefore lies in finding balance between a single legal framework and respect for the specific characteristics of Member States.

For the reasons stated above, we can therefore reject the hypothesis that the customs policy of the European Union is implemented uniformly throughout the Union, for the reasons we have given.

Despite the fact that the legal framework of the customs union is uniform, there are differences in application practices in individual member states, which result from differences in administrative capacities, the level of digitization of customs processes, and the effectiveness of national control mechanisms.

European customs policy is on the threshold of a new era, which will be characterized by the interconnection between digitalization, sustainability, and security. The draft of the new Customs Code of 2023 reflects this vision of a modernized, proactive, and strategically oriented customs policy. The Slovak Republic should therefore actively participate in shaping this new policy and at the same time exploit the potential offered by membership of the customs union – not only as a passive recipient of legal norms, but as a full co-creator of the future of European customs.

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