

CUSTOMS CRIMINAL ACTS ENCOMPASSED IN THE MACEDONIAN CRIMINAL CODE¹

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ABSTRACT

Macedonian Criminal Code within its Chapter XXV "Criminal acts against public finances, payment operations and economy", among other criminal acts, encompasses acts which object of protection is the customs system, i.e. Smuggling (Article 278), Customs fraud (Article 278-a), and Covering of goods that are object of smuggling and customs fraud (Article 278-b).

Therefore, by analysing the legal framework of these criminal acts, from the aspect of the criminal policy, their trend of movement shall be determined. In addition, with the help of scientific analysis and description of the statistical data disposable to the State Statistical Office, the detecting and proving activities of the Macedonian law enforcement organs shall be noted through the submitted criminal reports, initiated accusations and delivered judgments for sanctioning the perpetrators of the above mentioned criminal acts. Finally, a note shall be given to the type of the criminal sentences imposed to the convicted adult perpetrators, which shall enable to determine what type of sentence prevails, as well as to determine the length of the imposed sentences.

KEY WORDS: Customs criminal acts; Criminal Code; Republic of Macedonia.

¹ Review article

INTRODUCTION

The criminal acts against public finances, payment operations and economy represent pretty much the most dynamic part of the special section of the Macedonian Criminal Code (CC). Criminal law protection of this area is directly linked and conditioned by the social changes. Its forms, methods and means are evolving together with the development and modification of the character of socio-economic relations, and within the given frames - especially with the changes in ownership relations and economic functions of the state (Kambovski & Tupančevski, 2011, 345). Since the economic life is always dynamic and a subject of change, the economic crime is also rapidly changing its shape and structure. Consequently, an importance is given to the suppression of this crime, which leads to the existence of a large number of not only legal, but also criminal regulations in this area of interest. Therefore, in many countries, the Economic criminal law is described as a separate branch of the Criminal law (Đorđević, 2009, 129), followed by the Customs criminal law as a sub-specific form of the Economic criminal law.

The Customs criminal law is a part of the Criminal and Misdemeanour law, which has the customs criminal acts and customs misdemeanours for its subject of interest. They are behaviours that have been declared by the law as criminal acts or misdemeanours, since they represent violation or endangerment of a special object of protection - the customs and customs operations, the rights and duties of the customs authorities, as well as of the natural and legal persons that appear as an active and passive subjects of customs legal relations (Kambovski & Krstanoski, 2007, 7). In essence, the customs system is an important segment of the country's economic system, which accomplishes several functions: fiscal - by filling the budget; economically-protective - by protecting the domestic market from unfair competition of foreign prices (dumping prices); encouraging - by specifying preferential tariffs and other fees that affect the growth of domestic production; social - by providing satisfaction with various customs liberations of the population's needs; and security - by enabling protection from transnational crime, protecting the population from infectious diseases, radioactive substances or waste, protecting the quality of goods used by the domestic market, securing healthy food etc. (Kambovski, 2006, 15).

ANALYSIS OF THE CRIMINAL-LEGAL FRAMEWORK

As typical customs criminal acts, the CC within the Chapter XXV “Criminal acts against public finances, payment operations and economy” prescribes Smuggling (Article 278), Customs fraud (Article 278-a), and Covering of goods that are object of smuggling and customs fraud (Article 278-b). However, there are other criminal acts for which the Customs Administration is also authorized to act in the pre-investigative and investigative procedure (Kambovski & Krstanoski, 2007, 227 and 233). Namely, based on the Article 47 Paragraph 2 of the Law on Criminal Procedure (LCP), the Customs Administration shall have the authorization given to the Judicial Police in the event of detection and investigation of several criminal acts, among which are the three above mentioned acts. It should be noted that the Judicial Police is composed of the police officers of the Ministry of Internal Affairs and the members of the Financial Police and by the law authorized persons of the Customs Administration working on detection of criminal acts. Also, when the special investigative measures are in question, then LCP prescribes that they can be ordered, when there are grounds for suspicion for a number of criminal acts, including the Smuggling as per Article 278 (but only for Paragraphs 3 and 5), and Customs fraud as per Article 278-a. However, it should be noted that LCP to the authorized persons of the Customs Administration does not transfer all authorizations of the Ministry of Internal Affairs, but only those in the pre-trial procedure towards the criminal acts as listed in the LCP (Kalajdziev, 2006, 55). The ***Smuggling*** is inevitably an illegal and, in a view of the specifics of the activity, it is of trans-border character, violating the legislation of more than one country. Naturally, in the presence of the law enforcement authorities - border police, customs authorities, road inspection, etc. - such activities have to proceed covertly. This means that the perpetrators strive, as far as possible, to cover up the criminal nature of their activity using the legal forms of export/import. This also applies to criminal activities taking place with the knowledge and/or assistance of public officials (Todorov, Shentov & Stoyanov, 2002, 7). The Smuggling as defined in the CC’s Article 278, is the first criminal act which object of protection was the customs system. This criminal act was prescribed within the CC’s first version, i.e. in 1996 three paragraphs were drafted in the scope of the Chapter XXV. In the years that followed, its content was amended several times (1999, 2004, 2009 and 2014), and its last version is systematized into nine paragraphs. Not only for this act, but also for the acts of Articles 278-a

and 278-b, it should be observed that most of the terms used by the CC are not defined by it, so it is important to consult the content of other relevant regulations, especially the Law on Customs, Law on Customs Administration, Law on Customs Tariff, Law on Carrying out Representative Activities in Customs Procedures, etc.

As mentioned, the object of protection is the customs system, behind which on one side is the state interest for collection of customs in order to satisfy its needs, and on other side, are the interests of the market and the economic system, that can be affected by the uncontrolled importation of goods across the state border. The Smuggling is usually the start of a long criminal progression, that entails a series of other incriminations, such as falsifying documents, tax evasion, etc. (Kambovski, 1997, 367). In essence, the act of the Article 278 can be performed by a person who deals with transfer of undeclared goods or goods other than the ones declared or reported through the customs line, avoiding the customs control, or a person who by avoiding the customs control transfers unreported goods or goods other than the declared or reported goods of larger value. The ways of performing the act, were subject of change - starting from its 1996 version, till the 2009 version. Also, the sentence prescribed for the basic form of the act given in the Paragraph 1, was tighten over the years, i.e. a fine or imprisonment of up to three years was changed to a fine or imprisonment of up to four years.

The Paragraph 1 is followed with two graver forms, that were introduced in the CC with the novelties in 2004 (Paragraph 2) and 2009 (Paragraph 3). First form prescribes that if the goods have a significant value, then the perpetrator shall be sentenced with a fine or imprisonment of six months to five years (Paragraph 2), and the second form prescribes that if the goods are of great proportions, then the perpetrator shall be sentenced with a fine and imprisonment of at least four years (Paragraph 3). What is meant under these three types of values / goods (larger / significant / great proportions), is explained in CC's Article 122. Additional aggravated circumstance is defined in the Paragraph 4, and according to its 2014 version, the perpetrator shall be sentenced with imprisonment of one to five years if he/she organizes a network of resellers or intermediaries for the dissemination of undeclared goods or commits the act as defined in Paragraph 1 armed with firearms or by force or threat.

It should be noted that an official person may also be a perpetrator of Smuggling, in the situation when he/she helps, enables or covers or does not

prevent the performing of the acts of Paragraphs 1 and 2, for which shall be sentenced with imprisonment of one to ten years.

Finally, CC prescribes a confiscation of the goods and means for transfer and dissemination. The first situation is the confiscation of the goods that are object of the act of Paragraphs 1 to 3 and the means for their transfer and dissemination. If their confiscation is not possible, other property of the perpetrator shall be confiscated, that has value similar to the value of the goods at the time of committing the act (Paragraph 8). The second situation is confiscation of the means for transfer and dissemination of the goods that are owned by a third party who knew or was obligated and could know that the means shall be used for transfer or dissemination. And the third situation is the mandatory confiscation of the means if they are specially constructed, adopted, changed or adjusted in any way for hiding of goods.

It can be freely stated that 2004 was extremely important for Republic of Macedonia, when it comes to review, modernization and harmonization of the regulation that is sanctioning the severe forms of violation of the customs system. In other words, besides the “retouching” of the existing provision of Article 278, it supplemented the catalogue of customs incriminations with two new acts - Article 278-a and Article 278-b (Tupančevski, 2006, 39). As mentioned, CC in 2004 was supplemented with the criminal act **Customs fraud** (Article 278-a), committed by a person with an intention of avoiding full or partial payment of fees and taxes payable on import or export to which is bound by law, gives the customs authority false data for goods and other facts that have influence on the calculation for payment or return of the fees and taxes, or does not fulfil obligation according to the law that has influence on the calculation of the taxes and fees during import or export or in other way misleads the customs authority, and the amount of the fees and taxes payable on import or export is of larger value. The perpetrator, who performed the act of Paragraph 1 for himself/herself or for other person, shall be sentenced not only with imprisonment of six months to three years, but also with a fine. In addition, the sentence shall be severe (imprisonment of one to ten years), if the amount of fees and taxes payable on import or export has a significant value (Paragraph 2). Contrary to this Paragraph 2 that was introduced in CC in 2009, the following two paragraphs were erased:

- If the amount of the taxes and fees that are paid during import or export is of great proportions, then the perpetrator shall be sentenced with imprisonment of one to five years and with a fine (in 2011), and

- If the amount of the taxes and fees export is of great proportions, then the perpetrator shall be sentenced with imprisonment of at least four years and with a fine (in 2014).

Having in mind the above, it can be concluded that the Customs fraud is a complex and difficult instance of corruption to deal with. It can be of various types, including under-declaration of the value of goods, misclassification, and underpayment of tax due. But in whatever form it occurs, it can have a significant economic consequences for the states as the revenue base of the state is highly dependent upon the efficient taxation of trade (Robinson, 2012, 145).

The last act of the set of customs criminal acts, is the **Covering of goods that are object of smuggling and customs fraud** (Article 278-b). Same as the Article 278-a, the act was drafted by the CC's novella in 2004, however this act contrary to the previous two acts have not been changed and amended. So, the perpetrator shall be sentenced with a fine or imprisonment up to three years, if he/she purchases, sells, disseminates, receives as a gift, hides, receives for keeping, uses or accepts for storing goods with larger value on any ground and for which he/she knows or was obligated to know that are object of the criminal acts as stipulated in the Article 278 and Article 278-a.

In addition, CC prescribes that the attempt of all three acts as provided in their Paragraph 1 is punishable (Article 278 Paragraph 6; Article 278-a Paragraph 3; Article 278-b Paragraph 2), and also prescribes criminal liability for the legal entity that commits the act for which shall be sentenced with a fine (Article 278 Paragraph 7; Article 278-a Paragraph 4; Article 278-b Paragraph 3).

ANALYSIS OF THE STATISTICAL DATA

If the Annual reports for the perpetrators of criminal acts prepared by the State Statistical Office of the Republic of Macedonia, are taken into account, then the following specifics can be established about the customs criminal acts regarding the reported, accused and convicted adult persons for the period 2012-2016.

Table 1. Reported, accused and convicted adult persons - total

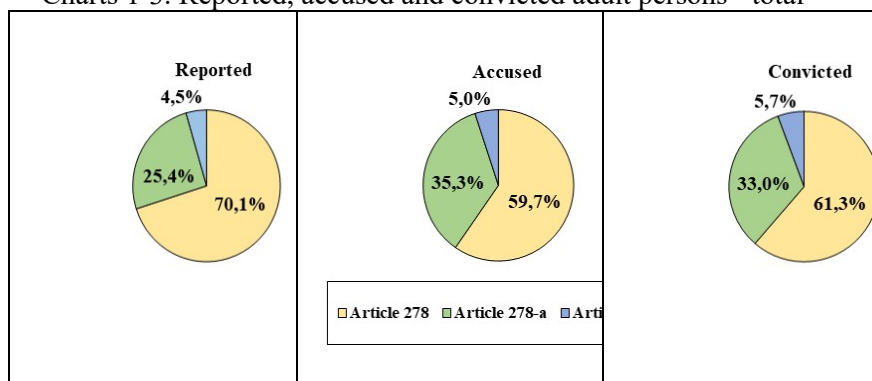
Year	CC's Article (Criminal act)	Reported	Accused	Convicted
2012 - 2016	Article 278 Smuggling	218 (f. 17)	142 (f. 7)	119 (f. 4)
	Article 278-a Customs fraud	79 (f. 12)	84 (f. 14)	64 (f. 9)
	Article 278-b Covering of goods that are object of smuggling and customs fraud	14 (f. 1)	12 (f. 1)	11 (f. 1)
	Total	311 (f. 30)	238 (f. 22)	194 (f. 14)

From the Table 1 and Charts 1-3, that represent the total number of reported, accused and convicted adult persons for the period 2012-2016, the following participation of the three acts in the total number can be seen:

- Total number of 311 reported persons is distributed to 70,1% for the Article 278, 25,4% for the Article 278-a, and 4,5% for the Article 278-b,
- Total number of 238 accused persons is distributed to 59,7% for the Article 278, 35,3% for the Article 278-a, and 5,0% for the Article 278-b,
- Total number of 194 convicted persons is distributed to 61,3% for the Article 278, 33,0% for the Article 278-a, and 5,7% for the Article 278-b.

This situation implies that the Article 278 dominates in all three categories, followed by the Article 278-a. Contrary, the participation of the Article 278-b is minimal.

Charts 1-3. Reported, accused and convicted adult persons - total



Also, it can be perceived that the number of accused persons is lower than the reported persons for 23,5%, and the same stands for the convicted persons compared to the accused (18,5%). Further specific for the given period is that per year 62,2 persons were reported, 47,6 were accused and 38,8 were convicted, or divided to all criminal acts:

- Article 278 - 43,6 persons were reported, 28,4 were accused and 23,8 were convicted,
- Article 278-a - 15,8 persons were reported, 16,8 were accused and 12,8 were convicted,
- Article 278-b - 2,8 persons were reported, 2,4 were accused and 2,2 were convicted.

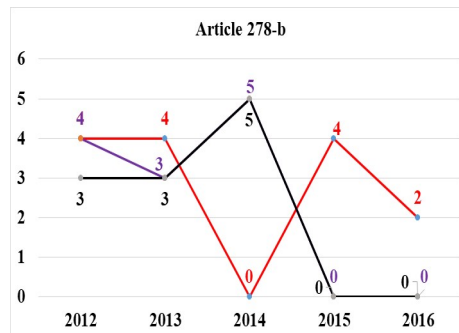
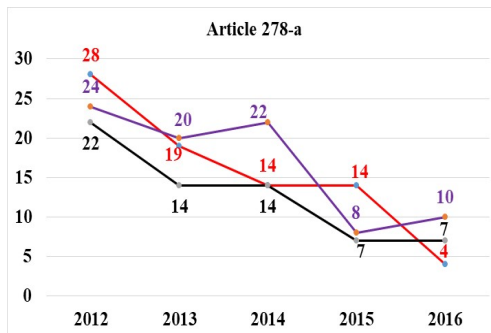
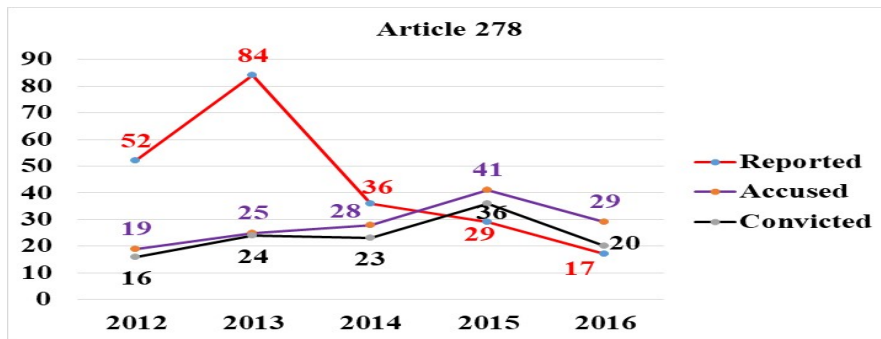
When the gender issue is in question, then the female perpetrators rarely appear in the role of reported, accused and convicted persons for all three criminal acts. So far, only 30 females were reported, 22 were accused and 14 were convicted, with a remark that they, unlike the males, are most “keen” of the Article 278-a (14 were accused and 9 were convicted).

Table 2. Reported, accused and convicted adult persons

Year	CC's Article (Criminal act)	Reported	Accused	Convicted
2012	Article 278 Smuggling	52 (f. 7)	19	16
	Article 278-a Customs fraud	28 (f. 4)	24 (f. 5)	22 (f. 4)
	Article 278-b Covering of goods that are object of smuggling and customs fraud	4	4	3
2013	Article 278 Smuggling	84 (f. 3)	25 (f. 2)	24 (f. 1)
	Article 278-a Customs fraud	19 (f. 5)	20 (f. 7)	14 (f. 4)
	Article 278-b Covering of goods that are object of smuggling and customs fraud	4	3	3
2014	Article 278 Smuggling	36 (f. 2)	28 (f. 2)	23 (f. 1)
	Article 278-a Customs fraud	14 (f. 1)	22	14
	Article 278-b Covering of goods that are object of smuggling and customs fraud	/	5 (f. 1)	5 (f. 1)
2015	Article 278 Smuggling	29 (f. 3)	41	36
	Article 278-a Customs fraud	14 (f. 2)	8 (f. 1)	7 (f. 1)
	Article 278-b Covering of goods that are object of smuggling and customs fraud	4 (f. 1)	/	/
2016	Article 278 Smuggling	17 (f. 2)	29 (f. 3)	20 (f. 2)
	Article 278-a Customs fraud	4	10 (f. 1)	7
	Article 278-b Covering of goods that are object of smuggling and customs fraud	2	/	/
Total		311 (f. 30)	238 (f. 22)	194 (f. 14)

The data about the reported, accused and convicted adult persons for each criminal act is given in the Table 2 and Charts 4-6. When it comes to the Article 278, it can be observed that the relevant authorities were most active in 2013 when 84 persons were reported for committing the act, followed by 2012 when 52 persons were reported. For the next three years, the number of reported persons is drastically reducing (36 in 2014, 29 in 2015, and 17 in 2016). Contrary to this trend, the number of accused persons is increasing. Namely, the number of 19 persons accused in 2012, is constantly increasing and it goes up to 41 accused persons in 2015 (25 in 2013, 28 in 2014, and 29 in 2016). The trend characteristic of the accused, is also reflected towards the convicted persons - once again 2015 is the year with most convicted persons.

Charts 4-6. Reported, accused and convicted adult persons



Compared to the Article 278, the figures given in the Table 2 for the Article 278-a are much lower. Namely, in 2012 there were 28 reported persons, and this number is constantly going down up to 4 persons, which implies that there is a reduction of 85,7% (19 in 2013, 14 in 2014 and 2015). The same cannot be said about the accused persons because the number is going down and up, depending of the year observed, with a remark that once again 2012 was the year with the most accused persons. The number of convicted persons per year, follows the steadily decrease trend starting with 22 persons in 2012 and ending with 7 persons in 2015 and 2016 (reduction of 68,2%).

The last criminal act given in the Table 2, is the Article 278-b. The figures about this act are insignificant matched to Article 278 and Article 278-a. In essence, it is interesting to note that 4 persons were reported in 2012, 2013 and 2015, none was reported in 2014 and only 2 in 2016. Similar low figures can be observed about the accused and convicted persons, with a remark that no one was accused and convicted in 2015 and 2016.

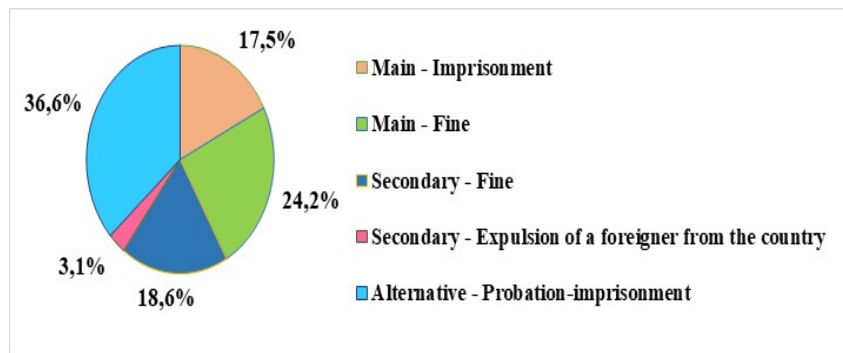
Table 3. Convicted adult persons by the type of imposed criminal sanction

Article 278 Smuggling		2012	2013	2014	2015	2016	Total
Main - Imprisonment		3	4	10	7	2	26
Main - Fine		6	8	7	3	5	29
Secondary - Fine		1	/	/	16	/	17
Secondary - Expulsion of a foreigner from the country		1	/	2	/	3	6
Alternative - Probation-imprisonment		5	12	4	10	10	41
	Total	16	24	23	36	20	119
Article 278-a Customs fraud		2012	2013	2014	2015	2016	Total
Main - Imprisonment		1	4	1	2	/	8
Main - Fine		4	1	1	/	3	9
Secondary - Fine		10	1	5	3	/	19
Alternative - Probation-imprisonment		7	8	7	2	4	28
	Total	22	14	14	7	7	64
Article 278-b Covering of goods that are object of smuggling and customs fraud		2012	2013	2014	2015	2016	Total
Main - Fine		2	3	4	/	/	9
Alternative - Probation-imprisonment		1	/	1	/	/	2
	Total	3	3	5	0	0	11

The data about the convicted adult persons by the type of imposed criminal sanction is represented in the Table 3. Based on the total number of imposed sanctions, it can be concluded that the Macedonian courts have imposed not only main sentences (imprisonment and fine), but also secondary sentences (fine and

expulsion of a foreigner from the country) and one alternative sentence (probation-imprisonment). The analysis of the above data has shown that so far to the 194 convicted persons most usually imposed sentence was probation-imprisonment (71 persons or 36,6%), followed by the fine as a main sentence (47 persons or 24,2%) and as a secondary sentence (36 persons or 18,7%), imprisonment (34 or 17,5%), and expulsion of a foreigner from the country (6 persons or 3,1%).

Chart 7. Convicted adult persons by the type of imposed criminal sanction - total



It is interesting to mention that the Article 278-b was not in the same line as the other two acts, since the probation-imprisonment has accounted insignificant 18,2% (2 persons), compared to 81,8% accounted for the fine (9 persons). Most of the 119 convicted persons for the Article 278, were sentenced with a probation-imprisonment (41 persons or 34,5%). The difference between the imposed main sentences was only 2,6%, i.e. 21,8% for the imprisonment and 24,4% for the fine. The next category was the secondary sentences, represented with the fine (17 persons or 14,3%) and expulsion of a foreigner from the country (6 persons or 5,0%). As to the 64 convicted persons for the Article 278-a, they were dominantly sentenced to probation-imprisonment (28 persons or 43,7%). The main sentences - imprisonment and fine have been imposed to almost the same number of convicted persons (8 or 12,5%; 9 or 14,1%), and finally, the fine as a secondary sentence had been imposed to 19 persons (29,7%).

Table 4. Convicted adult persons according to the imposed main sentences -

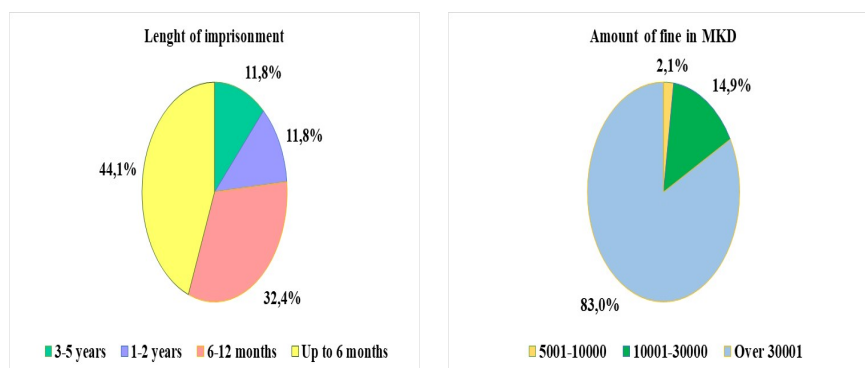
length of imprisonment and amount of fine

Article 278 Smuggling							
Main sentence		2012	2013	2014	2015	2016	Total
Imprisonment	3-5 years	/	/	4	/	/	4
	1-2 years	/	/	1	2	/	3
	6-12 months	2	4	2	2	/	10
	Up to 6 months	1	/	3	3	2	9
Fine - MKD	5001-10000	/	/	/	/	1	1
	10001-30000	/	1	1	1	/	3
	Over 30001	6	7		2	4	25
Article 278-a Customs fraud							
Main sentence		2012	2013	2014	2015	2016	Total
Imprisonment	1-2 years	/	/	1	/	/	1
	6-12 months	/	/	/	1	/	1
	Up to 6 months	1	4	/	1	/	6
Fine - MKD	10001-30000	1	/	/	/	/	1
	Over 30001	3	1	1	/	3	8
Article 278-b Covering of goods that are object of smuggling and customs fraud							
Main sentence		2012	2013	2014	2015	2016	Total
Fine - MKD	10001-30000	/	1	2	/	/	3
	Over 30001	2	2	2	/	/	6

Since the imposed imprisonment is systematized in the Reports of the State Statistical Office to several categories (life imprisonment; imprisonment over 20 years; 10-15 years; 5-10 years; 3-5 years; 2-3 years; 1-2 years; 6-12 months; up to 6 months), and the same stands for the fine as a main sentence (up to 5000; 5001-10000; 10001-30000; over 30001), the Table 4 and Charts 8-9 give an overview about to the imposed main sentences, i.e. the length of imprisonment and amount of fine which taken together for all three criminal acts, implies that the Macedonian courts have had very lenient imprisonment policy in the analysed period. Namely, the Charts 8-9 represent the distribution of the imposed main sentences, indicating that over the years, out of 34 convicted persons to imprisonment, most of them were sentenced to imprisonment up to 6 months (15 persons or 44,1%), then to imprisonment of 6 to 12 months (11 persons 32,4%), and the same number is for the persons sentenced to imprisonment of 1 to 2 years and imprisonment of 3 to 5 years (4 persons each or 11,8% each). This distribution, once again confirms the conclusion about the lenient imprisonment policy, since the most of the imposed imprisonment sentences are below 1 year (26 persons or 76,5%). Contrary to the length of the imposed imprisonment, the amount of the 47 imposed fines given in MKD, shows that most of the persons were sentenced over 30001 MKD (39 persons or

83,0%), then from 10001 to 30000 MKD (7 persons or 14,9%), and only 1 person was sentenced to a fine from 5001 to 10000 MKD (2,1%).

Charts 8-9. Convicted adult persons according to the imposed main sentences - length of imprisonment and amount of fine - total



In five year period, it can be noticed that for the 26 convicted persons for Article 278 if the length of the imprisonment is taken into account then 10 persons were sentenced to imprisonment of 6 to 12 months (38,5%), 9 persons to imprisonment up to 6 months (34,6%), 4 persons to imprisonment of 3 to 5 years (15,4%), and 3 persons to imprisonment of 1 to 2 years (11,5%). Concerning the fine as a main sentence, then 25 out of 29 convicted persons were sentenced to a fine over 30001 MKD (86,2%), 3 persons to a fine from 10001 to 30000 MKD (10,3%) and 1 person to a fine from 5001 to 10000 MKD (3,4%). To the perpetrators of the criminal act prescribed in the Article 278-a, 8 imprisonment sentences were imposed divided to 6 sentences up to 6 months (75%) and only 1 sentence from 6 to 12 months and from 1 to 2 years (12,5% each). Further, only 1 sentence as fine from 10001 to 30000 MKD was imposed (11,1%) and 8 sentences over 30001 MKD (88,9%). For the Article 278-b, only fine was imposed as a main sentences, i.e. 6 of them were over 30001 MKD (66,7%) and 3 from 10001 to 30000 MKD (33,3%).

Table 5. Convicted adult persons by the applied confiscation of property and confiscation of objects

CC's Article (Criminal act)	Confiscation of	2012	2013	2014	2015	2016	Total
Article 278 Smuggling	Property	/	/	1	/	/	1
	Objects	8	7	12	27	9	63
Article 278-a Customs fraud	Property	/	1	/	/	/	1
	Objects	/	1	2	/	/	3
Article 278-b Covering of goods that are object of smuggling and customs fraud	Property	/	/	/	/	/	/
	Objects	/	1	/	/	/	1

Finally, the analyses of the data about the applied confiscation of property and confiscation of objects towards the adult convicted persons in the period of five years (Table 5), shows that 69 confiscations were applied. In essence, only towards 1 convicted person for committing the act defined in Article 278-b the confiscation of objects was applied, followed by 1 confiscation of property and 3 confiscation of objects towards the convicted persons for the Article 278-a. These numbers are insignificant compared to the 63 applied confiscation of objects for the Article 278, with a note that the confiscation of property still remained low (only 1).

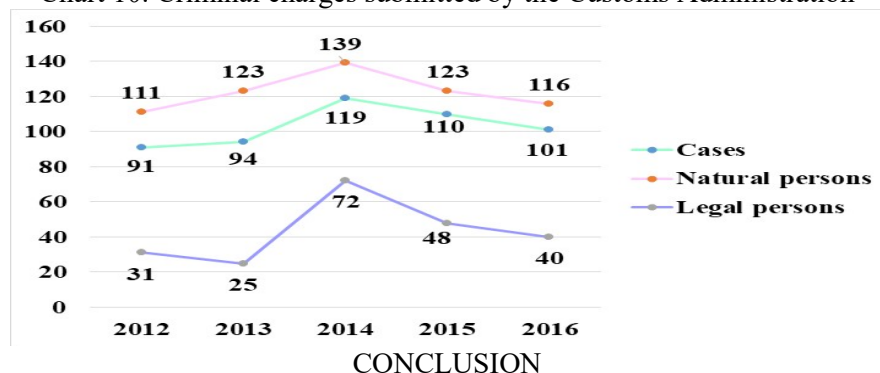
In the context of statistical data, also the Annual reports of the Customs Administration should be reviewed despite the fact that they only provide information about the total number of submitted criminal charges against natural and legal persons for all criminal acts that are under its authority.

Table 6. Criminal charges submitted by the Customs Administration

Submitted criminal charges	2012	2013	2014	2015	2016	Total
Cases	91	94	119	110	101	515
Natural persons	111	123	139	123	116	612
Legal persons	31	25	72	48	40	216

So far in the given period, as provided in the Table 6, 515 criminal cases were initiated by the Customs Administration, against 612 natural persons and 216 legal persons. The Customs Administration was most active in 2014 by submitting 119 criminal charges, by which 139 natural and 72 legal persons were encompassed. This means, that per year 103 criminal charges were submitted against 122,4 natural and 43,2 legal persons. In addition, the Chart 10 gives an overview about the trend of movement of the submitted criminal charges by the Customs Administration.

Chart 10. Criminal charges submitted by the Customs Administration



The structure of three criminal acts, i.e. Smuggling (Article 278), Customs fraud (Article 278-a), and Covering of goods that are object of smuggling and customs fraud (Article 278-b), as an acts against customs system, and the sanctions prescribed for their primary and severe forms, shows their satisfactorily legislative defining. During the previous period, it can be seen that changes were made in their provisions with an aim to specify their essence and to prescribe more severe sanctions. However, the perpetrators “creativity” in finding new ways of committing the acts should not be ignored. This implies that in the future, the legislator and the law enforcement organs should be prepared for making novelties in the legislation and for establishing new methods and actions for detecting and proving such criminal acts.

When it comes to the data available to the State Statistical Office, it should be noted that it contributed the trend of movement of the number of the persons reported, accused and convicted for the above mentioned criminal acts to be determined. The analysis addressing the period 2012-2016, enabled to get a picture of the Macedonian authorities, specifically how much they are active in the fight against this type of crime which is visible through the number of persons against whom reports have been submitted, accusations have been initiated and judgments have been delivered. Although the statistical data has shown that the number of the reported, accused and convicted persons is relatively low, this should not be neglected and the question of the “black number” should be raised. In addition, when it comes to the sentencing policy, the Macedonian courts are fond of imposing a probation-imprisonment, followed by a fine as a main sentence and as a secondary sentence, imprisonment, and

expulsion of a foreigner from the country. Further, it can be noted that imprisonment up to 6 months and fine over 30001 MKD are mostly imposed main sentences. Correspondingly, the imposed sentences are accompanied with confiscation of property and confiscation of objects of the convicted persons. As a general remark it should be pointed out that the number of persons in all three categories (reported / accused / convicted), in the five year period has a trend of decrease. This situation is implying that the current sentencing policy followed with confiscation of property and confiscation of objects, despite the fact that it is a very lenient policy, is effective in the practice and has deterrent effect towards the potential perpetrators.

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