

## EVOLUTION OF CUSTOMS LAW IN LITHUANIA AFTER THE ENTRY TO THE EUROPEAN UNION: TEN YEARS OF EXPERIENCE

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### Abstract

**Purpose** – the aim of this article is to overview practical experience and problems of implementation of the European Union customs law requirements in Lithuanian national legal system after the accession to the European Union both at the level of application of law and at the level of law making.

**Design/methodology/approach** – analysis of relevant issues is based both on theoretical (analysis and synthesis, historical, systematic, comparative) and empirical methods (statistical analysis of data, analysis of documents, generalization of professional practice, in particular – practice of the courts). The article consists of an introduction, three chapters and conclusions.

**Findings** – becoming a member of the European Union, Lithuania has become a part of common market in which the free movement of goods, services, capital and people is established. The entry into force and direct application of the European Union regulations, in some cases, the European Union directives, has created a challenge for national courts to ensure uniform application of the European Union customs law. These process didn't create static legal environment in the area regulated by customs law as there is also a need for some further changes in customs legislation, including preparation of its official commentaries.

**Research limitations/implications** – article gives insights on changes in legal regulations of customs law in Lithuania and practice (case law) of their application since the entry of Lithuanian Republic to the European Union (yrs. 2004-2014).

**Practical implications** – article presents proposals for the improvement of current customs legislation, evaluates national Lithuanian experience of ensuring direct and effective application of European Union customs law and solving various other problems which was encountered by the customs after the entry to the European Union.

**Originality/Value** – article presents theoretical and practical legal problems of the recent changes and evolution of national customs law, which are not discussed in the Lithuanian legal doctrine and specific academic legal literature since all the main analysis was done before preparations to enter the European Union or immediately after the entry to the Union.

Article also discusses the main elements of concept and idea of the separate branch of customs law in Lithuanian and foreign legal doctrine since overall evaluations of importance and place of customs law in the overall system of law ranges from customs law as merely the institute of national administrative or finance law or relatively distinct branch of national legal regulations (Raišutis, 2005; Sudavičius, Medelienė, 2011), to separate branch of European Union

and international law (Lyons, 2005) or even the separate institute of trade law (trade regulation; Thuronyi, 2003).

**Keywords:** customs authorities, customs law, EU Customs Code, international trade, free movement of goods and services.

**Research type:** research paper.

## Introduction

National customs policy play a crucial role not only in ensuring the national financial, fiscal and budgetary interests, the safeguarding of the state borders. European Union (further in the text – EU) customs policy is based on the ensuring of free movement of goods, persons, services and capital between the Member States. Republic of Lithuania became the member of the EU since 1<sup>st</sup> of May, 2004. This process has triggered many major changes in the national legal system, including legal regulation of customs policy, since Lithuania started the direct application of the Community Customs Code (further in the text – CCC) and other EU customs legislation, adopted the new version of the Law on Customs, regulating customs, their enforcement, duties and obligations of customs officials as well as rights and responsibilities of other persons concerned. Since the 1<sup>st</sup> of May, 2004 the new version of the Law on Tax Administration has also entered into force setting additional duties of the customs authorities to conduct certain functions of tax administration under this Law.

Following these recent changes national customs legislation establishes certain obligations for individuals (taxpayers) to carry out certain customs procedures in accordance with the laws of the EU customs legislation and defines the procedures which are carried out in order to calculate and pay the declared customs and other duties administered by customs authorities. The compliance of these procedures to the EU law ensures proper contribution of the national fiscal policies to the common EU customs policy. So after joining the European Union, no less important task is to organize the activities of customs authorities so that the proper implementation of the CCC and other customs legislation would be ensured at the same time without impeding legitimate business interests. Therefore, the aim of this article is 1) to define customs law as a legal institute and its place in the system of law; 2) to describe its place and importance in EU law and in particular – in Lithuania after the entry to the EU; 3) to summarize experience of Lithuania in transforming of its customs law according to EU requirements and to define achievements and challenges which may lie ahead.

For this reason various scientific methods were used (from the methodological point of view) – the first chapter of the article is based on comparative analysis of the concept of customs law in various countries, the second chapter is based on theoretical analysis of documents and legal doctrines which defines the place and the role of the customs law in Lithuania and the EU, and the third part includes generalization of professional practice and statistical analysis of data which describes transformations of the customs law in Lithuania after the entry to the EU.

### Concept of customs law - an international perspective

Customs duties are taxes levied on the goods or personal use items which crosses the state border. According to its economic and legal nature customs are certain type of indirect taxes (consumption taxes) collected to the state from residents as part of their income when residents are buying essential goods. It's necessary to mention, that customs are one of the oldest types of taxes as these fees were paid in ancient Egypt, the Roman Empire, Greece and China. Such duties were widely applied in Europe in the Middle Ages, as well as in the Grand Duchy of Lithuania. The most common customs types were as following: 1) customs on the imported goods, 2) customs on the exported goods, and 3) customs on goods in transit (transportation through the territory of the state). Accordingly customs duties have, of course, been a significant feature of commercial life for a long time (Lyons, 2005).

In present day terms, many countries of the world have renounced transit duties and are striving to increase transit of goods, because it ensures the better use of transportation systems, and the ability to get more revenue from transportation services. For this reason, under present conditions, the states usually does not complicate transit procedures with customs but often even promotes transit with various incentives. Customs on the exported goods are also narrowly applied as usually exported goods are not subject to any customs duties (Buškevičiūtė, 2007). So the main types of customs in most of the countries are customs on the imported goods, which performs the following functions - fiscal (state seeks to get as much of the budget income as possible) and socio-economic (the state seeks to meet its social and economic interests with the help of the customs policy).

In the legal literature, it is recognized that the legal regulatory framework of customs in each country is associated with certain compendium of public and private interests of the state and business (Povilauskienė, 2006). Public interest in the field of customs consists of application of customs tariffs, determining the origin of goods, valuation of goods, physical control over the supplies of goods which crosses the state border, application of the national requirements to declare the goods, administration and control over the debt to customs, the adoption of individual legal acts which are binding for the taxpayers. Meanwhile the private interests in the field of customs are as following: implementation of the rights of the private entity to have a favorable business and foreign trade conditions, right of the international business to be recognized as fair business according to national requirements as well as the right to be protected against unreasonable customs requirements and to use simplified and expedited custom clearance procedures. The rights and obligations of the state institutions and private entities (businesses or individual persons) related to transportation of goods across the border of the state are regulated by special legal norms which is usually called customs law.

Usually customs law is traditionally related to tax law since custom duties themselves satisfy even narrow definitions of tax since they are not compulsory payment to the government that does not constitute consideration for a service (the absence of

individual remuneration). Accordingly a number of countries have found that it makes sense to consolidate tax and customs as an object of legal regulation, particularly given the importance of other indirect taxes related to customs, such as value added tax (further in the text – VAT) (this system of legal regulation is applied in such economically important countries of the world countries as the United States of America, China or Russian Federation). For example, in the U.S. the significant difference between regulation principles of customs (customs procedures) and/or other taxes doesn't exist since it does not have a VAT and has lowered its customs barriers (Thuronyi, 2003). In China administration of customs is considered as an integral part of whole tax administration procedure and is governed by uniform source of law – Law on the Administration of Tax Collection (Шепенко, 2004). The same tendency in recent years is observed in Russian Federation where customs duties are considered as an integral part of tax system which have a rather specific goal – to ensure unity of economic area (Лыкова, 2004; Винницкий, 2003). However there are also other point of views in worldwide legal practice because customs codes and tariffs are typically contained in separate legislation from taxes, besides that customs duties tend to be collected by an agency different from that responsible for inland revenue. This tendency is noticed in some European countries, such as Germany (Тимошенко, 2002; Витте, Вольфганг 2000; Romaškevičius, 2003).

There are also a certain legal point of view according to which customs law is considered as part of another special branch of law – trade law (or international trade law), which regulates the handling of international trade and sets restrictions and conditions on import or export of certain goods). It is unanimously agreed that one of the peculiarities of customs law is its international character. This tendency is observed due to the substantial harmonization of customs law through a number of international agreements over the years, and two international organizations, the WTO and the World Customs Organization, are in place to help manage the system. The classification of goods worldwide is based on the Harmonized Description and Coding System, which is used by over 176 countries<sup>1</sup>. As it is noted by some legal analysts and scientists, contrary to the areas of other direct and indirect taxes, countries have not seen customs harmonization as threatening to fiscal sovereignty, given the relatively small importance of customs duties so the last decades of the 20'th century and the recent years were marked by the success of international agreements harmonizing customs law, since many elements of customs regulations have been successfully included in international trade agreements ((Thuronyi, 2003).

Overall it can be pointed out that customs law in a worldwide practice and from the point of view of the comparative law could be considered as: 1) separate branch of law; 2) a part of tax law; 3) a part of international law (i. e. international trade law). This classification has not only theoretically importance but also a very clear practical importance, since the position of customs law in the legal system of the country defines the sources law which must be applied in order to regulate customs relations, their

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<sup>1</sup> International Convention on the Harmonized Commodity Description and Coding System (with annex), as amended by the Protocol of Amendment of 24 June 1986. Concluded at Brussels on 14 June 1983. 168 UNTS 1988.

mutual relationship in case of conflicts and collisions (e. g. international trade treaties vs. national/domestic legislation), and the dominant method of legal regulation (imperative or dispositive)<sup>1</sup>.

### **Customs law as part of the European Union law and Lithuanian national legal system after the entry to the European Union**

Customs and customs law is usually defined as very important part of the European Union law because it is highly harmonized and is based on directly applied sources of law (regulations; i. e. CCC) which are effective on its own and not require any further implementation through national laws. This importance is due to the fact that the European Customs Union is the most important element of the common commercial policy and the single market, the system, ensuring the free movement of goods – one of the four freedoms of the EU single market. EU internal market actually began to function in 1993, when the CCC and its implementing provisions entered into force. All duties which are related to trade between Member States is hereby repealed and all Member States apply common customs tariff and trade policy to third countries (Terra, Wattel, 2012).

EU regulation on trading was not only intended to create an internal market without barriers to protect free and fair competition between the Member States. One of the goals of the EU internal market was also to create a single trading entity, that any subject which isn't in the jurisdiction of the EU and is wishing to have business with someone inside the EU are subject to the same restrictions on trade regardless of which certain Member State he is dealing. The main Community instrument for this purpose was a common external tariff. The rules which ensures the functioning of the EU internal market and European Customs Union comprise EU customs law (Lyons, 2005).

The first EU customs legislation was Council Regulation (EEC) No 802/68 “On the Common definition of the concept of the origin of goods the common definition of origin of goods”<sup>2</sup>. However since 1993 all EU customs legislation has been put together and called the CCC<sup>3</sup>. The CCC is mandatory for all EU Member States and all national bodies (authorities) which are active in the field of customs. So at the national level of the Member States, when the question on the customs arise, the Code is mandatory and therefore, according to the practice of the European Court of Justice, the principle of the primacy of the Code must be applied in all cases (Case C-161/06, *Skoma Lux*, [2007] ECR

<sup>1</sup> According to the opinions of some legal scholars (Raišutis, 2005; Sudavičius, Medelienė, 2011), imperative method is used as dominating regulatory method in customs law, but other regulatory methods (dispositive method) could also be used since regulation of customs is based on the principle that no one may be restricted by law or prohibited to import or export of goods from customs territory of the state since international customs harmonization includes reducing of barriers to trade, including barriers of procedural nature (Thuronyi, 2003).

<sup>2</sup> Council Regulation (EEC) No 802/68 On the Common definition of the concept of the origin of goods the common definition of origin of goods [1968] OJ L 148/165

<sup>3</sup> Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code [1992] OJ L 302.

I-10841). Becoming the member of the EU, Lithuanian Republic has also become a part of common market in which the free movement of goods, services, capital, people has to be ensured. The entry into force and direct application of EU customs regulations, in some cases - directives has created strong challenges for development of national customs law.

One of the key issues and problems in which were widely discussed in Lithuanian legal doctrine was the place of customs law in the system of law and the qualification of the customs legal relationships. A separate branch of law in legal doctrine is defined as a system of laws regulating qualitatively uniform (homogeneous) social relations. A separate branch of law is formed when: 1) a certain type of social relationships constitutes qualitatively uniform complex; 2) social relationships are qualitatively different from the relationships governed by the other branches of law; 3) there is a demand for the legal regulation of the complex of social relationships (Šatas et. al., 2004).

Legal scholars raised the questions whether the rules, applied to the group of this customs legal and social relationships, which can be found in sources of the tax law, administrative or even criminal law elements, does have an attributes of complex interdisciplinary and separate branch of law (Medelienė, Sudavičius, 2011). This question also have a very clear practical meaning since the correct answer to this question defines such matters as what regulatory approach (method) must be applied to customs legal relationships and which sources of law will prevail in case of collision of certain legal instruments or on which basis qualitatively similar sources of law may be simplified and codified (Vansevičius, 2000).

These matters are particularly important since the accession to the EU, which has changed regulation of customs to multiple regulation regimes applied according to EU law, international trade treaties with third countries and national law. According to the Law on Tax Administration which has entered into force since the entry to the EU (since 1<sup>st</sup> of May, 2004), customs duties are administered on the basis of Community customs legislation and national legislation (Law on Tax Administration) to the extent that they do not contravene the Community customs legislation, this principle is also applied to the primacy of international treaties with third countries<sup>1</sup>. What are not covered by these rules may be provided by the national law, but only to the extent that they are consistent with the EU law. So after the entry to the EU national Lithuanian customs legislation was limited to a certain extent, especially if compared with the situation before the 1<sup>st</sup> of May 2004 when all customs relationships were governed by Lithuanian customs laws.

A discourse in national legal doctrine over the place of customs law were started even before the entry to the EU, because regulations concerning customs legal relationships since 1996 were codified in The Customs Code of the Republic of Lithuania, which regulated not only activities of customs, as public administration institution, but also carriage of goods across state borders, prohibitions and restrictions on international trade and etc.<sup>2</sup> Accordingly, some scholars (Romaškevičius, 2003) proposed a definition that customs law – is a relatively independent variety of areas of law rules which are setting, changing and annulling the special and other legal entities' rights and duties,

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<sup>1</sup> see Article 5 and Article 14 of Law on Tax Administration

<sup>2</sup> Official Gazette, 1996, No. 52-1239.

legal relations which are related to the transportation of goods through the customs border, import, export and transit procedures, customs clearance, payment of customs, the system of restrictions and other control measures which determines international trade.

After the entry to the EU other scholars also have pointed out to the existence of separate laws regulating customs and the codification of these legal regulations in the separate codified document (CCC) at the EU level as well as originality and specificity of customs legal relationships and defined it as an newly emerging complex branch of law, which consists of state-sanctioned legal rules for the regulation of social relations in relation to transportation of goods and vehicles across the state border, the customs collection, customs clearance, customs control and other customs policy instruments, which are an integral part of the state of internal and external policy (Raišutis, 2005). Other authors (Povilauskienė, 2006) also followed this position on customs law as a separate branch of law but defined it more broadly as the separate complex branch of law (governed by both international and national rules) which regulates social relations related to the transportation of goods across the state border.

However after the entry to the EU there was no further detail discourse on the origin of customs law in Lithuania and its place in legal system. It should be noted that the Law on Customs, which has entered into force after the entry to the EU, defined customs legislation (or the acts of customs law) as EU customs legislation, the international treaties of the Republic of Lithuania and other legal acts which provisions are enforced by the customs authorities, as well as legislation which is enacted by custom authorities according to their competence and international agreements concluded by Lithuanian customs authorities with customs authorities of other countries. This definition describes the fundamental changes that has affected Lithuanian customs law since the entry to the EU, firstly, EU customs legislation was started to apply directly (as the direct source of law), and, secondly, codification of customs law on national level was withdrawn since The Customs Code of the Republic of Lithuania expired and came out of force since the entry to the EU.

How these changes affected the status of customs law in Lithuania? Did it became an integral part of the EU law or it could be considered as a national branch of law with its own subject of legal regulation? There are both arguments for and against – firstly, there is no detail theoretical background or studies which defines customs law as a separate and integral part of Lithuanian legal system; also there are no official commentaries on national customs legislation (contrary to the situation in tax law) and the existence of separate regulatory principles for customs law isn't recognised in a case law formed by Lithuanian courts (*Lietuvos vyriausiojo administracinio teismo praktikos, taikant mokesčių administravimą reglamentuojančias teisės normas, apibendrinimas (I ir II dalis)*, 2012). Secondly, after the entry to the EU customs law remained many of its independent peculiarities, such as 1) complexity of the object of its legal regulation (activities of customs authorities, procedures for supervision applied to the goods imported from third countries and exported to third countries and etc.<sup>1</sup>; 2) codification at

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<sup>1</sup> Article 1 of the Law on Customs

the EU level (direct application of CCC); 3) existence of international element (a very important sources of customs legislation are international treaties and international agreements); 4) existence of separate national sources of law which are applied only to customs (Law on Customs, other legislation which provisions are enforced by the customs authorities) and even separate concept of customs law (customs legislation) which is directly defined in Law on Customs (Part 5 Article 3).

Accordingly it can be agreed with opinion (Sudavičius, Medelienė, 2011) that Lithuanian customs law could be defined as an international and national statutory law governing the legal status and rights/duties of the relevant state bodies (institutions), as well as the legal relations related to the transport of goods and means of transportation to or from within the customs territory of the state, customs clearance, and calculating payments of customs duties and carrying of the customs controls, as well as the implementation of other state customs and international trade policy. Thus, after the accession to the EU and by subsequent transformations in this respect the national customs law may be defined as a relatively self-sustaining, complex branch of law, which includes elements of international, EU and national law.

### **Changes of customs law after joining the EU and prospects of its development**

Historically regulatory processes on customs in Lithuania has been based on a clearly expressed strategy. Analysis of legal developments in Lithuania from 1990-1991 (the very first years of the Independence) until the entry to the EU suggests that the many customs reforms have been made in the absence of stable regulatory strategy and it was determined by the prevalence of subjective factors in the regulatory process (method of trials and errors/testing and debugging).

Although since 1995 the clear direction of the Lithuanian foreign policy was membership in the EU, the main sources of customs law, such as Law on Customs (1993)<sup>1</sup> which in 1998 was changed by the Customs Code of the Republic of Lithuania as well as tariffs legislation (Law on Customs Tariffs<sup>2</sup>) was not originally developed in accordance with the EU customs legislation (CCC). This meant that in order to achieve compatibility with the EU law national Lithuanian customs legislation was started constantly amended and changed thus creating the distrust of regulatory stability by the subjects of customs legal relations (Raišutis, 2005).

The final negotiating position of the Republic of Lithuania prior to the entry to the EU on the Customs Union was approved back in 2000. The position of the Lithuanian Republic Government was such that the Republic of Lithuania agrees to the entire Customs Union *acquis* and does not ask for any transitional periods or derogations (Povilauskienė, 2006). For this reason, the Lithuanian customs regulatory strategy and objectives has become analogous to the EU customs regulatory strategy and objectives. The accession to the EU has transformed the customs law and the most important change

<sup>1</sup> Official Gazette, 1993, No.15-376.

<sup>2</sup> Official Gazette, 1998, No. 28-727.

has been that since 1<sup>st</sup> of May, 2004 any frontiers between Lithuania and other EU countries ceased to exist as the Common Market of goods and services and their free circulation inside the EU had to be ensured. Upon entering the EU in the Republic of Lithuania has initiated and implemented a number of other key regulatory innovations that changed customs law. Firstly, Lithuanian Republic has installed a complex tariff system LITAR, similar to the integrated tariff system of the EU (TARIC), which ensures the legal conditions for the classification of goods in accordance according to the same principles as in other EU countries. In conjunction with these changes followed the implementation of new customs declaration processing system (ASYCUDA), which effectively ensured the possibility to submit customs declarations electronically<sup>1</sup>. On the other hand, the abolition of customs barriers between Lithuania and other EU countries, facilitated the transport of goods and simplified customs clearance procedures, but have introduced new obligations – to provide statistical data on the export/import to the EU countries (*Intrastat* declarations). In addition, based on the experience of other EU countries, national legislation introduced simplified customs procedures and other forms of cooperation between business and customs authorities. The Republic of Lithuania started to apply the EU unilateral and bilateral preferential tariff arrangements with third countries (Povilauskienė, 2006). Accession to the EU and becoming part of the Customs Union simplified and accelerated transportation and trade with the EU countries, the need for expanded freight forwarding services, especially to serve the transportation to the Eastern countries of CIS<sup>2</sup>, created new business opportunities for operators of customs warehouses, free zones, import and export terminals, as well as increased export volumes in general (Slavickienė A., Jatkūnaitė D., 2006).

In this respect it should be noted that transforming of the customs law of Lithuanian Republic and its application in line with EU requirements created some challenges for national legal system, which could be illustrated by examples of the court practice. In particular, the application of customs law regulations after the entry to the EU has repeatedly raised the question of the relation between EU legislation and the national legislation. For example in the administrative cases No. *A<sup>261</sup>-939/2008* and *A<sup>261</sup>-1303/2012* the Supreme Administrative Court of Lithuania has settled the dispute on the relationship between national law (i.e. Law on Tax Administration) and CCC and its direct application in the tax dispute concerning the customs debt. The Supreme Administrative Court of Lithuania drew attention to the fact that the tax and customs duties under the Law on Tax Administration can be managed to the extent that its provisions are compatible with the EU customs legislation of the CCC and in respect provisions of the CCC shall have precedence over the Law on Tax Administration. In other cases translation versions of EU customs legislation in Lithuanian language which mismatched other versions of the EU customs legislation in another official languages of the EU (cases No. *A<sup>575</sup>-298/2011* and *A<sup>8</sup>-24/2007*). In these cases, the Supreme Administrative Court of Lithuania, on the basis of the practice of European Court of Justice, drew attention to the fact that the EU legislation in the European Union must be

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<sup>1</sup> Article 77 of the CCC.

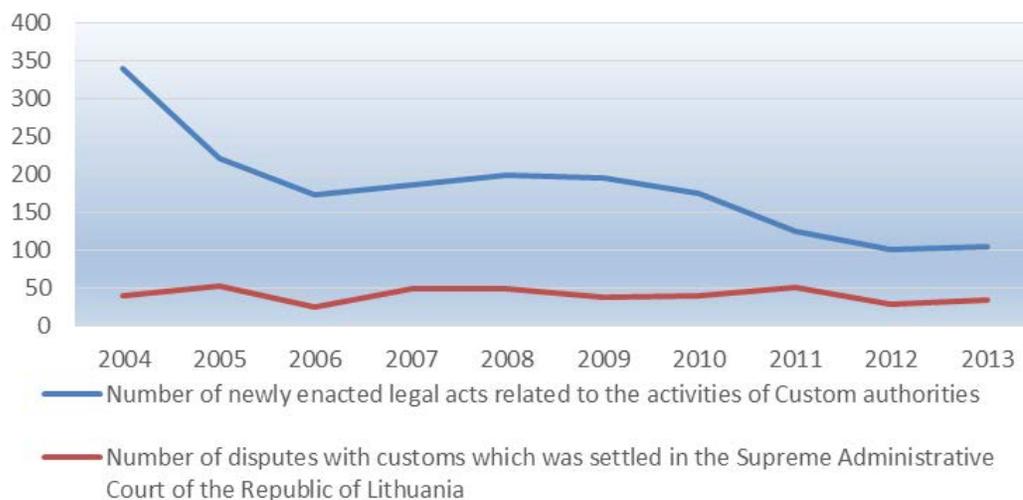
<sup>2</sup> Commonwealth of Independent States.

interpreted in the same way and has applied versions of customs legislation in other official languages of the Member States of the EU.

It should be noted that the problems of application of EU customs legislation in Lithuania is also revealed by the fact that after the accession to the EU, individual issues on customs legislation was dealt with even in the Constitutional Court of the Republic of Lithuania (*Case No. 4/02*) which examined the case on the legality (constitutionality) of national provisions of customs law describing conditions when contractual value is not to be considered as the customs value of imported goods. Constitutional Court of the Republic of Lithuania has recognized the legal validity of the national regulation directly based on the provisions of CCC, noting that the national legal regulations are basically identical to the ones entrenched in the legal act of the European Union.

These examples of legal practice clearly shows that accession to the EU and the fact that EU law became an integral part of the national customs law has created legal disputes concerning the fact which legal regulations shall prevail as the main basis of regulation of customs relationships. In such cases Lithuanian courts have firmly withheld the position on the primacy of the EU law over the national rules and have explained content of national rules according to the requirements of the EU law in customs cases.

Effects of legal transformations of customs law after the entry to EU, could be illustrated by some basic statistical data. It is obvious that while the period of integration to the EU or immediately after the integration (yrs. 2004-2006) was related to rapid changes in legal base since the number of newly enacted legal acts, related to the activities of custom authorities was the highest in whole nine year period (yrs. 2004-2013). However while in later years activity in the area of customs legislation have decreased, number of disputes in court concerning the application of customs law remained quite stable (see *Figure 1*), data is based on the information provided in the system *INFOLEX.PRAKTIKA. Teismų apžvalgos, konsultacijos, nutarimai, sprendimai, nutartys* [interactive]. [accessed 2014-03-10]. <<http://www.infolex.lt/praktika/>> .



**Figure 1. Changes related to the creation and application of customs law in Lithuania**

This correlation shows that the process of integration had clearly created a challenge for national courts and their practice (this conclusion is based on the fact that number of customs cases aren't diminishing) and didn't create static (stable) legal environment since fundamental questions on application of EU customs regulations (particularly concerning the relationship between EU and national legal regulations) remains to be constantly challenged in national courts.

The main obstacles and challenges for the development of customs law could be related to the processes which are ongoing in the EU<sup>1</sup>, as well as some particular national peculiarities. However besides preparation for the implementation of UCC, there are other unsolved problems of the Lithuanian customs law which remains as an obstacle for the creation positive cooperation between business and customs authorities and serves as a threat for the effective prevention and settlement of disputes with taxpayers. This problem is the absence of the official commentary (-ies) on customs duties in general and/or other customs legislation. Given the fact that customs law has to be treated as an individual and separate branch of law in Lithuanian legal system, it clearly needs a more systematic approach to its implementation. It is important to mention that Article 12 of the Law on Tax Administration sets a legal background for the customs authorities to present and publish summarized explanations<sup>2</sup> of the laws regarding taxes administered by the customs authorities. Although the absence of such summarized explanations of customs law was noticed as the main problem for the regulation of customs relationships in Lithuania (Romaškevičius, 2003; Povilauskienė, 2006) it remains unsolved until nowadays since there are no published official summarized explanations of any institutes of customs law. The same problem encounters cooperation between taxpayers and customs authorities when there is a need for relevant tax consultancy<sup>3</sup>. Since the State Tax Inspectorate under the Ministry of Finance which acts as the main tax administrator has developed a sophisticated and detail consultancy services and a public database on relevant tax consultations<sup>4</sup>, this practice is not commonly used by the customs authorities. These issues remains as an objectives for the modernizing of application of customs legislation in Lithuania.

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<sup>1</sup> The new Union Customs Code (UCC) Regulation (which must change the CCC has entered into force on 30 of October 2013, but its substantive provisions will apply only on 1 of May 2016. UCC is orientated at the creation of an electronic environment for customs and trade by the end of 2020. <[http://ec.europa.eu/taxation\\_customs/customs/customs\\_code/union\\_customs\\_code/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/customs_code/union_customs_code/index_en.htm)>

<sup>2</sup> According to the Part 1 of the Article 2“Summarised explanation of the tax law” means the opinion presented, after coordination with the Ministry of Finance, by the central tax administrator (including Customs Department under the Ministry of Finance) on how the tax administrator understands and applies the provisions of the tax law

<sup>3</sup> According to the Article 36 of Law on Tax Administration the right to receive consultancy on tax payment issues from tax administrator is the fundamental right of the taxpayer

<sup>4</sup> VMI mokesčių informacijos centro konsultacinės medžiagos duomenų bazė [Interactive]. [Accessed 2014-03-15] <<http://mic.vmi.lt/first.do>>

## Conclusions

Customs law in a worldwide practice and from the point of view of the comparative law could be considered as: 1) separate branch of law; 2) a part of tax law; 3) a part of international law (i. e. international trade law). Fundamental changes that has affected Lithuanian customs law since the entry to the EU, firstly, could be described as following: EU customs legislation was started to apply directly (as the direct source of law), and, secondly, codification of customs law on national level was withdrawn since The Customs Code of the Republic of Lithuania expired and came out of force since the entry to the EU.

Accordingly after the accession to the EU and by subsequent transformations in this respect the national customs law may be defined as a relatively self-sustaining, complex branch of law, which includes elements of international, EU and national law. Customs law remained many of its independent peculiarities, such as complexity of the object of its legal regulation; codification at the EU level; existence of international element and existence of separate national sources of law which are applied only to customs.

The process of integration had clearly created a challenge for national courts and their practice (this conclusion is based on the fact that number of customs cases aren't diminishing) and didn't create static (stable) legal environment since fundamental questions on application of EU customs regulations (particularly concerning the relationship between EU and national legal regulations) remains to be constantly challenged in national courts. In most custom cases Lithuanian courts have firmly withheld the position on the primacy of the EU law over the national rules and have explained content of national rules according to the requirements of the EU law.

However given the fact that customs law has to be treated as an individual and separate branch of law in Lithuanian legal system, it clearly needs a more systematic approach to its implementation since after the entry to the EU there are no prepared official commentaries on customs legislation and no developed services of public consultations on customs matters.

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