
Actions of the National Revenue Administration towards Protection of the Polish Cultural Heritage

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Abstract:

Purpose: The research question is how effective are the actions taken by National Revenue Administration towards protection of the Polish cultural heritage.

Approach/Methodology/Design: The article is based on an analysis of the literature on the subject, applicable legal acts, government strategies in the field of protection national polish cultural heritage, interviews with experts and statistical summaries obtained from all departments National Revenue Administration in Poland. In the frame of research theoretical methods were used, e.g., critical analysis of scientific sources and comparison of statistical data and empirical methods, e.g., document analysis, comparative analysis. The project was carried out in accordance with the approved research plan and in accordance with the regulations in the field of ethics of scientific research at the Military University of the Land Forces in Wrocław.

Findings: The article reveals tasks realized by the National Revenue Administration in the scope of protecting cultural goods and works of art in Poland. The organizational structure of this institution is discussed, just as legal bases which determine activities of the revenue administration towards combating crime related to illegal transfer and exportation of works of art and of other objects from the category of cultural heritage. The initiatives undertaken as part of international cooperation have been outlined.

Practical Implications: The article can be used in creating solutions in other EU countries, which will be aimed at improving the level of protection of cultural heritage in the local, national and regional dimension.

Originality/Value: This is one of the first articles that comprehensively presents solutions adopted in a democratic European country in the field of protection cultural goods and works of art by National Revenue Administration in Poland. In the light of the events of the ongoing war in Ukraine, the protection of national heritage is becoming one of the most important issues formative the martyrdom of contemporary independent nations.

Keywords: National heritage, Poland, National Revenue Administration, works of art.

JEL classification: Z11, G22, K34.

Paper Type: Research article.

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1. Introduction

Social and economic changes occurring both in the local and global perspective carry new phenomena and expectations. Cultural heritage has a major role to play in shaping the future of each society, constituting an imminent benchmark of integrative nature, before all else in light of the world's cultural diversity (Bitušíková, 2014). Heritage, both tangible and intangible, is deemed by the international community to be a pro-development motivator with an increasing value for modern societies (Sapanzha, 2018). Today's symbol of modernity may as well be considered as national heritage tomorrow, thus, it may signify everything regardless of whether a given community treats something as a cultural good or not, likewise, in spite of social constructivism (Erdősi, 2007). Undoubtedly it is a substantial generalization, however, it is a certain point of reference with respect to the article subject matter. Human community perceives protection of its own heritage as important enough to require a specific strategy both of global and local character. This protection is shaped through the prism of legal and organizational structures (Dworzecki, Nowicka, Urbanek, and Kwiatkowski, 2020).

All democratic states with well-grounded international positions notice the need to protect their own cultural heritage all the more when faced with a blurring of cultural boundaries triggered by the progressing globalization as well as the free movement of people and goods. One may point out, on the example of the European Union, that almost every member state of the EU community has launched institutions responsible, to a varying extent, for the protection of national heritage and cultural goods. These tasks are realized by institutions of culture, police formations, revenue and customs services and many other institutions operating as part of state or self-government administration as well as social organizations. The article discusses the role performed by the National Revenue Administration in the Polish system of cultural heritage protection. Information presented in this article have been based on an analysis of the available subject literature, legal acts, press releases as well as activity reports obtained from all Revenue-Customs Office Delegations in Poland.

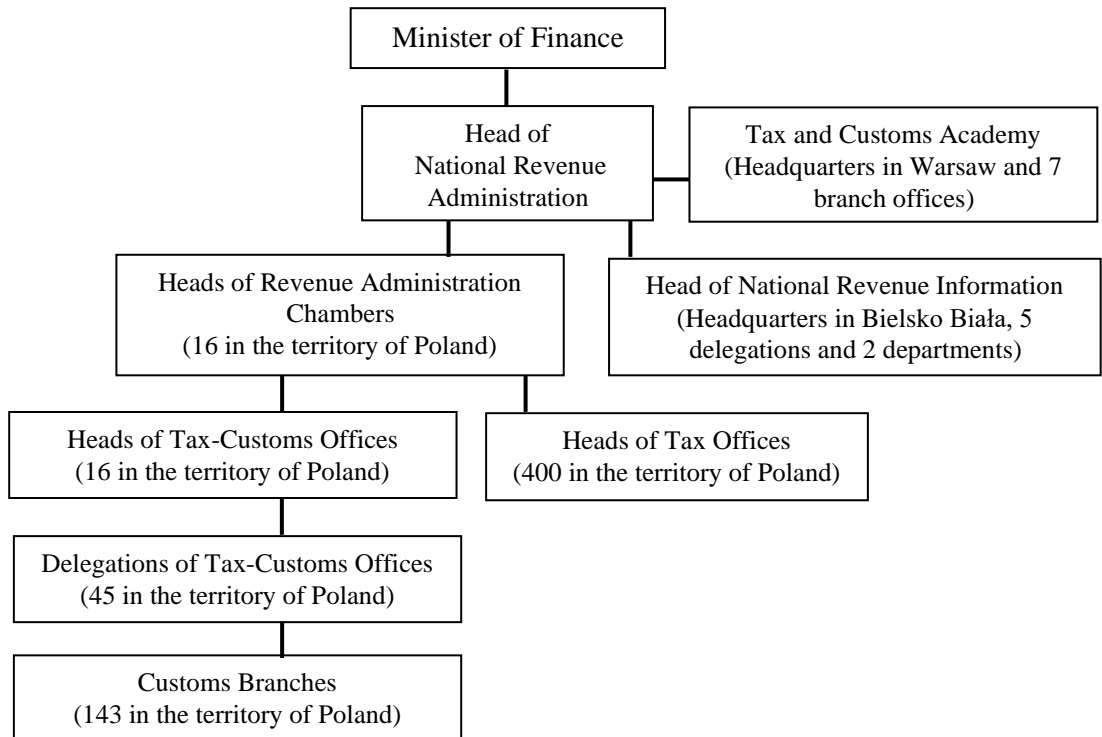
2. Legal Bases and Organization of the National Revenue Administration in Poland

The National Revenue Administration operates on the basis of the Act on National Revenue Administration FROM 16 November 2016.⁴ The National Revenue Administration, subordinate to the minister responsible for public finance affairs was

⁴*Act of 16 November 2016 on the National Revenue Administration (Journal of 2016, item 1947).*

launched on 1 March 2017 and substituted the former tax administration, that is, chambers and revenue offices as well as the Customs Office. Through this, a joint body of tax and customs administration was formed.

Scheme 1. Organizational structure of the National Revenue Administration (status as at 20.03.2021)



Source: Own elaboration based on <https://www.gov.pl/web/kas/struktura-kas>

National Revenue Administration performs multiple functions inside the Polish revenue administration. It is, above all, a specialized government administration entrusted with tasks in the scope of realizing revenues from direct taxes, customs duties, fees and non-tax budgetary receivables, protection of State Treasury interests as well as securing the customs area of the European Union, additionally ensuring the service and support for taxpayers and payers throughout the correct execution of their fiscal obligations as well as service and support for entrepreneurs in the correct execution of their customs duties.

This institution is headed by the Minister of Finance and its supervisory body that oversees its operations is the Chief of National Revenue Administration. The basic tasks of the National Revenue Administration include, among others:

- realization of revenues from customs duties and other fees related to the import and export of goods;
- realization of the customs policy stemming from membership in the EU customs union;
- covering goods with customs procedures in case of their import and export to and from the territory of the country;
- conducting information and educational activities in the scope of provisions of the fiscal and customs law;
- identifying, detecting and combating crimes and violations related to breaching the provisions concerning goods with an imposed trading ban or restrictions pursuant to the provisions of the Polish law, European Union provisions or international agreements, preventing these crimes and violations and prosecuting their offenders should they be identified by the Customs-Revenue Service;
- carrying out tasks that stem from the provisions of the law of the European Union that regulate the statistics concerning trading in goods by member states of the European Union (INTRASTAT) and trading in goods by member states of the European Union with other countries (EXTRASTAT);
- carrying out the tasks that stem from the bans and restrictions in place in foreign trading in goods, established in particular on account of the protection of life and health of humans and animals, plants, environment, public health and safety, consumer protection, international safety, cultural heritage, intellectual property rights and trade policy measures.

Activities of the National Revenue Administration which employs both persons with a status of civil employees (employed by Tax Offices) and Officers (service in offices and revenue-customs delegations as well as in customs branches) may have either a procedural or operational-evaluation character. The number of officer positions in place at the National Revenue Administration amounted to 10,342 full-time positions in 2020. Officers may apply the same methods and forms of operational work as the Police, among others. Moreover, they have personal protection means, firearms and means of direct enforcement at their disposal which may be used as part of their conducted actions.

3. Tasks of the National Revenue Administration in the Scope of Protection of the Polish Cultural Heritage

An example of actions that ought to be pointed out in the context of protecting cultural heritage is the so-called revenue-customs inspection which is a procedure of the so-called hard control character. Its basic objective is to detect and combat irregularities of broad-scale frauds, scams and other crimes which result in significant damage to public finance, thus, substantially impacting the system of country financial safety.

In the framework of the revenue-customs control, actions against organized crime activity that attempt to illegally export or import works of art and objects that constitute national heritage to or from the territory of Poland are implemented. Likewise, the revenue administration counteracts illegal trading in works of art. It should be noted that in 2020 the value of sale of works of art and antiques in Poland reached the level of PLN 418.5 million and in comparison to 2019, it increased by PLN 255.9 million.⁵

National Revenue Administration implements crucial tasks related to the protection of cultural heritage in cooperation with such bodies as the Ministry of Culture and National Heritage and the following subordinated units: National Institute for Museums and Public Collections, National Heritage Institute, Museums, Provincial Heritage Monuments Protection Offices. This institution cooperates with all uniformed services in Poland with special consideration of the Police and the Border Guard.

Conclusion of an agreement regarding cooperation in counteracting illegal export abroad or import into Poland of works of art concluded on 7 February 2020 by the Chief of the National Revenue Administration, the Minister of Culture and National Heritage, the Police Commander in Chief and the Border Guard Commander in Chief was a practical manifestation of this cooperation. This agreement concerns the form and manner of cooperation in the scope of the provision of mutual assistance as part of the conducted inspections, exchange of information, trainings and exchange of experiences. The agreement also involves actions as part of international operations (Pandora, Athena) against thefts and illegal trading in cultural goods, coordinated by Interpol and the World Customs Organization.⁶

In the course of its conducted activities, the National Revenue Administration extends beyond cooperation only with national entities. In the scope of regional cooperation, co-acting in the framework of Police and Customs Cooperation Centres at the borders with the Czech Republic, Slovakia and Germany is of great importance. Specialized unit of the National Revenue Administration remains in close contacts and conducts joint actions with such entities as: customs services of the Czech Republic (Customs Service Operational Activities Group) and the National Revenue Administration Directorate Criminal Office of the Republic of Slovakia. Efficient actions in the scope of various categories of crimes and, in particular, in combating organized crime involved in trading and smuggling works of art are executed as a result of this cooperation.⁷

⁵https://C:/Users/MSI/Downloads/rynek_dziel_sztuki_i_antykow_w_2020_r.pdf.

⁶<https://www.gov.pl/web/kulturaimport/porozumienie-ws-przeciwdzialania-nielegalnemu-wywozowi-zabytkow-podpisane>.

⁷<https://infosecurity24.pl/jednostka-specjalna-resortu-finansow-zgrywa-sie-z-czeskimi-i-slowackimi-oddziala>.

Mutual exchange of information among the above-specified international entities which results in fast search of wanted persons and stolen items also takes place at the level of border units such as, for instance, a joint Polish-German facility in Chotebuz.⁸ One ought to bear in mind the fact that cultural heritage is global and not only ascribed to one nation. This leads to global responsibility for its protection against any potential threat (Jirásek, 2017).

The realization of tasks by the National Revenue Administration within the discussed scope is supported by the resources of modern technology. Since 17 March 2020, this institution has had an innovative IT system at its disposal which is based on convolutional neural networks (CNN) which enables it to continue its development. The IT tools which are construed nowadays, based on artificial intelligence, increasingly take an offensive form of functioning. Operational capabilities of such tools are expanded on an ongoing basis which facilitates the growth of effectiveness of the conducted detection activities with respect to such domains as identification of works of art, detection of illegal transactions related to works of art (Dworzecki, 2021).

With the help of IT systems and possessed databases, officers of the National Revenue Administration are able to control the validity of origins of the exported and imported works of art and to analyse the occurring trends with relation to crimes against monuments in order to successfully prevent them. The following IT databases remain at their constant disposal:

- National List of Stolen or Illegally Exported Monuments which is maintained by the National Institute for Museums and Public Collections;
- Catalogue of Wartime Losses maintained by the Ministry of Culture and National Heritage in which objects lost during the Second World War are specified;
- Database of Stolen Works of Art held by Interpol;
- Database Customs Enforcement Network (Dite, 2013).

Officers of the National Revenue Administration perform risk analyses on the basis of the above-indicated databases which lead to eliminating abuses through proper targeting customs inspections. The inspections are conducted proportionally to the level of risk; thus, the efforts and means are focused on the factual threats and on the support for entities that operate in accordance with the law (Ogrodzki, 2005).

The efforts of the Polish National Revenue Administration in the scope of fighting and preventing revenue crimes and violations in respect to the protection of cultural heritage focus on forbidden acts which have been specified in the Penal Fiscal Code

⁸https://www.slaskie.kas.gov.pl/izba-administracji-skarbowej-w-katowicach/wiadomosci/aktualnosci/-/asset_publisher/1THt/content/podsumowanie-efektow-wspolpracy?redirect=http%3A%2F%2Fwww.slaskie.kas.gov.pl

(the following are the most frequently committed: Art. 86 – customs smuggling; Art. 87–customs fraud)⁹ or in the Act on Protection of Monuments and Care of Historical Monuments from 23 July 20003 (the most frequently committed ones: Art. 109 – export of monuments without permission). It does not however signify that each export of the works of art controlled by the National Revenue Administration is in fact illegal. The obligation of obtaining permission for the export of a monument is determined by its category, age and value. Exporting cultural heritage objects is allowed provided that:

- they are not historical monuments entered into the register of historical monuments;
- they are not part of public collections;
- they are not listed in any museum or church inventories or in the national library resource.

Permission for exporting is not required in case of monuments imported into Poland from the European Union countries for a period not exceeding 3 years. The transport of monuments does not require obtaining permission. If however this transport is carried out from the countries belonging to the European Union, such transport should be submitted at the Customs Office in order for the object to be covered by the procedure of admission to trading or by another customs procedure.

Apart from standard controls on border crossings, the most frequently conducted inspections within the territory of Poland are performed by mobile groups operating inside the revenue administration which conduct random vehicle checks. In case a stopped vehicle carries disclosed objects which fall within the category of cultural heritage, the officers must obtain evidence that the discovered monument was in transit to be exported abroad. In this context, an intention of exporting is easier to be proven in the course of random inspections in intra-community trading as well as part of the conducted actions at airports and sea harbours as well as postal circulation.

Officers of the National Revenue Administration, as part of their conducted actions, select the following items for inspection: consignments to be posted outside the customs area of the European Union and others. They also take into account the following premises:

- the entity submitting a given consignment to be posted (in particular, senders who previously carried out attempts to illegally export cultural goods);
- size and shape of a consignment which might indicate that it contains a cultural good (i.e. in case of smuggled paintings the parcels are usually flat with larger dimensions or they are packed in tubes in which rolled painting canvas have been placed).

⁹ *Act of 10 September 1997 Fiscal Penal Code (Journal of Laws of 1999, item 930).*

In recent years, usually as part of the conducted actions, the officers from the National Revenue Administration have been disclosing attempts of smuggling objects of historical value, cultural goods or collectible items such as: paintings, icons, sculptures, melee weapons, old prints, canvas, flint tools, coins and jewellery, historical cutlery, clocks or historical items of military origins. The majority of such events have been noted on the Polish-Ukrainian border checkpoints.

One of the disadvantages in the functioning of the National Revenue Administration is the lack of an integrated statistical system that would enable tabulated compilations of unitary reports regarding revealed cases of illegal export or attempts to export objects identified as cultural heritage goods.

This stems, among other things, from the varying degree of engagement of individual customs-revenue offices and delegations and customs departments in the scope of disclosing cases of smuggling cultural goods. Customs services of eastern Poland are far more engaged, which stems, among others, from the fact that the eastern border of the country constitutes an external border of the European Union and thus, much larger forces and means are relocated there by the revenue administration.

Furthermore, it is due to the necessity of conducting case-by-case verification of works of art or other objects constituting cultural goods in the context of their value or their authenticity. The issue which undoubtedly impacts the effectiveness of actions of the National Revenue Administration in the scope of cultural heritage protection as knowledge and experience of the officers and employees of this institution. In the framework of the conducted actions, they must carry out the assessment of whether a given object fulfils the age and value criteria for it to be legally exported without permission.

Multiple cases of disclosures during officers' inspections as to objects of non-typical dimensions which, once assembled, formulated a melee weapon carrying traces of an archaeological monument. Such items are handed over for expertise to: Provincial Heritage Monuments Protection Offices, National Heritage Institute or National Library, among others. Sadly, the effectiveness of control actions realized by the National Revenue Administration is partly limited due to liquidating customs checkpoints on the borders of countries of the European Union. In case of detected attempts of exporting historical items without permission, if the features of such items indicate that such permission is required, customs bodies of the National Revenue Administration may demand possession by the person exporting it of a document confirming that a given monument may be exported without permission. Such documents, in light of the Polish law, include:

- written opinion of an expert valuator indicating the time of occurrence of the monument;
- valuation of the monument carried out by an expert valuator;

- purchase invoice containing data enabling identification of the object;
- confirmation of import of the monument to the territory of Poland issued at a border checkpoint by customs services of Border Guard;
- document confirming insurance of the transport of the monument to the territory of Poland.

In the scope of protection of cultural goods and works of art, the National Revenue Administration usually undertakes actions related to:

- disclosing illegal export of monuments (export of monuments without permission);
- disclosure of illegal import of monuments (smuggling);
- verification carried out in case of lack of documents confirming the fact that a given monument does not require permission (valuation, assessment, invoice etc.);
- verification carried out in case of doubts of customs organs as to the validity of presented documents;
- establishing or confirming: whether age or value of the object exceeds the thresholds specified in the Act on the Protection and Care of Monuments or whether the customs value of the monument was not underestimated upon import to the country;
- withholding counterfeits.

Control-detection actions are undertaken also in the form of verifying internet announcements, auctions of works of art, blogs, websites dedicated to the goods of culture, collectible objects and objects with historical value.

In the framework of international initiatives such as ATHENA operation organized by the World Customs Organization in cooperation with Interpol and the Regional Intelligence Liaison Offices, directed against illegal trading in stolen goods of culture as well as PANDORA, an operation organized at the initiative of Europol in agreement with Interpol and the World Customs Organization, which consists in joint actions against thefts and illegal trading in cultural goods is undertaken in the territory of the whole country, i.e. Vehicle inspections, train inspections, freight container check-ups, verifications of postal packages and random passenger controls are realized in the territory of train stations, bus stations and airports.

4. Conclusion

National Revenue Administration is one Polish organs carrying out specific actions in the scope of cultural heritage protection. The legal basis, i.e., acts, regulations and other implementing acts as well as implementing arrangements concluded by Polish internal safety system institutions enable the effective realization of tasks by officers

of the National Revenue Administration in the scope of protecting the works of art and the goods of culture.

Nevertheless, the officers stress the necessity to constantly train themselves, especially given the challenges carried by the new methods implemented by criminals related to the cultural heritage who tend to apply modern technology resources more and more often in their acts. The revenue administration representatives are not isolated in their opinion since the officers of the border guard and the police who cooperate with them are of similar opinions.

National Revenue Administration undertakes actions in the scope of revealing smuggling attempts of works of art and objects of importance for the national cultural heritage with varying intensity and a diverse spatial intensity. Not all customs-revenue offices and delegations are equally engaged in this regard. The officers of revenue administration in the territory of eastern voivodeships of the country, especially on border checkpoints with Ukraine definitely carry out a lot more work than the rest. Furthermore, international cooperation with police forces and customs offices from the EU neighbouring states and actions as part of operations of supra-regional nature bring reasonably good outcomes in the scope of cultural heritage protection in Poland.

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