

Fraud repression in the area of customs

How is customs fraud prosecuted, particularly in Belgium?

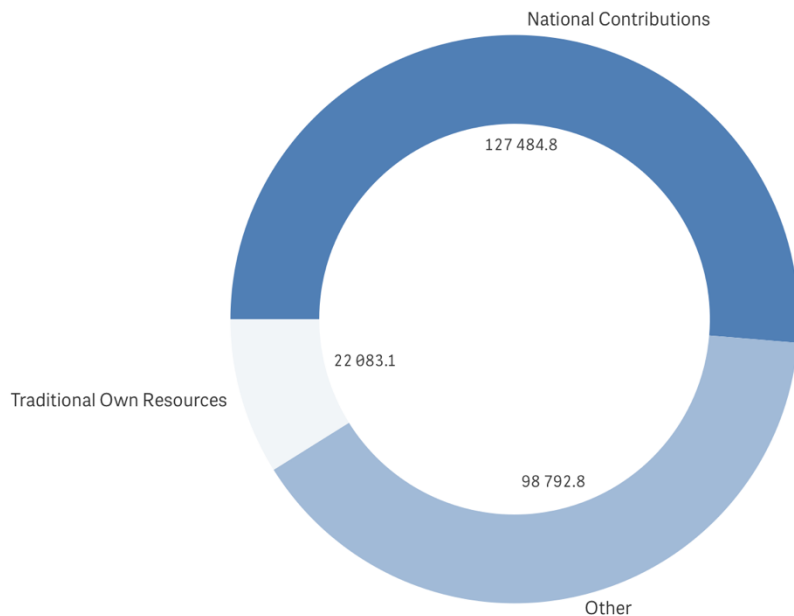
Valérian Fabry
Aspirant FNRS
University of Liege

FRED2 Louvain-la Neuve
12 February 2025



Customs Duties in the EU

lion)



- Customs duties = TOR of the EU's budget (8,9% of total revenue in 2023)
- Collected by member states:
 - 25% retained by the state ;
 - 75% transferred to the EU.
- Key point: failure to collect customs duties can harm the EU financially.



Article 325 TFEU

Article 325 TFEU:
Member states must
protect the EU's financial
interests through
effective sanctions.

Focus: How Belgium
fulfills this obligation
regarding customs fraud
enforcement.

→ Monitoring by the
Commission of
compliance with Article
325 TFEU



Overview of the Presentation

1. Customs Fraud: Definition and Examples of Infringements

2. *Penalties for Customs Fraud*

3. *Procedural Aspects*

4. *Legal Framework for Customs Representatives*



Customs Fraud Definition in Belgian law

Customs 'fraud': Offenses resulting in non-collection or under-collection of duties.

Includes:

- Deliberate fraud (fraudulent intent)
- Negligence

Common offenses:

- Non-declaration of goods (smuggling)
- Misclassification of goods
- Undervaluation of goods



EU Statistics on Customs Fraud (2023)

↗ 10% irregularities
(fraudulent + non-
fraudulent)

↘ 27% fraudulent cases
↘ 54% money involved
in fraudulent cases

↗ 15% non-fraudulent
cases
↘ < 1% money involved
in non-fraudulent cases

Main methods:

- Fraudulent cases: smuggling
- Non-fraudulent cases:
Incorrect classification or
misdescription

Top affected goods:
Textiles, footwear.



Undervaluation Case Example: case study

ECJ, Commission v. UK, 8 March 2022

Undervaluation of textiles and footwear.



EU sued UK for failing to collect customs duties.



ECJ ruling: UK failed to comply with art. 325 TFEU



Legal Concerns in Undervaluation



Liège, 7 Nov 2024 (→ ECJ, C-844/24 pending): Disputed statistical evidence method.



Issues: Use of statistical data for customs valuation may violate fundamental rights.



Personal opinion: Breach of the equality principle caused by variations in fines due to discrepancies in import dates



Penalties for Customs Fraud in Belgian law

Loi Générale sur les douanes et accises: Criminal offense for undermining customs duty collection

Penalties: Up to 10 times the amount of evaded duties

Rooted in historical law (1822), but reforms are underway



Customs Enforcement in Belgium

Unique System: General Administration of Customs handles prosecution (>< public prosecutor)

Constitutional Court upheld this system

European Public Prosecutor's Office (EPPO) involvement in significant fraud cases



Customs Representatives: Legal Framework

Criminal liability:

Engaged if regulations are violated

Penalty:

Excused from penalties (*'cause d'excuse absolutoire'*) if following client instructions (Art. 135 et 262/1 LGDA)



Conclusion

Customs fraud enforcement is vital for protecting the EU's financial interests.



Belgium has a structured framework but faces challenges:

Definition of customs fraud

Outdated penalties and procedural system



Future focus:

Reforming customs sanctions and improving legal clarity to combat customs fraud

Training because non-fraudulent irregularities are very high

Thank you for your attention!



LIÈGE université

**Droit, Science Politique
& Criminologie**