

Certain Legal Aspects of Customs Law Regarding Containers Abandoned in Temporary Storage

(Continuing from Part I)

If the customs authority cannot determine the facts of the case the goods will be seized from the holder. Those goods may be confiscated, among others, that were the target of the violation of the obligation, unless the person violating the obligation is not the owner. Further, if the client of the procedure does not request the non-Union goods, that are not excise goods, to be released for free circulation or re-exported, or does not meet the obligations related to the requested customs procedure, the customs authority will take measures for the confiscation and sale, or if the sale is unsuccessful, for the destroying of the goods, on the 15th day following the deadline. Costs of any measurement of the customs authority - confiscation, sale, destruction - shall be borne by the entity violating the obligation.

A further legal consequence is that in accordance with Art. 79 UCC customs debt incurs through non-compliance. For goods liable to import duty, a customs debt on import shall be incurred through non-compliance with an obligation laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union, their removal from customs supervision, or the movement, processing, storage, temporary storage, temporary admission or disposal of such goods within that territory.

In order to ensure customs supervision or to perform ancillary control measures the customs authority may put the goods temporarily under direct official supervision, either in customs warehouse or in a place appointed by the customs authority. If the 'affected person' provides enough security, the goods may remain in the custody of the 'affected person'. Any and all costs arising also regarding Art. 52 Sec. 2 letter d) of UCC shall be borne by the 'affected person'.

According to the above wording used in the Hungarian Act CLII of 2017 the costs of the direct custom supervisions shall be borne by the 'affected person', i.e. in our case the immediate person affected by the procedure the warehousing company as the holder of the authorization.

If this affected person provides enough security, the goods may remain in their custody. Any and all costs arising also regarding Art. 52 Sec. 2 letter d) of UCC shall be borne by them. If the imposed fee contains fee for storage, the customs authority calculates a fee of HUF 200 for every 10 kg/day.

If the non-Union goods are physically on the property of a third party but at the same time legally in the temporary storage of the holder of the authorization based on for example an appropriate lease agreement then the customs authorities shall be explicitly notified that the affected person for customs law is still the holder of the authorisation of the temporary storage facility, although the non-Union goods are physically situated on the property of a third party, therefore this third party shall be exempt from the financial obligations.