

## **Cuts of the Hungarian financial guard might increase environmental crime**

According to the Clean Air Action Group, a national federation of 126 Hungarian environmental NGOs, recent cuts at the Hungarian Customs and Finance Guard is likely to increase environmental crime in the European Union. The Hungarian government decided to reduce its expenditures by 12 percent and dismiss 808 employees. After the EU accession Hungary's borders along non-EU countries (the so-called external borders) will have to be reinforced, because here Hungary will have to protect here the European Union from various illegal practices, such as the smuggling of people, drugs, cigarettes, fuels, nuclear materials, protected natural values, dangerous waste and other products. Since the scope of controls carried out at the new internal EU borders will significantly shrink, it may be anticipated that various illegal practices will boom along these borders. For example, it is to be feared that the illegal trade of waste will expand (including hazardous waste, such as electronic waste). In many respects, Hungary has not even managed to assess yet, how much human and financial resources will be needed to meet the higher EU requirements. It remains a question, for example, how much strengthening will be needed to ensure compliance with the ever-increasing expectations of the European Anti-Fraud Office (OLAF).

The Hungarian customs and financial guard authorities have the means and opportunities to carry out enhanced control in the country's entire territory even after the EU accession. For instance, they should also check permits of the trucks, as well as compliance with other regulations concerning trucks (payment of road charges, prohibition of weekend transport, weight restrictions, etc.). They already perform a large number of such controls today, such as the inspection of tachographs (route logging discs) and checking of the weight specified in the vehicle's licence document. In consideration of the rapidly increasing heavy truck traffic and the growing frequency of accidents caused by them, this is very much justified by environmental and traffic safety reasons as well.

Dismissal of customs and finance guard officers also involves great risks because some of the laid-off staff are likely to go into the service of the adversary, i.e. the criminals, for lack of appropriate job opportunities, and will make good use of their qualification and professional experience there. Unfortunately, recent times have already seen such cases in Hungary.

For further information, see: <http://www.levego.hu/english/news.htm>

## **Risks posed by the curtailment of Hungarian customs and financial guard authorities**

The 2004 State Budget Act substantially reduced expenditures for the Hungarian Customs and Finance Guard (VPOP). Already in October 2003, VPOP was ordered to dismiss 808 employees. As compared to the amount of expenditures approved in the 2003 State Budget Act, the 2004 State Budget Act and subsequently imposed further restrictions have in the aggregate reduced the funds allocated to the Customs and Finance Guard by HUF 2,416 million in nominal value. Calculated in real terms, this means that HUF 4,758.7 million have been drawn away from the Hungarian customs and financial guard authorities. Consequently, as compared to 2003, this year 12.4 per cent less financial resources are available for VPOP to finance its operation.

For lack of the required assessments it is difficult to prepare an in-depth analysis about the impacts of the planned measures; nevertheless, some obvious facts do need to be mentioned here.

Restrictions projected for customs and financial guard authorities may cause the black economy to expand in Hungary, which already today has an estimated share of 25 to 30 percent of the GDP. Imposing curtailments on the Customs and Finance Guard (VPOP) is particularly shocking, because the aggregate value of criminal acts cleared up by the VPOP accounts for approximately two thirds of the total value of all revealed criminal offences!

State expenditures to the Customs and Finance Guard are extremely efficient means to curb the black economy and to increase state revenues. Each Forint spent on the customs authorities brings the state budget a revenue of 69 Forints (according to preliminary data of the year 2003).

As a consequence of Hungary's accession to the European Union, certain tasks will become unnecessary, whereas in other areas much more work will need to be performed. Hungary's borders along non-EU countries (the so-called external borders) will have to be reinforced. On these border sections strong actions are to be taken against smuggling, because after the accession, Hungary will have to protect here the European Union from various illegal practices, such as the smuggling of people, drugs, cigarettes, fuels, nuclear materials, protected natural values, dangerous waste and other products. Up until now, this traffic was controlled both at the time of entering and leaving the country. As from May 2004, however, this double control will be mostly abandoned, while criminal activities will remain. Thus, increased control would be required in areas situated farther away from the borders, which would necessitate much more mobile control groups („customs commandos”) than today.

It is necessary to highlight the fact that in the neighbouring Romania and Ukraine, products subject to payment of excise duties (primarily fuels and tobacco products) can be purchased at prices which are often less than the half of the Hungarian prices; therefore smuggling is an exceptionally profitable activity. To make things even worse, the quality of the Romanian and Ukrainian fuel is often very poor. As a consequence of these two factors, smuggling causes state budget revenues to fall and the state of the environment to deteriorate, not only in Hungary but also in the other EU member states.

In addition to cutting back smuggling, it would also be advisable to prevent that motor vehicles bring into the country huge amounts of fuels in their built-in fuel tanks as part of the normal vehicle traffic. Diesel fuel brought into Hungary (and from here partly into the other EU member states) in the fuel tanks of heavy trucks alone causes the European Union to lose annual revenues worth nearly EUR 300 million (as compared to the situation when that amount of fuel is purchased in the Union), while the costs of road maintenance and environmental pollution are to be borne by EU member states. Therefore, measures to eliminate this practice are urgently needed, which, in turn, necessitates the reinforcement of the Customs and Finance Guard.

The Customs and Finance Guard performs control of transit goods of huge value and quantities. As from 1<sup>st</sup> May 2004, customs authorities will have to control, and in many cases perform also customs clearance of, all products arriving from countries outside the EU into Hungary and into the European Union across Hungary. This requirement implies tasks which are virtually impossible to estimate today.

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There are also other considerations which make it essential that Hungarian customs and financial guard authorities have the means and opportunities to carry out enhanced control in the country's entire territory even after the EU accession. For instance, they should also check permits of the trucks, as well as compliance with other regulations concerning trucks (payment of road charges, prohibition of weekend transport, weight restrictions, etc.). They already perform a large number of such controls today, such as the inspection of tachographs (route logging discs) and checking of the weight specified in the vehicle's licence document. In consideration of the rapidly increasing heavy truck traffic and the growing frequency of accidents caused by them, this is very much justified by environmental and traffic safety reasons as well.

Experience of recent times has shown that often only the Customs and Finance Guard is capable of cutting back the above mentioned illegal practices and enforcing payment of the penalties. What is not collected from foreigners by the customs and finance guard authorities, in most cases will not be collected any more by anyone else.

Dismissal of customs and finance guard officers also involves great risks because some of the laid-off staff are likely to go into the service of the adversary, i.e. the criminals, for lack of appropriate job opportunities, and will make good use of their qualification and professional experience there. Unfortunately, recent times have already seen such cases in Hungary.

On 5<sup>th</sup> October 2003, the following piece of news appeared on the homepage of the Hungarian Radio: „*Csaba László, Hungarian Finance Minister, told that assessments were being carried out regarding the restrictions that the Ministry of Finance would need to apply to meet the estimates of the following year's state budget. The Finance Minister said that in connection with Hungary's EU accession, the Customs and Finance Guard and the Tax and Financial Control Administration would be required to perform the most additional tasks.*”

The Government ordered to reduce the workforce of the Hungarian Customs and Finance Guard already when the Parliament has not even passed the State Budget Bill. This has been a violation of Article 19 of the Constitution of the Republic of Hungary, which declares, among others, the following: „(2) *Exercising its rights deriving from the sovereignty of the people, the Parliament ensures the constitutional order of society, and determines the organization, orientation and conditions of government. (3) Within this competence, the Parliament (...) d) determines the balance of state finances, and approves the state budget and its implementation*”.

No assessments whatsoever have been prepared regarding the socio-economic and environmental impacts of the planned measures. This constitutes a serious contravention of Act XI of 1987 on Legislation and Act LIII of 1995 on the General Rules of Environment Protection. Paragraph (1) of Article 18 of Act XI of 1987 on Legislation reads as follows: "*Before passing a law, relevant social and economic aspects, rights and duties of citizens and ways of managing conflicts of interests shall be analyzed scientifically, and the expected impacts of the new law and the conditions of its enforcement shall be investigated. Legislators shall be supplied with information about the findings.*" Article 43 of Act LIII of 1995 on the General Rules of Environment Protection provides as follows: „(1) *Those preparing bills and other statutes related to environmental protection, national social and economic plans, regional development concepts and decisions having regional impacts,*

*shall assess and evaluate the environmental impacts of the measure concerned, and shall summarize the results in an assessment analysis. (...) (3) In the case of regulations to introduce economic regulatory instruments (rules on customs duties, taxes and duties, etc.) related to environmental protection, as well as in the case of significant modifications, the assessment analysis shall always be completed.”*

During the preparation of the State Budget Bill, the Hungarian Ministry of Finance has not cooperated with the affected non-government organizations. Consequently, the Ministry of Finance has violated Article 36 of the Constitution of the Republic of Hungary, which provides that „*In performing its functions, the Government cooperates with the social organizations concerned.*” The following articles of Act XI of 1987 on Legislation have also been repeatedly violated: “*Art. 19 Citizens (directly, or indirectly through their representatives) shall participate in the preparation and formulation of legal regulations that affect their living conditions. Art. 20 Institutions applying the laws, non-government organizations and interest representation agencies shall be involved in the preparation of drafts for statutes that concern the interests or social conditions which they represent and protect.*” The following provisions of Act LIII of 1995 on the General Rules of Environment Protection have not been complied with either: “*Art. 44, para (2) Prior to submittal to the agency entitled to take the decision, the drafts and the assessment analysis defined in paragraph (1) of Article 43 shall be sent to the National Environment Protection Council so that it can express its opinion on those documents. At least thirty days – counting from the date of delivering the draft – shall be ensured for the preparation of the expert opinion.*” The Ministry of Finance has repeatedly failed to fulfil the above obligation. By virtue of Resolution No. 30/2000 (X. 11.) AB of the Hungarian Constitutional Court, in so doing the Ministry has evidently acted unconstitutionally on a regular basis.

In each of its Country Reports, the European Union has strongly criticized the shortcomings in Hungary’s practice of enforcing legal regulations. This inadequacy will be exacerbated by the workforce reductions and other restrictions planned for the Hungarian state administration system.

It is particularly timely to deal with this subject now, because the latest report of Transparency International (TI) has revealed that in TI’s 2003 International Corruption Ranking List Hungary occupies the 40<sup>th</sup> position among the 133 countries assessed.

*Clean Air Action Group  
(a national federation of Hungarian Environmental NGOs)*

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