

COMPARATIVE LEGAL ANALYSIS OF THE DRAFT CUSTOMS CODE OF UKRAINE REGARDING UKRAINE'S IMPLEMENTATION OF EUROPEAN INTEGRATION COMMITMENTS

Purpose. The article aims to conduct a comprehensive comparative legal analysis of the draft Customs Code of Ukraine in terms of its compliance with the Customs Code of the European Union (EU Regulation No. 952/2013) and the obligations set out in the Association Agreement between Ukraine and the EU, as outlined in Annex XV. The study aims to assess the degree of harmonization of national customs legislation with the EU acquis, identify key positive innovations, pinpoint significant inconsistencies, and formulate specific proposals to enhance the provisions of the published draft of the Customs Code.

Methods. The methodological basis of the study consists of comparative legal, formal legal, structural-functional, and systemic analysis. The comparison was made by comparing the provisions of the draft Customs Code of Ukraine with the norms of the UCC, EU implementing and delegated regulations, as well as with the requirements of the Association Agreement and the practice of the European Commission, including MASP-C and modern IT tools of the European customs system.

Results. The results of the study showed that the draft Customs Code of Ukraine significantly brings national customs legislation closer to EU law. Key institutions have been harmonized: electronic declaration, "single window", risk-based control, re-import, re-export, and processing procedures, as well as a system for guaranteeing customs payments based on the Union Guarantee model. The AEO institution has undergone significant development, and approaches to determining customs value, especially regarding royalties, have been improved. At the same time, significant gaps have been identified: incomplete implementation of the "ex officio" mechanism in the field of intellectual property; fragmentation of MASP-C digital requirements; and underdeveloped rules on simplification, guarantees, and IT integration with EU systems.

Conclusions. The draft Customs Code of Ukraine needs further refinement to ensure full compatibility with EU law and effective implementation of European integration commitments. It is advisable to further transpose the ex officio mechanism in full, clarify AEO procedures and guarantees in accordance with the UCC, and strengthen the digital architecture in accordance with MASP-C. The implementation of these recommendations will contribute to the institutional strengthening of the State Customs Service, increase the efficiency of its functioning, accelerate Ukraine's integration into the EU internal market, and enable Ukraine to become a full member of the EU.

Key words: Customs Code of Ukraine, EU Customs Code, comparative legal analysis, Association Agreement between Ukraine and the EU, European integration.

JEL classification: H11, D73, K33, F15.

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Introduction. In 2014, in the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community, and their member states, on the other hand (in Annex XV), our country undertook to harmonize its domestic customs legislation with the Acquis Communautaire within three years of the Agreement's entry into force. This was to be a prerequisite not only for Ukraine's economic integration into the European community, but also for its full membership in the EU. Ukraine has already made significant progress in this direction and, according to Vladislav Suvorov, Deputy Head of the State Customs Service of Ukraine, has implemented approximately 91% of its customs obligations under the Association Agreement (Ivanov, 2025). Oleksandr Moskalenko, Director of the Customs Policy Department of the Ministry of Finance of Ukraine, referring to the assessments of European partners, states that Ukrainian customs legislation is 80% compatible with EU customs legislation (Ivanov, 2025). However,

despite such optimistic assessments, Ukraine has not yet managed to fulfill its commitment to adopt a new Customs Code of Ukraine that would be harmonized with the EU Customs Code (UCC, Regulation (EU) No. 952/2013).

In Chapter 29, “Customs union”, of its annual reports on enlargement concerning Ukraine, the European Commission states that all EU member states are part of the EU customs union and adhere to the same customs rules and procedures. This requires harmonization of legislation, as well as proper implementation and enforcement, and access to and compatibility with the EU’s electronic customs environment (European Commission, 2025).

In its Ukraine 2023 Report, the European Commission emphasized that Ukraine must make progress next year, particularly in developing a new Customs Code (European Commission, 2023). Although the current Customs Code of Ukraine largely complies with the UCC, the European Commission states that “further alignment with the EU Customs Code is needed, particularly in the areas of customs procedures, simplification of customs formalities, pre-departure information, and the enforcement of intellectual property rights”.

In its Ukraine 2024 Report, the European Commission gave a positive assessment of the start of work on the text of the new Customs Code, the aim of which is to bring it fully into line with the UCC (European Commission, 2024).

Finally, on August 26, 2025, work on the draft of the new Customs Code of Ukraine (hereinafter referred to as the Draft) was completed, and the Cabinet of Ministers of Ukraine approved its text by protocol decision and sent it to the European Commission for evaluation (Ministry of Finance of Ukraine, 2025). On October 3, 2025, all 15 sections of the draft text were officially presented to representatives of business entities and the public (Ministry of Finance of Ukraine, 2025).

Therefore, studying the text of the draft new Customs Code of Ukraine and conducting a comparative legal analysis with the UCC, Regulation (EU) No. 952/2013 is extremely relevant. After all, it is important not only to adopt and implement the new Customs Code of Ukraine as soon as possible. It must comply with Ukraine’s commitments and EU standards. This is a critical prerequisite for receiving further financial support from the EU and ensuring progress in negotiations on EU accession. All the above indicate the relevance of the chosen research topic.

Literature review. The issue of compliance of domestic customs legislation with European Union law has been the subject of attention of a significant number of Ukrainian and foreign researchers, including V. Bevzenko, M. Vikhlyayev, N. Guberska, S. Gusarov, R. Kalyuzhny, T. Kolomoets, A. Komziuk, O. Kuzmenko, V. Kuryla, D. Luchenko, P. Lyutikov, M. Melnyk, R. Melnyk, O. Mykolenko, Y. Nazarova, D. Pryimachenko, S. Stetsenko, M. Tyschenko, O. Chupryna, and other scholars. Among them, the prevailing view is that the key task of the ongoing customs reform should be not only the formal approximation of Ukraine’s customs legislation to EU law, but also a profound institutional transformation of Ukraine’s customs authorities. I.O. Bykov (2023) even justifies the need to use terms such as “general customs standards”, to which the author refers to the norms of the founding treaties, EU values and principles of EU law, which determine the general requirements for the organisation of public administration in countries that are aligning themselves with the EU *Acquis Communautaire*, and “special EU customs standards”, which include acts that directly regulate EU customs procedures and formalities in the form of regulations, directives, decisions, agreements and acts of individual Member States (Bykov, 2023).

Similar approaches are shared by R.I. Lemeha (2020), who emphasises that Ukraine’s customs policy is still characterised by fragmentation and inconsistency in the reforms being implemented, and therefore the key task for rapprochement with the EU should be to modernise existing customs regimes (Lemeha, 2020).

O. O. Briginets (2017) analyses the legal obstacles to the implementation of the EU Customs Code in Ukraine and notes that Ukraine’s current customs legislation has significant conceptual differences with the UCC in terms of customs simplifications, the application of guarantees, and the regulation of special customs procedures for customs control (Briginets, 2017).

Summarizing the assessments of researchers, we can conclude that the reform of Ukraine’s customs legislation requires a comprehensive approach that covers not only the implementation of the UCC text, but also the modernization of the institutional structure of customs, the introduction of unified electronic systems, the strengthening of procedural guarantees for business entities, and ensuring the irreversibility of punishment in case of violation of customs legislation. This approach is in line with the conclusions

of the European Commission, as reflected in its annual reports on Ukraine's progress, and forms the theoretical and practical basis for improving the draft Customs Code of Ukraine.

Positive innovations in the draft Customs Code of Ukraine. The Draft of the new Customs Code of Ukraine, which was approved by a protocol decision of the Cabinet of Ministers of Ukraine on August 26, 2025, and sent to the European Commission for evaluation, contains several progressive decisions that simplify customs procedures and customs clearance of goods and bring Ukrainian legislation closer to European standards. The most important innovations of the Draft include:

1. Significant harmonization of its text with EU legislation and international conventions. The Draft implements a significant part of the provisions of the EU Customs Code and international customs conventions. In particular: Revised Kyoto Convention and Convention on the Simplification of Formalities in Trade in Goods; Convention on Temporary Admission; Convention on International Transport of Goods Under Cover of TIR Carnets; Common Transit Convention, CTC, which entered into force for Ukraine in 2022; International Convention on the Harmonized Commodity Description and Coding System; Customs Control of Cross-border Goods Convention; Convention on Customs Data Model/WCO Data Model (developed by the World Customs Organization in terms of implementing uniform data standards for electronic declarations; and many others.

2. Digitization and implementation of a unified information system. It is planned to introduce electronic declarations in a single "electronic window" (Article 8 of the Draft), develop national IT systems, and integrate them with the European Multiannual Strategic Plan for Electronic Customs (in accordance with Section IX of the Draft). National IT solutions for interaction with the relevant European systems are already being developed so that digital tools are ready by the time the Draft comes into force. Integration into the EU Customs Information System and configuration of the NCTS (Common Transit System) are reflected in the Draft as new standards. Although the text of the Draft does not directly refer to the Customs Information System in a separate article, the rules on mutual exchange of information and integration with other information systems of the competent EU authorities are reflected in Articles 8 and 509 of the Draft.

The Draft also contains a requirement that customs operations be carried out through interconnected electronic systems within a single automated platform – through a "single window". This will ensure the exchange of information between customs and business entities, the automation of procedures, paperless document flow, and increased transparency in customs clearance of goods.

3. Authorization of Authorized Economic Operators (AEO). The Draft expands the institution of reliable economic operators and introduces the AEO status in accordance with the EU model. Article 64 of the Draft defines the procedure for applying for and authorising AEO status; Article 67 defines the criteria for obtaining AEO status, which include financial stability, compliance with legislation, accounting systems, and security standards; Articles 77-81 of the Draft define the grounds for refusal, entry into force, suspension, and revocation of AEO status. Acquiring AEO status requires businesses to comply with compliance standards and, in return, guarantees simplified customs procedures, easier customs control (fewer checks, priority consideration), and the possibility of mutual recognition with the customs services of other countries (the principle of reciprocity).

4. Introduction of the preferential origin of goods. Article 128 of the Draft codifies the rules for determining the preferential origin of goods in accordance with free trade agreements concluded by Ukraine. This means that a unified approach is being introduced for the implementation of preferential customs rates under preferential regimes: the country of origin may be determined according to one or more sets of rules and shall be indicated in the declaration for the application of the preference.

5. Efficiency of customs declarations acceptance, possibility to make changes to them, as well as recognition of a declaration as invalid at the request of the declarant. According to Article 309 of the Draft, a customs declaration that meets the established requirements shall be recognized by the customs authority and accepted "without delay", provided that the goods are presented at customs. This will speed up the processing of cargo: if all documents have been submitted and the goods are ready for inspection, the declaration will be processed without delay, allowing the customs authority to exercise its powers of customs control and customs clearance of goods more quickly.

The possibility of making changes to the declaration is reflected in Article 310 of the Draft. The declarant will be able to change the information in the customs declaration after its acceptance by the customs authority upon their request. This will reduce the consequences of possible accidental errors or inaccuracies in the submitted declaration. For example, it will be possible to correct technical information

(except for the list of goods that were not originally declared) until the formal inspection of goods has begun.

The invalidation of a declaration at the request of the declarant is regulated by Article 311 of the Draft. This provision allows a previously accepted declaration to be invalidated at the request of the declarant under certain conditions. In particular, if the goods are to be placed under another customs procedure, or in special circumstances where the previous customs procedure becomes inappropriate, the customs authorities may cancel the previous declaration and allow re-declaration.

6. Introduction of new types of guarantees and customs control. The Draft aims to implement European mechanisms for securing customs payments (including individual guarantee, comprehensive guarantee, and guarantee waiver) and gradual integration into the Union Guarantee System (corresponding to the UCC). The Draft provides for the possibility of using a general guarantee; a general guarantee with reduced security of up to 50%; with reduced security of up to 30% and with exemption from guarantee. This corresponds to UCC Annex A “Guarantee waiver for AEOs”. The Draft also introduces the use of an electronic guarantee management system.

Guarantees will be applied based on a risk profile. Although the term “risk management” is mentioned in the text of the Draft mainly in the general principles of customs control, the new guarantee instruments are directly integrated into the risk model. The Draft provides for the emergence of new categories of guarantors, new requirements for them, and new rules for their registration, new requirements for the form of guarantees, electronic interaction with customs, an updated procedure for revoking guarantees, etc.

The use of risk-based control methods (in accordance with EU principles) is expanding. The Draft contains provisions aimed at modernizing customs control through risk assessment. Therefore, simplifications will only be granted to economic operators who meet the criteria of a risk-oriented honest operator, and AEOs will automatically be entitled to reduced security guarantees.

This is in line with European practice and will allow control measures to be targeted at potentially “risky” cargo or operators, instead of random checks. Such a system should increase the effectiveness of control and reduce the bureaucratic burden on “safe” participants in foreign economic activity.

7. Improving the procedure for the re-export and re-import of goods. Updated rules for customs clearance of re-exported and re-imported goods, as well as processing under customs control, have been proposed. This will expand the opportunities for business entities and bring domestic legislation closer to EU law. In particular, the Draft Regulation on the Re-export of Goods has undergone the most significant reforms, which are reflected primarily in Articles 493-495 of the Draft and in related procedures resulting from the completion of special customs procedures. In certain cases (in particular, upon completion of storage or processing), it will be possible to submit a re-export notification instead of a full declaration. This is faster and cheaper and complies with Article 274 of the UCC, according to which only a “notification of re-export” may be submitted in such cases.

The Draft effectively introduces an independent re-export institution, which may become sufficient grounds for completing warehousing, domestic processing, temporary importation, or completion of a free zone. In addition, Article 495 of the Draft defines possible grounds for invalidating a re-export declaration, which was previously outside the scope of legal regulation.

The customs regime for re-imports has also changed. According to the Draft, this is no longer just the return of Ukrainian goods, but a full-fledged special procedure that complies with Article 203 of the UCC. This means that goods that are returned will regain their Ukrainian status, be exempt from import duties, and not be subject to customs payments if the return takes place within a specified period. In addition, the Draft specifies the deadlines for the return of goods; the condition of goods in which they may be re-imported; supporting documents; and the difference between re-importation after external processing and full re-importation of goods. Finally, the re-importation of goods can now be formalized as the completion of external processing and through the New Computerized Transit System (in the case of movement through EU countries). Most of these rules are not included in the current Customs Code of Ukraine.

The rules governing customs relations regarding inward/outward processing have been updated. In fact, this part of the Draft has been brought into line with Articles 256–262 of the UCC. A model has been introduced not only for “inward processing” (according to which the complete procedure for admitting goods for processing has been defined for the first time; the possibility of processing with replacement (equivalent goods) has been introduced, i.e., in fact, the possibility of replacing goods with equivalent goods has been provided; and the management of residues and waste has been introduced),

but also “outward processing”, according to which the possibility of exporting Ukrainian goods abroad for processing has been introduced; the return of processed products under the re-import regime; and the payment of customs duties only on the value of the added operation (processing cost).

8. Changes to the legal regulation of royalties and license fees. The text of Article 145 of the Draft literally reproduces the provisions of the UCC that determine in which cases royalties and license fees will be added to the customs value. The Draft also defines several possible criteria according to which royalties will be included in the customs value: 1. The connection between the payment and the goods being valued: “Royalties and license fees are related to the goods being valued if the rights transferred under the license agreement or royalty agreement relate to the goods being valued”; 2. The method of calculating royalties is irrelevant: the Draft specifies that even if royalties are calculated based on sales or the quantity of goods produced, this does not exempt them from being included in the customs value; 3. Presumption of connection: if royalties are calculated based on the price of the goods, the payment of such royalties is considered to be related to the goods being valued (in the absence of evidence to the contrary); 4. Mixed payments: adjustment obligation: in cases where royalties are partly related to goods and partly to post-import services, the Draft explicitly requires an adjustment to the customs value of the goods.

The innovations of the Draft also include the fact that the procedure for accounting for royalties, the procedure for documentary confirmation, the procedure for distributing royalties, and the rules for various types of license agreements will be regulated in a separate resolution of the Cabinet of Ministers of Ukraine, which harmonizes these procedures with EU practice.

9) Authorized consignor and consignee (international road transport operations). This innovation is reflected in Article 393 of the Draft, which provides for the possibility of granting authorized consignor/consignee status to organizations engaged in international TIR transport procedures. This will allow such entities to benefit from simplifications, such as reduced checks, when transporting goods under the international road transport system.

10) Simplified declaration of express shipments. This concerns Article 289 of the Draft. The new rules provide for a separate procedure for small postal/courier shipments. Goods worth up to €1,000 can be declared under a simplified scheme, without the need to complete a full import declaration. This reduces the burden on light freight flows (postal correspondence, small packages) and stimulates the development of online commerce and small businesses.

Reservations regarding certain innovations in the draft Customs Code of Ukraine. The Draft contains several other progressive solutions that will simplify customs clearance and customs control of goods and bring Ukrainian legislation closer to European standards. However, despite this, certain innovations in the Draft cause us concern, in particular:

1. The requirement for the person responsible for customs matters to have mandatory AEO C status. According to Article 71 of the Draft, “Practical Standards of Competence or Professional Qualifications”, an external person responsible for customs issues of the declarant (working under contract) must have valid AEO C authorization. This will complicate the involvement of external customs agents and effectively oblige them to obtain AEO-C status, which will create additional risks and require additional time and resources.

2. Mandatory guarantee upon importation of goods. According to Article 184 §1 “General Provisions on Guarantees” of the Draft, providing the customs authority with the necessary monetary guarantee is mandatory for each importation of goods into the customs territory. Although the guarantee is necessary to secure customs debt, it increases the financial burden on importers (especially for large imports) and may worsen their liquidity.

3. Requirement to present goods within 30 days. According to Article 308 “Submission of a customs declaration before presentation” of the Draft, the declarant is allowed to submit a declaration before the presentation of goods, but if the goods are not presented within 30 days of submission, the declaration will be considered “not submitted”. Therefore, force majeure delays in cargo delivery will lead to automatic cancellation of the declaration, which may require resubmission and additional costs.

4. Temporary prohibition on the use of general guarantees. According to Article 202, “Temporary prohibition on the use of general guarantees”, of the Draft, the central executive authority implementing state customs policy will be able to prohibit the use of a general guarantee (including a reduced amount or exemption from the guarantee) for certain special procedures or goods related to criminal offenses. This means that even reliable payers may be temporarily denied access to simplifications through a general guarantee, which reduces the flexibility of the security system.

5. Requirement for additional guarantees at the request of customs. According to Article 203 “Additional Guarantee or Replacement Guarantee” of the Draft, customs authorities may, if necessary, require an entity to provide an additional monetary guarantee or replace the one already provided. This means that when circumstances change, economic operators will have to quickly provide additional collateral to avoid delays in the release of goods, which can be difficult and expensive.

6. Post-customs control after release of the guarantee. According to Article 204 “Release of the Guarantee” of the Draft, even after the release of the individual guarantee and the return of the corresponding part of the general security, the customs authority retains the right to check the documents provided and carry out post-customs control. In other words, even fully cleared and paid cargo may be subject to additional inspection after release, which calls into question the completeness of the customs clearance procedure.

7. Complaints shall be written exclusively in the official language. According to Article 87 “Filing a Complaint” of the Draft, a complaint against a decision of the customs authority must be written in the official language and signed by the applicant. This will create inconvenience for foreign business entities that do not speak Ukrainian and may lead to technical errors. In addition, a complaint filed without complying with this requirement will remain pending in accordance with Article 87(5) of the Draft.

. Criminal liability will be introduced for a greater number of customs violations. According to Article 84 “Prosecution” of the Draft, criminal sanctions are envisaged for several violations of customs rules (special status, cargo manipulation, smuggling, etc.). Severe criminal and administrative penalties (fines) may deter economic operators and create additional risks even for technical violations, which may encourage corruption in customs authorities.

Proposals for eliminating certain inconsistencies between the draft Customs Code of Ukraine and the requirements of the EU Acquis and Annex XV to the Association Agreement. Although the Draft is largely harmonized with the UCC, not all requirements of Annex XV to the Association Agreement have been fully implemented in its text. A comprehensive analysis of the Draft, its comparison with the UCC, Annex XV to the Association Agreement, and the European Commission’s enlargement reports indicates both significant harmonization and substantial gaps in this process. To eliminate the latter, we propose the following amendments to the text of the Draft:

1. Add provisions on mutual recognition of AEO authorizations (MRA). Articles 64–83 of the Draft describe the general principles of the authorized economic operator (AEO) institution. However, these articles do not contain provisions on mutual recognition of AEO authorizations as provided for in the UCC and Annex XV to the Association Agreement. All modern EU customs unions are based on this element, which ensures effective participation in customs chains of trust. Therefore, we propose to supplement the Draft with Article 83-1 “Mutual Recognition of AEO Authorizations”, which would define the legal grounds for recognizing AEO authorizations of EU countries; the competence of the Cabinet of Ministers of Ukraine to conclude MRAs; and provide for the extension of the benefits of international recognition to Ukrainian AEOs. This provision will be in line with Articles 38–39 of the UCC and EU standards on trade partnerships.

2. Standardize the application of NCTS and integrate it with EU transit systems. Despite the existence of Articles 191–192 and 299–300 on guarantees and transit, the Draft does not contain a separate provision on NCTS, which contradicts Ukraine’s obligations to accede to the Convention on Common Transit. Therefore, we propose to supplement the Draft with Article 193-1 “National Computerized Transit System (NCTS)”, which would provide for the mandatory use of NCTS; compatibility with EU systems; transition to NCTS Phase 5 and Phase 6; and authorize the Cabinet of Ministers of Ukraine to approve the implementation roadmap. This provision will comply with Articles 6(1)(e) and 226–236 of the UCC and the EU’s international transit infrastructure.

3. Set deadlines for updating customs data formats in accordance with Annex B of the UCC. According to Article 300 of the Draft, the customs authority has broad powers to determine data formats, but there are no requirements for their synchronization with EU updates. This creates risks of technical incompatibility. Therefore, we propose to supplement Article 300 of the Draft with the following third part: “The formats and structure of customs data shall be updated no later than 60 days after the relevant changes to the European Commission’s technical standards (Annex B UCC DA/IA) come into force”.

4. Introduce a unified risk management system (CRM). The Draft does not contain a separate article aimed at risk management. Its absence makes compatibility with the EU Customs Risk Management Framework impossible and contradicts Annex XV and the conclusions of the European Commission’s Enlargement

Report. Therefore, we propose to supplement the Draft with a new Article 87-1 “Risk Management System”, which will contain requirements for automated risk analysis; exchange of information with member states; technical requirements for integration with ICS2, ECS2, and Surveillance. This provision will comply with Articles 46-49 of the UCC and EU CRMF.

5. Clarify the provision on comprehensive guarantees and their differentiation. Articles 191–200 of the Draft do not contain the scale of reduction of comprehensive guarantees provided for in the UCC (0%, 30%, 50%). Therefore, we propose to supplement Article 192 of the Draft with a fourth part, according to which reduced levels of comprehensive guarantees of 50%, 30%, and 0% would be established, and to specify that exemption is possible only for AEOs of the relevant type. Such a provision would comply with the requirements of Articles 95–98 of the UCC.

It is also necessary to provide provisions on the New Computerized Transit System (NCTS) and uniform customs guarantees, following the example of the UCC. In addition, post-clearance control and audit procedures should be described in more detail (as in the UCC), and the obligation to review risk algorithms at the national level should be enshrined.

6. Add an ex officio mechanism in the field of intellectual property rights protection. The Draft does not contain an ex officio mechanism for suspending customs clearance of goods, as established by Regulation (EU) No. 608/2013. Therefore, we propose to supplement the Draft with an article “Suspension of clearance of goods at the initiative of the customs authority (ex officio)”. Such a provision would comply with the requirements of the EU Acquis in terms of border enforcement. In order to fulfil the DCFTA obligations, it is also necessary to clarify the procedures for customs detention of counterfeit and pirated goods. It is necessary to provide for a set deadline for considering requests from rights holders and a mechanism for automatic exchange of information with other member states, as provided for in the UCC.

7. Implement provisions on information exchange with EU customs systems. The Draft lacks provisions on interaction with ICS2, ECS2, and Surveillance, which are key EU systems. Therefore, we propose to supplement the Draft with an article stating that “The customs authority shall ensure the automated exchange of advance information with ICS2, ECS2, and Surveillance in accordance with EU standards”.

8. Strengthen the procedural rights of economic operators (legal entities or individual entrepreneurs who, during their economic activities, carry out activities regulated by customs legislation). The Draft does not contain a complete list of the procedural rights of such economic operators, as is done in Articles 22–26 and 44 of the UCC. In addition, the European Commission has repeatedly emphasized the need to extend the scope of the Law of Ukraine “On Administrative Procedure” to customs legal relations. Therefore, we propose to supplement the Draft with an article “Procedural Rights of Economic Operators”, which will provide for the following rights: the right to be heard before a decision is made; the right to access information; and effective mechanisms for appealing a decision or inaction of a customs authority.

9. Clarify the grounds for conducting a personal search. According to Article 671 of the Draft, a personal inspection shall be conducted if there are “sufficient grounds” to believe that an individual crossing the customs border of Ukraine or staying at a customs control point or in the transit zone of an international airport is concealing contraband or goods that are directly subject to customs violations or are prohibited from being imported into the customs territory of Ukraine, exported from the customs territory of Ukraine, and/or placed under customs procedures. The fact that this form of control is an exceptional form of customs control indicates its coercive nature about the individual and the need, as a result, to strictly adhere to the procedural guarantees established not only in customs but also in the constitutional legislation of Ukraine to prevent the violation of citizens’ rights to personal inviolability and interference in their personal and family life. Therefore, we propose to legislatively detail the content of the legal construct “sufficient grounds” used in part one of Article 671 of the Draft, supplementing it with an indicative (non-exhaustive) list of circumstances that may be considered such grounds (for example, the availability of specific operational information from law enforcement agencies regarding the person in question, a high level of risk associated with the profile of such a person, etc.).

10. Strengthen the status of the State Customs Service of Ukraine as a law enforcement agency. To effectively combat smuggling, the State Customs Service of Ukraine should be granted the powers of law enforcement agencies (as proposed during working discussions of the Draft). This will require appropriate amendments to the Criminal Code of Ukraine and the Code of Criminal Procedure of Ukraine, but the relevant provisions should also be enshrined in the Draft.

We are confident that the proposed changes will bring the Draft more into line with the UCC, as well as fulfil Ukraine's commitments under the Association Agreement and the European Commission's requirements as reflected in the enlargement reports. These changes will eliminate key institutional and technical gaps, create a comprehensive legal framework for Ukraine's further integration into the EU customs area, and strengthen its economic security.

Conclusions. A comparative analysis of the draft Customs Code of Ukraine with the Customs Code of the European Union has shown significant progress in the direction of regulatory convergence and in-depth modernization of domestic customs legislation. The draft demonstrates a high level of harmonization of procedural institutions: the rules for electronic declaration and the single window regime have been largely unified, key elements of the European IT architecture (MASP-C) have been implemented, the institution of authorized economic operators (AEO) has been expanded in accordance with Articles 38–41 of the UCC, approaches to securing customs payments, re-import, re-export, and processing procedures have been modernized, and the rules for determining customs value, in particular about royalties, have been clarified. These innovations demonstrate Ukraine's commitment to fulfilling its obligations under the Association Agreement and adapting its legislation to EU requirements in order to integrate as closely as possible into the EU internal market and become a full member of the EU.

At the same time, the analysis revealed several significant inconsistencies and structural gaps that hinder full compliance with the EU Acquis. In particular, ex officio mechanisms in the field of intellectual property rights protection, integration into European risk management information systems, detailing of procedures for interaction with NCTS, and requirements for full digitization in accordance with the MASP-C calendar remain underdeveloped. Certain provisions on customs value, simplifications, guarantees, and AEO status require a more complete reproduction of the UCC rules, and several other EU secondary legislations acts to avoid regulatory gaps and ambiguities in law enforcement.

In view of this, the draft of the new Customs Code of Ukraine needs further improvement. Based on the results of the study, several proposals have been made to amend the text of the draft, in particular to supplement the section on the protection of intellectual property rights with provisions on the suspension of customs clearance ex officio; to detail the requirements for digital systems and their compatibility with European platforms; to unify the institutions of guarantees, simplifications, AEO, and customs value in accordance with UCC procedures and implementing regulations.

We are confident that the implementation of these proposals will not only ensure full compliance with Ukraine's international obligations, but also create the conditions for the practical integration of our state into the EU Customs Union, increase the institutional capacity of the State Customs Service of Ukraine, ensure the effectiveness of its customs control at border crossing points, and ensure Ukraine's full membership in the EU.

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ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ ПРОЄКТУ МИТНОГО КОДЕКСУ УКРАЇНИ ЩОДО ВИКОНАННЯ УКРАЇНОЮ ЄВРОІНТЕГРАЦІЙНИХ ЗОБОВ'ЯЗАНЬ

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Мета. Метою статті є здійснення комплексного порівняльно-правового аналізу проєкту нового Митного кодексу України щодо його відповідності Митному кодексу Європейського Союзу (Регламент ЄС № 952/2013) та зобов'язаннями, визначеними в Угоді про асоціацію між Україною та ЄС, зокрема в Додатку XV. Дослідження спрямоване на ідентифікацію ступеня гармонізації національного митного законодавства з «*Acquis Communautaire*», визначення ключових позитивних новацій, виявлення істотних невідповідностей та формулювання конкретних пропозицій, спрямованих на вдосконалення положень оприлюдненого проєкту нового Митного кодексу України.

Методи дослідження. Методологічну основу дослідження становлять порівняльно-правовий, формально-юридичний, структурно-функціональний та системний аналіз. Порівняння здійснювалося шляхом зіставлення положень проєкту Митного кодексу України з нормами Митного кодексу ЄС, інших актів вторинного законодавства ЄС, а також із вимогами Угоди про асоціацію та практикою Європейської Комісії, включно з MASP-C та сучасними IT-інструментами європейської митної системи.

Результати. Результати дослідження засвідчили, що досліджуваний проєкт Митного кодексу України істотно наближає національне митне законодавство у напрямі євроінтеграції. Гармонізовано ключові інститути: електронне декларування, «єдине вікно», ризикоорієнтований контроль, процедури реімпорту, реекспорту та переробки, а також систему гарантування митних платежів за моделлю «*Union Guarantee*». Значного розвитку набув інститут уповноваженого економічного оператора, удосконалено підходи до

визначення митної вартості, особливо щодо роялті. Разом із тим встановлено істотні прогалини: неповна імплементація механізму «*ex officio*» у сфері інтелектуальної власності; фрагментарність цифрових вимог MASP-C; недоопрацьованість норм про спрощення, гарантії та ІТ-інтеграцію з системами ЄС.

Висновки. Проект Митного кодексу України потребує подальшого доопрацювання для забезпечення повної сумісності з правом ЄС та ефективного виконання євроінтеграційних зобов'язань. Доцільною є подальша повна транспозиція механізму «*ex officio*», уточнення окремих процедур за участі уповноваженого економічного оператора та гарантії відповідно до Митного кодексу ЄС, а також посилення цифрової архітектури відповідно до MASP-C. Реалізація цих рекомендацій сприятиме інституційному зміцненню Державної митної служби України, підвищенню ефективності її функціонування, прискоренню інтеграції України до внутрішнього ринку ЄС й набуття Україною повноправного членства в ЄС.

Ключові слова: Митний кодекс України, митний кодекс ЄС, порівняльно-правовий аналіз, угода про асоціацію між Україною та ЄС, європейська інтеграція.



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Дата першого надходження статті до видання: 28.11.2025

Дата прийняття статті до друку після рецензування: 19.12.2025

Дата публікації (оприлюднення) статті: 31.12.2025