

## DIGITALIZATION OF CUSTOMS PROCEDURES IN POST-WAR UKRAINE AS A PRIORITY DIRECTION FOR PREVENTING CORRUPTION IN THE CONDITIONS OF EUROPEAN INTEGRATION

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### INTRODUCTION

In connection with international legal obligations in the field of European integration, one of the priority directions of our state's activities is the approximation of the national legislation of Ukraine on the digitalization of customs bodies to the EU legislation, the implementation of modern European practices of customs control and customs procedures in this area. The further development of the European vector of social transformations in Ukraine regarding the further implementation of digitalization of customs bodies, enshrined in the Constitution of Ukraine<sup>1</sup>, directly affects the anti-corruption activities of Ukraine, the effectiveness of which also directly affects the level of trust both in officials of customs bodies and, in the state, its capacity to ensure the protection of customs interests, compliance with the law according to the Association Agreement between Ukraine and the EU of 2014<sup>2</sup>. It is important that corruption in customs bodies causes significant damage to the state budget, financial, food, medical, ecological security of Ukraine, hinders the development of foreign trade and the inflow of foreign investments, negatively affects the image of Ukraine in the international arena, and also creates distrust in customs administrations on the part of subjects of foreign economic activity, especially in the conditions of martial law in Ukraine.

The process of digitalization of customs authorities, which began within the framework of the implementation of the Concept of creating a multifunctional complex system "Electronic Customs"<sup>3</sup> is still ongoing. However, the assessment of legislative innovations regarding the use of effective customs information technologies to create favorable conditions for

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<sup>1</sup> Конституція України від 28.06.1996 р. № 254к/96-ВР. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

<sup>2</sup> Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони: міжнародний документ від 27. 06.2014 р. № 984\_011. Офіційний вісник України. 2014. № 75. Ст. 2125.

<sup>3</sup> Про схвалення Концепції створення багатофункціональної комплексної системи «Електронна митниця»: Розпорядження Кабінету Міністрів України від 17 вересня 2008 р. No 1236-р. URL: <https://zakon.rada.gov.ua/laws/show/1236-2008-%D1%80#Text>

the movement of goods across the state border by simplifying, speeding up and improving customs clearance and customs control procedures shows the presence of a number of not only positive practices, but also problematic issues. which need an urgent solution. Therefore, the theoretical and practical significance of the chosen research topic is not in doubt, since in Ukraine, the further harmonization of national customs legislation on the digitalization of customs procedures in post-war Ukraine as a component of the prevention of corruption in customs authorities in the context of European integration remains an urgent problem.

The purpose of this work is to study the public-law toolkit of the specifics of the implementation of digitalization processes of customs bodies of Ukraine in the conditions of European integration from the standpoint of administrative and legal science. Scientists studied specific issues related to the implementation of customs control<sup>4</sup>, as well as the specifics of the movement of goods by individuals across the customs border of Ukraine<sup>5</sup>, problematic issues of digitalization of customs procedures<sup>6</sup>, specific legal issues of automation and informatization of customs procedures<sup>7</sup> as priority directions for improving the administration of customs regimes<sup>8</sup>, issues legislative prospects for the implementation of digitization of customs procedures<sup>9</sup>, on the organization of measures to combat customs crime and customs fragility<sup>10</sup>. However, in the conditions of further European integration and Euro-Atlantic processes in the country, in the conditions of the ongoing state of war in Ukraine, the problems of determining the legal nature of the digitalization of the implementation of customs procedures during the

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<sup>4</sup> Shevchuk V. Testing of drugs in the implementation of customs control in Ukraine: legal aspects / V. Shevchuk, O. Shevchuk, N. Matyukhina, D. Zatenatskyi, O. Chub. *Georgian medical news*. 2020. Issue 1(298). P. 165-169.

<sup>5</sup> Німа А. О. Правове регулювання переміщення товарів фізичними особами через митний кордон України: дисерт... доктора філософії 081 «Право». Національний юридичний університет імені Ярослава Мудрого, Харків, 2024. 223 с.

<sup>6</sup> Івашова Л.М., Кийда Л.І. Діджиталізація митних процедур: сучасний стан та перспективи розвитку митної справи. *Публічне управління та митне адміністрування*. 2019. № 3(22). С. 218– 230.

<sup>7</sup> Лемеха Р. Автоматизація та інформатизація митних процедур як пріоритетні напрями вдосконалення адміністрування митних режимів в Україні. *Адміністративне право і процес*. 2020. № 11. С. 126–133.

<sup>8</sup> Єрешко К., Хома О. Пислиця А. Цифровізація митних процедур: сучасний стан та перспективи. *Вісник Прикарпатського національного університету імені Василя Стефаника*. 2024. № 11 (2), С. 103–115. <https://doi.org/10.15330/jpnu.11.2.103-115>

<sup>9</sup> Єрешко К., Хома О. Пислиця А. Цифровізація митних процедур: сучасний стан та перспективи. *Вісник Прикарпатського національного університету імені Василя Стефаника*. 2024. № 11 (2), С. 103–115. <https://doi.org/10.15330/jpnu.11.2.103-115>

<sup>10</sup> Додін Є.В. Організація заходів протидії митній злочинності та митній делікатності. *Вісник Запорізького національного університету*. 2012. № 1(1). С. 79–85.

movement of goods across the customs border remain relevant as one of the priority directions for preventing corruption, and the implementation of effective legal mechanisms for the prevention and countermeasures of customs offenses, countering smuggling, prevention of corruption risks during customs procedures, and problematic aspects of determining the legal basis for the implementation of digitalization during customs procedures in the pre-war period, in the conditions of martial law introduced in February 2024, and in post-war Ukraine need to be clarified in the context of European integration and the determination of the stages of development of customs legislation and the essence of individual categories of the implementation of digitalization under study and the establishment of signs and problems and legislative prospects for the implementation of customs procedures in the activities of customs authorities.

### **1. Corruption in the implementation of customs procedures as a threat to the implementation and observance of human rights and freedoms in the customs sphere in the conditions of European integration**

The provisions of the Constitution of Ukraine declare the right of everyone to protect their rights, freedoms and legitimate interests in court, as well as to challenge decisions, actions or inaction of state authorities, local self-government bodies, their officials and officials, including in the customs sphere. Corruption and its consequences are one of the most dangerous threats to human rights, democracy, law and order, honesty and social justice. Corruption in customs authorities causes significant damage to the state budget, financial, economic, food, medical, ecological security of Ukraine, hinders the development of foreign trade and the inflow of foreign investments, negatively affects the image of Ukraine in the international arena, and generates distrust in customs administrations on the part of sub objects of foreign economic activity, especially in the conditions of martial law in Ukraine. It should be noted that customs legal relations cover not only the economic sphere, but also foreign policy, domestic policy, scientific and technological, environmental, informational, social, humanitarian, as well as the spheres of state security and state border security.

It should be noted that some scientists, both domestic and foreign, have traced the correlation between human rights violations and the prevalence of corruption. International documents also indicate the dependence on the prevalence of corruption and its impact on human rights. Thus, the General Assembly of the United Nations (2015, preamble) described the consequences of corruption for human rights as "severe and devastating". The negative consequences of corruption for human rights were also emphasized by various bodies of the United Nations. The UN Human Rights Council (2016, 2019)

published a series of reports on the "negative consequences of corruption for the realization of human rights", which called on states to recognize the problem and solve it.

The national legislation provides that in accordance with the requirements of the Law of Ukraine "On Prevention of Corruption" dated November 14, 2014 No. 1700-VII<sup>11</sup>, the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, with of the other party (2014), the Parties cooperate in the fight against corruption in state bodies (Article 22)<sup>12</sup>, and the UN Convention against Corruption, ratified by Ukraine, specifies that each participating State strives to create, support and strengthen systems that contribute transparency of activity and prevent the emergence of corruption<sup>13</sup>. In the State Anti-corruption Program for 2023-2025<sup>14</sup>, the priority spheres of corruption prevention include the sphere of customs affairs. According to the population survey data provided in the Anti-corruption Strategy of Ukraine for 2021-2025 regarding the level of corruption, the most priority direction in the fight against corruption is state customs affairs<sup>15</sup>. Therefore, public opinion research well confirms the fact that the perception of the prevalence of corruption in Ukraine has very high indicators and remains stable.

In particular, the provisions of the Ukraine-EU Association Agreement in Art. 75 ch. 5 entitled "Customs Matters and Trade Facilitation" declared that the parties agreed that their respective trade and customs legislation should, as a matter of principle, be stable and comprehensive and that provisions and procedures should be proportionate, transparent, predictable, non-discriminatory, objective and must be applied uniformly and effectively. The main place in the implementation of the importance of customs issues of the Ukraine – EU Association Agreement is the law enforcement direction of the activities of customs authorities and guaranteeing the rights and freedoms of citizens, security in all areas of domestic and foreign policy, preventing any

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<sup>11</sup> Про запобігання корупції: Закон України від 14.10.2014 р. № 1700-VII. *Відомості Верховної Ради України*. 2014. № 49. Ст.2056.

<sup>12</sup> Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони: міжнародний документ від 27. 06. 2014 р. № 984\_011. *Офіційний вісник України*. 2014. № 75. Ст. 2125.

<sup>13</sup> Конвенція ООН проти корупції, прийнята Резолюцією 58/4 Генеральної Асамблеї від 31 жовтня 2003 р. *Відомості Верховної Ради України*. 2007. № 49.

<sup>14</sup> Про затвердження Державної антикорупційної програми на 2023–2025 роки: постановою КМ України від 04.03.2023 р. № 220. *Офіційний вісник України*. 2023. № 31. Ст.1685.

<sup>15</sup> Про засади державної антикорупційної політики на 2021–2025 роки: Закон України від 20.06.2022 р. № 2322-IX. *Офіційний вісник України*. 2022. № 56. Ст. 3272.

customs offense, identifying and eliminating the causes of its occurrence is a condition effective functioning of the state.

Regarding the content of "customs procedures" in customs legislation. The Customs Code of Ukraine determines that the legislation on state customs matters consists of the Constitution of Ukraine, this Code, other laws of Ukraine that regulate the issues specified in Art. 7 of this Code, as well as from international treaties of Ukraine, the binding consent of which has been granted by the Verkhovna Rada of Ukraine, and from normative legal acts issued on the basis of and for the implementation of this Code and other legislative acts (Article 1 of the Customs Code of Ukraine)<sup>16</sup>. It is worth paying attention to the fact that, according to the Customs Code of Ukraine, customs procedures in the relevant customs regimes are applied to goods. The definition of the concept of "goods" is contained in clause 57 of part 1 of article 4 of the Customs Code of Ukraine: goods are any movable things, including those to which the law applies the regime of immovable property (except commercial vehicles), currency values, cultural values, as well as electricity moving through power lines. The Customs Code of Ukraine includes a declaration procedure (Article 257), a simplified procedure for the destruction of goods whose customs clearance has been suspended due to suspicion of infringement of intellectual property rights (Article 401), special customs control procedures (Chapter 51), a compromise procedure (Article 521), the procedure for passing goods and vehicles through the customs border of Ukraine (Article 544), etc.

The Customs Code of Ukraine defines the term "customs procedure" as a set of customs formalities and the procedure for their implementation determined by the purpose of moving goods across the customs border of Ukraine (clause 21, part 1, article 4 of the Customs Code of Ukraine); customs formalities are a set of actions to be performed by relevant persons and customs authorities in order to comply with the requirements of the legislation of Ukraine on matters of state customs affairs (clause 29, part 1, article 4 of the Customs Code of Ukraine)<sup>17</sup>. Implementation of customs procedures involves three components, namely: customs control, customs clearance and settlement of customs payments. In our opinion, customs control is a set of selective inspection measures carried out with the aim of ensuring compliance with customs legislation, laws and other normative legal acts on customs matters, international agreements of Ukraine concluded in accordance with the procedure established by law. The customs procedure is a set of

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<sup>16</sup> Митний кодекс України від 13.03.2012. № 4495-VI. Відомості Верховної Ради України. 2012. № 44-45. № 46-47. № 48. Ст.552.

<sup>17</sup> Митний кодекс України від 13.03.2012. № 4495-VI. Відомості Верховної Ради України. 2012. № 44-45. № 46-47. № 48. Ст.552.

requirements determined by the order of customs control of goods, customs clearance of goods and the peculiarity of making (payment of) customs payments, the terms of which depend on the purpose, form and conditions of their movement (that is, a certain customs regime).

One of the important areas of development of anti-corruption policy in the implementation of customs procedures in the conditions of European integration is the implementation of standards of customs ethics and integrity. Thus, the World Customs Organization adopted the Arusha Declaration in 1993 and revised it in 2003 (Declaration on Customs Cooperation, Good Management and Combating Corruption at Customs), which should include the Code among the main components of the national customs program to combat corruption behavior. The World Customs Organization declares that a key element of an effective anti-corruption program is the development, publication and adoption of a comprehensive Code of Conduct that establishes practical and unambiguous rules of conduct for all customs personnel.

The anti-corruption program of the State Customs Service of Ukraine for 2023-2025 states that it consists of the following sections: (1) principles of anti-corruption policy of the State Customs Service of Ukraine; (2) assessment of corruption risks; (3) training, information dissemination activities regarding anti-corruption programs; (4) monitoring, evaluation of implementation and review of the Anti-Corruption Program. In particular, the Anti-Corruption Policy of the State Customs Service of Ukraine is based on the following approaches: 1) compliance with standards of integrity in public service; 2) intolerance to corruption; 3) development of personnel potential; 4) efficiency and legality of the use of budget funds<sup>18</sup>; 5) openness and transparency of the processes of preparation and adoption of public decisions; 6) the priority of observing the rights, freedoms and interests of individuals and legal entities; 7) creation of partnership mechanisms with institutions of civil society<sup>19</sup>.

Corruption in customs authorities has a negative impact on the implementation of measures to ensure "customs security". According to Part 2 of Art. 6 of the Customs Code of Ukraine, the category "customs security" is the state of protection of the customs interests of Ukraine. And according to Part 1 of Article 6 of the Customs Code of Ukraine, these are the national interests of Ukraine, the provision and realization of which is achieved through the implementation of state customs affairs. According to Clause 10 of Article 1 of the Law of Ukraine "On National Security", the national

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<sup>18</sup> Антикорупційна програма Державної митної служби України на 2023 – 2025 роки. URL: <https://customs.gov.ua/antikoruptionsiina-programa> (дата звернення: 28.08.2024)

<sup>19</sup> Антикорупційна програма Державної митної служби України на 2023 – 2025 роки. URL: <https://customs.gov.ua/antikoruptionsiina-programa> (дата звернення: 28.08.2024)

interests of Ukraine are the vital interests of man, society and the state, the implementation of which ensures the state sovereignty of Ukraine, its progressive democratic development, as well as safe living conditions and the well-being of its citizens<sup>20</sup>. Therefore, customs security is a part of national security, since customs interests are a component of Ukraine's national interests.

The object of customs security, that is, what it is aimed at protecting, are the customs interests of the state. According to P. V. Pashko, customs interests ensure both foreign economic and customs security, but at the same time they have certain differences<sup>21</sup>. The main subject of ensuring customs security is customs authorities, since they directly carry out state customs affairs. The main tasks of customs authorities are defined in Art. 544 of the Customs Code of Ukraine. In accordance with Part 4 of Art. 7 of the Customs Code of Ukraine direct management of state customs matters is entrusted to the central body of executive power, which ensures the formation and implementation of state tax and customs policy. Currently, such a body is the Ministry of Finance of Ukraine. The State Customs Service of Ukraine plays an important role.

It is worth paying attention that the provision and implementation of customs interests is achieved through the implementation of state customs affairs. According to Part 1 of Article 7 of the Customs Code of Ukraine, the concept of "state customs affairs" is the established procedure and conditions for the movement of goods across the customs border of Ukraine, their customs control and customs clearance, the application of mechanisms for tariff and non-tariff regulation of foreign economic activity, settlement of customs payments, management of customs statistics, exchange of customs information, maintenance of the Ukrainian classification of goods of foreign economic activity, implementation in accordance with the law of state control of non-food products in the case of their import into the customs territory of Ukraine, prevention and countermeasures against smuggling, fight against violations of customs rules, organization and support of the activities of customs authorities and other measures, aimed at the implementation of state policy in the sphere of state customs affairs, constitute state customs affairs<sup>22</sup>.

One of the main means of protecting the customs interests of the state is the prevention of violations of customs rules that negatively affect the socio-economic interests of the state and the standard of living of the population, ensuring customs security. Administrative responsibility in this area is among

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<sup>20</sup> Про національну безпеку: Закон України від 21.06.2018 р. № 2469-VIII. Відомості Верховної Ради. 2018. № 31. ст.241.

<sup>21</sup> Пашко П. В. Митні інтереси та митна безпека. *Митна справа*. 2007. №3 (51). С. 13

<sup>22</sup> Митний кодекс України від 13.03.2012. № 4495-VI. Відомості Верховної Ради України. 2012. № 44-45. № 46-47. № 48. Ст.552.

the important grounds for preventing violations of customs rules. The legal construction "administrative responsibility for violation of customs rules" should be understood as a set of administrative legal relations that arise in connection with the application by authorized bodies (customs and judicial) during the violation of customs rules, according to which persons (natural and legal entities) who have committed administrative offense (misdemeanor) provided for by customs law, specific administrative penalties may be applied to them<sup>23</sup>. We note that if we consider the opposition of the customs authorities to the illegal movement of prohibited items, for example, narcotics<sup>24</sup>, falsified medicines<sup>25</sup>, veterinary drugs of dubious quality<sup>26</sup>, it is possible to assert the fact that the officials of the customs authorities protect the life and health of the nation.

Regarding the "customs crimes" category. Customs crimes, according to the interpretation of E.V. Dodina, this is a special and specific group of crimes, therefore, in relation to them, the state is also forced to find specific measures (means, methods) of countermeasures that are adequate for these crimes<sup>27</sup>. In addition, an important component in the customs sphere is corruption crime – this is a system of corruption-related criminal offenses committed by officials (officials) of customs authorities during the application of legislation on state customs matters in relations with persons who move goods and vehicles across the customs border, as well as interactions with other state bodies providing customs activities. The content of corruption crime consists in illegal customs activities of authorized state bodies and their officials for personal and corporate selfish purposes<sup>28</sup>. Thus, corruption is one of the biggest obstacles to the effective promotion and protection of human rights, especially as it relates to business activities in the field of customs activities. Corruption in the sphere of customs activity undermines the ability of the state to mobilize resources for the provision of administrative services necessary for the realization of economic, social and cultural human rights. Corruption leads to

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<sup>23</sup> Шевчук, О. М. Зуй В. В. *Порушення митних правил як підстава адміністративної відповідальності. Актуальні проблеми держави і права*. 2024. № 102. С.135. DOI <https://doi.org/10.32782/apdp.v102.2024.18>

<sup>24</sup> Шевчук О. М. *Митний контроль лікарських наркотичних засобів: монографія*. Харків, Право, 2013. 232 с.

<sup>25</sup> Шевчук О. М. *Правове регулювання порядку переміщення лікарських засобів через митний кордон України: автореф. .... ступ. канд. юрид. наук: спеціальність: 12.00.07*. Харків, 2012. 20 с.

<sup>26</sup> Зоріна О.Г. *Правове регулювання переміщення ветеринарних препаратів через митний кордон України: дисерт. ...доктора філософії 081 «Право»*. Харків, 2023. 215 с.

<sup>27</sup> Додін С.В. *Митна злочинність: поняття та структура*. *Митна справа*. 2010. № 3. С. 21.

<sup>28</sup> Рогатинська Н. *Загальна характеристика злочинності у митній сфері. Актуальні проблеми правознавства*. 2022. № 1. С. 113.



discrimination in the context of access to public services in this area in favor of persons who can influence power structures in the field of public affairs, with the help of bribes (illegal benefits) or political pressure. One of the effective measures to reduce the level of corruption in the state customs sphere is the active implementation and development of digitalization of customs procedures when moving goods and vehicles across the customs border of Ukraine.

## **2. Stages of development of legislation on digitalization of customs procedures in the conditions of the pre-war period of Ukraine**

Globalization transformations of the economy starting from the end of the 20th to the beginning of the 21st century, marked the search for optimization and improvement of state customs affairs, simplification and unification of customs procedures, reduction of time and volume of customs formalities. The key basis for achieving the specified areas of activity of customs authorities and law enforcement agencies is increasing the effectiveness of combating customs offenses, informatization and digitalization of customs affairs, and optimization of information support for customs control and customs clearance.

After the accession of Ukraine to the World Trade Organization and the World Customs Organization and the signing of a few international agreements, the constant increase in the volume and expansion of the scale of international trade, the complication and strengthening of the dynamics of trade processes, the strengthening of the requirements of international organizations to ensure free access of foreign goods to domestic markets, and the decrease national trade barriers. One of the main tasks of customs authorities in accelerating the circulation of goods, combating unreliable customs declarations and corruption is the large-scale implementation of electronic customs in the customs system of Ukraine<sup>29</sup>.

Chronologically, the introduction of customs information technologies in Ukraine began in 1992, and the implementation of the "Electronic Customs" system was implemented starting in 2005. In 1992, in the national customs environment, the formation of a database of electronic copies of cargo customs declarations from paper media, their analysis, processing and systematization of customs statistics indicators took place. During 1994–2005, in addition to the creation of a central database of electronic copies of customs declarations, the formation of a telecommunications network with departmental e-mail and a comprehensive information protection system was

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<sup>29</sup>Електронна митниця. Сучасний стан та перспективи  
URL.:[http://www.mdoffice.com.ua/pdf/elektronna\\_mitnicja\\_d5\\_1512250923.pdf](http://www.mdoffice.com.ua/pdf/elektronna_mitnicja_d5_1512250923.pdf). (дата звернення:28.08.2024)

initiated, the processes of customs clearance and cargo delivery control were automated based on the newest automated information systems at that time.

One of the first steps towards the simplification of customs procedures and the introduction of electronic business transactions into the world trade in the customs sphere was an international document in 2005 as the UN Recommendation No. 33. The purpose of this program was to improve the capabilities of business and administrative organizations in foreign countries to improve the efficiency of operations on the exchange of goods and related services. UN Recommendation No. 33 suggests that the governments of the countries of the world and subjects of foreign economic activity solve this problem by creating a "Single Window" mechanism, thanks to which information and documents necessary for the fulfillment of customs formalities for the import, export or transit of goods are entered into the system only once using a single access channel (point). This UN international document recommends the use of a single window mechanism for coordination of control, which is carried out by competent authorities and agencies of trade and customs control and provides for the possibility of settlements and payments that must be submitted to customs authorities<sup>30</sup>.

With regard to the national legislation on customs issues in the researched area, the regulations of the Customs Code of Ukraine of 2002 contained only a mention of information technologies used in customs affairs, their essence was not disclosed, but it was only determined that customs affairs are carried out with the use of information technologies, in that including those based on information, telecommunication and information-telecommunication systems, and means of their provision, functioning at the national and/or international level<sup>31</sup>. In 2006, the Concept of the creation, implementation and development of the electronic declaration of goods system was adopted, the necessary conditions for the use of digital and information technologies of electronic document circulation with the help of an electronic digital signature, which, based on the appropriate software, made it possible to optimize the processes of electronic declaration between the customs authorities of the state were initiated and subjects of the Economic and Monetary Union<sup>32</sup>. In 2008, based on the decision of the European Parliament No. 70/2008/EC, a list of measures was implemented that contributed to the

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<sup>30</sup> Рекомендація № 33 СЕФАКТ ООН. URL.: [https://unece.org/sites/default/files/2020-12/ECE-TRADE-352\\_Rev.1R\\_Rec33\\_2020Edition.pdf](https://unece.org/sites/default/files/2020-12/ECE-TRADE-352_Rev.1R_Rec33_2020Edition.pdf)

<sup>31</sup> Митний кодекс України: Закон України від 11.07.2002 р. № 92-IV. (втратив чинність). *Відомості Верховної Ради України*. 2002. № 38-39. Ст.288.

<sup>32</sup> Про затвердження Порядку застосування автоматизованої системи аналізу та управління ризиками під час митного контролю та митного оформлення товарів із застосуванням вантажної митної декларації. Наказ ДМСУ від 13.12.2010 р. № 1467. URL : [http:// zakon4.rada.gov.ua/laws/show/z0180-11](http://zakon4.rada.gov.ua/laws/show/z0180-11)

transition to electronic management of customs procedures, ensuring seamless information interaction between customs institutions of EU member states and creating a paperless customs environment. At the same time, the term "paperless environment" as a characteristic of the functioning of "paperless customs" was defined by experts of the World Customs Organization not only as a prerequisite for the exemption from the use of paper documents, but mostly as a necessary stage of the transition to the "single window" principle.

The next step in the activation of legislation on digitalization of customs procedures is the activation of electronic customs declaration processes. Electronic declaration was approved in 2008. The concept of creating a multifunctional complex system "Electronic customs". Thus, on September 17, 2008, the Cabinet of Ministers of Ukraine decree No. 1236 approved the above Concept and the plan of measures for its implementation. In particular, the creation of a multifunctional complex system "Electronic Customs" is aimed at strengthening the customs security of Ukraine, adaptation of the Unified Automated Information System of the State Customs Service of Ukraine (hereinafter – EAIS of the State Customs Service of Ukraine) and the new computerized EU transit system, prompt obtaining of current and reliable information about intentions to implement foreign economic operations, creating conditions for speeding up customs control and customs clearance procedures, improving social and information services for the population, improving the information infrastructure of the State Customs Service of Ukraine. Therefore, with the adoption of the above-mentioned Concept, the necessary conditions for the use of digital and information technologies of electronic document circulation with the help of an electronic digital signature, which is based on the appropriate software, were initiated. Such actions made it possible to optimize the processes of electronic declaration of goods between the customs authorities of the state and subjects of foreign economic activity. Another important step in the activation of the legislation on digitalization of customs procedures was the introduction from June 10, 2010, with the aim of improving the automated information management in the Unified Automated Information System of the State Customs Service of Ukraine, into the permanent operation of the software and information complex "Information and Search System for Processing and Analysis of Price information when determining the customs value of goods moving across the customs border of Ukraine". We note that the practical implementation of the "Single Window" principle in the activities of customs authorities and control bodies was initiated on August 1, 2016. Thanks to the "Single Window" mechanism, the conduct of foreign economic activity was simplified by transferring the interaction of enterprises with customs and control bodies to an electronic format. That is, in the process of implementing

digitalization of customs authorities during 2016-2020, a few transformations were carried out, namely: from changes in customs accounting to the implementation of information and technical solutions for the effective use of the "Single Window", in particular, the development and launch of a state information web portal "A single window for international trade".

Later, as of October 4, 2018, the number of types of control carried out by state bodies during the movement of goods across the customs border was reduced, and a ban on requiring enterprises to submit documents in paper form came into effect. Thus, the mechanism of the "Single Window" allows to ensure: (1) qualitative control over the fulfillment of the requirements of the legislation by enterprises; (2) operational exchange of information between customs, enterprises and state bodies; (3) anti-corruption – minimization of offline communications during control procedures; (4) simplification of foreign economic activities.

However, problematic issues for the introduction and development of electronic technologies in all spheres of activity of the customs system of Ukraine remain: (1) the lack of an agreed position on the mechanisms for the implementation of electronic information exchange with state bodies that issue relevant permit documents; (2) lack of intrastate communication between the customs authorities of Ukraine and the controlling authorities, which makes it impossible to exchange permit documents; failure to resolve the transition to electronic document management and the creation of a single global system of "electronic government" with many subsystems; (3) lack of convenient access to tariff and statistical information; (4) the imperfection of the legislation in the field of electronic declaration and electronic document flow, because the legislation in force at that time in the field of state customs affairs was focused on paper document flow<sup>33</sup>.

### **3. The legal nature of the development of legislation on the digitalization of customs authorities in the conditions of martial law and the prospects for its improvement in post-war Ukraine in the conditions of European integration**

The legal framework governing the provision of legislation on the digitization of customs bodies in the conditions of martial law in Ukraine is made up of the Constitution of Ukraine, the Laws of Ukraine "On Information", "On Access to Public Information", "On Protection of Personal Data", "On State secrecy", "On scientific and technical information", "On information protection in information and telecommunication systems", "On electronic trust services", "On electronic communications", "On the

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<sup>33</sup> Микуняк, О. Стефанишин Р. Впровадження інформаційних технологій у митну практику України. *Світ фінансів*. 2021. № 4(61). С.53-66.

Commissioner of the Verkhovna Rada of Ukraine for human rights", Law of Ukraine "On prevention of corruption", Customs Code of Ukraine and others, as well as decrees of the President of Ukraine, resolutions of the Cabinet of Ministers of Ukraine, orders of the Ministry of Finance of Ukraine, orders of the State Customs Service of Ukraine, etc.

The legal nature of the development of legislation on the digitalization of customs authorities under martial law is covered in particular by Methodical recommendations on the work of officials of customs authorities on the analysis, identification and assessment of risks in the implementation of control over the correctness of the determination of the customs value of goods moving across the customs border of Ukraine, approved by order No. 476 of the State Customs Service of Ukraine dated July 1, 2021. Thus, the legal principles of using an electronic digital signature in electronic documents are currently established in the provisions of the Law of Ukraine "On Electronic Trust Services" and are technologically implemented by providing electronic trust services in accordance with the said Law.

Note that part 2 of Article 257 of the Customs Code of Ukraine of 2012 states that electronic declaration is carried out using an electronic customs declaration certified by an electronic digital signature and other electronic documents or their details in cases established by law, as well as electronic (scanned) copies of paper documents, certified by the electronic digital signature of the declarant or a person authorized by him<sup>34</sup>. For example, the term "electronic customs declaration" is used in scientific works, and in particular, the authors note that the purpose of electronic declaration of goods and vehicles when moving across the customs border is to accelerate the turnover of goods, reduce the time for customs control, and exclude subjective factors during customs procedures<sup>35</sup>. In addition to the above, it is also important that electronic declaration is able not only to minimize the time of customs procedures, but also to fight corruption, develop international cooperation and interact with the information systems of state organizations of the country<sup>36</sup>.

The Customs Code of Ukraine of 2012 defines the category "electronic information resources of customs authorities" and the "single window" mechanism. The category "electronic information resources of customs authorities" is systematized information that includes data in electronic form, the right to possess, use or dispose of which belongs to customs authorities in

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<sup>34</sup> Митний кодекс України: Закон України від 13.03.2012 р. № 4495-VI. *Відомості Верховної Ради України*. 2012. № 44-45, № 46-47, № 48. Ст. 552.

<sup>35</sup> Шевчук О.М., Милейко К.С. Електронне декларування товарів при переміщенні через митний кордон України: проблеми правореалізації. *Право і суспільство*. 2019. № 3. Ч 2. С. 117-123.

<sup>36</sup>

accordance with the law and which was created, received (including from information contained in documents, which are provided during customs control and customs clearance of goods, vehicles, as well as other documents, including those received in accordance with international treaties of Ukraine), are recorded, processed and stored on physical media and/or displayed using information technologies (p 12-2 part 1 of the Customs Code of Ukraine)<sup>37</sup>.

According to Clause 19-1 of Part 1 of Article 4 of the Customs Code of Ukraine of Ukraine, the "single window" mechanism is a mechanism for the interaction of declarants, their representatives and other interested persons with customs authorities, other state bodies, institutions and organizations authorized to carry out authorization or control functions in relation to movement of goods, vehicles for commercial purposes across the customs border of Ukraine, which provides the possibility of one-time submission in electronic form through the single state information web portal "Single window for international trade" of documents and/or information in order to comply with the requirements for the movement of goods, vehicles for commercial purposes through the customs border of Ukraine, provided by the Customs Code of Ukraine, other laws of Ukraine, international treaties of Ukraine, consent to the bindingness of which has been granted by the Verkhovna Rada of Ukraine, as well as normative legal acts issued on the basis of and for the implementation of the Customs Code of Ukraine and other laws of Ukraine<sup>38</sup>.

The by-laws of the legal framework for digitization of customs procedures include the adoption of a number of by-laws, in particular, the Resolution of the Cabinet of Ministers of Ukraine "Issues related to the use of customs declarations", the order of the Ministry of Finance of Ukraine "On approval of the Procedure for the implementation of customs formalities in the implementation customs clearance of goods using a customs declaration on the form of a single administrative document" and the order of the Ministry of Finance of Ukraine "On approval of the Procedure for filling out customs declarations on the form of a single administrative document", etc.

As well as the orders of the State Customs Service of Ukraine: "On putting into trial use the access interface to depersonalized information for statistical purposes and information on specific export-import operations"; "On the approval of the Regulation on the access interface to depersonalized information for statistical purposes and information on specific export-import operations"; "On the approval of the Regulation on the management analytics

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<sup>37</sup> Митний кодекс України від 13.03.2012 р. № 4495-VI. Відом. Верхов. Ради України. 2012. № 44-45. № 46-47. № 48. Ст. 552.

<sup>38</sup> Митний кодекс України від 13.03.2012 р. № 4495-VI. Відом. Верхов. Ради України. 2012. № 44-45. № 46-47. № 48. Ст. 552.

module"; "On the peculiarities of determining the risk of disclosure of confidential information and the implementation of measures to depersonalize aggregated information for statistical purposes, analytical information, information on specific export-import operations, information on general issues of the work of the customs authority and information related to offenses." We note that the actual publication of depersonalized information regarding specific export-import operations, including information related to the customs value of goods, began on June 16, 2021; order of the Ministry of Finance of Ukraine dated January 4, 2023, under No. 6 "On registration of international postal and express shipments and approval of amendments to the Procedure for filling out customs declarations in the form of a single administrative document", etc.

EAIS of the State Customs Service of Ukraine plays an important role in the digitalization of customs procedures. The main tasks of EAIS of the State Customs Service of Ukraine are: (1) ensuring the fulfillment of customs formalities provided for by the legislation of Ukraine on customs matters; (2) automation of customs control procedures and customs clearance of goods, commercial vehicles moving across the customs border of Ukraine; (3) exchange of information and electronic interaction between customs authorities, law enforcement and other authorized authorities, including those of foreign countries<sup>39</sup>; (4) provision of electronic interaction between natural persons, natural persons – entrepreneurs, legal entities, non-residents; (5) ensuring electronic interaction of customs authorities and their officials for the purpose of operational implementation of their powers, creating conditions for reducing time and financial costs for administrative and management, information and search, calculation and analytical work, monitoring of aggregated and individual data available in EAIS State Customs Service of Ukraine, processing and formation of significant volumes of data, formation of reporting; (6) informational support for the implementation of customs affairs during the performance by customs authorities of the tasks and functions assigned to them by the legislation of Ukraine on customs affairs, with the aim of increasing the efficiency of their performance<sup>40</sup>.

The functions of EAIS of the State Customs Service of Ukraine are: (1) integration of information resources; collection, accumulation,

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<sup>39</sup> Про затвердження Положення про Єдину автоматизовану інформаційну систему митних органів, порядок і умови застосування її систем. Наказ Міністерства фінансів України 19 травня 2023 року № 263 URL : <https://zakon.rada.gov.ua/laws/show/z1132-23#Text> (дата звернення:28.08.2024)

<sup>40</sup> Про затвердження Положення про Єдину автоматизовану інформаційну систему митних органів, порядок і умови застосування її систем. Наказ Міністерства фінансів України 19 травня 2023 року № 263 URL : <https://zakon.rada.gov.ua/laws/show/z1132-23#Text> (дата звернення: 28. 08.2024)

systematization, processing and generalization of information in EAIS, converting it into specified formats for automated processing, use and provision to EAIS users in a unified form; (2) automation and verification of information activity processes of EAIS subjects in an interactive real-time mode; (3) provision of electronic information interaction and electronic document flow between EAIS subjects; delineation of access rights and provision of controlled access to EAIS users to EAIS information resources; (4) ensuring the protection of information in EAIS; monitoring of the state of information exchange between functional systems of EAIS and means of their support, the state of security of these components and EAIS as a whole<sup>41</sup>.

EAIS of the State Customs Service of Ukraine consists of functional systems of the central and local levels, functioning at the national and/or international level, and the means of their support. The functional systems of EAIS include: automated customs clearance system "Center"; automated system of customs clearance and local subsystems of the automated system of customs clearance of territorial bodies of the State Customs Service of Ukraine interacting with automated systems of customs clearance "Center". The single state information web portal "One Window for International Trade" (hereinafter referred to as the "One Window" web portal); electronic transit system operating at the national level (ETS). Means of ensuring the functioning of EAIS of the State Customs Service of Ukraine include: (1) data processing centers and server rooms; (2) central data storage, application servers, technological services (complexes) and automated workplaces of EAIS users; (3) departmental electronic communication network of the State Customs Service and local computer networks of the apparatus of the State Customs Service and its territorial bodies; (4) software and technical complex of the State Customs Service of Ukraine "E-mail"<sup>42</sup>.

In addition, under the conditions of European integration of the EU on customs issues, such a document as a general declaration of arrival was implemented in Ukraine, procedures were carried out to promote the development of the institute of authorized economic operator, practical implementation of the "single window" principle was carried out, joining the

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<sup>41</sup> Про затвердження Положення про Єдину автоматизовану інформаційну систему митних органів, порядок і умови застосування її систем. Наказ Міністерства фінансів України 19 травня 2023 року № 263 URL : <https://zakon.rada.gov.ua/laws/show/z1132-23#Text> (дата звернення:28.08.2024)

<sup>42</sup> Про затвердження Положення про Єдину автоматизовану інформаційну систему митних органів, порядок і умови застосування її систем. Наказ Міністерства фінансів України 19 травня 2023 року № 263. URL : <https://zakon.rada.gov.ua/laws/show/z1132-23#Text> (дата звернення:28.08.2024)



joint transit procedure<sup>43</sup>. It is submitted to the customs body, in which the checkpoint is located, where the goods will cross the customs border of Ukraine for the first time, before the arrival of such goods on the customs territory of Ukraine, including in the customs transit regime, in compliance with the established deadlines for submission. The customs authority carries out a risk analysis for the general declaration of arrival" within one hour from the moment of its receipt. After that, he performs the customs formalities determined by the results of such an analysis<sup>44</sup>.

The list of information to be included in the general declaration of arrival is provided for in the order of the Ministry of Finance of Ukraine of August 13, 2020, No. 502<sup>45</sup>. In addition, on October 30, 2022, Ukraine joined the Convention on the Common Transit Procedure, as well as the Convention on the Simplification of Formalities in Trade in Goods<sup>46</sup>. In particular, the Convention on the common transit procedure unites 36 Contracting Parties that have introduced uniform rules for declaration and control of transit movements of goods using a common IT product (NCTS). Thus, the implementation of NCTS in Ukraine makes it possible to establish an exchange of information on all stages of customs clearance of goods transit using electronic messages in real time and to increase the effectiveness of the use of the risk analysis mechanism. In particular, the signatory countries of this Convention are 27 EU countries, 4 EFTA countries (Iceland, Norway, Liechtenstein and Switzerland), Great Britain, Turkey, North Macedonia, Serbia and Ukraine<sup>47</sup>.

Therefore, after Ukraine's accession to the Convention on the Common Transit Procedure, subjects of foreign economic activity that move goods across the customs border of Ukraine got the opportunity to: (1) work according to the principle of "one means of transport – one declaration – one guarantee" and speed up the passage of goods through customs border of Ukraine; to use common transit simplifications at the international level, which have representations in 35 countries that have ratified the Convention

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<sup>43</sup> Митний кодекс України: Закон України від 13.03.2012 р. № 4495-VI. *Відомості Верховної Ради України*. 2012. № 44-45, № 46-47, № 48. Ст.552.

<sup>44</sup> Митний кодекс України: Закон України від 13.03.2012 р. № 4495-VI. *Відомості Верховної Ради України*. 2012. № 44-45, № 46-47, № 48. Ст.552.

<sup>45</sup> Про затвердження Переліку відомостей, що вносяться до загальної декларації прибуття: наказ Міністерства фінансів України 13 серпня 2020 року № 502. *Офіційний вісник України*. 2022. № 80. Ст. 4904.

<sup>46</sup> Про затвердження Переліку відомостей, що вносяться до загальної декларації прибуття: наказ Міністерства фінансів України 13 серпня 2020 року № 502. *Офіційний вісник України*. 2022. № 80. Ст. 4904.

<sup>47</sup> Конвенція про процедуру спільного транзиту: міжнародний документ від 20.05.1987 р. № 994\_001-87. *Офіційний вісник України*. 2022. № 80. № 71; 13.09.2022; стор. 136, стор. 541. Ст. 4912.

on the Common Transit Procedure, and which make it possible to fully use the simplifications provided in 2019 for placing goods in customs regimes; to use simplifications of customs control and customs clearance, even without AEO status, etc<sup>48</sup>.

Thus, the procedure for filling out the customs declaration for goods when they are placed in the customs transit regime under the terms of the Convention on the Common Transit Procedure is detailed in the Methodological Recommendations of the State Customs Service of Ukraine<sup>49</sup>. Such recommendations cover the procedure for moving goods across the customs border. For example, normative legal acts were adopted that cover AEO, namely Resolution of the Cabinet of Ministers of Ukraine of January 27, 2021 No. 50 "On Approval of the Procedure for Maintaining the Unified State Register of Authorized Economic Operators"<sup>50</sup>, Resolution of the Cabinet of Ministers of Ukraine of February 3, 2021 No. 70 "On approval of the form, description and rules of use of the national logo of the authorized economic operator and the form of the certificate of the authorized economic operator"<sup>51</sup>, etc.

In addition, we note that from October 31, 2023, the Agreement between Ukraine and the European Union on the participation of Ukraine in "Customs", the Union Program for cooperation in the customs sphere, entered into force for Ukraine<sup>52</sup>. Thus, the objectives of the "Customs" program are to support the customs union and customs authorities, which work together and act as one unit to protect the financial and economic interests of the EU and its member states, to ensure safety and security within the EU and to protect the EU from unfair and illegal trade and at the same time to promote legal business activity<sup>53</sup>.

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<sup>48</sup> Конвенція про спрощення формальностей у торгівлі товарами: міжнародний документ від 20.05.1987 р. № 987\_012. *Офіційний вісник України*. 2022. № 80, / № 71; 13.09.2022; стор. 64. С. 737. Ст. 4913.

<sup>49</sup> Режим спільного транзиту. Офіційний сайт Міністерства фінансів України. [https://www.mof.gov.ua/uk/common\\_transit\\_mode-473](https://www.mof.gov.ua/uk/common_transit_mode-473) (дата звернення: 28.08.2024).

<sup>50</sup> Методичні рекомендації щодо заповнення митної декларації на товари при їх розміщенні у митний режим транзиту на умовах Конвенції про процедуру спільного транзиту. <https://customs.gov.ua/rezhim-spilnogo-tranzitu-ncts> (дата звернення: 02.12.2023)

<sup>51</sup> Про затвердження Порядку ведення Єдиного державного реєстру авторизованих економічних операторів: постанова Кабінету Міністрів України від 27. 01. 2021 р. № 50. *Офіційний вісник України*. 2021. № 11. Ст. 455.

<sup>52</sup> Угода між Україною та Європейським Союзом про участь України в "Митниці", Програмі Союзу для співробітництва в митній сфері. URL: [https://zakon.rada.gov.ua/laws/show/984\\_011-22#Text](https://zakon.rada.gov.ua/laws/show/984_011-22#Text) (дата звернення: 03.12.2023)

<sup>53</sup> Угода між Україною та Європейським Союзом про участь України в "Митниці", Програмі Союзу для співробітництва в митній сфері. URL: [https://zakon.rada.gov.ua/laws/show/984\\_011-22#Text](https://zakon.rada.gov.ua/laws/show/984_011-22#Text) (дата звернення: 03.12.2023)

An important point in the practical implementation of European customs simplifications in the implementation of customs procedures is the adoption of the order of the Ministry of Finance of Ukraine No. 355 of June 29, 2023<sup>54</sup>, which defines the specifics regarding the fulfillment of customs formalities during the application of the simplification "procedure of release by location". Also, in 2024, the State Customs Service of Ukraine approved the technical specifications for a new IT solution – the customs decision-making system (CDS). They were developed by EU4PFM in coordination with relevant departments of the State Customs Service of Ukraine. CDS is one of the IT systems provided by the Long-term National Strategic Plan for Digital Development, Digital Transformation and Digitalization by the State Customs Service of Ukraine.

As you know, the Plan is based on the European Multi-annual strategic plan for electronic customs (MASP-C) and defines the actions of the State Customs Service of Ukraine in this area in the context of Ukraine's preparation for joining the EU to harmonize customs processes with European standards. The implementation of CDS will increase the efficiency and speed of customs control and reduce the related administrative and financial costs of business entities in the process of foreign economic activity. CDS is an automated system that will process customs decisions and, importantly, it will replicate the data models and data exchange formats used in the EU. EU4PFM helped in the development of the Strategic Plan and will support Ukraine in its implementation.

Further, the development of technical specifications for CDS will be accompanied by the development of an IT solution. EU4PFM will continue to support the CDS software development process by recruiting additional specialists for the State Customs Service of Ukraine team. It is tentatively expected to complete the development of the software in the second half of 2024 and to put the system into operation by the State Customs Service of Ukraine<sup>55</sup>.

On March 18, 2024, the Government approved the Plan for the implementation of the Ukraine Facility program, which should become the basis for the implementation of the financial support program for Ukraine from the European Union during 2024-2027. The plan for the Ukraine Facility

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<sup>54</sup> Про затвердження Особливостей виконання митних формальностей під час застосування спрощення «процедура випуску за місцезнаходженням» та внесення змін до деяких нормативно-правових актів Міністерства фінансів України: Наказ Міністерства фінансів України 29 червня 2023 року № 355.URL: <https://zakon.rada.gov.ua/laws/show/z1378-23#Text> (дата звернення:28.08.2024)

<sup>55</sup> Офіційний сайт Державної митної служби України URL: <https://customs.gov.ua/news/it-transformatsiia-62/post/ies-prodovzhuie-pidtrimuvati-it-transformatsiui-derzhmitsluzhbi-527> (дата звернення:28.08.2024)

envisages the implementation of structural reforms in the public sector, the implementation of several economic reforms aimed at the development of the business climate and entrepreneurship, priority sectors that can ensure economic growth. In general, the Plan for the Ukraine Facility includes more than 150 indicators in 69 directions of reforms, the implementation of which is planned for the period until 2027. The plan was developed in synchronization with Ukraine's international partners. The indicators provided for in the Plan partially correspond to Ukraine's already existing international obligations within the framework of other agreements<sup>56</sup>. The reforms are divided into 3 main blocks: basic reforms, economic reforms, and key sectors. Also, the Plan has three directions, for which separate measures are provided in all sections: "green" transition, digital transformation and European integration. Approval of the plan is also one of the three conditions of the Plan of Ukraine within the framework of the EU Ukraine Facility instrument for the next three months in the sphere of responsibility of the Ministry of Finance of Ukraine. Fulfillment of all indicators for the first stage will allow attracting budget support in Ukraine in the amount of about 4 billion euros<sup>57</sup>.

In 2024, the Ministry of Finance of Ukraine approved the Long-Term National Strategic Plan for Digital Development, Digital Transformation and Digitalization by the State Customs Service of Ukraine – a guiding document for the implementation and development of customs information systems until 2026<sup>58</sup>.

This Long-term national strategic plan for digital development, digital transformation and digitalization by the State Customs Service of Ukraine provides for: (1) introduction of cyber protection principles; (2) introduction of paperless procedures; (3) construction of reliable and modern customs IT systems<sup>59</sup>. Among the key principles of the Long-term national strategic plan for digital development, digital transformation and digitalization of the State Customs Service, the basis of the IT strategy of the State Customs Service of Ukraine defined: (1) service-oriented architecture, (2) centralized

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<sup>56</sup> План для реалізації програми Ukraine Facility на 2024-2027. URL: <https://www.ukrainefacility.me.gov.ua/wp-content/uploads/2024/03/plan-ukraine-facility.pdf> дата звернення:28.08.2024)

<sup>57</sup> План для реалізації програми Ukraine Facility на 2024-2027. URL: <https://www.ukrainefacility.me.gov.ua/wp-content/uploads/2024/03/plan-ukraine-facility.pdf> дата звернення:28.08.2024)

<sup>58</sup>Мінфін схвалив стратегічний план цифровізації Держмитслужби URL: [https://mof.gov.ua/uk/news/minfin\\_skhvaliv\\_strategichnii\\_plan\\_tsifrovizatsii\\_derzhmitsluzhbi-4448](https://mof.gov.ua/uk/news/minfin_skhvaliv_strategichnii_plan_tsifrovizatsii_derzhmitsluzhbi-4448) (дата звернення:28.08.2024)

<sup>59</sup> Мінфін схвалив стратегічний план цифровізації Держмитслужби URL: [https://mof.gov.ua/uk/news/minfin\\_skhvaliv\\_strategichnii\\_plan\\_tsifrovizatsii\\_derzhmitsluzhbi-4448](https://mof.gov.ua/uk/news/minfin_skhvaliv_strategichnii_plan_tsifrovizatsii_derzhmitsluzhbi-4448) (дата звернення:28.08.2024)

implementation of EAIS, (3) harmonized interface with the EU and Single window for international trade.

Special attention in the long-term national strategic plan of digital development, digital transformation and digitalization by the State Customs Service of Ukraine is given in the document to the introduction of cyber protection principles. First of all, it is about ensuring: (1) recording and tracking the history of requests for changes to data; (2) protection against unauthorized access to information; (3) impossibility of changing or losing data logs; impossibility of changing information and documents provided by users using a qualified electronic signature. Among the priorities of the EU now is the introduction of paperless procedures. In the customs department, the Electronic customs initiative is implemented for this purpose. For further implementation of E-Customs, the Multi-annual strategic plan for electronic customs (MASP-C) was developed – a planning document covering all IT-related customs projects.

The State Customs Service of Ukraine envisaged a phased approach to the implementation of electronic customs: (1) business analysis, policy and legal registration; (2) creating a technical specification of the system; (3) creation of specifications for integration with external systems; (4) system development and implementation. In the process of IT transformation, the State Customs Service of Ukraine will use business process management and BPM modeling, which will provide a holistic view of customs processes and the practical consequences of their implementation in accordance with the customs legislation of Ukraine and the EU. Separate plans for the digitalization of the State Customs Service of Ukraine have begun to be implemented in practice in the activities of customs authorities. Thus, in August 2024, eight checkpoints for automobile traffic on the Ukrainian border began to use a new automated system for customs clearance, which will replace the current ASMO "Inspector"<sup>60</sup>.

It is important that the system is integrated both with traditional partner services (State Border Services of Ukraine, IRU, e-Cherga, etc.) and with new ones implemented by the State Customs Service of Ukraine in the context of European integration, for example, the European SEED+. The results of the test operation of the system indicate a significant reduction in the time for customs clearance of vehicles and an increase in the throughput of checkpoints without increasing the number of employees – primarily, due to the

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<sup>60</sup> Офіційний сайт Державної митної служби України. Суттєвий крок митниці у напрямку ЄС: перехід на нову автоматизовану систему дозволить скоротити час оформлення транспортних засобів до 35%: URL: <https://customs.gov.ua/news/it-transformatsiia-62/post/suttievii-krok-mitnitsi-u-napriamku-ies-perekhid-na-novu-avtomatizovanu-sistemu-dozvolit-skorotiti-chas-oformlennia-transportnikh-zasobiv-do-35-1697> (дата звернення:28.08.2024)

optimization of processes. In the passenger direction, it is about 25–30%. In the cargo direction, the carrying capacity has been increased by more than 35%. Yes, if earlier the inspector of the customs post processed 150–155 vehicles for a change, now it is 200–205 vehicles<sup>61</sup>.

In addition, the State Customs Service of Ukraine is implementing Help Desk technologies aimed at optimizing the response time to requests. Therefore, such an initiative will help increase productivity, which in turn will improve customs procedures. The support center is an interface for interaction between business entities and the State Customs Service of Ukraine. The Help Desk will resolve incidents arising from failures or errors in information systems. This development is particularly important in the context of efforts by the State Customs Service of Ukraine to develop digitalization. New technologies are designed to speed up business processes and minimize the human factor. The State Customs Service of Ukraine is working together with the EU4PFM project on the development of a new IT tool. A modernized platform for processing requests and appeals from users of NCTS and various analytical systems should be operational by the end of 2024<sup>62</sup>.

It should be noted that since 2023, the principles of the anti-corruption policy of the State Customs Service of Ukraine have been implemented through the implementation of tasks and measures in the following directions in the conditions of European integration, namely: (1) ensuring a systematic approach to preventing and countering corruption; (2) implementation of anti-corruption policy in personnel management, formation of a negative attitude towards corruption; (3) implementation of measures to comply with the requirements of financial control, prevention and settlement of conflicts of interest; (4) encouraging and forming a culture of reporting possible facts of corruption or corruption-related offenses; (5) cooperation with the public and international organizations regarding the implementation of anti-corruption measures<sup>63</sup>.

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<sup>61</sup> Офіційний сайт Державної митної служби України. Суттєвий крок митниці у напрямку ЄС: перехід на нову автоматизовану систему дозволить скоротити час оформлення транспортних засобів до 35%. URL: <https://customs.gov.ua/news/it-transformatsiia-62/post/suttievii-krok-mitnitsi-u-napriamku-ies-perekhid-na-novu-avtomatizovanu-sistemu-dozvolit-skorotiti-chas-oformlennia-transportnikh-zasobiv-do-35-1697> (дата звернення: 28.08.2024)

<sup>62</sup> Держмитслужба модернізує систему Help Desk для підтримки бізнесу під час проходження митних процедур. URL: <https://customs.gov.ua/news/it-transformatsiia-62/post/derzhmitsluzhba-modernizuie-sistemu-help-desk-dlia-pidtrimki-biznesu-pid-chas-prokhdzhennia-mitnikh-protsedur-1539> ( дата звернення: 28.08.2024)

<sup>63</sup> Звіт про виконання у II півріччі 2023 року Антикорупційної програми Державної митної служби України на 2023-2025 роки. URL. <https://customs.gov.ua/antikoruptionsiina-programa> (дата звернення: 28.08.2024).

Measures were taken to control compliance with anti-corruption legislation, as well as to check the state of organization of work on prevention and detection of corruption in the Specialized Laboratory for Expertise and Research of the State Customs Service of Ukraine. In order to achieve the goal of the Anti-corruption program and implement the general departmental policy on the prevention and counteraction of corruption, measures were taken to disseminate anti-corruption information, the staff of customs authorities were provided with individual clarifications, methodical and consulting assistance on compliance with anti-corruption legislation<sup>64</sup>.

For example, on the official web portal of the State Customs Service of Ukraine, publicly accessible information is available for citizens and business representatives, which allows you to be informed about the procedure for passing customs control, the customs clearance procedure, the list of documents that are provided during customs control, which prevents possible illegal actions on the part of employee's customs authorities. Access to the following information is available: simplified customs clearance of vehicles; procedure for passing the "red" corridor; procedure for registration of postal items; invoices for payment of customs payments; restricted goods; checking the customs declaration; procedure for charging customs payments; statistics of declaration, movement of goods and vehicles; other open data<sup>65</sup>.

The State Customs Service of Ukraine has ensured the functioning of a separate telephone line for reports from whistleblowers, the telephone line is equipped with the possibility of leaving voice messages, to process 100% of corruption reports, even those received outside working hours. In addition, the official web portal of the State Customs Service of Ukraine publishes information on: (1) normative legal acts and executive documents of the State Customs Service of Ukraine in the field of corruption prevention; (2) monthly results of the anti-corruption activities of the authorized divisions for the prevention and counteraction of corruption; (3) channels for reporting possible facts of corruption or corruption-related offenses<sup>66</sup>.

In today's conditions, the institute of the authorized units for the prevention and counteraction of corruption of the State Customs Service of Ukraine needs to be reformed. Thus, the authorized units (individuals) still do not fully realize their potential and apply a mainly formal approach to assessing corruption risks, developing and implementing anti-corruption measures. As a result, the goal of ensuring integrity, particularly in the activities of customs

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<sup>64</sup> Антикорупційна програма Державної митної служби України на 2023 – 2025 роки. URL: <https://customs.gov.ua/antikoruptionsiina-programa> (дата звернення: 28.08.2024)

<sup>65</sup> Антикорупційна програма Державної митної служби України на 2023 – 2025 роки. URL: <https://customs.gov.ua/antikoruptionsiina-programa> (дата звернення: 28.08.2024)

<sup>66</sup> Антикорупційна програма Державної митної служби України на 2023 – 2025 роки. URL: <https://customs.gov.ua/antikoruptionsiina-programa> (дата звернення: 28.08.2024)

authorities, is not achieved; lack of a system of professional development of persons authorized to prevent corruption as professionals who ensure the implementation of anti-corruption policy in the activities of institutions, and an underdeveloped professional network of anti-corruption officers; the lack of formally defined priorities in the activity of the authorized unit (person) is one of the reasons for the widespread practice of incorrect organization and planning of work in the direction of preventing corruption in the institution; the absence in the Law of Ukraine "On Prevention of Corruption"<sup>67</sup> of clear guarantees of the independence of the authorized unit (authorized person) from influence or interference in the work leads to the absence of legal mechanisms to compel the head of the institution to provide them and turn such guarantees into a formality<sup>68</sup>. The above also covers the sphere of state customs affairs.

In 2024, the implementation of the Export Control and Border Security Program (EXBS) will continue in the customs authorities of Ukraine. One of the directions is the formation of such areas of the new strategy as countering cross-border terrorism and drug trafficking. At the same time, the mandate of the Program is quite broad, which also covers the issue of illegal movement of not only weapons, but also their components, dual-purpose goods, their components, and precursors.

An effective customs system is one of the main components of Ukraine's financial stability and border security in the conditions of war and post-war reconstruction. By 2024, Ukraine has already implemented more than a third of the EU Customs Standards. There was strengthening of the institutional capacity of the State Customs Service of Ukraine; optimized salary system for officials of customs authorities, its dimensions; improved administrative and legal mechanism of cooperation with business and international interaction; active development of IT systems and introduction of legal mechanisms for the criminalization of goods smuggling is being carried out. The reform of the State Customs Service of Ukraine in the post-war recovery of Ukraine in the customs sphere is already being formed into a certain program, according to which one of the priorities is to increase the security functions of customs authorities and grant the State Customs Service of Ukraine the status of a law enforcement agency, with the possibility of implementing mechanisms of

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<sup>67</sup> Про запобігання корупції: Закон України від 14.10.2014 р. № 1700-VII. *Відомості Верховної Ради України*. 2014. № 49. Ст.2056.

<sup>68</sup> Аналіз проблеми. Інститут уповноважених підрозділів (осіб) з питань запобігання корупції не повною мірою реалізує свій потенціал у зв'язку з недостатніми гарантіями автономності. URL: <https://dap.nazk.gov.ua/uploads/problem/5/135-2879-64dc8020b8ea4.pdf> (дата звернення: 28.08.2024).



operational and investigative activities<sup>69</sup>. Today, there is a need to update the strategy of reforming the State Customs Service of Ukraine, which, among other things, provides for anti-corruption measures, the introduction of certification of officials of customs authorities, as well as the construction of an effective system of motivation of employees of officials of customs authorities. Therefore, it should be noted the high level of Ukraine's compliance with EU requirements in the customs sphere, which includes the harmonization of Ukrainian customs legislation with EU norms.

## CONCLUSION

Effective implementation of digitization of customs procedures in post-war Ukraine in the conditions of European integration is a defining feature of effective implementation of customs control and clearance of goods. By implementing digital solutions for international trade and customs services, states will save money and time for subjects of foreign economic activity to go through customs procedures and will gradually solve the problem of corruption and inefficiency of customs and law enforcement agencies. It is also important that the legislative changes carried out in 2024 on the digitalization of customs procedures related to the introduction of EU customs law norms (EU acquis) into the customs legislation of Ukraine in terms of strengthening the anti-corruption component in customs authorities are introduced, namely: publication on the official web on the website of the State Customs Service of depersonalized texts of decisions based on the results of complaints consideration within three days from the date of their acceptance; the right of customs authorities to exchange information on the customs value of goods in electronic form in the format of international standards for the exchange of electronic information with customs authorities of foreign countries.

The further implementation of digitalization of customs procedures in post-war Ukraine contributes to the minimization of the human factor and, accordingly, to the reduction of corruption, and the observance of human rights in this area, and will improve the processes of exchanging customs information between countries, simplify and speed up customs control procedures, and reduce corruption risks in the implementation of customs procedures, will contribute to increasing the level of trust of the EU in the customs services of Ukraine, and will also accelerate the integration into the

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<sup>69</sup> Пріоритети під час війни: міжнародні партнери сприятимуть посиленню безпекової функції Держмитслужби на кордоні. Офіційний сайт Держмитслужби України. URL: <https://customs.gov.ua/news/zagalne-20/post/prioriteti-pid-chas-viini-mizhnarodni-partneri-spriiatimut-posilenniu-bezpekovoyi-funktsiyi-derzhmitsluzhbi-na-kordoni-1124>

EU customs legislation both in the conditions of martial law and the post-war reconstruction period of Ukraine.

## **SUMMARY**

The article examines the peculiarities of the implementation of digitalization of customs procedures in post-war Ukraine as a priority direction for preventing corruption in the context of the integration of Ukraine into the EU customs space, which involves both the harmonization of national customs legislation and the approximation of customs practices to European standards. It is indicated that corruption in the customs sphere and its consequences are one of the most dangerous threats to human rights, democracy, law and order, honesty and social justice. It was established that the violation of customs rules is an integral part of economic crime in Ukraine, which is closely related to the functioning of the "shadow" economy, deviations from the payment of customs payments and taxes, official offenses, and an increase in the level of corruption in this area in the conditions of war state. Attention was drawn to the fact that corruption in customs authorities also hinders the implementation of "customs security" and affects the implementation of human rights. It is indicated that customs crime is determined through the category of directions of the state's criminal policy, as well as through the understanding of the components of the state's customs policy. It was highlighted that one of the components of customs crime in the state customs affairs is corruption crime. The categories "customs crime", "customs procedure", "customs security", "electronic declaration", "electronic information resources of customs authorities" and the content of the definition of the "single window" mechanism are disclosed. It is indicated that the systemic nature of corruption in the customs sphere also stems from the principle of imperfect organization and management of the system of customs bodies in relation to the implementation of customs affairs. The main tasks of EAIS of the State Customs Service of Ukraine are disclosed, its components are distinguished, and their list is given. The analysis of the Plan for digital development, digital transformation and digitization of the State Customs Service of Ukraine, calculated from 2024 to 2026, was carried out. The stages of the implementation of the legislation on digitalization of customs procedures in the context of the integration of Ukraine from 1992 to 2024 are highlighted. It was determined that one of the priorities of the reform of the State Customs Service of Ukraine for the post-war recovery of Ukraine is to increase the security functions of customs authorities and to grant the customs office the status of a law enforcement agency, with the possibility of conducting pre-trial investigation procedures and operational and investigative activities. It was concluded that the further implementation of

digitization of customs procedures in post-war Ukraine as a priority direction for the prevention of corruption in customs authorities will speed up the fulfillment of Ukraine's obligations under the Association Agreement with the EU of 2014 and bring it closer to the implementation of the EU Customs Code in our country.

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