


Customs Administrations in the EU Countries and Ukraine: Comparative Legal and Functional Analysis

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Abstract: This article examines the contrasting legal status and functional roles of customs officers in the European Union and Ukraine. It highlights how the absence of law enforcement powers and procedural independence in the Ukrainian system limits the effectiveness of its customs personnel. Drawing on judicial practice and comparative models from EU member states, the study proposes concrete institutional reforms, including empowering specialized customs units with enforcement authority. These steps, it argues, are critical for aligning Ukraine's customs administration with EU standards and strengthening its capacity to address illicit trade. In several EU member states, such as Poland and Hungary, customs authorities have an enforcement mandate, and their employees are granted a special status, which includes carrying weapons, having official titles, the right to independently investigate customs crimes, and procedural autonomy. In contrast, in Ukraine, customs officers are civil servants without law enforcement status, which limits their effectiveness in combating smuggling and customs violations. Although Ukrainian customs officials hold special ranks, this becomes an additional obstacle when it comes to pension allocation, as the Ukrainian Pension Fund does not recognize customs officers as public servants, arguing that there is no rank assigned to their public service position. The methodological framework of the study is based on comparative, formal-legal, and systemic

methods. Based on the analysis of legislation, public institutions, and judicial practices, the author concludes that Ukrainian customs authorities possess low procedural autonomy and face a high level of legal uncertainty, particularly in the area of service under contract. Examples of judicial decisions provided confirm the common practice of dismissing customs officers without proper legal justification. In conclusion, the study suggests revisiting the regulatory approaches to the status of customs officers in Ukraine, taking into account European experience, particularly regarding granting law enforcement powers to specific customs units. Such a shift would strengthen the institutional capacity of the customs service and lay the groundwork for a more resilient and responsive system of financial and border security, better suited to the challenges of European integration.

1. Introduction

Customs authorities play a key role in financial security, tax enforcement, and combating illicit trade. Ukraine's integration with the EU requires aligning customs legislation with EU standards – driven not only by treaties but also by practical needs like fighting smuggling, corruption, and outdated institutions.

In most EU member states, customs services often combine administrative and law enforcement roles. Customs officers are granted procedural autonomy, the right to carry weapons, hold official ranks, and, in some jurisdictions, even conduct independent criminal proceedings. This enhanced mandate directly shapes service conditions, motivation systems, and disciplinary mechanisms – critical aspects of effective institutional functioning.

Globalization has expanded customs' roles beyond revenue to include security and crime prevention. As Gordhan notes, growing trade and new threats have pushed reforms across both old and new EU members.¹ In this context, it is interesting to compare the approaches of various

¹ Pravin Gordhan, "Customs in the 21st Century," *World Customs Journal* 1, no. 1 (2007): 49–54, https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/key-issues/customs-in-the-21st-century/customs_in_the_21st_century.pdf.

countries – both old EU members and new or candidate countries – to the reform of their customs services in response to these challenges. These challenges underscore the need for reform of the legal status of customs authorities, especially in countries undergoing EU integration or adapting their administrative structures to European norms.

Despite OECD participation, Poland's public service still faces challenges like those in Ukraine – making its experience a useful reference.² While some research exists, the legal status of customs officers – especially regarding law enforcement roles – needs deeper analysis. Specifically, it is important to explore the influence of different models of institutional subordination and normative regulation on the functional content of customs officers' status in both EU countries and states harmonizing their legislation with European standards. Customs services operate in a legal environment where general labor law (*lex generalis*) relates to special civil service regulations (*lex specialis*) and specific provisions of customs law (*lex specialissimus*).³

Meanwhile, in Ukraine, customs officers are civil servants without law enforcement status, and the State Customs Service is not a law enforcement agency. This significantly limits its functional capacity in preventing customs offenses and investigating smuggling. This context raises interest in the comparative analysis of the legal status models of customs officers in Europe, both in academic literature and among policy developers.

This study highlights key differences between Ukraine and the EU in customs powers, structure, and autonomy – and considers EU practices adaptable to Ukraine. The study addresses four key questions:

- (a) What are the key characteristics of the legal status of customs service officials in EU countries, and how does this status distinguish them from civil servants?

² Lech Marcinkowski, "Kluczowe wyzwania dla służby publicznej w Polsce – standardy OECD i Unii Europejskiej [Key Challenges for the Public Service in Poland – OECD and EU Standards]," *Kontrola i Audyt*, no. 1 (2025): 80–91, https://cejsh.icm.edu.pl/cejsh/element/bwmeta1.element.ojs-doi-10_53122_ISSN_0452-5027_2025_1_07.

³ Ljiljana Dapčević-Marković, "Radno pravni status carinskih službenika [Labor-Legal Status of Customs Officers]," *Pravne teme* 6 (2015): 196, <https://www.cceol.com/search/article-detail?id=542458>.

- (b) How do national legal systems in EU countries provide normative frameworks for granting law enforcement powers to customs officers (carrying weapons, conducting procedural actions, independent investigations)?
- (c) How does institutional subordination and the special status of customs services affect their ability to perform functions in public security and customs justice?
- (d) Which aspects of European customs service regulation models could be adapted in Ukraine, considering current legal restrictions and judicial practice?

The methodology of the study is based on the combination of comparative legal methods (for analyzing EU legislation and that of individual member states), formal-legal methods (for interpreting the normative constructions of the status of customs officials), and a systemic approach (for examining customs services as part of the administrative and law enforcement sub-systems of the state apparatus). The analysis focuses on legal acts of both Ukraine and the EU, including the Customs Code of Ukraine, the Union Customs Code (UCC), as well as special laws regulating the status of customs officers in EU countries.

2. Legal Status of Customs Officers in EU Member States

In EU member states, the legal status of customs officers varies, but most enjoy extended powers resembling those of law enforcement. These powers include military-style attributes such as official ranks, uniforms, the right to carry weapons, and independent operational powers in criminal investigations.

Within the framework of the European Union's legal order, customs law has developed as an autonomous branch of law with its own regulatory objects, legal methods, terminology, and institutional-normative architecture. As Polish researcher Adam Drozddek aptly notes, the autonomy of customs law lies not only in its separation from tax or administrative law but also in the presence of its own legal instruments, procedures, and mechanisms aimed at regulating international trade relations: customs law is considered an autonomous legal field due to its distinct subject matter

and specific operational procedures.⁴ This autonomy of EU customs law allows for the unified application of standards across all member states, including the definition of customs debt, the customs debtor, and the legal status of the customs administration as an authorized subject of public authority.

In recent decades, the volume of EU external trade has increased significantly, necessitating the provision of security for the movement of goods not only at external borders but across the entire customs territory of the Union. Customs authorities now manage entire trade flows and contribute directly to national competitiveness and enterprises, and playing a leading role in ensuring security within global supply chains.⁵ In response to these transformations, the European Union has gradually developed a comprehensive institutional architecture for customs administration. It is designed to meet both economic integration requirements and modern security needs.

Today, the EU customs system is a complex structure. It includes interlinked institutions, legal frameworks, and operational mechanisms that jointly address globalization, technological change, and transnational crime. At the same time, it supports trade facilitation and competitiveness. As noted by Jowita Świerczyńska, the EU customs system is not only a legal construct based on the Union Customs Code and the common customs tariff but also a coordinated array of bodies, including the customs administrations of member states, including DG TAXUD, OLAF, Europol, Frontex, and Eurojust.⁶ Despite national differences, EU customs administrations operate as an integrated mechanism ensuring fiscal, regulatory, and security functions. In several countries, customs officers may conduct pre-trial investigations, oversee cargo and passenger flows, and exercise broad

⁴ Adam Drozdek, "The Autonomy of the European Union Customs Law (Selected Issues)," *Acta Universitatis Carolinae Iuridica* 1 (2017): 91–102, <https://www.cceol.com/search/article-detail?id=518077>.

⁵ Monika Grottel, "Poprawa funkcjonowania unii celnej UE w kontekście postanowień Unijnego Kodeksu Celnego [Improvement of the Functioning of the EU Customs Union in the Context of the Provisions of the Union Customs Code]," *International Business and Global Economy* 36 (2017): 79–82, <https://doi.org/10.4467/23539496IB.17.005.7453>.

⁶ Jowita Świerczyńska, "The Contemporary Face of the Customs System in the European Union," *Przedsiębiorczość i Zarządzanie* 18, no. 9.2 (2017): 321–32, <https://www.cceol.com/search/article-detail?id=718576>.

enforcement powers. The implementation of these institutional approaches at the national level, despite the unified requirements of the EU Customs Code, takes place in various organizational models. In some member states, the customs service has transformed into a militarized or police structure with investigative functions and law enforcement powers.

In most EU countries, customs officers have a special status similar to law enforcement officers. For example, in the Czech Republic, customs officers are subject to the Police Service Act and have a “police” status in criminal proceedings. In the Czech Republic, customs officers hold police-equivalent status and operate under the Police Service Act.⁷ In Poland, the National Revenue Administration (Krajowa Administracja Skarbowa, KAS) combines tax and customs enforcement. Its officers carry weapons, hold military-style ranks, and are authorized to investigate customs crimes.⁸

The Polish Customs Service, as a uniformed formation created to protect the customs territory of the European Union, is one of the key subjects ensuring the security of the EU’s external borders, particularly in the fight against smuggling and financial crimes.⁹ This led to the creation of Krajowa Administracja Skarbowa (KAS), a unified organization that combined administrative functions with ensuring the fiscal security of the state. Reforming and consolidating customs, tax, and control functions under KAS significantly improved enforcement capacity.¹⁰

Customs authorities, with powers to oversee and control all goods crossing customs borders, have become the true guardians of security in cross-border freight movement.¹¹ For example, KAS officers can detain

⁷ Zákon č. 17/2012 Sb., “Zákon o Celní správě České republiky,” accessed May 11, 2025, <https://www.zakonyprolidi.cz/cs/2012-17?text=o+Celní+správě+České+republiky>.

⁸ Ustawa z dnia 16 listopada 2016 r. o Krajowej Administracji Skarbowej, accessed May 11, 2025, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160001947/U/D20161947Lj.pdf>.

⁹ Waldemar Zubrzycki, “Polish Contribution to the European Union Borders Protection,” *Security, Economy & Law* 13, no. 4 (2016): 90, <https://www.cceol.com/search/article-detail?id=562510>.

¹⁰ Jowita Świerczyńska, “W kierunku nowoczesnej organizacji – reforma instytucjonalna administracji celnej w Polsce [Towards a Modern Organization – Institutional Reform of the Customs Administration in Poland],” *Krakowskie Studia Międzynarodowe*, no. 2 (2019): 249–69, <https://doi.org/10.34697/2451-0610-ksm-2019-2-013>.

¹¹ Jowita Świerczyńska, “The Polish Customs Service as a Guardian of Security and Safety of the Cross-Border Freight Traffic,” *Krakowskie Studia Międzynarodowe* 3 (2016): 39–52, <https://www.cceol.com/search/article-detail?id=584459>.

vehicles, inspect goods, conduct searches, and verify documents – powers enshrined in special legislation. This is explicitly enshrined in the provisions of the special law on KAS.¹²

An analysis of individual national models demonstrates that the status of customs officers as law enforcement officers is realized through various institutional and regulatory mechanisms, but in most cases, it provides them with significant procedural autonomy, weaponry, and investigative functions. The shift toward law enforcement roles reflects a broader EU trend of enhancing security functions in customs services.

In Hungary, NAV operates under the Ministry of Finance and carries out armed enforcement tasks through its Criminal Directorate.¹³ Slovakia's Financial Administration, formed by merging customs and tax bodies, also includes a dedicated Criminal Office for such investigations.¹⁴ In Poland, Hungary, and the Czech Republic, officers in special units may carry firearms and perform independent investigations akin to police duties.

Latvia's State Revenue Service (VID) includes a Tax and Customs Police unit, authorized to investigate serious customs offenses, while regular customs staff remain civil servants.¹⁵ In Ukraine, however, the customs service does not have such a status. According to scientific analysis, the absence of a law enforcement status in the State Customs Service of Ukraine significantly limits its ability to combat customs violations and conduct operational-search activities.¹⁶

¹² Ustawa o Krajowej Administracji Skarbowej (Journal of Laws 2016, item 1947).

¹³ 2010. évi CXXII. törvény a Nemzeti Adó- és Vámhivatalról [Act CXXII of 2010 on the National Tax and Customs Administration], accessed May 11, 2025, [https://njt.hu/jogszabaly/2010-122-00-00.485/2015.\(XII.29.\)Korm.rendelet.a.Nemzeti.Adó-és.Vámhivatal.szerveinek.hatasköréről.és.illetékességéről](https://njt.hu/jogszabaly/2010-122-00-00.485/2015.(XII.29.)Korm.rendelet.a.Nemzeti.Adó-és.Vámhivatal.szerveinek.hatasköréről.és.illetékességéről) [Government Decree on the Scope of Powers and Jurisdiction of the Organs of the National Tax and Customs Administration], accessed May 11, 2025, <https://njt.hu/jogszabaly/2015-485-20-22>.

¹⁴ Zákon z 5. decembra 2018 o finančnej správe a o zmene a doplnení niektorých zákonov [Act of December 5, 2018 on Financial Administration], Národná rada Slovenskej republiky, accessed May 11, 2025, <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2019/35/20230101.html>.

¹⁵ Valsts ieņēmumu dienesta likums [Law on the State Revenue Service], Saeima, adopted October 31, 2024, accessed May 11, 2025, <https://likumi.lv/doc.php?id=59902#p13>.

¹⁶ E.A. Polianska, "Pravoohoronnij status Derzhavnoï mytnoyi sluzhby Ukrayiny [Law Enforcement Status of the State Customs Service of Ukraine]," *Науковий вісник*

In most countries, customs authorities operate independently of police forces and are subordinated to finance ministries (e.g., Hungary, Lithuania, Slovakia, Poland). In the Czech Republic, they report to the Ministry of Internal Affairs. For instance, Lithuania's customs authority includes a Criminal Customs Service for investigating smuggling.¹⁷ Estonia's Tax and Customs Board currently performs customs tasks, though possible police integration is under review.¹⁸ In Romania, customs investigators operate under the fiscal authority but lack independent enforcement status.¹⁹

Career advancement and compensation systems usually differ from those of standard civil servants. For example, in Poland, customs officers hold military ranks and corresponding pay multipliers.²⁰ In most of these countries, special allowances are provided for length of service, risk, etc.

In Ukraine, the customs service is a central executive body whose activities are coordinated by the Ministry of Finance, and customs officers are civil servants. After the State Fiscal Service was dissolved in 2019, the State Customs Service of Ukraine was established on March 6. Since then, customs officers have been paid under the general civil service pay scale, without law enforcement-style benefits. Their salary includes a base rate

Ужгородського національного університету. Серія: Право 85, no. 3 (2024): 66–71, <https://doi.org/10.24144/2307-3322.2024.85.3.10>.

¹⁷ Lietuvos Respublikos vidaus tarnybos statuto pakeitimo įstatymas, No. XIV-2404, adopted December 19, 2023, accessed May 11, 2025, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/07a8f3509ff911ee8172b53a675305ab?jfwid=1t1okd23m>.

¹⁸ Maksu- ja Tolliameti põhimäärus [Statute of the Estonian Tax and Customs Board], adopted October 6, 2008, No. 29, RTL 2008, 84, 1168, effective December 1, 2008, amended by subsequent acts, accessed May 11, 2025, <https://www.riigiteataja.ee/akt/126012018003?leiaKehtiv>.

¹⁹ HOTĂRÂRE nr. 237 din 16 februarie 2022 privind organizarea și funcționarea Autorității Vamale Române [Decision No. 237 of February 16, 2022, on the Organization and Functioning of the Romanian Customs Authority], Guvernul României, published in *Monitorul Oficial* no. 167 on February 18, 2022, accessed May 11, 2025, <https://legislatie.just.ro/Public/DetaliiDocumentAfis/251770>.

²⁰ Rozporządzenie Ministra Rozwoju i Finansów z dnia 24 lutego 2017 r. w sprawie dodatków do uposażenia zasadniczego funkcjonariuszy Służby Celno-Skarbowej [Regulation of the Minister of Development and Finance on Allowances to the Basic Salary of Customs and Tax Officers] (Journal of Laws 2017, item 414), accessed May 11, 2025, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20170000414/O/D20170414.pdf>.

plus various allowances – such as for seniority, rank, qualifications, performance, and bonuses provided by law.²¹

However, this pay model is unstable: around 70% of income comes from bonuses and allowances, which management can revoke. This undermines motivation and overall effectiveness. Customs administration bodies are part of the non-integrated government administration, which is included in the structure of public administration. Non-integrated administration is a specialized administration that includes territorial government bodies that are not subordinate to local general government bodies but are subordinate to the respective ministers.²²

In modern conditions, the effectiveness of the customs service is determined not only by its institutional structure but also by its ability to undergo technological transformation and implement client-oriented solutions. This is particularly relevant for administrations operating within the non-integrated model, which requires a high level of coordination, transparency, and flexibility.

Poland's experience in modernizing the customs service through digital technology aimed at business can be a relevant model for Ukraine. As M. Grottel notes, systematic digitalization (electronic declaration, automated cargo placement, the i-Cło program) has significantly reduced customs clearance time, decreased the number of checks without losing efficiency, and also ensured better communication with business.²³ This approach aligns with the provisions of the Ukraine-EU Association Agreement and the strategies of the National Agency of Public Service and the State

²¹ Mytnyi kodeks Ukrainy (Customs Code of Ukraine), Zakon Ukrainy vid 13 bereznia 2012 roku № 4495-VI [Law of Ukraine of March 13, 2012 No. 4495-VI], accessed May 11, 2025, <https://zakon.rada.gov.ua/laws/show/4495-17#Text>.

²² Viktoriya Herasymenko, "Administracja celna jako element struktury administracji publicznej po przystąpieniu Polski do Unii Europejskiej [Customs Administration as an Element of the Structure of Public Administration after Poland's Accession to the European Union]," *Rocznik Administracji Publicznej* 2 (2016): 291–312, <https://www.ceeol.com/search/article-detail?id=601110>.

²³ Monika Grottel, "Polska służba celna w procesie podwyższania jakości usług biznesowych [The Polish Customs Service in the Process of Improving the Quality of Business Services]," *International Business and Global Economy* 33 (2014): 712–22, <https://doi.org/10.4467/23539496IB.13.053.2438>.

Customs Service of Ukraine regarding the adaptation of customs administration to European standards.

OLAF, Europol, Frontex, and Eurojust provide informational and coordination support to customs administrations in member states within the framework of customs violations investigations, particularly in areas such as smuggling, fraud, and the illegal circulation of excise goods.²⁴

Customs crimes require tailored legal and operational measures due to their distinct nature.²⁵

Serbian customs officers have the right to conduct searches of vehicles and premises, verify documents, temporarily restrict freedom of movement, apply technical means, and under certain conditions, carry weapons.²⁶

The development of the European Union's customs legislation is accompanied not only by the deepening of fiscal control but also by the enshrinement of the customs service's role as a full-fledged tool for protecting the security of the internal market. As stated in the scientific study, the new Union Customs Code introduces a fundamentally different control model – from physical checks at the borders to post-clearance audit based on risk-oriented digital procedures: “From checks at the borders to audit-based control, from paper-based systems to electronic processes, the UCC is introducing a new paradigm for cross-border transactions.”²⁷ This approach to the organization of customs services in the EU ensures the appropriate efficiency of control, including in the areas of security and combating customs violations. However, an important aspect is the difference in the legal status of customs officers, which determines their level of powers and the ability to exercise law enforcement functions. Given the differences in

²⁴ Jowita Świerczyńska, “Współpraca celna w obszarze bezpieczeństwa i ochrony unijnego rynku [Customs Cooperation in the Area of Security and Protection of the EU Market],” *Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu* 407 (2015): 51–63, <https://www.ceeol.com/search/article-detail?id=304435>.

²⁵ Oksana Viktorivna Korotkiuk et al., “Rethinking the Concept of ‘Crime Prevention in the Customs Sphere,’” *Lex Humana* 14, no. 1 (2022): 337–47, <https://doi.org/10.16925/2357-5891.2023.01.04>.

²⁶ Dapčević-Marković, “Radno pravni status carinskih službenika.”

²⁷ Catherine Truel, Emmanuel Maganaris, and Dan-Razvan Grigorescu, “The Development of EU Customs Law: From the Community Customs Code to the Union Customs Code,” *Journal of Legal Studies “Vasile Goldiș”* 30 (2015): 83–106, <https://www.ceeol.com/search/article-detail?id=468957>.

the organization of customs services and the legal status of customs officers in different EU countries, it is important to consider how these changes affect the efficiency of customs control and law enforcement. This analysis allows for formulating recommendations for further improvement of the customs service in Ukraine, particularly regarding enhancing its operational efficiency and alignment with European standards.

The next section will discuss the legal status of customs officers in Ukraine, where customs officers do not have law enforcement powers, which significantly limits their ability to combat customs violations.

3. Legal Status of Customs Officers in Ukraine

Unlike in most EU countries, Ukrainian customs officers operate solely within the general public administration framework and lack law enforcement powers. This limitation weakens their capacity to combat smuggling and undermines enforcement effectiveness – an issue noted by both national and international experts.

The legal status of customs authorities and their officers is closely tied to how service within these bodies is structured. Ukraine's Customs Code (Chapter 79) contains detailed provisions on service in customs bodies, defining customs officials as civil servants. In contrast, most EU countries regulate customs service through separate laws rather than within customs codes.²⁸ This grants customs officers in Ukraine a defined legal status enshrined in national legislation. In contrast, the situation across European Union countries is different: most have separate national laws governing their customs services rather than incorporating service-related provisions into their customs codes. EU legislation itself does not include specific chapters regulating customs service careers. Instead, the status of customs authorities and officers is determined by various national legal acts, often through civil service regulations, but without establishing a unified standard across all EU member states.

This model lets each EU country organize its customs service based on national needs, leading to diverse approaches. In contrast, Ukraine applies a centralized model with clearly codified officer status. Yet, despite performing quasi-enforcement roles, Ukrainian customs officers remain

²⁸ Mytnyi kodeks Ukrainy.

regular civil servants with no special rights or protections. Their legal status reflects general public service rules, without added guarantees.

As E.A. Polyanska emphasizes, the absence of law enforcement status significantly constrains the operational capabilities of Ukraine's customs service.²⁹ Ukrainian customs officers serve under the Law "On Civil Service," but lack the privileges and safeguards typical of law enforcement personnel.³⁰ The State Customs Service of Ukraine reports to the Ministry of Finance and does not hold the status of a law enforcement agency.³¹

Lacking law enforcement status, the Customs Service cannot investigate offenses independently, which weakens its response to smuggling. The inability to carry out operational activities limits its overall effectiveness in detecting and addressing violations that require special powers.

Although customs officials perform important functions – such as contributing to state revenue and drawing up reports on customs offenses – their legal status is comparable to civil servants in non-enforcement sectors like education or healthcare. All are classified as civil servants, working under the same general conditions, without any of the legal guarantees or powers typically granted to law enforcement agencies.

This creates serious practical challenges, especially when it comes to fulfilling their duties. Customs officers follow a fixed 9 a.m. to 6 p.m. schedule, even at border checkpoints. However, border operations run 24/7. This creates a legal mismatch between institutional rules and real operational needs. Due to limited authority outside working hours and the lack of investigative tools, officers face serious constraints in fulfilling their duties. Acting Head of the State Customs Service, Serhii Zviahintsev, has

²⁹ Polianska, "Pravoohoronnij status Derzhavnoi mytnoyi sluzhby,"

³⁰ Zakon Ukrainy "Pro derzhavnu sluzhbu" [Law of Ukraine "On Civil Service"], *Vedomosti Verkhovnoi Rady Ukrainy* (VVR), 2016, no. 4, art. 43, accessed May 11, 2025, <https://zakon.rada.gov.ua/laws/show/889-19#Text>.

³¹ Kabinet Ministriv Ukrainy, Postanova vid 6 bereznya 2019 r. № 227 "Pro zatverdzhennya polozhen' pro Derzhavnu podatkovu sluzhbu Ukraïny ta Derzhavnu mytnu sluzhbu Ukraïny" [Resolution No. 227 of March 6, 2019, "On Approval of the Regulations on the State Tax Service of Ukraine and the State Customs Service of Ukraine"], accessed May 11, 2025, <https://zakon.rada.gov.ua/laws/show/227-2019-%D0%BF#Text>.

emphasized the urgent need to grant customs officers operational and investigative powers to fulfill EU obligations and counter smuggling.³²

The National Revenue Strategy, adopted in late 2023, proposes giving customs authorities powers for operational intelligence and pre-trial investigations in smuggling cases – aimed at strengthening their security role and transforming the service into a law enforcement agency.³³ This direction is reinforced by the 2028 Financial Investigations Strategy, which also supports granting such powers, aligning them with FATF standards and EU Directive 2024/1260 on criminal asset tracing.³⁴

Customs officers cannot independently conduct searches or interrogations, relying instead on prosecutorial approval – even when duties overlap with law enforcement. O.A. Pustovit argues that the complexity of specialized services like customs cannot be captured by general administrative codes, requiring tailored legislation. This makes it necessary to rely on specialized legislation rather than a single regulatory act, as is typical for general administrative service. Moreover, the current model of legal regulation is largely based on procedural subordinate acts, which has a significant impact on the legal status of customs officials.³⁵

Without procedural autonomy, Ukrainian customs must coordinate any investigative actions with prosecutors or police, reducing responsiveness and operational efficiency. As a result, Ukrainian customs officers currently have limited capacity to investigate crimes and must rely on the police or the Security Service of Ukraine, rather than on their own investigative units.

Interestingly, Ukrainian customs legislation – at least on paper – does grant customs officers the right to carry firearms, which contrasts with many European standards. Ukraine's Customs Code formally authorizes

³² Serhii Zviahintsev, “Navishcho mytnytsi funktsii operatyvno-rozshukovoi diialnosti i slidstva?,” *Ekonomichna pravda*, February 21, 2024, accessed May 11, 2025, <https://epravda.com.ua/columns/2024/02/21/710230/>.

³³ Yefrem Lashchuk, “Komu potribne peretvorennia mytnykyv na pravookhorontsyv?,” *Ekonomichna pravda*, June 19, 2024, accessed May 11, 2025, <https://epravda.com.ua/columns/2024/06/19/715368/>.

³⁴ Strategy of Financial Investigations in Counteracting Criminal Offenses Related to Income Generation until 2028. Draft Resolution of the Cabinet of Ministers of Ukraine, 2025.

³⁵ Oksana A. Pustovit, “Mechanism of Legal Regulation of Civil Service in Ukraine” (PhD diss., Odesa National Law Academy, 2025), 17–19.

officers to use special means – such as handcuffs, rubber batons, tear gas, tools for stopping vehicles, and entry equipment – for tasks like detaining offenders, repelling attacks, or accessing places where smuggled goods may be hidden.³⁶ The detailed procedures, including lists of allowed equipment and rules for their use, are set by the Cabinet of Ministers in Resolution No. 1953 of December 25, 2002.³⁷

In practice, these provisions are declarative: officers are not equipped with firearms or special tools. At joint EU checkpoints, they must often rely on foreign counterparts for enforcement support. These powers remain a formal declaration, unsupported by material resources. In fact, at joint border checkpoints with the EU, Ukrainian customs officers are sometimes forced to ask their Polish counterparts for assistance in situations involving threats to public order or the need for physical intervention.

This exposes a clear gap between the powers granted on paper and the actual capacity of Ukraine's customs service to ensure its own security and respond effectively to risks. The situation calls for either a revision of the legal provisions to bring them in line with available resources, or for equipping customs personnel in accordance with the existing legal framework.

A key argument in favor of reassessing the status of the State Customs Service of Ukraine is the position of EU experts, who emphasize the urgent need to grant customs authorities the right to carry out operational and investigative activities. Vitianis Ališauskas specifically notes that without granting law enforcement status to Ukraine's customs authorities, it is impossible to effectively combat smuggling, as the customs service lacks both the necessary powers and access to operational information from European partners.³⁸

³⁶ Mytnyi kodeks Ukrainy.

³⁷ Kabinet Ministriv Ukrainy, Postanova vid 25 hrudnia 2002 r. № 1953 “Deyaki pytannya zastosuvannya spetsial’nykh zasobiv ta vohnepaly’noyi zbroyi posadovymy osobamy mytnoyi sluzhby” [Resolution No. 1953 of December 25, 2002, “Certain Issues of the Use of Special Means and Firearms by Customs Officials”], accessed May 11, 2025, <https://zakon.rada.gov.ua/laws/show/1953-2002-%D0%BF#Text>.

³⁸ Vytianis Ališauskas, “How to Criminalize Smuggling Without Harming Business?,” *EU Public Finance Management Support Programme for Ukraine*, August 9, 2023, accessed May 11, 2025, <https://www.dsnews.ua/ukr/economics/kak-kriminalizirovat-kontrabandu-ne-ushchemlyaya-interesov-biznesa-01092021-435579>.

From the perspective of administrative law, the legal status of a customs official is viewed not merely as a set of formally defined rights and duties, but as a complex and evolving structure that encompasses competence, authority, functional limitations, and safeguards related to official duties. This approach offers a deeper understanding of the legal nature of the customs service within the broader context of public administration.

Building on the analysis of the legal status of customs officers in Ukraine and its comparison with European practices, it is worth exploring in more detail the specific areas of reform that could help align Ukraine's customs authorities with modern security demands and enforcement needs. The following section offers a comparative analysis of the legal frameworks governing customs services in Ukraine and the EU, with the aim of identifying potential pathways for improving the national customs system.

4. Comparative Analysis: Similarities and Differences

Ukraine's civilian-based customs model sharply contrasts with the law enforcement-oriented systems of most EU member states. A comparative analysis helps identify reform paths by examining functional mandates, institutional subordination, and service models. Such an analysis helps to identify both the points of divergence and the potential reference models for adapting European approaches to the Ukrainian context.

Across Europe, customs services have evolved into law enforcement agencies tasked with protecting supply chains and combating financial crime. This shift in paradigm has been well described by P. Gordhan, who emphasized that in the 21st century, customs authorities are no longer just "tax collectors," but have become key actors in security and trade management.³⁹

Compared to EU countries, where customs officers are often granted special law enforcement status, Ukrainian customs officials remain civil servants. In most EU member states, customs services have law enforcement powers – their officers are armed and authorized to carry out investigative and intelligence operations.⁴⁰ In Poland,⁴¹ Hungary, and the Czech

³⁹ Gordhan, "Customs in the 21st Century."

⁴⁰ 2010. évi CXXII. törvény.

⁴¹ Ustawa o Krajowej Administracji Skarbowej.

Republic, customs officers are armed, uniformed, and granted investigative authority comparable to police powers.

Table. Comparison of Customs Services in the EU and Ukraine

Criterion	EU Customs Services	Customs Service of Ukraine
Legal status and institutional subordination	Structured, armed services under the Ministry of Finance or Interior (Czech Republic, Hungary); police status (Poland).	Civil servants without formally recognized law enforcement status.
Powers	Authorized to carry firearms, conduct inspections, and investigate customs crimes (Poland, Hungary, Czech Republic).	Administrative customs powers; investigative functions handled by police or prosecutors.
Procedural autonomy	Independent criminal units (e.g., Tax and Customs Police in Latvia); ability to initiate proceedings under national law.	No separate investigative units; dependent on the prosecutor's office and cannot initiate criminal cases independently.
Career development	Service ranks, position-based multipliers, and special bonuses.	Standard civil service pay scale; basic bonuses as for regular government employees.

Source: compiled and systematized by the author based on open legal and institutional sources

In contrast, the absence of law enforcement status in Ukraine significantly hampers the effectiveness of customs control and the investigation of offenses. These disparities reflect divergent post-Soviet reform trajectories, where some countries retained or developed customs enforcement units, while Ukraine followed a civil service model. The table above summarizes the institutional, functional, and legal differences between EU customs models and Ukraine's current system.

In different EU countries, identical customs violations can lead to very different outcomes – ranging from a simple warning with no fine to goods being confiscated or even criminal prosecution.⁴² In most modern customs

⁴² Małgorzata Czermińska and Jowita Świerczyńska, *Administracja celna w Unii Europejskiej – wspólna czy 28 różnych?* [*Customs Administration in the European Union – Common or 28*

administrations, customs investigations fall into two main categories: administrative customs investigations, which deal with violations of customs procedures, and criminal customs investigations conducted in accordance with the Criminal Procedure Code.⁴³

Beyond formal legal differences – such as status, structure of authority, and institutional subordination – key factors in the effectiveness of a customs service also include service conditions and the underlying motivation model. Across European countries, increasing attention is being paid not only to material incentives, but also to non-material ones: interpersonal communication, fairness in evaluation, involvement in decision-making, and opportunities for career growth. International experience shows that high job satisfaction is strongly correlated with institutional effectiveness and lower staff turnover.

Empirical studies confirm that recognition, participation in decision-making, and transparent evaluation significantly influence staff satisfaction and performance. For instance, a study of 679 Greek customs officers identified interpersonal trust and fair assessments as key drivers of job satisfaction.⁴⁴ More broadly, international experience shows that customs effectiveness depends not only on formal powers but also on internal support mechanisms – particularly clear evaluation systems and career prospects. This makes the design of HR models, especially contract-based service, central to institutional performance. In Ukraine, however, analysis of how employment contracts function in the customs sector reveals persistent systemic issues.

It is important to recognize that, in the context of European integration, the modern doctrine of public service emphasizes not only the presence of authority, but also a clear distinction between “competence” (as the general legal capacity within the scope of the institution’s mandate) and “powers” (as specific legal actions). Harmonizing these concepts is a crucial

Different?] (Kraków: Krakowska Akademia im. Andrzeja Frycza Modrzewskiego, 2017), 111–3.

⁴³ Vencislav Haladjov, “Mytničeskoto razsledvane – sŭstoyanie, problemy i perspektivi [Customs Investigation – Status, Problems, and Perspectives],” *Godišen Almanah “Naučni izsledvaniya na doktornanti”*, no. 11 (2016): 417–32.

⁴⁴ Elen I. Barda, “Evaluation of Job Satisfaction in the Public Sector: The Case of Customs Officers” (MA diss., University of Thessaly, 2016).

step toward aligning the legal status of Ukrainian customs officers with the European model.

A civil service contract in the customs sphere is not merely a formal record of appointment – it is a distinct legal act that gives rise to public service relations. As O. Stets emphasizes, a contract is an individual, consequential, and fixed-term legal act that governs a specific area of public activity – namely, service within a state institution. Its content includes not only the employee's obligation to meet certain performance targets but also the duty of the public service manager to provide appropriate working conditions and ensure access to the resources needed for proper fulfillment of the assigned functions.⁴⁵ Such issues expose not only legal gaps in contracts but also serious challenges in their practical application, as shown by court decisions. A notable trend is the dismissal of customs officers for allegedly failing key performance indicators (KPIs) without proper legal assessment. In case No. 380/15503/22, the Eighth Administrative Court of Appeal found that Lviv Customs fired an officer without measuring KPIs, despite wartime conditions that made targets unachievable.⁴⁶

A broader review confirms that contract-based dismissals often lack legal grounds. For example, in case No. 380/15752/22, the Supreme Court upheld reinstatement of a department head dismissed without documented performance failures,⁴⁷ while in case No. 440/3992/22, the dismissal of Odesa Customs' head was annulled due to insufficient evidence, vague accusations, and failure to account for martial law conditions.⁴⁸

Other examples include case No. 260/4780/23, where Zakarpattia Customs unlawfully dismissed an official due to staff reduction without offering

⁴⁵ Oleg Stets, "Public Service Contract as a Basis for Emergence of Public Service Relations," *Knowledge, Education, Law, Management* 3, no. 2 (2020): 195–6, <https://doi.org/10.51647/kelm.2020.3.2.35>.

⁴⁶ Eighth Administrative Court of Appeal, Decision in Case No. 380/15503/22, March 21, 2023, regarding unlawful dismissal based on unverified performance indicators, <https://reyestr.court.gov.ua/Review/109723502>.

⁴⁷ Supreme Court of Ukraine, Administrative Cassation Court, Decision in Case No. 380/15752/22, May 31, 2024, regarding unlawful dismissal of a customs officer, <https://reyestr.court.gov.ua/Review/119503469>.

⁴⁸ Supreme Court of Ukraine, Administrative Cassation Court, Decision in Case No. 440/3992/22, November 12, 2024, regarding unlawful dismissal of the head of Odesa Customs, <https://reyestr.court.gov.ua/Review/123060084>.

alternative positions,⁴⁹ and case No. 640/2964/22, in which the Supreme Court ruled against a dismissal carried out during COVID-19 quarantine, emphasizing automatic contract extension and lack of ministerial approval.⁵⁰ In both cases, the civil servants were reinstated.

These rulings expose systemic flaws in applying fixed-term contracts, especially under emergency conditions like COVID-19 or martial law. The lack of a unified legal approach to fixed-term contracts in Ukraine's customs service during emergencies – especially the pandemic – supports the findings of Izha and Melnyk. They noted poor regulation and unclear procedures in civil service hiring during 2020–2021, particularly the absence of a clear plan and legal certainty for those appointed under such contracts, which aligns with numerous court rulings on unlawful dismissals.⁵¹

During Poland's public administration reform, the customs and tax services were reorganized into the Krajowa Administracja Skarbowa (KAS), which had major legal consequences for staff. Employment was terminated for those who refused new terms or were not offered a position. As E. Ura notes, former customs officers were divided into three groups: those who accepted the new terms; those who declined; and those whose contracts ended automatically under the law (*ex lege*) on a date set by legislation.⁵²

Although Serbia has sectoral customs laws, it still lacks a dedicated act on the customs service. This hampers consistent regulation of officers' status and delays the adoption of EU Customs Blueprints standards.⁵³ Unlike Ukraine, where contract-based service has at least been analyzed

⁴⁹ Zakarpattia District Administrative Court, Decision No. 260/4780/23, October 13, 2023, concerning reinstatement of a customs officer dismissed due to restructuring, <https://reyestr.court.gov.ua/Review/114395086>.

⁵⁰ Supreme Court of Ukraine, Administrative Cassation Court, Decision in Case No. 640/2964/22, October 1, 2024, regarding automatic extension of public service contracts during quarantine, <https://reyestr.court.gov.ua/Review/122134796>.

⁵¹ Mykola Izha and Volodymyr Melnyk, "Osoblyvosti upravlinnya lyudskymy resursamy derzhavnoi sluzhby v umovakh kryzy [Peculiarities of Human Resource Management in Public Service during Crisis Conditions]," *Aktual'ni problemy derzhavnoho upravlinnya* 1, no. 2 (83) (2021): 118–25, <http://uran.oridu.odessa.ua/article/view/237282>.

⁵² Elzbieta Ura, "Zatrudnienie funkcjonariuszy w administracji celno-skarbowej po reformie [Employment of Officers in the Customs and Tax Administration after the Reform]," *Studia z Zakresu Prawa Pracy i Polityki Społecznej*, no. 4 (2021): 243–67, <https://ruj.uj.edu.pl/entities/publication/febf143d-b139-472d-b992-8e53f55f0562>.

⁵³ Dapčević-Marković, "Radno pravni status carinskih službenika."

despite its flaws, Serbia faces similar challenges without even a specific legal framework.

These issues, stemming from legal uncertainty and the lack of effective regulation of the customs service in Ukraine, call for comprehensive reform – particularly the establishment of a clear legal framework and the adoption of modern operational standards. The following section outlines a series of recommendations for Ukraine aimed at optimizing and aligning its customs legislation with European standards.

5. Conclusions

European integration requires Ukraine's public service to adopt principles of flexibility, professionalism, and institutional efficiency. This requires improvements in legal mechanisms, the digitalization of administrative procedures, and the development of a strong talent pool.

The IMF emphasizes that successful reform hinges on stable leadership, structured change management, and active stakeholder involvement. Experts noted that past institutional uncertainty – including the prolonged leadership vacuum with only an acting head in place – had a negative impact on staff motivation and overall management effectiveness.

According to Serhii Zviahintsev, Acting Head of the State Customs Service of Ukraine, human resource reform and the expansion of customs authority – particularly the inclusion of pre-trial investigative functions – indicate the government's readiness for systemic modernization.⁵⁴

To enhance the effectiveness of Ukraine's customs authorities, several key steps must be taken:

- (a) Grant customs law enforcement status to enable procedural autonomy, investigative powers, and use of force where necessary. Empowering customs officers with the necessary legal tools would significantly improve the effectiveness of customs control and enforcement.
- (b) Introduce a modern, flexible contract model with performance-based incentives and stable evaluation practices.
- (c) Accelerate digitalization (e-declarations, risk analysis systems, AI cargo control) to enhance efficiency and reduce corruption.

⁵⁴ Serhii Zviahintsev, "Zakon pro kadrove reformuvannia mytnytsi stane lakmusovym papirtsi-
em hotovnosti vlady do zmin," *Ukrinform*, July 21, 2023, accessed May 11, 2025, <https://www.ukrinform.ua/rubric-economy/3738623-sergij-zvagincev-vo-golovi-derzmitsluzbi.html>.

- (d) Codify fair dismissal rules, performance reviews, and appeals processes to strengthen legal certainty.
- (e) Adapt proven models (e.g., Poland's KAS) to Ukraine's context with adequate legal and operational safeguards. This includes strengthening internal control systems and ensuring adequate legal and material support for customs authorities.

To meet the demands of European integration, Ukraine must transform its customs service. This includes legal reform, modernization of personnel policy, technological innovation, and more effective management. As customs reform is central to Ukraine's alignment with EU standards, it is essential to identify strategic priorities and articulate a roadmap for institutional development.

Law enforcement status directly impacts the ability of customs services to detect and combat offenses effectively. In countries where customs services have police powers, they are able to detect and investigate crimes more quickly—thanks to access to firearms and their own investigative units. In Ukraine, by contrast, customs officers have limited powers and primarily perform control functions, while investigations are carried out by other agencies. These disparities result from diverging institutional paths and reform models across countries: in some European countries (such as Poland, Hungary, and the Czech Republic), customs services developed their own enforcement branches, whereas in Ukraine, frequent reorganizations of the customs service have often led to a narrowing of its role.⁵⁵

In many EU member states, such as Poland, Hungary, and the Czech Republic, customs agencies serve both fiscal and preventive roles, functioning as key security actors, evolving into specialized law enforcement bodies capable of anticipating risks and combating transnational crime.⁵⁶

An effective legal status should clearly define duties, rights, and safeguards tailored to enforcement needs. This approach not only helps to systematize the legal position of customs personnel, but also reinforces their functional role within public administration. In turn, this would grant

⁵⁵ Polianska, "Pravooohoronnij status Derzhavnoi mytnoyi sluzhby."

⁵⁶ Świerczyńska, "Współpraca celna w obszarze bezpieczeństwa."

greater autonomy to the customs service, allowing it to focus more effectively on tackling emerging security threats and financial crimes.

Empowering customs officers with investigative and enforcement powers is essential to align Ukraine with EU standards and improve institutional effectiveness. These changes would contribute to a more stable and predictable system, drawing on national models such as Poland's KAS and supporting Ukraine's integration objectives.

Reforming the status of customs officers and granting them law enforcement powers could have far-reaching implications for economic security and international cooperation. Reforming the legal status of Ukraine's customs officers will enhance national security, increase revenue, and improve cooperation with EU partners.

At the same time, such reform would strengthen the legal standing of customs bodies, enhance their capacity to protect national interests, and ensure more stable and constructive relations with international partners.

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