

FEATURES OF PUBLIC SERVICE ORGANIZATION IN THE CUSTOMS AUTHORITIES OF UKRAINE: ANALYSIS OF LEGISLATIVE NOVELTIES

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Annotation. The aim of the work is to examine the specifics of organizing public service in the customs authorities of Ukraine, focusing on analyzing legislative novelties affecting the performance of state functions by customs officers, improving management and staffing processes, and ensuring the efficiency of the customs service in the context of recent legal changes.

The methodological basis of the study includes an analysis of relevant legal documents, including amendments to the Customs Code of Ukraine and the Law on Civil Service, as well as a review of scientific literature and legal commentary on the subject. The research also involves comparative analysis of international practices, particularly from the European Union, to inform the development of customs competencies in Ukraine.

Results reveal that significant reforms have been introduced to the organization of public service in customs authorities, notably the establishment of specific requirements for candidates based on customs competencies, the shift to contractual civil service, and the introduction of a one-time certification for all customs officers. However, these changes have led to legal uncertainties, especially concerning the minimum duration of service contracts and contradictions between new provisions and the Constitution of Ukraine. Furthermore, while the introduction of rotation and psychophysiological testing is aimed at reducing corruption risks, their practical implementation remains unclear.

Conclusions emphasize the need for further clarification of key provisions, particularly regarding the minimum duration of service contracts and the requirement for re-certification. The study also highlights the importance of developing a clear structure for customs competencies tailored to the needs of the Ukrainian customs service. The introduction of specific customs competencies is seen as a crucial step in improving the effectiveness of personnel policy, though its successful implementation will depend on further refinement and standardization of legal frameworks. Additionally, issues surrounding the rotation mechanism and the mandatory nature of psychophysiological testing should be addressed to ensure the smooth functioning of these reforms.

Key words: customs service, public service, customs authorities, legislative novelties.

1. Introduction.

The organization of public service in the customs authorities of Ukraine is an important element of the public service institution, as customs authorities play a key role in ensuring the functions of customs policy, namely fiscal, regulatory, and protective functions. While some scholars argue that customs authorities in Ukraine are primarily law enforcement agencies, we cannot agree with this statement, as their activities are more aligned with law enforcement functions, particularly in preventing and combating smuggling and violations of customs rules. Given Ukraine's integration into international economic unions, as well as internal demands for increasing the effectiveness of public service, the customs system is continuously undergoing reform.

In particular, in recent years, significant changes have been observed in Ukraine's administrative and legal regulation of public service related to the activities of customs authorities. The adoption of new

regulatory acts, such as amendments to the Customs Code of Ukraine, the Law of Ukraine "On Civil Service," and other legislative initiatives, contributes to the formation of a new model for organizing and operating the customs service. These changes encompass various aspects: from improving the service career in the customs authorities to updating human resources policies.

The analysis of legislative novelties in the organization of public service in the customs authorities of Ukraine is a relevant task, as these changes directly affect the nature and content of the public service institution within customs authorities, reduce the level of corruption risks, and introduce new mechanisms at the legislative level, such as attestation, integrity checks, polygraph examinations, and the customs competence card for the purpose of grading positions. In this context, it is important to determine which legislative changes have the most significant impact on the organization of public service, as well as to identify the problems and challenges faced by customs authorities in the process of implementing these novelties.

2. Analysis of scientific publications.

The issue of organizing public service in the customs authorities of Ukraine has attracted the interest of many scholars, among whom the works of I.H. Berezniuk, A.D. Voitsechuk, L.V. Derkach, Y.M. Dyomin, L.M. Dorofeeva, T.O. Karabin, S.V. Kivalov, V.T. Komziuk, V.I. Shcherbyna, V.V. Chentsov, and others stand out. Despite the progress in research in this field, discussions continue among scholars, while on the other hand, the Ukrainian customs system remains in a state of constant reform.

3. The purpose of the work.

The purpose of this article is to study the specifics of the organization of public service in the customs authorities of Ukraine, with a focus on analyzing the legislative novelties that affect the performance of state functions by customs officials, the improvement of management and staffing processes, as well as ensuring the efficiency of the customs service in the context of current legal changes. The author sets the following tasks: to analyze the main legislative novelties affecting the organization of public service in the customs authorities of Ukraine, to assess the changes in the legal status of customs officials and their duties resulting from legislative reforms, and to determine the impact of new regulatory acts on the specifics of service in the customs authorities.

4. Review and discussion.

According to the Law of Ukraine No. 3977-IX dated September 17, 2024, "On Amendments to the Customs Code of Ukraine Regarding the Establishment of Specifics for Serving in Customs Authorities and Conducting Certification of Customs Officials," changes were made to the procedure for serving in customs authorities. It is established that individuals who wish to hold civil service positions in customs authorities must meet both general and specific professional competence requirements. At the same time, special requirements for candidates for civil service positions in categories "B" and "V" are determined based on customs competencies [1].

Although the Customs Code of Ukraine regulates the issues of civil service in customs authorities, it is not the primary legal act for such legal relations. This is because Article 569 of the Customs Code establishes that customs officials are civil servants, meaning the procedure for civil service is governed by the special law – the "Law on Civil Service," which defines the general requirements for individuals serving in customs authorities.

S.A. Kolpakov notes that, in terms of its content, forms, and methods, the activities of civil servants are aimed at ensuring the powers of public administration bodies [2, p. 117].

D.V. Priymachenko, studying the issue of the administrative-legal status of customs authorities, concluded that customs authorities occupy a special place in the system of executive bodies, which

is determined by the purpose of their creation, functioning, and the nature of the tasks and functions they perform [3, p. 7].

Special requirements for candidates for civil service positions are defined by the Customs Code of Ukraine, taking into account the customs competencies, which still need to be developed and implemented.

One of the innovations of the new law is the requirement for service in customs authorities to be exclusively on a contractual basis, with a fixed-term employment contract lasting up to three years. However, the minimum duration of such a contract is not specified, which creates uncertainty regarding the nature of civil service, as the contract can be concluded for as little as one month. Although customs officials had already been working on a contractual basis before the adoption of the new law, the practice of a three-year term for this form of civil service proved to be ineffective, with numerous shortcomings and criticism from a practical standpoint.

Another introduced change is the requirement for a one-time certification for all current officials to verify their professional competence. This has raised concerns from the Main Legal Department of the Verkhovna Rada of Ukraine, which, in its comments on the draft law, pointed out that some of its provisions are inconsistent with the Constitution, do not align with the laws of Ukraine, and do not take into account the legal positions of the Constitutional Court of Ukraine. In particular, as noted in the comments, an individual who has been admitted to service through a competitive selection process, and whose professional qualities, knowledge, and skills necessary for performing official duties have already been verified, does not require re-certification. In this case, the introduction of a one-time certification for customs officials contradicts the legal positions of the Constitutional Court of Ukraine regarding the need for predictability in legislative regulation, which is part of the principle of legal certainty [4].

T.A. Sokolova states: "The characteristics of a civil servant's career lie in the fact that it occurs within the system of civil service, which has a number of specific features, including functioning based on clearly defined legislative norms, and a specific role in ensuring the functioning of the state and society" [5, p. 140].

V.Ya. Malinovskyi provides the following definition: "Certification is the activity in which the certification commission, within the established procedure, determines the degree of compliance of an employee with the position they hold" [6, p. 117].

V.R. Kravets understands certification as: "A system of legal norms that regulate certification and position-related relations during the civil service process, concerning the assessment of the professional, personal, and moral qualities of civil servants, with the aim of: determining the level of professional training and the suitability of a civil servant for their position in the public service; and enhancing the effectiveness of management" [7, p. 11].

That is, based on the examined legal categories and the conclusions of experts, we can assert that the introduction of mandatory one-time certification for all customs officials has led to legal contradictions, particularly concerning the compliance of such changes with the Constitution and laws of Ukraine.

Analyzing the provisions of this law, one can come to an ambiguous conclusion, as the legislator has used terms that are not defined in the Law of Ukraine "On Civil Service". In particular, the amendments to Article 570 of the Customs Code state that citizens are "accepted" into the customs service, while special legislation uses terms like "appointed" and "transferred". This could lead to a significant number of lawsuits against the customs authorities in the future due to discrepancies in terminology. Overall, the term "hiring" is used in the Labor Code and is a standard labor law term that should not apply to legal relations arising during the service in customs authorities.

One of the positive changes introduced by the legislator is the provision in Article 572-1 of the Customs Code of Ukraine regarding the psychophysiological testing using a polygraph. However, in our opinion, the wording of this provision is not entirely appropriate, as the law states that candidates for civil service positions in customs authorities, as well as customs officers during their service, may undergo psychophysiological testing at the decision of the head of the customs service and with

their consent. As can be seen, this provision is dispositive and does not establish the mandatory nature of such an examination.

Additionally, attention should be drawn to the introduction of the rotation mechanism within customs authorities, which, according to the legislator's intention, is meant to minimize corruption risks by rotating officials so that they do not stay in one position for too long. However, the legislator chose a different approach, defining rotation as a temporary transfer for up to 3 months aimed at balancing the workload within one or several customs authorities. In our view, this raises more questions than answers, as it remains unclear how rotation should be implemented, how the remuneration of a civil servant who is transferred to another region will be handled, and whether they should be provided with funds for business trips and housing.

The most significant innovation is the introduction of the model of customs competencies as specific requirements for serving in positions within the customs authorities of Ukraine.

Considering international experience, the concept of customs competencies is defined in the European Union legislation as requirements for professional qualifications for each position within customs authorities. The EU Customs Competency Framework, developed by DG TAXUD, aims to harmonize and enhance customs standards across the EU.

Thus, based on European experience and its adaptation to the operations of Ukrainian customs, it is necessary to develop groups of customs competencies and define corresponding positions at various levels: General Management – “Strategic” level; Expert level – “Management” level; and Professional level. All of these levels should be structured based on the developed groups of customs competencies, which are planned to be grouped into 6 main categories, taking into account the key functions of customs authorities.

5. Conclusions.

The Law of Ukraine No. 3977-IX dated September 17, 2024, which amends the Customs Code of Ukraine, is an important step in the reform of the customs service system, particularly in terms of regulating the civil service in customs authorities and the conduct of certification of customs officers.

Introduction of specific requirements for candidates for positions in customs authorities based on customs competencies is a significant step toward improving the personnel policy system in customs authorities. However, there is a need for further development and clearer definition of these competencies.

Mandatory requirement for service in customs authorities to be based solely on a contract, although aimed at improving efficiency and transparency, creates legal uncertainty in practice, as the minimum contract duration is not defined. This may lead to a number of legal issues related to short-term contracts and instability in the civil service.

Introduction of a one-time certification for all customs officers raises legal contradictions, particularly concerning the compliance of such changes with the Constitution of Ukraine and other legislation. This issue should be reconsidered in light of the comments from legal experts and the Constitutional Court of Ukraine.

Introduction of rotation for customs officers has the potential to reduce corruption risks. However, there remain unclear issues regarding the practical implementation of this provision, particularly regarding salary payments, travel allowances, and housing arrangements.

Most important innovation is the introduction of a model of customs competencies, which should become the basis for defining professional requirements for customs positions. However, for successful implementation, it is necessary to develop a detailed structure of these competencies, adapted to the specifics of the Ukrainian customs service.

It is recommended to clearly define the minimum contract duration for service in customs authorities, which will help avoid legal uncertainty and ensure stability in positions.

The provisions on the one-time certification of customs officers should be reviewed and clarified, particularly with regard to the necessity of re-certification for individuals who have already passed a competitive selection and demonstrated the required professional qualities.

Given the legal contradictions associated with the terms “appointment to service,” it is important to clarify and standardize the terminology in the Customs Code and other normative legal acts to avoid potential legal disputes.

It is proposed to improve the provision regarding psychophysiological testing by making it mandatory for all candidates for positions in customs authorities, in order to increase trust in the customs control system and reduce corruption risks.

Considering the need to develop the rotation system in customs authorities, it is advisable to address the issue of ensuring civil servants when they are transferred to other regions, including reimbursement of travel expenses, provision of housing, and proper regulation of salary payments.

It is urgent to develop a clear structure of customs competencies for various levels of positions in customs authorities. It is proposed to create 6 main competency groups based on the key functions of the customs authorities, and to incorporate these competencies into the system of professional development for customs officers.

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