

CONCEPT, CHARACTERISTICS AND TYPES OF CUSTOMS DISPUTES RELATED TO ASSESSMENT AND COLLECTION OF CUSTOMS PAYMENTS

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Annotation. This article explores the concept, characteristics, and types of customs disputes related to the assessment and collection of customs payments. The relevance of this topic arises from the critical role customs payments play in replenishing Ukraine's state budget, which simultaneously creates risks of rights violations by customs authorities and an imbalance between public and private interests. Currently, the most effective way to protect the violated rights is referring to the court for the purpose of consideration and resolution of the respective customs disputes.

It has been established that conducting scientific inquiries into the administrative and legal aspects of resolving customs disputes regarding the assessment and collection of customs payments requires a solid theoretical and legal foundation, including clear definitions of key concepts. Consequently, the article analyzes terms ranging from general ones (such as "dispute" and "legal dispute") to more specific ones (such as "customs dispute" and "customs disputes relating to the assessment and collection of customs payments"). The article identifies the essential characteristics of the customs disputes, their causes, preconditions, and offers an original approach to classification of the customs disputes.

Thus, a dialectical relationship has been traced between the concepts of "dispute", "legal dispute", "public-law dispute", "administrative-law dispute", "customs dispute" and "customs dispute regarding the assessment and collection of customs payments". It has been established that, unlike other categories of legal disputes, a customs dispute, as a type of administrative-legal dispute, is inherently characterized by conflict, as its participants are private persons/entities and customs authorities (structural departments of the public administration system). At the same time, it has been concluded that the concepts of "conflict" and "dispute" are not identical. A legal conflict in the customs sphere serves as a prerequisite for initiation and conduct of the proceedings in the customs dispute.

Finally, based on general approaches to the characteristics and types of customs disputes and an analysis of the specific features of customs disputes related to the assessment and collection of customs payments, the author suggests his own view towards the list of characteristics and types of the customs disputes. Although the article has a more theoretical rather than a practical focus, similar scientific developments provide for a structural and meaningful impetus for further research into the pressing issues of resolving customs disputes related to the assessment and collection of customs payments.

Key words: customs disputes, customs payments, customs duties, customs conflict, customs disputes classification, assessment and collection of customs payments.

1. Introduction.

Customs disputes related to assessment and collection of customs payments hold a prominent position within the broader classification of customs disputes. This is due to the primary purpose of the assessment and collection procedures: ensuring the replenishment of the state budget. Accordingly,

significant emphasis is put on upholding legality and protection of human rights throughout these procedures. The efficiency of customs authorities in combating customs violations within the analyzed sphere is largely determined by the outcome of cases (regarding violation of customs rules) resolved by judicial authorities, as noted by scholars¹. Thus, it is evident that judicial practice is being formed by courts of the first and the appellate instances, the Supreme Court, and the European Court of Human Rights in resolving disputes related to the assessment and collection of customs payments. The practice of the latter two, in turn, serve as benchmarks for resolving similar cases in future.

However, despite the significant importance of customs disputes related to assessment and collection of customs payments, the domestic scientific community has not yet developed a corresponding conceptual and categorical framework. Researchers have so far limited their efforts to addressing general issues of customs disputes and defining their characteristics, while the study of this specific category of customs disputes remains incomplete and lacks a comprehensive approach. Therefore, to conduct scientific inquiries aimed at improving the administrative and legal framework for resolving this type of customs disputes, it is crucial to establish a theoretical and legal foundation and develop a conceptual framework. This also explains the relevance of the chosen topic for research.

2. Analysis of Scientific Publications.

As previously noted, Ukrainian legal scholarship has yet to develop comprehensive studies on the concept of “customs disputes related to assessment and collection of customs payments”. However, it is essential to highlight works and publications addressing the broader category of customs disputes. For instance, M. Kalantai’s dissertation includes developed provisions regarding administrative-law disputes as a type of legal dispute and, consequently, customs disputes as a subtype of administrative-law disputes. Notably, it articulates a definition of “customs disputes” and determines their place within the system of administrative-law disputes. Another dissertation by K. Abdukadyrova also contains several important theoretical provisions for understanding the legal nature of customs disputes; in particular, she suggests to distinguish the concepts of customs dispute and customs conflict. Monographic research by Yu. Onyshchuk is also noteworthy. While dedicated to examining customs disputes as a general concept, these studies offer valuable foundational ideas for advancing scholarly thought on customs disputes related to assessment and collection of customs payments. Additionally, scientific articles analyzing the concepts, structure, and essential characteristics of customs disputes - authored by O. Varguliak, V. Reva, and M. Tolstolutska - deserve attention. The contributions of these and other researchers will be examined in this article.

3. The aim of the work.

The primary objective of this work is to articulate an author’s definition of the concept of customs disputes related to assessment and collection of customs payments, develop their classification, and identify their key essential characteristics. Therefore, the study aims to establish a theoretical foundation for further scientific research in this field, including the further prospects to improve the legislation governing this specific type of customs disputes.

4. Review and discussion.

To achieve the declared objective, the author finds it necessary to utilize a deductive research method – progressing from the general to the specific. Evidently, a customs dispute related to assessment

¹ Prymachenko D. V. Uzahalnennia praktyky rozghliadu sudamy sprav pro porushennia mytnykh pravyl (z urakhuvanniam praktyky Yevropeiskoho Sudu z prav liudyny) [Generalization of the practice of court proceedings in cases of customs violations (considering the practice of the European Court of Human Rights)]. *Sudovyi rozghliad podatkovykh ta mytnykh sporiv: problemy, vyklyky ta priorytety (4–5 lyupnia 2019 r.) m. Kyiv: zbirnyk materialiv II Mizhnar. nauk.-prakt. konf. Kyiv, 2019, p. 327. [in Ukrainian]*

and collection of customs payments represents the most specific (the narrowest) concept compared to broader terms such as “customs dispute”, “administrative law dispute” and “legal dispute”.

The concept of “dispute”, in its most general sense, is interpreted by domestic scholars in two ways: a) contention, competition, or disagreement; and b) a claim or demand pursued via judicial proceedings. It is apparent that the second meaning derives from the first one. The etymological essence of the term “dispute” lies in the first interpretation. Key characteristics defining a dispute include a divergence of opinions, their communication to the opposing party (either verbally or in writing), and the intention to establish the superiority of one’s viewpoint over others². Clearly, a dispute implies a lack of unanimous agreement between opposing parties on a given issue, and its resolution involves a process of settling this disagreement. When referring to a legal dispute, it is understood that the opposition concerns a dispute over subjective rights, and its resolution must occur within a legally defined procedural or processual framework.

Regarding approaches to defining “legal dispute,” we concur with N. Sakara’s suggestion to understand it as a legal deviation arising from legal uncertainty in the subjective rights and obligations of some parties. It possesses an internal structure composed of subject matter, grounds, and substance. The subject matter always involves subjective rights, freedoms, or interests in a state of legal uncertainty, overcoming which is crucial for understanding, restoring, and exercising them. The grounds are the circumstances that led to emergence of this state. In turn, the substance of the dispute consists of the cognitive interpretation by an individual (the dispute initiator) of a violation, non-recognition, or challenge to his/her subjective rights, freedoms, or interests by the opposing party, leading to their uncertainty and hindering their realization³. However, when discussing the legal dispute, it should be understood that conflict is not a mandatory feature thereof, as noted by D. Luchenko, who asserts that a legal dispute can be of a non-conflictual nature, namely when the legal subjects have different opinions but share a common goal, enabling them to reconcile their positions⁴.

One of the criteria for classification of the legal disputes is the sectoral criterion. In the broadest sense, legal disputes are commonly divided into public-law disputes and private-law disputes. A customs dispute, which is the subject of our research, is categorized as a public-law dispute, specifically as an administrative-law dispute.

The Code of Administrative Procedure of Ukraine, adopted on July 6, 2005 (with subsequent amendments and additions), contains the legal definition of a public-law dispute. According to Article 4(1)(2), a public-law dispute is one in which: at least one party exercises public-authority administrative functions, including delegated powers, and the dispute arises in view of performance or non-performance of such functions by such party; or at least one party provides administrative services based on legislation that authorizes or obliges the provision of such services exclusively by an entity with public authority, and the dispute arises in view of the provision or non-provision of such services; or at least one party is a subject of the electoral process or referendum process, and the dispute arises in view of the violation of his/her rights in such a process by a public authority or another entity⁵.

As regards the administrative-law disputes, legal doctrine suggests a broader range of perspectives. However, we highlight what we consider the most fundamental understanding, as expressed by

² Viennikova V. V. Zahalna kharakterystyka poniattia pravovoho sporu ta yoho osoblyvosti u pravi sotsialnoho zabezpechennia [General characteristics of the concept of legal disputes and their peculiarities in social security law]. *Pravova doktryna – osnova formuvannia pravovoi systemy derzhavy: materialy Mizhnar. nauk.-prakt. konf., prysviach. 20-richchiu NAPrN Ukrainy ta obhovorenniu piattom. monohraf. «Pravova doktryna Ukrainy.»* Kharkiv, 20–21 lystop. 2013 r. Kharkiv, 2013, pp. 763–766. [in Ukrainian].

³ Sakara N. Yu. Zmist ta pravova pryroda yurydychnoho sporu [The content and legal nature of legal disputes]. *Naukovyi visnyk Uzhhorodskoho Natsionalnoho Universytetu: seriia: Pravo*. Uzhhorod, 2017, Vol. 1, Issue 46, pp. 63–68. [in Ukrainian].

⁴ Luchenko D. V. Pro osnovni oznaky administratyvno-pravovoho sporu [On the main features of administrative-legal disputes]. *Visnyk Natsionalnoi Akademii pravovykh nauk Ukrainy: zbirnyk naukovykh prats*. Kharkiv, 2013, No. 2 (73), pp. 148–156. [in Ukrainian].

⁵ *Kodeks administratyvnoho sudochynstva Ukrainy: Zakon Ukrainy vid 06.07.2005 r. № 2747-IV. Redaktsiia vid 01.01.2025 r.* [Code of Administrative Procedure of Ukraine: Law of Ukraine dated July 6, 2005, No. 2747-IV. Edition as of January 1, 2025]. *Vidomosti Verkhovnoi Rady Ukrainy*. 2005, No. 35, p. 1358, Art. 446. [in Ukrainian].

T. Matselik. An administrative-law dispute is a type of the public-law dispute that arises exclusively from legally significant actions of its participants; it is aimed at the realization and protection of rights, freedoms, and interests, as well as the fulfillment of an individual's obligations; such dispute is characterized by contradictions between the parties, caused by a conflict of interests in the realm of public-law relations or by differing views on the legality and reasonability of the actions of public administration bodies; the legal basis of the dispute lies in the law-guaranteed ability to protect an individual's rights, freedoms, or legitimate interests⁶. While it was previously noted that the element of conflict is not necessarily inherent in all legal disputes, in the context of administrative-law disputes, conflict is inevitably present. This is because such disputes involve a contradiction between an individual and a public authority, characterized by equal procedural status but material-law inequality. Accordingly, customs disputes have a similar legal nature. Supporting this assertion, M. Kalantai emphasizes that customs disputes are closely linked to administrative disputes, as they can be resolved via the court (under administrative court proceedings) and through administrative procedures. This is directly confirmed by the Generalization of the Practice of Application of the Customs Code of Ukraine by Administrative Courts (in the version as of March 13, 2012), recommended in 2017 by the Plenum of the Higher Administrative Court of Ukraine for attention of the administrative courts' judges. This is due to the fact that the mandatory participants of the customs disputes are the State Customs Service of Ukraine or its officials, who are in charge of conduct of the state customs matters. These subjects, in any case, possess public authority powers; customs disputes, as evidenced by statistical data provided in the foregoing generalization of court practice, often arise due to improper exercise of such public authority powers⁷.

In general, other scholars share a similar viewpoint, stating that a customs dispute constitutes legal relations characterized by the presence of contentious issues between customs authorities (or their officials), who perform activities in the customs field, and individuals or legal entities; these disputes pertain to mutual rights and obligations arising out of the challenge of decisions, actions, or inactions of customs authorities and their officials in the customs field, resolved via the administrative or court procedures (as noted by V. Reva)⁸. Customs-legal dispute involves certain contentious (or conflicting) situations arising between participants in customs legal relations concerning the protection of the parties' interests; these disputes create obstacles to the realization of rights, fulfillment of obligations, or satisfaction of interests and are characterized by a specific procedure for their consideration and resolution. A customs-law dispute arises in view of the issuance of legally significant decisions or taking actions (or inactions) by one of the participants in customs legal relations, it is subject to a particular procedural order for its resolution, which may include alternative, pre-trial, or court methods (as noted by O. Varguliak)⁹. Analyzing the scientific contributions of procedural law scholars, it is worth focusing on the opinion of M. Tolstolutska, who defines a customs dispute as an administrative case initiated based on the claim of the interested participants in the customs relations with regard to violation of their rights, freedoms, and legitimate interests during or in connection with the movement of goods across Ukraine's customs border. A customs dispute, as a subject matter of the jurisdictional activity of administrative courts, has specific features: the field of its occurrence is customs legal relations; a public authority vested with powers acts as the special subject of the customs dispute; and its subject matter and grounds are explicitly defined by law¹⁰.

⁶ Matselik T. O. Administratyvno-pravovyi spir yak katehoriia yurydychnoho sporu [Administrative-legal dispute as a category of legal dispute]. *Yurydychnyi visnyk. Povitriane i kosmichne pravo*. 2010, No. 4, pp. 51–55. [in Ukrainian].

⁷ Kalantai M. V. Administratyvno-pravove rehuliuвання mytnykh sporiv [Administrative-legal regulation of customs disputes]. *Dys... kand. yuryd. nauk: 12.00.07*. Kharkiv, 2020. URL: <https://uacademic.info/ua/document/0821U100334> (accessed: 13.01.2025). [in Ukrainian].

⁸ Reva V. V. Poniattia i sutnist mytnoho sporu yak vydu publichno-pravovoho sporu [The concept and essence of a customs dispute as a type of public-legal dispute]. *Prykarpatskyi yurydychnyi visnyk*. 2018, Issue 1 (22), Vol. 5, Part 1, pp. 124–127. URL: http://www.pjv.nuoua.od.ua/v1-5_2018/part_1/30.pdf (accessed: 13.01.2025). [in Ukrainian].

⁹ Varguliak O. H. Poniattia ta yurydychna konstruktsiia mytno-pravovoho sporu [The concept and legal construction of a customs-legal dispute]. *Aktualni problemy vitchyzniano yurysprudentsii*. No. 4, 2023. URL: http://apnl.dnu.in.ua/4_2023/15.pdf (accessed: 13.01.2025). [in Ukrainian].

¹⁰ Tolstolutska M. Mytnyi spir yak predmet administratyvnoho sudochynstva [Customs dispute as a subject of administrative proceedings]. *Visnyk Akademii pratsi, sotsialnykh vidnosyn i turyzmu*. No. 2, 2019. URL: https://www.socosvita.kiev.ua/sites/default/files/Visnyk_2_2019-19-26.pdf (accessed: 13.01.2025). [in Ukrainian].

Thus, a comprehensive understanding of the concept and characteristics of customs disputes as a type of public-law dispute allows the author to thoroughly analyze and articulate the concept, characteristics, and types of customs disputes related to assessment and collection of customs payments. This specific category of customs disputes takes a unique place in their classification, as it is directly linked to the function of replenishing the state budget and ensuring financial discipline during customs procedures. On the one hand, proper administration of customs payments is a critical and high-priority function for the state. On the other hand, this prioritization has a downside as it poses significant risks such as illegal restrictions and violations of the rights of the parties paying customs payments, as well as abuse of office by customs authorities and their officials. Therefore, ensuring a balance between public and private interests is one of the key aspects of the legal nature of customs disputes related to assessment and collection of customs payments.

Taking into account the existing foundational approaches to understanding the category of customs disputes, the following definition of the narrower concept of customs disputes concerning assessment and collection of customs payments can be outlined - legal relations that arise out of a legal conflict in the field of customs duties assessment and collection, occurring between private entities/individuals and customs authorities, with regard to subjective rights and obligations, concerning the decisions, actions, or inactivity of customs authorities in the area of customs payments assessment and collection.

Regarding the essential characteristics of customs disputes related to assessment and collection of customs payments, it is necessary to outline the following. As a subcategory of customs disputes, they share all relevant features, including the emergence of a dispute arising from customs legal relations; a distinct composition of the parties involved - on one side, the customs authorities or their officials, and on the other - individuals or legal entities moving goods across Ukraine's customs border; the subject of the dispute being the decisions, actions, or inactivity of customs authorities or their officials; and the basis for the dispute being the violation of the rights, freedoms, and legitimate interests of private entities moving goods across the customs border of Ukraine by customs authorities or their officials¹¹. We consider it necessary to add the following characteristics.

Firstly, customs disputes related to assessment and collection of customs payments are inherently conflict-ridden. Their origin lies in a conflict within the area of customs payments assessment and collection - a controversy between individuals and customs authorities arising during or in connection with the assessment and collection process. K. Abdukadyrova identifies the following features of conflict in customs affairs: it arises from customs legal relations; the mandatory participants are customs authorities and individuals or legal entities moving goods across the customs border; the subject matter involves the subjective rights of the participants in customs legal relations; and the grounds are legal facts, the presence of which the legislation links to the possibility of the emergence, change, or termination of rights, freedoms, and legitimate interests of the participants in customs legal relations¹². It should be noted that we consider this approach somewhat inaccurate, as it essentially duplicates the characteristics of customs disputes mentioned above. A conflict is considered as a prerequisite for the emergence of a dispute. The existence of a customs dispute can only be asserted when administrative or judicial proceedings have been initiated based on the applicant's complaint to the competent authorities.

The foregoing leads to the following. Secondly, the conflict, as a legal fact, is insufficient for the emergence and unfolding of a customs dispute regarding assessment and collection of customs payments as legal relations. Specifically, a violation of the law by one of the parties in the sphere of customs payments assessment and collection is required, followed by the appeal of the interested party to an administrative or judicial authority, and, finally, the acceptance of such an appeal for

¹¹ Tolstolutska M. Mytnyi spir yak predmet administratyvnoho sudochynstva [Customs dispute as a subject of administrative proceedings]. *Visnyk Akademii pratsi, sotsialnykh vidnosyn i turyzmu*. No. 2, 2019. URL: https://www.socosvita.kiev.ua/sites/default/files/Visnyk_2_2019-19-26.pdf (accessed: 13.01.2025). [in Ukrainian].

¹² Abdukadyrova K. E. Konflikt u sferi mytnykh pravovidnosyn yak peredumova vynyknennia mytnoho sporu [Conflict in the field of customs legal relations as a prerequisite for the emergence of a customs dispute]. *Naukovyi visnyk Mizhnarodnoho humanitarnoho universytetu. Seriya: Yurysprudentsiia*. 2020, No. 47, Vol. 1, pp. 50–53. [in Ukrainian].

consideration. Thus, another characteristic of this type of customs disputes is the existence of a procedural framework (established based on the appropriate legislative acts) for initiation, course, and resolution of the respective disputes.

Several approaches can be applied to the classification of customs disputes related to assessment and collection of customs payments. One approach is based on the types of customs payments assessed and collected from individuals transporting goods across the customs border. Article 4(1)(27) of the Customs Code of Ukraine dated February 13, 2012, defines the following types of customs payments: a) customs duties; b) excise tax on excisable goods (products) imported into the customs territory of Ukraine; c) value-added tax (VAT) on goods (products) imported into the customs territory of Ukraine¹³. Accordingly, customs disputes related to assessment and collection of customs payments can be classified based on the type of customs payments being challenged: 1) customs disputes regarding the assessment and collection of customs duties; 2) customs disputes regarding the assessment and collection of excise tax on goods (products) subject to excise that are imported into Ukraine; 3) customs disputes regarding the assessment and collection of VAT on goods (products) imported into the customs territory of Ukraine.

Upon review of the case law on customs disputes related to assessment and collection of customs payments, it becomes apparent that these categories of disputes are often framed differently. A significant portion of such disputes in national courts and the European Court of Human Rights (ECHR) involves controversies over the classification of goods under the Ukrainian Classification of Goods for Foreign Economic Activity (UCGFEA) by customs authorities. One notable case is "Polymercontainer LLC v. Ukraine" (Application No. 23620/05, dated November 24, 2016), which concerned the assignment of an incorrect UCGFEA code to imported goods. This reclassification resulted in the imposition of an import duty of a higher rate¹⁴. The company-applicant challenged every unlawful decision (with regard to the same goods imported during some period of time) by customs authorities in national courts, seeking for the reimbursement of overpaid customs duties. It argued that, should the goods been correctly classified, it would have paid customs duties at an import duty rate of only 1% instead of 5%. Although the applicant won all the disputes in national courts, Ukraine's customs authorities disregarded the national courts' decisions and continued to apply the practice of misclassification of the imported goods. As a result, the company applied to the European Court of Human Rights (ECHR). Although the essence of the dispute lays in the actions of the customs service related to assigning an incorrect UCGFEA code, the result of such unlawful actions led to the improper assessment and collection of customs duties, specifically import duties. Thus, it can be concluded that this category of customs disputes also falls under the subtype of customs disputes concerning the assessment and collection of customs payments.

Additionally, the assessment of customs payments depends on the determined customs value of goods imported into the customs territory of Ukraine. According to Article 259 of the Customs Code of Ukraine dated March 13, 2012, the customs value is the value of goods declared by the declarant or determined by the customs authority, calculated at the moment the goods cross Ukraine's customs border. The methods for determining the customs value of goods are specified in Article 57(1) of the Customs Code of Ukraine dated March 13, 2012, as follows: primary method – based on the transaction price (contract value) for the imported goods (transaction value); and secondary methods: a) by the transaction price of identical goods; b) by the transaction price of similar (analogous) goods; c) based on the deductive value method; d) based on the computed value method (calculated value); e) by the fallback method (reserve method).

According to the data provided by the State Customs Service, during the period from January 1, 2024, to June 30, 2024, the total number of court cases under consideration in the national courts of all instances amounted to 11,800 cases involving a total value of UAH 5,512,587 k. Among these cases,

¹³ *Mytnyi kodeks Ukrainy: Zakon Ukrainy vid 13.03.2012 r. № 4495-VI. Redaktsiia vid 01.01.2025*. [Customs Code of Ukraine: Law of Ukraine dated March 13, 2012, No. 4495-VI. Edition as of January 1, 2025]. *Vidomosti Verkhovnoi Rady Ukrainy*. 2012, No. 44–45; No. 46–47; No. 48, p. 1858, Art. 552. [in Ukrainian].

¹⁴ *Rishennia u spravi «TOM «Polimerkonteiner» proty Ukrainy» (Zaiava № 23620/05) vid 24.11.2016 r.* [Decision in the case «LLC Polimerkonteiner v. Ukraine» (Application No. 23620/05) dated November 24, 2016]. *Ofitsiyni visnyk Ukrainy*. 2017, No. 98, p. 243, Art. 3028. [in Ukrainian].

the following were (or are) under review: 10,122 cases involving a total value of UAH 2,913,055.37 k concerning disputes over decisions on the adjustment of the customs value of goods; 363 cases involving a total value of UAH 72,467.04 k concerning disputes over classification decisions; 26 cases involving a total value of 4,145.43 thousand UAH concerning disputes over refusals to grant tax benefits; 126 cases involving a total value of UAH 202,958.10 k concerning disputes over refunds of taxes paid to the state budget ¹⁵. It is evident that the majority of disputes are related to challenging decisions on the adjustment of customs value. Therefore, it is essential to also consider categories of customs disputes with different subject matters of appeal but primarily aimed at adjusting the amount of customs payments made or return of the excessively paid customs duties.

Similarly, customs disputes concerning the application of exemptions and preferences are closely related to the administration of customs payments. Customs exemptions and preferences refer to full or partial legislative relief from customs payments for individuals transporting goods or other items across the customs border. Thus, it should be understood that customs disputes concerning the assessment and collection of customs payments also include disputes related to: determination of UCGFEA classification codes, adjustment of customs value, and application of exemptions and preferences. Such approach is justified by the fact that the determination of UCGFEA classification codes, determination of the customs value, or the application of exemptions and preferences directly affect the amount of customs payments and the full or partial exemption from their payment.

5. Conclusions.

Thus, based on the goals set for this article, the author has achieved the following results:

1. A proposed approach to interpreting the definition of “customs disputes related to assessment and collection of customs payments” has been developed. These are legal relations arising from a legal conflict in the area of customs payment assessment and collection, between private individuals and customs authorities, concerning subjective rights and obligations regarding the decisions, actions, or inactivity of customs authorities in the field of customs payments assessment and collection.
2. The suggested characteristics of customs disputes related to assessment and collection of customs payments include:
 - 1) The dispute arises from customs legal relations;
 - 2) The dispute involves a specific composition of parties: on one side, customs authorities or their officials; on the other, individuals or legal entities transporting goods across Ukraine’s customs border;
 - 3) The subject of the dispute is the decisions, actions, or inactions of customs authorities or their officials;
 - 4) The basis of the dispute is the violation by customs authorities or their officials of the rights, freedoms, or legitimate interests of private individuals transporting goods across Ukraine’s customs border;
 - 5) The precondition for the dispute is the existence of a customs conflict - a contradiction between individuals and customs authorities arising during or in connection with the assessment and collection of customs payments;
 - 6) The existence of a legislatively established procedural framework for the initiation, course, and resolution of the dispute.

¹⁵ *Zvit shchodo stanu rozghliadu sudamy sprav za uchasti mytnyts Derzhmytsluzhby protyahom 6 misiatsiv 2024 roku*. [Report on the state of court proceedings involving customs offices of the State Customs Service during the first six months of 2024]. Derzhavna mytna sluzhba. URL: <https://customs.gov.ua/rozgliad-sporiv-u-sudovomu-poriadku> (accessed: 13.01.2025). [in Ukrainian].

Only the presence of these characteristics in a conjunction allows distinguishing the category of customs disputes concerning the assessment and collection of customs payments from a legal conflict in this area.

3. Based on the legislatively defined classification of customs duties, the following classification of customs disputes concerning the assessment and collection of customs payments has been proposed:

- 1) Customs disputes concerning the assessment and collection of customs duties;
- 2) Customs disputes concerning the assessment and collection of excise tax on excisable goods (products) imported into the customs territory of Ukraine;
- 3) Customs disputes concerning the assessment and collection of value-added tax (VAT) on goods (products) imported into the customs territory of Ukraine.

At the same time, it is proposed to take into account the existence of customs disputes related to this category, such as disputes over the determination of UCGFEA classification codes by customs authorities, disputes concerning the adjustment of the customs value of goods imported into Ukraine, and disputes over the application of exemptions and preferences. The ultimate goal of these disputes is the adjustment of the amount of customs duties paid or the reimbursement of overpaid customs duties by applicants. Therefore, these disputes can also be classified as those related to the calculation and collection of customs duties. This is because the procedures for determining UCGFEA codes, customs value, and applying exemptions and preferences are dialectically linked to the calculation and collection of customs duties. This linkage is further supported by judicial practice in national courts and the European Court of Human Rights.

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