

Legal Support for Customs and Forensic Examinations (Expert Studies) in Foreign Economic Activities and Customs Formalities under EU and Ukraine's Customs Legislation

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The primary concerns of this study are to evaluate the adequacy of legal support for customs and forensic examinations (expert studies) under EU and Ukraine's Customs Legislation, and to analyse legal relations in the context of foreign economic activities and customs affairs. Therefore, authorized forensic subjects have to conduct customs and forensic examinations of goods and perform customs formalities to support forensic expert activities. In pursuit of this goal, the author employed a range of general scientific and special legal methods. An analysis of principles governing the legal regulation of customs and forensic examinations (expert studies) and standards for their implementation, as outlined in EU and Ukrainian legislation, was conducted. In this paper, the researcher underscored the extent to which legal relations evolve in the context of foreign economic operations. Classification thereof was developed on the basis of several criteria. The study defines the "customs examination" concept and the range of subjects authorized to conduct this study, as well as the scope within which expert activity subjects operate under EU and Ukraine's Customs Legislation. As set forth in Ukrainian legislation, customs examinations involve customs operations with goods that are carried out for customs purposes and within the scope of customs procedures. Legal relations in the field

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of foreign economic activities and customs affairs are closely intertwined with forensic analyses (expert studies) conducted by forensic experts. A comparative analysis was carried out to examine the status of experts affiliated with the State Customs Service and the Ministry of Justice of Ukraine. Legal safeguards for the independence and accuracy of expert opinions were considered. It was emphasized that forensic and customs experts must adhere to corresponding international standards when carrying out expert activities, thereby facilitating the integration into specialized European and international expert networks.

Keywords: customs examinations (studies); forensic examination (expert study/testing); product samples; customs control; customs procedures; customs formalities; customs legislation; foreign economic activities; foreign economic operations; European integration.

Research Problem Formulation

In an increasingly interconnected global landscape, one of the essential factors in economic development is international trade. It is carried out through foreign economic operations by Ukrainian and foreign business entities. Foreign economic activity is one of the most complex types of activity (due to the added complexity of the foreign element). The *foreign element* concept is set forth in para. 2 of Pt. 1 of Art. 1 of the Law of Ukraine: *On Private International Law*¹: it presupposes certain features of legal relations emerging within the realm of foreign economic activities (hereinafter referred to as *FEAs/FEA*), and delves into their multifaceted nature. One of FEAs avenues is foreign trade, which is

associated with the movement of goods and vehicles across Ukraine's customs border. A wide range of various goods that are foreign trade subjects sometimes justifies the need for customs and forensic examinations (expert studies) when carrying out foreign trade operations and/or customs formalities and customs procedures.

Legal regulation issues of customs and forensic examinations (expert studies) become especially relevant in conditions of globalized international trade. For its facilitation and acceleration, customs procedures are gradually being harmonized and simplified in compliance with relevant international standards². Integration into the European Union (hereinafter referred to as the EU), which is taking place during wartime, presents an additional challenge

- 1 Про міжнародне приватне право : Закон України від 23.06.2005 р. № 2709-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2709-15#Text> (date accessed: 24.08.2025).
- 2 Міжнародна конвенція про спрощення і гармонізацію митних процедур (Київська конвенція) : від 18.05.1973 р. (зі змін. та допов.) ; ратифік. Закон. України від 05.10.2006 р. № 227-V (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/995_643#Text (date accessed: 06.09.2025) ; Угода про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони : від 27.06.2014 р. (зі змін. та допов.) ; ратифік. із заяв. Закон. України від 16.09.2014 р. № 1678-VII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/984_011#Text (date accessed: 15.09.2025).

for Ukraine in terms of fulfilling a comprehensive set of conditions and obligations, particularly in the areas of foreign trade and customs affairs. Considering this situation, the issue of providing legal support for customs and forensic examinations of goods moving across the customs borders of Ukraine and the EU, as well as implementing customs formalities in compliance with international and EU standards, which is an integral component of foreign trade and customs relations, is becoming increasingly urgent. In view of Ukraine's integration into Europe, the aforementioned issue is coming to the forefront, which is why this topic has been chosen for the study.

Analysis of Essential Researches and Publications

T. Kachalova ³, P. Kipouras and O. Ovsianynkova ⁴, I. Korostashova ⁵, O. Kliuiev ⁶, O. Lopata ⁷, O. Matvieievskyy and B. Babin ⁸, E. Simakova-Yefremian ⁹, V. Khosha and O. Manulenko ¹⁰, I. Yatsenko ¹¹, and other researchers and practitioners dedicated their research to studying legal support for forensic examinations and to reviewing international standards of forensic activities and international cooperation.

Organizational and legal aspects of customs examinations are extensively detailed in research papers by N. Avramenko and

- 3 Качалова Т. Є. Правові основи міжнародного співробітництва МВС та ENFSI. *Молодий вчений. Юридичні науки*. 2020. № 11 (87). С. 302–306. DOI: 10.32839/2304-5809/2020-11-87-65 (date accessed: 06.09.2025).
- 4 Кіпоурас П., Овсянникова О. Судово-експертна діяльність в умовах глобалізації. *Теорія та практика судової експертизи і криміналістики*. 2021. Вип. 3 (25). С. 169–184. DOI: 10.32353/khrife.3.2021.12 (date accessed: 06.09.2025).
- 5 Коросташова І. М. Особливості судової експертизи (експертних досліджень) у сфері інтелектуальної власності, пов'язаних з умовами надання правової охорони промисловим зразкам, визначення критеріїв їх охороноздатності та обсягу використання. *Криміналістика і судова експертиза*. 2022. Вип. 67. С. 648–657. DOI: 10.33994/kndise.2022.67.65 (date accessed: 06.09.2025).
- 6 Ключев О. Міжнародні наукові стандарти в судово-експертній сфері України. *Теорія та практика судової експертизи і криміналістики*. 2022. Вип. 3 (28). С. 5–10. DOI: 10.32353/khrife.3.2022.01 (date accessed: 06.09.2025).
- 7 Лопата О. А. Міжнародне співробітництво експертної служби МВС України : автореф. дис. ... канд. юрид. наук. Київ, 2017. 22 с. URL: <https://elar.navs.edu.ua/server/api/core/bitstreams/200b763a-9317-4e30-b4c8-56bae4f8e280/content> (date accessed: 06.09.2025).
- 8 Матвеевський О. В., Бабін Б. В. Міжнародно-правові стандарти судової експертизи та їх національна реалізація. *Прикарпатський юридичний вісник*. 2018. Вип. 1 (22). Т. 4. С. 73–79. URL: http://pjv.nuoua.od.ua/v1-4_2018/16.pdf (date accessed: 06.09.2025).
- 9 Сімакова-Єфремян Е. Про необхідність удосконалення законодавства щодо здійснення судово-експертної діяльності в Україні. *Теорія та практика судової експертизи і криміналістики*. 2019. Вип. 1 (19). С. 118–129. DOI: 10.32353/khrife.1.2019.09 (date accessed: 06.09.2025).
- 10 Хоша В. В., Мануленко О. В. Перспективи розвитку судово-експертних установ Міністерства юстиції України в аспекті вступу до європейської системи ENFSI. *Теорія та практика судової експертизи і криміналістики*. 2009. Вип. 9. С. 244–249.
- 11 Яценко І. І. Завдання та принципи міжнародного співробітництва в галузі судової експертизи (оглядова стаття). *Вісник Харківського національного університету внутрішніх справ*. 2020. № 3 (90). С. 202–211. DOI: 10.32631/v.2020.3.20 (date accessed: 06.09.2025).

O. Kulhanik ¹², A. Brachuk ¹³, H. Karpenko ¹⁴, I. Korostashova ¹⁵, O. Punda and P. Kostyrina ¹⁶, et al. Scholars have largely overlooked the study of issues of legal support for customs and forensic examinations (expert studies), which result from legal relations in the field of FEAs and customs affairs, and the implementation of international standards in this area (see research papers by I. Korostashova ¹⁷, O. Punda and D. Arziantseva ¹⁸).

Article Purpose

Examine the legal frameworks governing customs affairs and FEAs, necessitating the conduct of customs and forensic examinations (expert studies) as well as assess their legal support under EU and Ukraine's legislation. Consider customs formalities aimed at supporting expert activities. The

following tasks are set within the defined goal: 1) to examine the customs legislation rules, which define the legal basis for the implementation of customs formalities regarding the conduct of customs and forensic examinations (expert studies) of goods moved across the customs border of Ukraine, as well as to scrutinize legal relations stemming from the customs formalities for the conduct of customs and forensic examinations (expert studies), and to analyse types and features thereof; 2) to define the *customs examinations* concept and the range of subjects authorized to conduct them as well as to consider forensic examinations (expert studies) for customs and other purposes associated with foreign trade operations; 3) to analyse the purpose and scope of customs and forensic examinations (expert studies) related to foreign economic activities; 4) to perform

- 12 Авраменко Н. Л., Кульганік О. М. Роль митних експертиз у зовнішньоекономічній діяльності суб'єктів підприємництва. *Економіка та суспільство*. 2023. Вип. 57. 6 с. DOI: [10.32782/2524-0072/2023-57-21](https://doi.org/10.32782/2524-0072/2023-57-21) (date accessed: 06.09.2025).
- 13 Брачук А. О. Митні експертизи: поняття, характеристика та види. *Митна справа*. 2015. № 3 (99). С. 62–67. URL: http://nbuv.gov.ua/UJRN/Ms_2015_3_11 (date accessed: 06.09.2025).
- 14 Карпенко Г. Л. Експертиза в митній справі: організаційно-правовий аспект : автореф. дис. ... канд. юрид. наук. Одеса, 2007. 18 с. URL: <https://dspace.onua.edu.ua/server/api/core/bitstreams/686a82cc-d8fc-4fe0-87b9-4290c20824f3/content> (date accessed: 06.09.2025).
- 15 Коросташова І. М. Правове забезпечення у митному законодавстві України проведення судових експертиз / експертних досліджень у сфері зовнішньоекономічної діяльності: питання застосування митних формальностей та процедур із захисту прав інтелектуальної власності й притягнення до адміністративної відповідальності за порушення митних правил. *Судово-експертна діяльність: збереження наукового та кадрового потенціалу в умовах воєнного стану* : мат-ли IV Всеукр. форуму суд. експерт. (Львів, 07.06.2024). Одеса, 2024. С. 181–185. URL: <https://ndekc.lviv.ua/pdf/law.pdf> (date accessed: 06.09.2025).
- 16 Пунда О. О., Костирін П. І. Удосконалення нормативно-правового забезпечення проведення податкових та митних експертиз в Україні. *Юридичний науковий електронний журнал*. 2019. № 5. С. 207–210. DOI: [10.32782/2524-0374/2019-5/49](https://doi.org/10.32782/2524-0374/2019-5/49) (date accessed: 06.09.2025).
- 17 Коросташова І. М. Правові засади експертизи товарів у сфері зовнішньоекономічної діяльності та митної справи за митним законодавством Європейського Союзу. *Судова експертиза: перспективи розвитку та окремі вектори змін* : мат-ли V Всеукр. форуму суд. експерт. (Львів, 06.06.2025). Одеса, 2025. С. 254–258. URL: <https://ndekc.lviv.ua/pdf/09072025.pdf> (date accessed: 06.09.2025).
- 18 Пунда О., Арзянцева Д. Розвиток системи митних експертиз в Україні в контексті дотримання вимог Європейського Союзу. *Університетські наукові записки*. 2019. Т. 18. № 4 (72). С. 106–117. DOI: [10.37491/UNZ.72.11](https://doi.org/10.37491/UNZ.72.11) (date accessed: 06.09.2025).

a comparative analysis of the status of forensic experts subordinated to the Ministry of Justice and the State Customs Service of Ukraine.

Research Methods

This study covers the following methods: general scientific methods (analysis, synthesis, induction, deduction, etc.) and special legal methods (formal legal, comparative legal, interpretation of legal rules, etc.). When defining legal relations in the fields of FEA and customs affairs related to customs and forensic examinations, we used synthesis, analysis, and formal-legal method. Analysis and synthesis methods, the formal legal method, as well as the method of interpreting legal rules have facilitated an understanding of the *customs examination* concept. Comparative legal method aided in studying the status of the subjects of customs and forensic examinations.

Main Content Presentation

Performing foreign economic operations related to the movement of goods and vehicles across Ukraine's customs border involves certain risks. Goods and means of transport moved across the customs border have the potential to harm the interests of a country and/or violate the rights of certain subjects of foreign economic and/or economic activity and citizens (e.g., goods may pose danger to the life and health of people and/or the environment; physical and chemical characteristics of

goods may not correspond to the stated information: all this is done in order to reduce tax burden or bypass non-tariff regulations).

P. Gordhan, public figure and expert, emphasizes the fact that “*customs lie at the heart of the globalization process, and are a catalyst for the competitiveness of countries and companies. Not only do customs collect government revenues at the border, but they are also responsible for managing international trade and supporting economy and society in the aspect of cross-border movement of goods*” [hereinafter translated by the author. — Ed.]¹⁹. The foregoing correlates directly with the issue of customs security, which is defined as “*the state whereby the customs interests of Ukraine are protected*”²⁰ in Pt. 2 of Art. 6 of the Customs Code of Ukraine (hereinafter referred to as the *CC of Ukraine*). In Pt. 1 of Art. 6 of the CC of Ukraine, the legislator defines the *customs interests* term as follows: “*Customs interests of Ukraine shall constitute the national interests of Ukraine that are ensured and implemented by administering the state customs affairs*”²¹. Thus, we are looking at a multifaceted array of national interests. Supporting these interests falls within the competence of customs authorities.

Taking the above into account, currently the scope of risks that fall under the responsibility of customs authorities goes far beyond economic security. This is because customs security is complex and encompasses various spheres of national interest that are connected to the movement of goods across Ukraine's customs border. That is why proper legal regulation and

19 Gordhan P. Customs in the 21st century. *World Customs Journal*. 2007. Vol. 1. No. 1. Pp. 49–54. URL: https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/key-issues/customs-in-the-21st-century/customs_in_the_21st_century.pdf (date accessed: 06.09.2025).

20 Митний кодекс України від 13.03.2012 р. № 4495-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

21 Там само.

guarantee of customs security in national and international dimensions are one of the key issues today.

One of the constitutive documents of paramount international importance in the field of foreign trade and customs security is the Framework of Standards to Secure and Facilitate Global Trade²² (hereinafter referred to as the *Framework of Standards*), developed by the World Customs Organization (hereinafter referred to as the *WCO*). This document is a pivotal and unique instrument that enables the customs administrations of most countries worldwide to transition to novel principles involving safe international trade. It introduced new approaches to the customs administration activities in various countries worldwide, to the development of relations with FEA subjects, to the simplification of customs control and determination of its scope and nature stemming from the risk management system.

A. Brachuk notes: *“The prevailing paradigm in the standardization of customs procedures, which occurs within the framework of the World Customs Organization, is to cultivate a climate for the development of international trade by speeding up and simplifying customs procedures. However, maintaining an adequate level of security and ensuring compliance with customs legislation remain an essential requirement”*²³. Therefore, today the issue of ensuring the quality of customs control is quite acute in the context of simplification and harmonization of customs procedures for international

trade acceleration, reduction of time standards for carrying out customs formalities and inspection procedures/ measures. That is why when performing foreign trade operations, specifically during customs control, there may be a need to conduct customs and forensic examinations (expert studies).

Within the framework of customs control measures, customs and forensic examinations are of paramount importance for customs authorities to fulfil their purpose and main tasks as prescribed by the legislator in Art. 544 of the CC of Ukraine²⁴ and they entail: 1) adoption of decisions on core activities by customs authorities; 2) provision of evidence in administrative and criminal proceedings; 3) confirmation or refutation of research (analysis, expert examination) findings: at the request of the declarant; 4) appeal against actions or inaction of customs authorities, etc. Accordingly, the need to conduct customs and forensic examinations is justified and rooted in legal relations occurring as a result of foreign trade operations, customs control, customs formalities and customs procedures.

It should be pointed out that types of forensic examinations (expert studies) conducted in the field of FEAs and customs affairs are inextricably linked to: a) the type of legal relations occurring as a result of foreign economic operations; b) customs procedures, within the scope of which samples of goods are taken; c) the type of subject that is the initiator of

22 SAFE Framework of Standards at the June 2005. World Customs Organization, 2021. 88 p. / WCO : web. URL: <https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/safe-package/safe-framework-of-standards.pdf> (date accessed: 06.09.2025).

23 Брачук А. О. Особливості забезпечення митної безпеки та митних інтересів в умовах спрощення митних процедур. *Lex Portus*. 2017. № 1 (3). С. 157. URL: <https://lexportus.net.ua/vipusk-1-2017/brachuk.pdf> (date accessed: 06.09.2025).

24 Митний кодекс України ... URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

an expert examination; d) features of expert examination (expert studies) objects, i.e. various goods moved across Ukraine's customs border.

Among juridical ties established through the execution of foreign economic operations, it is possible to single out legal relations: a) that arise during the conclusion of foreign economic agreements (between Ukrainian and foreign business entities); b) are directly linked to the movement of goods and means of transport across Ukraine's customs border and to the implementation of customs formalities (between FEA subjects or their representatives and public authorities).

In legal relations that occur during the execution of foreign economic agreements and relate to the breaches of contractual obligations by parties (for example, breaches concerning the quality and/or characteristics of goods supplied), the party/parties of a foreign economic agreement, as well as a court, are initiators of forensic examinations (expert studies). Under such circumstances, forensic experts can conduct expert studies at the stage of pre-trial settlement of disputes, and forensic examinations — during the trial.

Legal relations associated with the movement of goods and vehicles across Ukraine's customs border are more diverse. Among them, it is possible to identify the following ones: a) directly linked to customs control; b) associated with smuggling detection; c) related to the detection of customs regulation breaches; d) relating to the suspension of customs clearance of goods that are suspected of encroaching upon intellectual property rights; e) which arise in connection with the violation of the rights of FEA subjects (decisions, actions or inac-

tion of customs or other official control officers) and which are appealed in judicial and administrative procedures.

Legal relations involving customs control are primary in nature. Remaining types of customs legal relations are rooted in legal relations involving customs control. Therefore, it should be pointed out that paras. 1–3 of Pt. 1 of Art. 320: *Selectivity of Customs Control* of the CC of Ukraine provide as follows:

“1. The forms and scope of customs control shall be selected by:

- 1) customs officials based on the results of the application of the risk management system; and/or*
- 2) automated risk management system”²⁵.*

That is why, in legal relations pertaining to the implementation of customs control measures by customs authorities, forms and scope of such control and customs formalities are determined within the customs procedures based on the principle of selectivity stemming from risk analysis. The principle of selectivity of customs control governed by national customs legislation also applies to legal relations involving the completion of customs formalities regarding the selection of samples of goods for further customs and/or forensic examinations (expert studies). Thus, as set forth in para. 1 of Pt. 4 of Art. 320 of the CC of Ukraine, *“The forms and scope of customs control determined in accordance with clause 2, Part 1 of this Article shall be mandatory for customs officials. These officials shall not be allowed to make a decision not to conduct customs control in the indicated forms and scope”²⁶.*

In legal relations involving smuggling detection, subjects who are authorized

25 Митний кодекс України ... URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

26 Там само.

to initiate customs examinations as well as forensic examinations (expert studies) shall be: customs authorities (for example, those who determine customs value of goods or classify goods as cultural property, etc., in conformity with a procedure provided for by the CC of Ukraine); law enforcement agencies that have the right to conduct pre-trial investigations of smuggling; the court considering a criminal case on smuggling (in the manner determined by the rules of the Criminal Procedure Code of Ukraine²⁷ (hereinafter referred to as the *CPC of Ukraine*); as well as a person who is suspected of committing a criminal offense, or the defence counsel of his/her rights, whom he/she freely chooses as prescribed by Art. 59 of the Constitution of Ukraine²⁸.

In legal relations related to proceedings concerning breaches of customs regulations, subjects that can initiate the conduct of customs examination, forensic examinations (expert studies) can be: customs authorities, a court, as well as a person who is held administratively liable for breaches of customs regulations, or the defender of his/her rights (lawyer).

In legal relations involving suspension of customs clearance of goods suspected of infringing intellectual property rights (hereinafter referred to as the *IPRs*), the subjects who have the right to initiate a forensic examination (expert study) may be: intellectual property right holder (hereinafter referred to as the *IP*) or his/her representative (in the case and in the manner provided for by the CC of Ukraine); customs authorities; a person suspected of

violating *IPRs*; law enforcement agencies conducting criminal proceedings in the case in accordance with the procedure set out in the CPC of Ukraine; a court of competent jurisdiction under applicable procedural law. Taking into account the specifics of legal relations in the field of intellectual property, peculiarities of the legal regulation of these relations under Ukrainian customs legislation, the status of the IP right holder (natural or legal person), as well as depending on the methods of protecting IP chosen by the IPR holder, etc., forensic examinations may be appointed in conformity with the procedure set out in: the Code of Commercial Procedure of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Proceedings of Ukraine (hereinafter referred to as the *CAPU*); CPC of Ukraine, etc.

*“Implementation of customs and administrative protection measures of intellectual property rights is very specific, as it depends both directly and indirectly on the results of forensic examinations/expert studies. <...> the opinion of a forensic expert serves as the basis for a customs official to initiate proceedings for breaches of customs regulations under Art. 476 ‘Infringement of Intellectual Property Rights’ [CC of Ukraine. — Ed.]. The IP right holder is responsible for ensuring the conduct of such an expert study”*²⁹. Therefore, in the event of customs clearance suspension under the customs registry: *“The owner of IP rights and/or the declarant may, with the permission of the customs authority, take samples of goods for which a decision has been made to suspend customs clearance, and*

27 Кримінальний процесуальний кодекс України від 13.04.2012 р. № 4651-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text> (date accessed: 26.08.2025).

28 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text> (date accessed: 26.08.2025).

29 Коросташова І. М. Правове забезпечення С. 184—185. URL: <https://ndekc.lviv.ua/pdf/law.pdf> (date accessed: 06.09.2025).

submit them for forensic examination”³⁰. Therefore, within the framework of the procedure for facilitating IP protection and for resolving the issue of bringing the violator to administrative responsibility for customs regulation breaches, the IP rights holder (his/her representative) shall independently contact forensic activity subjects and assign them the task to conduct expert studies.

In legal relations that occur in connection with appeals against decisions, actions or inaction of customs or other control authorities, the subjects that possess the right to initiate forensic examinations (expert studies) may be: the court (on its own initiative); parties to a legal dispute (this is determined by a court order). Should such persons commission an expert study, this will be settled by an agreement with either a forensic expert or an expert institution.

N. Avramenko and O. Kulhanik underscore that “conducting customs examinations is an essential component of the customs management system, since it helps detect and prevent unlawful activities at the stage of customs clearance and is an important tool in supporting both the economic stability of a country and the business enti-

ty”³¹. H. Karpenko believes that “customs examination falls into a specific category of forensic examination, as it has its own characteristic features: subject, tasks, objects and research methods”³². It follows from the above that customs examinations are one of the important components of customs affairs, which have a specific subject, purpose, tasks and research objects.

Let us consider legal regulation features of customs examinations as outlined in EU and Ukraine's Customs Legislation.

It is worth pointing out that neither the Union Customs Code³³ (hereinafter referred to as the UCC) nor the CC of Ukraine defines the *customs examination* term. Although this is the title of Chap. 50 of the CC of Ukraine³⁴ that outlines diverse legal relations arising within the customs domain pertaining to expert research (analyses, expert examinations).

We have previously observed that “primary EU customs legislation only indirectly governs expert activities carried out in connection with customs supervision of goods that are the subject of foreign economic transactions, namely through the regulation of customs formalities for selecting samples

30 Коросташова І. М. Імплементація норм митного законодавства ЄС в процесі євроінтеграції України: досвід ЄС та особливості митних процедур та митних формальностей, спрямованих на захист прав інтелектуальної власності у міжнародній торгівлі / V. Borsia, V. Zaiats, S. Kapitanets, et al. Development of Ukraine's customs policy in the context of European integration : Scientific monograph. Riga, 2023. P. 122. DOI: 10.30525/978-9934-26-278-4-5 (date accessed: 26.08.2025).

31 Авраменко Н. Л., Кульганік О. М. Зазнач. твір. С. 4. DOI: 10.32782/2524-0072/2023-57-21 (date accessed: 06.09.2025).

32 Карпенко Г. Л. Організаційно-правовий механізм митних експертиз. *Lex Portus*. 2017. № 6 (8). С. 111. URL: <https://dspace.onua.edu.ua/server/api/core/bitstreams/83085b3d-fedf-4cd6-9f91-87731836f659/content> (date accessed: 26.08.2025).

33 Регламент Європейського Парламенту і Ради (ЄС) № 952/2013 від 9 жовтня 2013 року про встановлення Митного кодексу Союзу (нова редакція) (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/984_009-13#Text (date accessed: 06.09.2025).

34 Митний кодекс України ... URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

of such goods”³⁵. The analysis of Part 1 of Art. 46 of the UCC³⁶ demonstrates that sample selection is one of the measures of customs control, which also presupposes: review of customs declarations and other documents, inspection of goods, inspection of vehicles and luggage, etc. The legal support for the conduct of a forensic examination of goods under customs control is regulated by the secondary legislation (delegated/subordinate legislation) of the EU, in particular by a number of regulations and directives.

The CC of Ukraine stipulates customs control measures for taking samples (probes) of goods, which “shall be taken by the customs officials as part of customs control and customs clearance” (para. 1, Pt. 1, Art. 356) and for handling of probes (samples) taken (Art. 357)³⁷. The legislator defines the *handling* term as a certain set of actions with goods. That is, we are considering specific customs formalities aimed at ensuring expert activity and related to conducting expert examinations (expert studies).

Having summarized Pts. 1 and 2 of Art. 357 of the CC of Ukraine³⁸ and Art. 1 of the Law of Ukraine: *On Judicial Examination* (hereinafter referred to as the *Relevant Law*)³⁹, it is possible to conclude that **customs examinations** are studies (analyses, examinations) of samples (probes) of goods that are carried out by a group of subjects defined by Ukrainian customs legislation; these examinations stem from specific

expertise in the field of science, technology, art, crafts, etc., and are aimed at supporting customs control and customs clearance.

Sent. 1 of Pt. 2 of Art. 357 of the CC of Ukraine sets out the range of such subjects: “Testing (analysis, expert examination) shall be conducted by the professionals of a specialised expert examination and testing agency of the central executive authority in charge of implementing the state customs policy or its separate structural unit, or other expert institutions (organisations) appointed by the customs authority”⁴⁰. That is, we are talking about forensic experts from different departmental affiliations, including experts from: 1) the Specialized Customs Laboratory for Examination and Research of the State Customs Service (hereinafter referred to as the *SLER*); 2) separate subdivisions of *SLER* and 3) other forensic institutions (organizations), which can be appointed by the customs authority to conduct a study (analyses, expert examinations). An analysis of the aforementioned provision reveals that a legally defined range of subjects who are authorized or can be appointed to conduct customs examination for the purpose of supporting customs control is quite extensive. This is because the legislator granted the customs authorities the power to order expert studies for customs purposes from other expert institutions (organizations) without setting out clear requirements or criteria for such institutions (organizations) in

35 Коросташова І. М. Правові засади експертизи С. 256. URL: <https://ndekc.lviv.ua/pdf/09072025.pdf> (date accessed: 06.09.2025).

36 Регламент Європейського Парламенту URL: https://zakon.rada.gov.ua/laws/show/984_009-13#Text (date accessed: 06.09.2025).

37 Митний кодекс України URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

38 Там само.

39 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 06.09.2025).

40 Митний кодекс України URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

the CC of Ukraine, nor any restrictions on their selection.

According to the customs legislation, customs authorities usually appoint precisely the forensic activity subjects operating under the Relevant Law ⁴¹ for the purpose of conducting customs examinations. However, these may also be other laboratories accredited by the National Accreditation Agency of Ukraine in accordance with the procedure set out in the Law of Ukraine: *On Accreditation of Conformity Assessment Bodies* (hereinafter referred to as the Law: *On Accreditation*) ⁴².

Due consideration must also be given to the fact that Ukrainian customs legislation contains a rule of a restrictive nature. This rule determines when customs authorities may commission expert institutions (organizations) to conduct a forensic examination in order to support customs control. As prescribed by Pt. 3 of Art. 357 of the CC of Ukraine, “*The testing (analysis, expert examination) may be conducted at other institutions (organisations) only provided that a specialised expert examination and testing agency of the central executive authority in charge of implementing the state customs policy or its separate structural unit is unable to conduct testing (analysis, expert examination), or when the declarant or person authorised by him/her so requests to confirm or refute the results of testing (analysis, expert examination) completed*” ⁴³. Given the rationale behind this rule, in any case, the customs authority may choose an ex-

pert institution (organization) capable of conducting an expert examination, taking into account the type of expert examination and its object.

Therefore, a fairly wide range of subjects can conduct customs examinations. These subjects have varying legal capacities and are governed by different legal regulations. Specifically, in cases stipulated by law, these can be forensic experts along with other certified experts from accredited calibration laboratories. An essential feature that distinguishes customs examinations from other types of expert examinations is their purpose defined in sent. 2 of Pt. 2 of Art. 357 of the CC of Ukraine: “*ensuring that customs control and customs clearance are completed*” ⁴⁴. Subject area of such expert opinions aligns with this goal. The aforementioned rule also stipulates that, in certain cases, studies (analyses, expert examinations) are also conducted at the request of an FEA subject or its representative in other institutions (organizations). Furthermore, in the event of a legal dispute between the FEA subject and a customs authority (a public authority) regarding the appeal of decisions, actions or inaction of the customs authority, and in conformity with national legislation requirements, a court, at the request of a party to the case or at its own initiative, may order an expert examination in a case pursuant to the set of requirements outlined in Pt 1 of Art. 102 of the Code of Administrative Proceedings of Ukraine ⁴⁵

41 Про судову експертизу URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 06.09.2025).

42 Про акредитацію органів з оцінки відповідності : Закон України від 17.05.2001 р. № 2407-III (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2407-14#Text> (date accessed: 06.09.2025).

43 Митний кодекс України URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

44 Там само.

45 Кодекс адміністративного судочинства України від 06.07.2005 р. № 2747-IV (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2747-15/conv#n10237> (date accessed: 15.09.2025).

(hereinafter referred to as the CAPU). Accordingly, in administrative proceedings, expert examination is conducted pursuant to a court order in the manner prescribed by Art. 102 of the CAPU, or at the request of a party to the case in accordance with Art. 104 of the CAPU⁴⁶.

As per Art. 1 of the Relevant Law, “Forensic examination is research based on specific expertise in the field of science, technology, art, craft, etc., on objects, phenomena and processes for the purpose of provision of an opinion on issues that are or will be the subject of trial”⁴⁷. As set forth in Art. 108 of the CAPU, “An expert opinion for a court shall not have the preliminary determined force and shall be evaluated by the court together with other evidence under the rules established by Art. 90 of this Code. The court’s rejection of the expert opinion must be motivated in the judgment”⁴⁸. Therefore, the expert opinion is one of the pieces of evidence in a legal case. At the same time, if the expert opinion is rejected, the administrative court must state the reasons for rejection in the court judgment.

It should be noted that, according to national legislation rules, forensic examination has its own subject area, as it studies the issues that are or will be the subject of litigation (Art. 1 of the *Relevant Law*)⁴⁹ and, accordingly, is used to provide

a robust evidentiary basis during a trial concerning a disputed legal relationship or regarding a criminal proceeding. However, under the rationale of Pt. 2 of Art. 357 of the CC of Ukraine⁵⁰, forensic activity subjects may also be subjects of an expert examination performed for customs purposes (customs examinations). Stemming from the foregoing, it is evident that only relying on the purpose of forensic examinations can we decide if they belong to the category of customs examinations. Forensic analyses never depend on the legal status of the subject of an expert examination.

It should also be pointed out that Art. 3 of the Relevant Law defines the principles (standards) of forensic expert activities, which encompass lawfulness, independence, objectivity and completeness of research⁵¹. At the same time, Art. 8 of the CC of Ukraine⁵² discusses principles of customs operations, which, on the one hand, are universal for customs authorities, their officials and employees, and therefore, apply to the experts from the SLER and its separate divisions, and on the other hand, do not take into account the specifics of expert activities.

As prescribed by Art. 4 of the Relevant Law, an essential component of the forensic expert status is independence guaran-

46 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15/conv#n10237> (date accessed: 15.09.2025).

47 Про судову експертизу ... URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 06.09.2025).

48 Кодекс адміністративного судочинства ... URL: <https://zakon.rada.gov.ua/laws/show/2747-15/conv#n10237> (date accessed: 15.09.2025).

49 Про судову експертизу ... URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 06.09.2025)

50 Митний кодекс України ... URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

51 Про судову експертизу ... URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 26.03.2025).

52 Митний кодекс України ... URL: <https://zakon.rada.gov.ua/laws/show/4495-17#Text> (date accessed: 06.09.2025).

tees for forensic experts and accuracy of their opinions, which are ensured through:

- procedure for forensic expert appointment defined by law;
- prohibition from interfering with the conduct of a forensic examination under the threat of legal liability;
- existence of forensic institutions that are independent of law enforcement agencies, pre-trial investigation authorities and courts;
- streamlining expert processes, including supporting forensic experts' material and social security;
- holding a forensic expert criminally liable for a knowingly false opinion and for refusal to perform duties without good reason;
- possibility of appointing a forensic re-examination;
- presence of participants to the proceedings during a forensic examination in cases provided for by law⁵³.

However, Ukrainian customs legislation fails to stipulate similar independence guarantees for departmental experts (customs experts), and there is no requirement for the accuracy of their findings.

Currently, an important aspect of expert activities in Ukraine is their conformity with international standards. In particular, O. Kliuiev notes: *"It is a vital necessity to implement international standards and experience in the domestic forensic science to ensure high-quality expert support for justice in Ukraine. It should be stressed that a unified approach to resolving prob-*

*lems in the forensic field will positively impact the transparency of justice in the country"*⁵⁴. O. Matvieievskyy and B. Babin also pinpoint: *"Forensic expert activities of various states must comply with national principles, international legal and professional standards. An opinion drawn up by experts of one state must possess evidentiary value for the courts of another state"*⁵⁵. From the perspective of E. Simakova-Yefremian, the main drivers of reforming forensic expert activity are: *"Fostering international cooperation in the field of forensic science to strengthen the position of Ukrainian forensics in the world, augmenting the experts' body of knowledge, developing new technological complexes, including through the fastest possible tailoring of novel foreign methodologies for practical application, and introducing modern Ukrainian methodologies into the practical activities of expert laboratories worldwide"*⁵⁶. The extent to which this area of forensic activity is developed in the context of Ukraine's integration into the EU determines the step-by-step realization of the ambitious goal stated above. Also, participation in professional networks of European forensic institutions plays a pivotal role.

Thus, O. Kliuiev highlights: *"There has been active interaction and exchange of experience within the European Network of Forensic Science Institutes (ENFSI) for a long time. ENFSI is one of the most authoritative organisations of forensic science institutes in the world: all leading European forensic institutions are affiliated with this network"*⁵⁷.

53 Про судову експертизу ... URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 26.03.2025).

54 Ключев О. Зазнач. твір. С. 5. DOI: 10.32353/khrife.3.2022.01 (date accessed: 26.09.2025).

55 Матвеевський О. В., Бабін Б. В. Зазнач. твір. С. 73. URL: http://pjuv.nuoua.od.ua/v1-4_2018/16.pdf (date accessed: 26.09.2025).

56 Сімакова-Єфремян Е. Б. Зазнач. твір. С. 118. DOI: 10.32353/khrife.1.2019.09 (date accessed: 26.09.2025).

57 Ключев О. Зазнач. твір. С. 6. DOI: 10.32353/khrife.3.2022.01 (date accessed: 26.09.2025).

The European Network of Forensic Science Institutes (ENFSI) was established in 1995 to promote dialogue between European forensic science experts and enhance forensic medicine activities. It collaborates closely with European Police Forces. It not only addresses quality, research and education, but its working groups also delve into various forensic medicine disciplines. Therefore, the European Commission recognizes ENFSI as the monopoly organization in the field of forensic medicine. ENFSI is a non-profit organization⁵⁸. One of its principal requirements is accreditation of members in accordance with the provisions of the International Standard ISO/IEC 17025⁵⁹.

Highlighting international cooperation prospects in the field of forensic science, T. Kachalova notes the following: “Overall, membership <...> of domestic forensic entities [in ENFSI. — Ed.] is of paramount importance, as it enables:

- Recognition of opinions of Ukrainian forensic experts as valid by international and/or foreign courts.
- Realization of proper supervision over adherence to quality standards in expert studies pursuant to international requirements (ДСТУ ISO/IEC 17025:2006). <...>
- Use of global and European expert methods in the course of forensic examinations.

- Compliance with international standards of forensic activities”⁶⁰.

When considering forensic institution accreditation, V. Khosha and O. Manulenko underscore the following: “Accreditation aims to establish a consistent technical policy in the field of conformity assessment, to create conditions for the mutual recognition of accredited bodies’ results internationally, etc. Certification bodies, testing laboratories, metrological services and other participants in metrological technical regulation systems undergo the accreditation procedure. The accreditation system serves as the basis for the recognition of conformity assessment results both in Ukraine and abroad”⁶¹. P. Kipouras and O. Ovsianynkova, developing the topic of forensic expert activity in conditions of globalization, note: “The main task of international accreditation in the field of forensic science is to recognize domestic forensic experts’ opinions at the international level by verifying their competence, therefore accrediting forensic expert laboratories based on internationally agreed principles and procedures is the most important step towards... mutual trust”⁶².

As set forth in para. 2 of Art. 1 of Ukraine’s Law: On Accreditation, “Accreditation is the formal process where the National Accreditation Body of Ukraine confirms the competence of the conformity assessment body to perform specific tasks, ensuring its compliance with the requirements of ational

58 § 3 Public Benefit / European Networks of Forensic Science Institutes Constitution / ENFSI : web. URL: https://enfsi.eu/wp-content/uploads/2017/06/181107_ENFSI-Constitution_181107-approved.pdf (date accessed: 09.09.2025).

59 Лопата О. А. Європейська мережа судово-експертних установ (ENFSI): перспективний напрям взаємодії. *Актуальні проблеми кримінального права, процесу, криміналістики та оперативно-розшукової діяльності* : тези Всеукр. наук.-практ. конф. (Хмельницький, 03.03.2017). Хмельницький, 2017. С. 837–840. URI: <https://dspace.nadpsu.edu.ua/handle/123456789/1110> (date accessed: 09.09.2025).

60 Качалова Т. Є. Зазнач. твір. DOI: 10.32839/2304-5809/2020-11-87-65 (date accessed: 06.09.2025).

61 Хоша В. В., Мануленко О. В. Зазнач. твір. С. 247.

62 Кіпоурас П., Овсянникова О. Зазнач. твір. С. 178. DOI: 10.32353/khrife.3.2021.12 (date accessed: 26.09.2025).

*standards harmonized with international or European standards, and that it meets relevant international or European standards, or the requirements of such standards, and, where necessary, additional requirements for accreditation in relevant areas for specific conformity assessment activities”*⁶³.

Therefore, corresponding international cooperation and accreditation under ДСТУ EN ISO/IEC 17025:2019 opens up great prospects for national forensic institutions. First and foremost, this concerns enhancing the quality of forensic activities and the recognition of opinions of Ukrainian forensic experts by courts and law enforcement agencies in other countries.

Implementing international standards in the field of customs examination has become one of the priorities of the Ukrainian customs authorities over the last decade. Thus, O. Punda and D. Arziantseva, researching the development of the customs examination system in Ukraine in the context of compliance with European Union requirements, emphasize: “Current cooperation in harmonising national legislation with European Union requirements in the field of forensic science is promoting the formation of a unified understanding of the content of expert competencies, the development of training and certification programmes for experts, as well as mutual accreditation of forensic service providers. <...> This helps utilize each other’s methodological developments in expert activities as well as obtain expert opinions that are substantiated with the necessary level of

*accuracy in terms of content, and that are comparable in form”*⁶⁴.

In the EU, one of the essential sources of legal regulation of Member States’ customs administrations at the supranational level (in particular, in the field of customs examination) is Regulation (EU) No. 1294/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme for customs in the European Union for the period 2014–2020 (*Customs 2020*) and repealing Decision No. 624/2007⁶⁵ (hereinafter referred to as *the EU Regulation*): the EU action programme has been introduced to facilitate the Customs Union operation. It encompasses a general objective, specific tasks and methodologies for execution thereof, specifically:

“1. *The general objective of the Programme shall be to support the functioning and modernisation of the customs union in order to strengthen the internal market by means of cooperation between participating countries, their customs authorities and their officials. The general objective shall be pursued through the achievement of specific objectives.*

2. *The specific objectives shall be to support customs authorities in protecting the financial and economic interests of the Union and of the Member States, including the fight against fraud and the protection of intellectual property rights, to increase safety and security, to protect citizens and the environment, to improve the administrative capacity of the customs authorities and to strengthen the competitiveness of European businesses”*⁶⁶.

63 Про акредитацію органів ... URL: <https://zakon.rada.gov.ua/laws/show/2407-14#Text> (date accessed: 28.09.2025).

64 Пунда О., Арзянцева Д. Зазнач. твір. С. 106, 114. DOI: 10.37491/UNZ.72.11 (date accessed: 06.09.2025).

65 Regulation (EU) No 1294/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme for customs in the European Union for the period 2014–2020 (*Customs 2020*) and repealing Decision No 624/2007/EC / EUR-Lex : web. URL: <http://bit.ly/2IKEFYf> (date accessed: 28.09.2025).

66 Ibid.

This Programme has become the main regulatory source for organisational and expert activities of the Customs Laboratories European Network (hereinafter referred to as CLEN), which has been formally recognized as the *World Customs Organization (WCO) Regional Customs Laboratory (RCL)* since 2020, and coordinates the activities of EU Customs Laboratories. CLEN activities are carried out on an ad hoc and voluntary basis by customs laboratories themselves. Third countries' customs laboratories may also participate under certain conditions ⁶⁷. *“The principal accomplishment of CLEN is the development of a Common Quality Policy grounded in the international standard ISO 17025, alongside the standardization of methods for product analysis and sampling for customs purposes. <...> In addition, representatives of customs laboratories contribute to the formulation of policies regarding the consistent interpretation of European Union standards pertaining to product requirements”* ⁶⁸.

SLER holds the status of a specialized body for forensic examination and research in the system of territorial bodies of the State Customs Service of Ukraine. Its scope of activity is the entire territory

of Ukraine, and its testing subdivisions are located in Kyiv, Dnipro, Lviv, Odesa, Sievierodonetsk, Uzhhorod and Kharkiv. Obtaining accreditation *“will provide the Specialized Customs Laboratory for Examination and Research of the State Customs Service with the possibility of closer cooperation with forensic science institutions of the World Customs Organization, which in turn will allow for substantial improvement in the expert support to the customs of the State Customs Service”* ⁶⁹. Since July 2021, SLER and its separate testing subdivisions have been accredited by the National Accreditation Agency of Ukraine in accordance with ДСТУ EN ISO/IEC 17025:2019 ⁷⁰ (hereinafter referred to as the *Standard*), which has been in force in Ukraine since 1st January 2021, pursuant to the procedure established by the Law on Accreditation ⁷¹. *“The national standard corresponds to EN ISO/IEC 17025:2017; ISO/IEC 17025:2017 General requirements for the competence of testing and calibration laboratories”* ⁷², therefore SLER accreditation in conformity with the Standard constitutes a necessary condition for integration into international expert organizations, specifically into WMO and CLEN.

67 European Customs Laboratories / European Commission : web. URL: https://taxation-customs.ec.europa.eu/customs/customs-laboratories_en (date accessed: 10.11.2025).

68 Пунда О., Арзянцева Д. Значч. твір. С. 111. DOI: [10.37491/UNZ.72.11](https://doi.org/10.37491/UNZ.72.11) (date accessed: 06.09.2025).

69 Митна лабораторія отримала атестат про акредитацію у Національному агентстві акредитації України / Державна митна служба України : офіц. сайт. 07.07.2021. URL: <https://customs.gov.ua/news/zagalne-20/post/mitna-laboratoriia-otrimala-atestat-pro-akreditatsiiu-u-natsionalnomu-agentstvi-akreditatsiyi-ukrayini-573> (date accessed: 30.09.2025).

70 ДСТУ EN ISO/IEC 17025:2019 Загальні вимоги до компетентності випробувальних та калібрувальних лабораторій (EN ISO/IEC 17025:2017, IDT; ISO/IEC 17025:2017, IDT) : затв. наказ. ДП «УкрНДНЦ» від 23.12.2019 р. № 483 [Чинний від 01.01.2021]. Київ, 2020. 24 с. URL: https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=88724 (date accessed: 30.08.2025).

71 Про акредитацію органів ... URL: <https://zakon.rada.gov.ua/laws/show/2407-14#Text> (date accessed: 28.09.2025).

72 ДСТУ EN ISO/IEC 17025:2019. URL: https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=88724 (date accessed: 30.08.2025).

Following the Standard, SLER accreditation scope extends to testing of food and feed products, alcohol, beverages and components for their manufacture, tobacco and tobacco products, biologically active compounds, medicinal products, veterinary medicinal products, plant protection products, inorganic substances, organic and inorganic chemical products, ceramic products, metals and articles thereof, mineral fuels, oil and products thereof, paints and varnishes, perfumes and cosmetics, paper and textile products, polymer materials, forensic and engineering and technical examination, etc.⁷³

Therefore, SLER and its separate testing subdivisions are primarily responsible for conducting customs examinations. They are accredited in accordance with the Standard and are integrated into specialised international expert organizations belonging to the International Organization for Standardization. The above demonstrates that, despite significant differences in the statuses of forensic experts and customs laboratory experts—attributable to their departmental affiliations, distinct legal frameworks governing their activities, and membership in various international expert networks—both forensic expert activities and customs examinations performed by SLER and its separate subdivisions, following the entry into force of the Standard in Ukraine, are conducted in accordance with uniform international standards.

That is why customs and forensic examinations of goods moved across Ukraine's customs border are one of the cornerstones that enable customs authorities and bodies authorized to perform offi-

cial controls to effectively deliver their official mandate, and FEA subjects / IP rights holders to exercise their rights in the field of foreign economic activities, including the right to conduct customs and forensic examinations (expert studies) of goods, in particular, for the purpose of protecting their rights.

The multifaceted nature of customs-related legal relations that occur as a result of foreign economic operations and necessitate customs and forensic examinations, as well as specific features of the legal regulation of customs formalities concerning the selection of samples and specimens of goods and of operations conducted with goods for the purpose of supporting expert activities, stimulates further academic discourse on this topic.

Conclusions

According to national legislation, legal regulation principles of relations associated with carrying out customs and forensic examinations (expert studies)/ customs formalities and supporting expert activities in the field of customs affairs are stipulated in the CC of Ukraine. The primary sources governing legal regulation of customs examinations within the European Union comprise the UCC, regulations enacted by the European Parliament, and secondary legislative instruments of the EU. In cases prescribed by the national legislation, the source of legal regulation governing legal relations in the context of forensic examinations (expert studies) is also the Relevant Law. The main international standard that defines general requirements for the competence of testing

73 Перелік випробувальних лабораторій, акредитованих на відповідність вимогам ДСТУ EN ISO/IEC 17025:2019 (EN ISO/IEC 17025:2017) / Національне агентство з акредитації України : офіц. сайт. 15.08.2023. 791 с. URL: https://naau.org.ua/userfiles/files/17025-VL_15_08_2023.pdf (date accessed: 30.08.2025).

and calibration laboratories performing customs and forensic examinations is the Standard adopted in both the EU and Ukraine. Furthermore, when an expert opinion is provided on issues that are or will be the subject of litigation, the sources governing legal regulation of relations occurring in connection with the conduct of foreign trade operations are also national procedural laws (civil, commercial, administrative, criminal, etc.). The type of laws depends on the specifics of legal relations in the field of customs affairs and other factors.

Customs examinations should be regarded as research (analyses, expert examinations) of samples of goods based on specific expertise in the field of science, technology, art, crafts, etc., in order to ensure customs control and customs clearance, which are conducted by a range of subjects defined by Ukrainian customs legislation.

Legal regulations governing customs examinations in the EU and Ukraine's Customs Legislation stem from: a) the specifics of the field and particularities of legal relations, which require expert examinations to be conducted; b) the purpose of their conduct; c) the scope of expert examinations; d) the range of subjects authorized to conduct them.

Types of commodity examinations carried out due to foreign trade operations depend on: a) the type of legal relations in the field of FEAs; b) the subject – the initiator of expert examination (expert study); c) features of expert examination (expert study) objects.

The criterion for differentiating expert examinations related to foreign trade operations into customs and forensic ones is the purpose for which these expert examinations are commissioned (conducted). The goal of conducting customs examinations is to facilitate customs control and

clearance, specifically to verify or invalidate the findings of a prior expert examination conducted at the request of the declarant or an authorized representative. At the same time, the purpose of conducting forensic examinations (expert studies) involving foreign trade operations is to provide a conclusion on issues that are or will be the subject of litigation under a court decision or resolution of a pre-trial investigation authority, or under a contract with an expert or an expert institution (if an expert examination is carried out at the request of the declarant or an authorized representative).

Subjects authorized to conduct customs examinations include: 1) SLER; 2) separate testing subdivisions of SLER; 3) other expert institutions (organizations) appointed by the customs authority. Specifically, such institutions are usually forensic expert institutions operating pursuant to the Relevant Law, as well as other expert institutions accredited in the manner prescribed by law.

The primary subjects conducting customs examinations (expert studies) are departmental bodies that do not hold the legal status of forensic experts. SLER and its separate testing subdivisions are accredited by the National Accreditation Agency of Ukraine in accordance with the procedure prescribed by the Law: *On Accreditation and International Standards*. Such subjects provide expert support to customs authorities: 1) within the scope of customs control and clearance procedures; 2) when making decisions regarding binding customs information; 3) in cases of customs regulation breaches.

All forensic science institutions are authorized to conduct expert examinations in cases where such expert examinations are ordered by customs authorities for customs purposes, provided that SLER and its

separate subdivisions are unable to conduct such expert examinations (analyses, studies).

Forensic examinations (expert studies) of goods moved across the customs border within the scope of foreign trade operations (excluding cases where they are ordered by customs authorities for customs purposes) are conducted by forensic expert institutions in the manner and on the grounds determined by the Relevant Law.

Unlike experts from the SLER and its separate testing subdivisions whose status depends on their affiliation with the State Customs Service of Ukraine, forensic experts have a special status defined by the Relevant Law that guarantees their independence and the accuracy of their opinions. Introduction of ДСТУ EN ISO/IEC 17025:2019 in Ukraine in 2021 helped align forensic and customs examinations with uniform international standards and enabled the relevant institutions of the State Customs Service and Ministry of Justice of Ukraine to join specialized European expert organizations. This laid the groundwork for recognizing Ukraine's forensic and customs experts' opinions in other countries, especially in EU member states.

**Правове забезпечення
митних і судових експертиз
(експертних досліджень)
у сфері зовнішньоекономічної
діяльності
та митні формальності
за митним законодавством
Європейського Союзу й України**

Ірина Коросташова

Мета дослідження — проаналізувати правове забезпечення митних і судових експертиз (експертних досліджень) за законодавством ЄС та України і правовідносини у сфері зовнішньоекономічної діяль-

ності та митної справи, у зв'язку з якими виникає потреба у проведенні уповноваженими суб'єктами експертної діяльності митних і судових експертиз товарів та здійснення митних формальностей для забезпечення експертної діяльності. Для досягнення поставленої мети застосовано загальнонаукові та спеціально-правові методи. Проведено аналіз засад правового регулювання митних і судових експертиз (експертних досліджень) та стандартів їх здійснення за законодавствами ЄС і України. Досліджено правовідносини, що виникають у зв'язку зі здійсненням зовнішньоекономічних операцій, та розроблено їх класифікацію за низкою критеріїв. Визначено поняття «митні експертизи» і коло суб'єктів, уповноважених їх здійснювати, а також межі, у яких діють суб'єкти експертної діяльності за законодавством України та ЄС. З'ясовано, що згідно із законодавством України митні експертизи належать до митних операцій з товарами, здійснюваних у митних цілях і в межах митних процедур. Розглянуто правовідносини у сфері зовнішньоекономічної діяльності й митної справи, у зв'язку з виникненням яких експертизи (експертні дослідження) проводять судові експерти. Проведено порівняльний аналіз статусу експертів відомчої належності Держмитслужби й Мін'юсту України. Розглянуто правові гарантії незалежності та правильності висновків судових експертів. Увагу акцентовано на міжнародних стандартах, за якими судові та митні експерти здійснюють експертну діяльність, що відкриває шлях інтеграції до спеціалізованих європейських і міжнародних експертних мереж.

Ключові слова: митні експертизи (дослідження); судова експертиза (експертне дослідження); проби (зразки) товарів; митний контроль; митні процедури; митні формальності; митне законодавство; зовнішньоекономічна діяльність;

зовнішньоекономічні операції; євроінтеграція.

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The author declares no conflict of interest.

References

- Avramenko, N. L., Kulhanik, O. M. (2023). Rol mytnykh ekspertyz u zovnishnoekonomichnii diialnosti sub'iektiv pidpriemnytstva [The role of customs expertise in the foreign economic activity of business entities]. *Ekonomika ta suspilstvo*. Vyp. 57. DOI: [10.32782/2524-0072/2023-57-21](https://doi.org/10.32782/2524-0072/2023-57-21) [in Ukrainian].
- Brachuk, A. O. (2015). Mytni ekspertyzy: poniattia, kharakterystyka ta vydy [Customs Examinations: Concepts, Characterizations and Types]. *Mytna sprava*. № 3 (99) [in Ukrainian].
- Brachuk, A. O. (2017). Osoblyvosti zabezpechennia mytnoi bezpeky ta mytnykh interesiv v umovakh sproshchennia mytnykh protsedur [Features of Ensuring the Customs Security and Customs Interests in Terms of Simplification of Customs Procedures]. *Lex Portus*. № 1 (3). URL: <https://lexportus.net.ua/vipusk-1-2017/brachuk.pdf> [in Ukrainian].
- Gordhan, P. (2007). Customs in the 21st century. *World Customs Journal*. Vol. 1. No. 1. URL: https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/key-issues/customs-in-the-21st-century/customs_in_the_21st_century.pdf.
- Kachalova, T. Ye. (2020). Pravovi osnovy mizhnarodnoho spivrobotnytstva MVS ta ENFSI [Legal basis of international cooperation between the MIA and ENFSI]. *Molodyi vchenyi. Yurydychni nauky*. № 11 (87). DOI: [10.32839/2304-5809/2020-11-87-65](https://doi.org/10.32839/2304-5809/2020-11-87-65) [in Ukrainian].
- Karpenko, H. L. (2007). *Ekspertyza v mytnii spravi: orhanizatsiino-pravovyi aspekt* [Expertise in Customs Practice: Organizational and Legal Aspect] : avtoref. dys. ... kand. yuryd. nauk. Odesa. URL: <https://dspace.onua.edu.ua/server/api/core/bitstreams/686a82cc-d8fc-4fe0-87b9-4290c20824f3/content> [in Ukrainian].
- Karpenko, H. L. (2017). Orhanizatsiino-pravovyi mekhanizm mytnykh ekspertyz [The Organizational and Legal Mechanism of Customs Expert Researches]. *Lex Portus*. № 6 (8). URL: <https://dspace.onua.edu.ua/server/api/core/bitstreams/83085b3d-fedf-4cd6-9f91-87731836f659/content> [in Ukrainian].
- Khosha, V. V., Manulenko, O. V. (2009). Perspektyvy rozvytku sudovo-ekspertnykh ustanov Ministerstva yustytysii Ukrainy v aspekti vstupu do yevropeiskoi systemy ENFSI [Development Prospects for Forensic Science Institutions of the Ministry of Justice of Ukraine in the Context of Joining the ENFSI Network]. *Teoriia ta praktyka sudovoi ekspertyzy i kryminalistyky*. Vyp. 9 [in Ukrainian].
- Kipouras, P., Ovsiannykova, I. (2021). Forensic science activity in globalization context. *Theory and Practice of Forensic Science and Criminalistics*. Is. 3 (25). DOI: [10.32353/khrife.3.2021.12](https://doi.org/10.32353/khrife.3.2021.12).
- Kliuiev, O. (2022). International Scientific Standards in Forensic Science Field of Ukraine. *Theory and Practice of Forensic Science and Criminalistics*. Is. 3 (28). DOI: [10.32353/khrife.3.2022.01](https://doi.org/10.32353/khrife.3.2022.01).

- Korostashova, I. M. (2022). Osoblyvosti sudovoi ekspertyzy (ekspertnykh doslidzhen) u sferi intelektualnoi vlasnosti, pov'iazanykh z umovamy nadannia pravovoi okhorony promyslovym zrazkam, vyznachennia kryteriiv yikh okhoronozdatnosti ta obsiahu vykorystannia [Features of the forensic examination (of expert research) in the field of intellectual property are related to the terms of provision of legal protection of industrial designs, defining the criteria for their protection ability and volume of use]. *Kryminalistyka i sudova ekspertyza*. Vyp. 67. DOI: [10.33994/kndise.2022.67.65](https://doi.org/10.33994/kndise.2022.67.65) [in Ukrainian].
- Korostashova, I. M. (2023). Implementatsiia norm mytnoho zakonodavstva YeS v protsesi yevrointehratsii Ukrainy: dosvid YeS ta osoblyvosti mytnykh protsedur ta mytnykh formalnostei, spriamovanykh na zakhyst prav intelektualnoi vlasnosti u mizhnarodnii torhivli [Implementation of norms of EU customs legislation in the European integration process of Ukraine: EU experience and features customs procedures and customs formalities for the protection of intellectual property rights in international trade] / V. Borsa, V. Zaiats, S. Kapitanets, et al. *Development of Ukraine's customs policy in the context of european integration* : Scientific monograph. Riga. DOI: [10.30525/978-9934-26-278-4-5](https://doi.org/10.30525/978-9934-26-278-4-5) [in Ukrainian].
- Korostashova, I. M. (2024). Pravove zabezpechennia u mytnomu zakonodavstvi Ukrainy provedennia sudovykh ekspertyz / ekspertnykh doslidzhen u sferi zovnishnoekonomichnoi diialnosti: pytannia zastosuvannia mytnykh formalnostei ta protsedur iz zakhystu prav intelektualnoi vlasnosti y prytiahnennia do administrativnoi vidpovidalnosti za porushennia mytnykh pravyl [Legal Support for Ukraine's Customs Legislation: On Forensic Examinations and Expert Studies in Foreign Economic Activities: Issues in the Application of Customs Formalities, Intellectual Property Rights Enforcement, and Administrative Liability for Customs Breaches]. *Sudovo-ekspertna diialnist: zberezhennia naukovoho ta kadrovoho potentsialu v umovakh voiennoho stanu* : mat-ly IV Vseukr. forumu sud. ekspert. (Lviv, 07.06.2024). Odesa. URL: <https://ndekc.lviv.ua/pdf/law.pdf> [in Ukrainian].
- Korostashova, I. M. (2025). Pravovi zasady ekspertyzy tovariv u sferi zovnishnoekonomichnoi diialnosti ta mytnoi spravy za mytnym zakonodavstvom Yevropeiskoho Soiuzu [Legal Framework Governing Commodity Examination in Foreign Economic Activities and Customs Affairs under European Union Customs Legislation]. *Sudova ekspertyza: perspektyvy rozvytku ta okremi vektory zmin* : mat-ly V Vseukr. forumu sud. ekspert. (Lviv, 06.06.2025). Odesa. URL: <https://ndekc.lviv.ua/pdf/09072025.pdf> [in Ukrainian].
- Lopata, O. A. (2017). *Mizhnarodne spivrobitnytstvo ekspertnoi sluzhby MVS Ukrainy* [International cooperation of the Expert Service of the Ministry of Internal Affairs of Ukraine] : avtoref. dys. ... kand. yuryd. nauk. Kyiv. URL: <https://elar.navs.edu.ua/server/api/core/bitstreams/200b763a-9317-4e30-b4c8-56bae4fbc280/content> [in Ukrainian].
- Lopata, O. A. (2017). Yevropeiska merezha sudovo-ekspertnykh ustanov (ENFSI): perspektyvnyi napriam vzaiemodii [The European Network of Forensic Expert Institutions (ENFSI): A Promising Avenue for Cooperation]. *Aktualni problemy kryminalnogo prava, protsesu, kryminalistyky ta operatyvno-rozshukovoi diialnosti* : tezy Vseukr. nauk.-prakt. konf. (Khmelnitskyi, 03.03.2017). Khmelnytskyi. URI: <https://dspace.nadpsu.edu.ua/handle/123456789/1110> [in Ukrainian].
- Matvieievskiy, O. V., Babin, B. V. (2018). Mizhnarodno-pravovi standarty sudovoi ekspertyzy ta yikh natsionalna realizatsiia [International legal standards for the forensic examination and their national realisation]. *Prykarpatskyi yurydychnyi*

visnyk. Vyp. 1 (22). T. 4. URL: http://pjuv.nuoua.od.ua/v1-4_2018/16.pdf [in Ukrainian].

- Mytna laboratoriia otrymala atestat pro akredytatsiiu u Natsionalnomu ahentstvi akredytatsii Ukrainy* [The Customs Laboratory Successfully Secured Official Accreditation from the National Accreditation Agency of Ukraine] (2021) / *Derzhavna mytna sluzhba Ukrainy : ofits. sait*. 07.07.2021. URL: <https://customs.gov.ua/news/zagalne-20/post/mitna-laboratoriia-otrimala-atestat-pro-akredytatsiiu-u-natsionalnomu-agentstvi-akredytatsiyi-ukrayini-573> [in Ukrainian].
- Perelik vyprobuvalnykh laboratorii, akredytovanykh na vidpovidnist vymoham DSTU EN ISO/IEC 17025:2019 (EN ISO/IEC 17025:2017)* [List of testing laboratories that meet the requirements of ДСТУ EN ISO/IEC 17025:2019 (EN ISO/IEC 17025:2017)] (2023) / *Natsionalne ahentstvo z akredytatsii Ukrainy : ofits. sait*. 15.08.2023. URL: https://naau.org.ua/userfiles/files/17025-VL_15_08_2023.pdf [in Ukrainian].
- Punda, O. O., Kostyrin, P. I. (2019). Udoskonalennia normatyvno-pravovoho zabezpechennia provedennia podatkovykh ta mytnykh ekspertyz v Ukraini [Improving of legislative provisions on implementing of tax and customs expertise in Ukraine]. *Yurydychnyi naukovyi elektronnyi zhurnal*. № 5. DOI: [10.32782/2524-0374/2019-5/49](https://doi.org/10.32782/2524-0374/2019-5/49) [in Ukrainian].
- Punda, O., Arziantseva, D. (2019). Development of the System of Customs Examinations in Ukraine in the Context of Compliance with the Requirements of the European Union. *University Scientific Notes*. T. 18. No. 4 (72). DOI: [10.37491/UNZ.72.11](https://doi.org/10.37491/UNZ.72.11).
- Simakova-Yefremian, E. (2019). About the Need for Improvement of Legislation Regarding Implementation of Forensic Science Activities in Ukraine. *Theory and Practice of Forensic Science and Criminalistics*. Is. 1 (19). DOI: [10.32353/khrife.1.2019.09](https://doi.org/10.32353/khrife.1.2019.09).
- Yatsenko, I. I. (2020). Zavdannia ta pryntsyipy mizhnarodnoho spivrobotnytstva v haluzi sudovoi ekspertyzy (ohliadova stattia) [Tasks and Principles of International Cooperation in the Field of Forensic Examination (Review Article)]. *Visnyk Kharkivskoho natsionalnoho universytetu vnutrishnikh sprav*. № 3 (90). DOI: [10.32631/v.2020.3.20](https://doi.org/10.32631/v.2020.3.20) [in Ukrainian].
- Korostashova, I. (2025). Legal Support for Customs and Forensic Examinations (Expert Studies) in Foreign Economic Activities and Customs Formalities under EU and Ukraine's Customs Legislation. *Theory and Practice of Forensic Science and Criminalistics*. Issue 4 (41). Pp. 169–190. DOI: [10.32353/khrife.4.2025.10](https://doi.org/10.32353/khrife.4.2025.10).