

ADMINISTRATIVE ACTIVITIES OF CUSTOMS BODIES OF UKRAINE: CONCEPTS AND SPECIFIC FEATURES

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Abstract. The article is devoted to the consideration of questions related to the definition of the concept of administrative activity of customs authorities on the basis of scientific approaches and the identification of its specific features.

In the article, the author analyzed scientific approaches to the interpretation of the essence of the concept of «administrative activity». Based on these scientific statements, the author states that administrative activity is a sub-legal state-authority activity of executive authorities and relevant officials, aimed at detecting and stopping offenses, resolving disputes between participants in social relations, and ensuring the security of the state and society.

It is substantiated that the powers of customs authorities in the course of their administrative activities are specified in various legal norms and reveal the functions that customs authorities are called to perform due to the specifics of their activity using the forms and methods of this activity.

The author defined the concept of «administrative activity of customs authorities», as well as identified and analyzed the specific features of the administrative activity of customs authorities.

Key words: customs authorities, administrative activity, administrative activity of customs authorities, state authorities, administrative regulation.

1. Introduction. The task of customs authorities is to reduce the threats that exist in foreign economic activity. Customs authorities fight against crimes in the field of customs affairs, this is the most important part of their functions to ensure the national security of the state. Customs authorities carry out a great deal of work to detect violations in the field of economic security, during customs control they detect and stop the illegal movement of goods prohibited for import into Ukraine.

Customs legislation is aimed, without a doubt, both at supporting the economic stability of the state and at protecting sovereignty in general.

Undoubtedly, the performance of their functions by customs authorities involves, in addition to administrative, a number of other activities, for example, criminal-procedural or financial-economic. However, according to the scope and variety of tasks performed, administrative activity occupies one of the most important places in the functioning of customs authorities. Administrative activity is a type of state-authority activity of executive authorities and covers a wide range of social relations that take place both within the system of customs authorities and outside of it.

Consideration of issues of administrative activity of executive authorities is a fairly traditional topic of research conducted within the framework of the science of administrative law. At the same time, the issues of administrative activity of customs bodies, including the understanding of the essence of this concept, are among the least developed by administrative and legal science, which determines the relevance of this research topic.

The scientific and theoretical basis for writing this article was made up of the works of: D.V. Holoborodko, R.V. Grechaniuk, N.I. Didyk, L.M. Dorofeeva, S.L. Kiri, T.V. Korneva, D.V. Prymachenko, V.F. Puzyrnyi, S.G. Stetsenko, M.O. Tuchak et al.

The purpose of this article is to define, on the basis of scientific approaches, the concept of administrative activity of customs authorities and to highlight its specific features.

2. Research methodology. Scientific research uses a combination of general scientific and special

scientific methods. The formal-logical method made it possible to present information on the administrative activities of customs authorities. Using the method of analysis and synthesis, the concept of «administrative activity» and the concept of «administrative activity of customs bodies» were defined. The structural-functional method was used to highlight specific features of the administrative activity of customs authorities. The comparative-legal method combined with the systemic-structural method was used to characterize the foreign experience in detecting customs offenses and countering customs crime. The generalization method was used to formulate conclusions.

3. Results. Among the organizational mechanisms that have sufficient capabilities for the effective organization of the economic security system, customs bodies should be singled out. At the same time, such a mechanism should be implemented taking into account international standards, as well as the interests and needs of society and a specific state.

As a result of large-scale political and socio-economic transformations, the connections of the country's economy with other subjects of the world economy have significantly expanded. Moreover, it is of particular importance when it is connected with the processes of internationalization, informatization and globalization. In order to develop successfully, the country's economy must find effective ways to interact with other economies and international institutions.

Modern conditions of functioning of customs authorities provide for a high level of dynamism, which is connected, firstly, with the processes of globalization and integration in the foreign economic system, and secondly, with the need to simplify and speed up all procedures. Taking this into account, the customs authorities simply must constantly develop as a state institution to solve the tasks and perform the functions entrusted to them.

During the implementation of his tasks and functions, as noted by M.O. Tuchak, customs authorities are actively using means and methods of influence on social relations in various forms and methods in order to regulate them. Among this set of means, the researcher

singles out administrative and legal means, as they are defined in the legal literature. The practical implementation of administrative and legal means is carried out within the scope of the activity, which was called administrative [1, p. 9].

The purpose of executive and administrative activities of customs bodies is to provide a certain regulatory influence on the behavior of bodies, organizations and individuals. It manifests itself in the adoption by the customs authorities of relevant law-enforcement acts, and also consists in the implementation of the requirements and prescriptions of the current customs legislation in the form of various organizational forms and methods, in other words, it consists in the everyday practical organization and implementation of customs affairs by the customs authorities: ensuring compliance with customs measures tariff regulation, as well as prohibitions and restrictions on the import of goods to Ukraine and the export of goods from Ukraine. Of course, it is executive activity that constitutes the main content of the activities of customs bodies in general, and customs bodies themselves, including practical activities, act as administrative and executive bodies.

Performing the functions assigned to them, customs authorities as bodies of the executive power enter into various legal relations, including administrative ones, i.e. such public relations that arise in the sphere of public administration and are regulated by the norms of administrative law.

So, on the one hand, as noted by N.I. Didyk, the administrative activity of customs bodies includes law-making and individual administrative activities aimed at the positive regulation of social relations in the customs and legal sphere in accordance with the norms of laws and other normative acts. On the other hand, the administrative activity of customs authorities is aimed at preventing violations of customs rules, their detection and termination, and ensuring the security of the state and society. That is, in this sense, the administrative activity of customs authorities is actually one of the main directions of ensuring the protection of the economic interests of Ukraine, preventing and stopping illegal actions, applying to offenders measures of administrative and procedural support and administrative fines, creating favorable conditions for the development of its economy, protecting rights and interests of citizens and business entities [2, p. 2-3].

The duality of its nature lies in the existence of these two sides of the administrative activity of the customs authorities: while carrying out management in the customs and legal sphere, the customs authorities must at the same time, and perhaps above all, ensure compliance with the regime of legality and law and order in it.

Within the framework of this issue, we consider it appropriate to analyze the meaning of the concept of «administrative activity».

Thus, administrative activity is a type of legal activity carried out by specialized entities taking into account the norms of administrative law. The specificity of subjects of administrative activity is that the

implementation of administrative powers, which is associated with the implementation of such activity, constitutes a significant volume of activities of national security bodies. The analysis of the Ukrainian legislation shows that these national security bodies are, to one degree or another, endowed with administrative powers, which are used to solve the assigned tasks.

It is worth noting that in scientific works, the majority of researchers equate the concept of administrative activity with public administration.

Yes, D.V. Prymachenko notes that «administrative activity is a type of state-authority activity of executive authorities and covers a wide range of social relations that take place both within the system of state authorities and outside of it» [3, p. 189].

A similar statement is supported by D.V. Holoborodko, who in his research expresses the opinion that «administrative activity is public administration in a narrow sense, that is, the activity of executive power bodies, executive and administrative bodies of the state regarding the exercise of executive power at its various levels. Such an understanding of administrative activity takes into account only its administrative nature, and therefore not in full, and most importantly, does not accurately reflect the purpose of this type of activity» [4, p. 48].

Individual scientists refute the identification of administrative activity with state administration by defining common and distinctive features of state administration and state executive power, distinguishing areas of activity that are carried out outside the scope of the activities of executive authorities. Summarizing, S.G. Stetsenko notes that public administration is a broader category than the executive power, since the executive power is a derivative of the public administration, and the effectiveness of its activity depends on the level of organization of the public administration. Along with the fact that public administration can be implemented within the scope of the activities of not only executive authorities, executive power can also be implemented outside of public administration [5, p. 59].

Administrative activity in state administration, as noted by S.L. Kiri, is similar to operational management in the commercial sector with its inherent features. The difference lies only in the purpose of the activity and the methods of achieving it. Being a type of management activity, administrative activity is aimed at organizing various processes and managing them [6, p. 59-67].

Summarizing various theoretical developments, V.F. Puzyrnyi notes that «the main purpose of administrative activity as a characteristic of state administration is the intra-administrative provision of the fulfillment of defined state tasks and strategic priorities of the relevant entity. Its effectiveness (due to successful operational models, management decisions, administrative methods) can improve the quality of the state strategy itself in a certain area, sometimes hiding its shortcomings» [7, p. 42].

One can agree with this statement, but it should be noted that the system of management, as well as derivative and related procedures, necessary for high-quality and

competence, aimed at the implementation of functions, achievement of goals and objectives public administration in a certain area is administrative activity.

Administrative activity, as noted by R.V. Grechaniuk, characterizes the system of management, as well as derivative and related procedures, which are necessary for high-quality and effective intra-organizational organization of personnel management processes, endowed with authority and competence, aimed at the implementation of functions, achievement of the goals and objectives of public administration in a certain area [8, p. 178].

Within the framework of the issue under consideration, the most acceptable, in our opinion, is the following definition: administrative activity is a sub-legal state-authority activity of executive power bodies and relevant officials, aimed at detecting and stopping offenses, resolving disputes between participants in social relations, to ensure the security of the state and society. This definition includes not only signs of activity, but also its target orientation – the protection of social relations in a certain area.

In relation to customs authorities, it is worth noting that today there are different considerations regarding the interpretation of the essence of the concept «administrative activity of customs authorities».

In his research, D.V. Pryimachenko defines the administrative activity of customs authorities regarding the implementation of customs policy as that which is regulated in general by the norms of administrative law and which is sub-legal, purposeful, state-powerful, executive-administrative, concerns the practical implementation of measures for the implementation of customs policy and the organization and functioning of customs authorities [9, p. 32].

A similar approach is supported by N.I. Didyk, who notes that the administrative activity of customs bodies is generally regulated by the norms of administrative law, sub-legal, state-authority, purposeful, executive-administrative activity related to the practical implementation of measures aimed at the direct implementation of the state's customs policy, and the organization and functioning of the system of customs authorities [2, c. 4].

The customs authorities of Ukraine act as the main subject of the implementation of the customs policy of the state, which is directly confirmed by the normative consolidation of such a status.

It is worth noting that D.V. Pryimachenko singles out such components of the administrative activity of customs bodies as: norm-making (called sub-legal regulatory regulation and reflects competence on the issues of development and adoption of sub-legal normative acts) and individual regulation (reflects competence related to the development and adoption of individual acts, the execution of legally significant actions). That is, the researcher emphasizes the existence of two sides of the administrative activity of customs authorities, which expresses its dual nature – managerial and, at the same time, aimed at ensuring compliance with the regime

of legality and law and order [9, p. 19-20].

Without objecting in principle to such an approach to the dual legal nature of the administrative activity of customs authorities, we can talk about two types of administrative activity – managerial and law enforcement.

A similar approach is supported by L.M. Dorofeeva and T.V. Kornev, who note in their work that the administrative and legal activity carried out by customs authorities is characterized by a combination of two main components: law enforcement and organizational. Law enforcement activity, in turn, when opening an administrative proceeding regarding the behavior of a subject of foreign economic activity (lawful or illegal), depends on the establishment of factual circumstances. In the event of misconduct, customs authorities act as jurisdictional bodies, implementing the law enforcement function of issuing a legal decision on the application of a sanction for violation of customs rules [10, p. 249].

Thus, the main areas of administrative activity of customs authorities are:

- intra-organizational activity, which consists in the selection and placement of personnel, moving them through the service, implementation of material and technical measures to create optimal conditions for the organization of this activity;
- preventive activity, which consists in the implementation of measures aimed at the prevention, detection, termination, disclosure of crimes and administrative offenses, as well as the provision of mutual administrative assistance in the implementation of these measures and measures in the field of customs affairs;
- law enforcement activity, which consists in carrying out administrative proceedings in cases of violation of customs legislation, providing mutual administrative assistance in the implementation of procedural actions;
- regulatory activity, consisting in the development and implementation of measures aimed at improving legal regulation in the field of customs affairs;
- ensuring the safety of the person, society and the state within the limits of competence established by the current legislation;
- international cooperation, including interaction and information exchange with other law enforcement agencies.

4. Conclusion. Therefore, under the administrative activity of customs bodies, it is proposed to understand the sub-legal state-authority activity, which is carried out within the limits of the competence provided by law, which consists in the practical implementation of administrative powers in order to solve the joint tasks of state administration in maintaining the state of protection of the individual, society and the state, in order to ensure the national security of Ukraine, as well as special tasks related to the fight against crimes and administrative offenses.

Analysis of the definition of this term makes it possible to highlight the signs of the administrative activity of customs authorities.

The specific features of the activity of customs bodies as an administrative activity include the following: state-authority character; organizational character; subordination and control in the process of its implementation to relevant state bodies of executive power; combination of elements of centralized management with operational (direct) management; preventive focus; legality; administrative and jurisdictional activity.

The state-authority nature of the activities of customs bodies is manifested in the implementation by these bodies of the administrative and legal powers entrusted to them on behalf of the state within the framework of competence strictly defined by law. Officials of customs bodies, performing administrative functions, act as subjects of management (representatives of the authorities), empowered to issue mandatory instructions, and in necessary cases to take measures of coercive influence. Therefore, in relation to objects of management, the executive activity of customs authorities is at the same time an administrative one. In administrative powers, the power characteristic of administrative activity is manifested.

The subordination and control of the administrative activities of the customs authorities to the relevant state authorities increases the quality and efficiency of the implementation of their powers by the customs authorities, strengthens their responsibility for non-fulfillment or improper fulfillment of their duties. On the other hand, state authorities and local self-government bodies must create conditions for the proper functioning of customs authorities, and they are also obliged to assist customs authorities in the performance of their tasks and functions. The subordination and controllability of the activities of customs authorities to the relevant state authorities increases the role of these authorities in the organization of combating customs offenses, contributes to the coordination of the activities of customs authorities with other law enforcement agencies that participate in ensuring the national security of Ukraine, and strengthens the responsibility of officials of customs authorities for the fulfillment of their duties tasks, ensure the effectiveness of monitoring their work.

The organizational essence of the activity of customs authorities is that in the process of its implementation, the joint purposeful activity of individuals is organized to solve tasks in the field of customs affairs, ensuring national security. Organizational activity of customs authorities is implemented by implementing the following management decisions: setting goals and objectives for the implementation of planned plans; organization of interaction both within the system of customs authorities and outside it; improvement of the regulatory framework in accordance with international standards; exchange of information with state authorities (using information resources), etc.

The administrative activity of customs authorities is characterized by a rational combination of centralized management with direct (operational) management. Centralized management is reflected through the definition of priority areas of activity, establishment of general rules, regulations, etc.

Direct (operational) management is characterized by the existence of direct connections between superior customs authorities and their subordinate authorities.

The preventive activity of customs authorities is currently gaining more and more importance, its volume is steadily increasing, the forms and methods of implementation and legal regulation are being improved. Of particular importance is the determination of the specific goals facing the customs authorities in preventive activities, taking into account that they must necessarily collect information, implement preventive measures, and in some cases control the completeness and quality of the implementation of preventive activities in the customs sphere by other entities objects. In this aspect, it turns out that the purpose of the customs authorities is as follows: to establish the reasons and conditions that contributed to the commission of offenses; in identifying deficiencies in the activities of entities that are part of the national system of prevention and offenses; in clarifying shortcomings in the activities of subjects where criminogenic circumstances arose; in the development of measures aimed at eliminating both the causes and conditions of committing offenses, as well as shortcomings in the activities of the subjects of the preventive system and the objects of their preventive influence. Knowledge of the goals listed above provides an opportunity to clearly determine in which ways, using which means, customs authorities can achieve them. In this regard, it is very important to establish how, in what forms, with the help of which specific means, customs authorities can effectively achieve them. Along with the implementation by the customs authorities of their preventive functions and powers, it is very important for them to take into account the capabilities of other prevention subjects, whose potential can be used for the purpose of gathering information, for carrying out various types of assignments, conducting various inspections, surveys, etc. The resolution of legal, organizational, methodical, informational, personnel and other issues of preventive activities of customs bodies is also very relevant.

The legality of the activity of customs authorities in general and administrative activity in particular means that the law determines its direction and the main means of achieving the goals. The legality of the activities of the customs authorities is of great importance also due to the fact that in this activity, first of all, the prescriptions of the law are fulfilled. The norms of the law are applied by customs authorities in connection with specific life situations and circumstances. At the same time, customs authorities (their officials) can issue direct orders (for example, issue an order to encourage an employee) or take actions, the content of which is the implementation of direct orders of the law (for example, termination of an offense). The sphere of customs administration is large, it has many areas of insufficient or ineffective legal regulation, which leaves a considerable field for administrative discretion. Adoption of conceptual documents requires in-depth and clear regulation in legal acts, which constitute a set of elements of the system of legal regulation of the administrative jurisdiction of customs authorities. Of course, the improvement of the administrative-jurisdictional

activity of the customs bodies should be carried out in the form of the construction of a simplified typology of the structure of the legal system of the administrative jurisdiction of the customs bodies. Such a goal will allow to achieve the expected effect of reducing the number of departmental normative legal acts in the sphere of administrative jurisdiction of customs authorities.

The customs authorities of Ukraine, within the framework of the national customs legislation, are empowered to carry out administrative and jurisdictional activities necessary to ensure the proper performance of the functions entrusted to them. Administrative-jurisdictional activities of customs bodies are the actions of executive bodies regarding the resolution of disputes; implementation in the administrative-procedural form of proceedings in cases of administrative offenses, disciplinary offenses, proceedings on complaints and appeals of citizens when

applying various forms of control over compliance with the customs legislation of Ukraine in the field of customs affairs, consideration and decision-making regarding the specified categories of cases.

Given Ukraine's interest in strengthening international cooperation, there are trends in the development of a legal framework that establishes the competences of customs authorities.

Thus, in order to implement the tasks assigned to them, the customs authorities of Ukraine have the appropriate rights. The powers of customs authorities in the process of carrying out their administrative activities are specified in various legal norms and reveal the functions that customs authorities are called to perform due to the specifics of their activity, using the forms and methods of this activity.

REFERENCE:

1. Tuchak M.O. (2002). Administrative and legal principles of the activity of district inspectors: dis... Cand. law sciences: spec. 12.00.07 «Administrative law and process; financial law; information law». Kharkiv. 209 p.
2. Didyk N.I. (2009). About approaches to determining the main features of the administrative activity of the customs authorities of Ukraine. Scientific Bulletin of the Lviv State University of Internal Affairs. No. 1. P. 1-9.
3. Priymachenko D.V. (2007). Administrative activity of customs authorities in the sphere of implementation of the customs policy of the state: diss. ... d. law Sciences: spec. 12.00.07 «Administrative law and process; financial law; information law». National Academy of the State Tax Service of Ukraine. Irpin. 477 p.
4. Holoborodko D.V. (2009). Administrative activity of internal affairs bodies in combating illegal migration: dissertation. ... candidate law Sciences: spec. 12.00.07 «Administrative law and process; financial law; information law». Dnipropetrovsk State University of Internal Affairs. Dnipropetrovsk. 221 p.
5. Stetsenko S.G. (2011). Administrative law of Ukraine: [study. manual]. view. 3rd, revised and supplemented. K.: Attica. 624 p.
6. Kiriy S.L. (2009). Administrative activity as a structural and functional component of state administration. State administration and local self-government: a collection of scientific works. Dnipropetrovsk: DRIDU NADU. Issue 1 (1). WITH. 59-67.
7. Buzyrnyi V.F. (2015). Administrative activity of institutions and bodies for execution of punishments: monograph. Kyiv: ArtEk Publishing House. 378 p.
8. Grechaniuk R.V. Administrative activity: general conceptual aspects of understanding. Law and society. 2019. No. 4. P. 173-179.
9. Priymachenko D.V. (2007). Administrative activity of customs authorities in the sphere of implementation of the customs policy of the state: autoref. thesis ... Doctor of Law 12.00.07 «Administrative law and process; financial law; information law». National Academy of the DPS of Ukraine. Irpin. 41 p.
10. Dorofeeva L.M., Korneva T.V. (2022). Administrative and legal activities of the State Customs Service in the conditions of war and prospects for European integration. Analytical and comparative jurisprudence. No. 5. P. 245-250.