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Adrián Popovič*, Soňa Simić**

# REFLECTIONS ON SLOVAK CUSTOMS LEGISLATION FROM THE PERSPECTIVE OF THE EU CUSTOMS UNION[1]

## Abstract

The customs law system within the EU Customs Union is characterized by the coexistence of EU law and national legislation respecting the primacy of EU law. The above-mentioned basic premise led the authors to a deeper reflection on the significance of Slovak customs legislation. In this context, the scientific publication first emphasizes the basic starting points of the legal regulation of the EU customs area in general, such as the exclusive competences of the EU in the customs area and in the common commercial policy and the legal basis of the EU customs union directly in primary law. Subsequently, the authors provide a comparative and historical

* The author is researcher at the Department of Financial Law, Tax Law and Economy, Faculty of Law, Pavol Jozef Šafárik University in Košice, Slovak Republic. The author focuses mainly on the area of procedural tax law, financial law and the European Union budget. He is co-author of 5 scientific monographs and author (or co-author) of more than 40 scientific publications.
Contact email: adrian.popovic@upjs.sk. ORCID: 0000-0003-0676-7168

** The author is researcher at the Department of Financial Law, Tax Law and Economy, Faculty of Law, Pavol Jozef Šafárik University in Košice, Slovak Republic. The author deals mainly with the issue of taxation of new business models, especially digital platforms and digital services. She is author of 1 scientific monograph and co-author of more than 15 scientific publications.
Contact email: sona.simic@upjs.sk. ORCID: 0009-0001-4194-7319.

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view of the Slovak legal regulation of customs law in the period before and after the accession of the Slovak Republic to the EU. In conclusion, the authors summarize the basic impacts of the existence of the EU customs union on Slovak legislation in a positive and negative sense.

**Key words:** customs union, EU law, customs regulations, customs authorities

**JEL Classification:** K33, K32

## 1. Introduction

Customs law is generally an important legal system of each state or an economic grouping of states forming a customs union which significantly affects the area of international trade. It can be said that by implementing customs-legal relations, the state can not only regulate the behavior of people in its internal market but also influence and direct the flow of goods according to their type and quantity. An equally important aspect and significance of customs law is the receipt of monetary payments in the form of customs duties or other public monetary payments. One of the basic instruments of protectionism is the imposition of duties or charges with equivalent effects, which make foreign products more expensive than domestic equivalents. [Craig, de Búrca 2020: 673] In general, a customs union is considered the second level of economic integration of states, following the level of integration formed by a free trade zone. Unlike a customs union, a free trade zone is not characterized by the application of a common customs tariff and a common commercial policy towards third countries but includes „only" the free circulation of goods within a group of states without internal duties and quantitative restrictions on goods. The individual levels of economic integration are primarily the subject of interest of international trade law, and this is a relatively large phenomenon. The Customs Union of the European Union (hereinafter referred to as the **"EU"**) is one of sixteen world customs unions[2].

[2] Other customs unions are: Andean Community (CAN), Caribbean Community (CARICOM), Central American Common Market (CACM), East African Community (EAC), Economic and Monetary Community of Central Africa (CEMAC), Eurasian Customs Union (EACU), European Union Customs Union (EUCU), EU-Andorra Customs Union, EU-San Marino Customs Union, EU-Türkiye Customs Union, Gulf Cooperation Council (GCC), Israel-Palestinian Authority, Southern Common Market (MERCOSUR), Southern African Customs Union (SACU), Switzerland-Liechtenstein (CH-FL), West African Economic and Monetary Union (WAEMU). See: https://trade.ec.europa.eu/access-to-markets/en/content/customs-unions.

The EU Customs Union was established on 1 July 1968, initially between six Member States of the European Economic Community (hereinafter referred to as the **"EEC"**). The Slovak Republic, together with ten other Member States, became a member of the EU Customs Union upon its accession to the EU, i.e. in 2004. The legal basis for the EU Customs Union was originally the *Treaty establishing the European Economic Community* (hereinafter referred to as the **"EEC Treaty"**), specifically Article 12 of the EEC Treaty[3].

Currently, the legal basis for the EU customs union is Title II of Part Three of the *Treaty on the Functioning of the European Union* (hereinafter referred to as **"TFEU"**), entitled *"Free movement of goods"*. The customs union is dealt with in Article 28 TFEU[4], which, together with other articles of the TFEU, creates its basic legal framework. However, the legal regulation of the customs area is subsequently regulated in detail in sources of secondary law, mainly in the form of regulations.

The aim of this contribution is to reflect on and assess the position and importance of customs law in the legal system of the Slovak Republic precisely in the context of the existence of the EU customs union and European legislation in the area of customs. The partial aim of this contribution is to define the basic legal frameworks of the EU customs union with regard to EU law, to characterize the customs union in its basic characteristics and subsequently to assess what areas the member states have or can regulate, using the example of the Slovak legislation. In this context, the authors will assess the hypothesis: Slovak customs legislation performs an implementation function with respect to EU customs legislation. To answer the question posed in the hypothesis, the authors will use various methods of writing academic papers, in particular analysis, synthesis, comparison, historical method and others.

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[3] Under Article 12 of the EEC Treaty, the following applied: *"Member States shall refrain from introducing, as between themselves, any new customs duties on importation or exportation or charges with equivalent effect and from increasing such duties or charges as they apply in their commercial relations with each other."*

[4] In this context, the authors point to Article 28 (1) TFEU which states: *"The Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries."*

## 2. About the EU Customs Union in general – its legal regulation and essence

In the area of the customs union, the Member States have transferred **exclusive competence**[5] to the EU under Article 3 (1) (a) TFEU. In terms of the basic system of EU competences, the EU's exclusive competence in the area of the customs union means that only the EU can legislate and adopt legally binding acts in this area, and the Member States can do so only in two cases, namely:

- if authorized to do so by the EU or
- to implement EU acts[6].

The interpretative work of the Court of Justice of the EU (hereinafter referred to as **"CJEU"**) shows that the EU has exclusive competences in those areas where unilateral actions by Member States could lead to inconsistencies with EU measures or to inconsistencies with negative effects in other areas of EU law. In the first decades of the establishment of the customs union, the CJEU stated in a related case concerning the common commercial policy, namely in the case of **Avic 1/75**, that **commercial policy is in fact formed by a combination and interaction of internal and external measures without giving priority to one over the other and that this policy is conceived in the context of the functioning of the common market to protect the common interests of the Community, within which the specific interests of the Member States must seek to be reconciled**.

The EU customs union is inextricably linked to the area of the **common commercial policy**. It can be stated that the common commercial policy is essentially a manifestation of the existence of the customs union externally in relation to third countries, while also falling within the areas of exclusive competence of the EU. Another fundamental manifestation of the existence of the EU customs union externally is the application of the **common customs tariff**.

As mentioned above, the customs union has its legal basis directly in EU primary law and the fundamental issues concerning EU customs law arise from the provisions of the TFEU which grant direct effect. A significant judgment

[5] According to Article 3 (1) (a) TFEU, the following applies: *"The Union shall have exclusive competence in the following areas: customs union."*

[6] For more details, see Article 2 (1) TFEU.

of the CJEU known as **Van Gend & Loos**[7], by which the CJEU even named the principle of direct effect of Community law, concerned the customs area, namely the application of Article 12 of the EEC Treaty. This judgment dealt with an increase in the rate of import duty by the Dutch national tax administration on goods originating in Germany. The Court of Justice clearly formulated the following starting points in relation to Article 12 of the EEC Treaty:

- The wording of Article 12 expresses a clear and unconditional prohibition, which does not constitute an obligation to act, but an obligation to refrain from acting;
- Furthermore, this obligation does not contain any exception for States, whereby its implementation would be subject to the adoption of a national legal act;
- This prohibition is, by its very nature, perfectly suited to producing direct effects in legal relations between Member States and persons subject to their jurisdiction;
- The implementation of Article 12 does not require any intervention by the national legislature;
- The fact that this article designates Member States as the bearers of the obligation to refrain from acting does not mean that their nationals cannot benefit from that obligation.

By the judgment of the CJEU, Article 12 of the EEC Treaty produces direct effects and confers on individuals' individual rights which national courts must protect.

It follows from EU customs law and the relevant provisions of the TFEU (in particular Article 30 et seq. of the TFEU) that the EU customs union is determined mainly by the following features:

1. It applies to all trade in goods (which represents the substantive definition of the EU customs union);
2. It includes an absolute prohibition of customs duties on imports and exports of goods between Member States, as well as the prohibition of all charges having equivalent effect to customs duties (application of the customs union to the EU internal market);

[7] N. V. Algemene Transport-en Expeditie Onderneming Van Gend en Loos v. Netherlands Fiscal Administration (CJEU, 26/62).

3. In relation to third countries, it is manifested by the application of the Common Customs Tariff, which is defined by *Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff*; and, in addition to the above
4. It includes the prohibition of quantitative restrictions (quotas) and all measures having equivalent effect between Member States, with the possibility of Member States providing for exceptions to protect so-called *non-commercial interests*[8].

The customs union is inextricably linked to one of the fundamental freedoms applied in the internal market, namely **the free movement of goods**. It is necessary to realize that the EU customs union is important both in intra-community trade in goods between Member States (points 1 and 2 of the characteristics), as well as in trade in goods in relation to third countries, where it is intended to guarantee in particular the same approach of all Member States when importing goods from third countries at the so-called customs border (point 3 of the characteristics).

The concept of origin of goods is also relevant in this context, with the precise rules for determining the origin of goods being contained in the **Union Customs Code**, i.e. in *Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast)* (hereinafter referred to as the **"Union Customs Code"**). On the basis of the origin of goods, we distinguish between products originating in the Member States and products coming from third countries which, however, enjoy the benefits of the internal market after being released for free circulation. However, the import formalities must be fulfilled and the duties due and levied in the Member State concerned must be paid (Article 29 TFEU[9]).

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[8] The calculation of so-called non-commercial interests is provided for in Article 36 TFEU, according to which: *"The provisions of Articles 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.*

[9] According to Article 29 TFEU: *"Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges."*

The EU customs union can thus be defined as creating an area for trade without (administrative) borders, in which barriers such as customs duties and charges having equivalent effect, quantitative restrictions (quotas) and measures having equivalent effect are eliminated, both in terms of imports and exports, and in which a common customs tariff applies in relation to third countries.

In addition to these basic characteristics of the EU customs union, some authors also point to its so-called **wider fiscal context** resulting from the understanding of the EU customs union as an area in which the free movement of goods between Member States is guaranteed. In this wider fiscal context, the EU customs union also includes the **prohibition of national discriminatory taxation** laid down in Article 110 TFEU[10]. This prohibition means that Member States may not tax products from other Member States with any tax in excess of that imposed on domestic products. [Syllová et al. 2010: 268] The Court of Justice has clarified the differences between the prohibition of charges having equivalent effect to customs duties and the prohibition of discriminatory taxation as follows:

- A charge having equivalent effect to a customs duty is any unilaterally imposed pecuniary obligation, even if insignificant, which, regardless of its description and method of payment, affects goods **by reason of the fact that these goods cross a border**, although it is not a customs duty in the strict sense of the word (Article 30 TFEU);
- on the other hand, the prohibition of discriminatory national taxation (Article 110 TFEU) applies to a pecuniary obligation resulting from the general system of national taxation which is applied systematically, according to the same objective criteria, to categories of products, **regardless of their origin or destination** (Judgment of the CJEU of 1 March 2018 in Case C-76/17; ECLI:EU:C:2018:139 in SC Petrotel-Lukoil SA and Maria Magdalena Georgescu v Ministerul Economiei and Others).

[10] According to Article 110 TFEU: *"No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products. Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products."*

## 3. Historical view of Slovak customs legislation

From the point of view of the internal organization of the system of legal norms in the legal system of the Slovak Republic and the relationship of customs law to other national legal branches, customs law is traditionally understood as a **sub-branch of financial law** [Babčák, Cakoci, Štrkolec 2017: 298]. The above follows mainly from the subject of financial and legal regulation of customs and legal norms and at the same time from the budgetary designation and fiscal significance of customs. However, the position, significance and form of customs law in the legal system of the Slovak Republic are largely determined by the creation and existence of the EU customs union, or in general terms, the very membership of the Slovak Republic in the EU. From this point of view, we consider it necessary to examine the relationship between customs law of the Slovak Republic and customs law of the EU on a scientific basis with an emphasis on legislative aspects, while the above can be implemented mainly by applying the comparative method and the historical method.

Historically, in the period before the Slovak Republic's accession to the EU, customs issues were regulated by Act No. 238/2001 Coll., the Customs Act (hereinafter referred to as the **"Customs Act of 2001"** or also the **"previous Customs Act"**). The process of harmonization of Slovak customs legislation and the adoption of the *acquis communautaire* concerning the free movement of goods and the customs union took place gradually over several years before the Slovak Republic's accession to the EU. The Slovak Republic's efforts to gradually adopt the *acquis communautaire* in the area of the free movement of goods were discussed in the opinion of the European Commission as early as 1997, and subsequently the European Commission's report of November 2001 even noted significant progress in relation to the customs union. The result of these implementation processes was, among other things, the adoption of Act No. 199/2004 Coll. The Customs Act, as amended (hereinafter referred to as the **"Customs Act"**), which was approved by the legislature on 10.03.2004, subsequently promulgated on 15.04.2004, and its provisions first entered into force on 01.05.2004, i.e. on the same day as the accession of the Slovak Republic to the EU.

### 3.1. Customs Act of 2001

From the perspective of the scope of the Customs Act of 2001 (its provisions were divided into up to 461 sections), it can be observed that the Customs Act of 2001 **regulated a much broader range of issues** compared to the current customs legislation. The introductory provisions, as is usual, regulated the definition of basic concepts for the purposes of this Act, defined the customs territory and regulated the basic framework of customs supervision and customs control. The second part of the Customs Act of 2001 primarily defined customs duty as a **protective measure in the form of a mandatory payment collected by the state under Customs Act of 2001 or under a special regulation** (for example, Act No. 59/1997 Coll. on protection against dumping in the import of goods) **from imported goods or from exported goods** (Section 15 (1) of the Customs Act of 2001). Such legal definitions of customs duty should be perceived rather as a peculiarity of customs legislation. It is necessary to emphasize here that today we do not encounter a direct definition of customs duties in customs regulations and the definition of customs duties as mandatory monetary payment is left to the field of financial law. Similarly, there is no legal definition of customs duties in EU law. The Union Customs Code, within the framework of the definition of basic concepts, explicitly distinguishes between import duties and export duties, which overlaps with the doctrinal classification of customs duties in terms of the direction of movement of goods [Babčák, Cakoci, Štrkolec 2022: 297–298], but does not provide its conceptual definition. In the field of legal science, customs duties are constantly perceived as a public monetary payment, or rather. a payment collected by the state when goods cross the state, or in the context of the customs union, across the customs border. In contrast to the conceptual definition, the categorization and precise classification of customs duties in the structure of mandatory public payments (especially taxes and fees, etc.) is not entirely uniform. For the sake of completeness, a comparative view of the perception of customs duties not as an "independent" type of public payment, but as a certain tax that is levied in connection with the import or export of goods and whose collection essentially results in the taxation of international trade, can also be presented. A similar perception of customs duties can be observed, for example, in Czech customs doctrine, which tends to the opinion that customs duties fulfill the conceptual characteristics of a tax, with the fact that its

special feature is precisely the connection of its collection to the passage of goods across the customs border [Karfíková et al. 2018: 154].

In connection with the above, the Customs Act of 2001 further defined the basic types of duties as countervailing duties, retaliatory duties, additional or increased duties and anti-dumping duties. At the same time, selected basic requirements of the customs-legal relationship between the state and the person liable to pay duties were adjusted, namely:

- The subject of the duty (goods subject to duty) and related issues related to the origin of the goods;
- Customs rates and the customs tariff – it is important that the customs tariff was determined by the Government of the Slovak Republic by regulation;
- The customs value of the goods for the purposes of applying customs rates and the method of determining this value.

Other parts of the Customs Act of 2001 regulated in detail the restrictions applicable to goods transported to the customs territory and the procedural aspects of this issue. In particular, customs procedures, customs regimes within the framework of customs-approved treatment, customs debt and liability for violation of customs regulations were regulated.

### 3.2. Legal regulation of customs law in the legal system of the Slovak Republic after the accession of the Slovak Republic to the EU – Customs Act of 2004

With the accession of the Slovak Republic to the EU, the basic customs legislation directly applicable and binding on the territory of the Slovak Republic became the customs legislation of the EU, in particular the above-mentioned provisions of the Treaties and the relevant legal acts of secondary EU law. This meant that, at the time of the accession of the Slovak Republic to the EU, *Council Regulation (EEC) No 2913/92 establishing the Community Customs Code* was in force. Currently, the key customs legislation is *Regulation (EU) No. 952/2013 of the European Parliament and of the Council of 9 October 2013 establishing the Union Customs Code (recast)*. The Union Customs Code, under the term customs legislation, means a set of legal regulations consisting of all of the following legal regulations:

a) The Code and the provisions supplementing or implementing the Code adopted at Union or national level;

b) The Common Customs Tariff;
c) The legislation establishing a Union system of reliefs from customs duties;
d) International agreements containing customs provisions, in so far as they are applicable in the Union (Article 5 (2) of the Union Customs Code).

On the other hand, EU law also leaves some room for national legislation. As the Slovak Customs Act of 2004 declares directly in § 1 of this Act, the subject of its regulation is the rules and procedures for handling goods, which primarily **ensure the application of measures resulting from EU law**. The explanatory memorandum to the Customs Act of 2004 further clarifies the context of the interaction of EU law and Slovak legislation, as it is supposed to be the result of the interaction of the concept of protectionism and the concept of comparative advantage in international trade. In addition to customs duties and other payments with the same effect, the main measures are also tariff quotas, various prohibitions and restrictions, customs formalities or licenses. Consequently, it can be stated, as the explanatory memorandum also emphasizes, that Slovak national legislation fulfills the so-called **"supplementary function"** to the customs regulations of EU law. The above can be identified with the fact that the priority function of Slovak customs legislation is the **executive function** in relation to EU customs law.

In addition to issues regulated by EU law, this system also leaves room for Member States to regulate some specific issues in this area that are not regulated by directly applicable EU customs legislation and whose regulation is explicitly left to the Member States in EU customs legislation.

**These are mainly two areas of questions:**

1. The first area of issue that is left to national law is the **organizational structure of customs authorities**. In this area, the EU respects the traditions and systems applied by the Member States. This follows directly from Article 5 (1) of the Union Customs Code, which defines customs authorities as the *customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation*. The main task of customs authorities in general is to ensure the correct application of customs legislation. The tasks of customs authorities are further described in Article 3 of the Union Customs Code, according

to which customs authorities are primarily responsible for supervising the EU's international trade, thereby contributing to fair and open trade, the implementation of the external aspects of the internal market, the common commercial policy and other common EU policies with an impact on trade, as well as to the overall security of the supply chain. Customs authorities shall implement measures aimed in particular at:

a. protecting the financial interests of the Union and its Member States;
b. protecting the Union against unfair and illegal trade while supporting legitimate commercial activity;
c. ensuring the security and safety of the Union and its citizens, as well as the protection of the environment, where appropriate, in close cooperation with other authorities; and
d. maintaining an appropriate balance between customs controls and the facilitation of legitimate trade.

The European Commission constantly emphasizes, from an institutional perspective and in terms of the application of customs regulations at customs borders, that a customs union is only as strong as its weakest link.

The system of customs authorities under the legal system of the Slovak Republic is regulated with effect from 1 July 2019 by *Act No. 35/2019 Coll. on financial administration and on amendments and supplements to certain acts, as amended*. In the legal system of the Slovak Republic, we distinguish between state administration authorities in the area of taxes, fees and customs, which are:

- Ministry of Finance of the Slovak Republic;
- Financial Directorate of the Slovak Republic;
- Tax Offices and Customs Offices and
- Criminal Office of Financial Administration.

The Ministry of Finance of the Slovak Republic has the status of the central body of state administration. Other bodies, i.e. the Financial Directorate of the Slovak Republic, tax offices, customs offices and the Criminal Office of Financial Administration, are bodies of financial administration and form the financial administration.

2. The second set of issues that are subject to regulation by national law are **issues related to the application of sanctions for non-compliance with customs regulations**. This follows from the wording of Article 42

of the Union Customs Code, according to which **each Member State shall lay down sanctions** for non-compliance with customs regulations. Such sanctions must be effective, proportionate and dissuasive. The Union Customs Code further provides that administrative sanctions may take the form of:

a. A monetary payment imposed by the customs authorities, including any performance in lieu of a criminal penalty;
b. The revocation, suspension or amendment of any authorization granted to the person concerned.

In this regard, the Customs Act of 2004 distinguishes between sanctions for customs offences (Section 73 of the Customs Act of 2004) and sanctions for customs offences (Section 80 of the Customs Act of 2004). The sanction for a customs offence (which may be committed by a natural person, entrepreneur or legal entity) may be a fine, i.e. a monetary penalty, or the forfeiture of goods or property, i.e. a non-monetary penalty. Depending on the seriousness of the customs infringement, a fine of up to EUR 99,581.75 may be imposed for a customs offence and, in the case of the import, export or transport of rough diamonds in violation of customs regulations, up to EUR 331,939.18. A customs offense (which can be committed by a natural person) can also be subject to a fine, but in principle up to EUR 3,319.39, confiscation of goods or property, and a reprimand if the person does not obey the summons of a financial administration officer or otherwise obstructs him in the performance of his activities.

In the context of customs infringements and their penalties, it is necessary to highlight in particular the difference between default interest, which is governed by the Customs Code, and penalties, which are a matter for the Member States to regulate. The CJEU expressed its opinion on the above question by stating, first, as regards the general scheme and purpose of the Customs Code, that **it is not intended to lay down a penalty or a penalty payment** in the event of non-compliance with customs legislation – the fixing of such penalties is a matter for the Member States. Secondly, it should be recalled that the CJEU has held that default interest is intended to (...) *correct the consequences resulting from failure to pay within the time limit and, in particular, to prevent the debtor of a customs debt from taking an unjustified advantage of the fact that the sums which he is required to pay under that debt remain*

*at his disposal beyond the period laid down for their payment*. The purpose of default interest is thus to remedy the consequences resulting from exceeding the payment deadline and to compensate for the advantages that the economic operator wrongly obtains from the delay in paying the tax debt and not to penalize such delay (Judgment of the CJEU of 5 December 2024 in Case C 506/23, ECLI:EU:C:2024:1003, in the case of Network One Distribution SRL v Agenţia Naţională de Administrare Fiscală – Direcţia Generală Regională a Finanţelor Publice Bucureşti and Others).

Another consequence of the Slovak Republic's accession to the EU and, in particular, its membership in the EU Customs Union, is that the scope of the situation has naturally narrowed, i.e. the entry of goods into the territory of the Slovak Republic and the exit of goods from this territory, to which customs regulations, i.e. the Customs Act of 2004 and the customs regulations of EU law, will apply. This is mainly reflected in the „elimination" of state borders when applying the customs union perspective (for example, with other EU Member States such as the Czech Republic, Hungary, Poland and Austria). The application of the provisions of the Customs Act of 2004, in accordance with the principle of territoriality in the context of the EU Customs Union, applies to the movement of goods between the EU and third countries, or rather that part of the movement of goods that takes place in whole or in part on the territory of the Slovak Republic.

Compared to the Customs Act of 2001, it is clear that the Customs Act of 2004 regulates a reduced range of institutes. The Customs Act of 2004, in comparison with the previous legal regulation, subsumes a total of „only" 92 paragraphs. This framework mainly regulates issues such as the implementation of customs supervision and customs control, customs procedures, exemption of goods from import duties or export duties, liability, right of retention, interest on arrears, recovery of arrears, seizure of goods or things and, as mentioned above, liability for violation of customs regulations and sanctions.

Ultimately, however, from the point of view of application, it is not possible to consider simplifying customs regulation; on the contrary, this system of customs regulation, consisting primarily of EU customs regulations and the national legislation of individual member states, exhibits a high degree of complexity.

## 4. Conclusion

The result of the research aimed at assessing Slovak legislation in the context of the EU customs union is the confirmation of the defined hypothesis and the conclusion that Slovak customs legislation performs an implementing function with regard to EU customs legislation. EU customs legislation was analyzed in detail with regard to the provisions of primary EU law and the legal foundations of the EU customs union. After analyzing this legislation, the customs union was defined with regard to the application of prohibitions of individual barriers within the internal market. The differences between the so-called internal (intra-community) and external manifestations of the existence of the customs union were emphasized. The mutual coexistence of EU customs law with respect for the exclusive competence of the EU in the area of the customs union and the primacy of EU law and national national regulations is, among other things, also reflected in the issue of the fiscal significance of customs duties and its budgetary designation. The issue of customs duties (the essence and significance of customs duties as a public monetary payment) was given closer attention in the article, where customs duties were defined as a public monetary payment associated with the passage of goods across the state or customs border. In addition to the above-mentioned manifestations of the existence of a customs union, it is also necessary to point out the budgetary determination of customs duties and the distinction between:

- customs duties as a traditional own resource for the EU budget and
- the share of collected duties that is retained by the Member States to cover collection costs is currently 25%, which is directly related to the performance of tasks by customs authorities [Popovič 2023: 54].

It is necessary to emphasize here that we understand the budgetary determination of customs duties in favor of the EU budget as a manifestation of the EU budgetary policy and not the EU policy in the customs area.

The Customs Act of 2004, as amended, primarily ensures the application of customs measures arising from EU law. This is directly determined by the following aspects:

- the EU's exclusive competences in the customs area (as well as in the area of the common commercial policy) and
- partly also by the principle of primacy of EU law and the fact that EU customs rules are essentially in the form of regulations.

However, it cannot be overlooked that during the research at least two areas were identified that were left to the Member States for regulation, which leads us to the conclusion that national legislation also fulfils a complementary function to EU customs legislation. Member States regulate the organisational and legal basis of customs authorities and sanctions for breach of customs regulations. It is precisely the customs authorities that are entrusted with the task of ensuring the proper application of customs regulations. In relation to sanctions for breach of customs regulations, the need for effective, proportionate and dissuasive sanctions is emphasised. At the same time, we have further defined Slovak legislation in these identified areas that are regulated by Member States. After a mutual comparison of Slovak customs legislation in the period before and after the accession of the Slovak Republic to the EU, it can be stated that after the accession of the Slovak Republic to the EU, there was a clear narrowing of the scope of this legislation, with the EU customs regulations becoming the basic regulations.

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Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast)

Treaty establishing the European Economic Community

Treaty on the Functioning of the European Union

**Court Rulings**

CJEU ruling, case Avic 1/75

CJEU ruling, case 26/62 – N. V. Algemene Transport-en Expeditie Onderneming Van Gend en Loos v. Netherlands Fiscal Administration

CJEU ruling, case C-76/17 – SC Petrotel-Lukoil SA and Maria Magdalena Georgescu v Ministerul Economiei and Others

CJEU ruling, case C-506/23- Network One Distribution SRL v Agenţia Naţională de Administrare Fiscală – Direcţia Generală Regională a Finanţelor Publice Bucureşti and Others

European Commission's report of November 2001
Available at: https://eur-lex.europa.eu/EN/legal-content/summary/6_slovakia.html?fromSummary=12, accessed: January 27th, 2025.