

## THE AUTONOMY OF THE EUROPEAN UNION CUSTOMS LAW (SELECTED ISSUES)

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**Abstract:** The autonomy of the customs law means that it is independent of other legal branches and can freely establish own legal institutions, it has independence and self-reliance with regard to other branches of a legal system. Customs law regulations have features of the public law as they have own system of law sources at the European Union level. They reflect the role of a state in establishing foreign trade turnover. They are included in the broader meaning of a state's participation in the economy, which constitutes a subject of public commercial law regulations and they concern the obligation of incurring specific payments to the benefit of a public entity (state, the European Union) in a form of customs and taxes related with importing or exporting goods abroad.

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### INTRODUCTION

The international exchange of goods has been regulated by various legal regulations. These regulations refer to the health and life protection of humans, animals and plants covered by other legal provisions. Not only veterinary, phytosanitary and ecological legal provisions, but also intellectual property rights apply to this trade. Many of these areas of law are domestic and international law. Nevertheless, the most important set of norms regulating international trade in goods is the customs law.

Customs law regulations belong to these legal areas that have been recently transformed to the biggest extent. Contemporary customs law has been developed under the influence of the European economic integration to a great extent. Despite preserving political sovereignty due to four binding economic freedoms, European Union Member States, need to accept the fact that their economy and finances are subject to harmonisation.<sup>1</sup> As a result, the European Union customs law was established, binding in all Member States, including Poland.<sup>2</sup> One of the fundamental elements of the European Union is the customs union that constitutes one of three European Union's pillars. The customs union is aimed at establishing a uniform European Union market, the essence of which is free transport of goods among Member States and, in consequence, to in-

<sup>1</sup> FAMULSKA, T. – NOWAKOWSKI, I.: *Finanse i bankowość w integrującej się Unii Europejskiej*. Warszawa: Wydawnictwo Difin, 2006, p. 26.

<sup>2</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) (Dz. Urz. UE L Nr 269 z dn. 10. 10. 2013 r., s. 1 z późn. zm.) – further: UCC.

troduce uniform customs provisions and common customs tariff in all Member States. The aim of this publication is to present the autonomy of the European Union customs law, autonomic with regard to internal legal systems of Member States as well as to the international law. The need to elaborate on this issue also results from the necessity to fill in a legal loophole, since the autonomy of customs law as a whole has not yet been discussed in the customs law science.

## METHODOLOGY OF DISTINGUISHING LEGAL BRANCHES VS. CUSTOMS LAW

The issue of distinguishing the customs law, so far considered as one of financial law branches, into a separate legal branch has been discussed in the doctrine for some time.<sup>3</sup> In order to address this issue it is, therefore, necessary to determine, whether customs law norms constitute a category specialised to a degree allowing distinction among financial law norms, whether this distinction is confirmed in practice and whether it is possible to justify it on the grounds of theoretical criteria.

While referring to dictionary literature, one must note that the term “autonomy” means entitlement, independence, self-reliance.<sup>4</sup> These features are considered mainly in terminological aspect, yet, in the doctrine, there is also a view that the notion instrument used by the legislator within a given branch does not constitute a measure for its autonomy.<sup>5</sup>

In the legal doctrine, the aspect regarding the place of the customs law in the legal system is differently understood. The division of law into branches (divisions) is done by legal doctrine representatives for various aims and depends on many prerequisites. The aim of dividing legal norms into branches is to provide for systematics of these norms into certain, uniform groups.<sup>6</sup> Then, they are linked predominantly with common characteristics of legal relations regulated by norms of a given group, thus, the subject of the regulation. It is also crucial that legal norms classified to one branch (division) are usually connected with common principles. Legal provisions implementing legal norms of a given legal division usually use own legal terminology (legal language). Therefore, norms of a given division are characterised with a tighter content relation than norms of another division.

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<sup>3</sup> SAWICKA, K.: *Prawo celne w systemie prawa* (w:) FOJCIK-MASTALSKA, E. – SAWICKA, K. (red.): *Podstawy prawa celnego i dewizowego*. Wrocław: Wydawnictwo Kolonia Limited, 2001, p. 14; KUŚ, A.: *Gospodarcze procedury celne w prawie polskim na tle prawa unii europejskiej*. Poznań: Wydawnictwo Iuris, 2001, p. 14; WÓJTOWICZ, W.: *Pojęcie finansów publicznych i prawa podatkowego* (w:) WÓJTOWICZ, W. (red.): *Zarys finansów publicznych i prawa finansowego*. Warszawa: CH Beck, 2008, p. 29; SAWICKA, K.: *Prawo celne w systemie prawa* (w:) MASTALSKI, R. – FOJCIK-MASTALSKA, E.: *Prawo finansowe*. Warszawa: Wolters Kluwer Polska, 2011, p. 334.

<sup>4</sup> SZYMCZAK, M. (red.): *Słownik języka polskiego. T. 1*. Warszawa: Wydawnictwo Naukowe PWN, 1978, p. 101.

<sup>5</sup> KAŹMIERCZYK, S.: *Kryteria autonomii gałęzi prawa* (w:) GROMSKI, W. (red.): *Z zagadnień teorii i filozofii prawa. Autonomia prawa*. Wrocław: Wydawnictwo Kolonia Limited, 2001, p. 132 i 133.

<sup>6</sup> SMOKTUNOWICZ, E. (w:) KOSIKOWSKI, C. – SMOKTUNOWICZ, E. (red.): *Wielka Encyklopedia Prawa*. Warszawa: Prawo i Praktyka Gospodarcza, 2000, p. 260.

The aim of legal division into branches may also comprise in practical considerations. They are related with the process of establishment, interpretation, application and execution of law. The law is too extent to move within it freely with the same knowledge on problems and solutions. From the point of view of legal interpretation, specialisation in law is necessary, since it is already referring to legal specialisation of public administration and court bodies. Therefore, one should expect that a customs administration official should specialise in at least customs law. The more so this knowledge should be expected from a judge who recognises claims against rulings and decisions. However, at the same time, the official cannot be deprived of basic knowledge regarding basic administrative, civil or tax law institutions.<sup>7</sup>

It should be underlined that a given legal branch is separated in a given legal system when it facilitates law application by indicating directions of resolutions done in a given case based not only on rules or principles binding in the law, in general, but also based on rules and principles specific only for this legal branch.<sup>8</sup> Division of law into branches should be based on adopting specific criteria concerning similarities and differences of particular legal institutions. These institutions should include a wide scope of social relations based on the subject or object unity.

The only issue that does not trigger off discrepancies is the public-legal character of customs law that predominantly results from the scope of issues it regulates, the manner of regulation, type of bodies appointed for application and enforcement of customs provisions as well as realised tasks.<sup>9</sup>

Therefore, customs law cannot be understood as legal division regulating only customs duties and charges as public levies due to increasingly lower meaning of customs duties in contemporary legal systems. Currently, customs duties and customs law should aim at stimulating economic processes, where it shall constitute one of means that can be used in this process and only in a limited scope.<sup>10</sup> Therefore, distinguishing customs law from legal system is justified with the fact that “it enables complex familiarisation with principles as well as a mode of conducting international trade exchange and resulting rights and duties of participants of this trade and rights and duties of customs bodies”.<sup>11</sup>

According to C. Kosikowski, dividing law into branches (divisions), despite it being artificial, does not constitute a completely discretionary operation. Systematisation of legal norms in specific sets must have an aim and be based on clearly defined criteria. These criteria include:<sup>12</sup>

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<sup>7</sup> KOSIKOWSKI, C.: *Samodzielny byt prawa finansowego jako działu prawa finansowego i problem jego autonomizacji* (w:) KOSIKOWSKI, C. (red.): *System prawa finansowego. Tom I. Teoria i nauka prawa finansowego*. Warszawa: Wolters Kluwer Polska, 2010, p. 428.

<sup>8</sup> MASTALSKI, R.: *Interpretacja prawa podatkowego. Źródła prawa podatkowego i jego wykładnia*. Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 1989, p. 17.

<sup>9</sup> DRWIŁŁO, A.: *Cla* (w:) WÓJTOWICZ, W. (red.): *Prawo finansowe*. Warszawa: CH Beck, 2000, p. 449.

<sup>10</sup> SAWICKA, K.: *Prawo celne...*, op. cit., p. 334.

<sup>11</sup> Similar conclusion, though from other point of reference, is presented by R. Molski, who states that “in the area of legal disciplines the theme of foreign trade in goods is referred mainly within: administrative law, economic law, financial law and penal-fiscal law”. MOLSKI, R.: *Administracyjnoprawna regulacja obrotu towarowego z zagranicą. Rozprawy i studia*. Szczecin: Wydawnictwo Uniwersytetu Szczecińskiego, 2001, p. 9.

<sup>12</sup> GROMSKI, W. (w:) *Encyklopedia prawa*. Warszawa: Wydawnictwo LexisNexis, 2004, p. 183.

1. the object of regulation (type of regulated social relations),
2. the method of regulation,
3. subjects at whom legal norms are addressed,
4. legal principles characteristic for a given division and
5. a scope of binding (internal and external law).

These criteria must be deemed as indisputable. Furthermore, application of other criterion of dividing law into branches cannot be excluded, e.g.: interest criterion, legal norm criterion or criterion of historic tradition of dividing law in a given state.

To sum up this theme of considerations, it should be stated that while dividing the law into branches, it is important that this division is done with assumption of crucial criteria indicating the similarities and differences of particular legal institutions. Dividing a given branch in legal system should be mainly done when it facilitates law application by indicating directions of resolutions in a given case based on rules and principles specific for this branch. The criterion of quality and diversity should constitute a starting point for undertaken considerations regarding the autonomy of a given legal branch, in this case – the autonomy of the customs law.

#### THE OBJECT AND METHOD OF REGULATION OF THE CUSTOMS LAW

Undertaking further part of considerations on the autonomy of the customs law, the object and method of legal regulations, subjects, legal principles and binding scope should be subject to analysis as the most frequently used criteria of dividing law into branches.

The basic feature for indicating a legal branch is the object. It is understood broadly as a specific social relation subject to the regulation of this law. On the other hand, the object of regulation of each law comprises in a set of norms of relatively uniform relations. The object of the European Union customs law regulations comprises in social relations connected with the international trade in goods consisting in introducing goods into the European Union customs area or moving the goods from the European Union,<sup>13</sup> According to K. Sawicka, the criterion of the object is a basic element determining a set of legal provisions that should be included in the customs law. By using the criterion of the object of regulation, the customs law should include not only the regulations concerning establishing and collecting customs duties, but also regulations determining the principles of trading in goods in relations with other states, in which, among others, the duty to pay customs duties and charges is imposed.<sup>14</sup> These relations have wide connections with other spheres of economic activity, both in internal area, i.e. in par-

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<sup>13</sup> Por. art. 1 UCC.

<sup>14</sup> SAWICKA, K.: *Prawo celne...*, op. cit., s. 333; podobnie: DRWIŁŁO, A.: *Cło i należności celne* (w:) ETEL, L.: (red.): *System prawa finansowego, T. III. Prawo daninowe*. Warszawa: Wolters Kluwer Polska, 2010, p. 875.

ticular European Union Member States, and in international area.<sup>15</sup> These relations are developed by the state, between the public authority and the entity. Also other authors seem to be of similar opinion with regard to the issue of customs law. They claim that “the customs law” is the legal branch distinguished from financial and tax law due to the individual nature of the object of regulation. It includes regulations: principles of foreign trade in goods, collecting relevant customs duties and charges, customs proceedings, customs control, organisation and functioning of customs administration.<sup>16</sup>

In legal literature it is noted that the customs law should be treated as public law division with a complex character based on legal norms belonging to public economic law and financial law within a scope they refer to the state using particular administrative-legal or financial-legal instruments developing foreign trade in goods.<sup>17</sup> The above norms refer to two spheres, i.e. the sphere of protecting customs law related with regulation of foreign trade in goods as well as to the fiscal sphere that is related with the fact that the foreign trade in goods is related with collecting customs duties and taxes by the state or other public-legal body due to import of goods (VAT and excise duty) connected with import or export of goods. The boundary of dividing legal norms classified to the customs law is predominantly situated within the object of regulation thereof and to some extent in relation to subjects of these norms as well as type of legal relations.<sup>18</sup>

It should be noted that social relations which constitute the object of foreign trade in goods are regulated not only under customs law. The following areas could be enumerated: constitutional law, economic law, commercial law, administrative law, financial law, banking law, civil law, penal law, international public and private law. Their common feature is the fact that they concern international trade in goods. Whereas, procedures and the character of decisions taken within this law indicate administrative character of this law.

While considering this issue, customs law regulations regulating mutual relations between customs bodies and entities conducting international trade in goods should be indicated. And thus, e.g. the customs law regulates:<sup>19</sup>

- terms and conditions, methods and forms of submitting customs applications to particular customs procedures;
- the amount and terms and conditions of customs charges – tariff and non-tariff;
- terms and conditions of customs debt and the manner of its coverage and remission;
- terms and conditions and manner of securing customs charges;
- terms and conditions of conducting customs control and revision;
- rights and obligations of entities conducting international trade in goods;
- stipulates structure, rights and obligations of customs administration;
- terms and conditions of appealing decisions taken by customs bodies;

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<sup>15</sup> CZYŻOWICZ, W.: *Prawo celne-samodzielna dyscyplina prawa*. Gdańsk: Wydawnictwo Uniwersytetu Gdańskiego, 2007, p. 761.

<sup>16</sup> HUCHLA, A.: Hasło: *Celne prawo* (w:) *Encyklopedia prawa*. Warszawa: CH Beck, 1999, p. 73.

<sup>17</sup> SAWICKA, K.: *Prawo celne w systemie prawa...*, op. cit., p. 14; KUŚ, A.: *Gospodarcze procedury...*, op. cit., p. 14; WÓJTOWICZ, W.: *Pojęcie finansów publicznych i prawa podatkowego...*, op. cit., p. 29.

<sup>18</sup> SAWICKA, K.: *Prawo celne w systemie prawa...*, op. cit., p. 14.

<sup>19</sup> CZYŻOWICZ, W.: *Prawo celne-samodzielna...*, op. cit., p. 763.

- terms and conditions of cooperation of customs bodies with other bodies of national or international organisations.

These are only exemplary social relations regulated in full or in part by customs law norms and related with international trade in goods.

The object of customs law regulations is inseparably connected with the method of regulation. In legal literature it is also underlined that for distinction of a given branch (division) of law it is important to regulate social relations.<sup>20</sup> Two basic methods should be differentiated:

- administrative-legal based on control and subordination, and
- civil-legal based on equality of parties and freedom of expressing will within boundaries set by the law.

In the customs law it is not possible to choose one of the two above methods of legal regulations, since we deal both with the former and the latter method of mutual relations' regulation. In relations between customs administration bodies and entities conducting foreign trade in goods we deal with the dominance of administrative-legal relation (e.g. reporting to a relevant customs procedure). At the same time, in customs law there are civil-legal relations (e.g. representation in customs cases).

The aforementioned opinions constitute grounds for distinguishing customs law from legal system also for methodological reasons. Customs law norms reflect the role of a state in developing foreign trade in goods, thus, they fall within broader meaning of the state's participation in the economy. Thus, the customs law, due to the object of regulation, is treated as a part of public economic law (international commercial law). Due to the procedures and character of decisions taken within this law, its administrative character is apparent.<sup>21</sup> When customs law concerns the obligation to incur specific payments to the benefit of the state, such as customs duties and taxes related with import and export of goods abroad, it should be treated as a part of financial law due to the object of regulation. In this meaning the customs law constitutes a part of financial law and has a character of public law.<sup>22</sup>

There are also opinions that "the customs law constitutes, both with regard to the individual nature of the object of regulation and to operational procedures, a distinguished branch of the Polish legal system".<sup>23</sup> In this approach, the customs law results from the development of the customs law in Poland as well as in the European Union. The grounds for separating customs law in the European Union legal system comprises in

<sup>20</sup> Ibid., p. 764.

<sup>21</sup> MOLSKI, R.: *Administracyjnoprawna...*, op. cit., p. 43.

<sup>22</sup> DRWIŁŁO, A.: *Niepodatkowe dochody państwowe* (w:) RUŚKOWSKI, E. (red.): *Finanse publiczne i prawo finansowe*. Warszawa: Wolters Kluwer Polska, 2000, p. 213.

<sup>23</sup> CZYŻOWICZ, W.: *Pojęcie i przedmiot prawa celnego a polityka celna* (w:) CZYŻOWICZ, W. (red.): *Prawo celne*. Warszawa: CH Beck, 2004, p. 20. The author underlines that the same treatment of customs law in Poland and in the European Union is advocated by the fact that in both systems the customs law object and subject scope is the same, namely, international trade relations and entities engaged in this trade – economic entities and EU bodies as well as public authorities. Furthermore, the definition of the customs law indicates explicitly constitution and enforcement of this law.

this law having all features and necessary elements. It is also crucial that classifying the customs law to one of legal branches e.g. financial or administrative law or considering the customs law as a separate legal branch does not lead to explicit opinions in this matter. It should be noted that a specific system of legal branches is subject to continuous changes and, moreover, it is historically conditioned.<sup>24</sup> In his opinion there are many criteria and divisions of legal branches. One of the basic ones is the division into public and private law. Due to the object of the regulation, the customs law is indisputably a public law of a public-legal character.

Analysis of regulation of customs law provisions and others applied in the customs proceedings indicates a strong connection between customs law, tax law, foreign exchange law, penal law and penal-fiscal law.<sup>25</sup> Plethora of criteria distinguishing the customs law causes that contemporary customs law already constitutes an independent legal area.<sup>26</sup>

It is also worth underlining that one of the most important social relations appearing within customs law comprises in contractual relation. It has a multi-aspect character. It constitutes a bilateral relation between persons established on the grounds of legal norms, where one of the parties is always an entity representing the state or the customs union. Furthermore, these relations are characterised with complexity and dynamics.<sup>27</sup> Qualification of elements of a factual status through the agency of legal-civil norm has a complex character. It means that the entitlement to demand a specific behaviour constitutes at the same the obligation of the other entity – the obliged one.

Establishment of obligation relation between a customs debtor and public-legal union (state, the European Union) is not a result of an obliged entity's will, but a result of a factual status relating to the hypothesis of a legal norm. The public-legal union through the agency of legal regulations directly enters into the social life, constituting specific obligations of legal norms' addressee. Realisation of these obligations leads to an establishment of an obligation relation of a unilateral character, where the obliged entity (customs debtor) is not at the same time the entitled entity, and the entitled entity (administrative body representing state, the European Union) is not at the same time the obliged entity.

The above leads to a conclusion that the behaviour of entities leads to establishment of bilateral relation between them comprising in one entity being an entitled entity having a set of entitlements against the other entity that has a specific set of obligations against the former.<sup>28</sup>

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<sup>24</sup> CZYŻOWICZ, W.: *Prawo celne-samodzielna...*, op. cit., p. 761.

<sup>25</sup> CZYŻOWICZ, W.: *Prawo celne w systemie prawa*, „Przegląd Ustawodawstwa Gospodarczego” 2002, Nr 6, p. 30.

<sup>26</sup> This thesis is also confirmed by the evolution process of civil law, its codification, specification of regulations and special norms of proceeding in customs cases. In fact, the customs law comprises of: substantive customs law, procedural customs law and constitutional customs law (NARUSZEWICZ, S. – LASZCZUK, M.: *Prawo celne. Zarys wykładu*. Warszawa: Wydawnictwo LexisNexis, 2001, p. 9–10).

<sup>27</sup> MACHALICA-DROZDEK, K.: *Stosunek prawny zobowiązania celno-podatkowego w obrocie towarowym z zagranicą*. Warszawa: Wolters Kluwer Polska, 2015, p. 228.

<sup>28</sup> *Ibid.*, p. 228.

In the context of the aforementioned it should be noted that due to the non-equivalence of the customs benefit, only the administrative-legal method of regulation based on power and subordination applies.<sup>29</sup> The obligation of customs benefit (as well as possible compulsory realisation thereof) is established when in a specific case a factual status is related with a given entity shows all the features of a customs-legal factual status regulated under the act. Then, the customs obligation is specified as to the subject and amount – it is transformed into a customs debt. The agreement of the parties to the obligation relation to the establishment and scope thereof is irrelevant. This method determines the position of legal relations' subjects in the customs law, in particular, the obligation relations. Such payments are imposed pursuant to the act and are of a public character, thus, they are incurred to the benefit of a public entity and do not result from civil-legal contract.

To sum up this theme of considerations, it should be concluded that in case of the obligation to pay due customs, social relations between the entity conducting foreign trade in goods, i.e. a debtor, and an entity entitled to demand this payment, i.e. customs body representing the public-legal union. Existence of a legal relation causes connections between the entity entitled to impose customs duty and the entity obliged to pay it. This relation is established directly under binding legal provisions.

## CUSTOMS LAW SUBJECTS

Customs law has its own, characteristic subjects and applies thereto own terminology that is binding not only within its scope, but also penetrates other legal areas and is approved thereby. Article 5, section 1 of the UCC defines customs body, that is, customs administrations of Member States responsible for application of customs law provisions and any other bodies authorised pursuant to domestic law to apply some of the customs law provisions. Article 5, section 19 UCC defines a debtor, that is, any person responsible for customs debt.

Customs law doctrine uses the term “customs creditor” (active entity) and “customs debtor” (passive entity). Customs creditor is an entitled entity – customs body representing the public-legal union. Whereas the obliged entity is the customs debtor and persons bound with obligations provided for in customs law provisions. These entities are obliged to pay customs charges and to undertake activities in order to regulate the legal situation of goods e.g. by giving them a proper customs purpose. Nowadays, the notion of customs creditor is replaced with customs administration.<sup>30</sup>

It is significant that the customs administration body as an entity in the process of applying customs law appears in dual role. On one hand, this is a subject of material-legal obligation relation and on the other, an entity developing legal situation of a customs debtor or other entity as a result of unilateral, imperative stipulation thereof. The body

<sup>29</sup> BIEŃ-KACAŁA, A.: *Zasada władztwa daninowego w Konstytucji RP z 1997 r.* Toruń: Wydawnictwo TNOiK, 2005, p. 143.

<sup>30</sup> DROZDEK, A.: *Organ celny jako jednostka administracji publicznej*, „Monitor Prawa Celnego i Podatkowego” 2014, nr 1, p. 20–28.



adjudicates, whether in case of a given factual status there are activities or events with which the customs law associates specific consequences for establishment of customs duty and contents for stipulating customs debt as well as realisation thereof.<sup>31</sup>

## LEGAL PRINCIPLES

Customs law, like other legal branches (divisions), has specific features and norms treated as principles.<sup>32</sup> They have a principal character, the meaning of which is considered basic in the whole legal system. The European Union customs law is based on the following principles:

- freedom of foreign trade in goods – it means that each entity (a natural person, a legal person or a person without legal personality under jurisdiction of the Republic of Poland, including also foreigners (stateless persons), foreign legal persons and foreign business entities without legal personality that earn revenues, incomes or have specific property in Poland) participating in international exchange can undertake business activity, including within the scope of international trade in goods.
- equality in treating goods – it results from regulations connected with the customs law pursuant to which all goods, of the same type and quantity, irrespectively of origin or target, are subject to identical treatment.
- equality in treating subjects – irrespectively of an enterprise’s legal form of activity, they have the same rights and duties, they are obliged to fulfil all necessary pursuant to the law activities and payment of customs and tax charges.
- commonness of customs – all goods transported in order to conduct economic activity are related with the necessity to calculate customs and customs debt they are charged with. The principle of commonness of customs is related with the principle of equality in object sense. It means that all transported goods are assigned with CN code number and customs rate. The European Union Customs Tariff provides for the possibility of applying uniform customs rates on the same goods traded within the same customs procedures, on goods transported from third countries to each Member State.
- availability of information in customs law – this is one of the fundamental principles of the customs law. Each person can refer to customs body with an application for information regarding applying customs law provisions. The application can be rejected, if it concerns activity which is not included in actually planned international trade in goods.<sup>33</sup>

These principles are reflected both in customs provisions and in practice of applying them in customs procedures used by the customs service of particular Member States.

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<sup>31</sup> Ibid., p. 20–28.

<sup>32</sup> DRWIŁŁO, A.: *Procedury celne w świetle przepisów kodeksu celnego*. Sopot: Lex, 1999, p. 31.

<sup>33</sup> Art. 14 UCC.

## THE BINDING SCOPE OF CUSTOMS LAW

While studying the autonomy of customs law, it is worth noticing that the European Union Member States assigned a part of their legislative competences to the Union and, thus, authorising it to stipulate norms. Union legal acts are directly applied in Member States and do not require confirmation by national parliament. Moreover, they cannot be repealed by domestic law of these States. It allows coherent application of *acquis communautaire* in European Union Member States and providing uniform legal norms in line with the imperative aim of the EU.

The European Union customs law regulations are based on the European Parliament and European Council resolutions. They belong to legal acts of supranational character, considering the necessity of providing for direct, effective and uniform application of customs law within the European Union. It means that under the law the resolutions are subject to application in legal systems of Member States without the necessity to undertake additional implementation activities. Resolution issued by the European Union institutions “replaces”, with regard to the normative acts hierarchy, a national act by having precedence in case of a collision with the latter.<sup>34</sup> This is justified with requirements of providing uniformity and effectiveness of the European Union customs law. In fact, the same customs law is binding in all European Union Member States. There are lots of European Union resolutions concerning customs law. Some of them are of episodic and single character (e.g. Commission resolutions stipulating tariff quotas). Nevertheless, one can indicate certain legal acts that constitute a basic framework of the Community customs law. The most important legal act constituting the Customs Union Constitution is the resolution of the European Parliament and Council (EU) no. 952/2013 of 9 October 2013 laying down the Union Customs Code.

Apart from directly binding European Union legal regulations, customs law norms are also included in the Polish domestic law. They are of a Community law supplementary character and they predominantly concern internal (domestic) aspects of customs law application. The first legal act that should be mentioned is the Act of 27 August 2009 on the Customs Service.<sup>35</sup> This is not *stricte* customs law act, but it doubtlessly has a significant meaning within this scope. It is in fact a legal act regulating legal position, competences and system of Polish customs administration. The most important legal act of the Polish customs law is the Act of 19 March 2004 – Customs Law.<sup>36</sup> The act itself, in its first provision stipulates the character of the European Union customs law autonomy. According to the article 1 of the Act – Customs Law it regulates within a supplementary scope to the community legal provisions the principles for importing goods to the European Community customs area and exporting goods from this area.

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<sup>34</sup> KRAWIEL, T.: *Cło – Konstytucja a prawo wspólnotowe*, „Monitor Prawa Celnego i Podatkowego” 2007, nr 3, p. 86; ŁAZOWSKI, A.: *Rozporządzenie jako źródło prawa Wspólnot Europejskich*, „Europejski Przegląd Sądowy” 2007, nr 3, p. 12–13.

<sup>35</sup> Uniform text. U. of 2015. Item. 990, as amended.

<sup>36</sup> Uniform text. U. of 2015. Item. 858, as amended.

In the view of the above, one must conclude that the customs law in the European Union, both in broad and narrow meaning, constitutes a clearly separated branch of secondary European Union law as well as whole legal property of this organisation, so-called: *acquis communautaire*. It constitutes a part of a binding legal system understood as a certain status set by legal system norms – organised set of legal norms.<sup>37</sup> The legal system should be coherent and complete, i.e. free of discrepancies and loopholes (so-called complete system). In legal literature, complete system should be understood as a system, where on the grounds of its binding norms any activity can be adjudicated as banned, imposed or indifferent.<sup>38</sup> The legal system is internally ordered, which allows differentiation – on the grounds of adopted criteria – its subsets, stipulated as legal branches.

## DEFINITIONS IN CUSTOMS LAW

While analysing the objective issue, it should be noted that the boundaries of customs law autonomy are greatly set by legal definitions, which we face when, through the agency of legal provisions, the legislator stipulates the understanding of particular terms appearing in legal texts as binding.<sup>39</sup>

While analysing criteria of separating the autonomy of the customs law, customs law regulations stipulated concepts and phrases established especially for the needs of this branch (e.g. customs duties, customs charges, customs debtor, customs value) as well as concepts and phrases adopted from other legal branches. From the point of view of applying customs law regulations, it is crucial to stipulate which meaning scopes should be given “foreign terminology” on the grounds of customs law. As it results from the resolution of the Supreme Administrative Court of 24 June 1996, names adopted by the customs law from other legal divisions most frequently do not refer to the same concepts.<sup>40</sup> As a consequence, they differ in the method of regulating as well as the language (using specific concepts and phrases). It can, within customs law, introduce concepts and terms unknown to other legal branches. The essence of customs law autonomy comprises in establishing customs-legal solutions and institutions relatively independently of contents of norms included in provisions belonging to other legal branches.<sup>41</sup> It means that it depends solely on the customs legislator’s will, whether “foreign” concepts and phrases are to be understood as in their origin branches or differently.

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<sup>37</sup> WRONKOWSKA, S. (w:) WRONKOWSKA, S. – ZIEMBIŃSKI, Z.: *Zarys teorii prawa*. Wydawnictwo Prawnicze PWN Poznań, 2001, p. 180 i n.

<sup>38</sup> *Ibid.*, p. 183.

<sup>39</sup> Judgment of the Supreme Administrative Court in Warsaw dated 22 July 2004, Ref.GSK 356/04, Lex nr 133858.

<sup>40</sup> Resolution of the Supreme Administrative Court in Warsaw on 24 June 1996, Ref. FPK 6/96, Lex nr 25044.

<sup>41</sup> NYKIEL, W.: *Autonomia prawa podatkowego (wybrane zagadnienia)* (w:) DĘBOWSKA-ROMANOWSKA, T. – JANKIEWICZ, A. (red.): *Konstytucja, ustroj, system finansowy państwa. Księga pamiątkowa ku czci prof. Natalii Gajl*. Warszawa: Biuro Trybunału Konstytucyjnego, 1999, p. 404.

## FINAL CONCLUSIONS

The analysis conducted under this study allows for formulating the following final conclusions:

- 1) Customs law binding in the European Union constitutes a very developed legal division exceeding traditional understanding thereof. Customs law norms are formulated on the grounds of European Union, international and domestic regulations.
- 2) Customs law is a set of norms and procedures regulating international trade in goods, stipulating the rights and duties of legislative and executive bodies with regard to following these norms in order to protect the European Union economic interests.
- 3) Customs law provisions constitute a set of legal norms belonging to customs law, distinguished mainly on the grounds of a criterion of the object of regulation, that is, social relations belonging to the international trade in goods.
- 4) The autonomy of the European Union customs law also results from the fact that it has its own network of notions characteristic only for this law with own institutions of constituting thereof and procedures for stipulating, interpreting and protecting as well as executing thereof irrespectively of the Member States' law and international law.

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