

Legal Support for the Reform of Ukraine's Customs Service in the Context of European Integration

Abstract

Ukraine's customs reform introduces ambitious personnel policy tools intended to modernize public service and align it with EU standards. This paper examines how the main reform tools affect the legal system – contractual service, staff rotation, competency assessment, and certification – focusing on their design, implementation, and alignment with European practices. While these tools are presented as instruments of anti-corruption and institutional efficiency, the study reveals that unclear rules and inflexible procedures may prevent these tools from working as intended. Drawing on comparative analysis and domestic case law, the paper highlights the legal uncertainty surrounding contract terms, the lack of appeal mechanisms in assessment procedures, and the risks of excessive managerial discretion. The findings suggest that without clearer rules, predictable processes, and a stronger rights-based framework, the reform may compromise motivation, fairness, and sustainability in Ukraine's customs administration.

KEYWORDS: customs service reform, contractual form of service, personnel management, customs competency framework, staff rotation, public service legislation

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1 | Introduction

The adoption of the Law of Ukraine “On Amendments to the Customs Code Regarding the Specifics of Service in Customs Authorities and Certification of Officials” (31 October 2024) marked a significant shift in regulating public service in the customs system.^[1] It introduced key institutional tools: a revised contractual model, staff rotation, mandatory certification, and a competency framework for assessing professional suitability.

The ongoing reform of Ukraine’s customs service marks a paradigmatic shift in public personnel management. Key innovations include contractual employment, mandatory competency assessments, and a short-term rotation mechanism. For instance, in Poland, rotation typically lasts from six to twelve months and includes guarantees of position reinstatement, which contrasts with the three-month temporary relocation model currently used in Ukraine.

These reforms seek to build a more capable customs service and bring its procedures closer to EU norms. Yet legal ambiguity and rigid procedures – such as inconsistent rules for contract duration, lack of transparent performance criteria, and insufficient appeal mechanisms – undermine their practical effectiveness.

While the reform introduces modernization tools consistent with EU standards^[2], its actual implementation – characterized by excessive regulation, limited mobility, and underdeveloped evaluation systems – poses risks to institutional integrity.

This paper explores three key legal issues: (1) How does the contractual form of service affect job security and the boundaries of managerial discretion?; (2) Are Ukraine’s assessment and rotation mechanisms compatible with EU administrative standards?; (3) What legal safeguards are absent or underdeveloped in the current framework?

In the conclusion, these questions are addressed as follows: (1) The contractual form introduces flexibility but weakens job security due to discretionary contract terms and lack of inter-agency mobility. Judicial and

¹ Ukraine, On Amendments to the Customs Code of Ukraine Regarding the Establishment of Special Features of Service in Customs Authorities and the Certification of Customs Officers: Law of Ukraine of 17 September 2024, No. 3977-XI. <https://zakon.rada.gov.ua/laws/show/3977-20#Text>. [accessed: 7.3.2025].

² See Teresa Astramowicz-Leyk et al., “Anti-Corruption Policy in Ukraine During the War with Russia” *Prawo i Więż*, no. 3 (2023): 552-556. <https://doi.org/10.36128/PRIW.VI46.660>.

managerial oversight mechanisms are insufficiently robust; (2) Ukraine's assessment and rotation models diverge from EU standards, emphasizing control over development. While assessments are annual and tied to sanctions, EU models favor multi-year cycles focused on support and growth. Rotation in Ukraine is short-term and operational, not strategic; (3) Key legal safeguards remain underdeveloped – particularly regarding the right to appeal, criteria for integrity evaluation, and standardized KPIs. Implementation lacks clarity and predictability, undermining reform goals.

One major concern is the temporary legal status of customs officers, which restricts career mobility and expands managerial discretion. This status prevents horizontal mobility across government bodies and creates uncertainty about long-term career prospects – factors that contradict the principles of career-based civil service systems seen in EU countries such as Poland and Lithuania. Annual assessments, tied to dismissal risks, are perceived as punitive rather than developmental. This undermines trust and contradicts EU practice of supportive, multi-year reviews.

As established in CJEU Case C-313/10 (Jansen), employment evaluation mechanisms must be objective, proportionate, and legally foreseeable.^[3]

Despite being designed to promote development and combat corruption, the rotation mechanism has largely become a short-term administrative tool. Poland took a different route, prioritizing risk-based staffing, procedural simplification, and merit-based appointments—principles that fostered institutional stability and long-term mobility.^[4],^[5] This approach was part of a broader anti-corruption strategy based on four pillars: IT systems, personnel management, public engagement, and inter-agency cooperation. Poland's reform experience, formalized in its 2010 Anti-Corruption Plan, addressed systemic vulnerabilities such as excessive discretion, lack of transparency, and weak internal control. These measures significantly improved Poland's ranking in Transparency International's Corruption Perceptions Index.^[6] As a result, in the Ukrainian context, staff may perceive

³ Court of Justice of the European Union, Case C-313/10, Land Nordrhein-Westfalen vs. Jansen, Judgment of 15 September 2011.

⁴ Monika Grottel, "Polish Customs Authority in the Implementation of Innovative System of Services for Entrepreneurs" *Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu* (2014): 219-229.

⁵ Jowita Świerczyńska, "The Polish Customs Service as a Guardian of Security and Legality" *Krakowskie Studia Międzynarodowe*, No. 3 (2016): 39-51.

⁶ Jurgita Domeikienė, Jacek Kapica, "Chotyry skladovykh borotby z koruptsiieiu na mytnytsi: polskyi dosvid [Four Components of Anti-Corruption Efforts at Customs: The Polish Experience]" *EU4PFM*, 18 March 18 (2024).

rotation not as a professional opportunity but as disruption – undermining motivation and weakening institutional learning.

Some Ukrainian scholars argue that staff rotation, if properly designed, can support professional development, increase institutional memory, and even prevent corruption through strategic mobility and competence building.^[7] Yet such benefits depend on long-term planning and clear evaluation tools – elements missing from the current 3-month rotation model.

The staff rotation model in Ukraine departs notably from European strategic practices. Instead of fostering institutional knowledge exchange and professional development, its short-term, reactive use risks disorienting personnel and diluting organizational coherence.

Certification was introduced to ensure accountability and promote integrity, but it relies on vague rules, unclear integrity criteria – especially for asset declarations – and imposes disproportionate penalties, including a 10-year ban. These issues raise serious concerns about fairness and neutrality.

Proponents of the reform argue that exceptional measures – including staff rotations, certification mechanisms, and contractual appointments – are necessary to dismantle entrenched corruption and restore public trust. According to Danilo Hetmantsev, Chair of the Parliamentary Committee on Finance and Taxation, the reform aims at a “complete reboot” of the customs administration, accompanied by transparent performance metrics (KPIs) and anti-corruption safeguards.^[8] He contends that implementation delays hinder public expectations and allow “clan-based systems” to persist.^[9]

Though the goals are valid, the way they are implemented raises concerns about fairness, legal clarity, and staff morale – highlighting the need for a more balanced, EU-aligned approach.

Customs reform also plays a strategic role in Ukraine’s EU integration. Clear customs rules help businesses trade more easily, build investor trust, and align Ukraine with EU market rules. The reform directly affects

⁷ Vasyl Kuybida, Ihor Shpektorenko, “Staff Rotation: Resources of the Institutional Channel of Personnel Professionalization and the Instrument (Procedure) of Public Service Personnel Management” *Public Administration and Regional Development*, 21 (2023): 850-867.

⁸ Danylo Hetmantsev, “Customs and tax reforms: Interview” *Ukrinform*, April (2025).

⁹ Danylo Hetmantsev, “Hetmantsev on rebooting the customs” *7eminar.ua*, March (2025).

Ukraine's fulfillment of the Association Agreement and contributes to regional stability through improved border governance.

According to Smilianskyi, CEO of Ukrposhta and head of the customs reform task force, up to 90% of the reform's funding had been expected to come from USAID grants.^[10] The sustainability of the reform is now uncertain, largely because of the administrative shutdown and structural dissolution of USAID. As of 23 February 2025, USAID placed most of its personnel on administrative leave and began a reduction-in-force process affecting approximately 1,600 U.S.-based employees.^[11] March 2025 saw the U.S. Department of State formally notify Congress of its decision to terminate USAID's status as an independent agency and absorb its functions, resulting in the cancellation of 83% of its programs worldwide.^[12]

Although the reform has ambitious goals, its progress is under threat. While it is promoted as a "complete reboot" to fight corruption and align with EU norms, its execution remains inconsistent and unstable. The situation is made worse by the collapse of USAID funding, which was expected to cover most of the reform's costs. Without stable funding, legal clarity, and coherent HR policies, the reform is unlikely to produce meaningful results.

At this stage of Ukraine's state-building, civil service priorities include forming a professional corps, optimizing structure, and modernizing institutional processes within ongoing administrative reform.^[13]

The contractual form of service is not new to Ukraine's customs authorities. However, the legislative amendments of 31 October 2024, introduced a significant shift in its regulatory framework: while the standard contract form was previously approved by an internal order of the State Customs Service, it is now defined – together with the procedure for its conclusion – by a resolution of the Cabinet of Ministers. In contrast, the rotation

¹⁰ Ihor Smilianskyi, "Reforma mytnytsi mala finansuvatysia na 90% kósh tamy USAID" *Forbes Ukraine*, 18 April 2025.

¹¹ United States Agency for International Development (USAID). "Notification of Administrative Leave and Reduction-in-Force." Last modified February 23, 2025. <https://www.usaid.gov/>.

¹² Hromadske. "Derzdep SSZA oficijno zajawyw pro zakryttia USAID jak okre-moji ustanow" March 28, 2025. <https://hromadske.ua/svit/242284-derzdep-ssha-ofitsiyno-zaiavyyv-pro-zakryttia-usaid-iak-okremoyi-ustanovy>.

¹³ Vasyl Rossiikhin, Galyna Rossiikhina, Tetiana Khabarova, Serhii Nadobko, "Administrative and Legal Characteristics of the Development and Establishment of Elements of the Public Service in Ukraine: a Retrospective Approach" *Yurydychnyi Visnyk*, No. 1 (2024): 144-151.

mechanism represents a new element, not previously used in customs administration.

Ukraine's competency framework represents a localized adaptation of international standards. In EU law, customs competencies define qualification requirements for specific positions. The EU Customs Competency Framework (DG TAXUD) seeks to harmonize and raise professional standards across member states.

In countries like Poland and Lithuania, this framework is implemented via integrated training and annual performance dialogues, focusing on development rather than punitive outcomes.

Retrospective analysis (1991–2019) reveals a persistent cycle of institutional reform in Ukraine's customs administration, which scholars argue has often undermined efficiency and operational effectiveness.^[14]

2 | Methodological approach

This study critically assesses the legal and institutional framework of Ukraine's customs reform, focusing on personnel management instruments – contractual service, rotation, competency assessment, and certification. The core objective is to evaluate whether the reform enhances or undermines the integrity, efficiency, and stability of customs administration amid Ukraine's European integration.

The research evaluates whether the current system supports fairness, predictability, and EU-aligned public service standards.

The methodological approach combines legal-analytical and comparative methods, including statutory interpretation, policy analysis, empirical data (e.g., staffing results), and stakeholder feedback. To ensure transparency and replicability, sources were selected based on their relevance to current reform implementation and availability from official channels such as the State Customs Service, Cabinet of Ministers. These sources include statistical summaries by HR units of the State Customs Service, publicly available court rulings, and internal documentation disclosed in response to information access requests. Comparative elements focused

¹⁴ Olha Kovalchuk, Klavdia Dubych, "Problems of Reforming the Civil Service in Customs Authorities" *Investments: Practice and Experience*, No. 15 (2021): 120–126.

on EU member states with similar administrative transitions, notably Poland and Lithuania. The study draws from national legislation, EU norms, and international reports to contextualize the reform within the broader European landscape.

Empirical data – such as staffing dynamics, contract terms – were obtained from official internal communications and processed through descriptive statistics and content analysis. Stakeholder feedback was analyzed based on publicly available reports and consultation records conducted by authorized bodies involving customs officials and civil society representatives.

To judge how well the reform works, we look at whether the laws are clear, the system is manageable, and if civil servants are treated fairly and ethically.

3 | Literature and Legal Framework Review

The reform of Ukraine's customs service has been studied mainly from the perspectives of administrative modernization, European integration, and anti-corruption. Ukrainian legal scholarship covers aspects such as contractual employment, civil service ethics, and institutional capacity.^[15] However, limited attention has been given to the intersection of customs-specific governance, personnel evaluation, and legal safeguards.

Internationally, the EU Customs Code and the WCO Framework of Standards form the legal basis for aligning national customs with global norms, yet their implementation in transitional democracies remains underexplored. This study seeks to fill that gap by offering a targeted legal and institutional analysis of Ukraine's customs reform, including a review of relevant judicial practice.

¹⁵ Ivan Lopushynskyi, Ihor Musilovskyi, "Implementation of Organizational Changes in the Public Sector Regarding Human Resource Management" *Public Administration and Administration in Ukraine*, No. 37 (2023): 126-130.

4 | Theoretical foundations and modern legal regulation of the reform of Ukraine's customs service

Under the Customs Code of Ukraine, personnel-related matters in customs authorities are regulated by general civil service law unless otherwise specified.^[16]

This creates a need to balance general norms with the specific legal regime of customs service, especially regarding contract-based employment, rotation, certification, and competency assessment.

The compatibility of these mechanisms with international standards, particularly EU practices, is critical. Ukraine's customs reform is part of its European integration path, as reflected in the 8 October 2024, EU-Ukraine Subcommittee on Customs Cooperation meeting, which focused on harmonization, digitalization, and HR modernization. The event brought together the State Customs Service, Ukrainian ministries, and EU bodies (DG TAXUD, DG NEAR), signaling Ukraine's deeper integration into the EU customs space.^[17]

In legal theory, civil service entails formalized public employment governed by principles of legality, professionalism, political neutrality, stability, and integrity.^[18] For customs officials, this status is realized through appointment, service performance, professional development, assessment, and eventual termination.^[19]

Civil service in customs lies at the intersection of general civil service rules and customs-specific standards. Scholars identify five key components in effective personnel policy: recruitment, adaptation, motivation,

¹⁶ Ukraine, Customs Code of Ukraine: Law of Ukraine No. 4495-VI of 13 March 2012, database "Legislation of Ukraine," Verkhovna Rada of Ukraine. <https://zakon.rada.gov.ua/laws/show/4495-17/ed20120313#n4128>. [accessed: 7.3.2025].

¹⁷ State Customs Service of Ukraine, "Ukraine Is Confidently Moving towards European Customs Standards: The EU Has Recognized Progress in All Areas of Work" 8 October 2024. <https://customs.gov.ua/news/zagalne-20/post/ukrayina-vpevnenno-rukhaietsia-do-ievropeiskikh-mitnikh-standartiv-ies-viznav-progres-za-vsima-napriamkami-roboti-1803>.

¹⁸ Alina Hryshchuk, "Principle of Professionalism in Civil Service" *Scientific Bulletin of Uzhhorod National University. Law Series*, No. 65 (2021): 227-232.

¹⁹ Yana Fenyc, "Some Aspects of Termination of Civil Service in Ukraine and in the Countries of the European Union" *Analytical and Comparative Jurisprudence*, No. 5 (2024): 636-640.

development, and advancement.^[20] Ukraine's shift to stricter qualification criteria aligns with a career-based model, emphasizing competencies over minimal entry standards.^[21]

An analysis of customs governance across EU member states highlights a key institutional divide: in some jurisdictions, customs agencies possess law enforcement status, while in others they function strictly as administrative bodies. Germany, France, Finland, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Slovakia and Slovenia assign their customs services either full police-like authority or hybrid enforcement powers. This status enables customs officers to carry out investigations, use force when permitted, and operate under specialized legal regimes.

In contrast, Ukraine and Romania maintain customs services without law enforcement designation. These operate within the framework of general administrative law and have no powers of coercion.

This structural difference influences how staff are selected and trained. This structure also determines disciplinary procedures and job responsibilities.

To address this gap, Ukraine should adopt a separate Law "On the Customs Service of Ukraine" that grants customs officials law enforcement status. The law should clearly define their powers, duties, and legal protections. This would bring Ukraine closer to EU practices, strengthen the legal system, and improve the fight against smuggling and corruption.

In the customs context, the Customs Competency Framework defines suitability, core competencies, and advancement pathways. Professional development and retraining are legal obligations. The Personnel Management Service plays a vital role in organizing training and shaping educational standards for customs staff.^[22]

As of January 1, 2025, the State Customs Service employed 9,782 officials, with 1,598 vacancies, 682 off-staff personnel, and 21 officers on standby

²⁰ Sergey Karpiuk, "Actual Problems of Formation of Personnel Potential of the Civil Service Under Reform of Public Administration Management Systems" *Actual Problems of Public Administration*, No. 78 (2019): 101-105.

²¹ Valerii Dreshpak, Olha Antonova, Viktor Kovaliov, "Professional Competences' Formation of the Customs Authorities' Officials Under the Public Service Model's Transformation in Ukraine" *Public Administration and Customs Administration*, No. 3 (2023): 82-88.

²² Volodymyr Kasian, "Peculiarities of Legal Regulation of Disciplinary Liability of Customs Officials in the Context of European Integration" *Scientific Notes of V.I. Vernadsky Taurida National University. Legal Sciences Series*, No. 6 (2023): 212-218.

due to military action. A 21% turnover rate indicates significant staffing instability.

Introducing tools such as contractual service, rotation, and competency-based assessments is a critical stage of reform. Yet their success depends on clear subordinate legal regulation. Although the Customs Code establishes these mechanisms, it lacks procedural detail. Therefore, implementation must draw on international best practices and reflect real staffing needs, ensuring consistency and minimizing legal uncertainty.

A civil servant's professional career is typically conceptualized as a progression through distinct stages: (a) professional training; (b) entry into public service; (c) continuous development of professional skills, competencies, and personal attributes; and (d) termination of service.^[23]

Therefore, continuous professional development and retraining are legally mandated and constitute an essential component of civil service across all state authorities.^[24]

Competence is a fundamental prerequisite for exercising the right to serve as a civil servant.^[25]

The Personnel Management Service is responsible for organizing training, specialization, and professional development programs for officials and staff of the State Customs Service of Ukraine. It also contributes to shaping the state's mandate for the education and professional advancement of customs administration specialists.^[26]

Against this background, Ukraine has launched a new system for managing customs personnel – based on contracts, rotation, competency frameworks, and certification – which now deserves closer attention.

²³ Anatolii Rachynskyi, "Self-Management in the Context of Professional Career Development of Civil Servants" *Aspects of Public Administration*, No. 6 (2022): 88-94.

²⁴ Yuliia Melnyk, *Personnel Policy in the System Regulatory Authorities in the Tax and Customs Fields: Administratively Legal Basis* (PhD diss., University of the State Fiscal Service of Ukraine, 2020), 168.

²⁵ Volodymyr Pikul, "Analysis of the Classification of Signs of the Right to Work by Civil Servants in the Conditions of the European Integration of Ukraine" *Scientific Bulletin of Uzhhorod National University*, No. 81, part 1 (2024): 343-348.

²⁶ Oleksandr Muzychuk, Vladyslav Nevyadovskyi, Mykhailo Zavalnyi, "The Essence and Peculiarities of Personnel Support of the State Customs Service of Ukraine" *Bulletin of the Penitentiary Association of Ukraine*, No. 3 (2023): 69-76.

5 | The new personnel management system in Ukraine's Customs Authorities: contractual form, rotation, customs competency framework, and certification

5.1. Contractual Form of Service: Between Flexibility and Legal Uncertainty

Service and labor relations are understood as bilateral, voluntary legal arrangements established through an employment contract between a Ukrainian citizen and the state, represented by the relevant authority. These relations encompass the initiation, development, modification, and termination of a civil servant's employment.^[27]

A civil servant's right to work is defined by the existence of a legally binding contract that outlines the terms of service and mutual obligations between the employee and the state.^[28]

The 2019 amendments to the Law of Ukraine "On Civil Service" aligned the national civil service model more closely with European standards, notably by introducing contractual forms of public service employment.^[29]

The contractual form of civil service is generally seen as a positive development, allowing greater flexibility in personnel management. However, flexibility must be balanced with safeguards. While contractual arrangements can enable efficient staffing and performance management, without standardized terms and oversight mechanisms, they risk becoming tools of managerial discretion and instability.

According to current legislation, officials of customs authorities are appointed on fixed-term contracts for up to three years. This term may be extended once, for no more than three additional years, but only if the official successfully confirms the required level of customs competencies. If this requirement is not met, the contract is terminated and the official

²⁷ Oleksandr Prisyazhniuk, "Concepts and features of state-service relations in law enforcement agencies" *Scientific Bulletin of Uzhhorod National University*, No. 84, part 3 (2024): 182-185.

²⁸ Pikul, "Analysis of the Classification of Signs of the Right to Work by Civil Servants in the Conditions of the European Integration of Ukraine."

²⁹ Inna Nyniuk, Mariia Nyniuk, "Public Service Reform in Ukraine: Experience of Other Countries" *Scientific Notes of V.I. Vernadsky Taurida National University. Series: Public Administration and Administration*, No. 1 (2024): 169-173.

must leave the service. Such a rigid approach leaves no room for professional growth. A more balanced solution would be to offer an individual development plan and access to further training before making a final decision.

Beginning 31 October 2024, Part Five of Article 570 of the Customs Code of Ukraine mandates that all customs officials be appointed exclusively under fixed-term contracts. Appointments to the central office of the State Customs Service are made by its Head. In regional customs bodies, appointments are carried out by the heads of local customs offices, if they have received delegated authority from the Head of the State Customs Service.^[30]

Fixed-term contracts were first introduced in Ukraine's customs administration in 2021. That year, the State Customs Service launched a system for classifying positions based on the form of appointment. The decision to assign a position as contractual rested with the Head of the State Customs Service. In practice, this led to imbalances: officials employed under contracts often received substantially higher salaries, creating perceptions of inequality compared to their non-contractual counterparts. In regional customs offices, all positions were designated as contractual. In contrast, in the central office, some posts remained governed by the general Law "On Civil Service."

Such inconsistencies go against the principles supported by EUPAN, which calls for equal treatment and standardized employment practices in public service.^[31]

Statistical data from the State Customs Service, submitted via letter No. 548/40.3 (January 10, 2025), reveal key personnel trends for 2023–2024.

The total number of civil servants declined in both major categories: Category "B" (managerial) decreased from 1,642 to 1,532 (–6.7%), and Category "V" (specialist) from 7,175 to 6,917 (–3.6%). This decline reflects natural turnover and external factors such as martial law, mobilization, and forced migration.

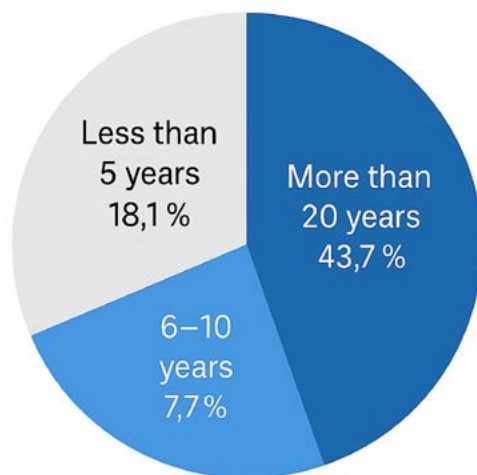
Vacancy trends diverged: Category "B" saw a sharp increase in unfilled positions—from 311 to 481 (+54.6%), indicating recruitment difficulties or delays in competitive selection. In contrast, Category "V" vacancies declined from 1,107 to 971 (–12.3%), suggesting stabilization at the operational level.

³⁰ Law of Ukraine. Customs Code of Ukraine, No. 4495-VI of 13 March 2012. Database "Legislation of Ukraine," Verkhovna Rada of Ukraine. <https://zakon.rada.gov.ua/laws/show/4495-17/>. [accessed: 23.3.2025].

³¹ Lopushynskiy, Musilovskiy, "Implementation of Organizational Changes."

Length of service data also reveal structural risks. Officials with over 20 years of service comprise 43.7% (4,125 individuals), while only 18.1% have less than 5 years. The middle segment (6–10 years) accounts for just 7.7%, suggesting losses at the mid-career level. The average service length is 16.7 years, reflecting personnel stability but also highlighting the need for renewal strategies.

Figure 1. Distribution of customs officials by length of service (as of 2024)



Source: Based on internal statistical data from the State Customs Service of Ukraine, Letter No. 548/40.3 dated 10 January 2025

The available data show that Ukraine's civil service is facing significant challenges. The reduction in staff numbers, especially in Categories "B" and "V", results from both natural turnover and external pressures such as war, mobilization, and migration. A sharp rise in leadership vacancies suggests problems with recruitment and selection processes. At the same time, the age structure of the workforce is shifting. Many employees are over 60, while few younger professionals are entering the service. This creates risks of future staff shortages. The dominance of long-serving employees also points to low renewal rates. These trends highlight the need for a clear human resource strategy. It should aim to attract new talent, retain mid-career professionals, and support staff affected by war.

On 4 March 2025, the Cabinet of Ministers of Ukraine adopted Resolution No. 238, which approved the Procedure for Concluding Contracts in Customs Authorities. The resolution sets out key conditions, requirements,

and procedures for entering into, executing, and terminating employment contracts with customs officials. It also introduced a Standard Contract Form, establishing uniform rules for contractual employment within Ukraine's customs service.^[32]

The Cabinet of Ministers' resolution, issued under Article 570(5) of the Customs Code of Ukraine, sets out the rules for contractual service in customs authorities. A customs officer may serve for a maximum of six years, including any extension through an additional agreement. After this period, the officer must either reapply through a competitive process or leave the customs service.

A proposed amendment to Article 570(5) of the Customs Code of Ukraine would establish a standard five-year contract term. Exceptions may be granted for officials nearing retirement or when shorter terms are objectively justified. This approach would help unify contract practices, promote personnel stability, and ensure flexibility in exceptional cases.

However, broad managerial discretion allows contracts to be concluded for arbitrary durations, potentially as short as one week, increasing risks of instability, administrative pressure, and unequal treatment. Legal doctrine holds that discretion must be constrained by the principles of legal certainty and proportionality. Unregulated discretion undermines predictability and equal treatment—core tenets of administrative justice under both Ukrainian and European law. Ukrainian administrative courts emphasize fairness, transparency, and proportionality in public service decisions. These principles support calls for greater procedural safeguards to balance discretion and legal predictability.

To address these risks, the State Customs Service is developing HR guidelines aimed at standardizing contract duration, reducing arbitrary decisions, and increasing transparency in staffing. However, these guidelines are advisory in nature and do not eliminate the discretionary authority of senior management.

Contract statistics illustrate inconsistency in practice. As of 2021, nearly all appointments—96%—were issued for three-year terms. However, by 2024, short-term contracts (six months to two years) accounted for over 38%

³² Cabinet of Ministers of Ukraine. 2025. On Approval of the Procedure for Concluding a Contract for Service in Customs Authorities and Certification of Customs Officers. Resolution No. 238, 4 March 2025. Official Website of the Cabinet of Ministers of Ukraine. <https://www.kmu.gov.ua/npas/pro-zatverdzhennia-poriadku-ukladennia-kontraktu-pro-prokhodzhennia-sluzhby-v-mitnykh-orhanakh/>.

of appointments, showing growing variation. This inconsistency reflects the absence of legal benchmarks, allowing regional managers to determine terms at their discretion.

The Council of Europe's Recommendation No. R (80) 2 sets clear standards for how public officials should use discretionary powers. These include acting within the law, avoiding arbitrary decisions, staying objective, and ensuring external oversight.^[33] In Ukraine's customs service, however, the lack of clear limits on managerial discretion—especially in fixed-term contracts and staff assessments—creates legal uncertainty and risks unequal treatment.

Reports by the National Civil Service Agency document arbitrary contract terminations and inconsistent application of mobility rules in other public bodies, reinforcing concerns about discretionary misuse.

The temporary status of customs positions prevents interagency transfers. Upon contract expiration, officers must reapply or leave service – reducing mobility and discouraging long-term professional engagement.

Transfers, as a form of exercising the right to work, play a vital role in maintaining the stability of the state apparatus, preserving human capital, and motivating civil servants toward professional development.^[34]

This regulation limits career mobility, as transfers to other public bodies require contract termination and re-selection. It creates several risks: (a) fewer opportunities for horizontal advancement; (b) reduced attractiveness for qualified professionals; and (c) increased dependence on managerial discretion for contract renewal.

Designating customs positions as temporary fundamentally alters the civil service model and requires additional regulation to prevent legal uncertainty and mitigate the risks of discretionary abuse.

These institutional risks are not unique to Ukraine. No directly relevant ECtHR rulings on contractual customs service or rotation mechanisms were identified. However, several CJEU decisions clarify the legal boundaries of fixed-term employment and the principles of legal certainty and equal treatment in the public sector. European jurisprudence – particularly from the Court of Justice of the European Union (CJEU) – has consistently

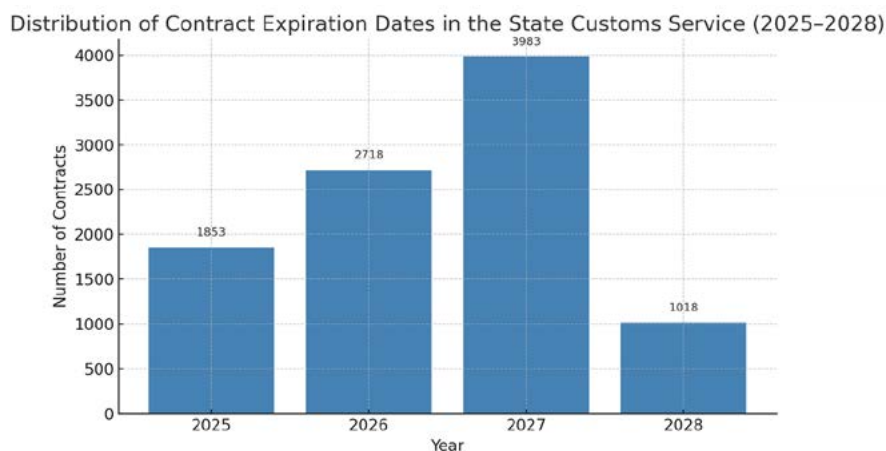
³³ Council of Europe, Committee of Ministers, Recommendation No. R (80) 2 concerning the exercise of discretionary powers by administrative authorities, adopted March 11, 1980, <https://rm.coe.int/16804f22ae>.

³⁴ Volodymyr Pikul, "Theoretical and legal characteristics of transfer as a form of realization of the right to work by civil servants in Ukraine" *Scientific Bulletin of Uzhhorod National University*, No. 84, part 2 (2024): 126-130.

emphasized the need to justify fixed-term public service arrangements. In Case C-313/10, *Jansen*, the Court held that repeated renewal of fixed-term contracts without objective justification violates legal certainty and the principle of stability. In Case C-108/10, *Scattolon*, it ruled that fixed-term staff may not be deprived of employment benefits without transparent, legally valid reasons. Most recently, Case C-265/21, *AB vs. Z EF* reiterated that even under exceptional regulatory regimes, the fundamental principles of fairness and equal treatment remain binding.^[35]

As of early 2025, Ukraine's customs service employs 9,503 officials under fixed-term contracts. Internal data show that 1,853 contracts will expire in 2025, followed by 2,718 in 2026, 3,983 in 2027, and 1,018 in 2028.

Figure 2. Distribution of contract expiration dates in Ukraine's customs service over 2025–2028



Source: internal HR data systematized by the author (January 2025).

As many contracts expire within a short time, this may disrupt staffing, weaken institutional memory, and overload HR processes. A sharp peak in contract expiries within a short period may overburden recruitment processes and limit workforce retention, especially amid broader reform implementation and external pressures.

³⁵ Court of Justice of the European Union, *Case C-313/10, Jansen*, Judgment of 15 September 2011; *Case C-108/10, Scattolon*, Judgment of 6 September 2011; *Case C-265/21, AB vs. Z EF*, Judgment of 2 March 2023.

The performance of civil servants is evaluated based on the indicators outlined in their service contracts.^[36]

A key challenge in contractual service is defining measurable tasks for customs officials. KPIs in fields like IT are often straightforward, as they directly correlate with measurable deliverables. However, customs work is harder to quantify. For example, measuring performance by the number of processed declarations ignores quality, while linking it to customs duty collection depends on external factors like import volumes or tariff rates.

Thus, traditional “more is better” KPIs are unsuitable for customs. Performance should instead be assessed collectively – at the level of the State Customs Service or individual territorial units-reflecting shared responsibility influenced by workload distribution, functional roles, and external factors.

Currently, Ukrainian regulation lacks defined KPI criteria. The Cabinet resolution merely references them, creating a risk of subjective evaluation. Key deficiencies include:

- No legal definitions of KPIs by function or role;
- No digital tool for monitoring progress;
- Paper-based reporting dominates, without verification;
- No connection between KPI results and incentive systems;
- Neglect of teamwork in performance assessments.

To address this, five reforms are proposed:

1. Standard KPI profiles by position type:
2. For inspectors: customs clearance deadlines, accuracy of declarations, violations detected, analytical precision.
3. For analysts: number and effectiveness of reports, applied risk profiles.
 - For managers: unit goal achievement, quality of decisions, internal control.
4. Implementation of a digital KPI system (“KPI-desk”) integrated with electronic workflow, enabling automated data collection, real-time visualization, and access for HR and management.

³⁶ Lopushynskyi, Musilovskyi, “Implementation of Organizational Changes.”

5. Integration of KPIs into performance evaluation and incentive systems: flexible bonuses, promotion procedures, talent pool criteria, and minimum performance thresholds.
6. Annual audit of KPI processes by an independent unit, assessing both outcomes and methods to detect manipulation or superficial compliance.
7. Adoption of “KPI-360” principles—multi-source evaluation from supervisors, colleagues, and related departments via internal surveys or digital tools, increasing objectivity and trust in results.

This aligns with recent policy analysis suggesting that Ukraine’s customs reform should prioritize strategic HR development, performance evaluation, and transparent accountability mechanisms, as part of EU integration commitments.^[37]

5.2. Staff Rotation in Customs: Instrument of Development or Operational Tool?

A new relocation mechanism (rotation) has been introduced, but the legislative model diverges from international best practices. As the Ministry of Finance has not yet issued regulations on its implementation in customs authorities, it is essential to analyze comparable rotation models, particularly in the diplomatic service and National Police of Ukraine.

In theory, staff rotation is not merely a redistribution of personnel but a strategic HR tool supporting professional orientation, recruitment, motivation, engagement, training, and ethical development.

In public institutions, junior staff are often rotated within structural units to enhance competencies and gain practical administrative experience.

Moreover, rotation serves as a key instrument for forming a talent pool and functions as an anti-corruption measure. In European practice, civil servants are generally rotated every 4–5 years to broaden their professional profiles. In high-risk managerial domains—such as customs and

³⁷ Yevhen Angel, Andrii Butin, Oksana Kuziakiv, *Majbutnie ukrajinśkoji mytnyci w umowach wstupu w JES* (Kyiv: Institute for Economic Research and Policy Consulting, 2024).

law enforcement—rotation of leadership occurs more frequently, typically every 1-2 years.^[38]

In Ukraine's customs service, rotation refers to temporary relocation—up to three months—within the same job category. It is limited to: (a) balancing workloads; (b) covering temporary operational tasks; and (c) transfers within or between regional customs offices. Transfers to or from the central office of the State Customs Service are not permitted.

This form of rotation is disconnected from professional development, talent pool formation, or vacancy filling. This breaks the link between reform goals and practice — making rotation feel disruptive rather than strategic.

By contrast, countries like Poland and Lithuania implement phased civil service rotation with safeguards for career continuity and external oversight, strengthening institutional resilience. Ukraine's diplomatic service also uses rotation, though defined differently and serving a broader set of functions.

Currently, diplomatic rotation means moving people based on what the administration needs — not what helps them grow. It's more about plugging gaps than building careers. This aligns with international standards and serves long-term HR planning, professional growth, and institutional capacity building.^[39]

Unlike the limited, short-term rotation in customs, the diplomatic model reflects European norms and functions as a strategic career management tool.

By contrast, the Ministry of Internal Affairs and National Police use a different mobility approach. These institutions no longer apply “rotation” in the classical HR sense, instead relying on official secondments.

According to internal rules, secondment refers to a police officer's temporary assignment—authorized by a supervisor's order—to another locality for official duties outside their regular post.^[40]

³⁸ Kuybida, Shpektorenko, “Staff Rotation.”

³⁹ Ministry of Foreign Affairs of Ukraine, “On Approval of the Procedure for the Rotation of Diplomatic Service Officials in Diplomatic Service Bodies.” Order No. 427, 18 October 2018. Official Legislative Database of Ukraine. <https://zakon.rada.gov.ua/laws/show/z1274-18#n14>.

⁴⁰ Ministry of Internal Affairs of Ukraine, “On Approval of the Instruction on Official Secondments of Police Officers within Ukraine.” Order No. 672, 2 August 2017. Official Legislative Database of Ukraine. <https://zakon.rada.gov.ua/laws/show/z1042-17#Text>.

This form of mobility functions primarily as an operational tool, not as a means of career development, professional rotation, or talent pool formation. Secondments have defined tasks and timelines but lack long-term impact on professional growth.

In Ukraine's customs service, "rotation" means temporary reassignment for up to three months. It is not connected to staff development, talent management, or motivation, and functions mainly as a reactive tool rather than a part of strategic workforce planning.

In response, this paper proposes a theoretical model of institutionalized rotation comprising three components: (a) Strategic – enshrining rotation as a tool for development, anti-corruption, and burnout prevention; (b) Career-oriented – linking rotation to evaluations, talent pools, and training; (c) Organizational-procedural – defining terms (6-24 months), selection procedures, reporting, and outcome evaluation.

This model aims to reconcile administrative efficiency with development needs under legal and managerial uncertainty.

5.3. Implementing a Competency-Based Approach in Customs HR Policy

In reality, the current approach acts more like an administrative tool for managing personnel flows than for enhancing qualifications. It may reduce operational efficiency and disregard individual competencies.^[41]

Ukraine's EU integration efforts underscore the relevance of adopting European civil service standards. The Center for Adaptation of the Civil Service to EU Standards emphasizes a competency-based HR approach aligned with professionalism, neutrality, ethics, and transparency.^[42]

As part of ongoing reform, the State Customs Service has prioritized the introduction of a customs competency model to improve job performance and modernize professional development. In December 2024, a pilot

⁴¹ Fenyc, "Some Aspects of Termination of Civil Service in Ukraine and in the Countries of the European Union."

⁴² Nataliia Sorokina, "Development of the Human Resource Management of the Public Service in the Context of the Formation of the Moral and Ethical Competence of Public Servants" *Aspects of Public Administration*, No. 1 (2023): 20-25.

project was launched in four customs offices, including trial competency assessments.^[43]

While competency assessment is essential to reform, the Customs Code mandates annual evaluations with legal consequences for failure, including demotion or dismissal. In most EU countries, performance appraisals are conducted every three to five years and are linked to individualized development plans, not only short-term compliance metrics. Ukraine's approach, focused on annual checks and risks of dismissal, sends the opposite message — control over support. Such an approach may discourage competent staff and erode institutional trust. This approach focuses on motivation and development rather than compliance enforcement. Such annual sanction-oriented assessments remain atypical in the EU, where development-focused evaluations are more common.

From an administrative law perspective, this raises proportionality concerns and may infringe labor rights under the European Social Charter. Jurisprudence emphasizes that evaluation must be developmental, not punitive. Excessive stress from annual assessment risks demotivation and inefficiency, with the process potentially misused for staff purging rather than improvement.

A more balanced approach could include performance reviews every 3 to 5 years, along with flexible tools for skills development, such as mentoring or individual learning plans, instead of rigid exams.

As part of broader reform, the State Customs Service launched a pilot of the Customs Competency Framework (Order No. 1036, 04.09.2024) in Vinnytsia, Dnipro, Odesa, and Ternopil. Of 1,049 officials, 978 completed the evaluation across four clusters: customs control, duties, anti-smuggling, and audit.

Key outcomes included:

- 92% passed general legal knowledge (Test 1);
- Only 35% met all OCCs;
- Feedback (from 559 participants) highlighted test fatigue, vague wording, lack of real-case relevance, and no answer database.

⁴³ State Customs Service of Ukraine, "Implementation of the Competency Model as an Element of the Transformation of Customs Authorities" 18 December 2024. <https://customs.gov.ua/news/zagalne-20/post/vprovadzhennia-modeli-kompetentsii-iak-element-transformatsiyi-mitnikh-organiv-1943>.

The framework now includes 17 operational, 5 managerial, and 6 behavioral competencies, with additions like IPR protection and customs support. A three-tiered assessment system was piloted: Test 1: General law (50 items); Test 2: OCC knowledge (80 items); Self-assessment of managerial/behavioral competencies (15 items each).

Professional development plans (PDPs) are assigned to those falling short, with targeted upskilling. Institutional steps include approval of the Competency Catalogue, job profile updates, and scaling the model nationwide in 2025–2026.

Stakeholder engagement was integral: consultations with the business community, civil society, and international partners such as the EU Advisory Mission and World Customs Organization helped align the model with best practices.

Though legislative amendments are still pending, reform proceeds through internal guidelines and pilot feedback. This shift from qualification-based to competency-based HR management strengthens strategic planning and institutional resilience.

Reports by the EU Commission and WCO stress that sustainable reform must link HR policies with institutional performance and ethical standards, balancing legal control with motivation and predictability.

5.4. Certification of Customs Officials: Toward Professionalization or Bureaucratization?

In democratically developed countries such as the United States, the United Kingdom, Germany, and France, public service is viewed as a function of the civil service institution—delivered by entities with public-law status that represent the state.

It includes state institutions, local governments, and other public entities such as universities, hospitals, and social services. The institutionalization of civil service and unified principles across sectors and levels remain key priorities.^[44]

In European countries, civil service is regarded as a professional activity reserved for individuals with appropriate education and training.

⁴⁴ Nyniuk, Nyniuk, “Public Service Reform in Ukraine.”

Its legal regulation is understood as the structuring of public relations between the state – represented by a government body or authorized official – and the civil servant.^[45]

According to the Customs Code of Ukraine, customs officials, except for top management, are required to undergo a one-time certification to confirm their integrity and competence.

However, a key issue arises: why should an official with years of service, no disciplinary violations, and no legal restrictions undergo certification again? This could undermine stability, creating arbitrary dismissal mechanisms.

The consequences of failing certification – dismissal and a ten-year ban – seem disproportionate. A single failed attempt could unfairly deprive someone of the right to work in the customs field for years.

Such a system could be misused for politically motivated purges. Certification in Ukraine focuses heavily on punitive outcomes without sufficient emphasis on ethical development or institutional learning. This contrasts with OECD recommendations, which emphasize balancing compliance with value-based approaches to sustain motivation and trust among public servants.^[46] Integrity assessment based on property ownership lacks objectivity, as property alone doesn't prove honesty. Integrity should be evaluated on verifiable facts, legal compliance, and professional ethics.

Without objective and reviewable standards, the system risks turning into a tool of managerial pressure rather than integrity control.

Comparisons with countries like Poland and Lithuania show the importance of gradual reforms, stakeholder involvement, and external oversight, avoiding overly punitive practices.

International bodies like the WCO and the European Commission stress the need for balanced reforms, combining accountability with professional development, rather than relying on punitive evaluations.

⁴⁵ Taras Melnychuk, *The Development of Professional Public Service in EU Countries: Experience for Ukraine* (PhD diss., National Academy for Public Administration under the President of Ukraine, 2021), 229.

⁴⁶ János Bertók, "Promowanie postawy etycznej w służbie publicznej – doświadczenia państw OECD" *Służba Cywilna*, 2 (2001): 51-78.

6 | Summary

The reform of Ukraine's customs service, initiated by the Law "On Amendments to the Customs Code," introduces key changes: contractual service, staff rotation, certification, and a competency framework. However, its success depends on implementing detailed regulations, as the Customs Code only outlines these mechanisms without specifying procedures.

The contractual nature of service restricts career mobility, with broad discretionary powers for management in determining contract terms, undermining job security and career advancement.

A lack of clear performance evaluation criteria, especially regarding key performance indicators (KPIs), risks subjective assessments and manipulation. Additionally, the short-term (three-month) staff rotation system contrasts with European practices, as it is not designed to support professional development.

Recent case law from Ukraine's Supreme Court has begun to introduce constitutional limits to managerial discretion in the context of contract-based public service. In Case No. 380/15752/22 (31 May 2024), the Court ruled that dismissals grounded in performance indicators must be substantiated and adapted to the factual context, even under wartime conditions.^[47] Similarly, in Case No. 380/15495/22 (5 June 2024), the Court emphasized that accountability must be linked to the contractual term itself, excluding prior violations as valid grounds for dismissal.^[48] These rulings signal a nascent judicial recognition of the need for procedural proportionality and legal clarity within Ukraine's evolving public service framework.

Annual competency assessments – prescribed by the Customs Code – are overly rigid and remain atypical within the EU, where evaluations are typically development-focused and embedded in long-term learning paths rather than annual sanction-oriented reviews.^[49] Frequent assessments of this kind often generate stress and emphasize rule-following over actual performance.

⁴⁷ Supreme Court of Ukraine, Case No. 380/15752/22, Decision of 31 May 2024, Unified State Register of Court Decisions (Ukraine).

⁴⁸ Supreme Court of Ukraine, Case No. 380/15495/22, Decision of 5 June 2024, Unified State Register of Court Decisions (Ukraine).

⁴⁹ European Commission: Directorate-General for Taxation and Customs Union, The EU Customs Competency Framework: Reference training programmes for risk management domain, Publications Office of the European Union, 2023. <https://data.europa.eu/doi/10.2778/603856>.

The one-time certification requirement, which carries severe penalties for failure, is also problematic, particularly with vague integrity criteria. Integrity should be assessed based on legal and ethical standards, not financial disclosures.

Sustainable reform requires balancing institutional accountability with career incentives to prevent demotivation. The proposed reforms, including a minimum five-year contract and appeal mechanisms, are crucial for improving personnel management and ensuring alignment with European standards.

In summary, aligning Ukraine's customs service with European standards requires institutional coherence, legal flexibility, and stakeholder-driven implementation.

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