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ARE THE EU MEMBER STATES READY FOR THE NEW UNION CUSTOMS CODE: EMERGING LEGAL ISSUES ON THE NATIONAL LEVEL

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Abstract. In 2016, the European Union has launched a new and ambitious project for the future regulation of international trade in the European Union and the rules of its taxation: since the 1 May 2016, the new Union Customs Code (UCC) has entered into force. It revokes the old Community Customs Code (CCC), which was applied since 1992, and passed in the form of EU regulation sets brand-new rules for the application of Common Customs Tariff and calculation of customs duties (tariffs) in all the EU Member States. It is oriented to the creation of the paperless environment for the formalisation of international trade operations (full electronic declaration of customs procedures) and ensuring of a more uniform administration of customs duties in the tax and customs authorities of the Member States in the European Union. Therefore, the article raises and seeks to answer the problematic question whether the Member States of the European Union themselves are ready to implement these ambitious goals and does the actual practice of the Member States support that (considering the practice of the Republic of Lithuania). The research, which is based on the analysis of case law in the Republic of Lithuania (case study of recent tax disputes between the taxpayers and customs authorities that arose immediately before and after the entry into force of the UCC), leads to the conclusion that many problematic areas that may negatively impact the functioning of the new Customs Code remain and must be improved, including an adoption of new legislative solutions.

Keywords: international trade; international business; the Union Customs Code; EU Member States; customs duties (tariffs).

JEL Classification: F13 - Trade Policy: International Trade Organizations; K39 – Other: Customs Law

Introduction

The necessity to improve the existing business environment, to ensure an innovative and competitive economy and effective use of electronic resources and opportunities and to counter internal and external challenges for the EU customs union has led us to a major legal regulatory reform of import taxes (customs tariffs/duties) in the European Union. The results of the reform mean that a completely new source of law was adopted to regulate this area – in 2013, the European Union has adopted the Union Customs Code (UCC), and it has entered into force since 1 May 2016 (Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, 2013). If this EU legislation will be implemented timely and fast, it would radically change the activity of customs authorities and international business operators in the European Union – the still widespread use of the paper documents for the formalisation of customs procedures will be abolished, all customs formalities throughout the Member States of the EU will be standardised, the speed of customs clearance procedures and transportation of goods through the external borders of the European Union will increase and, finally, the efficiency of risk analysis and customs control will be ensured and the public safety will be strengthened. However, harmonised efforts of the customs and tax authorities in the EU Member States and business entities, as well as considerable resources, are necessary to achieve its successful implementation. In addition, more focused efforts of the individual EU Member States are also necessary for the implementation of the Code and this means closer cooperation between national customs authorities, virtually ensuring that all of them will act as a single EU customs administration. Accordingly, the EU Member States must review their national

legislation in the field of customs and completely align it with the provisions of the UCC. However, during this period of reforms, it is also necessary to ensure the continuity of certain practices and to ensure the legitimate expectations of business operators and to adhere to the principle of legal certainty.

Therefore, these factors determine the topicality of the chosen topic and the importance of a detailed legal analysis in this area. We should also stress that whilst there are some general scientific studies on the legal novelties of the UCC (Wolffgang, Harden 2016; Truel, Maganaris 2015; Truel, Maganaris, Grigorescu 2015 and Van Doornik 2014), there are practically no any practice reviews how the UCC is implemented on a practical level in the EU Member States. Besides, most of fundamental studies on the EU customs law are written according to the old EU customs legislation that was in force before the UCC (see, e.g. Lyons 2008, Fabio 2010). Although some of the theoretical assumptions that are necessary for the implementation of the UCC are analysed in some national studies (e.g. Laurinavičius *et al*. 2014), there are virtually no practical studies on how the mechanism for implementing of the Code is operating. The article fills the gap and tries to set the guidelines for the development of national customs regulations that can be important both for Lithuania as well as other Member States of the European Union. Thus, the scientific importance of the article can be explained by the following aspects: (i) the research identifies emerging problematic areas of the UCC itself and presented facts can be used as a basis for the theoretical discussions on the possible legal improvement of the EU trade and customs law, the UCC and its regulations in the future; (ii) the article sets the guidelines for the legal revision of national customs laws in the Republic of Lithuania to make them more compatible with the EU law (i.e. with the UCC); (iii) the ideas and legal experience that is presented in the article can be studied by both scholars and legal practitioners in other EU Member States as examples of good practice as well as examples of practice that need to be avoided to achieve efficient and uniform implementation of the UCC. Therefore, the article raises the problematic question whether the Member States of the European Union themselves are ready to implement the goals of the UCC and does the actual practice of the Member States (considering the Republic of Lithuania) support that? In this regard, two main objectives of the article were formulated: (i) to describe the theoretical aspects related to the implementation of UCC in the Republic of Lithuania and to compare major provisions of national laws with the provisions UCC on a theoretical level; (ii) to conduct a case study and to present practical challenges that may affect the implementation of the UCC (based on the national judicial practice since 2013) and to propose ways to solve these problems. To avoid focusing only on the description of national particularities, both theoretical background and practical implementation of specific areas of the UCC (such as customs valuation, establishment of customs origin, regulation of customs procedures, regulations) are first presented and analysed based on related practice of the Court of Justice of the European Union (CJEU), which is binding for all the EU Member States. In the second stage, after the definition of essential provisions of the CJEU practice related to these specific topics, they are compared with the national legislation, national case law and the practice of national customs authorities (in the chosen EU Member State, i.e. the Republic of Lithuania). For this reason, the article uses both theoretical (analysis and synthesis, systematic, historical, comparative) and empirical research methods (case study, generalisation of professional experience that included examination of the judicial cases of the CJEU (the EU level) as well as cases of national courts (the level of the Member State of the European Union)). Detailed theoretical scientific analysis of the topic (based on theoretical methods) is presented separately in section titled 'Literature Review' and, partly, in 'Results' (see its subsection 'Theoretical aspects related to the implementation of the UCC in the Republic of Lithuania'). Empirical (practical) section of the research (based on empirical methods and the analysis of judicial practice (case study)) is presented in section titled 'Results', in particular, in its subsections 'Practical aspects related to the implementation of the UCC in the Republic of Lithuania: customs valuation'; 'Practical aspects related to the implementation of the UCC in the Republic of Lithuania: rules of customs origin' and 'Practical aspects related to the implementation of the UCC in the Republic of Lithuania: electronic declaration of customs procedures'.

Literature Review

The customs law of the European Union was codified in 1992 when the Community Customs Code (1992) was adopted. The Community Customs Code (hereinafter – CCC) has simplified customs formalities and abolished checks at internal borders of the Member States. This source of law has helped to create a single EU market and eliminated customs control of goods moving within the territory of the European Union. Up to 1 May 2016, the provisions CCC were mandatory to all Member States of the European Union and they required their national institutions that were responsible for the administration of customs duties and other import taxes and related international trade regulatory measures to comply with certain common standards (Lyons 2008).

On the other hand, as has been observed during the implementation of special programmes (Such as Customs 2002 and Customs 2007; see Action programme: Customs 2007 (2003–2007), 2003) that were aimed to unify customs activities throughout the Union, in the long run, the CCC has no longer complied with the changing international business environment and, especially, with the rapidly developing information technology environment that meant the spread of electronic data exchange methods. In this context, we should also stress the considerable importance of the Lisbon strategy that declared the aim of making the European Union the most competitive economy in the world, E-government (Electronic Government) initiative, the World Trade Organization's Doha round of talks, which focused on many conditions to facilitate trade and other associated processes. Another important factor was that a much greater emphasis was put to ensure the security of international trade and this resulted in the new international initiatives of the United States, the European Union and the World Customs Organization (Container Security Initiative, Security Standards Initiative, etc.; see Radžiukynas 2011). For this reason, even as early as in 2005, new changes to the CCC were made and they included the incorporation of the provisions required for the effective application of electronic information systems (Regulation No. 648/2005 of the European Parliament and Council). They allowed national customs authorities to adapt to the rapidly changing business environment more easily (Lux, Douglas-Hamilton 2008).

Other main reasons behind the initiations of the improvements to the CCC since 2004–2005 were related to the customs modernisation needs in the EU Member States, eEurope initiative (eEurope) announced by the European Commission in 1999, including eCustoms Initiative, the ensuring of security, the changing role of customs, simplification of the EU legislation, necessity to improve business conditions and necessity to ensure a closer integration of the EU Member States in customs matters. The main areas of work in order to ensure the smooth review of customs legislation were simplification and rationalisation of existing legislation, validation of electronic data use in all relevant laws, ensuring involvement of business in the legislative process from a very early stage of these proceedings, improvement of the relationship between the legal regulations and their practical implementation, simplification of complex legislation to create more attractive conditions for entrepreneurs, continuation of work on the harmonisation of sanctions for customs offences. In accordance with the principle that the customs authorities of all Member States should have to work as one, the Commission of the European Union sought to eliminate any possibility of departure from uniform EU standards conducted by national legislators. This meant the removal of specific national rules in number of Member States that made it difficult for businesses to adapt to differing national regulations on their activities. Therefore, to ensure further integration, the idea was raised to abandon any national simplifications in customs legislation and to guarantee that they can only be secured at the EU level. In addition, the necessity to improve public safety and cooperation of different customs authorities allowed to provide projects for an overall customs risk management system and common EU-wide risk assessment criteria (Povilauskienė, 2006).

The result of these initiatives on the simplification of customs formalities and improvement of business climate was the adoption of the Modernised Customs Code (Regulation No. 450/2008 of the European Parliament and Council, 2008). The Modernised Customs Code reviewed the CCC; first of all, simplified its provisions governing the customs procedures; adapted them to the electronic environment and business conditions; and finally, linked them with other areas of the EU law (regulating security and safety-related requirements). The Modernised Customs Code abandoned the

currently existing national simplifications and set the clear requirements that throughout the customs territory of the Union, customs procedures must be applied in accordance with the same procedural standards, as it is particularly important to the computerisation of customs procedures (Radžiukynas, 2011). The simplification and better structuring of the customs legislation has also meant the creation of centralised customs clearance system as well as creation of legal basis for the computerised customs procedures and common risk analysis standards (Sarapinienė, Avižienis 2008). It has also envisaged a use of one-stop shop and single-window principles for the regulation of customs clearance procedures (Lyons 2008; Medelienė, Sudavičius 2011). Nevertheless, the difficulties related to the practical implementation of necessary IT solutions was the main reason why the Modernised Customs Code could not be started to be applied up to the planned date, and until 2013, it was revised by the UCC.

Based on its analysis, we can define several areas of the EU customs law that have changed extensively. However, first of all, we should stress that from the key elements of the EU's Common Customs Tariff (tariff classification, origin and value of imported goods), tariff classification has changed only minimally because this element is not regulated only by the UCC but by the separate EU regulation (Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs tariff, 1987), which remains in force and mostly unchanged since 1987. On the other hand, even in this area, the UCC has introduced some novelties regarding issuance of binding tariff information, which is used to classify goods for customs purposes throughout the Union. According to the UCC, the validity and duration of a binding tariff information was shortened up to 3 years and it was made mandatory not only for the customs authorities but also for the taxpayers (Article 35 of the UCC). Similarly, the same provisions of the UCC provides that the same binding information can be issued to confirm the origin of the goods (earlier, in the CCC, such a possibility was not provided at all, see Truel, Maganaris 2015). Another essential element of the Common Customs Tariff, that is, rules on the determination of customs origin of imported goods, have not changed significantly (Wolffgang, Harden 2016), but some authors (e.g. Van Doornik 2014) note that the UCC regulates acquisition of non-preferential origin of goods much more in detail and sets a more clear criteria that define non-preferential origin; therefore, non-preferential origin of goods can be objectively assigned to a higher number of all imported goods (Articles 59-60 of the UCC). Certain changes have taken place in the customs valuation area: here the customs valuation methods remain the same but the procedures for calculation of transaction value were revised (Truel, Maganaris 2015). This means that a practice when a price of first export sales was used as a basis for calculating the value of goods may no longer be applied and instead the price of a transaction concluded before the goods has entered free circulation shall be used (Article 70, para. 1 of the UCC).

The biggest changes, obviously, took place in the field of customs clearance procedures (see Van Doornik 2014; Wolffgang, Harden 2016). The UCC provides that general import declaration and other customs declarations shall be submitted electronically and until 2020, all the data exchange between customs authorities and taxpayers must take place in electronic environment (Article 6, para. 1 of the UCC). In addition, the UCC has reduced an overall number of customs procedures and has simplified the customs clearance, for example, instead of three simplified types of customs procedures, only two are left (see Articles 256 and 259). The UCC also provides for the possibility to carry out centralised customs clearance (Article 179, para. 2); therefore, the customs authorities may authorise a person to lodge a customs declaration relating to the imported or exported goods only to one specific customs office that serves the place where a person (taxpayer) is established. It is considered that in such case, the customs debt incurred at the place where the customs declaration is lodged. On the other hand, performing of such simplified customs clearance requires permit from the customs authorities. Therefore, the possibility to use such established procedural facilitations depends whether the taxpayer has acquired special status of the Authorised Economic Operator (AEO), see Articles 38–41 of the UCC. Overall, we may conclude that the adoption of the UCC may not be considered as total revolution of the EU customs law, but we should also have in mind that it in general has narrowed the rights of the EU Member States' to regulate this area (Truel, Maganaris, Grigorescu 2015). Thus, it is very important how the Member States themselves are ready or are preparing for such changes.

Methodology

In order to answer the problematic question whether the Member States of the European Union are ready to implement the goals and new provisions that were set by the UCC, the article analyses actual practice of the Member States (considering as an example the practice of the Republic of Lithuania). The research is conducted at two levels – theoretical (based on the theoretical methods of legal studies, such as analysis, synthesis, comparative, systemic, linguistic and historical methods) and empirical (based on the case study, i.e. analysis of case law related to the application of the national and the EU customs legislation in the Republic of Lithuania). The results of the theoretical research are presented in the subsection 'Theoretical aspects related to the implementation of the UCC in the Republic of Lithuania'. They include overall theoretical assessment of the conformity of national customs legislation rules (e.g. rules on set in the Law on Customs of the Republic of Lithuania, 2016) with the rules set in the UCC. The content of the rules on application of the EU's Common Customs Tariff, examination of disputes with customs authorities and performing of customs procedures is compared with the help of systemic, linguistic and historical analysis.

The results of the empirical research are presented in other subsections, such as 'Practical aspects related to the implementation of the UCC in the Republic of Lithuania: customs valuation', 'Practical aspects related to the implementation of the UCC in the Republic of Lithuania: rules of customs origin' and 'Practical aspects related to the implementation of the UCC in the Republic of Lithuania: electronic declaration of customs procedures'. The empirical research is focussed on three main elements that are important for the proper calculation of customs duties and are directly regulated in the UCC, that is, customs valuation, rules on customs origin and other import and export rules (rules on customs procedures). However, another main element of the EU's Common Customs Tariff, that is, the tariff classification of goods, is regulated in detail not by the UCC but by the Combined Nomenclature of the European Union (Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, 1987), and it hasn't experienced any major changes because of the adoption of the UCC. Therefore, this element of the EU's Common Customs Tariff is excluded from the scope of empirical research. The empirical part of the research was carried out by using the case study method, that is, by analysing tax disputes in the Republic of Lithuania between the taxpayers and customs authorities, which arose immediately before and after the entry into force of the UCC (since 1 January 2013). As the highest competent national authority in resolving of such disputes is the Supreme Administrative Court of Lithuania, for this reason, 15 administrative cases related to the areas referred (customs valuation, customs origin and customs procedures) were identified and selected for further analysis. The study of these cases includes comparison of legal precedents that were formulated in them with the regulations of the UCC in order to determine whether the existing national practice complies with the new requirements of the UCC.

Administrative cases for the analysis of national case law were selected using the public official Lithuanian courts information system 'LITEKO' and its classifications for the relevant judicial decisions (classifications 1.10 'Cases related to the customs activities' (which was used before 1 January 2017) and 'Customs activities' (used after 1 January 2017)) (Lithuanian courts information system 'LITEKO', 2017). The identified practical and theoretical problems that may affect the successful implementation of the UCC in Lithuania and possible methods for their solution are presented in the section on 'Conclusions'.

Results

Theoretical aspects related to the implementation of the UCC in the Republic of Lithuania. As it was mentioned earlier, one of the main goals of the UCC itself is to ensure even more uniform and coherent application of the EU customs legislation by the customs authorities of the Member States (compared to the level that was already achieved whilst the CCC (1992) was in force). Therefore, according to the provisions of UCC that are set in the Article 3 of the Code, the customs authorities throughout the Union shall be guided by the same directions of activity and must apply the same standards, rules, procedures and policies to 'promote further the uniform application of customs legislation' as it is directly stated in para. 15 of the preamble to the UCC (see also paras 9, 17 and 22

of the Code). The UCC also explicitly mentions the necessity to harmonise customs controls in the Member States (para. 19 of the preamble to the UCC) to create uniform competitive conditions for the international trade operators across the European Union.

Therefore, according to the UCC and recent relevant practice of the CJEU (see cases C-116/12, Ioannis Christodoulou and Others v Elliniko Dimosio, 2013; C-450/12, HARK GmbH & Co KG Kamin und Kachelofenbau v Hauptzollamt Duisburg, 2013; C-595/11, Steinel Vertrieb GmbH v Hauptzollamt Bielefeld, 2013), the ultimate goal of the Member States and their institutions (including customs authorities as well as other national institutions, such as national courts) is to ensure the uniform application of the EU customs legislation whilst dealing with issues such as calculation of customs duties and other regulatory means for the international trade operations. On the other hand, the question what are the exact specific powers and competencies of the Member States to self-regulate these questions always remains open, controversial and debatable as the Member States have used and still uses national rules and special practices on customs procedures, customs clearance or even customs valuation (Radžiukynas, Belzus 2008; Baronaitė 2010; Truel, Maganaris 2015) to boost their overall economic competitiveness, attractiveness to foreign investment or even to solve their own fiscal problems (by trying to gain higher revenue from the collected customs duties part of which goes to their own state budgets). It was assessed in cases as early as in 1960s (see cases C-26/62, Van Gend & Loos v Nederlandse administratie der belastingen, 1963; C-6/64, Costa v E.N.E.L., 1964) and later in cases C-125/94, Aprile Srl v Amministrazione dello Stato, 1995; C-339/09, Skoma-Lux v Celní ředitelství Olomouc, 2010; or recently in the joint cases C-129/13 and C-130/13, Kamino International Logistics BV and Datema Hellmann Worldwide Logistics BV v Staatssecretaris van Financiën, 2014 EU:C:2014:2041. According to these legal precedents and the legal doctrine (Lyons 2008; Medelienė, Sudavičius 2011; Laurinavičius *et al*., 2014; Barnard 2016), we should stress that there are areas that belongs to the competence of the European Union exclusively (what is directly regulated in the Customs code of the European Union, first of all the elements of Common Customs Tariff, the rules on the incurrence of customs debt and the rules of customs clearance which are necessary for the calculation of Common Customs Tariff). Therefore, even after the adoption of the UCC, there are areas where the discretion is still left for the Member States to regulate, such as appeals against the decisions and actions of customs authorities, inspections and investigations, penalties and sanctions for violations of customs legislation, procedures used for inspecting the tariff classification of imported goods, the organisation of customs authorities as well as the status and powers of customs officers. For example, the Article 44 of the UCC gives the discretion to the Member States to define the specific institutions, bodies or authorities that will be regarded as competent to deal with the complaints of the taxpayers and to set the rules for the appeals procedure as well as to determine the maximum number of stages (steps) for the investigation of the appeal. Regarding customs control, the Article 48 of the UCC only sets general principles for the post-release control, therefore, leaving a room for the detail regulation of the control procedures at the national level. Similar principle is applied towards the definition of possible penalties for the infringements of customs legislation (Article 42 of the UCC). The UCC also doesn't implicitly regulate how the system of customs authorities should be organised in each Member States or which officials or institutions can perform checks and controls, including even such important elements of the Common Customs Tariff as the tariff classification of goods (Article 56–57 of the UCC). However, the existence of such competencies is usually evaluated on a case-by-case level and can be assessed by the CJEU (see, e.g. case C-456/08, Commission v Ireland, 2010).

Regarding the successful implementation of the UCC in the Republic of Lithuania, we should stress that Lithuanian Republic has taken some necessary formal steps to ensure the compatibility of its customs legislation with the provisions of the UCC. First, it introduced a completely brand and new Law on Customs (2016), which regulates the activity of national customs authorities and completely removed old national regulations on customs value, customs origin or tariff classification of goods from the text of the law. If, for example, the old version of the Law on Customs of the Republic of Lithuania (2004) even included separate sections regulating these elements of the Common Customs Tariff (Chapter IV, sections from first to third), the new version of the law barely mentions only few non-essential questions regarding customs valuation and customs origin (such as the procedure for the

issuing of the certificates, which proves non-preferential customs origin, Article 40, and rules on the recalculation of customs value that was expressed in a foreign currency, Article, 41). Therefore, the new Law on Customs became more oriented towards the internal organisational issues of customs authorities (such as their structure, functions, competences, rights and duties of customs officers).

Besides, even in the areas where the UCC leaves the competence to the Member States to make a final decision on the regulation of certain issues (such as the system of appeals), the national system became more compatible with the general requirements of the EU Customs Code and specific national rules were withdrawn. For example, as the Article 44 of the UCC (para. 2 (a)) states that the right of appeal may be exercised initially before the customs authorities (as an institution *in corpore*), the new national Law on Customs (2016) and other legislative acts that implements it (Regulations for the examination of complaints to the Customs Department under the Ministry of Finance of the Republic of Lithuania, 2016) revoked the regulations of the previous legal acts, which required in some cases to file a complaint to the individual customs officer who himself or herself made a disputed decision or has carried out the actions that are the object of the complaint appeal itself. Such previous national legal regulations were criticised in the legal doctrine (Valantiejus, 2013), and therefore, the removal of them is the step forward towards the creation of more transparent and accountable system of customs legislation.

We should also stress that one of the goals for ensuring the uniform application of the EU customs legislation is the creation of a paperless environment for customs operations (para. 15 of the preamble to the UCC). For this reason, the UCC sets the final date of 2020 when all the information regarding customs procedures and customs declarations should be exchanged and stored electronically, using electronic data processing techniques and electronic systems (see also Article 278 and Article 280 of the UCC). The Republic of Lithuania is also rapidly moving towards this direction: according to the Article 15 para. 2(6) of the new national Law on Customs, the Customs Department under the Ministry of Finance of the Republic of Lithuania is held responsible for the adoption and implementation of the informational systems and infrastructure of e-services that are necessary for the tasks of customs authorities under the Article 280 of the UCC. It is necessary to mention that even before the UCC was adopted (since 2003), Lithuania has developed and applied its own Strategic plan for electronic customs (Radžiukynas *et al*. 2011). These measures in general are evaluated as quite successful because the number of electronically processed import and export declarations was constantly growing and since the end of 2009 was higher than 98% of all processed declarations (Laurinavičius *et al*. 2014). In 2016, the number of such electronic declarations even exceeded 99% (Annual report on the activity of Lithuanian customs in 2016, 2017). However, even considering these indicators that shows the high level of the use of e-technologies in customs, we should also stress that even in a current situation, it is impossible to avoid the disputes with customs authorities on how the data in these electronic declarations should be treated and evaluated, for example, the disputes in which cases the correctness of the electronic data can be ruled out by using other, non-electronic data sources. Since the start of 2013 (the year when the UCC was adopted), the Supreme Administrative Court of Lithuania has examined more than six such cases, which usually involved the evaluation of transit customs procedures (Lithuanian courts information system 'LITEKO', 2017).

On the other hand, even after these changes, some disputable areas of national law remains and their appropriate regulation at national level still raises legitimate questions about the compatibility with the EU law (i.e. some aspects of customs valuation control, the determination of customs origin, electronic registration of customs procedures). These problematic areas are discussed in other subsections by using practical examples from the national judicial practice.

Practical aspects related to the implementation of the UCC in the Republic of Lithuania: customs valuation. One of the obvious areas where problems related to the implementation of the UCC and its requirements (in particular, the requirement to ensure the uniform application of the EU customs legislation) arise not only on theoretical but also on the practical level is customs valuation (determination of customs value). This can be attributed to the fact that certain sources of national legislation are applied and imposed in this area and they define customs valuation of individual types of imported goods (e.g. used motor vehicles) as well as valuation control procedures more precisely

than the rules set in the EU customs legislation (see, e.g. 26 June 2009 Order No. 1B-361 of the Director General of Customs Department under the Lithuanian Ministry of Finance 'On the approval of customs valuation rules for imported used transport vehicles', 2009).

It should be emphasised that the customs value of imported goods is one of the main elements of the EU's Common Customs Tariff (Lyons 2008; Edward, Lane 2013; Barnard 2016). For this reason, the main goal of the EU legislation, which regulates the determination of the customs value, was and currently is the establishment of a fair, uniform and neutral system that could prevent the use of arbitrary or fictitious customs values (case C-256/07, Mitsui & Co. Deutschland v Hauptzollamt Düsseldorf, 2009). To ensure the functioning of this system, the UCC contains a provision that 'the primary basis for the customs value of goods shall be the transaction value' (see Article 70 of the UCC) and all other methods of customs valuation can be used only as secondary, that is, they can be applied and invoked only when the customs value of goods cannot be determined based on the transaction value method (Article 74, para. 1). As it is stressed in the UCC, secondary methods of customs valuation can be applied sequentially, according to the hierarchical order, 'until the first point under which the customs value of goods can be determined', that is, until all the conditions and circumstances that allows application of certain method are established. Therefore, the process of customs valuation, which is based on the using of secondary valuation methods, must start from the analysis of conditions for the application of the method of transaction value of identical goods (Article 74, para. 2(a)) and finish with the 'fall-back' or the 'last chance' method that allows the calculation of customs value based on the data available in the customs territory of the Union, using reasonable means consistent with the principles and general provisions of customs valuation set in the Article VII of the General Agreement on Tariffs and Trade and other provisions of the UCC (Article 74, para. 3). It is important to mention that neither the UCC nor the EU regulations, which implements the UCC (Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 2015), sets any special or different rules of customs valuation for certain specific types of imported goods (see Articles 127–146 of the Regulation No. 952/2013 (EU) and Articles 69–76 of the UCC). Additionally, the same already mentioned provisions of these legal sources also do not define any special procedures for the customs control that can be used to check the legality and reasonableness of the declared value of imported goods, leaving it mainly to the Member States to regulate such procedures themselves, as it also was before the entry of the UCC into force (Radžiukynas, Belzus 2008; Radžiukynas *et a*l. 2011).

In general, it can be noted that many other provisions of the UCC that regulates the determination of customs value are not new, as similar provisions (such as the preference of the transaction value method and hierarchical order for the application of other customs valuation methods) were introduced already by the CCC and previous case law of the CJEU, which explained the CCC (case Ioannis Christodoulou and Others v Elliniko Dimosio, 2013, para. 41). The new aspects in the UCC were only introduced in respect to the use of the first sale price for the calculation of transaction value (Article 70, para. 1 of the UCC). However, the general principles of the UCC, which are defined in its preamble and Title 1, Chapter 1 'Scope of the customs legislation, mission of customs and definitions', stress the need to ensure the uniform application of customs legislation, abandon the national simplifications (distortions) and emphasise the necessity to ensure that customs control procedures should be carried out in accordance with certain common standards. Therefore, in this context, the question arises how we must assess the existence of national customs legislation rules in customs valuation?

In this respect, it should be noted that both the CCC and the UCC, which replaced the CCC, are enacted in a form of EU regulations and, therefore, must be applied directly, fully and universally in all the EU Member States (see case Hauptzollamt Bremen-Freihafen v Waren-Import-Gesellschaft Krohn & Co, 1970, para. 8 and case C-539/10 P, Stichting Al-Aqsa v Council of the European Union and Kingdom of the Netherlands v Stichting Al-Aqsa, 2012, para. 86). On the other hand, the national provisions on customs valuation that are enforced in the Republic of Lithuania possess their own certain specific features: according to a national regulatory model for customs valuation, matters that are not directly covered by the EU legislation are regulated by the national legislation or the national

legislation sets more precise definitions that can be considered as necessary for the proper application of the EU rules (Radžiukynas, Belzus 2008). This approach is invoked for the determination of the customs value of imported used motor vehicles and for performing their customs valuation control procedures (see 26 June 2009 Order No. 1B-361 of the Director General of Customs Department under the Lithuanian Ministry of Finance 'On the approval of customs valuation rules for imported used transport vehicles', 2009; hereinafter – the Rules). The specifics of these national provisions can be characterised as follows: when used motor vehicles (cars) that were depreciated because of their normal use or other effects are evaluated for customs purposes and the usual customs valuation method (transaction value method cannot be used), the customs value is determined according to the estimated import prices of other used vehicles (described in a special pricing catalogues) or according to the property evaluation reports, that is, on the basis of other data available in the customs territory of the Union (Radžiukynas 2003; Baronaitė 2010). The national customs valuation rules for imported used transport vehicles were established because before the accession to the European Union, the imports of used passenger cars (vehicles) amounted to 96.4% of such vehicles imported to the Republic of Lithuania. Besides, many importers of used vehicles usually bought them from individuals at the car markets, so the authenticity of their purchase and sales documents caused a lot of doubts for the customs officers, as these documents often indicated clearly unrealistic prices that have been paid for the purchasing of imported cars. In addition, the different depreciation level and different technical conditions of imported cars (vehicles) made it objectively difficult to apply alternative customs valuation methods to them (e.g. to use the transaction value of identical or similar goods) (Radžiukynas, Belzus 2008).

Formal assessment of these legal regulations leads to the question whether such national rules (as defined in the 26 June 2009 Order No. 1B-361 of the Director General of Customs Department under the Lithuanian Ministry of Finance 'On the approval of customs valuation rules for imported used transport vehicles', 2009) may exist, because they compete with the legal regulations laid down in the UCC and other EU's customs legislation that should have a priority in such cases (see case Skoma-Lux v Celní ředitelství Olomouc, 2010, as well as joint cases C-129/13 and C-130/13, Kamino International Logistics BV and Datema Hellmann Worldwide Logistics BV v Staatssecretaris van Financiën, 2014). They also do not have a sufficient legal background as defined by the national law itself (e.g. the necessity and the powers to adopt such rules are not defined in the Law on Customs of the Republic of Lithuania, 2016). It should be noted that in other similar cases, national courts have generally recognised that such national legal regulations (especially when they regulate tax relations) contradicts the constitutional principle of the rule of law and, therefore, can be declared null and void (see the decision of the panel of judges of the Supreme Administrative Court of Lithuania of 17 June 2015 in the administrative case No. I-5-442/2015, 2015). As we can see from the preamble to the national Customs valuation rules for imported used transport vehicles (2009) and as it is stated in the legal doctrine (Radžiukynas 2003, Baronaitė 2010), the provisions of the rules are also based directly on the World Customs Organization (WCO) law (WCO documents, such as the WCO report 'Valuation of used motor vehicles' (2005)). On the other hand, the general position of the CJEU is that a primary source that is to be used for the regulation of customs legal relations in the European Union is the Customs Code. Therefore, legal acts of other international organisations (e.g. World Trade Organization and/or the World Customs Organization) can be invoked only for interpreting the already existing provisions of the EU customs law (see case C-53/96, Hermès International v FHT Marketing Choice BV, 1998).

So even the formal existence of such Rules in the national legal system raises many serious and obvious legal problems. This is confirmed by the relevant period national case law during the analysed period (since 2013). For example, whilst assessing the content of these national rules, we should borne in mind that even if the Rules has been repeatedly improved (original version was approved back in 2004, the Rules were updated in 2009 and then in the years from 2015 to 2016, the additional changes have been made), but anyway their current version leaves wide opportunities for the customs authorities to derogate from the use of transaction value method (paras. 8, 11–12 and 16 of current version of the Rules). This can be interpreted as an objection to the analysed provisions of the UCC (Articles 69–74) and the recent case law of the CJEU (case C-291/15, EURO 2004. Hungary v

Nemzeti Adó-és Vámhivatal Nyugat-dunántúli Regionális Vám-és Pénzügyőri Főigazgatósága, 2016). This is confirmed by the national case law during the analysed period during which three cases concerning the application of the Rules were identified. In some of these cases, the Supreme Administrative Court of Lithuania have highlighted that if a declared transaction price of imported vehicles is significantly lower than the prices contained in the pricing catalogues that, according to the Rules, must be used for customs valuation during the corresponding period, the customs authorities can only rely on a customs value set according to the pricing catalogues and may not use the transaction value method at all (the ruling of the panel of judges of Supreme Administrative Court of Lithuania of 2 April 2015 in the administrative case No. A-729-442/2015, 2015). Therefore, the national practice approves the exceptional order for using of customs valuation methods and it didn't correspond to the hierarchical order that was traditionally approved in the EU customs law (Wolffgang, Ovie 2008) and the practice of the CJEU (case Ioannis Christodoulou and Others v Elliniko Dimosio, 2013, para. 41). In addition, the application of these Rules in a national case law widely acknowledges the possibility of customs authorities to deny the declared transaction value on the basis of any other sources of evidence that are available to the customs (the ruling of the panel of judges of the Supreme Administrative Court of Lithuania of 4 March 2014 in the administrative case No. A-143-312/14, 2014) and limits the legal abilities of importers to provide any new sources of evidence that support the declared transaction value of imported goods (the ruling of the panel of judges of the Supreme Administrative Court of Lithuania, 14 January 2013 in the administrative case No. A-261-102/2013, 2013), although it should be ensured by the practice of the CJEU (case C-263/06, Carboni e derivati v Ministero dell'Economia e delle Finanze and Riunione Adriatica di Sicurtà SpA, 2008, para. 52) and the recent provisions of the UCC, which defines the right to be heard (Article 22).

In this context, the question arises whether such specific Rules are generally necessary and whether it would not be appropriate to regulate customs valuation control procedures for all types of imported goods in a single legal act (currently, the following rules are approved by the 15 December 2016 Order No. 1B-1027 of the Director General of Customs Department under the Ministry of Finance of the Republic of Lithuania, 2016, but they do not apply for customs valuation of used motor vehicles). This would ensure uniform standards for customs valuation on a national level and, accordingly, the proper implementation of the UCC. In such case, it would be appropriate to amend the general Rules on customs valuation by simply complementing them with specific aspects such as clarifying what specific sources can be used to control the reasonableness of the prices of motor vehicles etc.

Practical aspects related to the implementation of the UCC in the Republic of Lithuania: rules of customs origin. As it was already stressed in this article and as it is reported by other scholars (see Wolffgang, Harden, 2016), we should note that the rules of customs origin itself, which are the substantial element of Common Customs Tariff of the European Union , hasn't changed much in the UCC. This can be explained by the fact that they are regulated not only by the secondary law of the European Union but also by the international trade agreements (preferential trade agreements), which, as it is traditionally recognised in the practice of the CJEU, can be applied directly (case C-104/81, Hauptzollamt Mainz v. Kupferberg, 1982, and case C-188/91, Deutsche Shell v. Hauptzollamt Hamburg-Harburg, 1993). However, in any case, the correct application of these rules is extremely important to the international traders because the rate of the customs tariff for imported goods (conventional, reduced or zero (i.e. preferential) tariff) depends on what origin of goods will be declared and determined by the customs authorities. Therefore, they are also considered as an irreplaceable instrument for the uniform application of Common Customs Tariff of the European Union (case C-49/76, Gesellschaft fur Uberseehandel GmbH v Handelskammer Hamburg, 1997, para. 5).

As it is repeatedly noticed in the legal scientific literature (see, e.g. Lyons 2008; Holdgaard, Spiermann 2011; Gavier, Verhaeghe 2012; Muniz, 2015), the proper application of the rules regulating customs origin of imported goods is associated with a problem of the distribution of burden to prove the preferential customs origin. For this reason, as it is noticed by Truel, Maganaris and Grigorescu (2015), the provisions of the UCC try to codify the basic rules that regulate the procedures that can be used for proving the origin of the custom (Title II, Chapter 2 of the UCC). It is necessary to stress that

some of these rules are more accurate and detailed than the rules set in the CCC, and this relates to the provisions of the Article 61 (para. 1) of the UCC, which states that 'where an origin has been indicated in the customs declaration pursuant to the customs legislation, the customs authorities may require the declarant to prove the origin of the goods'. The wording of this legal regulation in the UCC differs from the text used in the analogous provisions of the CCC (see Article 26, para. 2), which stated that 'the customs authorities may, in the event of serious doubts, require any additional proof to ensure that the indication of origin does comply with the rules laid down by the relevant Community legislation'.

Therefore, we can notice that the UCC (Article 61) states that the declarant (the taxpayer) always has a general obligation to prove the origin of the goods by all available means and the emergence of this obligation is not linked only to specific cases, such as 'the event of serious doubts' and the necessity to provide 'additional proof' to the customs authorities. The UCC also does not contain provisions requiring the customs authorities to gather the necessary primary evidence on customs origin themselves during their investigative procedures (as it was indirectly required by the CCC, which stated that the taxpayer must provide only an additional source of evidence). It is necessary to stress that even before the UCC has entered into force, the CJEU has also started to formulate and to follow the practice under which the general burden to prove the customs origin belongs to the importer. For example, this principle was stressed in the paras 56–57 of the case C-386/08 of the CJEU (Firma Brita GmbH v Hauptzollamt Hamburg-Hafen, 2010), where the CJEU highlighted that in order for the taxpayer (importer) to be entitled to the use of preferential customs origin in customs declarations, 'it is necessary to provide valid proof of origin issued by the competent authority of the exporting State' and that this requirement cannot be considered only as 'a mere formality' (see also the case C-438/11, Lagura Vermögensverwaltung GmbH v Hauptzollamt Hamburg-Hafen, para. 17). The same practice has also been followed in cases where questions on the application of anti-dumping customs duties arose, for example, in the recent case C-416/15 (Selena România v Direcția Generală Regională a Finanțelor Publice (DGRFP) București, 2016; para. 36). In this case, the CJEU has noticed that the customs authorities might require the 'supplementary evidence' to prove that the customs origin declared by the importer was correct and that the imports of goods weren't subject to anti-dumping customs duties.

However, by analysing the practices followed in the Republic of Lithuania since 2013 (when the UCC was adopted) and until nowadays, we may notice that even after the UCC formally entered into force in 2016, the national courts continued to apply different legal precedents that don't recognise the general obligation of the importer to prove the customs origin of imported goods. These precedents differentiate the cases when the customs origin must be proved by the tax administrator (by the tax authorities) and the cases when it must be proved by the taxpayer (importer) itself (see, e.g. para. 47 and 49–50 of the ruling of the panel of judges of the Supreme Administrative Court of 5 September 2016 in the administrative case A-377-556/2016, 2016). Here, the Court stressed that, in general, the burden of proving the right to apply the preferential customs duties belongs to the debtor (taxpayer) rather than the tax authorities (para. 47 of the ruling in the administrative case A-377-556/2016). Whilst such statement is formally in line with the already-mentioned practice of the CJEU and the regulations set in the Article 61 of the UCC, the paras 49–50 of the analysed ruling in the administrative case A-377-556/2016 at the same time sets the different precedent by stating that where imported goods are subject to anti-dumping customs duty, the obligation to prove the origin of the goods would primarily belong to the tax administrator. The same precedent was also continuously repeated in both some earlier cases (The Supreme Administrative Court of Lithuania, decisions of the panel of judges of 30 April 2014 in the administrative case No. A-261-146/2014 and in the administrative case No. A-261-144/2014, 2014) as well as later cases such as the decision of the panel of judges of the Supreme Administrative Court of Lithuania of 30 April 2014 in the administrative case No. A-352-556/2017. However, neither in the administrative case No. A-377-556/2016 nor in other mentioned cases, the Court didn't provide any specific argumentation explaining the nature of this precedent in the context of the EU customs law. Besides, in one recent case, that is, in the administrative case eA-1671-575/2016 (2016), the Court has deviated from this practice and stated that even in case when anti-dumping customs duties are applied, the case of a taxpayer is required to justify why the calculated amounts of tax are incorrect, that is, to provide an

evidence on the exact origin of imported goods. This conclusion was based on the requirements of Article 67, para. 2, of the national Law on Tax Administration (2004), which states that it is the taxpayer who must justify why the calculated amounts of taxes are incorrect.

Summarising the foregoing, we can notice that even after the adoption of the UCC on the practical level, there is no uniform practice related to the distribution of the burden to prove the customs origin in Lithuania. This may negatively impact the proper implementation of the UCC, which states one general rule that an obligation to prove the customs origin, in general, belongs to the taxpayer. Additionally, it is important to mention that whilst Lithuanian practice considered the application of different standards for such rules to preferential customs duties and anti-dumping customs duties, even the EU Anti-Dumping regulation doesn't include any provisions that may justify such differences (it doesn't include any specific rules on customs origin as they are codified in the UCC). Therefore, it is advisable to adjust the national customs inspections rules (Rules for the application of the preferential customs tariff, approved by the 16 November 2016 Order No. 1B-925 of the Director General of Customs Department under the Ministry of Finance of the Republic of Lithuania, 2016) and to establish that the taxpayer is obliged to provide an evidence that proves the declared customs origin during the customs inspections, otherwise the customs authorities can make a final decision only on the basis of information available to them. Such procedural regulations may help to avoid unjustified separation of legal practice in future. It would also create the proper conditions for the implementation of the UCC as well as other national laws (Article 67, para. 2, of the national Law on Tax Administration (2004)) and even national legal doctrine (Medelienė, 2004), which is based on the presumption that whilst the tax administrator has an obligation to motivate its calculations of taxes in case of doubts over the calculated amount of taxes, the final word belongs to the taxpayer.

Practical aspects related to the implementation of the UCC in the Republic of Lithuania: electronic declaration of customs procedures. As it was already mentioned in this article, one of the main goals of the UCC is to ensure electronic registration of customs clearance procedure and the use of electronic customs declarations (Article 6 of the UCC). Whilst, on the one hand, Lithuania is moving very rapidly towards this goal (as more than 99% of customs declarations are processed electronically; see Annual report on the activity of Lithuanian customs 2016, 2017), on the other hand, some practical problems arise when the authorities try to ensure effective feedback between customs authorities and taxpayers. The problem stems from the fact that under the applicable scheme (see Law on Customs of the Republic of Lithuania, 2016; Article 30, para. 3), the taxpayer must first submit electronic declaration (message) and after that the imported or exported goods and other documents may be submitted to the customs authorities for the actual inspection. For example, as it is provided by the 26 June 2009 Order No. 1B-357 of the Director General of Customs Department under the Ministry of Finance of Lithuanian Republic 'On the rules of electronic data to be used for export and import customs formalities and approval of the model contract for exchange of electronic data to be used for export and import customs formalities' (2009), the electronic customs declaration may be accepted only when the goods declared in this declaration are presented for the customs control in a place which is established and(or) authorised by the customs authorities. The presentation of such goods to customs control is formalised by the electronic message sent by the person who is providing a customs clearance declaration. If, after acceptance of these electronic documents, the customs authorities makes the decision to carry out a documentary investigation and (or) physical examination of the goods, the person, who presented an electronic declaration, receives systematic electronic notification. The notification indicates that specific documents are needed for the performing of customs control (they may include not necessarily all documents that were declared in electronic declaration). Only, in this case, the written documents are delivered physically though, otherwise, there is no obligation to submit the physical documents (it is only sufficient to declare them and to keep them in a site that is declared to the customs authorities).

To secure that this system is functioning effectively and that the legitimate expectations of the taxpayers are protected, it is absolutely necessary to ensure that the customs authorities will also electronically provide a backlink, feedback and confirmation of the final results of customs clearance and investigations. For example, it is important to inform the taxpayer of the fact that certain customs procedures are not yet fully completed and their results may be reviewed (such information should be

available to him in electronic customs databases). On the other hand, as it is confirmed by the recent Lithuanian practice (since 2013, i.e. after the adoption of the UCC), the results of electronic customs procedures are quite often challenged in a tax disputes (the official information system of Lithuanian courts 'LITEKO' recorded at least six such cases relating to the use of electronic customs declarations that were examined in the Supreme Administrative Court of the Republic of Lithuania; Lithuanian courts information system 'LITEKO', 2017).

In particular, we can distinguish cases (see administrative cases No. A-261-1338/2013, A-143-1314/2013, A-143-787/2013, A-143-776/2013, A-143-56/2013 and A-261-453/2013; Lithuanian courts information system 'LITEKO', 2017), when the goods that were imported to the Republic of Lithuania (basically only one category of goods – cars (transport vehicles)), and on the basis of electronic declarations (notifications), they were placed under the inward processing procedure (currently regulated by the article 256 of the UCC). The result of this customs procedure (i.e. proper completion of the procedure) should be the export of the processed goods from the customs territory of the European Union because it is in this case when an obligation to pay customs duties on the EU customs territory does not arise (see, e.g. Article 250 of the UCC). However, as it is confirmed by these cases, even after finishing (closing) customs clearance procedures and after the submission of an electronic declarations about their completion (i.e. the export of relevant goods), the legal status of customs procedures (e.g. the fact that the relevant goods were really exported) has been successfully questioned by the customs authorities on the basis of other factual evidence (non-electronic documents, such as written information received from the third countries and written sources of evidence from criminal investigations case). In all such cases, the Supreme Administrative Court of Lithuania as well as the customs authorities themselves, has adopted the decisions that were unfavourable to taxpayers and under additionally payable amounts of customs duties, were registered.

In other words, in all these cases, the national courts, basing their practice on the practice of the CJEU (namely, case C-230/06, Militzer & Münch GmbH v Ministero delle Finanze, 2008), agreed that the mere formal presentation of electronic sources evidence (such as primary electronic declarations and notifications) does not release the taxpayers from the import tax obligations potentially arising because the customs procedure has not been properly completed. For example, as it was stressed in the ruling of the panel of judges of the Supreme Administrative Court of Lithuania of 22 March 2013 in the administrative case No. A-261-453/2013, 2013, data extract from the electronic computer system cannot be considered as an adequate proof of completion of customs procedures and cannot create any legitimate expectations or legal certainty regarding proper implementation of customs procedures. Therefore, the electronic records of the computer systems are only considered as the fixation of some legal action (or fact); the presence of such records does not deny the right of customs authorities to carry out all the additional control measures that are considered as necessary to ensure the proper implementation of customs legislation as well as to take all measures that are necessary to regularise the situation of goods in respect of which a certain customs procedure has not been completed under the conditions set in the customs legislation. Thus, even in the presence of an appropriate electronic record that proves the completion of customs procedure (in this case, the inward processing procedure), such procedures can later be recognised as not properly completed, for example, if disputed goods have not been delivered to the destination customs office (see also the ruling of the panel of judges of the Supreme Administrative Court of Lithuania of 7 May 2013 in the administrative case No. A-143-56/2013, 2013).

In this case, although the Lithuanian judicial practice can be explained and justified by the existing practice of the CJEU (case Militzer & Münch GmbH v Ministero delle Finanze, 2008, and case C-300/03, Honeywell Aerospace GmbH v Hauptzollamt Gießen, 2005), the relative numerousness of such disputes on the national level causes the need to improve electronic systems of customs procedures and to introduce additional safeguard measures for the taxpayers. For example, according to the currently existing rules for issuing authorisations to perform specific use and inward processing customs procedures (28 April 2016 Order No. 1B-344 of the Customs Department under the Ministry of Finance of the Republic of Lithuania, 2016), when the customs authorities make a decision rejecting the taxpayer's request for completion of the customs procedure, he or she should get an appropriate electronic message 'The decision to suspend the release of exported goods' (E551LT), see

para. 13 of these rules. In addition, according to the para. 21 of the rules, customs officials who are examining the accepted electronic request of a taxpayer for a completion of customs procedure should immediately check whether the information is complete and there are no doubts on its credibility and certainty of documents that were submitted together with the request. On the other hand, to safeguard the legitimate expectations of the taxpayer, the commented rules should clearly establish the provision that even a receipt of positive primary decision shall not release the person from the obligation to provide additional evidence later (this should also be reported to the taxpayer). At the same time, certain cases should be specified and clearly defined when, even after a preliminary investigation of taxpayer's request and adoption of a positive decision, additional investigation procedures can be initiated once again (e.g. upon reception of certain information from a third parties/countries). This is especially important for the investigation of customs procedures related to an individual specific group of goods, such as motor vehicles (cars), because all the practical disputes were solely associated with them. Such provisions could create a greater legal certainty and increase taxpayers' confidence to use the electronic customs procedures.

Conclusions

The adoption of the UCC in 2013 and its entry into force in 2016 was the result of the modernisation of the EU customs and trade legislation that regulates uniform administration of customs duties and other import taxes in the EU Member States and application of other related international trade regulatory measures towards the third countries that are trading with the European Union. Therefore, the main aims of the UCC are, first, the creation of the paperless environment for the international trade operations throughout the European Union and its individual Member States (full electronic declaration of customs procedures) and, second, ensuring of even a more harmonised administration of customs duties in the tax and customs authorities of the Member States in the European Union (comparing the level that was achieved since the adoption of the CCC in 1992).

Considering regulation of the key elements of the EU's Common Customs Tariff (tariff classification, origin, and value of imported goods), after the adoption of the UCC, tariff classification has changed only minimally. However, regarding the rules of customs origin, we should stress that the UCC regulates the acquisition of non-preferential origin of goods much more in detail and sets clearer criteria that define non-preferential origin. Certain changes have taken place in the customs valuation area: here the customs valuation methods remain the same but the procedures for calculation of transaction value were revised.

Notwithstanding, after the adoption of the UCC, the biggest changes took place in the field of customs clearance procedures. The UCC provides that general import declaration and other customs declarations shall be submitted electronically, and until 2020, all the data exchange between customs authorities and taxpayers must take place in electronic environment. The UCC also provides the possibility to carry out centralised customs clearance and ensures facilitation of customs procedures for international trade operators that acquired the special status of the Authorised Economic Operator. Besides, the UCC has also limited the rights of the EU Member States to regulate this area of legal relations by reducing the scope of their powers to enact national customs laws on specific issues (which existed previously).

The theoretical analysis that aimed to explore the practical implementation of the UCC in the EU Member States (considering the Republic of Lithuania as an example) leads to the conclusion that on the formal level, the Republic of Lithuania has taken some necessary steps to ensure the compatibility of its customs legislation with the provisions of the UCC. It introduced a completely brand and new Law on Customs (2016), which regulates mainly the status of the national customs authorities and completely removed old national regulations on customs value, customs origin or tariff classification of goods. It has also changed the system how disputes with customs and appeals against the decisions of customs authorities are examined and is rapidly moving towards the full achievement of a goal to ensure full electronic exchange of data between the customs authorities and taxpayers.

However, the practical research based on the national judicial practice since 2013 and its comparison with the relevant practice of the CJEU, which is binding for all the EU Member States, has shown that

even despite these changes, some problematic areas in the national legal system remain. For example, the national courts still continue to apply the specific national customs valuation rules for imported motor vehicles that differ from the provisions of the UCC and may be considered as not having a sufficient legal background, the burden to prove the customs origin of imported goods is also perceived differently than described in the UCC and even in the newest practice of the CJEU and, finally, we may notice a lack of legal guarantees that the results of electronic customs clearance procedures will not be changed without sufficient reason.

Therefore, we should state the successful practical implementation of the UCC in all the Member States of the European Union has not yet been achieved and its efficient functioning needs further national legislative developments (such as withdrawal of national rules on customs valuation, changes in the national customs inspections rules to regulate procedures for the establishment and proving of customs origin of imported goods), replacement of rules, regulating electronic formalisation of customs procedures to ensure more effective feedback and backlink between customs authorities and taxpayers).

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