

## CUSTOMS CLEARANCE OF HUMANITARIAN AID IN UKRAINE DURING WARTIME

*The article is devoted to the analysis of the peculiarities of customs clearance of humanitarian aid during the period of martial law in Ukraine. The categories of goods that are humanitarian aid, the volume of shipments of similar goods by foreign countries, emphasizing the key aspects of declaration were considered. The regulation of a separate procedure for the passage of such dual-use goods through the customs border is indicated. The list of business entities that have the right to import military goods into Ukraine has been determined.*

**The purpose of the article** is to study the transformations of the procedure for customs clearance of humanitarian aid as a result of the introduction of martial law in Ukraine and to identify the necessary changes in the current legislation.

**Methods.** To write the article, a comparative method was used (to systematize information legal acts on customs clearance of humanitarian aid); dialectical (to understand the relationship of the basic); structural and functional (for comparison of national experience); analysis (to highlight the criteria for the category of goods that are humanitarian aid); generalization method (to form the conclusions of the analysis).

**Results.** With the adoption the Law of Ukraine “On Humanitarian Aid”, which regulates the main aspects of the circulation of humanitarian aid in Ukraine, one of the key conditions for the import of humanitarian goods was its exemption from the tax burden of value added tax and customs duties, and the most important condition for exemption from taxation – recognition of goods moving across the customs border as humanitarian aid. Before the start of the full-scale invasion of the aggressor on the territory of Ukraine, this was accompanied by the need to carry out a number of bureaucratic manipulations even before arriving at the customs border of Ukraine. During the research, it was established that during the period of martial law, the Cabinet of Ministers of Ukraine provided a clear list of goods that are considered humanitarian aid, simplified the procedure for customs clearance of such cargo, regulated the main aspects of recognition and customs clearance of humanitarian aid in the form of dual purpose goods, military goods, medicines and medicines.

**Conclusions.** Active communication between state bodies and volunteer organizations and, as a result, the introduction of numerous changes in legislation significantly simplified the procedure for importing humanitarian aid into the territory of Ukraine. The procedure for customs clearance of humanitarian cargo has been simplified, and it has been determined, in particular; that goods are recognized as humanitarian aid based on the declarative principle without the adoption of a corresponding decision by specially authorized state bodies on humanitarian aid issues. At the same time, persons who intend to import humanitarian aid goods into the state in the future should be careful in view of the constant improvement of the legislative regulation, restrictions and/or prohibitions regarding certain goods. The search for balanced approach customs formalities remains relevant.

**Key words:** customs clearance, customs control, customs formalities, humanitarian help, martial law.

**JEL Classification:** K 13, K 39.

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**Introduction.** For a long time, Ukraine has been resisting full-scale armed aggression from Russia. During the entire period of martial law, citizens of countries all over the world, governments, charitable organizations, enterprises of various scales direct their efforts to help refugees, citizens of our state and the Armed Forces of Ukraine. However, in the process of importing humanitarian aid into the customs territory of Ukraine, many procedural issues arise, especially when it comes to military and/or dual-use goods.

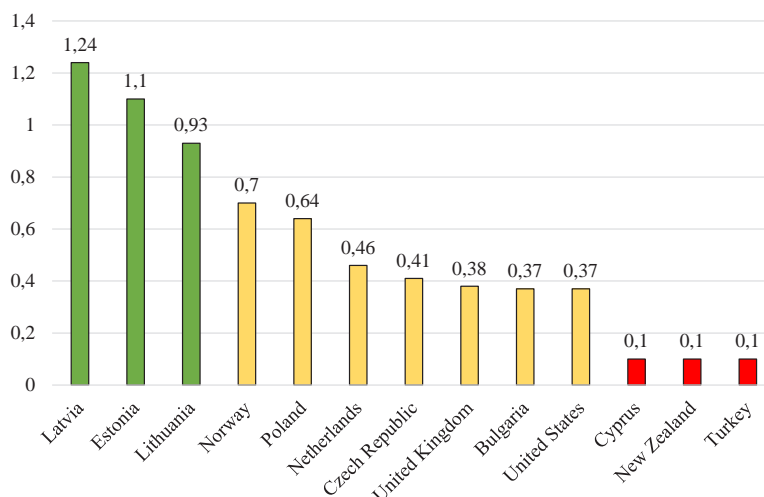
**Literature review.** O. Afanasyeva (analysis of modern research on customs procedures on transport in Ukraine), O. Grebelnyk (study of customs clearance during the movement of goods), K. Ilchenko (simplification and harmonization as one of the factors of increasing the volume of foreign trade), N. Koval (Specifics of customs clearance of humanitarian aid moving across the customs border of Ukraine), Y. Nazarova (topical issues regarding electronic customs documentation), L. I. Pashkovska (declaration and customs clearance

of goods and vehicles moving across the customs border of Ukraine), I. Tulyantseva (organization of customs control), V. V. Chentsova (customs law in Ukraine), O. V. Chupryna (classification of customs regimes in legal science and legislation) and others.

The issue of accounting and control of humanitarian aid from national and foreign donors is covered in the works of Z. Levchenko (the procedure for importing humanitarian aid into the territory of Ukraine under martial law), E. Derkach (Legal issues of transporting humanitarian aid cargo under martial law), T. Dugar (humanitarian aid: accounting and taxation under martial law).

**The doctrine of humanitarian aid law.** Presentation of the main material. According to the provisions of the Law of Ukraine “On Humanitarian Aid”, humanitarian aid is free targeted aid in monetary or in-kind form (non-refundable financial aid, works, services, voluntary donations of goods, products, etc.) provided by domestic or foreign donors in connection with due to the emergence of an emergency situation (armed conflict, natural disaster, man-made disaster, etc.) (Law of Ukraine № 1192-XIV, 1999).

**Empirical results.** With the beginning of the Russian-Ukrainian war in 2014, more than 50 countries of the world began providing humanitarian and financial aid to Ukraine (including more than 30 foreign companies and a number of international organizations), but with the beginning of the full-scale invasion of the aggressor on February 24, 2022, the volume of donations increased significantly. According to the German agency “Statista”, Estonia, Latvia and Poland provide the largest amount of aid to Ukraine, the ratio of allocated resources and gross domestic product of these countries illustrated in figure 1. (Statista Research Department, 2023).



**Fig. 1. Countries participating in aid to Ukraine**

The Kiel Institute of World Economy took into account only official financial, humanitarian and military aid from January 24, 2022 to February 24, 2023. But when compiling the rating, the costs of accommodating Ukrainian refugees were not taken into account. Countries which supplied the most significant amount of humanitarian aid provided to Ukraine in the period from from January 24, 2022 to February 24, 2023 listed at table 1.

Table 1

**Countries which supplied the most significant amount of humanitarian aid provided to Ukraine  
(Wikipedia, 2023)**

Australia	Funds transferred for humanitarian aid: 10 million Australian dollars to a number of non-governmental organizations; 10 million Australian dollars to the World Food Program; 8 million Australian dollars – the United Nations Population Fund; 2 million Australian dollars to the Alliance for Emergency Action in Ukraine; 70,000 tons of coal for Ukrainian power plants
United Kingdom	Humanitarian aid in the amount of 220 million pounds; rations, medical equipment and non-lethal military aid; more than 500 pcs. mobile generators; £2m funded for essential food for regions surrounded by Russian troops
Israel	100 tons of humanitarian aid, including 17 tons of medicines and medical equipment, water purification systems and emergency water supply kits, thousands of tents, blankets, sleeping bags; 4 armored ambulances along with an additional 230 tons of humanitarian aid collected by citizens
Germany	Mobile field hospital worth 5.3 million euros to medical personnel; 10,000 tons of food and hygiene products; 50 medical vehicles
Norway	Humanitarian aid in the amount of 2 billion crowns
South Korea	20 tons of humanitarian aid, which includes automatic defibrillators, ventilators and first-aid kits, which were sent by request from Ukraine; containers with medical equipment worth \$30 million
United States	Humanitarian aid in the amount of 1 billion US dollars; 25 Mitsubishi L200 pick up trucks, 35 Renault Duster SUVs, 16 4x4 personal carriers, 13 cargo trucks
France	65 tons of tents, medicines, foodstuffs, etc.; 8 tons of medical equipment
Switzerland	About 35 tons of emergency aid, including medical equipment and tents; 100 million Swiss francs were allocated; about 3,500 tons of aid, including medical equipment
Japan	30 tons of humanitarian aid including firefighting gear, satellites phones and communication equipment; \$400 million grant to support reconstruction of critical infrastructure in Ukraine; \$5.5 billion of humanitarian aid; 60 generators and over 83,000 solar-powered

In connection with such amounts of income, the Cabinet of Ministers of Ukraine approved a number of normative legal acts, according to the provisions of which the passage of aid through the customs border and the procedure for its customs clearance were simplified as much as possible.

In accordance to the list of categories of goods that are humanitarian aid was approved, in particular: food products, drugs, medicines, textiles, hygiene and basic necessities, etc., i.e. intended not for sale, but for the provision of civil protection of the population and its primary needs; fuel and lubricants, military equipment, vehicles, weapons, equipment, etc., that is, goods necessary to ensure defense and security, the import of which is possible only with a written decision of the relevant military-civilian or military administration (Resolution of the Cabinet of Ministers of Ukraine № 224, 2022).

The implementation of the provisions of the said Resolution made it possible to significantly reduce personnel and time costs. However, goods that are not on the list should be recognized as humanitarian aid on a general basis: during the period of martial law, such a procedure is carried out on a declarative basis (without making relevant decisions of specially authorized state bodies and passing procedures for recognizing aid as humanitarian).

Customs clearance of such humanitarian aid takes place at the place of crossing the code of Ukraine by submitting a specially developed form of the Declaration on the list of goods recognized as humanitarian aid, which must contain the following information: information about the person making the declaration; information about the sender; information about the recipient; details of the vehicle in which transportation is carried out; actual place of unloading and checkpoint at the customs border; a list of goods with an indication of their quantity and volume; signature of the person moving the goods (stamp is not required). Such a declaration is made for each individual truck transporting humanitarian aid and is submitted in paper or electronic form. The declaration is made by the person who transports the goods (for example, a driver or an authorized person), and no additional permits or statements from the receiving party are required, which immediately reduces the financial costs that could have been incurred for searching for a customs broker (Resolution of the Cabinet of Ministers of Ukraine № 147, 2022).

Simplification of the procedure for customs clearance of humanitarian aid, among other things, provides for the cancellation of all measures of non-tariff regulation of foreign economic activity, including: phytosanitary and veterinary-sanitary controls; quota; licensing etc. Despite this, the state export control was not canceled – it underwent certain changes, in this regard it does not apply to special personal protective equipment, weapons, ammunition, means and equipment used for intelligence.

Medicines and medical products make up a significant part of humanitarian aid, so the simplification of customs clearance affected them as well. Currently there is no need to obtain a certificate from the Ministry

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of Health or an authorized person to make relevant purchases. In addition, the list of medicines purchased for the implementation of programs in the field of health care has been supplemented (Resolution of the Cabinet of Ministers of Ukraine № 1153, 2022).

However, it should be remembered that the purchase and use on the territory of Ukraine of medicinal products originating from the Republic of Belarus and of the Russian Federation is prohibited (Orders of the Ministry of Health № 503 and 394). Regarding prohibitions, in addition to the above, it is worth noting that it is prohibited to import into the customs territory of Ukraine:

- in the customs regime of import of goods from the Russian Federation (Resolution of the Cabinet of Ministers of Ukraine № 426, 2022);
- goods originating from the Russian Federation (Resolution of the Cabinet of Ministers of Ukraine № 1147, 2015);
- psychotropic, narcotic, poisonous, radioactive, explosive substances;
- printed materials, clichés, negatives, removed films, photographic images, filmstrips, video recordings, copies of magnetic information for computers, manuscripts, records and other sound recordings, drawings and other printed visual materials containing the propaganda of the ideas of war, racism, racial discrimination and genocide, and also aimed at undermining the territorial integrity of Ukraine, its political independence, state sovereignty; products of a pornographic nature;
- goods imported in violation of intellectual property rights.

In addition, the issuance of import permits for publishing products from Russia has been suspended, previously issued permits have been canceled, which is a complete ban on the import of books, magazines, textbooks, newspapers, etc. of the aggressor.

A separate procedure for passing through the customs border such dual purpose goods as plates for body armor has been established; portable non-civilian radio stations; unmanned aerial vehicles (quadrocopters) of non-civilian purpose; binoculars, monoculars and other optical tubes, magnifiers for non-civilian purposes; collimator sights, non-civilian optical sights; thermal imagers, night vision devices (Resolution of the Cabinet of Ministers of Ukraine № 174, 2022).

Before the end of the martial law, in order to recognize the specified goods as humanitarian aid and their passage into the territory of Ukraine, it is necessary to submit a guarantee letter of the final recipient in the prescribed form to the customs clearance authorities.

The final recipients of such assistance may be: law enforcement agencies; military administration bodies; other military formations, created in accordance with current legislation; entities engaged in the fight against terrorism, etc. Unlike the Declaration on the list of goods recognized as humanitarian aid, the guarantee letter must be certified by the seal of the body that will be the end user, as it ensures control of the actual receipt of goods, keeps records of them and monitors compliance with the guarantee obligations provided by it.

Import of other humanitarian aid goods, which belong to: dual-use goods – is carried out in accordance with the Procedure for State Control of International Transfers of Dual-Use Goods (Resolution of the Cabinet of Ministers of Ukraine № 86, 2004); goods for military purposes – in accordance with the Procedure for State Control of International Transfers of Goods for Military Purposes (Resolution of the Cabinet of Ministers of Ukraine № 1807, 2003).

From March 10, 2022, the preparation and issuance of permits for the import of military goods into Ukraine has been accelerated, in particular, the simplification of the registration procedure for business entities that can import such goods has been regulated, and the scope of their activities has been expanded (Resolution № 247). The resolution applies exclusively to economic entities of Ukraine that carry out or intend to carry out the import of goods of military purpose for the needs of law enforcement agencies, the Armed Forces of Ukraine, other military formations formed in accordance with the laws of Ukraine, as well as other entities that carry out the fight against terrorism in accordance with the law.

In addition, it is envisaged to use an end-user certificate of the approved form as a confirming document, which must indicate the place of final installation of the goods, the purpose of their use, and prescribe guarantees that the imported goods will not be used for another purpose and will not be transferred to another consumer on the territory of Ukraine or re-exported without the permission of the State Export Control Service of Ukraine (Resolution № 247).

**Conclusions.** It can be confidently asserted that active communication between state bodies and volunteer organizations and, as a result, the introduction of numerous changes in legislation significantly



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simplified the procedure for importing humanitarian aid into the territory of Ukraine. The procedure for customs clearance of humanitarian cargo has been simplified, and it has been determined, in particular, that goods are recognized as humanitarian aid based on the declarative principle without the adoption of a corresponding decision by specially authorized state bodies on humanitarian aid issues. However, this does not mean that it is enough to purchase goods abroad, fill out a declaration at the checkpoint, indicating that the goods are humanitarian aid, and bring them into the country. At the same time, persons who intend to import humanitarian aid goods into the state in the future should be careful in view of the constant improvement of the legislative regulation of this issue and the established features, restrictions and/or prohibitions regarding the import of certain categories of goods. It is important to follow all the procedures for the registration of humanitarian cargo from the beginning to the very end, because the requirements of the Law of Ukraine “On Humanitarian Aid” have been changed only in part of the procedure for recognizing the cargo as humanitarian aid. Compliance with other rules is mandatory. In particular, it is necessary to correctly define the content of the contracts, adhere to the donation criteria, determine the recipient of this humanitarian aid, correctly make a declaration during the customs clearance of the goods and hand over the humanitarian cargo to the recipient, who must have the appropriate status.

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## МИТНЕ ОФОРМЛЕННЯ ГУМАНІТАРНОЇ ДОПОМОГИ В УКРАЇНІ ПІД ЧАС ВІЙНИ

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*Стаття присвячена аналізу особливостей митного оформлення гуманітарної допомоги в період дії воєнного стану в Україні. Розглянуто категорії товарів, які є гуманітарною допомогою, обсяги перевезень подібних товарів іноземними державами, акцентовано увагу на ключових аспектах декларування. Зазначено регламентацію окремого порядку пропуску через митний кордон таких товарів подвійного використання. Визначено перелік суб'єктів господарювання, які мають право ввозити в Україну товари військового призначення.*

**Метою** статті є дослідження трансформацій порядку митного оформлення гуманітарної допомоги внаслідок запровадження воєнного стану в Україні та визначення необхідних змін у чинному законодавстві.

**Результати.** Закон України «Про гуманітарну допомогу» регламентує основні аспекти транспортування та використання гуманітарної допомоги в Україні, однією з ключових особливостей імпорту гуманітарних вантажів є їх звільнення від оподаткування. Перед початком повномасштабного вторгнення агресора на територію України, для оформлення подібних вантажів необхідно було виконати ряд бюрократичних процедур ще до прибуття на митний кордон. Під час проведення дослідження було встановлено, що на час воєнного стану Кабінет Міністрів України склав чіткий перелік товарів, які вважаються гуманітарною допомогою, і спростив процедуру митного оформлення таких вантажів. Також були врегульовані аспекти митного оформлення гуманітарної допомоги, яка може включати товари подвійного та військового призначення, медикаментів та медичного обладнання.

**Висновки.** Наразі порядок оформлення гуманітарних вантажів був значно спрощений, товари можуть

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*бути визнані гуманітарною допомогою за декларарування, без потреби отримання спеціального рішення від уповноважених державних органів. Однак особам, які планують ввозити гуманітарну допомогу у майбутньому, слід бути уважними через постійне вдосконалення законодавчого регулювання та встановлення нових обмежень та/або заборон на ввезення певних категорій товарів. Важливим завданням залишається пошук збалансованих методів впливу на здійснення митних формальностей у цьому контексті.*

**Ключові слова:** митне оформлення, митний контроль, митні формальності, гуманітарна допомога, воєнний стан.