
REVIEWS

***LEGAL ASPECTS OF INTEGRATIONAL PROCESSES
AT THE POST-SOVIET TERRITORY (A REVIEW ON THE MONOGRPAH
BY A.V. PASHCHENKO "LEGAL RELATIONS IN ESTABLISHMENT
AND PAYMENT OF CUSTOMS DUTIES WITHIN THE EURASEC
FRAMEWORK: THE QUESTION OF THE STATUS OF PARTICIPANTS***

The scientific research made by A.V. Pashchenko "Legal relations of the customs duties determination and payment in the Customs Union within EurAsEC: to a question of participants' status" has become one of the first monographs carried out in the domestic jurisprudence and devoted to the study of customs and tariff regulation in the Customs Union of the Eurasian Economic Community. Founded in 2010 the Customs Union of Russia, Belarus and the Republic of Kazakhstan has become a landmark event that led to serious changes in the various branches of Russian legislation relating to the public law - customs, currency legislation, legislation on state regulation of foreign trade activity. In addition, the formation of this Customs Union has initiated real integration of the former Soviet Union States. In this case, these integration processes cannot and should not be treated as a reestablishing of the Soviet Union. Their main purpose is to promote economic cooperation between Member States of the Customs Union and facilitate their integration in the legal field. Any restrictions of their sovereignty are not being discussed.

The Customs Code of the Customs Union coming into force has become the starting point of reassessing the international legal doctrine and national legal doctrines of the Customs Union' Member States in the field of legal regulation for the foreign economic relations. The above mentioned Union has become a new element in the system. Representatives of legal science, specializing in issues of public law regulation in foreign economic relations, have set the ambitious research objectives associated with the comprehension of customs legislation in the newly formed "Union". One of such projects was the comment to the Customs Code of the Customs Union, created by a team of researchers (department of "Financial Law" National Research University "Higher School of Economics" and the Institute of Public Law Research, headed by prof. A.N. Kozyrin) and published in the series "Library of the "Rosijskaya" newspaper" in 2011. The author of the monograph has actively participated in the creation of this commentary. Its publication stimulated the research activity of the author, who has published later a number of articles on the problems of customs law.

The next stage of research in the field of customs and tariff mechanism of the Customs Union has become the monograph under review that focuses on a subject

and content aspects of customs and tariff relations in the framework of the Customs Union. The first step is to consider the scientific methodology of the study reflected in the title of the monograph. Unfortunately, the majority of recent legal researches are based on the dialectical method of knowledge nominally. As a rule, the use of this method, in our opinion, fundamental for legal science, is limited only by its reference in the introduction to the “methodological basis of research.” The author of the monograph has demonstrated the ability to dialectical thinking not in words but in fact justifying the unity of legal matters associated with the establishment and payment of customs duties in the Customs Union. The results of the study certainly suggest that the relationship between the law on customs duties and legal relations on their establishment can and should be characterized through a specific category of development.

The monograph has been prepared on the basis of the unique empirical data which is of great value because customs legislation of the “Union” is being developed. Research conducted by the author is based on the scientific data and it will contribute to the formation of a new international legal doctrine and national legal doctrines of the Customs Union’ member states in the sphere of the public law regulation of foreign economic activity. It will help to understand the new realities of the Russian legal system for the first time interacting with supranational control on such important trade and economic and financial directions as customs and tariff regulation in our country.

At the beginning of the century the Eurasian Economic Community was “... a pile of building materials.” At present the EurAsEC is the most successful integration structure in the former Soviet territory where the Russian Federation, Kazakhstan and Belarus have created the Customs Union. The formation of the Customs Union has resulted in an increase in trade between the Member States of the Customs Union by 21%, and in the future the economic benefits of the integration model will be not less than 15% GDP. The formation and operation of any international structure is always accompanied by the development and adoption of plenty of international legal instruments and national regulations.

This process regulates not only aspects of the new structure activity, but also takes into account the interests and national peculiarities of all sovereigns involved in it. The development of the regulatory framework for the European Customs Union lasted 20 years. In this regard, no one had the illusion that the law-making process in the framework of the EurAsEC will be less painful for Member States and can be completed within a short period of time. More than 1000 normative legal acts regulating various aspects of the Customs Union functioning within the EurAsEC have been adopted since 1995. The main bulk of the normative legal acts has been adopted in recent years. To ensure an adequate quality of the legislative process at such rates is practically impossible. The situation was exacerbated by the fact that, at the same time, the Russian Federation became a member of the World Trade Organization.

In this situation such epithets and comparisons as “the “rush job” creation of a regulatory framework “,” applied a new “impact” in the monograph do not seem

to be hyperbole, but reflect the real situation that has developed in the field of customs and tariff regulation.

It will take a long and laborious work for the scientific community of all Customs Union' Member States to make customs law as a science and as an academic discipline be not only in time with the law-making, but also ahead of it. It is important not only to develop "the customs law of the Customs Union" from the beginning, but also to provide scientific support for the process of the customs legislation improvement in the Customs Union, taking into account the experience of other similar international organizations.

In this regard, the monograph of A. V. Pashchenko "Legal relations of the customs duties determination and payment in the Customs Union within EurAsEC: to a question of participants' status" should be recognized relevant. The book is written in the best traditions of Professor A. Kozyrin' scientific school, who twenty years ago introduced the term "customs-tariff legal relations". The concept of "the customs-tariff legal relations" in this study is not only updated, but its notion is also expanded. The author includes not only legal relations for goods liable to duty, but also their legal determining, control over their payment, the legal acts on the appeal of the customs authorities and prosecution for violation from the customs duties payment.

The comparative section is more than relevant in the current study where the customs-tariff mechanism of foreign countries is analyzed not for the historic restoration of the "historical institution" (V.A. Lebedev warned us about) but in the interests of the domestic law. Based on the study of foreign countries law, conducted by A.V.Pashchenko, there have been identified three levels of legal regulation of customs and tariff relations that are further widely used for studying the customs and tariff relations in the framework of the Customs Union. The book organically combines theoretical material and analysis of the current legislation and its practical usage. The idea to present some of the basic provisions of the monograph in the form of graphic diagrams simplifying the understanding of the issues under investigation and the mechanisms of their solutions should be considered very successful. Schematic representing the customs authorities' structure of the Customs Union' Member States and national regulations makes it clear that the process of legislation integration and unification is still far from its completion. And perhaps for the first time one scheme and one table contains information about all the Customs Unions of the world: their names in Russian and English languages, information about the members of every Customs Union and its location on the world map. At the same time a number of data presented in the monograph may be used for researches in other areas. For example, a graphical diagram, where payments arising in connection with the movement of goods through the customs border of the Customs Union are distributed by levels of regulation, can help to understand what legal acts should be investigated for the study of a particular payment.

As a general rule, the author focuses on the identified problems of legal regulation of customs and tariff relations, but one problem is determined indirectly. It is a problem of access to sources of law – international instruments and national regulatory and

legal acts (information systems). In his study the author has used six databases, access to two of them was to be paid. It means that today there does not exist a single database that contains all the necessary regulatory legal acts and scientists studying a recently created Customs Union have to use lots of databases. Taking into account the national peculiarities of legal methods, to find a necessary legal act today is a challenge.

In general the monograph under study is written in a proper theoretical level and contains useful material, which certainly deserves close scrutiny in the present difficult period experienced by customs law not only in the Russian Federation, the Republic of Kazakhstan and the Republic of Belarus but in the newly formed Customs Union as well.

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