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Customs Officers under Martial Law in Ukraine: Constitutional and Administrative Dimensions

Abstract: This article explores the legal status and functional transformations of customs officers in Ukraine during the period of martial law. It examines the constitutional framework of emergency governance, the administrative specifics of public service under crisis, and the practical implications of accelerated legal procedures and ad hoc appointments in the customs system. Drawing on comparative constitutional insights and doctrinal commentary, the study highlights structural deviations from standard service models and the legal uncertainty surrounding the rights and responsibilities of customs personnel in wartime. The article argues for a clearer statutory delineation of the emergency public service regime to enhance legal predictability, institutional accountability, and resilience. The findings are based on legal analysis and doctrinal sources from Ukraine, Poland, France, Germany, and the UK.

Keywords: martial law, public service, legal status, constitutional emergency, Ukraine, customs officers, administrative law

Introduction

The introduction of martial law in Ukraine in 2022 triggered significant institutional and legal transformations across the public sector. Among the most

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affected were customs authorities, whose dual function—as both a fiscal institution and an agent of border control—placed them at the intersection of administrative continuity and national security. The wartime context brought with it not only procedural acceleration and normative improvisation, but also a reconfiguration of public service standards in terms of recruitment, discipline, accountability, and legal protection.

This article explores how Ukraine’s legal and institutional framework governing customs officers has adapted—or failed to adapt—to the extraordinary demands of wartime governance, with a focus on constitutional boundaries, legal certainty, and the integrity of rule-based public service.

The analysis is grounded in both domestic and comparative legal sources, including the experiences of Poland, France, Germany, and the United Kingdom. These jurisdictions provide useful reference points for understanding the legal treatment of public servants during emergencies, and the structural safeguards required to ensure that exceptional measures do not become permanent deviations.

By tracing the constitutional foundations of martial law and analysing its implications for the legal status of customs officers, the article contributes to a more precise understanding of emergency public service. It argues that the current hybrid model of service—marked by temporary appointments, limited oversight, and functional ambiguity—undermines institutional stability and calls for a more coherent legal framework. The study proposes legal and structural clarifications to enhance resilience, transparency, and adherence to rule-of-law standards, even under conditions of exceptional threat.

This study applies the doctrinal legal method combined with comparative analysis and jurisprudential interpretation, drawing on primary legislation, case law, and institutional policy documents from Ukraine and selected EU states. In addition, a functional analysis of the customs administration under wartime conditions is applied to assess the practical implications of institutional reform and operational deviations.

This article addresses the following questions: (1) How has the legal status of customs officers evolved under martial law in Ukraine? (2) To what extent do current institutional practices conform to constitutional and comparative legal standards? (3) What legal reforms are necessary to ensure the resilience and legality of emergency public service?

Constitutional Regulation of Martial Law: Ukraine and Comparative Lessons

The constitutional framework of martial law in Ukraine, while grounded in legal tradition, faces considerable challenges in ensuring both operational effectiveness and the protection of fundamental rights. Martial law is declared pursuant to Article 106(20) of the Constitution and regulated in detail by the Law of Ukraine “On the Legal Regime of Martial Law” of 2015. However, its practical implementation has revealed interpretative tensions, particularly in relation to the legal status of public servants operating in security-sensitive sectors such as customs.

Comparative constitutional perspectives offer valuable insights into the design and evolution of emergency regimes. In the Polish context, Kęsoń traces the historical development of martial law provisions from the interwar constitutions to the modern framework, highlighting the legal distinction between martial law, a state of emergency, and a state of war.² The March Constitution of 1921 vested emergency powers in the Council of Ministers, whereas the April Constitution of 1935 shifted authority to the President, emphasizing executive control. This historical trajectory reflects broader patterns of adaptation in response to shifting security paradigms.

² Tadeusz J. Kęsoń, “Stan wyjątkowy, stan wojenny i stan wojny w konstytucjach i aktach prawnych Rzeczypospolitej Polskiej [Emergency State, Martial Law and State of War in Constitutions and Legal Acts of the Republic of Poland],” *Rocznik Bezpieczeństwa Międzynarodowego* 8, no. 2 (2014): 158–77, <https://doi.org/10.34862/rbm.2014.2.11>.

In Poland's contemporary legal order, these distinctions remain critical. As Kęsoń notes, martial law entails a suspension of constitutional rights and a reallocation of powers to the executive, whereas a state of war primarily engages the external dimension of state sovereignty without necessarily altering the internal legal order.³ The clarity of these distinctions serves to safeguard constitutional boundaries during crises—an issue that remains underdeveloped in the Ukrainian legal system, where terminological and functional overlaps persist.

Poland's experience during the COVID-19 pandemic further illustrates how emergency governance can stretch constitutional limits. Rybski critiques the Polish government's use of ministerial decrees to impose restrictive measures in the absence of a formal state of emergency, framing this practice as a *de facto* exceptional regime implemented through ordinary legal instruments.⁴ A similar pattern emerges in Ukraine, where martial law provisions have been used to justify administrative shortcuts and accelerated procedures in the customs sector, often without explicit legal authorization.

Historical precedents also illuminate the long-term risks of subordinating constitutional protections to emergency imperatives. The introduction of martial law in Poland in 1981, for example, marked not only the suppression of political opposition but also the erosion of labour rights and due process. Seweryński and Skupień emphasize how administrative prerogatives enabled unilateral changes in work conditions and harsh penalties for participation in protests, effectively transforming labour relations into instruments of state discipline.⁵ This model of emergency public service—prioritizing obedience and

3 Tadeusz J. Kęsoń, "Stan wojny a stan wojenny—zagadnienia formalno-prawne [State of War versus Martial Law – Formal and Legal Issues]," *Rocznik Bezpieczeństwa Międzynarodowego* 8, no. 2 (2014): 143–57, <https://doi.org/10.34862/rbm.2014.2.10>.

4 Robert Rybski, "Stan epidemii a stany nadzwyczajne [State of Epidemic vs. States of Emergency]," *Przegląd Konstytucyjny*, no. 1 (2022): 139–65, <https://doi.org/10.4467/25442031PKO.22.006.15732>.

5 Michał Seweryński and Dagmara Skupień, "The Martial Law and Its Impact on Labour Relations in Poland," *Studia Prawno-Ekonomiczne* 102 (2017): 107–124, <https://www.ceeol.com/search/article-detail?id=555616>

control—stands in contrast to contemporary conceptions based on accountability and legal safeguards.

Ukraine's legal system, while formally grounded in constitutional procedures, reflects certain continuities with these authoritarian emergency legacies. The customs administration, for instance, has operated under martial law in a quasi-militarized framework, where rapid appointments, legal improvisation, and executive discretion have prevailed. The absence of a specialized statute governing the public service regime of customs officers exacerbates this problem. In contrast to institutions such as the National Police or the Border Guard, the Customs Service continues to function under general civil service provisions, which are ill-suited to the specific demands of wartime operations.

Moreover, the functional role of customs officers under martial law remains ambiguously defined. Their duties straddle both administrative and quasi-law enforcement functions, yet the legal framework lacks the precision necessary to ensure consistent interpretation and application. This legal uncertainty affects not only procedural guarantees but also the legitimacy of decisions taken under emergency powers.

The comparative lessons drawn from Poland and other jurisdictions underline the importance of maintaining legal clarity and constitutional discipline, even under extreme conditions. A codified distinction between emergency modalities, coupled with specific legal instruments for public service regulation in crisis settings, can help ensure that temporary measures do not erode long-term democratic standards. For Ukraine, this implies the urgent need to delineate the legal status of customs officers through a dedicated statutory act, to clarify the permissible scope of executive discretion under martial law, and to reinforce judicial oversight over administrative decisions affecting public servants.

Legal Status of Customs Officers under Martial Law: Deviations and Institutional Challenges

In the context of sustained armed conflict and institutional stress, the legal status of customs officers in Ukraine has undergone significant transformation. Traditionally understood through the lens of fiscal policy and trade facilitation, the customs service has shifted toward a quasi-security institution under martial law. This functional reconceptualization aligns with broader European trends. Shpak et al. observe that among the eight core functions of EU customs bodies, the security function—especially the prevention of illicit or hazardous goods movement—has gained priority, reflecting a strategic shift from fiscal to protective mandates.⁶

The legislative framework of Ukraine permits direct appointments to customs posts without competition during martial law, which are based on the decisions of the Head of the State Customs Service or the head of a regional customs office.⁷ While formally valid, this practice undermines the principles of merit-based recruitment and creates legal fragmentation. Officers operate under a hybrid legal regime shaped by civil service legislation, internal instructions, and martial law decrees, often without clear legal hierarchy.

British administrative law provides a relevant historical parallel. Shimizu highlights how the doctrine of Crown prerogative shaped public service as a non-contractual relationship, allowing for dismissal without legal remedy. Though this model ensured government flexibility during crises, it has become increasingly incompatible with human rights standards.⁸

⁶ Nestor Shpak et al., “Modern Trends of Customs Administrations Formation: Best European Practices and a Unified Structure,” *The NISPAcee Journal of Public Administration and Policy* 13, no. 1 (2020): 189–209, <https://doi.org/10.2478/nispa-2020-0008>.

⁷ Law of Ukraine No. 389-VIII, *On the Legal Regime of Martial Law*, adopted on 12 May 2015, <https://zakon.rada.gov.ua/laws/show/389-19>, accessed 19 April 2025.

⁸ Takashi Shimizu, “Igirisu kōmuin ni kansuru kaiko riron no kakuritsu tenkai to koyō keiyaku” [Theories of Dismissal and the Legal Nature of Employment in British Public Service (Part 3)], *Waseda Journal of Social Sciences* 4, no. 2 (2003): 83–87. https://waseda.repo.nii.ac.jp/record/15539/files/40078_4_2.pdf

German public service law preserves a unilateral statutory relationship between the state and officials. As Aust explains, this design reinforces loyalty, legal certainty, and institutional stability—particularly critical during emergency conditions.⁹ Similarly, France employs a flexible but codified approach to contract-based appointments. Tamai notes that 71.9% of local civil servants recruited in 2019 were hired as contract agents, often to fill permanent positions under conditions of need.¹⁰

In Ukraine, short-term appointments without competition replicate this flexibility but lack the normative safeguards present in French or German systems. The situation is further complicated by institutional improvisation: internal security departments in customs bodies are often staffed by personnel without proper knowledge of customs law, leading to unlawful detentions and procedural overreach. As Chodak rightly argues, effective anti-corruption requires not just law but institutional coordination.¹¹

Moreover, the erosion of competition mechanisms jeopardizes professional standards. While justified during emergencies, such measures must remain proportionate and time-bound. The experience of the Polish National Revenue Administration (Pol. Krajowa Administracja Skarbową, KAS) offers a useful model: combining tax and customs functions, it operates as a uniformed and armed law enforcement body with clearly defined legal mandates, institutional ranks, and accountability mechanisms. The Customs and Revenue Service (Pol. Służba Celno-Skarbową) exemplifies the benefits of structural coherence under exceptional conditions.

9 Sabrina Aust, “Verbeamung—in der heutigen Zeit noch notwendig, sinnvoll und erstrebenswert?” (Bachelor’s thesis, Hochschule Meißen (FH) und Fortbildungszentrum, 2023), https://opus.bsz-bw.de/hsf/frontdoor/deliver/index/docId/2964/file/Aust_Sabrina-Bachelorarbeit.pdf.

10 Ryo Tamai, “Furansu no chihō kōmuin seido ni okeru keiyaku shokuin no nin’yō seido to sono tokuchō [Contract Appointments in the French Local Civil Service: Institutional Specificity and Legal Trends],” *Kyoto Prefectural University Academic Reports on Public Policy* 14, 2022: 21–27.

11 Paweł Chodak, “Selected Legal Regulations Regarding the Fight Against Corruption,” *Journal of Modern Science* 1, no. 40 (2019): 213–34, <https://doi.org/10.13166/JMS/105597>.

The functional complexity of Ukrainian customs is not matched by an adequate legal framework. Customs officers operate at the intersection of administrative, fiscal, and security domains without a unified statute defining their status, duties, or procedural guarantees. Their legal position differs markedly from that of the National Police or State Border Guard, both of which are governed by specialized legislation and rank-based systems.

Under martial law, customs officers face increased legal and personal risk, often without defined disciplinary protections or complaint procedures. This environment creates conditions for informal enforcement mechanisms based on loyalty, peer pressure, and fear of exclusion—patterns reminiscent of the tribal sanctions described by Stojčević.¹²

International jurisprudence reinforces the importance of legality and equal treatment in public service. In Case T-531/21, the EU General Court rejected claims of inequality due to lack of proof of differential treatment.¹³ Similarly, in Case T-250/06 P, transitional promotion rules were upheld as legitimate under conditions of institutional reform. The Court of Justice of the European Union (CJEU) also confirmed in *Christelle Deliège* that selection mechanisms may be justified if they serve the structural needs of the institution.^{14, 15}

Domestically, the Supreme Court of Ukraine ruled in Case No. 420/4566/23 that internal orders of the Border Guard Service, though unregistered, may regulate remuneration during martial law if they are the only normative instruments available.¹⁶ This pragmatic interpretation supports operational continuity but underscores the need for codified wartime legal norms.

12 Dragomir Stojčević, “The Sanctioning of Customs,” *Annals of the Faculty of Law in Belgrade*, no. 1–4 (1983): 660–64.

13 Judgment of the General Court of 13 March 2024, QNv. Commission, Case T-531/21, EU:T:2024:166, para. 37, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021TJ0531>.

14 Judgment of the CJEU of 11 April 2000, *Christelle Deliège v. Ligue Francophone de Judo et al.*, Joined Cases C-51/96 and C-191/97, ECLI:EU:C:2000:199, <https://curia.europa.eu/juris/document/document.jsf?docid=45230>, accessed 19 April 2025.

15 Judgment of the CJEU of 22 May 2008, *Martial Ott and Others v. Commission*, Case T-250/06 P, ECLI:EU:T:2008:164, <https://curia.europa.eu/juris/document/document.jsf?docid=108742>, accessed 19 April 2025.

16 Judgment of the Supreme Court of Ukraine of 6 March 2025, Case No. 420/4566/23, proceeding No. K/990/8215/24, *Unified State Register of Court Decisions of Ukraine*, <https://>

The legal status of customs officers includes not only statutory appointment and dismissal procedures but also institutional entitlements. Social guarantees—medical care, housing, pensions—should be treated as structural components of administrative law, not discretionary welfare.¹⁷ Likewise, integrity should be viewed not merely as an ethical ideal but as a legal standard that demands structured and codified verification. The use of polygraph tests in recruitment or assessment, while increasingly common, must be grounded in transparent procedures and legal safeguards to ensure procedural fairness and accountability.

Kioko’s study of Kenya’s customs service demonstrates that modernization and professional training correlate strongly with performance outcomes, therein emphasizing the need for human resource development alongside digital reform.¹⁸ In Ukraine, competency frameworks should be integrated into job profiles, evaluation systems, and professional education to institutionalize the link between authority and qualification.

Finally, the conceptual structure of customs public service must distinguish between administrative and labour-law models. Rotation, integrity, and professional evaluation must be framed within administrative law logic. Competition for public service posts remains a doctrinal guarantee of objectivity. While suspended under martial law, its erosion must not become normalized. Alternatives such as probationary periods, audits, or post-hiring reviews may serve as interim safeguards.

Safeguards and Institutional Gaps in Emergency Public Service

The institutional architecture of Ukraine’s emergency public service faces significant challenges in maintaining legality, accountability, and procedural

reyestr.court.gov.ua/Review/125656580, accessed 19 April 2025.

17 Nataliia Sevostyanova, “System of Legal Guarantees in Public Service Social Security Regulation in Ukraine,” *Public Law*, no. 1 (2018): 151–57.

18 Doris M. Kioko, “Effect of Technology Acceptance and Modernization Programs on the Performance of Customs Officers, Mombasa, Kenya” (Master’s thesis, Moi University, 2020), <https://ikesra.kra.go.ke/server/api/core/bitstreams/d12aa798-97a2-4234-9f3b-37c71695471e/content>.

fairness under martial law. While the customs service operates under a dual mandate—facilitating trade and combating customs violations—the wartime environment has strained its legal and operational frameworks. Drawing on comparative insights, judicial precedent, and empirical studies, this section explores the systemic safeguards and structural deficits that affect the customs administration during states of emergency.

Effective prevention of corruption and abuse in public service cannot rely solely on punitive measures. Orlovska and Stepanova argue that institutional resilience depends on proactive integrity mechanisms, internal controls, and ethical leadership, especially in frontline services like the Border Guard and Customs.¹⁹ Their emphasis on culture and organizational design is particularly relevant for customs bodies, which function under heightened risk and discretion during martial law.

The case-law of the CJEU reinforces the primacy of procedural rights even in emergencies. In Case C-72/22 PPU, *M.A. v. Valstybės sienos apsaugos tarnyba*, the Court ruled that states may not deny access to international protection or automatically detain individuals based solely on irregular entry, even under martial law.²⁰ This judgment affirms that derogations must conform to necessity and proportionality standards under EU law.²¹

In administrative customs enforcement, Haladzhov underscores that investigation mechanisms serve not only a regulatory role but also a public confidence function. His study of Bulgarian customs demonstrates that well-defined administrative procedures—including risk-based targeting and structured sanctions—enhance state capacity and legal legitimacy in border control.²²

19 Natalya Orlovska and Yuliia Stepanova, “Corruption Prevention System in the Border Guard Agencies (State Border Guard Service of Ukraine as an Example),” *Scientific Journal of Polonia University* 48, no. 5 (2021): 118–25, <https://doi.org/10.23856/4815>.

20 Advocate General Emiliou, Opinion in Case C-72/22 PPU, *M.A. v. Valstybės sienos apsaugos tarnyba*, 2 June 2022, ECLI:EU:C:2022:431, <https://curia.europa.eu/juris/document/document.jsf?docid=260210> (accessed 19 April 2025).

21 Judgment of CJEU of 30 June 2022, *M.A. v. Valstybės sienos apsaugos tarnyba*, Case C-72/22 PPU, ECLI:EU:C:2022:505, <https://curia.europa.eu/juris/document/document.jsf?docid=261930>, accessed 19 April 2025.

22 Vencislav Haladzhov, “Customs Investigation—State, Problems and Perspectives,” *Godishen almanah “Nauchni izsledvaniya na doktoranti”*, no. 11 (2016): 417–32.

The relationship between digital transformation and public sector integrity is also well documented. Mańkowska found strong correlations between e-government implementation and improvements in transparency, efficiency, and corruption reduction across EU states, with a Pearson coefficient of 0.88 in her 2012 dataset.²³ These findings are particularly relevant for Ukraine's wartime digitization of customs processes.

Yet institutional gaps persist. Data from Baden-Württemberg indicate a sharp rise in violence against public servants, with assaults nearly doubling between 2013 and 2022. The regional Landeskonzeption classifies workplace violence as a systemic risk requiring legal safeguards and recognition of front-line civil service status.²⁴ Similar risks apply to customs officers exposed to heightened operational tension.

Moreover, despite formal harmonization through the Union Customs Code, enforcement decentralization across EU Member States has produced discrepancies in personnel management and risk assessment. Czermińska identifies these divergences as challenges to mutual trust and legal consistency, particularly in officer rotation and joint operations.²⁵

In Ukraine, psychological resilience among customs officers has emerged as a critical variable. Virna, Lazorko, and Malimon demonstrate that high emotional commitment to the institution, while often beneficial, may exacerbate stress under duress, thereby highlighting the importance of structured mental health support and managerial awareness.²⁶

Another gap involves the reintegration of veterans. Since 2024, the number of customs officers returning from military service or with combat-related

23 Natalia Mańkowska, “E-administracja a efektywność sektora publicznego [E-government and the Efficiency of Public Sector],” *Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu*, no. 348 (2014): 200–09, <https://doi.org/10.15611/pn.2014.348.18>.

24 Ministerium des Inneren, für Digitalisierung und Kommunen Baden-Württemberg, *Resortübergreifende Landeskonzeption für einen besseren Schutz von Beschäftigten im öffentlichen Dienst vor Gewalt im Arbeitsalltag*, 1st ed. (Stuttgart: GeZ KKP, 2024), 19.

25 Małgorzata Czermińska, “Management of the EU Customs Union—Challenges and Activities,” *Przedsiębiorczość i Zarządzanie* 8, no. 2 (2016): 173–86.

26 Zhanna Virna et al., “The Mode of Trust and Experience of Stress in Customs Officers in Ukraine,” *Postmodern Openings* 12, no. 3 (2021): 404–25, <https://doi.org/10.18662/po/12.3/346>.

disabilities has grown markedly. However, tailored reintegration mechanisms and legal guarantees remain underdeveloped, posing risks to both social protection and institutional coherence.

Legal ambiguities also affect employment status. The “idle mode” imposed on regional customs offices due to combat operations lacks a statutory definition within public service law. While the Labour Code regulates idle time in commercial enterprises, its provisions do not account for public authority suspensions, leaving affected officers in legal limbo with regard to pay, status, and continuity.

The dual legal mandate of the State Customs Service further complicates enforcement. Unlike the Security Service of Ukraine or the State Bureau of Investigation, whose law enforcement roles are codified in primary legislation, the SCS’s enforcement powers derive from secondary regulations. This limits clarity, particularly when coordinating with other security agencies.

At the policy level, Ukraine’s Strategy for Financial Investigations marks a step toward integrating financial intelligence into the criminal justice system.²⁷ However, structural fragmentation and legal uncertainty remain barriers to full implementation.

EU jurisprudence provides further guidance. In Case T-249/20, *Abdelkader Sabra v. Council*, the General Court emphasized that emergency measures such as asset freezes require specific, substantiated evidence.²⁸ Similarly, the pending Case C-634/22, *OT and Others*, raises questions about judicial independence under structural reform during emergencies.²⁹

Ukrainian courts have echoed these principles. In Case No. 2a-9677/08/0470,³⁰ the Grand Chamber of the Supreme Court of Ukraine con-

²⁷ Cabinet of Ministers of Ukraine, Strategy for Financial Investigations in the Sphere of Counteracting Criminal Offenses Related to Illicit Income until 2028.

²⁸ Judgment of the General Court of the EU of 16 March 2022, *Abdelkader Sabra v. Council of the EU*, Case T-249/20, ECLI:EU:T:2022:140, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020TJ0249>.

²⁹ CJEU, *OT and Others v Sofiyski gradski sad*, Case C-634/22, Judgment of 18 April 2024, ECLI:EU:C:2024:340. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0634> (accessed 19 April 2025).

³⁰ Judgment of the Supreme Court of Ukraine (Grand Chamber) of 10 April 2025, Case No. 2a-9677/08/0470, proceeding No. 11-2363ba24, Unified State Register of Court Decisions

firmed that violations of the European Convention do not automatically warrant reopening cases unless restoration of legal status is necessary. In Case No. 9901/364/21, the Court clarified that the President's dismissal of military officials during war must still comply with procedural rules.³¹

Importantly, in Case No. 260/3564/22, the Supreme Court held that failure to allocate budget funds does not excuse non-payment of lawful remuneration, affirming property rights under Protocol No. 1 to the ECHR.³² Likewise, in Case No. 420/23119/23, the Court upheld Ministry of Defence regulations on martial law bonus eligibility, despite their unregistered status, prioritizing operational necessity.³³

In its 2023 ruling in Case No. 520/25136/21, the Supreme Court stated that martial law alone does not justify missed procedural deadlines.³⁴ Authorities must demonstrate specific impediments. This standard reinforces state accountability in wartime litigation.

Comparative Perspectives: Emergency Public Service in Poland, France, and Beyond

Comparative legal analysis reveals significant variation in how states classify and protect public servants operating under emergency conditions. In Poland, customs officers are formally treated as administrative, rather than uniformed, personnel—a distinction that generates systemic inequalities. Wieczorek notes

of Ukraine, <https://reyestr.court.gov.ua/Review/126569708>, accessed 19 April 2025.

31 Judgment of the Supreme Court of Ukraine (Grand Chamber) of 31 August 2023, Case No. 9901/364/21, proceeding No. 11-963ai23, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/113690636>, accessed 19 April 2025.

32 Judgment of the Supreme Court of Ukraine of 6 April 2023, Case No. 260/3564/22, proceeding No. II3/990/4/22, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/110064913>, accessed 19 April 2025.

33 Judgment of the Supreme Court of Ukraine of 28 November 2024, Case No. 420/23119/23, proceeding No. K/990/12653/24, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/123380439>, accessed 19 April 2025.

34 Judgment of the Supreme Court of Ukraine of 14 September 2023, Case No. 520/25136/21, proceeding No. K/990/15168/23, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/113485382>, (accessed 19 April 2025).

that this classification results in reduced social protection compared to police and fire service officers, despite comparable enforcement duties and occupational risks.³⁵ Although the Polish Constitutional Tribunal upheld this distinction, it also acknowledged the need for equalized protections for officers performing high-risk duties under Article 2(1)(4–6) of the Customs Service Act.

The case-law of the Court of Justice of the European Union reinforces the need for individualized legal assessments. In Case C-63/23, *Sagrario and Others*, the Court held that national authorities must evaluate the personal circumstances of each individual before refusing to extend legal status, thus reaffirming the principle of procedural fairness, even under emergency regulations.³⁶

The tension between emergency legal frameworks and fundamental rights is further illustrated by the pending Case C-760/22, *FP and Others*, where the CJEU was asked to clarify whether remote criminal proceedings during public emergencies comply with the right to be present at one's trial under Directive 2016/343.³⁷ This reflects broader concerns about procedural erosion under the guise of expediency.

Ukrainian case law demonstrates similar struggles. In Case No. 640/13029/22, the Grand Chamber of the Supreme Court ruled in favour of a military officer seconded to the State Space Agency, affirming that rights to remuneration under Cabinet Resolution No. 168 remain binding regardless of budgetary constraints.³⁸ The Court reiterated this principle in Case

35 Mariusz Wieczorek, “Zabezpieczenie społeczne funkcjonariuszy Służby Celnej w świetle konstytucyjnej zasady równości [Social Security of the Customs Service Officers in the Light of the Constitutional Principle of Equality],” *Annales Universitatis Mariae Curie-Skłodowska, sectio G – Ius* 62, no. 2 (2015): 285–95.

36 Judgment of the CJEU of 12 September 2024, *Sagrario and Others v. Subdelegación del Gobierno en Barcelona*, Case C-63/23, ECLI:EU:C:2024:739, <https://curia.europa.eu/juris/document/document.jsf?docid=290008>, accessed 19 April 2025.

37 CJEU, *FP and Others v Sofiyski gradski sad*, Case C-760/22, Judgment of 04 July 2024, ECLI:EU:C:2024:574, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62022CJ0760> (accessed 19 April 2025).

38 Judgment of the Supreme Court of Ukraine (Grand Chamber) of 29 August 2024, Case No. 640/13029/22, <https://reyestr.court.gov.ua/Review/121753933>, accessed 19 April 2025.

No. 260/3564/22, emphasizing that the state may not evade financial obligations due to the alleged lack of appropriated funds.³⁹

Further clarification was provided in Case No. 320/10955/23, where the Court examined the constitutional limits of preserving judicial remuneration during military service.⁴⁰ While the judge's professional status remained intact, the Court held that salary continuity was not automatic and depended on explicit statutory provisions.

The intersection of domestic and international obligations is apparent in Case No. 826/85/15, following the ECtHR ruling in *Buglov and Others v. Ukraine*. The Supreme Court upheld the reinstatement of an unlawfully dismissed civil servant, noting that although domestic law had not been substantively violated, the excessive length of proceedings breached European standards. The Court thereby acknowledged the dual burden on states to ensure both procedural efficiency and substantive legality.⁴¹

The issue of delayed payments under martial law was again addressed in Case No. 280/8933/24, where the Court held that the failure to disburse supplementary remuneration violated the servicemember's property rights.⁴² This case reaffirmed that wartime disruptions do not nullify legal entitlements and that authorities remain accountable for administrative inaction.

Judicial suspension during military service was also clarified. In Case No. 420/8189/24, the Supreme Court affirmed that proceedings may be suspended

39 Judgment of the Supreme Court of Ukraine (Grand Chamber) of 21 September 2023, Case No. 260/3564/22, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/114021133>, accessed 19 April 2025.

40 Judgment of the Supreme Court of Ukraine (Grand Chamber) of 13 March 2025, Case No. 320/10955/23, proceeding No. 11-5арм25, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/126486069>, accessed 19 April 2025.

41 Judgment of the Supreme Court of Ukraine (Grand Chamber) of 23 January 2025, Case No. 826/85/15, proceeding No. 11-1983вa24, based on: ECtHR, *Buglov and Others v. Ukraine, Applications Nos. 28467/18 and others, Unified State Register of Court Decisions of Ukraine*, <https://reyestr.court.gov.ua/Review/124904865>, accessed 19 April 2025.

42 Judgment of the Supreme Court of Ukraine of 11 April 2025, Case No. 280/8933/24, proceeding No. II3/990/14/24, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/126550843>, accessed 19 April 2025.

only where one party is actively serving in the Armed Forces, and that this suspension ceases when military obligations end. Crucially, the Court emphasized that judicial protection cannot be indefinitely deferred under Article 64(2) of the Constitution.⁴³

Procedural discipline remains a key obligation for public authorities. In Case No. 120/11773/23, the Court held that general disruption caused by martial law is not sufficient justification for missing deadlines. Instead, authorities must provide evidence of specific and insurmountable obstacles.⁴⁴ This position was upheld again in Case No. 240/15719/21, reinforcing the principle of state responsibility in emergency contexts.⁴⁵

These comparative insights underscore the relevance of European jurisprudence for Ukraine, where the constitutional system is increasingly called upon to reconcile emergency imperatives with enduring principles of legality and institutional accountability.

Conclusions and Recommendations

This article has examined the constitutional, administrative, and comparative dimensions of public service in Ukraine's customs system under martial law. The wartime environment has exposed significant legal and institutional vulnerabilities within the customs administration, ranging from procedural fragmentation and lack of normative clarity to the erosion of safeguards traditionally associated with rule-based public service. The hybrid regime that emerged during the conflict reflects both functional adaptation and legal improvisation,

43 Judgment of the Supreme Court of Ukraine of 25 July 2024, Case No. 420/8189/24, proceeding No. K/990/24460/24, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/120609394>, accessed 19 April 2025.

44 Judgment of the Supreme Court of Ukraine of 3 October 2024, Case No. 120/11773/23, proceeding No. K/990/21718/24, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/122069372>, accessed 19 April 2025.

45 Judgment of the Supreme Court of Ukraine of 30 January 2025, Case No. 240/15719/21, proceeding No. K/990/9307/24, Unified State Register of Court Decisions of Ukraine, <https://reyestr.court.gov.ua/Review/124817733>, accessed 19 April 2025.

often at the expense of legal certainty, personnel stability, and institutional coherence.

The comparative analysis confirms that other jurisdictions facing emergencies—such as Poland, Germany, France, and the EU Member States—have adopted diverse models for balancing flexibility with legality. Yet across these systems, certain principles remain constant: procedural fairness, proportionality, and the preservation of legal status as a structural guarantee. Ukrainian jurisprudence increasingly reflects these standards, especially through the decisions of its Supreme Court, which has consistently emphasized the binding nature of legal entitlements, the limits of executive discretion, and the necessity of individualized assessments even under martial law.

At the same time, institutional safeguards remain underdeveloped. The absence of a unified statute on customs officers' legal status contributes to inconsistent application of rights and responsibilities, while short-term appointments and reduced oversight increase exposure to legal uncertainty and abuse. Internal control bodies often lack customs-specific competence, further undermining procedural legality.

To address these challenges, the following policy and legislative recommendations are proposed: (1) Codify the legal status of customs officers in a dedicated statutory act, delineating their rights, duties, ranks, appointment procedures and disciplinary safeguards under both normal and emergency conditions; (2) Introduce transitional evaluation mechanisms (e.g., probationary periods, post-hiring reviews, or competency audits) to compensate for the suspension of competitive recruitment during martial law and ensure long-term professionalization; (3) Institutionalize a personnel reserve and reintegration framework for customs officers mobilized to military service, including tailored legal guarantees, social support, and professional development pathways; (4) Clarify the legal regime governing idle status (*prostoi*) in the public service, distinguishing it from private sector provisions and ensuring continuity of legal protection for officers in suspended regions; (5) Enhance the authority

and specialization of internal control departments, with a focus on customs law expertise, procedural legality, and due process in enforcement actions; (6) Integrate international human rights standards into administrative procedures and complaint mechanisms, ensuring access to remedies even under emergency restrictions; (7) Support digital transformation and psychological resilience programs in customs institutions, building on empirical evidence that links e-governance and organizational trust to institutional performance and integrity; (9) Monitor and limit the normalization of emergency exceptions, ensuring that temporary derogations do not erode the doctrinal foundations of legality, impartiality, and competence in public service.

Further research should explore the long-term institutional effects of emergency regimes on public administration in post-conflict reconstruction, including the potential need for differentiated legal regimes for frontline public servants. Comparative jurisprudential studies could also help refine the Ukrainian model in light of evolving European standards.

Ultimately, securing a resilient, accountable, and legally coherent customs service under martial law is not merely a matter of operational effectiveness but a test of constitutional maturity and institutional trustworthiness. Legal reform must proceed with both urgency and restraint, ensuring that the response to crisis strengthens rather than weakens the legal foundations of public service.

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