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CUSTOMS ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS: THE EXPERIENCE OF THE EUROPEAN UNION

This article provides a comparative analysis of legislation on protection of intellectual property rights of the EU and the Customs Code of Ukraine in compliance with the latest EU standards. It is found, that the customs legislation of Ukraine at the present stage of European integration of our country does not need any changes in order to adapt and harmonize it with EU legislation regarding the enforcement of intellectual property rights. As shown by our comparative analysis of Regulation of 22.07.2003, Regulation of 06.12.2013 and the Customs Code of Ukraine, the Customs Code now is much more in line with the current Regulation of 12.06.2013, than with the ones that have already expired. This can be explained by foresight and professionalism of authors of the Customs Code of Ukraine.

Besides, ways of improving the Customs Code of Ukraine towards its harmonization with EU legislation are proposed. They are: 1) to amend the Customs Code of Ukraine in respect of customs regimes: a) removing the concept of “regime” and replacing it with the concept of “procedure”, b) removing from the list of regimes (procedures), in which counterfeit goods can be placed, the provisions of demolition and leaving only the provisions on the procedure for destruction; 2) consolidate law principle of “tacit consent” for the owner’s consent to destruction of goods that violate intellectual property right as fundamental principle in the relationship between the customs authorities and the owner of such goods; 3) to add into the Customs Code of Ukraine a norm on a simplified procedure for destruction of goods that violate intellectual property rights, which are sent by mail (courier) traffic.