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Problems of tobacco smuggling in Ukraine

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Abstract

The relevance of the study is explained by the strengthening of the adverse impact of tobacco smuggling on economic and social processes in Ukraine. The purpose of the study was to determine the specific features of the interpretation of the category "smuggling" in the legislative and general scientific contexts, to explore the problem of smuggling of tobacco products in Ukraine. General scientific methods of analysis, synthesis, observation and the graph-analytical method of presenting research results are used in the research. The definition of "smuggling" was analysed according to Ukrainian and foreign legislation, and according to general approaches. The interpretation of the smuggling category differs depending on the aspects of the application. Thus, according to the general lexical content, smuggling is understood as the illegal movement of goods across the customs border. And at the legislative level, smuggling usually includes the illegal import or export of specific groups of goods, the list of which is established by the legislation of the state. The adverse influence of smuggling on the economic and social processes in the state is determined. The problem of tobacco smuggling in Ukraine is analysed. In recent years the area of smuggling flows of tobacco products in Ukraine has changed significantly. Conventionally, Ukraine was one of the main source countries smuggling tobacco products that were illegally supplied to EU countries. The need to introduce criminal liability for the smuggling of tobacco products in Ukraine is substantiated based on the study of foreign experience and the determination of the consequences of such smuggling for the economy and social sphere

Keywords: customs security, customs control, export, import, excise tax, excise goods

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Introduction

Smuggling is a serious problem for most countries. For Ukraine, smuggling issues are relevant enough and threaten national security in general, and such components as economic and customs security in particular. Smuggling and customs offences cause serious shortages of funds to the State budget, and for this reason, substances and devices which threaten the safety of life and health of citizens and public law and order enter the customs territory. In Ukraine, as in other countries of the world, much attention is paid to the fight against smuggling at the state level. However, not all anti-smuggling measures are effective.

Recently, in connection with the tense foreign economic and military situation in the country, issues of economic security in general and customs security, in particular, have come to the fore. The nature of the situation at the state and customs borders has changed significantly. It is important to protect the state against smuggling, especially from the eastern and northern borders. Smuggling tobacco products is especially dangerous for the economy of Ukraine.

Tobacco products are conventionally in high demand all over the world, and, in particular, in Ukraine, and have a stable level of sales. It ensures consistently high profits for tobacco producers and sellers. Tobacco products in Ukraine, as in almost all countries of the world, are excise goods. Therefore, as a result of their production and sale, high tax revenues are provided to the state budgets.

The specific feature of tobacco products is that their use can cause several adverse consequences for people's health. Therefore, taxes on tobacco products introduced in the states, in addition to filling the budget, should stimulate consumers to limit using tobacco. High prices for tobacco products should encourage citizens to quit smoking or at least reduce the amount of it. The level of taxation of tobacco products concerning to the cost of their production is, as a rule, quite high compared to other goods that are taxed in the respective national economy (Ortiz-Prado *et al.*, 2022).

And as income levels and tobacco tax rates vary from country to country, retail prices for tobacco products vary by national market. This situation frequently leads to high profitability of illegal cigarette imports from one country to another. Tobacco smuggling leads, firstly, to a decrease in tax revenues to the state budget, secondly, to an increase in the volume of tobacco consumption in the state due to the saturation of the market with cheap contraband products, and thirdly, due to smuggling, companies that legally produce and sell tobacco products, receive losses.

In Ukraine, tobacco smuggling is quite common and results in significant budget losses, as the share of taxes in the cost of cigarettes is quite high compared to other goods. In addition, the smuggling of tobacco products of dubious quality can pose a threat to the health of

Ukrainian citizens. Therefore, solving the problem of the smuggling of tobacco products in Ukraine is very important.

Early theoretical and empirical economic studies of goods smuggling, on which modern researchers rely, were conducted in the 1960s and 1970s. G.S. Becker (1968) explored the economic aspects of the crime of smuggling, and J. Bhagwati and B. Henson (1973) analysed smuggling as one of the types of disorder in the trade sector. D. Norton (1988) examined the relationship between tariff rates and smuggling in the agricultural sector of European countries and found an adverse effect of increasing taxes rates on smuggling.

Modern researchers consider various aspects of combating smuggling and ensuring customs security, considering the national characteristics of individual countries.

Problems of tobacco smuggling in the Western Balkan region were considered in the work of V. Reher (2019). The study focused on the habits, attitudes and predictors of illegal tobacco demand. Differences between the consumption of contraband tobacco products in different countries of the Western Balkan region were determined.

The principles of modern customs protection in the countries of Eastern Europe are considered in the work by T. Nowak *et al.* (2015), where it is noted that Ukraine is one of the leading countries – sources of smuggling to the European Union, and interstate cooperation according to the rules of the World Customs Organisation is one of the most effective ways to fight smuggling.

Types, forms and technologies of goods smuggling in modern conditions are explored in the work by A.H. Mozayani (2020). In addition, this publication reflects the specific features of the fight against smuggling using the example of Iran's economy.

The importance of using English by customs officials is emphasised in the study by T.C.N. Nguyen *et al.* (2019). The English language is considered here as the main channel of interaction between customs officers of different countries in the process of interstate customs interaction.

Specific features of ensuring customs security and combating smuggling in Ukraine are explored in the work by O. Dniprov *et al.* (2020). The work concluded that the main area of the work of customs authorities should be the regular improvement of the risk management system, which should combine the following aspects: technological, methodological, information technology, regulatory, organisational and personnel.

The work by S. Filippov (2019) presented the main fields of overcoming the smuggling of tobacco products in Ukraine, among which the author outlined the fight against corruption in the state, harmonisation of tobacco excise rates in Ukraine with the level of rates in EU countries, strengthening of responsibility for smuggling and destroy the "culture of impunity" for smuggling.

In the study by R. Movchan *et al.* (2021) the problem of commodity smuggling in Ukraine, in general, was analysed, examines the legislation regulating responsibility for commodity smuggling in Ukraine and EU countries.

The purpose of the research was to analyse the content of the category of smuggling, to determine the specific features of the interpretation of smuggling according to the legislation of different countries, and based on scientific approaches, to analyse the problem of tobacco smuggling in Ukraine.

Material and Methods

The theoretical basis of the study was the regulations of Ukraine, regulations of other countries, which governs the issue of defining the category of smuggling, the EU directives, the work of scientists who conducted research on the problem of smuggling in general, including smuggling of tobacco products and reports of the largest international audit companies devoted to the analysis of tobacco smuggling.

The problem of smuggling in Ukraine is complex and large-scale, related to various spheres of economic, political and social life. Thus, when exploring smuggling, it is possible to highlight both the economic and legal aspects of this phenomenon. Therefore, both of these components were considered in the research – legal provisions regulating the definition and responsibility for smuggling, and economic phenomena and processes related to smuggling were considered.

The general scientific and special methods and approaches to cognition were used in the study. The methodological basis of the work was the dialectical-materialist method, which contributed to the understanding of the research object in the context of combining the

needs of science and practice, Aristotelian method, which allowed the understanding of the content of the problem in more detail.

The method of bibliometric analysis was used to examine the content of the “smuggling” category. Using this method common and distinctive features were determined in the interpretation of the “smuggling” category according to different scientific approaches and by the legislation of different countries. The synthesis method was used to develop a common approach to the interpretation of the category of smuggling.

The work included a retrospective analysis of responsibility for smuggling in different periods in Ukraine and a retrospective analysis of the situation regarding the areas and volumes of tobacco smuggling flows in Ukraine. Using the method of theoretical generalisation, the conceptual apparatus of the research was defined.

The method of observation was used to assess the situation with cigarette smuggling in Ukraine. Using a graphic method, the rate of growth of the excise tax on cigarettes in Ukraine and the change in the volume of contraband flows of cigarettes from Ukraine to Poland are demonstrated.

Results and Discussion

The word “smuggling” is currently often used both in everyday life and scientific and professional communication, but the interpretation of this category is ambiguous.

Approaches to defining the category of smuggling are not identical. It is necessary to distinguish the legal aspect of the definition of smuggling and the general economic one.

Thus, in the regulations of some states, the definition of “smuggling” is written. However, approaches to its interpretation are significantly different

Table 1. Approaches to defining the “smuggling” category

Source	Definition of the “smuggling” category
Criminal Code of Ukraine (2001; 2011 ed.), edition valid until 2012	smuggling, that is the movement of goods across the customs border of Ukraine without customs control or with concealment from customs control in large quantities, and the illegal movement of historical and cultural values, potent, poisonous, radioactive or explosive substances, weapons and ammunition, and smuggling of the main goods of strategic importance, the export of which is regulated by the relevant legislation
Criminal Code of Ukraine (2001; 2022 ed.), edition valid since 2012	smuggling, that is the movement of goods across the customs border of Ukraine without customs control or with concealment from customs control historic and cultural values, weapons and ammunition, radioactive or explosive substances, poisonous, and smuggling of strategically important basic commodities and special technical means of secretly obtaining information
Treasury Penal Code of Poland (1999)	smuggling means the import or export of goods abroad without paying customs taxes, without presenting goods to the customs authority and without filing a customs declaration, which leads to non-performance of customs duty
Custom Act of India (1962)	smuggling means any act or omission resulting in the confiscation of goods in respect of any goods

Table 1, Continued

Source	Definition of the “smuggling” category
United States Code (n.d.)	smuggling means fraudulently or intentionally exporting or shipping from the United States, or attempting to export or ship from the United States, any merchandise or article, or object contrary to any law or regulation of the United States, or concealing, buying, selling, or transporting such merchandise prior to export, if the violator is aware that such goods are intended for export in violation of any law or regulation of the United States. Smuggling is punishable by a fine or imprisonment for up to 10 years, or both
East African Community Customs Management Act (2004)	smuggling means the export, import, or cabotage, transfer or export of goods to or from partner countries with the intent to defraud customs revenue or circumvent any prohibitions, restrictions, regulations or conditions of such import, export, cabotage, transfer or export of any goods
Encyclopedia of modern Ukraine (Pylypchuck, 2014)	secret illegal movement across the state border of dutied or prohibited goods or other valuables, the list of which is regulated by the legislation of a specific state
Law Dictionary (Bouvier, 1848)	the fraudulent taking into a country, or out of it, merchandise which is lawfully prohibited.
Cambridge dictionary (Smuggling, 2013)	the act or process of taking things or people to or from a place secretly and often illegally

Therefore, in world practice, smuggling is understood as the illegal movement of certain prohibited types of goods across the customs border; but in some cases, illegal import or export of any goods is classified as smuggling.

According to the current version of the Criminal Code of Ukraine (2001; 2022 ed.), Art. 201, the definition of the category “smuggling” includes the illegal movement across the customs border of only certain groups of goods: cultural values; poisonous, powerful, explosive or radioactive substances; weapons and ammunition; parts of firearms; special technical means of secretly obtaining information.

In addition, according to Art. 305 of the Criminal Code of Ukraine (2001; 2022 ed.), the definition of “smuggling” is used to the illegal movement across the border of narcotic drugs, psychotropic substances, their analogues or precursors, or falsified medicinal products, although these groups of goods are not specified in Art. 201, where the smuggling category is defined.

The main distinguishing feature between a violation of customs legislation and smuggling according to Ukrainian legislation is that for committing smuggling, criminal liability arises by the Criminal Code. In the case of other violations of customs legislation, can be only administrative consequences for violators following the Customs Code of Ukraine (2012).

According to Article 201-1 of the Criminal Code of Ukraine, criminal liability applies in the case of crossing the border of Ukraine without customs control or hiding from customs control timber, lumber of valuable and rare tree species, unprocessed timber, other timber prohibited for export outside the territory of Ukraine since 2018. And according to the criterion of the presence of criminal liability, such actions can be classified as smuggling (2001; 2022 ed.).

Until 2012, in Ukraine, smuggling included the movement of any goods across the customs border of Ukraine outside of customs control or with concealment

from customs control, committed in large quantities. As of 2012, such a large amount of smuggling was set at the level of UAH 536,500 (Criminal Code of Ukraine, 2001).

At the beginning of 2012, the legislation on goods smuggling was changed. Criminal liability was abolished, but administrative liability was strengthened.

Thus, until 2012, a fine of 500 to 1,000 non-taxable minimum incomes of citizens (i.e., from 8,500 to 17,000 UAH) was established for the illegal movement of goods across the border (the value of which was less than the large level established by the law). In similar situations, confiscation of such goods and vehicles used for their movement could be applied (Movchan *et al.*, 2021).

The fine for smuggling goods is 100% of the value of the goods, and the goods may be confiscated after the entry into force of the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Regarding the Humanisation of Responsibility for Offences in the Field of Economic Activity” (Law of Ukraine No. 4025-VI..., 2011). For the same repeated violations of customs rules, a fine of 200% of the value of the goods is provided. The rule of confiscation of vehicles used to move these goods remained in force.

Therefore, according to Ukrainian legislation, there is a distinction between two categories – smuggling and customs offences. The basis for the distinction is the liability that arises in the case of committing such actions. Smuggling in Ukraine is subject to criminal liability, and customs offences are subject to administrative liability (Law of Ukraine No. 4025-VI..., 2011).

In international practice, smuggling usually includes a wider list of goods, and there is no such clear distinction between the illegal movement of goods into smuggling and customs offences, as is the case in Ukraine. In addition, in a large part of the states, the smuggling of goods is criminalised.

The application of criminal punishment for goods smuggling is a trend in the EU and corresponds to

Directive (EU) 2017/1371 of the European Parliament and the Council of the EU (2017), which regulates the fight against fraud. The Directive implements the basis of criminal liability for smuggling and other types of fraud. According to this directive, criminal liability should be imposed if the damage to the state exceeds 10,000 euros.

Smuggling of goods was decriminalised in Ukraine more than ten years ago (Kostiana *et al.*, 2020). It was expected that in this way it would be easier to bring perpetrators to justice, and the state would receive more benefits as a result of increased financial liability for violators. However, the problem of illegal transportation of goods across the customs border of Ukraine remains relevant. Smuggling in Ukraine brings billions of euros in losses (Movchan *et al.*, 2021) to the state budget, and contributes to the distribution of low-quality and dangerous goods that cause other social and economic problems in the state.

In international practice, the list of goods, the illegal transportation of which across the customs border is considered smuggling that threatens the national interests of the state, is very different from the goods classified as smuggling in Ukraine. People smuggling is a big problem for EU countries and the USA, but this problem is not so urgent for the Ukrainian economy.

Regarding goods which, according to Ukrainian legislation, are not classified as smuggling, the biggest damage to the state's economy is caused by the illegal transportation of cigarettes and tobacco products across the border. This situation occurs for several reasons. The price of cigarettes in Ukraine is significantly higher than in Belarus and the Russian Federation, which share a common border with it in the North and in East. However, the cost of cigarettes in Ukraine is lower than in

the EU countries which share a common border with it in the West. Thus, in Ukraine, there is a problem with the illegal import of tobacco products from the North and the East, and their illegal export to the West (Filippov, 2019).

The difference in the price of tobacco products in Ukraine and EU countries has been significant for a long time. However, in 2018, a seven-year plan to increase excise taxes on cigarettes was implemented in Ukraine (Law of Ukraine No. 2245-VIII..., 2017). It was related to the Euro integration strategy of the development of Ukraine. Thus, the Association Agreement between Ukraine and the EU (2014) contains Article 352, which stated that the parties develop cooperation and harmonise policies on countering and combating fraud and smuggling of excise goods. This cooperation, in particular, includes the gradual convergence of excise rates on tobacco products, as far as possible, considering the constraints of the regional context, including through dialogue at the regional level.

Excise tax in Ukraine is calculated by a combined rate consisting of ad valorem and specific components (Blikhar *et al.*, 2019). Only the specific component of the rate had to gradually increase according to the schedule as a result of the tax reform (Fig. 1). Such an increase in excise duty should have increased cigarette prices in Ukraine to the level of prices in the EU countries with which it shares a common border (Lysiak *et al.*, 2022). The excise tax rate is set in hryvnia, and in 2022, as a result of inflationary processes, the Ukrainian currency will significantly depreciate compared to the currencies of EU countries. Therefore, if the devaluation of the hryvnia continues in the future, the planned increase in excise duty rates may not lead to an increase in the prices of tobacco products in Ukraine to the EU level.

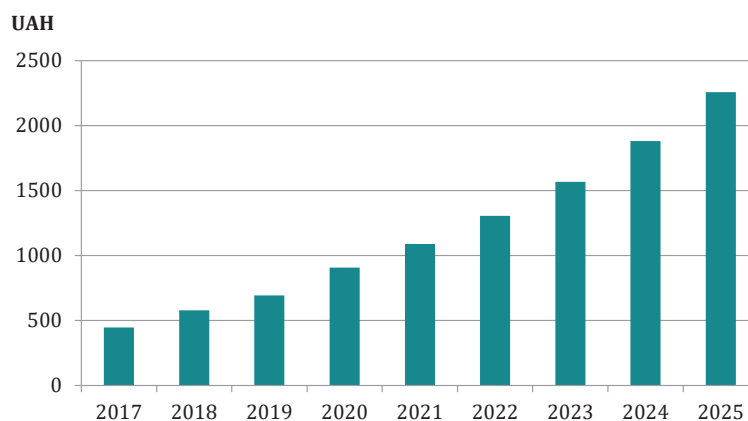


Figure 1. Specific excise tax rates in Ukraine in 2017-2025

Source: based on Law of Ukraine No. 2245-VIII (2017)

In Ukraine, tobacco smuggling has several areas:

- illegal import into the territory of Ukraine of foreign-made products (usually from Belarus or the Russian Federation);

- illegal export of Ukrainian products from Ukraine (usually to Poland, Slovakia, Hungary).

In addition, there are illegal transit smuggling schemes through which cigarettes from Belarus or

the Russian Federation are transported to EU countries (Budget Revenue Department, 2014).

A widespread scheme in Ukraine is the illegal sale of tobacco products intended for sale Duty-Free or for export. If in 2020 such production was 2.8% on average per year, then in 2021 it will be 7.6% (Lysiak *et al.*, 2022).

The situation, when the level of tobacco prices in Ukraine is significantly lower than in some of the neighbouring states, results in significant problems with the importation of illegal cigarettes into the territory of Ukraine. Thus, in 2021, the level of illegal trade in tobacco products increased to a record, reaching 16.9%, which is twice the previous maximum observed in 2013. The consequence is budget losses, which are estimated at 15.5 billion hryvnias. The volume of the shadow market of cigarettes in Ukraine is almost 8.5 billion units (Simplification of trade procedures..., 2021).

The leaders in the level of distribution of illegal tobacco products are 7 regions of Ukraine, where 61% of such products are sold: Kharkiv region (13%), Odesa region (12%), Dnipropetrovsk region (11%), Donetsk region (8%), Lviv region (6%), Zaporizhzhia Region

(6%), Khmelnytskyi Region (5%) (Kukuruza *et al.*, 2019).

In recent years, it was a decrease in the illegal import of Ukrainian tobacco products into the EU countries and an increase in the smuggling of tobacco products from the Russian Federation and Belarus to Ukraine (Simplification of trade procedures..., 2021).

Ukrainian counterfeit and smuggling of cigarette inflows declined in 2021 to the lowest level seen in the period 2017-2021. Thus, in the period from 2017 to 2021 (KPMG, 2022), illegal deliveries of Ukrainian cigarettes to Poland significantly decreased (Fig. 2). In addition, a reduction in the illegal import of Ukrainian cigarettes occurred in other EU countries with which Ukraine shares a common border (KPMG, 2021). This reduction in the smuggling of Ukrainian cigarettes is due to a decrease in the economic motivation of smugglers, due to the increase in excise tax rates, the difference between the prices of cigarettes in Ukraine and in the EU countries, with which it borders, is not large. Therefore, other countries with lower excise duty rates, such as Belarus, are becoming more attractive sources for illegal cigarette imports.

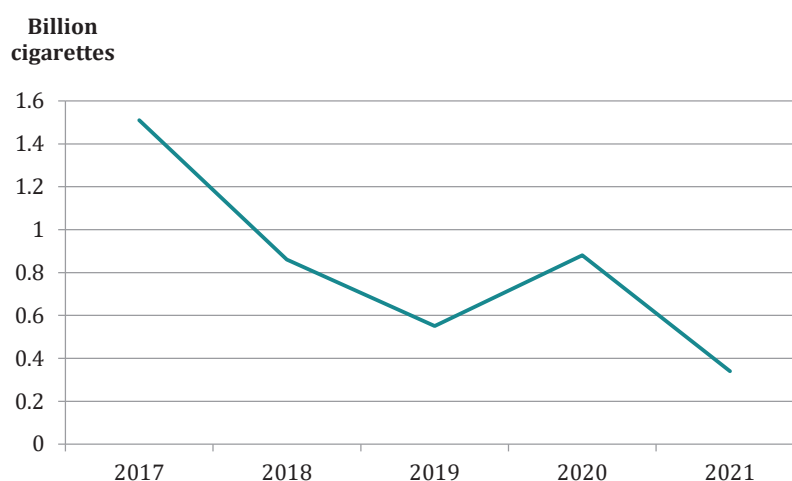


Figure 2. Inflows cigarettes to Poland from Ukraine (Billion cigarettes)

Source: based on KPMG (2022)

Illegal importation of tobacco products into the territory of Ukraine poses a serious threat to the Ukrainian economy, causes a shortage of funds for the State budget, and legal tobacco companies suffer losses due to the need to compete with smuggled products. However, punishment for committing such actions by Ukrainian legislation occurs only in the form of fines and confiscation of goods (Prokopenko *et al.*, 2021). Criminal responsibility in the form of deprivation of liberty may arise only in the case of illegal production of tobacco products (Article 204 of the Criminal Code of Ukraine (2001)).

In world practice, the occurrence of criminal liability in the form of real terms of imprisonment in the case of smuggling of excise goods is quite common.

Thus, in most countries with high indicators of economic development, where excise taxes are quite high, and the importation of illegal cigarettes is economically attractive, violators of the law can be sentenced to long prison terms.

Cigarette smuggling is criminalised in many European countries, in particular, in the UK, the term of imprisonment for this crime can be up to 10 years. In addition, there is criminal liability for smuggling tobacco products in Poland, Slovakia, Romania, Hungary, Ireland, Austria, Lithuania, Latvia, Finland, Spain, Germany. In most of these countries, the maximum prison term for smuggling does not exceed 3-5 years (Movchan *et al.*, 2021).

Volumes of criminalised cigarette smuggling vary. In European countries, whose domestic markets suffer

the most from cigarette smuggling, criminal liability has been established for it, which can result from the illegal importation of even relatively small quantities of goods. In Romania, criminal liability arises for smuggling just one pack of cigarettes through the green border, in Hungary – for smuggling cigarettes worth more than 100,000 forints (about the same as 15 packs of cigarettes), and in Slovakia – for more than 8 packs of cigarettes (KPMG, 2022).

Conventionally, the most affected by cigarette smuggling are those countries that have a common border with countries where cigarette prices are relatively low due to low excise taxes. The problem of smuggling is relevant for countries with extremely high excise rates, where accordingly, cigarette prices are the highest in the region.

Accordingly, it is appropriate for Ukraine to establish criminal liability for the smuggling of tobacco products, as this corresponds to the national interests of the state and will help to strengthen the customs security of the state. Currently, according to Ukrainian legislation, responsibility for cigarette smuggling is equated to ordinary goods smuggling and usually leads to the confiscation of the goods and the imposition of a fine in the amount of 100% or 200% the value of the goods (Articles 482-483 of the Customs Code of Ukraine (2012)). Such a low threshold of responsibility and large economic benefits motivate individuals to commit such illegal actions.

Currently, there is a discussion in Ukraine regarding the feasibility of introducing criminal liability for commodity smuggling. There are different opinions on this issue in Ukrainian society. Some scientists believe that it is necessary to establish criminal liability for all large-scale commodity smuggling (Babikov, 2019). In addition, there is an opinion that it is necessary to criminalise only the smuggling of excise goods (Daniv, 2021). The opinion of the President of Ukraine V. Zelenskyi regarding the need to criminalise all large-scale and excise goods smuggling is outlined in the draft law (Draft of Law of Ukraine..., 2021) initiated by him. In general, the author agrees with this position regarding the criminalisation of smuggling. Criminalisation of large-scale commodity smuggling in general (as stated in work by D.V. Babikov (2019)), and criminalisation of excise goods smuggling (as stated in work by R. Daniv (2021)) completes the needs of modern Ukrainian society. However, the approaches to establishing liability for the smuggling of ordinary goods and the smuggling of excise goods should be different.

However, the text of the draft law (Draft of Law of Ukraine..., 2021) does not consider the specific features of tobacco products as an object of smuggling. The connection between the physical volume of contraband (number of cigarettes, cigars, the weight of tobacco, etc.) and the type of punishment has not been established. The large volume of tobacco smuggling,

for which criminal liability arises, is relative only in terms of estimation. This approach contradicts the global practice of establishing responsibility for tobacco smuggling. In addition, it is a short-sighted solution to the problem of cigarette smuggling, which is based on the constant increase in the cost of cigarettes in Ukraine, associated with the increase in excise rates and inflationary processes.

In addition, this draft law (Draft of Law of Ukraine..., 2021) has several problematic aspects, which in case of its adoption may lead to adverse consequences. The draft law provides for amendments to the Criminal Code of Ukraine and the establishment of criminal liability for the commission of commodity smuggling in general and smuggling of excise goods in particular. Criminal liability is defined as a false declaration of goods, which resulted in or could result in an illegal reduction or exemption from customs payments. The problem is that such a rule provides for the possibility of bringing business entities to criminal liability even for unintentional errors in customs declarations.

Thus, the establishment of criminal liability for cigarette smuggling is currently appropriate, but the procedure for its establishment needs serious revision.

In the works of authors from other countries, devoted to the problem of tobacco smuggling, the question of the need to introduce criminal liability for such actions is often not relevant, since criminal liability for tobacco smuggling already exists in most countries. In works (Zhang & Schwartz, 2015; Kasri et al., 2021), in particular, the factors affecting tobacco smuggling were examined. In both works, among the reasons that stimulate smuggling, the authors identify high excise taxes on tobacco. But high excise taxes by themselves, without the presence of other factors, according to the results of research, do not lead to a significant increase in the volume of smuggling. In general, this position of the authors is well-founded, however, in Ukrainian realities, the influence of the level of tobacco excise on contraband flows is much higher than in other countries. It is connected with the geopolitical position of Ukraine. The state shares a common border with many countries, some of which have high excise tax rates (EU countries), and some have low rates. Therefore, the increase in excise taxes in Ukraine, as the study presents, led to a change in the flow of tobacco smuggling. Ukraine ceased to be a source of smuggled cigarettes to the EU, and on the contrary, smuggled cigarettes from other countries began to appear on the Ukrainian market.

Conclusions

The problem of smuggling is quite relevant for Ukraine. In international practice, the category of smuggling is quite extensive, it usually includes the illegal transportation both outside the country, and inside it of several prohibited goods, and products on which taxes have not been paid. Illegal transportation of migrants is often

classified as smuggling in the world. In Ukrainian legislation, the definition of the category of smuggling is narrower, it includes only the illegal transportation of certain goods groups across the customs border.

There are two categories in Ukraine: smuggling and customs offences. Illegal movement across the customs border of goods not included in the list of smuggling is qualified as a customs offence. There is a difference in liability for smuggling and customs offences by the legislation of Ukraine. Violators face criminal liability for smuggling and administrative liability for customs offences. Illegal movement of tobacco products across the customs border of Ukraine according to the legislation of Ukraine is not smuggling and does not entail criminal liability.

For a long time, Ukraine was the source of smuggled cigarettes, which were taken to EU countries. However, as a result of the gradual increase in excise duties that began in 2018, the illegal import of Ukrainian cig-

arettes to EU countries has significantly decreased. But when the prices for cigarettes in Ukraine became much higher than in some neighbouring countries (Russian Federation, Belarus), the illegal import of cigarettes into Ukraine became economically profitable and massive. The problem of a large share of the shadow segment of the tobacco market has caused serious losses to the state budget of Ukraine. Therefore, it is currently advisable to strengthen the liability of persons who perform illegal movement of tobacco products across the customs border.

Areas for further research are the development of recommendations for changing legislative provisions into separate regulations, namely the Criminal and Customs Codes of Ukraine, which governs the issue of criminal liability for smuggling. Determination of the scope of criminal liability for tobacco smuggling and the conditions for its occurrence.

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Проблеми контрабанди тютюнових виробів в Україні

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Анотація

Актуальність дослідження обумовлена посиленням негативного впливу контрабанди тютюнових виробів на економічні та соціальні процеси в Україні. Метою дослідження було визначення особливостей трактування категорії «контрабанда» в законодавчому та загальнонауковому контекстах, дослідження проблеми контрабанди тютюнових виробів в Україні. У статті були використанні загальнонаукові методи аналізу, синтезу, спостереження, а також графічно-аналітичний метод для представлення результатів дослідження. У роботі проаналізовано визначення контрабанди відповідно до українського та зарубіжного законодавства, а також відповідно до загальних наукових підходів. Трактують категорії контрабанда в залежності від аспектів застосування має відмінності. Так відповідно до загального лексичного змісту під контрабандою розуміють незаконне переміщення товарів через митний кордон. А на законодавчому рівні зазвичай до категорії контрабанда відносять незаконне ввезення або вивезення окремих груп товарів, перелік яких встановлено відповідно до законодавства держави. Визначено негативний вплив контрабанди на економічна та соціальні процеси в державі. Проаналізовано проблему контрабанди тютюнової продукції в Україні. Визначено, що протягом останніх років напрями контрабандних потоків тютюнових виробів в Україні істотно змінилися. Традиційно Україна була однією з основних держав-джерел контрабандної тютюнової продукції, що незаконно поставлялася до країн ЄС. У статі обґрунтована необхідність впровадження кримінальної відповідальності за контрабанду тютюнової продукції в Україні на основі вивчення іноземного досвіду та визначення наслідків такої контрабанди для економіки та соціальної сфери

Ключові слова: митна безпека, митний контроль, експорт, імпорт, акцизний податок, підакцизні товари
