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Determinants of smuggling and ways to combat it

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Abstract

Given the peculiarities of Ukraine's geographical location and military conflicts in the east of the country, the harmful effects of smuggling on the economic development of the country are constantly increasing. The volume of smuggling amounts to about 209-311 billion grivnas. The article aims to identify the main determinants of smuggling in order to develop measures tailored to the needs of Ukrainian social development. In the article we have used various methods of scientific knowledge, which allowed us to enrich our research to make it more meaningful. Analysis of official statistics, examples of police practice, sociological and legal research allowed us to identify the main causes of smuggling in Ukraine. The authors conclude that, based on the selected determinants of smuggling in Ukraine, it is essential to give priority to the implementation of preventive measures, i.e. to prevent the conditions of its commission and also the resumption of criminal liability for commercial smuggling of goods. In addition, there is a need to design more and better public policies to minimize the conditions that enable the action of smuggling agents.

Keywords: determinants of smuggling; determinants of corruption; fight with smuggling; State Customs Service of Ukraine; Eastern Europe.

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Determinantes del Contrabando y Formas de Combatirlo

Resumen

Dadas las peculiaridades de la situación geográfica de Ucrania y los conflictos militares en el este del país, los efectos nocivos del contrabando en el desarrollo económico del país no dejan de aumentar. El volumen del contrabando asciende a unos 209.000-311.000 millones de grivnas. El artículo pretende determinar los principales factores determinantes del contrabando para elaborar medidas adaptadas a las necesidades del desarrollo social ucraniano. En el artículo hemos utilizado diversos métodos de conocimiento científico, que nos han permitido enriquecer nuestra investigación para hacerla más significativa. El análisis de las estadísticas oficiales, los ejemplos de la práctica policial y la investigación sociológica y jurídica nos permitieron identificar las principales causas del contrabando en Ucrania. Los autores concluyen que, sobre la base de los determinantes seleccionados del contrabando en Ucrania, es esencial dar prioridad a la aplicación de medidas preventivas, es decir, impedir las condiciones de su comisión y también la reanudación de la responsabilidad penal por el contrabando comercial de mercancías. Además, se impone la necesidad de diseñar más y mejores políticas públicas para minimizar las condiciones que posibilitan la acción de los agentes contrabandistas.

Palabras clave: determinantes del contrabando; determinantes de la corrupción; lucha con el contrabando; Servicio Estatal de Aduanas de Ucrania; Europa del este.

Introduction

Smuggling as a negative and modern phenomenon has become a challenge for many countries (Hossein and Mohammad, 2019). Smuggling has existed since ancient times. Its development is inextricably linked with the formation of statehood: establishing state borders, economic development, foreign and domestic trade, and the development of customs. On the territory of modern Ukraine, smuggling began to be recognised as an illegal act in the XIV-XVI centuries. With the advent of capitalism, at the time of the mass spread of commodity-money relations, the connection with which the available import and export of goods harmed the economy (Filippova, 2019).

Currently, the volume of shadow schemes in the economy of Ukraine is estimated at 550 to 1050 billion UAH, of which the amount of smuggling – is 209-311 billion UAH, budget losses per year – 63-93 billion UAH (The

state budget losses from shadow schemes are estimated at UAH 150-275 billion, 2019). Such volumes are enormous and cause numerous problems in Ukraine's economic development, political stability, and investment attractiveness. In addition, smuggling leads to the export of cultural property or strategic raw materials, a complete ban or restriction on the export of which is established by the state to stabilise the economic situation or for other purposes, such as improving the financial crisis (restrictions on the export of timber in Ukraine).

Therefore, the fight against smuggling is important (Reznik *et al.*, 2021). It is first essential to identify the main determinants of this phenomenon and develop effective countermeasures. Smuggling of goods reduces the mismanagement of state customs and taxes, causing mass seizure of currency, mass flight of capital, increase in unemployment, reduction of domestic industrial production, etc. (Miri and Ghasemi 2019).

The authors want to emphasise that the complexity of combating smuggling is due to the wide range of its items defined by Ukrainian law, such as commercial goods, excisable goods, timber or lumber, rare tree species, cultural values, poisonous, potent, explosives, radio materials, weapons or ammunition, parts of firearms, as well as unique technical means of covert information, drugs, psychotropic substances, their analogues and precursors (Criminal Code of Ukraine, 2021). Considering all these factors, the authors aimed to identify the main determinants of smuggling in general and offer adapted to the needs of Ukrainian social development, economic situation, the level of civil society and legal culture, and measures to combat key determinants of smuggling in Ukraine.

1. Methods

In the article, the authors used various methods of scientific knowledge, which allowed us to enrich our research to make it more meaningful. Such practices were chosen to consider the purpose and objectives of scientific research. The authors used a method of logical analysis to develop proposals for improving criminological measures to combat smuggling. A synthesis method unites the abstract aspects of an object and reflects it as a concrete whole.

The historical approach allowed the authors to understand the origin and historical essence of smuggling deeply. The method of hermetic analysis was used to transform the system of countermeasures for smuggling. The statistical method was used to analyse statistics on the facts of smuggling and the damage it caused. The generalisation method was used to identify the conclusions based on the study. In addition to these, other forms of scientific knowledge were used.

2. Results and Discussion

Analysis of official statistics, examples of law enforcement practice, and sociological and legal research allowed us to identify the leading causes of smuggling in Ukraine. Their study is essential for developing unique, narrow-profile measures to combat and eliminate smuggling. On each of the determinants, the authors offer special attention.

- **Corruption**

Corruption and smuggling are manifestations of internal aggression, two destructive phenomena designed to destroy economic gains and ensure the enrichment of particular groups. Especially disastrous is their arrangement of a single crime scheme. According to the official data of the Ministry of Finance of Ukraine, almost UAH 3 million of revenues to the state budget of Ukraine were lost in the first six months of 2021 due to the existence of corrupt smuggling schemes (Ukraine lost up to UAH 3 billion a month due to corruption at customs, 2021). The authors want to note that the permanent renewal of the management of the State Customs Service of Ukraine, unfortunately, is associated with the failure to eradicate corruption in this structure. Employees of this body of state power are often members and sometimes founders of organised criminal groups and criminal organisations.

To eliminate these factors, the State Customs Service has created a particular unit - the Department for Prevention and Combating Corruption. The primary purpose is to implement anti-corruption measures within this public authority. For example, from January-May 2021, this department, within the competence defined by anti-corruption legislation and regulations of the department, considered the involvement of territorial units for the prevention and detection of corruption 21 reports of possible corruption by officials of the State Customs Service and its territorial bodies, one of which – introduction by the whistleblower.

The Department for Prevention and Counteraction of Corruption of the State Customs Service systematically checks the possible presence of potential or actual conflicts of interest and relatives working in the State Customs Service and its territorial bodies. After conducting electronic public consultations to study public opinion on April 22, 2021, a general discussion of the Anti-Corruption Program of the State Customs Service for 2021-2022 took place. The meeting with the public took place in the format of a web conference chaired by the Deputy Head of the State Customs Service with representatives of the Working Group on the EU4PFM project, NGO “Association of Taxpayers of Ukraine (Prevention and anti-corruption, 2021).

An analysis of the official statistics of the Office of the Attorney General clearly shows the high-profile monthly revelations of corrupt customs officers who are subsequently punished. However, severe punishment is not a panacea. Measures to prevent corruption and develop a mandatory methodology for professional selection of the State Border Guard Service employees and the State Customs Service should become more effective.

In the authors' opinion, it is essential to introduce mandatory testing for the level of legal and anti-corruption culture (1), an interview with a psychologist who will help determine a person's propensity to commit corruption offences (2); verification of applicants for a polygraph (3). Comprehensive application of these measures will limit the access of "potential corrupt officials" to the service in border areas and reduce corruption schemes.

- **Temporarily occupied territories**

The peculiarity of smuggling on the territory of Ukraine is the presence in our state of territories not controlled by the central government. The temporarily occupied territories are subject to a special legal regime for crossing the borders of the temporarily occupied territories, making transactions, holding elections and referendums, and exercising other human and civil rights and freedoms. First of all, the authors propose to analyse smuggling from occupied Crimea. In the seven years since Russia's annexation of Crimea, the peninsula's economy has gone from a free economic zone in the occupied territories to a blockade and from blocking to a ban on the supply of goods, which, however, does not rule out Ukrainian interests, especially food, in Crimean shops.

The authors would like to note that per the resolution of the Cabinet of Ministers of Ukraine № 1035 of December 16, 2015, "On restricting the supply of certain goods (works, services) from the temporarily occupied territory to another territory of Ukraine and/or from another part of Ukraine to the temporarily occupied territory "is prohibited for the period of temporary occupation of the supply of goods (works, services) under all customs regimes from the temporarily occupied territory to another territory of Ukraine and from another part of Ukraine to the temporarily occupied territory, except personal belongings of citizens moving in hand luggage and accompanied baggage; socially significant foodstuffs driven by citizens, the total invoice value of which does not exceed the equivalent of 10,000 hryvnias and the total weight of which does not exceed 50 kilograms per person.

These restrictions apply when a person who imports goods into the temporarily occupied territory of Ukraine (On the restriction of supplies of certain goods (works, services) from the temporarily occupied territory

to another part of Ukraine and from another territory of Ukraine to the temporarily occupied territory, 2015). The border between occupied Crimea and mainland Ukraine is now demarcated, so there are no conflicts with illegal smugglers across the customs border. The situation with the temporarily occupied territories of Donbas is a bit more complicated. After all, according to the essence of smuggling, it is an illegal act to move certain items outside the customs border or conceal them from the customs border.

The customs border is the border of the customs territory of Ukraine (Customs Code of Ukraine, 2021). The customs border coincides with the state border of Ukraine. Of course, those currently occupied territories are *de jure* considered by Ukraine to be their territory, but *de facto*, they are not such at the moment. Various researchers propose establishing a border between the controlled and uncontrolled territories of Donbas in the form of a demarcation line or customs border, etc., with the appropriate regimes (as was the customs delimitation of the Crimea based on the relevant Law of Ukraine (Babikov, 2019).

The partial loss of state control over the country's customs border has restored old smuggling schemes and led to the emergence of new ones, opening vast opportunities for drug trafficking, counterfeit intervention, and uncontrolled movement of cash, which are often used to finance terrorism and undermine economic and socio-political the foundations of society. According to a Transparency International report, the goods enter the occupied territories of Donetsk and Luhansk oblasts through four illegal routes. The first is the movement of goods through checkpoints on highways through agreements with employees, through humanitarian and logistics centres for retail trade, where wholesale work with self-proclaimed republics is carried out.

The second illegal route is through the entry-exit checkpoint on the railway and agreements with employees and outside specific road corridors. In this case, arrangements are made with military or law enforcement officials to move goods to the occupied territories by bypassing official checkpoints.

Another way of illegal transportation of goods - "interrupted transit" – is the movement of goods to the self-proclaimed republics through the territory of Russia. "The carrier is allowed to move goods in transit to a third country, such as Kazakhstan or Georgia, but in Russia, the truck changes course and arrives in the temporarily occupied territories. According to the organisation, there is also a fourth way - the sea.

The study found that in some cases, some Ukrainian servicemen collaborated with militants on illegal trade. There were also situations when conflicts arose, including weapons, between units that separately facilitated the unlawful movement of goods to the temporarily occupied

territories. There are cases when both servicemen promote illegal trade and those who oppose it serve in one unit. The primary motivation to facilitate the illicit movement of goods is its high profitability (5 ways of smuggling to the occupied Donbass, 2021).

Counteraction to the so-called smuggling on the line of contact should be strengthened through organisational, preventive, control, and technical measures. In particular, it is appropriate to carry out individual preventative work with residents of the temporarily occupied territories to increase the qualification requirements for law enforcement officers and service members serving on the border with Crimea and the Joint Forces Operation area. In addition, the material and technical base require improvement.

- **No criminal liability for smuggling commercial goods**

Geographically, Ukraine is located in the centre of Europe, on the border with the European Union, and therefore is attractive for smuggling. According to which the number of cases of smuggling of goods, including excisable interests, is growing every year; this is confirmed by official statistics. Smuggling is the exemption of imported goods from any taxes and duties on the territory of Ukraine. The importer, having received a VAT refund on average at 20% when exporting products from the country of origin and paying about 5% as transaction costs for illegal delivery of products to Ukraine, automatically acquire an undue competitive advantage over domestic producers.

Thus, even in the shadows, Ukrainian business is still inferior to smuggled imports. Do ordinary citizens lose out? By buying contraband goods and receiving short-term benefits, domestic consumers launch a multiplier to reduce domestic demand and curtail production. As a result, companies are starting to cut staff and payrolls. Accordingly, the actual payer for smuggling schemes, in the end, are ordinary citizens (Analysis of smuggling volumes in Ukraine: scale, direct/indirect losses of the budget and the economy, 2021).

At the same time, despite the lack of social conditioning in 2011, there was an artificial narrowing of the subject of smuggling, so now it is only cultural values, deadly, potent explosives, radioactive materials, weapons, or ammunition (except smooth-bore hunting weapons or ammunition, it) parts of firearms, as well as unique technical means of secret information; timber or lumber of valuable and rare tree species, unprocessed wood, as well as other timber prohibited for export outside the customs territory of Ukraine and narcotic drugs, psychotropic substances, their analogues or precursors or falsified medicines. So the issue of application of legal liability for movement through the customs border of goods in violation of the current customs legislation has acquired a particular relevance in Ukraine (Pidgorodynskiy *et al.*, 2021).

However, first, to counter the smuggling of large quantities of goods, including excisable; second, filling the state budget by paying customs duties and applying fines (as criminal penalties), as well as special confiscation to the state revenue of all goods moved outside the customs border or with concealment from the customs border, criminalisation of smuggling of goods is necessary and urgent.

That is why today, scientists and practitioners need cooperation to develop an effective model of legal liability for smuggling goods, notably by expanding its boundaries and updating the content of the articles providing for the penalty for smuggling various items.

- **Problems in the coordination of international cooperation**

Given the cross-border nature of smuggling, controlling its level is the responsibility of a particular country and part of synergistic governance worldwide (Sui *et al.*, 2018). Ukraine's orientation towards integration into the international community in general and the European Union, in particular, implies the obligation of the international community to ensure compliance of the national legal system with the standards of the European community, including the creation of effective mechanisms to combat smuggling (Nastyuk *et al.*, 2020). To this end, Ukraine became a member of the World Customs Organization (the name is unofficial and has been used since 1994).

It has 172 member states, sometimes referred to as the United Nations Customs Organization. This organisation proclaims an open, transparent, and predictable customs environment, resulting from which the national economy should develop and the social welfare of the organisation's member countries should increase.

Of course, a robust national economy will be attractive to other countries, contributing to the prosperity of international trade and, simultaneously, making it possible to combat criminal activity effectively. Since its inception, the World Customs Organization, Ukraine has become a party to the following international customs conventions developed by the World Customs Organization: Customs Convention on the International Carriage of Goods under Cover of an International Road Transport Book; International Convention on Mutual Administrative Assistance in Preventing, Investigating and Ending Violations of Customs Law; International Convention on the Harmonization of Frontier Controls of Goods, October 21, 1982 (Geneva Convention); International Convention on the Harmonized Commodity Description and Coding System of 14 June 1983, as amended by the Protocol of 24 June 1986 (HS Convention); Convention on Temporary Admission of 26 June 1990 (Istanbul Convention); International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention, June 26, 1999).

The Customs Service of Ukraine is constantly expanding the legal framework of international cooperation on customs issues. In October 2006, Ukraine acceded to the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention), the General Annex and Special Annexes A, B, C, D, E, F, G, H, J, and K to that, as amended by June 26, 1999, approved by the Protocol amending the International Convention on the Simplification and Harmonization of Customs Procedures. Ukraine's accession to the Convention was to establish common standards and approaches to regulating identical legal relations.

Regarding Ukraine's cooperation with the World Customs Organization, it can be said that Ukraine's accession to this organisation and the conventions developed by it and the proposed Security Framework Standards will simplify customs procedures, promoting international trade, information technology, and legal and technical bases. Effective customs control (Kredisov *et al.*, 2009). According to the Memorandum of Understanding between the State Customs Service of Ukraine and the World Customs Organization on the establishment of the Regional Training Center of the World Customs Organization in Ukraine, in June 2010, such a centre was established in Dnipro, and in 2016 the Regional Training Center of the World Customs Organization was relocated.

To the city of Khmelnytsky. This centre aims to train and train representatives of customs administrations of the European region of the World Customs Organization and conduct seminars and training on customs issues. The main tasks of this centre are to strengthen cooperation between customs administrations and the World Customs Organization (1), develop of efficiency and effectiveness of customs authorities, preparation and publication of scientific and educational journals on customs issues (2), provide training, technical assistance on uniform application of fundamental customs conventions, recommendations, and standards of the World Customs Organization (3). In addition, the Regional Cynological Training Center of the World Customs Organization operates in Ukraine. It is a body for training service dogs for the needs of the customs authorities of the member countries of the World Customs Organization.

As part of the operation of the Regional Cynological Training Center of the World Customs Organization, developed and approved programs for training cynologists with service dogs of foreign customs authorities to search for drugs, psychotropic substances, weapons, ammunition, tobacco products, banknotes; explosives for law enforcement (World Customs Organization, 2021).

Despite such positive steps in the context of international cooperation, unfortunately, one of the critical reasons for smuggling in Ukraine is the lack of coordination and lack of coordination between the State Customs Service and the State Border Guard Service of Ukraine and relevant bodies

of neighbouring countries on mutual exchange of information (Busol, 2019). To overcome this negative factor, it is essential to create a single database of customs authorities, at least in the framework of cooperation of neighbouring countries, and further expand it to the borders of the European region. Such a measure would significantly reduce the movement of goods outside customs control or concealment from customs control.

- **A significant difference in the cost of goods in neighbouring countries**

Assessing the current state of the shadow economy of Ukraine, we can confidently confirm that it poses a real threat to the country's national security and democratic development. According to various estimates, the shadow turnover in Ukraine is 20-60% of the GDP (Kulish *et al.*, 2018). The economic well-being of any people, nation, or state is associated primarily with developing its national production and commodity market. Conquest of the market by another country, as a rule, threatened the existence of independence and statehood of this country.

Therefore, states sought to protect their production by restricting importing goods from other states and increasing the export of goods of their output. For this purpose, tariffs and taxes on moving goods were set. In addition to protecting its production, the goal was to obtain income for its development and reimburse the price difference between imported and exported goods (Turchin, 2010). Avoid unsubstantiated statements; the authors give a real example. First of all, due to their consumer properties as a commodity, tobacco products are traditionally in very high demand worldwide and have stable sales. This provides appropriate profits to their producers and sellers. At the same time, the steady sales of tobacco products have made them a reliable object of taxation worldwide.

Moreover, the level of taxation of tobacco products relative to the cost of their production, as a rule, is relatively high compared to other taxable goods in the relevant national economy. However, since the levels of income and taxation of tobacco products and economic policy, in general, vary from state to state, the retail prices of tobacco products vary depending on the national market (Kulitsky, 2021). Thus, in almost every country, in parallel with the legal demand for tobacco products, there is an illegal market for them. The sum of these two markets determines the total supply of tobacco. Smuggled cigarettes are sold at a price lower than what can be afforded by traders selling cigarettes for which all taxes have been paid.

This, in particular, increases their consumption. The problem is exacerbated by significant tax disparities between neighbouring countries, where widespread corruption and smuggling are tolerated. Large-scale tobacco smuggling relies on criminal organisations, relatively complex

distribution systems for smuggled cigarettes in the destination country, and shortcomings in controlling international cigarette trafficking.

To improve the quality of counteraction to the illegal movement of tobacco products across the customs border of Ukraine, the immediate attention of customs authorities should be paid to the detection of foreign illicit trade transactions with tobacco products using fictitious enterprises and measures to counter such transactions (1); control over export-import operations with tobacco products carried out by residents and non-residents (2); application of covert control measures during the movement of tobacco products across the customs border of Ukraine (3); comparing the statistical data of the State Customs Service of Ukraine with the data of the customs service of the country of location of the sender (recipient) of goods on the origin, quantity, value of tobacco products exported from Ukraine and imported into it (4); to establish effective interaction of customs authorities with law enforcement agencies (5) (Lipinsky, 2014).

- **The imperfection of the technological arrangement of the state border**

In the dynamic development of modern society, ensuring security and control of the state border is a simultaneous goal of the country's internal and external security. Therefore, it is vital to identify and develop tools and ways to address new challenges (Kublickis, 2020). An essential tool for such counteraction is the involvement of modern technologies. After all, today, the development of control technologies is becoming one of the priorities of the relevant bodies.

It is of interest as a system of measures aimed at customs control after registering enterprises' goods, especially in the conditions of a large-scale shadow sector of the economy of Ukraine (V. Yevimov et al., 2018). It is technology, not politics, one of the essential systems in charge of protecting borders and countering the influx of illicit drugs and smuggling (Military+Aerospace Electronics, 2018).

Engineering support of the state border is inextricably linked with a set of organisational and practical measures taken to create the necessary conditions for the timely detection of violators of the state border, effective service of border guards and their use of weapons and equipment, covert advancement, implementation of the State border service of the necessary manoeuvre by forces and means, increase of protection of divisions in case of complication of a social and military-political situation (On the State Border Guard Service of Ukraine, 2003).

In the authors' opinion, the urgent issues of legal regulation at the level of bylaws are the definition of an exhaustive list of entities, the organisation of their activities, resource provision for engineering and technical

arrangement of the state border; the procedure for granting state border protection bodies permanent use of land plots along the state borderline. Currently, there are no program documents that would define the system of measures for engineering and technical arrangement of the state border and allow the State Border Guard Service of Ukraine to build and maintain engineering structures, fences, border signs, and border clearings communications, other border infrastructure.

These questions determined the relevance of the chosen topic. According to Nikiforenko V., the most appropriate approach is that, with adequate funding, allows: to introduce methods of sectoral assessment of the impact of legal regulation of integrated border management (1) (V. Nikiforenko, 2020b), to increase the effectiveness of measures to implement the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Ensuring Engineering and Technical Arrangement and Maintenance of the State Border” (2); to improve the arrangement of engineering infrastructure along the state border of Ukraine by consolidating the efforts of the subjects of integrated border management (3); to take high-quality measures to strengthen the banks of transboundary rivers, which will protect them from erosion and reformatting and, as a consequence, from the loss of territories of Ukraine by involving more competent personnel of the relevant executive authorities (4); to create additional motivating factors due to the competition within the competence of the subjects of integrated border management on the engineering and technical arrangement of the state border (5).

To implement these measures, it is advisable to develop the concept of the State target law enforcement program for the arrangement of the state border for the construction of engineering and technology and fortifications, fences, border signs, border clearings, communications of the State Border Service (Nikiforenko, 2020a).

- **Imperfect control over international postal services**

Global trends show that the volume of international postal traffic is constantly growing, which creates a violation of fair competition, even in developed countries. In particular, the latest OECD report devoted dozens of pages to the significant negative impact on countries' economies from tax-free goods imported through small mail. That is why developed countries are introducing stricter requirements for postal imports; in particular, Europe currently has a significant restriction on the tax-free value of international parcels. The EU plans to eliminate the minimum tax threshold in the next few years. All lots will be taxed from zero euros.

In Ukraine, more and more of our compatriots use foreign online stores, allowing buying a wide range of goods. This way, 42 million international

postal and express items worth about 1 billion euros are imported to Ukraine annually. And this is good for the development of competition: the consumer gets more choices and often at a lower price than in Ukrainian stores. Of course, buying something in China, we still have to pay for its delivery, which will cost a few euros, but the volume of orders in such stores from Ukraine is so large that it allows Chinese companies to save on books significantly reduce the delivery price.

However, the norm on duty-free import of goods into the territory of Ukraine through postal items has interested not only ordinary citizens. Several multibillion-dollar online stores have repeatedly been the subject of journalistic investigations into the use of “postal import” schemes. All that needs to be done is to break up a commercial party and register it as a fictitious recipient in Ukraine and across the border legally. And this scheme is actively spreading because today, there is no mechanism for identifying the recipient and almost no control over the customs value of goods imported into Ukraine in the form of parcels.

In addition, the standard on the marginal cost of lots of 150 euros is subjective, and the only mechanism to control whether the maximum limit of tax-free imports is exceeded is the vigilance and honesty of the customs officer.

At first glance, this scheme will benefit an ordinary citizen, who seems to buy goods cheaper, but in reality, he is the primary victim of this scheme. First, the goods are sold almost at the price of imported goods with payment of all taxes, and the difference usually does not exceed 3-5%. Secondly, there are severe problems with obtaining warranty repairs or refunds for substandard goods; thirdly, the possibility of duty-free and uncontrolled sales kills fair competition and hints of domestic production within the country.

Neither foreign nor domestic investors will develop business in a country where their products will be uncompetitive and their activities unprofitable. As a result, hundreds of thousands of Ukrainians do not receive decent wages, do not have jobs, and are forced to seek work in other countries or engage in the same smuggling.

The Ministry of Finance sees this problem, but some deputies of the tax committee oppose more from the standpoint of budget losses, even those legislative initiatives that are put forward.

In particular, from the beginning of this year, a mechanism of restrictions on the number of parcels received by one recipient per month without paying taxes, namely up to three boxes per month, was to work, which completely covered the needs of the vast majority of Ukrainians. This was aimed not so much at filling the budget as stopping “postal smuggling.” For a few years, this would make it possible to reduce shadow schemes through

this channel significantly. After studying the EU's experience with a new integrated model for moving goods across the border, such as the EU's One-Stop Shop system, introduced by Europeans in 2021 - perhaps it would be considered to introduce a similar model in Ukraine.

Developing and implementing an accounting system for parcels and their recipients was necessary to implement this form of control, but this work has not been done. As a result, a few months before introducing new rules for importing goods into Ukraine in the form of postal parcels, postal operators began to sound the alarm: "the lack of registration of parcels following the law can lead to collapse" and refused to implement it.

To simulate the fight against smuggling, the Parliament adopted a norm of reducing the tax threshold from 150 to 100 euros, which does not solve this problem ("Postal smuggling": cheap imports or European wages, 2019).

- **Limited powers of the state customs service**

In Ukraine, counteraction, prevention, regulation, and control over a particular area are often scattered among various state institutions. Unfortunately, this situation does not cause the eradication or at least reduce the manifestations of negative phenomena, including smuggling, but vice versa. Thus, state institutions are simply trying to compete for spheres of influence and their own, sometimes corrupt interests, according to Kulish *et al.*, (2020), the current situation is primarily due to the lack of authority in the State Customs Service to investigate the smuggling of commercial goods.

After all, according to the Regulations of the State Customs Service of Ukraine, the powers of this service include only the organisation and conduct following the law of operational and investigative activities and control over its implementation by functional units of the State Customs Service and its territorial bodies fighting to smuggle; interaction within the powers defined by the law with other bodies carrying out the such activity; taking measures to compensate the state for damages within the powers prescribed by statute.

The authors believe that the effectiveness of combating smuggling directly depends on the need to expand its capabilities and its total concentration in this public authority. Such "concentration" will determine efficiency and controllability. In addition, proper coordination within and between government agencies is necessary to achieve high anti-smuggling productivity (Basu, 2014).

- **Unemployment and low wages of residents of the border areas**

Undoubtedly, the analysis of the determinants of smuggling in Ukraine clearly shows that they are objective due to external factors and causes. However, there is a solid subjective reason for them. The economic crisis and corruption in Ukraine cause a situation where exercising one's constitutional right to legitimate business activity is almost unrealistic and unprofitable. That is why many entrepreneurs and businesses operate in the shadows.

In addition, urbanisation is complicated by urbanisation, with young people moving to large cities and rural areas, where most border crossings are located, in decline. It is difficult for people and sometimes impossible to find a job. Even the emergence of large agricultural enterprises or farms requires knowledge of the latest processes and technologies. And the inhabitants of rural areas, predominantly middle-aged and older people, do not have such knowledge.

To overcome such negative processes, it is advisable to implement such measures. First, to improve the legal and organizational and economic support of the labor migration regulation system and increase employment in the domestic markets of border areas, especially in the western regions by: creating specialized employment agencies in border areas to ensure jobs and cooperation of Ukrainian and European employers in the field of work and staffing:

1. development and adoption of state and regional programs for the return and reintegration of domestic labor migrants, the main direction of which should be to promote entrepreneurship and create new jobs in the border areas of Ukraine;
2. strengthening legal protection and providing social guarantees, providing assistance in protecting labor disputes with foreign employers to domestic labor migrants during their stay abroad (subject to repatriation), opening consulative centers on the basis of diplomatic missions, cooperation with centers Ukrainian diasporas;
3. development of an action plan for the implementation of migration policy with an emphasis on the opportunities and benefits of employment in the border areas of Ukraine;
4. introduce the practice of providing special state subsidies for wages to employed young people, the unemployed or persons of pre-retirement age in the amount of 50% of the employer's expenses for these purposes for 3-6 months, which can be provided directly to citizens for vocational training and self-employment;

5. It is appropriate to implement the European experience of job quotas for non-competitive categories of workers by developing a joint action plan for allocating quotas for employment of their citizens in border areas within the framework of cross-border cooperation programs and projects;
6. Secondly, to diversify the economy of rural areas to ensure productive employment, increase labour efficiency and income, self-employment and streamline “shuttle” trade-in border areas. It can be achieved by: promoting the development of small and medium-sized businesses in the non-agricultural sector as the main direction of diversification of the rural economy) (On improving the efficiency of labour market regulation in the border areas of the western regions of Ukraine, 2021).

Conclusions

Summarising the above, we emphasise that the key to counteracting any negative phenomena is to determine the causes of these phenomena accurately. Despite the transnational nature of such an illegal act as smuggling, its reasons and conditions may vary. Undoubtedly, there are universal, but at the same time, some of the determinants are due to the specifics of historical development, economic situation, level of legal awareness, and legal culture of the population. In addition, the existence of a political field to combat smuggling is essential.

Analysis of official statistics, examples of law enforcement practice, and sociological and legal research allowed us to identify the leading causes of smuggling in Ukraine. In our opinion, they are corruption in the activities of bodies to protect the state border of Ukraine, the presence of temporarily occupied territories, lack of criminal liability for smuggling of commercial goods, problems in coordinating international cooperation, significant differences in the cost of goods in neighbouring countries, arrangement of the state border, imperfect control over international postal traffic, limited powers of the State Customs Service, unemployment, and low wages of residents of border areas.

Based on the selected determinants of smuggling in Ukraine, we consider it essential to apply not universal measures to combat smuggling but specialised, which would take into account the essence of each determinant. In addition, it is necessary to prioritise the application of preventive measures, i.e., to prevent the conditions of its commission. At the same time, the resumption of criminal liability for commercial smuggling goods should be an essential measure.

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