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Smuggling Of Goods As A Strategic Threat To The Economic Security Of European States

El Traslado De Bienes Como Amenaza Estratégica A La Seguridad Económica De Los Estados Europeos

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Nadiia S. Andriichenko
Sumy State University, Ukraine
E-mail: ns.andriichenko@uohk.com.cn
ID ORCID: <https://orcid.org/0000-0002-0282-2775>

Oleg M. Reznik
Sumy State University, Ukraine
E-mail: oleg.r@nuos.pro
ID ORCID: <https://orcid.org/0000-0003-4569-8863>

Vita V. Tkachenko
Sumy National Agrarian University, Ukraine
E-mail: tkachenko.vv@tanu.pro
ID ORCID: <https://orcid.org/0000-0001-7397-0065>

Marina V. Belanuk
Research Institute of Informatics and Law of the National Academy of Legal Sciences of Ukraine, Ukraine
E-mail: mv-bel@uohk.com.cn
ID ORCID: <https://orcid.org/0000-0002-3083-1732>

Yurii I. Skliar
Office of the Security Service of Ukraine in Sumy Region, Ukraine
E-mail: skliar-yu@nuos.pro
ID ORCID: <https://orcid.org/0000-0003-2329-0541>

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Abstract.

The relevance of the problem described in the article is due to the fact that globalization processes open the borders of states for international operations with commodity turnover, promote the development of trade. However, globalization processes also cause the movement of goods outside the customs border or their concealment from customs control, which is a significant threat to the economic security of the state and requires the search for areas for countering and combating the smuggling of goods. The purpose of the article is to summarize the data on the current state and methods for minimizing the smuggling of goods as a threat to the economic security of the state. This goal was achieved using the method of critical analysis, formal logical method, and system-structural approach. The article describes the concept of "smuggling", types of smuggling and the causes of smuggling of goods. The problems of counteracting smuggling have been identified and proposals for improving activities in this area have been summarized accordingly. Emphasis was placed on the expediency of criminal liability for smuggling of commercial goods in the country and it was proposed to amend Article 201 of the Criminal Code of Ukraine. The proposals contained in the article are aimed at improving the activities of customs and border authorities in the field of counteracting and combating the smuggling of goods.

Keywords: customs security, customs border, national security, customs rules, commercial transactions.

Resumen

La relevancia del problema descrito en el artículo se debe al hecho de que los procesos de globalización abren las fronteras de los estados para operaciones internacionales con rotación de productos, promueven el desarrollo del comercio. Sin embargo, los procesos de globalización también provocan el movimiento de bienes fuera de la frontera aduanera o su ocultación del control aduanero, lo cual es una amenaza significativa para la seguridad económica del estado y requiere la búsqueda de áreas para contrarrestar y combatir el contrabando de bienes. El propósito del artículo es resumir los datos sobre el estado actual y los métodos para minimizar el contrabando de bienes como una amenaza para la seguridad económica del estado. Este objetivo se logró utilizando el método de análisis crítico, el método lógico formal y el enfoque estructural del sistema. El artículo describe el concepto de "contrabando", los tipos de contrabando y las causas del contrabando de bienes. Se han identificado los problemas para contrarrestar el contrabando y se han resumido las propuestas para mejorar las actividades en esta área. Se hizo hincapié en la conveniencia de la responsabilidad penal por el contrabando de bienes comerciales en el país y se propuso modificar el artículo 201 del Código Penal de Ucrania. Las propuestas contenidas en el artículo tienen como objetivo mejorar las actividades de las autoridades aduaneras y fronterizas en el campo de la lucha y lucha contra el contrabando de mercancías.

Palabras Claves: seguridad aduanera, frontera aduanera, seguridad nacional, normas aduaneras, transacciones comerciales.

Introduction

Ensuring the sustainable development of the economy and the welfare of the country's population, which allows increasing the position at the international level, is the purpose of customs regulation of every state in the world. However, today the domestic commodity producers of many countries are not able to effectively fulfill their potential even within the country, not to mention the entry of goods into the foreign market, which is due to the smuggling of goods, a range of violations of customs rules during the importation of goods across the customs border of the state. These phenomena contribute to the growth of corruption in the government, which negatively affects the economic development of the country. One of the ways to resolve the situation is to combat smuggling and stimulate the export of national goods.

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A number of countries are members of the World Trade Organization, their territory is accordingly open to international trade operations, and smuggling leads to the loss of customs payments through the concealment of goods from customs control and poses a threat to the country's financial and economic security. At the same time, if we pay attention to the losses caused by smuggling of goods, only in Ukraine the losses of the state budget from smuggling annually amount to 3.6 billion UAH. It should be noted that the share of smuggling in the IT goods category is from 15 to 40%. At the same time, 82% of customs offenses were detected through cooperation with the customs authorities of Germany, the Netherlands, the United Kingdom, Finland, Slovakia and the other Member States of the European Union, USA, Turkey (Peredalo, Stasiv, 2016). Thus, today there is a problem of simultaneously ensuring the openness of the customs borders of the states for conducting operations on trade and counteraction and fight against smuggling of goods as a strategic threat to the economic security of the state.

A study of recent publications and research shows that the issue of smuggling of goods as one of the threats to the economic security of the state was studied by many scientists. In particular, I. Novosad (2019) notes that a component of economic security of the state is customs security, which implies the following: it is a state of protection of the economic interests of the state in external and internal dimensions, regardless of any threats:

- a. movement of goods and vehicles across the customs border of the state;
- b. customs regulation related to the determination of the amount of customs payments and the completeness of payment;
- c. the application of customs procedures;
- d. the fight against smuggling and breaches of customs rules;
- e. the fulfillment of other tasks assigned to the customs authorities of the state.

Therefore, it is clear that the smuggling of goods is one of the threats to the customs security of the state, which is an integral part of economic security. According to E. Čolaković (2016), smuggling is a criminal offense, which is mainly related to the illegal movement of goods across the customs border to avoid customs control. Depending on the subject, smuggling is distinguished as follows: (a) weapons; (b) medicinal products; (c) narcotic substances; (c) information; (e) works of art; (f) plants, animals; (g) software; (h) copyright, etc. At the same time, smuggling of goods and services is one of the manifestations of organized crime.

A. Voytseshchuk points out that the trade of counterfeit goods and their concealed transportation across customs borders is an integral part of the business of international criminal groups and a factor that increases the level of corruption in public authorities. Moreover, the import of such products on the territory of the state, in addition to financial and economic risks, creates a danger to the life and health of people who are consumers of counterfeit goods and harms the environment (Voytseshchuk, 2017). K.K.C. Dipesh also emphasizes that organized cross-border crime is a threat to the internal security of the country. A striking example is a situation in Nepal, where organized groups and criminal organizations use the territory of the state as a transit point for the transportation of illegal goods to neighboring countries (Dipesh, 2019). Examining the problem of goods smuggling in Iran, A. Aghazadeh, M. Ardebili, M. Ashouri, M. Mahdavisabet conclude that the main causes of smuggling in the border cities of the state are (Aghazadeh et al., 2017):

- 1) poverty and unemployment through increased labor forces and reduced demand for labor;

- 2) the desire of people to use foreign products because of their better quality that attracts consumers;
- 3) import and customs clearance of some imported goods requires licenses, which is a lengthy process due to bureaucracy and corruption in the country;
- 4) unreasonable tariffs on the import and export of goods.

We note that scientists state that corruption is a priority negative phenomenon that impedes the democratic and economic development of any state (Kulish, Andriichenko, Reznik, 2018). Indeed, M. Chene notes that border corruption is a common phenomenon that manifests itself through various forms, including bureaucratic corruption, waste of budgetary resources, organized crime-related corruption, and political corruption (Chene, 2018). Other scholars highlight other factors affecting the spread of goods smuggling (Mamazizi, Rostami, 2016):

- a. domestic demand;
- b. large-scale advertising;
- c. unlawful restrictions and prohibitions;
- d. inappropriate prices in the country and abroad;
- e. long borders;
- f. corruption between customs officers;
- g. cooperation of the customs agent with the smugglers;
- h. poor cooperation between government agencies and customs authorities;
- i. weak domestic products;
- j. lack of proper control and monitoring of distributors' activities and sales of goods;
- k. weak legal regulation of the fight against smuggling, etc.

Based on the above, we can conclude that the latest scientific developments are mainly devoted to determining the content of smuggling of goods, determining the negative consequences that it causes, identifying the reasons for the spread of smuggling of goods as a strategic threat to the economic security of the state.

Methods and materials

During the research, both general and special scientific methods were used: critical analysis, formal-logical method, and system-structural approach. These methods allowed revealing the definition of “smuggling”, finding out the prerequisites for the existence of smuggling, the negative consequences that cause the movement of goods outside the customs border or their concealment from customs control. Critical analysis is one of the main methods that has allowed solving the problematic issues of counteracting and combating smuggling of goods. In its turn, the formal-logical method was used to formulate proposals for improving the legislation of Ukraine in this area. REICE 351

The methodological basis for the study of smuggling of goods as a strategic threat to the economic security of European States are general and special scientific methods: logical and sematic method, statistical method, method of critical analysis, logical and legal method, formal and logical method, generalization method, system and structural method. Thanks to the logical and sematic method the concept of “smuggling” was revealed, the prerequisites for the existence of smuggling, the negative consequences that cause the movement of goods outside the customs border or their concealment from customs control were found out. The statistical method was used to demonstrate the financial losses that the state annually records through smuggling of goods, the prevalence of smuggling in specific areas etc. Method of critical analysis allowed to find out and evaluate the latest scientific researches devoted to the question of smuggling of goods. Logical and legal method was used to disclose the content of European and Ukrainian legislation governing the counteraction and fight against smuggling of goods. Problematic issues of counteracting and combating smuggling of goods were systematized through the generalization method. In its turn, the formal and logical method was used to formulate proposals for improving the counteraction of smuggling of goods, including the revision and amendments of Article 201 of the Criminal Code of Ukraine in terms of the criminalization of smuggling of commercial goods. Finally, the system and structural method was used for the systematic presentation of the information and formulation of conclusions.

Results and Analysis

Considering smuggling as a strategic threat to the economic security of the state, it should be noted that the term “smuggling” was defined and further enshrined by the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (1977), adopted on June 9, 1977, which was joined by Ukraine on May 23, 2000. It contains Article 1, paragraph (d), according to which smuggling “is a Customs fraud consisting in the movement of goods across a Customs frontier in any clandestine manner” (International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences, 1977). In the context of globalization, the level of this type of customs fraud has increased substantially, as the challenges faced by states regarding border management are exacerbated by globalization, which is destroying traditional borders due to the advancement of technology and the transformation of international ties. Today, crimes are committed without crossing borders, and a large number of counterfeit goods are sold through cyberspace. The development of the Internet has also made it difficult to manage borders and combat cross-border crimes (Osimen et al., 2017).

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In turn, it is necessary to agree with scientists S.V. Lieonov, A.A. Boiko and S.V. Minenko (2019), who note that smuggling is a widespread channel of other crimes, which further complicates the situation. One of these types of criminal offenses is money laundering. In particular, when cash, precious metals, and other liquid assets cross the state border, customs rules are often violated to conceal or launder illegal income. An example of such schemes is the declaration of cash by a person in a foreign country, stating that they are their own savings, with no declaration of the said income at the Ukrainian customs. The nature of this channel of money laundering is the individual customs regimes in different countries, the imperfection of customs control and the insecurity of a certain part of the border of Ukraine. Therefore, the mechanism to counter both the smuggling and such money laundering schemes are actions related to improving the efficiency of the customs and border services of Ukraine (Lieronov, Boiko, Minenko, 2019). It should be emphasized that scientists both focus on smuggling as a source of money laundering and point to the reasons that led to it and determine the areas for

counteracting smuggling and other socially dangerous activities that use smuggling as a channel for the crime.

As for the need to improve the efficiency of customs and border authorities of the state, it is important to note that one of the conditions is a developed customs infrastructure, which implies the system of communication channels through which material, human and financial resources are transferred and distributed in the economy of the border regions (Erfan, Korol, 2017). A key aspect of improving the interaction between customs authorities is the introduction of an e-customs system, which ensures both the reduction in administrative costs and a more harmonized exchange of information between public authorities and economic operators, which provides the customs authorities with the opportunity to fulfill their tasks more effectively (Rohmer, Hetherington, Godfrey, 2015).

At the same time, we support A. Karafo, who points out that the smuggling of goods as a manifestation of informal cross-border trade concerns everyone in the country, and therefore the prevention of goods smuggling requires the involvement of a wider range of actors, including the government, local executive authorities, local self-governments. As the government alone cannot stop the sale of smuggled goods, it is, therefore, necessary to cooperate with the public of the territories closest to the customs border where smuggled goods can be hidden after crossing the relevant border (Karafo, 2018).

Zh. Ibragimov, K. Kapsalyamov and S. Kapsalyamova believe that in the field of counteraction to the smuggling of goods, an important area is the creation of a catalog of maps that reflect the geographical pattern of distribution of smuggled goods. In the interests of the state, it is also necessary to organize intensive training of the operational staff of the customs authorities in specialized educational institutions according to the programs that meet the requirements and specifics of the customs sphere. Finally, scientists note the need to improve legislation in the field of combating the smuggling of goods (Ibragimov, Kapsalyamov, Kapsalyamova, 2018).

It is worth noting that for a number of states, in particular Ukraine, the issue of improving the legal framework for countering and combating the smuggling of goods is

particularly relevant. Thus, the Ukrainian legislator provides for liability for smuggling in Article 201 of the Criminal Code of Ukraine. However, it is worth noting that the structure and content of this article in the new edition significantly distinguish it from the article of the old edition, since the components of crime were partially decriminalized. Commodity smuggling and smuggling of cultural property, poisonous and potent substances, explosives, radioactive materials, weapons, ammunition (except for smoothbore hunting weapons and ammunition), and special technical means for surreptitious obtaining of information were allocated. Another consequence of these innovations was the administrative liability for the smuggling of goods instead of criminal liability.

The above is confirmed by Article 482 of the Customs Code of Ukraine dated March 13, 2012, which provides for liability in the form of a fine for movement or actions aimed at the movement of goods, vehicles for commercial purposes across the customs border of Ukraine outside the customs control, and Article 483 – for the movement or actions aimed at the movement of goods across the customs border of Ukraine avoiding customs control (Customs Code of Ukraine, 2012). However, it is difficult to agree with this approach of the legislator because administrative liability for smuggling of goods in the conditions of globalization creates favorable preconditions for socially dangerous actions, whereas the task of the institute of legal liability in the state is preventing the commission of new offenses and punishing the guilty persons for committing socially dangerous acts. Thus, it would be expedient to revise the rules of the criminal legislation of Ukraine and to make corresponding changes.

Today, many scholars support the opinion that criminal liability for smuggling of commercial goods is not effective, but European countries have resolved this issue in a different way, namely they differentiated legal liability depending on the crime scene. In particular, in Romania criminal liability is provided for the smuggling of commercial goods on the “green” border, and if the place of smuggling of these goods is a checkpoint, then administrative liability arises. At the same time, justifying the feasibility of criminalizing the smuggling of commercial goods, it is necessary to draw attention to other equally important advantages of such a proposal. In particular, O.S. Yalanskyi (2017) notes that recognition of smuggling of commercial goods is necessary because:

1. smuggling is one of the reasons for the existence and sources of funding for organized crime, to which we have already drawn attention, and the high level of such criminal offenses testifies to the existence in the country of favorable conditions for committing crimes provided by other sections of the Special Part of the Criminal Code of Ukraine;

2. the fine and confiscation of smuggled items as administrative sanctions is not an effective enough punishment to correct the offender, whereas, in the case of criminal penalties for smuggling goods, it determines a criminal record, which has legal significance in cases provided for by national legislation.

Conclusions

The absence of criminal liability for the smuggling of goods in each state negates the importance of all other proposals to improve counteraction and fight against smuggling as a strategic threat to the economic security of the state, including electronic customs, development and maintenance of proper customs infrastructure, training of customs officers, cooperation of customs authorities and citizens in the sphere of counteracting and combating such socially dangerous actions. Since, even in case of detection of the fact of concealment of goods from customs control or its movement avoiding the customs border, the offender will pay only a fine, which is not a significant obstacle to the repeated actions.

Thus, the smuggling of goods is a significant threat to the economic security of the state due to globalization processes and the development of information and telecommunication technologies. Considering this, the main areas of counteraction to the smuggling of goods should be:

- a. improving the efficiency of customs and border guards;
- b. introduction of electronic customs;
- c. training of customs officers using the program in accordance with the requirements and specifics of the customs sector;
- d. involvement of a wide range of subjects in the prevention of smuggling;
- e. improvement of legislation in the field of combating smuggling.

Particularly important is the latter area, which in fact depends on the possibility of implementation and effectiveness of the previous areas, in particular, requires revision and amendment of Article 201 of the Criminal Code of Ukraine in terms of the criminalization of smuggling of commercial goods.

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