

DAUGAVPILS UNIVERSITY

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**RESTRICTION AND PREVENTION OF SMUGGLING TOBACCO
PRODUCTS IN SELECTED EUROPEAN COUNTRIES: A
COMPARATIVE ANALYSIS**

Summary of Doctoral Thesis for obtaining the
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GENERAL DESCRIPTION OF THE DISSERTATION

Relevance. Europe is undoubtedly among the world's largest consumers of tobacco products. European tobacco use. Tobacco use reflects an important public health issue worldwide, but especially in the WHO European Region, where the highest levels of tobacco-use prevalence (over 29 %) have been reported. Tobacco use causes a significant burden on health, imposes enormous economic costs to society, both directly from healthcare needs and indirectly from loss of productivity, fire damage, and environmental harm. Tobacco use significantly increases the probability of premature death from several non-communicable diseases, accounting for 25 %, 41 %, and 63 % of cardiovascular diseases, cancer, and respiratory disease deaths in men, and 6 %, 10 %, and 37 % of deaths in women, respectively. It also decreases the quality of life among tobacco users and people who survive with a disability or experience the negative effects of treatment to tackle the tobacco-related disease. The EU Strategy identifies China, the United Arab Emirates, Vietnam, Malaysia, the Russian Federation, Singapore, Belarus, and Ukraine as the main sources of origin for smuggled tobacco products.

The majority of illegal consumption in the EU is related to tobacco products originating in non-EU countries, i.e. more than 20 % come from non-EU European countries (mainly Ukraine and Belarus). About half of all detections of illicit tobacco sales were discovered at the Eastern European border. As of 2016, more than 18.8 million cigarettes were banned across the EU's eastern border and more than 400 cigarette smuggling cases were seized. Among the most profitable businesses for criminals and organised groups is cigarette smuggling, which is seen as a source of capital for terrorism and organised crime. The global illicit tobacco market generates between 40 billion and 50 billion dollars a year. Due to the COVID-19 pandemic, the European market for illegal cigarettes reached a historic low in 2020, when only 38.9 billion pieces of illegal cigarettes were purchased by EU consumers. Similarly, to other criminal activities, the pandemic and the related restrictions had a strong impact on cigarette smuggling. During the first global closure, the supply chains were discontinued, and the established methods of transporting cigarettes were disrupted for a longer period of time due to the restrictions on passenger flows at the external borders. The risk of being caught smuggling cigarettes has also increased due to the more intensive border control, but the global shutdown of states and the decline in consumer disposable income have fuelled the demand for cheaper tobacco products. As the black tobacco market was disrupted, organised crime groups incorporated illegal cigarettes into legal freight transport (freight trains, trucks, sea freight, vans, etc.) in order to overcome

strict restrictions. In 2020, out of twenty international operations involving the European Anti-Fraud Office, nearly 370 million illegal cigarettes for the EU market were confiscated. Most of them were illegally imported from outside the EU, i.e. more than two-fifths of the cigarettes detained originate from Eastern Europe. The popularity of Eastern European countries in pursuance of cigarette smuggling is illustrated by recent statistics: 54 % of cigarette smuggling is found at the Eastern European border.

The main cause of illicit trade in tobacco and tobacco products is the price gap between EU Member States and neighbouring countries. Illicit trade and smuggling of tobacco products is a highly profitable and low-risk activity and is therefore particularly attractive to criminal groups. It can be said that the problem of cigarette smuggling in Eastern European countries is relevant. This is evidenced by the cooperation between business, science, national state, and EU institutions aiming to find the best solutions to this problem. When investigating Eastern European countries in the context of cigarette smuggling, there is a limited and non-transparent methodology, reliability of statistics, and problem of interpretation of results. The choice of Eastern European countries was influenced more by the economic impact of illegal tobacco products than by the political context of the country's tax policy. Different geographical spectrum (Sakartvelo, Moldova, Serbia) has been chosen to show that the countries of both Eastern and Southern Europe are interrelated and pave the way for these activities. Eastern and Southern Europe are geographically close to each other.

The novelty of the dissertation:

1) The first study of its kind, which demonstrates that combining the analysis of cigarette smuggling legislation with the assessment of the impact of cigarette smuggling on the economy can help to identify the reasons why cigarette smuggling exists in countries and what legal measures need to be taken to regulate this phenomenon more effectively.

2) The integrated application of the methodology, which allows for a wide-ranging analysis of the impact of cigarette smuggling on the economies of Moldova, Sakartvelo and Serbia in the context of interdisciplinarity, can become a guidance methodology, combining different directions of social sciences.

3) The models of the impact of cigarette smuggling on the macroeconomic situation in Moldova, Sakartvelo and Serbia in the context of interdisciplinarity have revealed that corruption and the tax base are the main factors determining the volume of cigarette smuggling, which confirms the need to deal with smuggling and other phenomena, such as corruption, money laundering, and interconnectivity.

The scientific problem of the research: What impact does cigarette smuggling have on the macroeconomic situation in Moldova, Sakartvelo and Serbia in the context of interdisciplinarity?

The aim of the dissertation to develop a model of the impact of tobacco smuggling on the macroeconomic situation of Moldova, Sakartvelo and Serbia by carrying out a literature analysis of the links between tobacco smuggling and corruption, money laundering.

Tasks:

- analyse and present the criteria for delimiting smuggling as a criminal and administrative offence;
- analyse theoretical aspects of shadow economy and smuggling concepts in order to understand the origin of smuggling and the nature of shadow economy theories that explain it;
- provide a methodology for assessing the impact of tobacco smuggling on the economies of Moldova, Sakartvelo and Serbia;
- examine the legal framework governing the volume of tobacco smuggling in Moldova, Sakartvelo, and Serbia.
- develop a model of links between tobacco smuggling and the economic situation in Moldova, Sakartvelo and Serbia, including other criminal activities related to tobacco products smuggling

Research questions. The dissertation is seeking to answer the following three in-depth research questions:

- 1) What are the shortcomings in determining the composition and qualification of criminal offenses that threaten the interests of the national economy in the sphere of customs activity in Lithuania and Latvia (Articles 190 and 191 of the Criminal Code of Lithuania, Articles 190 and 191 of the Criminal Code of Latvia) and what initiatives to improve legal acts are immediately necessary?
- 2) What measures of an organisational nature are immediately necessary presently required in order to effectively limit the smuggling of tobacco products in Lithuania and Latvia?
- 3) What positive lessons in the field of legal regulation and practice could be learned from this for countries whose policies and economy are oriented towards European integration and joining the European Union?

The object of the dissertation thesis is the smuggling of tobacco products.

Methods used in the thesis.

1) Analytical research method is applied in researching the content of legal norms, analysing the problem aspects resulting from the interpretation and practical application of the relevant legal norms;

2) Descriptive research method is used to describe the results obtained by knowing the actual situation, problematic aspects, and their possible solutions;

3) Inductive and deductive research methods are used throughout the work to draw logical conclusions;

4) The comparative research method is used in analysing the legal framework and its application;

5) The dogmatic research method is used to obtain a correct understanding of the legal content of legal norms. This method will help to achieve the aim stated in the research – based on the analysis of the existing norms, scientifically based conclusions can be drawn, which could be used to improve the legal norms or the process of their application;

6) The logically constructive research method is used to express conclusions and proposals.

The doctoral thesis also uses the following methods of interpretation of legal norms:

1) Grammatical method of interpretation of legal norms – to learn the meaning of the idea and essence of the legal regulation on limiting the smuggling of tobacco products in Lithuania and Latvia, clarifying the meaning of the legal norm from a linguistic point of view;

2) The historical method of interpretation of legal norms – to find out the historical development of the legal regulation on limiting the smuggling of tobacco products in Lithuania and Latvia, to clarify the differences and connections in different periods of history;

3) The systemic method of interpretation of legal norms – for the interpretation and correlation of legal acts on the restriction of smuggling of tobacco products in Lithuania and Latvia with other legal acts applicable to this field, in order to understand that they logically fit into the unified system regulating customs activities;

4) Teleological method of interpretation of legal norms – to find out the meaning and nature of the legal act, which provides liability for the smuggling of tobacco products, in connection with its application, from the point of view of the intention and motivation of the legislator.

Approbation of the results of the research. Eleven scientific theses and publications developed by the author have been published on the topic covered in the dissertation. The results have been presented at 5 international scientific conferences and seminars held, inter alia, in Czestochova (Poland), Belgrade (Serbia), Riga and Daugavpils (Latvia).

List of authors' theses and publications:

1. Remeikienė, Rita; Gasparėnienė, Ligita; Chadyšas, Viktoras; **Raistenskis, Evaldas**. Links between corruption and quality of life in European Union//Entrepreneurship and sustainability issues. Wikimedia Commonwealth: Entrepreneurship and Sustainability Centre. eISSN 2345-0282. 2020, vol. 7, iss. 4, pp. 2664-2675. DOI: [10.9770/jesi.2020.7.4\(7\)](https://doi.org/10.9770/jesi.2020.7.4(7)). The Emerging Sources Citation Index (Web of Science) Scopus; DOAJ [CiteScore: 0.00; SNIP: 1,968; SJR: 0.000 (2020, Scopus Sources)]
2. Gasparėnienė, Ligita; Remeikienė, Rita; Sosidko, Aleksejus; Vėbraitė, Vigitā; **Raistenskis, Evaldas**. Modelling of EURO

- STOXX 50 index price returns based on industrial production surprises: basic and machine learning approach//Entrepreneurship and sustainability issues. Wikimedia Commonwealth: Entrepreneurship and Sustainability Centre. ISSN 2345-0282. 2020, vol. 8, no. 2, pp. 1305-1320. DOI: [10.9770/jesi.2020.8.2\(77\)](https://doi.org/10.9770/jesi.2020.8.2(77)). The Emerging Sources Citation Index (Web of Science) Scopus] [CiteScore: 0.00; SNIP: 1,968; SJR: 0.000 (2020, Scopus Sources)]
3. Davulis, Tomas; Gasparėnienė, Ligita; **Raistenskis, Evaldas**. Assessment of the situation concerning psychological support to the public and business in the extreme conditions: case of Covid-19// Entrepreneurship and sustainability issues. Wikimedia Commonwealth: Entrepreneurship and Sustainability Centre. eISSN 2345-0282. 2021, Vol. 8, No. 3, pp. 308-321. DOI: [10.9770/jesi.2021.8.3\(19\)](https://doi.org/10.9770/jesi.2021.8.3(19)). The Emerging Sources Citation Index (Web of Science) Scopus; Index Copernicus] [CiteScore: 0.00; SNIP: 1.568; SJR: 0,000 (2021, Scopus Sources)]
 4. **Raistenskis E.**, Zahars V., Abuseridze G. (2022) The legal framework affecting smuggling of tobacco products as a form of the shadow economy in Sakartvelo. Sociālo Zinātņu Vēstnesis / Social Sciences Bulletin', 35(2): 115ñ125. [https://doi.org/10.9770/szv.2022.2\(6\)](https://doi.org/10.9770/szv.2022.2(6)) (ERIH PLUS)
 5. Remeikiene, R., Gaspareniene, L., Fedajev, A., **Raistenskis, E.**, & Krivins, A. (2022). Links between crime and economic development: The EU classification. The Equilibrium. Quarterly Journal of Economics and Economic Policy, 17(4), 909-938. doi: 10.24136/eq.2022.031 (Scopus)
 6. **Raistenskis, E.**, Krivins, A., Aleksejeva, L. (2023). Pehomenon of corruption in Albania: towards cigarette smugling. Access to science, business, innovation in the digital economy, ACCESS Press, 4(2), 278-295, [https://doi.org/10.46656/access.2023.4.2\(9\)](https://doi.org/10.46656/access.2023.4.2(9)) (Web of Science)
 7. Remeikienė, Rita; Gasparėnienė, Ligita; **Raistenskis, Evaldas**. Assessing the links between cigarette smuggling and corruption in non-European countries//CITPM 2020: proceedings of the 3rd international conference contemporary issues in theory and practice of management, 23-24 April 2020 Czestochowa, Poland/edited by A. Korombel, O. Ławińska, M. Okręglicka. Czestochowa: Czestochowa University of Technology, 2020. ISBN 9788371937323. p. 253-260. (CITPM, ISSN 2544-8579, eISSN 2544-8587; No. 3).
 8. Gasparėnienė, Ligita; Remeikienė, Rita; **Raistenskis, Evaldas**. Interdependence between money laundering and cigarette smuggling: empirical evidence from Ukraine//CITPM 2020:

proceedings of the 3rd international conference contemporary issues in theory and practice of management, 23-24 April 2020 Czestochowa, Poland/edited by A. Korombel, O. Ławińska, M. Okręglička. Czestochowa: Czestochowa University of Technology, 2020. ISBN 9788371937323. p. 71-78. (CITPM, ISSN 2544-8579, eISSN 2544-8587; No. 3).

9. Participation and presentation in the 3rd International Interdisciplinary Conference PLACES organized by Riga Stradiņš university on 29-31 March 2023 in Riga (Latvia). Presentation topic: „Assessment of Legal Framework for Tobacco Control in Moldova" **Evaldas Raistenskis**; Anatolijs Krivins.
10. Participation and presentation in the 65th International Scientific Conference of Daugavpils University organized by Daugavpils University on 20-21 April 2023 in Daugavpils (Latvia). Presentation topic: „*The impact of Corruption to EU Green Deal*" **Evaldas Raistenskis**; Anatolijs Krivins.
11. Participation and presentation in the International May Conference on Strategic Management - IMCSM22 organized by Management Department of Technical Faculty in Bor, University of Belgrade. Presentation topic: „THEORETICAL ASPECTS OF THE CONCEPT OF CORRUPTION". **Evaldas Raistenskis**.

1. SYNOPSIS OF THE DOCTORAL DISSERTATION

1.1. Theoretical rationale

The theoretical basis of the doctoral dissertation consists of the relevant laws and regulations, short, mid, and long-term policy planning documents of different levels, scientific literature, periodicals, security perception studies and public opinion polls carried out in Latvia, Lithuania, Serbia, Sakartvelo and Moldova, practices of law enforcement institutions and local government institutions, case-law and other sources. The dissertation relies on works of both Latvian and foreign authors in the theory of criminal law, criminology, police law, political theory and economic theory. The most prominent Latvian authors are as follows: V. Zahars, A. Vilks, I. Vedins, J. Teivāns-Treinovskis, N. Jefimovs, K. Strada-Rozenberga, A. Meikališa, G. Kūtris, M. Leja, O. Kulmanis, E. Gribonika, A. Kriviņš, U. Krastiņš, V. Liholaja, A. Niedre. References to foreign sources include such authors as R. Remeikiene, et. al., J. S. Benson, S. H. Decker, A. Bouet, M. A. Chen, D. C. K. Chow, D. Enste, L. Gasparēniē, Hoda A., Mansoor T. A. and etc.

1.2. Main results of the study

The dissertation consists of four Chapters with Sub-sections, which aim to comprehensively disclose theoretical and practical aspects of tobacco smuggling on the macroeconomic situation of Moldova, Sakartvelo and Serbia.

The first part of the Doctoral thesis examines the issue of smuggling as a criminal behaviour and the criminalisation of this behaviour in Lithuanian and Latvian law, focusing on the criteria for the danger of social behaviour and its criminalisation, the concept of smuggling as a social behaviour, and the prohibition of smuggling as a social behaviour.

The second part of the Doctoral thesis analyses the object and severity of smuggling as a criminal activity, focusing on the concept of shadow economy, theories, factors and forms.

The third part of the Doctoral thesis presents the methodology for assessing the impact of tobacco smuggling in Moldova, Sakartvelo and Serbia, focusing on the logical course of empirical research and the presentation of selected methods.

The fourth part of the Doctoral thesis assesses the impact of tobacco smuggling on the Moldovan, Sarkatvelian and Serbian economies. The evaluation provides a model for the impact of tobacco smuggling on the

macroeconomic situation in Moldova, Sakartvelo and Serbia in the context of interdisciplinarity.

1.2.1. Smuggling as criminal offence: theoretical aspects

The main object of smuggling as a crime is the additional object of the transportation of items established by the laws and other legal acts of the Republic of Latvia and Lithuania, which must be presented for customs control, through the state border of the Republic of Latvia and Lithuania, the financial system of the country, whose stability is threatened by transporting undeclared goods across national borders. The objective side of smuggling is the actions of illegal smuggling across the border of the Republic of Lithuania in various forms — failure to submit things to customs control, transportation bypassing customs, transportation without authorisation, falsification of documents on the items being carried, etc. The composition of the smuggling activity is formal, therefore, in the case of smuggling, it is not legally necessary to determine the consequences of this activity, and the smuggling is considered to be a completed crime from the moment when the mandatory documents of the items being transported were not presented for customs control or customs control was avoided in another illegal way, i.e. from the moment of crossing the Lithuanian state border.

A person who has reached the age of the criminal law or on behalf of a legal person acting individually in this legal person, or a person acting individually in this legal person, his authorised representative or employee, who unlawfully transports goods (smuggling items) required to be presented to customs, transports them bypassing customs, transports them without compulsory authorisation or with false documents. The main subjective side of the offence of smuggling is the fault of the subject, whereas the motives and objectives of the act are not the subjective attributes necessary for the classification of the offence of smuggling, since, being direct intentionally thought out in advance, smuggling is treated as a crime of increased danger.

To understand Latvia's situation, as it relates to the elements of legality and opportunity of criminal proceedings, the provision of the Criminal Procedure Law on refusal to initiate and/or conduct criminal proceedings should be examined in conjunction with the totality of the Criminal Law provisions on releasing a person from criminal liability. According to Ā.Meikališa and K.Strada- Rozenberga¹, examining the legal regulation on the legality and opportunity of criminal proceedings, the authors express the opinion that, notwithstanding the fact that the

¹ Strada-Rozenberga K., Meikališa Ā., Kūtris G., Leja M., Kulmanis O., Gribonika Ē. Kriminālprocesa obligātums un lietderīgums kā kriminālās justīcijas sistēmas pamatprincips. Rīga, LU Akadēmiskais apgāds, 2023, 275.lpp.

enumeration of the fundamental principles of the criminal procedure law starts with the legality of criminal proceedings, Latvia, actually, belongs to those countries where alongside legality, in the classical understanding thereof, existence of institutions, based on the principle of opportunity, is envisaged. Thus, it can be recognised that the, 'pure' legality of criminal proceedings does not exist in Latvia (neither on the level of normative regulation nor in the application of law). At the same time systemic examination of these provisions has led to the acknowledgement that, alongside legal criminal proceedings and, accordingly, criminal prosecution, also discretionary approach is recognised, i.e., the possibility for prosecutors or investigators under prosecutor's supervision to refuse conducting proceedings when there are no legal obstacles to it. Thus, it can be concluded that the Latvian criminal justice has been built on the legality principle of criminal proceedings, including derogations that follow from the opportunity principle, i.e., in fact, the coexistence of the principles of legality and opportunity is recognised in Latvia.

The aforementioned opinion of recognized experts in Latvian criminal procedure law correlates with the general principles of criminal law defined by Oxford University professor A. Ashworth: Criminal responsibility is a suitable form of social control only in the case of the most serious violations, moreover, in order to avoid compromising the goals of criminal responsibility, it must be effective - it must obviously deter the commission of criminal offenses, and the resources invested in the operation of the criminal process mechanism must outweigh the damage caused in the criminal offense, unless addressing the specific illegal act also includes a certain symbolic meaning.²

Latvia's situation in this aspect cannot be evaluated unambiguously, rather it can be evaluated contradictory. In the 23 years since the Criminal Law entered into force, only editorial clarifications have been made in the legal definition of smuggling in the provision of the first part of Article 190 of the Criminal Law, while the threshold of criminal responsibility for smuggling has been amended three times, which indicates the inability of the legislator to determine the harmfulness of this criminal offense and the most suitable means of legal protection for the fight against it. When correcting Article 190 of the Criminal Law, the legislator did not take care of observing the principle of legal certainty. Changes in the legal definition of smuggling made over time do not contribute to the understanding of its content and cannot facilitate its application, taking into account that the most laconic expression corresponding to the requirements

² Ashworth A. Principles of Criminal Law. Fourth Edition. Oxford: Oxford University Press, 2003, pp. 35-37.

of legal technique has not been followed, concisely describing the nature of the illegal activity.³

Smuggling by an organised group (formal composition) occurs when the smuggling is committed by more than two persons whose association meets the characteristics of an organised group (see Section 21 of the Criminal Law).

Smuggling has been committed on a large scale (material composition) if the total value of the smuggled item at the time of the criminal offence was not less than the total of fifty minimum monthly wages specified in the Republic of Latvia at that time. The value of the items shall be determined according to the market prices or prices equivalent thereto at the time when the offence was committed (Section 20 of the Law On the Procedure for the Entry into Force and Application of the Criminal Law of 15 October 1998.⁴

In addition to the fault of the subjective party of the offence, the other important characteristics of the subjective side of the offence are the reason and purpose of the offence, since, as a general rule, the mere attribute of guilt does not reveal the result sought in the commission of the offence. However, in the case of smuggling, the reason and purpose of the classification of the criminal activity are irrelevant (Decision No 43 of the Senate of the Supreme Court of 29 December 2003 on case law in smuggling cases)⁵, it is not the subjective attributes necessary for the classification of the offence of smuggling (cassation ruling in criminal case No 2K-7-130-699/2015⁶). In this case, the subjective side of the smuggling is characterised by a fault manifested directly intentionally (case 2K -278-489/2017, heard by the Criminal Division of the Supreme Court of Lithuania)⁷, since, being direct intentionally thought out, smuggling is a crime of increased danger. However, the most common motives — material gain, income, tax evasion — according to article 54(1)(3) of the criminal code of the republic of Lithuania, are relevant for the imposition of a penalty for the offence of smuggling⁸.

³ Čevērs T. Krimināllikumam 20 – Krimināllikuma 190. panta “Kontrabanda” ģenēze un evolūcija. 366-378. DOI:10.22364/iscflul.7.32 (skatīts 16.04.2023.).

⁴ Krastiņš U., Liholaja V., Hamkova D. Krimināllikuma komentāri. Trešā daļa (XVIII-XXV nodaļa). Rīga, TNA, 2016, 87.lpp.

⁵ Lietuvos Aukščiausiojo Teismo senato nutarimas Nr. 43. „Dėl teismų praktikos kontrabandos bylose“. 2003 m. gruodžio 29 d. Vilnius. Available at: <http://www.teisesgidas.lt/modules/paieska/lat.php?id=26465>.

⁶ Lietuvos Aukščiausiasis teismas. Kasacinė nutartis byloje Nr. 2K-7-130-699 / 2015. Available at: <https://eteismai.lt/byla/78090579681115/2K-7-130-699/2015>.

⁷ Lietuvos Aukščiausiasis teismas. Nutartis byloje Nr. 2K-278-489 / 2017. Retrieved from: <https://eteismai.lt/byla/51084987331591/2K-278-489/2017>.

⁸ Žygytė L. Baudžiamoji atsakomybė už kontrabandą. Master Thesis. Vilnius, VU, 2017.

1.2.2. The characteristics of organised smuggling of goods

According to Baltrūnienė and Šarauskas, when analysing the criminalistic character of smuggled acts, it is important to determine the reasons for these crimes⁹. The authors describes these causes:

1. Lack of market equilibrium. This is traditionally the case in planned economies where producers and sellers of goods are unable to meet the demand for goods because the price of the product is too low and does not correspond to the market equilibrium price.

2. Changes in prices. As a general rule, prices rise unevenly, and their variation is also driven by subjective causes, such as people's expectations, etc. In addition to objective reasons. Given the fact that prices in different countries increase at different rates, there is a market for the sale of smuggled goods.

3. Incompatibility of the labour market. Like many other economic crimes, the practice of smuggling cases shows that motivation is selfishness — the desire to gain wealth for yourself or others. Sometimes smuggled crimes are committed because people do not have minimum living conditions.

4. Non-operational controls on customs transit procedures. Some border police officers negligently perform their duties and often even criminalise.

5. Insufficient control of the financial activities of trading companies, other economic entities. This allows smuggled goods to be disposed of on the internal market without exporting goods for export. Goods are not removed from the country in case of falsification of documents, but the purchase value added tax is withdrawn from the state budget.

6. Lack of social citizenship education and education. Already older class students are involved in smuggling, actively participating in criminal associations and groups of smugglers.

Aghazadeh et al. which examined the elements of organised smuggling of goods in criminal law, highlights the networked nature of organised smuggling and distinguishes the following three representative networks for organised smuggling of goods¹⁰:

The smuggling network.

Cross-border smuggling network.

⁹ Baltrūnienė J., Šarauskas G. Kontrabandinių nusikalstamų veikų kriminalinė charakteristika ir praktiniai šių nusikaltimų atskleidimo aspektai Lietuvoje. *Mokslinių straipsnių rinkinys Visuomenės saugumas ir viešoji tvarka / Public Security and Public Order*, 2011 (6), 49-62. Available at: <https://repository.mruni.eu/bitstream/handle/007/14846/Baltr%20nien%20.pdf?sequence=1>.

¹⁰ Aghazadeh A., Ardebili M., Ashouri M., Mahdavisabet M. Organized smuggling of goods in the criminal law of Iran and Turkey. *Journal of Politics and Law*, 10(5), 2017, 24–28.

Smuggling distribution network.

A smuggling network can be used for intra-country supply of smuggled goods, as well as for the criminalisation of goods out of the country (export smuggling) or for entry into the country (import smuggling). In the case of export or import, smuggled goods are delivered to a cross-border smuggling network.

The cross-border smuggling network serves to carry out operations related to the export and import of smuggled goods. After exploring possible smuggling routes, representatives of the cross-border smuggling network choose both or one of the two options: smuggling through customs and/or smuggling outside customs.

The Smuggling Distribution Network is designed for the distribution and sale of exported or imported smuggled goods (for export and import smuggling respectively).

If it is established that the smuggling of goods took place through organised networks, that fact may become one of the objective indications that this type of criminal activity can be regarded in a particular case as an act of organised smuggling of goods. However, this feature alone may not be sufficient. On the basis of the literature analysis carried out, it can be concluded that the characteristics of organised smuggling of goods are:

- 1) Directing (leadership) a criminal group of more than three persons (although some sources refer to two persons).
- 2) Coordination, planning, unification and allocation of tasks among the members of the group.
- 3) The contribution of each member of the organised crime group which imposes, in accordance with the principle of proportionality, a penalty for participating in a criminal offence.

The first of those indications implies that the mere finding that more than three persons involved in an organised criminal group were involved in collaborating activities for the smuggling of goods may not be sufficient for that type of offence to be regarded as an organised act of smuggling of goods. There must be a leader or leader in a systemic organised crime group who is in practice responsible for assigning tasks to each member of the group and coordinating the performance of these tasks. The role of manager (or leader) is recognised by Conklin¹¹, Abadinsky¹², Wright¹³ and many others. If the activities of an organised group are carried out without control and coordination of one or more specific persons (leaders, leaders), the case cannot be considered as criminal for lack of one of the main elements of the organised smuggling of goods. On the other hand, the case may be dealt with as a criminal offence for involvement in

¹¹ Conklin J. E. *Criminology* (10th ed.). Boston, Pearson, 2010.

¹² Abadinsky H. *Organized crime* (9th ed.). Belmont, Wadsworth, 2010.

¹³ Wright, A. *Organized crime*. New York, Routledge, 2013.

smuggling. It can therefore be argued that there is an absolute public-private link between organised smuggling of goods and participation in smuggling activities¹⁴. In other words, every organised crime is a form of participation in a criminal offence. However, participation in smuggling activities is not, in itself, regarded as a form of organised crime, since it can also be committed in isolation.

Another characteristic of organised smuggling of goods is the coordination, planning, unification and allocation of tasks among the members of the group in order to achieve predetermined objectives and common interests (Borricand¹⁵; Šumskas¹⁶; Gutauskas¹⁷; Abadinsky¹⁸, etc.). That characteristic reflects the fact that the joint discipline existing within a group of organised smuggling of goods strengthens the members of the organised criminal group and maintains the viability of that group. In this way, it can be concluded that the subjective side of the offence, that is to say, the thoughts, attitudes, minds or objectives of the persons involved in the act, is not sufficient to deal with the case concerning the organised smuggling of goods. Thirdly, if the substantive and procedural conditions relating to the number of members of an organised criminal group are met, it is established that the members of the group had a common purpose, shared tasks, and the plans of the group were coordinated by one or more of the group leaders (leaders), then each member of such a group who was aware of the group's plans and activities and who had created the conditions both for the preliminary preparation and the execution of the offence (e.g., after supervising the act, having led it, given instructions, forging documents, transporting goods, etc.) is regarded as an accomplice in the main offence of smuggling and deserves punishment for the act committed. Conversely, if it is not established in the course of the proceedings how the criminal acts of an entity acting with a group of accomplices are manifested, the entity, as an accomplice, realised the objective side of the offence of smuggling, what actions were actually carried out, what was the nature of the actions, the intensity of the actions, the situation in which they were committed, this means that there are no grounds for finding the entity guilty under Article 199(3) of the Criminal Code as having acted with a group of accomplices (the Supreme Court of Lithuania, case No 2K-8-1073/2020)¹⁹.

¹⁴ Aghazadeh A., Ardebili M., Ashouri M., Mahdavisabet M. Organized smuggling of goods in the criminal law of Iran and Turkey. *Journal of Politics and Law*, 10(5), 2017, 24–28. doi: 10.5539/jpl.v10n5p24.

¹⁵ Borricand J. F. Organized crime and criminal law. *Legal Research Journal of Shahid Beheshti University*, 4, 1999, 11–21.

¹⁶ Šumskas A. Baudžiamųjų bylų nagrinėjimas teisme. Vilnius, Justitia, 2000.

¹⁷ Gutauskas A. Nusikalstamos veikos objektyvieji požymiai. *Visuotinė lietuvių enciklopedija* Available at: <https://www.vle.lt/Straipsnis/nusikalstamos-veikos-objektyvieji-pozymiai-9921>.

¹⁸ Abadinsky H. *Organized crime* (9th ed.). Belmont, Wadsworth, 2010.

¹⁹ Lietuvos Aukščiausiasis teismas. Byla Nr. 2K-8-1073 / 2020 Available at: <https://e-teismai.lt/byla/110278291421391/2K-8-1073/2020>.

In the course of the proceedings, all operations carried out by the organised crime group shall be taken into account. More severe penalties are imposed on the head of an organised crime group (leader) and less severe penalties for each member of the group, since, in the case of an organised or corporate criminal group, each member of the group plays his or her role in the group in pursuit of a common goal in order to ultimately achieve and share the benefits resulting from joint collective action. For this reason, the role and tasks of each member of the group may change at a different stage of the criminal offence, for example, the same person may act as an assistant at one stage of the offence, but at the next stage as the perpetrator of the offence. Criminal liability for smuggling is further discussed in the next section of this work.

Although one of the objective characteristics of organised smuggling of goods is the organisation of a network activity, that characteristic alone may not be sufficient to treat this type of criminal activity as an act of organised smuggling of goods. On the basis of the literature analysis carried out, it can be concluded that the characteristics of organised smuggling of goods are: leadership (leadership) of a criminal group, coordination, planning, unification and allocation of tasks among the members of the group, and the contribution of each member of the organised crime group, which imposes a penalty, in accordance with the principle of proportionality, for participating in a criminal offence.

1.2.3. Reasons for the development of smuggling of tobacco products in Lithuania and Latvia and the role of law enforcement agencies in controlling the smuggling of tobacco products

The main factors influencing the smuggling of tobacco products and corruption are high excise taxes, which lead to large price differences in the states, and then the smugglers get huge profits from the smuggling of tobacco products. The factors that cause corruption in this case run parallel to the smuggling of tobacco products - the huge profits obtained encourage bribery of officials so that the risk of being caught is as low as possible, and the low salary received by officials is like an excuse to engage in corruption. Current economic conditions (high inflation, rising electricity prices, rising interest rates) and uncertainty over the Ukraine-Russia war are curbing consumption, which may lead to a greater tolerance for smuggling among the population. There is not one specific institution in Latvia that deals only with combating the smuggling of tobacco products. At least following subjects are involved in the fight against tobacco smuggling in Latvia: General Prosecutor's Office of the Republic of Latvia; Internal Security Bureau; Corruption Prevention and Combating Bureau; Anti-

Money Laundering Service; Office for the Protection of the Constitution; State Revenue Service; State Police; State Border Guard.

Accordingly, the activities of these institutions are regulated by the following laws. Office of the Prosecutor and its Task are described in the Office of the Prosecutor Law²⁰: The Office of the Prosecutor shall be a judicial power authority which independently exercises supervision over the compliance with law within the scope of the competence specified in this Law. The task of the Office of the Prosecutor shall be to respond to a violation of law and to ensure the deciding of the case relating to such in accordance with the procedures laid down in law. Internal Security Bureau Law prescribes the legal status, functions of the Internal Security Bureau and the competence of the officials of the Bureau. The main functions of the Bureau is described in the Section 4.²¹

The purpose of Law on Corruption Prevention and Combating Bureau is to prescribe the legal status and functioning of the Corruption Prevention and Combating Bureau in order to pursue corruption prevention and combating with a complex approach, as well as to control fulfilment of the financing provisions of political organisations (parties) and associations thereof.

The purpose of Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing is to prevent money laundering and terrorism and proliferation financing. Money laundering is closely related to the activities of smuggling tobacco products (due to the nature of financing); it is necessary to review when, according to the law of the Republic of Latvia on the Prevention of Money Laundering and Terrorism and Proliferation Financing, the income received from criminal activities is recognized as illegal.

Law on the Constitution Protection Bureau prescribes the legal status of the Constitution Protection Bureau. The main tasks of the Constitution Protection Bureau shall be²²: obtaining, receipt, compilation, accumulation, storage, analysis, and use of the information related to the national security, protection, economic sovereignty, and ecological threats in accordance with the procedures laid down in law; forecast of threats to national security, prevention or neutralisation thereof in conformity with its competence; development of proposals and programmes in the issues of national security in conformity with its competence; timely and complete informing the authorities implementing State authority and administration

²⁰ Office of the Prosecutor Law. Adoption: 19.05.1994. Entry into force: 01.07.1994. Latest amendment: 30 September 2021. Available at: <https://likumi.lv/ta/en/en/id/57276>

²¹ Internal Security Bureau Law. Adoption: 17.12.2014. Entry into force: 01.11.2015. Available at: <https://likumi.lv/ta/en/en/id/271327>

²² Law on the Constitution Protection Bureau. Adoption: 05.05.1994. Entry into force: 19.05.1994. Latest amendment: 4 October 2018. Available at: <https://likumi.lv/ta/en/en/id/57257>

and their responsible officials of threats to national security; protection of official secret within the competence laid down in this Law and law On Official Secret; provision of information and materials to the prosecutor's office or the relevant investigating institution on criminal offences and persons who may be accused for committing thereof; performance or organising of performance of certain tasks given by the Cabinet in writing within the scope of its competence; preparation of the Analysis of the National Threat in cooperation with the Security Police and the Military Intelligence and Security Service

The police are an armed, militarised State or local government authority the duty of which is to protect the life, health, rights and freedoms, and property of persons, interests of the society and the State from criminal and other illegal threats. The police have the following tasks (Section 3 of Law "On Police"²³) are: to guarantee the safety of persons and the society; to prevent criminal offences and other violations of law; to detect criminal offences and search for persons who have committed criminal offences; in accordance with the procedures specified in law, to provide assistance to institutions, private individuals and associations of persons in the protection of their rights and performance of the tasks specified by law; within the scope of its competence, to carry out administrative and criminal punishments.

The State Revenue Service is an institution of direct administration under the supervision of the Minister for Finance, which ensures the accounting of tax payments and taxpayers, the collection of State taxes, duties, and other mandatory payments determined by the State in the territory of the Republic of Latvia, and also collects taxes, duties, and other mandatory payments for the budget of the European Union, implements the customs policy and organises customs matters. The principal tasks of the State Revenue Service are (Section 2²⁴ of State Border Guard Law): to ensure the collection of State taxes, duties, and other State mandatory payments administered by the State Revenue Service in the territory of the Republic of Latvia and on the customs border, and also the collection of taxes, duties, and other mandatory payments for the budget of the European Union; to participate in the development of policy of customs matters, tax and duty administration and disclosure of violations of the law in the field of State revenue and to implement such policy. To develop draft development planning documents, draft informative reports, and draft legal acts in the relevant field; to prevent and detect criminal offences in the field of State taxes, duties, and other mandatory payments determined by the

²³ On Police. Adoption: 04.06.1991.Entry into force: 04.06.1991. Latest amendment: 20 January 2022. Available at: <https://likumi.lv/ta/en/en/id/67957-on-police>

²⁴ On the State Revenue Service. Adoption: 28.10.1993.Entry into force: 25.11.1993. Latest amendment: 23 September 2021. Available at: <https://likumi.lv/ta/en/en/id/59902>

State and in customs matters; to provide civil servants (employees) of the State Revenue Service with training, to inform the public of the importance of the payment of taxes by organising informative activities and competitions, and also to advise taxpayers, in accordance with the procedures laid down in this Law, on the issues regarding application of tax laws and regulations; in accordance with the procedures laid down in laws and Cabinet regulations, to register and record taxpayers and to control the conformity of registration documents with the requirements of the law and actual circumstances; to ensure the fulfilment of the laws and regulations governing the movement of goods subject to excise duty; to decide to grant the status of a public benefit organisation and to ensure supervision of such organisations in accordance with the procedures laid down in the Public Benefit Organisation Law; to provide the necessary information (also without previous request) and to co-ordinate exchange thereof in order to ensure mutual assistance in recovery of tax claims, and also to maintain contact with tax administrations (competent authorities) of the European Union Member States.

1.2.4. Peculiarities of tobacco smuggling

Smuggling is one of the forms of illegal concealment of income, when taxes levied on income are not paid to the state budget. It is mostly associated with illegal transportation of certain objects or items across state borders and escape of customs control²⁵. Joossens and Raw²⁶ define smuggling as illegal trade in particular goods or services cross national borders. Smuggling occurs when traders seek to illegally meet the demand for particular goods or services, usually those that are prohibited (e.g. drugs, psychotropic substances) or heavily taxed (e.g. tobacco, alcohol products).

Literature indicates many different types of smuggling, which can be grouped as follows:

- smuggling by volume;
- smuggling by transported items;
- smuggling by the type of offence.

Smuggling by volume covers ordinary or irregular smuggling, commercial smuggling and international smuggling. Ordinary smuggling means that subjects cross national or regional borders to enter low-tax areas and illegally purchase small quantities of certain goods to transport them

²⁵ Čolaković, E. Smuggling as a Form of Illegal Evasion of Public Revenue (September 8, 2016). 2016 ENTRENOVA Conference Proceedings, Available at SSRN: <https://ssrn.com/abstract=3282451>.

²⁶ Joossens L., Raw M. From cigarette smuggling to illicit tobacco trade. *Strategic Directions and Emerging Issues in Tobacco Control*, 21(2), 2012, 230–234. doi: [10.1136/tobaccocontrol-2011-050205](https://doi.org/10.1136/tobaccocontrol-2011-050205).

back to the smugglers' country or region²⁷. *Smuggling by transported items* covers many types of smuggling: the items to be smuggled can include goods, people, weapons, medicines, drugs, information and data, works of art, plants, animals, software, copyrights, etc.²⁸ *Smuggling by the type of offence* includes smuggling that entails administrative liability and smuggling that entails criminal liability. This separation of liability is grounded on the value of smuggled items: if the value of smuggled items does not exceed the value indicated in the relevant law, administrative liability (fines) is entailed, but if the value of smuggled items exceeds the value indicated in the relevant law, criminal liability (arrest, imprisonment) is entailed. Article 208 of the Code of Administrative Offences of the Republic of Lithuania and Article 199 of the Criminal Code²⁹ stipulate that criminal liability is entailed when the value of smuggled items exceeds the amount of 150 base fines.

1.2.5. Practical analysis of legislation on tobacco smuggling in Moldova, Sarkartvelo and Serbia

In the Republic of Moldova, the illicit trade in tobacco products and the smuggling of tobacco products are not the subjects of any separate law. The acts and elements of smuggling are described in the Criminal Code, the Customs Code and the Code of Offences. In addition, the Republic of Moldova has not adopted a National Strategy to Combat Illicit Trade, a strategy to develop an integrated action plan for all responsible state structures.

In recent years, the number of registered smuggling cases in the Republic of Moldova has been as follows: 163 in 2012, 151 in 2013, 216 in 2014, 229 in 2015, 240 in 2016, 130 in 2018, 81 in 2019 (in the northern region)³⁰.

Currently, in the Republic of Moldova, the offence of smuggling is described in Chapter X, Article 248, of the Criminal Code, in addition to economic crimes. The term “contraband act” means either an offence under criminal law or an offending violation of the law, depending on the social risk posed by the act in question. Article 248 of the Criminal Code is divided into paragraphs setting out what penalties are imposed for a violation of the law committed by a natural and legal person and defining

²⁷ Burke T. The Effect of Excise Taxes on Cigarette Smuggling: An Instrumental Variable Approach. CMC Senior Theses, 2013. Pieejams: https://scholarship.claremont.edu/cmc_theses/764.

²⁸ Čolaković E., supra note 25.

²⁹ Lietuvos Respublikos baudžiamojo kodekso 199. *Valstybės žinios*, Nr. 123-5573, 2003.

³⁰ Interdependence between illegal trade in tobacco and corruption, money laundering and organized crime. Vilnius, 2020. Available at: <https://repository.mruni.eu/bitstream/handle/007/16540/PMI%20Impact.pdf?sequence=1&isAllowed=y>.

the value of smuggled goods. In addition to the above conditions, goods with a value of more than 100 average monthly wages in the economy are considered smuggled. This specification of value in criminal law facilitates the classification of the offence of smuggling: it helps to distinguish crimes from offences and gives rise to appropriate liability.

The above-mentioned distinctions (responsibility of natural and legal persons, value of smuggled goods) will not be found in the provisions of the Customs Code of the Republic of Moldova, which criminalise the offence of smuggling. In this situation, it is therefore concluded that the provisions relating to the offence of smuggling apply to both natural and legal persons and that it is only possible to penalise offenders under the Criminal Code.

According to Article 248(1) of the Criminal Code, goods that have been smuggled across the border of the Republic of Moldova and whose value exceeds 100 average monthly wages in the national economy are considered smuggled goods. According to the estimates of the executive, the average monthly wage in 2020 is projected to reach MDL 7,953. Thus, the material damage caused by the criminal offence of smuggling is equal to at least 795,300 MDL (100 average monthly wages x 7,953 lei = 795,300 MDL \approx 15,906 pcs). The penalty for the offence of smuggling is a fine of 1,500 to 2,000 units of account, either free public works lasting 180–240 hours, or imprisonment of up to 2 years for a natural person. A legal person shall be punished with a fine of 2,000–4,000 units of account by depriving a legal person of the right to carry out certain activities.

It should be noted that the legal harm of the offence of smuggling (which in terms of units of account is equal to 15,906 units) is approximately 8 times greater than the maximum material penalty that can be imposed on a person. It is therefore proposed to replace the current fines of 1,500 to 2,000 units of account with fines of 2,000–3,000 units of account. At the same time, it is proposed to increase the penalties provided for in Article 248 of the Criminal Code (in accordance with the standard and aggravating components) by introducing imprisonment up to 12 years as the maximum penalty for the offence of smuggling, thus making smuggling a serious crime.

Accordingly, when considering the offence of smuggling as an offence of law, it is appropriate to propose to increase the material penalties provided for in Article 287(10) of the Code of Offences for the offence of smuggling from the current 60–90 units of account to 90–200 units of account³¹.

³¹ Chancellery of the Government of the Republic of Moldova. LEGE pentru modificarea unor acte legislative (art. 248, 2642 Cod penal, art. 287 Cod Contravențional). Available at: [https://cancelaria.gov.md/sites/default/files/document/ attachments/proiectul_384.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/proiectul_384.pdf)

The developments in the implementation of the major articles of the WHO Framework Convention on Tobacco Control in Sakartvelo.

Article 8 of the WHO Framework Convention on Tobacco Control

- Protection against exposure to tobacco smoke – implementation:

- Laws prohibiting the use of tobacco in public/workplaces;
- About 96 percent of the laws will be implemented, but their full implementation requires strengthening and promoting the civil society activism and obedience to the tobacco control laws.

Article 9 of the WHO Framework Convention on Tobacco Control

- Regulation of the constituents of tobacco products – implementation:

- Regulation of the permitted norms of nicotine, tar and carbon gas in tobacco products;
- On 15 January 2018, Government resolution No. N14, which established the maximum permitted norms of the constituents of tobacco products and introduced the requirement to provide information about the constituents of the tobacco products; however, full implementation of the resolution requires systemic strengthening of activation mechanisms and inter-institutional cooperation.

Article 11 of the WHO Framework Convention on Tobacco

Control - Packaging and labelling of tobacco products – implementation:

- Medical warnings on tobacco products;
- Sakartvelo Tobacco Control Law and Resolution No. N14 of 15 January 2018 indicate which percentage of the surface area of a packaging (a package/block/box) of tobacco products must be occupied by medical (basic and additional) information (icons). Medical information must take up at least 30 percent of the surface area of inhalable tobacco and at least 65 percent of the surface area of all other types of tobacco product packaging. Information rotation is allowed. Provision of false, misleading or incorrect information about the composition of tobacco products, harmful effects, etc. is also prohibited. Based on the National Tobacco Control Act, a standardized cigarette packaging is mandatory from January 2021.

The laws adopted on 30 May 2017 brought the legal framework regulating the sale of tobacco products in Sakartvelo closer to the EU and international standards. Sakartvelo has been using a tobacco product labelling and identification system which meets the requirements of the EU directive No. 2014/40/. However, there are also problematic areas that have not yet been covered by the country's legal framework. These are:

- combined medical warnings about the harm of tobacco, placement of information in small print pages, elimination of other technical differences;

- strengthening the composition and safety control of electronic cigarettes and other devices;
- control of additives in tobacco products;
- prohibition of the use of flavour enhancers;
- prohibition of chewing tobacco;
- unification of some differences in terminology not to weaken the content of the adopted legal norms.

The legal framework of the country is supported by at least 85 percent of the population, and the law abidance rate amounts to 98 percent. In accordance with Article 8 of the WHO Framework Convention on Tobacco Control, which directly enshrines protection measures against passive smoking, Sakartvelo has been striving to implement the strategic goals and objectives defined in the Tobacco Control Strategy and the Action Plan. In 2013, the National Centre for Disease Control and Public Health was established. The purpose of the Centre is to strengthen tobacco control measures in close cooperation with non-governmental organizations, the health care sector and international organizations, especially the World Health Organization, and to carry out public health programs.

The tobacco industry value chain shows that in the Republic of Serbia, the tobacco market players are various public bodies directly or indirectly affected by the level of cigarette smuggling. The most influential institutions in this area are the Tobacco Administration and the Customs Administration, which form part of the country's Ministry of Finance³². The legal framework in the area under consideration is constantly being improved and applied to the EU's legislative provisions, bearing in mind that Serbia is seeking EU membership. The most important laws governing the tobacco market are as follows:

- 1) The Tobacco Law;
- 2) The Excise Duty Law;
- 3) Law on the Ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products;
- 4) The Customs Law.

In conclusion, if the legal framework to combat illicit trade in tobacco products is not established and adequately applied in the Republic of Serbia, the development of illicit trade will lead to a number of negative socio-economic phenomena, such as declining budget revenues, intensification of criminal activity and corruption. International cooperation, the supervision of cross-border trade, the identification of smuggling cases and the exchange of information between the authorities responsible are key factors to suppress illicit trade in tobacco products.

³² Zubović J., Djukic M., Jovanović O. Economic aspects of tobacco control and empirical findings in Serbia. *Institute of Economic Sciences*, Belgrade, 2020, 189–191.

2. MAIN CONCLUSIONS AND PROPOSALS

In order to achieve the goal of the research and fulfil the set objectives, the author of the thesis had raised three research questions. The answers to these questions have been formulated during the development of the work.

The section of the work "The problem of criminalization of tobacco smuggling: example of Latvian and Lithuanian legislation" provides an answer to the first research question (What are the shortcomings in determining the composition and qualification of criminal offenses that threaten the interests of the national economy in the sphere of customs activity in Lithuania and Latvia (Articles 190 and 191 of the Criminal Code of Lithuania, Articles 190 and 191 of the Criminal Code of Latvia) and what initiatives to improve legal acts are immediately necessary?).

The work section "Peculiarities of tobacco smuggling" provides answers to the second research question (What measures of an organizational nature are immediately necessary presently required in order to effectively limit the smuggling of tobacco products in Lithuania and Latvia?). It should be noted that these organizational solutions are diverse: it is both to strengthen intensive international institutional cooperation to facilitate the fight against various forms of tax fraud and tax evasion by all cooperating countries, as well as reducing the level of corruption, as well as inter-institutional cooperation of law enforcement authorities, and the fact that civil society organizations must raise their organizational capacities, manage and implement municipal projects in a transparent manner, continuously improve the knowledge of anti-corruption and good governance, and share practices with other institutions, as well as other moments which are further described in the conclusions and proposals.

In response to the third research question (What positive lessons in the field of legal regulation and practice could be learned from this for countries whose policies and economy are oriented towards European integration and joining the European Union?), it was concluded that each analyzed country has its own characteristics. For example, Lithuania is a neighborhood with the Grodno tobacco factory, and the external customs border of the European Union; Serbia is seeking EU membership and the legal framework in the area under consideration is constantly being improved and applied in line with the EU's legislative provisions; the position of the Transnistria Separatist Region in the Republic of Moldova, etc. However, the conducted analysis reveals both areas where wider unification is possible, and areas where creative use of the experience of other countries is possible.

In the continuation - conclusions and proposals - these and other important points will be examined in more detail.

1. Conclusion

By merging the concepts of smuggling and organised crime, organised smuggling can be defined as an illegal activity of goods, valuables and/or people across the border of a particular country, carried out by an organised group consisting of three or more persons, developing joint plans, whose joint efforts are directed towards material benefits.

Proposal

On the basis of an analysis of literature, the author of this work proposes to define organised smuggling activities as an economic crime related to the illegal transport of goods or other items across the state border, committed or carried out by an organised, hierarchically controlled, tightly regulated and closely connected group of individuals seeking material gain.

The author proposes to make amendments to the relevant legal acts by implementing the definition of "organized smuggling activity" proposed by the author of the thesis, which will promote a uniform understanding of the phenomenon in different European countries.

2. Conclusion

Legally smuggling is usually defined by a number of its most important features – a crime or a legal offence that violates customs orders and procedures, national financial regulations, the transport of goods, valuables and/or people across the border of a particular country, where the said goods, values and/or people are concealed from customs controls, unreported, using misleading documents and/or misleading customs identification measures for their declaration, and this crime or misconduct harms the established farming order, the country's economic, financial, business systems, and the general social well-being.

Proposal

The distinguishing threshold for the application of the type of legal liability – administrative or criminal – is the value of the seized items (determined according to the size of the MDL in force at the time, the exchange rate and the value of the items determined at the time of the crime), as well as the types of items transported without authorisation. The opinions of legislators and legal analysts on the liability for smuggling provided for in the laws of the Republic of Lithuania and the Republic of Latvia differ: the penalties for smuggling provided for in the laws of the Republic of Lithuania have been criticised for excessive rigour, inconsistency in legal regulation and a significant gap between criminal and administrative liability, which does not reflect the degree of seriousness of these offences, therefore it is proposed to review the above-mentioned regulatory measures.

The author proposes to make amendments to the relevant regulatory legal acts in order to harmonize the practice of applying administrative and criminal liability as much as possible in Latvia, Lithuania, as well as in other European countries.

3. Conclusion

Smuggling is a complex phenomenon of the shadow economy, the control and prevention of which fall within the remit of a number of institutions. In Lithuania and Latvia, the institutional control system for combating smuggling consists of: the Customs Department under the Ministry of Finance of the Republic of Lithuania, the State Tax Inspectorate, the State Border Guard Service at the Ministry of the Interior of the Republic of Lithuania and the Republic of Latvia, the Police Department under the Ministry of the Interior of the Republic of Lithuania, the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania, the Drugs, Tobacco and Alcohol Control Department and the Government Commission for the Coordination of Cooperation between State Economic and Financial Control and Law Enforcement Authorities.

After research by Lithuanian and foreign scientists, one indisputable aspect was observed in all that transiting from Lithuania and through Lithuania to foreign states causes political and economic damage to the countries of Lithuania and Europe. The latency of smuggling complicates the assessment of the damage it causes to the state budget and the economy, as well as the smuggling distorts official statistics and leads to an incorrect assessment of economic indicators. However, due to its geographical and political situation (neighbourhood with the Grodno tobacco factory, the external customs border of the European Union), Lithuania also finds itself on the major international route of cigarettes for illegal sale as a transit country. Transit can be carried out in two ways: importing the cigarettes illegally, i.e. smuggling, and the so-called “white smuggling” method, which, according to the cargo documents, appears to be a completely legal ordinary transit of cigarettes (in criminal terms, this is the illegal non-export of goods provided for in Article 200 of the CC).

Proposal

The most important institutional controls include risk management, control of the illegal circulation of excise goods in the internal market, legal and administrative measures, measures for the rapid exchange of information and measures to reduce public tolerance for smuggling activities. It is therefore proposed to strengthen intensive international institutional cooperation to facilitate the fight against various forms of tax fraud and tax evasion by all cooperating countries.

4. Conclusion

Only empirically validated and statistically significant studies can lead to changes in the legal framework that will have a positive impact on the fight against cigarette smuggling and the phenomena that accompany it.

Proposal

The doctoral thesis research revealed that first of all, in reducing cigarette smuggling, it is appropriate to deal with the rooting of corruption in state institutions, which would make it easier to control money laundering and the involvement of organised crime in cigarette smuggling. These activities are inextricably linked to each other, so reducing the level of corruption would expand the problems addressed in this thesis.

5. Conclusion

In order to determine the impact of cigarette smuggling on the economies of Serbia, Georgia and Moldova, a comprehensive evaluation methodology has been developed with the multifunctional impact of cigarette smuggling on the economies of the countries. The interaction of cigarette smuggling with macroeconomic indicators was investigated using mathematical-statistical methods, the state of the macroeconomic situation of countries was investigated using the PEST method and statistical analysis, and legal regulation of cigarette smuggling was investigated using analysis of legal documents and expert interview methods.

The regression model, compiled by statistical calculations, revealed that in Moldova the taxation of cigarettes is influenced by the tax base (specific tax, MDL per 1000 cigarettes) and corruption phenomena, which in this case were expressed through the number of cases of active corruption. In this case, it is concluded that the fight against corruption in Moldova is closely linked to the flow of reducing cigarette smuggling. Georgia's regression models revealed that the level of excise duties and the flow of imported tobacco determine the country's tax collection.

Proposal

The calculated positive and strong links between legal tobacco production, excise duties on cigarettes and excise duties on imports of tobacco products with the corruption control index suggest that strengthening corruption control in this country would improve the volume of legal tobacco products, which would also reduce cigarette smuggling.

6. Conclusion

PEST analysis in Moldova reveals that the country is implementing changes in the fight against smuggling. The legal regulation introduced amendments to the Customs Code and the Code of Infringements adapted to the *acquis communautaire* of the EU. The changes made it easier to detect cases of smuggling, but the number of cases remains high due to the poor implementation of the mechanisms envisaged, the existence of misleading, deliberately designed smuggling schemes, and the breach of duty obligations.

Proposal

According to estimates and analysis of PEST, smuggling in Moldova is closely linked to corruption, which is mainly driven by the instability of the legal base, constant political tensions between pro-Russian and pro-Western forces, and the existence of oligarchic elites in politics, business and public administration. Among the legal measures taken to improve the situation are the reform strategy of the public administration, the law on professional integrity testing, the e-health strategy 2020, the cooperation agreement between the State Agency for Intellectual Property Rights of Moldova (AGEPI) and the State Medical Agency (SMA). Unfortunately, Moldova is far behind the average of the EU countries in Europe in terms of bribery, perception of corruption and the viability of democratic institutions, which is a major obstacle to reducing cigarette smuggling. It is proposed to continue working in these directions.

7. Conclusion

A PEST analysis in Georgia revealed that smuggling is a direct threat to the country's national security, which is stimulated by a relatively high number of smokers. On average, men and women smoke 21 and 15 cigarettes per day. The catastrophic rise in smuggling in Georgia began in 1998 and lasted for five years, but has been significantly reduced. The large quantities of tobacco products smoked suggest that the actual volume of smuggling can be at least twice as high as those recorded in official statistics.

Proposal

Importers and exporters have no doubt that the increase in excise duties will serve the future growth of smuggling volumes (the relationship of excise duty on cigarettes to corruption has also been established by mathematical statistical calculations). The rising cost of the product also increases the risk of smuggling. Smuggling is also stimulated by low penalties for this offence, so the temptation to earn higher income in relatively low-risk conditions is even higher (profit from each packet of cigarettes to GEL 1). As regards cigarette smuggling, Georgia's legislation such as the Companies Act, the Privatisation Law, the Restitution and Compensation Act, the Competition Protection Act, the Public Procurement Law, the Investment Law and the Labour Law are the most important ones. The latter, adopted on 17 December 2010, was in line with the provisions of the International Labour Organisation.

8. Conclusion

The PEST analysis in Serbia showed that the prices of tobacco products in countries below the EU are conducive to smuggling. As regards smuggling, external trade in Serbia is regulated by customs legislation, which is aligned with the *Acquis Communautaire*. The Republic of Serbia also applies the provisions of the Euro-Mediterranean *Regional Convention No P7_TA(2012) of 16 February 2012 on Euro-Mediterranean preferential*

rules of origin, the customs tariffs are aligned with the requirements of the EU Combined Nomenclature (2018) and the operational capacity of the customs administration is strengthened.

Proposal

The unsatisfactorily assessed institutional environment in the country promotes the existence of corruption, illegal trade, the shadow economy, money laundering, smuggling and other negative social phenomena. Progress has been made in improving the country's regulatory and institutional environment: adopting amendments to the Criminal Code relating to economic crimes, issuing a law on the organisation of public bodies to help fight corruption, organised crime and terrorism, adopting the law on seizure and confiscation of proceeds of crime, adapting existing laws to international standards. However, despite the progress made, the problem of corruption remains acute and it is proposed to continue to improve the above-mentioned regulatory measures intensively.

9. Conclusion

Analysis of legal acts and expert interviews revealed that illicit trade in tobacco products and tobacco product smuggling in the Republic of Moldova is not the subject of any separate law. The acts and elements of smuggling are described in the Criminal Code, the Customs Code and the Code of Offences.

Proposals

1. The Republic of Moldova has not adopted a National Strategy to Combat Illicit Trade, a strategy to develop an integrated action plan for all responsible state structures. The provisions relating to the offence of smuggling apply to both natural and legal persons, and it is legally possible to penalise offenders only on the basis of the Criminal Code. In order to qualify acts and attempts to commit an act as a crime under the elements of a crime, the state needs a clear legal framework that meets EU standards.
2. Creating a common and efficient mechanism to achieve inter-institutional cooperation of law enforcement authorities, aiming to prevent and combat smuggling, corruption, money laundering and organised crime.
3. Implementing all the operational and organisational measures which would annihilate smuggling networks and finding solutions to the position of the Transnistria Separatist Region in the Republic of Moldova, where the quantities of cigarettes are much higher than storage and consumption capacities.
4. Amending the Customs Code of the Republic of Moldova, to withdraw the license and the right to operate any duty-free stores in Transnistria.

5. More rigorous and frequent control of all spheres that could be involved in cigarette smuggling, including customs control as well as stiffer penalties and fees.
6. Facilitate cross-border cooperation – at the international level, states must ensure that there are agreements on the rapid exchange of information regarding the relations between financial institutions.
7. Increasing the level of legal awareness of citizens, increasing transparency and merit-based selection for positions.

10. Conclusion

Tobacco control is an important aspect of Georgia's integration into the EU. According to the Association Agreement concluded in 2014 between the EU and Georgia, one of Georgia's obligations under this agreement is the effective application of international agreements recognised by EU member states in the field of health protection. Georgia's legal base is supported by at least 85 % of the population, while the level of application of the law is 98 %.

Proposal

In line with Article 8 of the Framework Convention on Tobacco Control, which directly lays down safeguards against passive smoking, Georgia has been pursuing strategic objectives and targets since 2013 in line with the Tobacco Control Strategy and Action Plan. Embedding these strategies would help improve the state's performance in the fight against smuggling.

11. Conclusion

Serbia is seeking EU membership and the legal framework in the area under consideration is constantly being improved and applied in line with the EU's legislative provisions. The main laws regulating the tobacco market are the Tobacco Law, the Excise Duty Law, the Law on the ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products and the Customs Law. In the Republic of Serbia, the most important players in the tobacco market are the Tobacco Administration and the Customs Administration, which are part of the country's Ministry of Finance.

Proposals

1. Serbian local government units should create their own strategies for internal risk management and keep them updated. These strategies could be prepared according to the manual for Financial and Control Management issued by the Ministry of Finance. In addition, the governments should establish internal and whistleblowers' protection rules for collection of the regular data on the risk of corruption.
2. Serbian local government units should strengthen their administrative capacities through capacity-building training on local governance and anti-corruption issues, and also, increase

their knowledge regarding the current legislation; the countries should also increase their transparency by taking concrete actions as defined in relevant legislation, such as improving citizens' access to information and strengthening the electronic infrastructure of the municipalities.

3. Civil society organizations in Serbian countries must raise their organizational capacities, manage and implement municipal projects in a transparent manner, continuously improve the knowledge of anti-corruption and good governance, and share practices with other institutions.
4. Local governments should adopt regulations on corruption reporting, keep the reporting up to date and supplement it in line with international standards. The authorities should work in close contact with global institutions that are seeking to reduce corruption.

12. Conclusion

The model of the impact of cigarette smuggling on the macroeconomic situation in Moldova, Sakartvelo and Serbia in the context of interdisciplinarity revealed that the smuggling of cigarettes unequivocally finances organised crime, which results in a low probability of detecting organised crime in Moldova, Sakartvelo and Serbia, making it easier and easier to carry out cigarette smuggling. The model covers corruption, organised crime, money laundering operations, taking into account the macro-economic situation of countries.

Proposal

The greater corruption in countries, the easier it is to carry out cigarette smuggling, which makes it more difficult to detect organised crime, as money laundering operations conceal the origin of money. Society is apathetic about money laundering and organised crime because it does not believe that the accused of illegal activities will be punished accordingly, not only by removing individuals from their positions but also by seizing their wealth and avoiding criminal liability. Promote public awareness and education on these issues. The specificity of this model reflects not only the examined countries but another European countries.

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