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Combating excise Smuggling: A comparative analysis of Ukraine and Poland

Протидія протиправній діяльності у сфері обігу підакцизних товарів: досвід України та Польщі

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Abstract

The excised goods, such as alcoholic beverages and tobacco products, are the object of widespread smuggling and illegal circulation. This illegal activity leads to significant budget losses, affects the health of the population, and disrupts the level of competition in the market. In 2020 approximately 50% of all alcoholic beverages sold in Ukraine were illicit, resulting in significant tax revenue losses for the government. A 2021 report indicated that around 18.1% of the tobacco market in Ukraine was composed of smuggled or counterfeit products. This illicit market caused an estimated annual tax revenue loss of \$250 million. The experience of Ukraine and Poland in the field of combating excise smuggling can be essential for the development of effective strategies and policies to combat this phenomenon. The aim of the article is to study the ways of countering illegal activities in the sphere of circulation of excise

Анотація

Підакцизні товари, такі як алкогольні напої та тютюнові вироби, є об'єктом масової контрабанди та незаконного обігу. Ця незаконна діяльність призводить до значних втрат бюджету, негативно позначається на здоров'ї населення, порушує рівень конкуренції на ринку. У 2020 році приблизно 50% усіх алкогольних напоїв, які продаються в Україні, були незаконними, що призвело до значних втрат податкових надходжень для уряду. У звіті за 2021 рік зазначено, що близько 18,1% тютюнового ринку в Україні складається з контрабандних або контрафактних виробів. Цей незаконний ринок спричинив втрату податкових надходжень у розмірі близько 250 мільйонів доларів США на рік. Досвід України та Польщі у сфері боротьби з акцизною контрабандою може мати суттєве значення для розробки ефективних

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goods using the example of Ukraine and Poland. The research methodology includes: empirical method, document analysis method, comparison, and case study method. As a result of the study, an analysis of the effectiveness of Ukrainian and Polish legislation on taxation and control over the circulation of excise goods was carried out. The obtained findings can inform policymakers in Ukraine, Poland, and other European countries on how to refine and strengthen their legislation regarding the taxation and control of excised goods. Law enforcement agencies can utilize the research to improve their strategies for detecting and preventing smuggling activities, incorporating best practices identified in the study.

Keywords: excise smuggling, investigation and detection of crimes, tactical approaches, illicit market, tax evasion, custom control.

Introduction

In the conditions of the development of modern society, states face a significant number of challenges, among which the fight against economic organized crime remains one of the critical tasks of all state institutions of each individual state. In the structure of modern economic crime, a special place is occupied by illegal activity in the sphere of circulation of excise goods, because the introduction of such goods into further circulation actively contributes to the shadowing of certain sectors of the economy of Ukraine, and also creates conditions for the development of cross-border organized crime. Due to the formation of criminal markets for the specified goods, individual subjects of economic relations receive excess profits and actually exert controlled influence on individual economic segments of several states at once.

Studying the smuggling of excise goods is crucial in the current context due to its profound economic and social impact:

Economic Impact

1. **Loss of Tax Revenue:** A) **Significant Financial Losses:** Smuggling of excisable goods like alcohol and tobacco results in substantial tax revenue losses for governments. For example, in Ukraine and Poland, these losses run into hundreds of millions of dollars annually. This revenue is crucial for funding public services such as healthcare, education, and infrastructure. B) **Budget Deficits:** Persistent smuggling can lead to budget deficits, forcing governments to either cut public spending or increase other taxes, which can have broader economic repercussions.
2. **Market Distortion:** A) **Unfair Competition:** Smuggled goods often evade taxes, allowing them to be sold at lower prices compared to legally traded goods. This creates an uneven playing field, disadvantaging legitimate businesses that comply with tax laws. B) **Business Closure and Unemployment:** Legitimate businesses may suffer losses or be forced to close due to the unfair competition from illegal goods, leading to job losses and increased unemployment rates.
3. **Investment Deterrence:** **Risk for Investors:** High levels of smuggling and associated corruption can deter foreign and domestic investment. Investors seek stable and predictable markets, and widespread illegal trade can signal instability and regulatory failure.

стратегій та політики боротьби з цим явищем. Метою статті є дослідження шляхів протидії незаконній діяльності у сфері обігу підакцизних товарів на прикладі України та Польщі. Методологія дослідження включає: емпіричний метод, метод аналізу документів, метод порівняння та метод дослідження прикладів. За результатами дослідження проведено аналіз ефективності законодавства України та Польщі з питань оподаткування та контролю за обігом підакцизних товарів. Отримані результати можуть інформувати політиків в Україні, Польщі та інших європейських країнах про те, як вдосконалити та посилити своє законодавство щодо оподаткування та контролю підакцизних товарів. Правоохоронні органи можуть використовувати дослідження для вдосконалення своїх стратегій виявлення та запобігання контрабанді, враховуючи найкращі практики, визначені в дослідженні.

Ключові слова: контрабанда підакцизних товарів, розслідування та виявлення злочинів, тактичні підходи, незаконний ринок, ухилення від сплати податків, митний контроль.

Social Impact

1. **Public Health Risks:** A) **Health Hazards:** Smuggled alcohol and tobacco products are often of lower quality and may contain harmful substances, posing significant health risks to consumers. Illicit alcohol can lead to poisoning and long-term health issues, while counterfeit tobacco can contain higher levels of toxic chemicals. B) **Increased Healthcare Costs:** The consumption of low-quality and harmful products can lead to increased healthcare costs, as more people suffer from related health problems.
2. **Crime and Corruption:** A) **Organized Crime:** Smuggling operations are frequently controlled by organized crime groups. This not only funds further criminal activities but also fosters a culture of lawlessness and violence. B) **Corruption:** Smuggling often involves bribery and corruption, undermining the integrity of law enforcement and customs officials, and eroding public trust in government institutions.
3. **Social Inequality: Economic Disparities:** The profits from smuggling enrich a small group of criminals while depriving the general population of public resources that could be used for social welfare programs. This can exacerbate social inequality and fuel social unrest.

Importance in the Current Context

1. **Economic Recovery Post-Pandemic: Revenue Recovery:** As countries recover from the economic impact of the COVID-19 pandemic, recovering lost tax revenues from smuggling is more critical than ever. This revenue is needed to support economic recovery and fund essential services.
2. **Strengthening Rule of Law: Legal Reforms and Enforcement:** Studying smuggling can lead to stronger legal frameworks and better enforcement mechanisms, which are essential for maintaining the rule of law and public order.
3. **Globalization and Trade: Cross-Border Cooperation:** Smuggling is a transnational issue that requires international cooperation. The experiences of Ukraine and Poland can provide valuable insights for broader regional strategies in combating smuggling, fostering better cooperation among European nations.
4. **Technological Advancements: Modern Detection and Prevention:** Advances in technology can be leveraged to improve detection and prevention of smuggling. Understanding current smuggling trends can guide the implementation of these technologies effectively.

The study of excise goods smuggling is vital due to its extensive economic and social repercussions. Addressing this issue can lead to increased government revenues, healthier populations, more stable economies, and stronger legal institutions. This research is essential for developing effective policies and strategies to mitigate the negative impacts of smuggling on society and the economy.

Thus the object of the study is a system of legal, organizational, economic, and social aspects related to the circulation of excise goods and the fight against smuggling in Ukraine and Poland.

The main tasks of the research are:

1. Study and comparison of the legislation of Ukraine and Poland regarding control over the circulation of excise goods, including taxes, excise duties, customs, and other regulatory mechanisms.
2. Examination of the work of customs, tax services, law enforcement agencies, and other agencies to detect and stop excise smuggling and illegal circulation of goods.
3. Analysis of successful practices and strategies used in Ukraine and Poland to combat smuggling and illegal circulation of excise goods.
4. Study of the impact of excise smuggling and illegal trafficking on the economy and society in both countries, including the loss of budget revenues, public health, and other aspects.
5. Formulation of recommendations for further improvement of legislation, organization of control, and anti-smuggling strategies in Ukraine and Poland.

Specific terms are:

Operational investigative activity: A set of measures and operations aimed at detecting, investigating, and stopping criminal activity by involving specialized units of law enforcement agencies.

Tactical features: Characteristic aspects or methods used in the process of planning and execution of operative-search actions to achieve specific goals or tasks.

Control over the commission of a crime is a system of supervision and measures aimed at preventing, detecting, and stopping criminal activity and its consequences.

Excise goods - goods subject to special taxation (excise duties), usually of high risk for illegal circulation and smuggling, such as alcohol, tobacco products, petroleum products, etc.

Investigation is a process of systematic collection, analysis, and evaluation of evidence and information regarding criminal activity in order to establish the circumstances of the crime and the perpetrators.

Countermeasures are a set of measures and strategies aimed at preventing, stopping, and resisting crime or illegal activity.

Crime is a characteristic of the level or volume of criminal activity in a certain territorial or social group.

Search for information - the activity of collecting and analyzing various data and sources of information to identify signs of crime or illegal activity.

Detection of illegal activity is the process of detection and identification of facts or actions that contradict the law or violate rules and regulations.

The structure of the article is following:

Introduction. The introduction will provide an overview of the issue of smuggling excisable goods, such as alcohol and tobacco, in the European region, particularly focusing on Ukraine and Poland. It will outline the significance of the problem, its economic and social impacts, and the goals of the study.

Theoretical Framework or Literature Review. This section will review existing literature and theoretical perspectives on the smuggling of excisable goods. It will cover key concepts, previous studies, and theoretical models that explain the causes and consequences of smuggling. The review will also highlight gaps in the current literature that the study aims to address.

Methodology. The methodology section will detail the research methods used in the study. It will describe the empirical methods, document analysis, comparison, and case study approaches employed to analyze the legislation, enforcement practices, and statistical data related to excise smuggling in Ukraine and Poland. The section will also explain the rationale behind the choice of these methods.

Results and Discussion. In this section, the findings of the study will be presented and discussed. It will include an analysis of the effectiveness of Ukrainian and Polish legislation on excise goods, the performance of customs, tax services, and law enforcement agencies, and the statistical data on the volume of excise smuggling and its impact. The discussion will compare the two countries, identify successful practices and gaps, and explore opportunities for international cooperation.

Conclusion. The conclusion will summarize the key findings and their practical implications. It will offer recommendations for improving legislation, enforcement, and international collaboration to combat excise smuggling. The conclusion will also reflect on the study's contributions to the field of law and economics and suggest areas for future research.

Theoretical Framework or Literature Review

Firstly, Taracha (2003) examines whether, in the process of lawmaking that governs the operations of Polish special services, the constitutional rights of citizens are upheld. They delve into the operational powers of these services as outlined in relevant legislation, which allows state intervention into the freedoms and rights of citizens in the interest of societal and state well-being. Constitutional provisions, particularly Article 31.3 of the Constitution of April 2, 1997, delineate the scope within which public authorities and other entities may intervene, solely based on legal authorization, to ensure citizen security, public order, environmental protection, health, public morality, and the freedoms and rights of others. The author also discusses the nature of operational powers granted to special services under current law, highlighting their

significance in effectively carrying out their duties, as well as the constitutional and non-statutory frameworks governing potential interference with citizens' rights.

Moreover, Arkusha (2001) considered in his dissertation research the basics of the method of detection and investigation of organized criminal activity in the presence of corrupt connections. The need to reduce the volume of the shadow economy, in particular, in the context of stopping illegal activities in the sphere of alcohol and tobacco circulation, as an important factor of national security, is considered in the article of Kolomoiets, Tsybulnyk, Moroz, Prymachenko, & Khashev (2021). In the article, Miłkowski (2020) examines the extent to which the actions of special services in Poland correspond to the constitutional rights and freedoms of citizens. In addition, the extent to which modern legislation ensures the protection of the rights and freedoms of individuals in the context of the activities of special services is investigated. Specific actions and powers of special services are examined in the context of their impact on the rights and freedoms of individuals. Compliance of actions of special services with constitutional norms and standards is investigated. The conclusions contain recommendations for politicians and legislators to improve the protection of the rights and freedoms of citizens in the context of the activities of special services.

In the study, Łabuz, Kudła, and Safjański (2020) drew attention to the fact that operations of an operational-intelligence nature are currently a very little-known area of secret activity of authorized state services in ensuring the fulfillment of tasks in the field of preventive, intelligence and counter-intelligence measures. In addition, it is remarked that this topic often causes "controversial" discussions regarding the operational activities of special and police services, which undoubtedly have a legal basis for violating the rights and freedoms of citizens.

Additionally, Czyżowicz (2012) assessed the level of illegal trafficking of tobacco products, alcohol, and beer in Poland and its impact on the economy and society, and identified factors that contribute to the spread of illegal trafficking of these goods, such as high taxes, deficiencies in legislation or insufficient control mechanisms.

What is more, Pływaczewski W., & Duda M. (2014) examined illicit tobacco and alcohol trafficking in retrospect, as well as ways to overcome the problem. Currently, Poland occupies a leading position in the production of finished tobacco products in Europe, as the largest global corporations have moved their factories here. 6 out of 31 tobacco factories in Europe are located in Poland. The export of tobacco products is an essential component of the agricultural and food trade balance of Poland. The tobacco industry annually contributes almost 20 billion zlotys to the budget, which is 8% of total state revenues. This is an extraordinary share compared to other EU countries. The work of Duży (2013) describes the types of crime arising as a result of organized crime in the field of taxes and its impact on the economy and society. The causes and factors contributing to the development of organized crime in the field of taxes in Poland have been determined. Moreover, Piątkowska (2018) paid attention to the same topic.

Bilan et al., (2019) also considered the issue of combating offenses in the field of production and circulation of excise goods. Also, Albul (2010) analyzed the organization and tactics of operational procurement and controlled supply. It is concluded that the use of the Internet by criminals in illegal activities, in particular in the illegal distribution of narcotic drugs, today has significant negative consequences. The technical possibilities of using the Internet in the criminal sphere received a positive assessment from drug dealers, as it enables them to contact accomplices in any part of the country while maintaining the anonymity of users. Unlike cellular communications, computers and laptops cannot always be tracked or located, making it difficult to identify users and locate their devices. This greatly facilitates the implementation of criminal actions and the use of such means of communication in the criminal sphere. Identifying and stopping the mass distribution of drugs via the Internet and electronic payment systems, which are increasingly used by criminals, is one of the priority tasks of the National Police of Ukraine in the fight against illegal drug trafficking. Lepskyi (2014) reviewed the foreign experience of using financial investigations in law enforcement activities. Kolomoiets, Kolpakov, Kushnir, Makarenkov, & Halitsyna (2020) investigated the problems of corrupt activities of public officials in Ukraine, in particular, in the context of combating illegal activities in the sphere of circulation of excise goods. Further, Bernadin (2019) analyzed the foreign experience of combating offenses in the sphere of circulation of excise goods. In the opinion of the author, it is significant to note that only the useful work of authorized entities in combating offenses in the sphere of circulation of excise goods, in the absence of an independent, objective, and fair judicial process, will not allow to ensure the economic security of the state and attract foreign investments to the country. The development of the domestic industrial and agricultural sectors is possible only on the condition of

attracting large foreign investments that have the opportunity to protect their rights and freedoms, including invested capital in the sphere of circulation of excise goods. Therefore, it is advisable to combine security sector reform with corresponding changes in the judicial system, so that law enforcement activities and justice are carried out following and within the limits of the law.

The study of ways to combat illegal activity in the sphere of circulation of excise goods, in particular, based on the experience of Ukraine and Poland, reflects current trends in the scientific research of the following aspects:

Expansion of international cooperation in the field of combating smuggling and illegal circulation of excise goods, which is reflected in studies of the Polish and Ukrainian experience.

Application of a multidisciplinary approach to the analysis of the problem, which includes legal, economic, sociological, and criminological aspects.

Evaluation of the effectiveness of measures and strategies to combat smuggling and illegal circulation of excise goods in practice with the aim of improving legislation and policy.

Using modern research methods, such as big data analysis, artificial intelligence, geospatial analysis, and others, to gain a deeper understanding of the problem.

Consideration of adapting strategies and countermeasures to new challenges such as cross-border cybercrime and other modern threats.

These trends reflect the growing complexity and urgency of the problem of smuggling and illegal circulation of excise goods and show the need for constant updating and improvement of counteraction strategies.

The existing literature on the smuggling of excisable goods in Poland and Ukraine presents a rich, albeit complex, picture of the legal, economic, and social dimensions of this issue. The following critical analysis identifies key debates, controversies, and areas for improvement.

Debates and Controversies

1. Constitutional Rights vs. State Intervention:

Debate: A significant debate in the literature concerns the balance between the operational powers of state services and the protection of constitutional rights. Taracha (2003) and Miłkowski (2020) explore the extent to which these services can intervene in citizens' freedoms for state security and public order, raising questions about the potential overreach of state power and the erosion of civil liberties.

Controversy: The controversy centers on whether the current legal frameworks sufficiently safeguard citizens' rights while enabling effective state intervention. Critics argue that there is a thin line between necessary security measures and the infringement of personal freedoms, which can lead to abuse of power by state agencies.

2. Effectiveness of Legislation and Enforcement:

Debate: The effectiveness of current legislation and enforcement mechanisms is another contentious area. Authors like Arkusha (2001) and Łabuz, Kudła, and Safjański (2020) discuss the complexities and often the inadequacies of existing legal and operational frameworks in tackling organized crime and smuggling.

Controversy: Discrepancies in enforcement and the challenges of modernizing legal frameworks to address new forms of smuggling, such as through cyberspace, highlight the ongoing struggle between evolving criminal tactics and static legal systems.

3. Economic Impact of Smuggling:

Debate: The economic ramifications of smuggling are thoroughly examined, with Czyżowicz (2012) and Pływaczewski and Duda (2014) detailing the substantial financial losses due to illicit trade in tobacco and alcohol. They highlight the paradox of Poland being a major tobacco producer yet struggling with high levels of illegal trade.

Controversy: There is a debate over the root causes of smuggling, such as high taxes and insufficient control mechanisms, and whether policy adjustments, like tax reductions or improved regulatory oversight, would more effectively curb illegal trade.

Areas for Improvement

4. Integrating Constitutional Safeguards with Operational Needs:

Improvement Needed: There is a need to develop frameworks that balance the operational requirements of state services with robust constitutional safeguards. Studies by Taracha (2003) and Miłkowski (2020) suggest that while state intervention is necessary, it must be tightly regulated to prevent rights abuses.

5. Enhanced Legal and Enforcement Mechanisms:

Improvement Needed: Arkusha (2001) and Łabuz et al. (2020) highlight the necessity for enhanced legal mechanisms and enforcement strategies that can adapt to modern criminal tactics. This includes better coordination among law enforcement agencies and the adoption of advanced technologies for surveillance and data analysis.

6. Economic Policy Reforms:

Improvement Needed: Addressing the economic incentives for smuggling, as discussed by Czyżowicz (2012) and Pływaczewski and Duda (2014), requires comprehensive policy reforms. These could include adjusting excise taxes to reduce the profitability of smuggling and strengthening regulatory frameworks to close legislative loopholes.

7. Technological Adaptation and Innovation:

Improvement Needed: The rapid advancement of technology necessitates corresponding innovations in smuggling countermeasures. Bilan et al., (2019) and Albul (2010) emphasize the importance of leveraging big data, artificial intelligence, and geospatial analysis to better understand and combat smuggling operations.

8. International Cooperation:

Improvement Needed: As smuggling often transcends national borders, expanding international cooperation is crucial. Studies reflect a growing recognition of the need for collaborative efforts between countries, as noted in the Polish and Ukrainian experiences, to effectively address the transnational nature of smuggling.

9. Multidisciplinary Approach:

Improvement Needed: Adopting a multidisciplinary approach that encompasses legal, economic, sociological, and criminological perspectives can provide a more holistic understanding of smuggling and inform more effective policies and interventions.

In summary, the literature reveals significant debates and controversies surrounding the balance between state intervention and constitutional rights, the effectiveness of existing legal frameworks, and the economic impact of smuggling. There is a clear need for improved legal mechanisms, policy reforms, technological innovations, and international cooperation to address the complexities of smuggling in the modern context. This critical analysis underscores the urgency of continuously updating strategies to effectively combat the illegal circulation of excise goods.

Methodology

Methodology: Data Collection and Analysis

Empirical Method

Data Collection: The empirical method involved gathering data on specific instances and facts related to illegal activities in the sphere of circulation of excise goods in Ukraine and Poland. This included detailed examination of operational and investigative activities carried out by law enforcement agencies.

Data Analysis: Analysis focused on identifying patterns and peculiarities in the activities of smuggling groups. This included examining the methods used for smuggling, the routes commonly taken, and the types of excise goods most frequently trafficked. The time period considered was from 2015 to 2023, capturing recent trends and developments in smuggling activities.

Document Analysis Method

Data Collection: Legislative acts, reports from customs and tax services, and other relevant documents were collected from government databases, official publications, and regulatory bodies in both Ukraine and Poland. Key sources included:

- National legislation on excise duties and anti-smuggling measures.
- Annual reports from customs and tax authorities.
- Government resolutions and regulatory acts.
- International agreements and cooperation frameworks.

Data Analysis: The analysis involved a detailed review of these documents to understand the legal and organizational foundations of the fight against excise smuggling. By examining laws, regulations, and enforcement policies, the research aimed to identify strengths and weaknesses in the existing legal frameworks. The documents provided objective information about the scope of excise duty smuggling and the effectiveness of current countermeasures.

Comparison

Data Collection: Comparative data were collected on the legislation, organization of control, and effectiveness of anti-smuggling efforts in Ukraine and Poland. This involved:

- Legislative texts and amendments in both countries.
- Organizational charts and functional descriptions of customs and tax authorities.
- Statistical data on smuggling cases, confiscated goods, and arrested individuals.

Data Analysis: The comparative analysis involved side-by-side evaluation of the collected data to identify similarities and differences in legal approaches, enforcement strategies, and organizational structures. The comparison highlighted best practices and areas where one country might benefit from adopting strategies used by the other. This included comparing:

- The scope and stringency of legal provisions.
- Effectiveness and efficiency of enforcement mechanisms.
- International cooperation and information-sharing practices.
- Public awareness and prevention campaigns.

Case Study Method

Data Collection: Specific cases of combating excise duty smuggling were studied in various regions of Ukraine and Poland. These case studies were selected based on their representativeness and the availability of detailed information. Sources included:

- Case reports from law enforcement agencies.

- Court records and legal proceedings.
- Interviews with key stakeholders involved in anti-smuggling operations.

Data Analysis: Each case study was analyzed to understand the specific challenges faced and the strategies employed to combat smuggling. The analysis focused on:

- The operational tactics used in successful anti-smuggling operations.
- The legal and logistical hurdles encountered.
- The outcomes of these operations, including the prosecution and sentencing of offenders.
- Lessons learned and recommendations for future efforts.

Time Period Considered

The study focused on data and developments from 2015 to 2023. This period was chosen to ensure the inclusion of recent trends, legislative changes, and technological advancements in smuggling and anti-smuggling efforts.

Information Sources

Key sources of information included:

- National legislation and regulatory frameworks from government databases.
- Annual and special reports from customs, tax authorities, and law enforcement agencies.
- Publications and research reports from academic and policy institutions.
- Interviews with officials and experts in the field.
- Statistical databases providing data on smuggling incidents and enforcement outcomes.

By utilizing these methods, the study aimed to provide a comprehensive and nuanced understanding of the problem of excise smuggling in Ukraine and Poland, leading to informed recommendations for improving control measures and combating this illegal activity effectively.

Limitations of the Study

Incomplete Data:

Data Gaps: The study relies on available reports and official documents, which may not capture all instances of excise smuggling. Unreported cases and discrepancies in record-keeping could lead to an incomplete picture of the extent and nature of smuggling activities.

Reliability and Accuracy: The accuracy of data from different sources can vary, and there may be inconsistencies or biases in the reporting of smuggling incidents and enforcement outcomes.

Comparative Challenges:

Different Legal Systems: Ukraine and Poland have distinct legal systems and regulatory frameworks, making direct comparisons challenging. Differences in legal definitions, enforcement practices, and judicial processes can complicate the analysis.

Contextual Variations: Economic, social, and political contexts differ between the two countries, which may influence the effectiveness of anti-smuggling measures and the applicability of certain strategies.

Scope of Analysis:

Focus on Selected Years: The study focuses on data from 2015 to 2023, which might not fully reflect long-term trends or historical developments in excise smuggling.

Case Study Limitations: While case studies provide detailed insights, they may not be representative of the broader situation. The selected cases might highlight specific issues or successful strategies that are not universally applicable.

Operational Secrecy:

Limited Access to Sensitive Information: Some aspects of law enforcement operations and investigative tactics are classified, limiting the depth of analysis on operational methods and strategies used in combating smuggling.

Technological and Methodological Constraints:

Evolving Smuggling Techniques: As smuggling methods evolve with technological advancements, the study may not fully capture the latest tactics and trends. Rapid changes in smuggling techniques can outpace the ability to analyze and respond effectively.

Methodological Limitations: The use of empirical, document analysis, comparison, and case study methods, while comprehensive, may still miss certain nuances and dynamic aspects of smuggling activities and enforcement measures.

Recognizing these limitations helps to frame the findings and recommendations of the study within a realistic context, acknowledging the complexity and ongoing challenges in effectively combating excise smuggling.

Results and Discussion

Alternative dispute resolution (hereinafter ADR) is a group of processes by which disputes and conflicts are resolved without recourse to the formal judicial system.

According to the statistics of the General Prosecutor's Office of Ukraine in 2015, 523 criminal offenses were registered and opened on the grounds of Art. 204 of the Criminal Code of Ukraine ("Illegal manufacture, storage, sale or transportation for the purpose of sale of excise goods"), for 2016 - 674; for 2017 - 500; for 2018 - 574; for 2019 - 562; for 2020 - 615; for 2021 - 721, for 2022 - 546, for 2023 - 369 offenses, respectively (Office of the General Prosecutor of Ukraine, 2023). Such information confirms the consistently high level of crime in this area, but does not allow us to draw conclusions about the real level and structure of illegal activity in the field of circulation of excise goods, the state of accounting for such criminal offenses. In this sense, the official information of the State Customs Service of Ukraine regarding the number of excise goods that were detained while moving across the state border of Ukraine looks useful. As a reference point, we choose information on the control of the movement of goods on the Ukrainian-Polish section of the border, because long-term bilateral cooperation at the level of a strategic partnership between Ukraine and the Republic of Poland, as well as a sufficiently large length of the Ukraine-Poland land border (542.39 km) ensures a large flow of goods precisely through the Ukrainian-Polish section of the border. Thus, the analysis of the indicated data makes it possible to assert the following:

- 1) Four groups of excise goods are currently registered in the State Border Service of Ukraine, in particular: cigarettes, alcohol, amber, and motor vehicles;
- 2) In 2021, compared to 2020, a slight trend was observed in Ukraine regarding a decrease in the number of cigarettes and alcohol detained together at the entry and exit (by 12% of cigarettes and 18% of alcohol, respectively) and an increase in the number of ambers detained at the border (by 80 % together at the entrance and exit);
- 3) In 2022, all indicators of the effectiveness of the State Border Service of Ukraine in relation to the investigated type of crime decreased significantly: the number of excise goods that were detained on the Ukrainian-Polish border decreased by more than 90%, in particular, compared to 2021, they were detained by 88% less alcohol, 98% of cigarettes, 78% of vehicles. A parallel analysis of the performance indicators of the General Prosecutor's Office of Ukraine also indicates a decrease in the number of criminal proceedings recorded in the reporting period (by 18% compared to 2021).

This state of modern reporting can be explained by a change in the focus of law enforcement agencies in Ukraine. After all, starting from February 24, 2022, due to the war in Ukraine, the activities of law enforcement officers are essentially focused on detecting crimes related to subversive groups of terrorists and/or facilitators and collaborators. Even the National Anti-Corruption Bureau of Ukraine, which used to deal only with corrupt officials, now cooperates with the Security Service of Ukraine. The maximum concentration of the efforts of Ukrainian law enforcement officers on the process of minimizing the negative consequences of the war naturally reduced the actualization of countering illegal activities in the sphere of circulation of excise goods both in general and on the Ukrainian-Polish border section.

However, several problematic issues regarding countering the specified criminal manifestations still need to be resolved. In the official statistical data of the Border Service (Border Guard) of the Republic of Poland, it is remarked that the total value of goods sent criminally through the Ukrainian-Polish section of state control in the first half of 2022 compared to the same period in 2021 decreased by only 18%, while five categories of excise goods are accounted for, in particular: transport, cigarettes, alcohol, tobacco and the category "other excise goods". Also, compared to the first half of 2021, in 2022, the number of vehicles involved in the transportation of so-called "criminal goods detected by the Border Service" increased by 65%.

Etymologically, the category "counteraction" is understood as an action that prevents another action. In Ukraine, combating the criminal environment begins at the stage of preparation and commission of crimes, is carried out during the investigation, court proceedings continue in the conditions of criminal enforcement institutions: the employee of the operative unit has as his immediate task the search and recording of factual data about criminal offenses, as well as in their interests criminal justice; the investigator – carrying out a pre-trial investigation during which he seeks to establish hidden facts and circumstances about criminal offenses and to overcome resistance from persons disinterested in the successful investigation of the case.

Representatives of the Polish criminological community in the context of combating criminal activity write about search (operational) and counter-search activities, understanding the latter concept as additional activities of criminals accompanying the crime, the meaning of which is reduced to the creation of various obstacles to a possible investigation, about an organized criminal group as measures carried out by it, to ensure the safety of its participants and conduct effectual criminal activities (Łabuz, Chlebowicz & Safjański, 2021). Operational activity is carried out using methods that, according to A. Taracha constitutes a set of measures of state bodies, which are carried out secretly or confidentially, based on the law and perform an informational, investigative, preventive, and evidential function (Taracha, 2003). Therefore, the meaning of the term "counteraction to illegal activity" used by Ukrainian scientists is close to the meaning of "operational (investigative) activity" used by criminologists in Poland.

States, in general, with the aim of combating crime, carry out a number of measures in various areas of activity, in particular: detection, termination (documentation), investigation of criminal offenses; in general, the prevention of crimes by criminal prosecution of the persons who committed them and the application of criminal-legal measures to them, and in particular, the improvement of departmental and interdepartmental cooperation regarding specific types of criminal activity.

Therefore, we set a goal: to determine the ways of countering illegal activity in the sphere of circulation of excise goods through the study of structural and functional aspects of the organization of such countermeasures in Ukraine and Poland, as well as tactical issues of detection (documentation) of the specified criminal activity in the practice of law enforcement agencies of the specified countries.

In Poland, criminal liability for crimes committed in the sphere of circulation of excise goods is provided for in Art. Art. 63 – 73 of the Fiscal Criminal Code (Law No. 2427, 2021). Excise duty is an indirect tax levied on consumer goods characterized by low production cost and high market value, primarily on goods with a high degree of profit accumulation or luxury goods. Compared to Ukraine, where criminal liability for all illegal actions in the sphere of circulation of excise goods is provided only by Art. 204 of the Criminal Code of Ukraine, the list of such crimes in Poland is very wide, in particular, there are the following types of criminal offenses: turnover without excise stamps; violation of conditions for export of excise goods; acquisition, storage, transportation, forwarding or transfer in another way of excise goods, which are the subject of a prohibited act, or facilitates their sale, or accepts or helps to hide excise goods; imperfect labeling of products, falsification of excise stamps; non-compliance with the obligation to mark excise goods with legalized excise stamps; illegal activities directly related to the production, import or trade of

excisable goods, as well as their marking with excise stamps, movement of excisable goods in any way without documents and conditions established by law, and other warehouses. According to Chapter 14 of the Fiscal Criminal Code, preparatory proceedings for such crimes are conducted by a wide range of law enforcement agencies, in particular customs and financial authorities, the Border Guard (if according to Article 1 of the Law on the Border Guard Service (Law No. 1855D, 2022), the Service was the first competent body that initiated proceedings).

Based on the content of the relevant laws, the specified subjects carry out police activities. The leading forms of its implementation for the prevention, detection, and identification of persons who have committed crimes, as well as obtaining and recording evidence are intelligence activities and operational control.

Operative intelligence activity is regulated by Art. 19a of the Law of Poland on the Police, in which it is determined in particular that such activity may consist of the clandestine acquisition, sale, or removal of objects obtained by crime, removed from civilian circulation, or in the manufacture, storage, transportation or transportation of objects, the trade of which is prohibited, and also when receiving or providing a financial benefit (Law No. 1855D, 2022). Operational control is an exceptional measure, on the one hand, it is initiated through the prosecutor in conditions when other measures have proven ineffective or useless (Article 9e of the Law of Poland on the Border Guard Service (Law No. 1855D, 2022), on the other - if in as a result of its conduct, evidence was obtained of the commission of a crime by a person subject to operational control, other than an offense for which an order of operational control is prescribed, or a crime prosecuted by the office, or a financial offense committed by a person other than the one covered by the resolution on operational control, the prosecutor decides on the use of this evidence in criminal proceedings (Article 168 b of the Polish Criminal Procedure Code (Law No. 4651-VI, 2013).

- 1) Receiving and recording the content of conversations conducted using technical means, including telecommunications networks;
- 2) Receiving and recording the image or sound of people from premises, vehicles, or other places, except for public ones;
- 3) Receiving and recording the content of correspondence, including correspondence conducted using electronic communication;
- 4) Receiving and recording data contained on IT data carriers, telecommunication terminal devices, IT and teleinformation systems, and;
- 5) Obtaining access and control of the contents of shipments.

In Ukraine, the processing of practical materials by law enforcement agencies shows that an essential tool in the process of countering the illegal activities of organized criminal groups (including those with corruption connections), in the field of circulation of excise goods, is such an undisclosed investigative (research) action as control over the commission of a crime. Following the provisions of Art. 271 of the Criminal Procedure Code of Ukraine, control over the commission of a crime may be carried out in cases where there are sufficient grounds to believe that a serious or particularly serious crime is being prepared or committed, and is carried out in the following forms:

- 1) Controlled delivery;
- 2) Controlled and operational procurement;
- 3) A special investigative experiment, and;
- 4) Simulating the circumstances of the crime (Law No. 4651-VI, 2013).

Control over the commission of a crime is understood as a deliberate complex of various confidential measures of law enforcement agencies, coordinated in terms of time and content, in the form of verification of information about the preparation or commission of a socially dangerous act by a specific person (group of persons), to detect, uncover, preventing a crime, prevention of its harmful consequences, identification of accomplices and recording of illegal activities of specific persons. The analysis of the legal framework in force in Ukraine shows that controlled procurement as a form of control over the commission of crimes makes it possible to identify individuals and criminal groups engaged in illegal activities in the field of excise goods. So, in essence, controlled procurement in Ukraine is analogous to operational intelligence activities of law enforcement officers in Poland, but does not coincide in content with the concept of "operational control".

In the writings of modern scientists - specialists in Poland and Ukraine in the field of criminal procedure, criminology, and operational-investigative activities, the topics of controlled procurement or operational-intelligence activities have a certain elaboration, but from the point of view of concepts, general foundations, general organizational and tactical aspects (Arkusha, 2001; Miłkowski, 2020; Łabuz, Kudła, & Safjański, 2020). Direct attention is not paid to the issue of controlled procurement as a form of control over the commission of a crime in the sphere of circulation of excise goods. In Ukraine, the issue of using the results of operational investigative activities in the process of proof was raised fragmentarily, but they used the normative acts in force at that time, without taking into account the specifics of such an undercover investigative action as control over the commission of a crime.

To tactically compare controlled procurement with operational intelligence activities implemented in Poland, it is necessary to raise the issue of structural and functional restructuring of operational units in general and the National Police of Ukraine in particular. As a result of the adoption of the Criminal Procedure Code of Ukraine in 2012, the offensive function of operative units in combating economic crime is limited, while the subjects of investigative activity have received a significant number of new functions that were not inherent to them before, in particular, in the part of conducting covert investigative (search) actions. The tactical features of undercover investigative (search) actions remain unknown to many of the investigators because undercover investigative (search) actions continue to be entrusted to operative units. But at the same time, the investigators lose the opportunity to directly perceive the entire set of factual data obtained during the investigation, and the employees of the operative units essentially act as executors, not acting directly to counter the crimes provided for in Art. 204 of the Criminal Code of Ukraine (Law No. 2135-XII, 1992).

In our opinion, for such operational activity in Poland or controlled procurement in Ukraine to have an effective impact on combating the investigated type of crime, they cannot be considered a single measure or a separate action. Etymologically, the concept of "action" implies any single action (Savchenko, 1999). In turn, they represent a complex of tactical content actions, coordinated in terms of time and content, using the capabilities of various subjects. That is why the wording "activity" used in Poland is considered by us to be a good one for indicating the essence of the analyzed countermeasure.

As a result of the analysis of the practice of combating such crimes, we will determine the general theoretical provisions regarding the constituent elements of controlled procurement (which is essentially one of the forms of operational intelligence activity in Poland) regarding the crime related to the field of excise goods:

1. The object of control is social relations, the protection of which is carried out using control over the commission of crimes related to the sale of excise goods. The subject of controlled procurement is ethyl alcohol and other alcohol distillates, alcoholic beverages, beer; tobacco products, tobacco, and industrial tobacco substitutes; petroleum products, liquefied gas; passenger cars, their bodies, trailers and semi-trailers, motorcycles; other instruments of crime or equipment for their production. Let's emphasize that in Poland today, various types of liquid fuel are the most common subject (Duży, 2013); in Ukraine - amber, and alcohol. The entire list of subjects of controlled procurement as a form of control over the commission of crimes related to the illegal sale of excise goods can be expanded, taking into account the legislation of the states.
2. The objective side is actions to control illegal sales, transportation, and other actions about excise goods. The methods and forms of its implementation, the specifics of the use of operational and technical means, and the place, time, and duration are determined by the nature of the excise goods. So, for example, illegal activity with liquid fuel manifests itself in several offenses: non-payment of excise duty, fictitious entrepreneurship (involvement in a pole company agreement), falsification of documents to reduce income or increase expenses, legalization (laundering) of income (Piątkowska, 2018). In Ukraine, the term "technology of criminal activity" is used in this sense. Therefore, control over illegal activity in the sphere of circulation of excise goods in the sense of operational activity can counteract other criminal manifestations at the same time.
3. Subjects are a prosecutor, an investigator, or a unit authorized for operational intelligence activities, persons who cooperate with law enforcement agencies on a confidential basis or contribute to procedural or operational activities. Let's detail some points.

In Ukraine, all operational units can be classified into the following groups: the first are units that carry out operational and investigative activities in full, have the right to carry out covert work, organize and conduct

various operational and investigative activities; the second - subdivisions that carry out certain types of operational-search and operational-technical measures at the request of other subdivisions. According to the Law of Ukraine "On operational and investigative activity", operational units of the Security Service of Ukraine can carry out controlled procurement; the Foreign Intelligence Service of Ukraine; The State Border Service of Ukraine (in particular, the intelligence body of the specially authorized central body of the executive power in matters of state border protection, operative, and search units, respectively, of the specially authorized central body of executive power in matters of state border protection and its territorial bodies, state border protection units of state border protection bodies and Maritime Guard, ensuring internal security, ensuring own security, operational documentation and operational-technical units); Department of State Security; bodies of the state tax service; bodies and institutions of the State Penitentiary Service of Ukraine (Law No. 2135-XII, 1992). The investigator will entrust the implementation of controlled procurement to specified services.

In Poland, as already mentioned above, there is also a wide range of law enforcement agencies that have a police function, but not all of them have the right to carry out operational intelligence activities, in particular, this applies to the Customs Service. Based on the content of Art. 2 of the Law on the Customs Service, the latter has no right to exercise it (Law No. 168, 2009). The police's direction of its activities forms control over compliance with customs legislation and other normative legal acts related to the import and export of goods, as well as the use of analytical work methods by employees of this service. Thus, according to Petr Hlebovych, strategic criminal analysis solves the long-term goals of combating tobacco crime, its essence comes down to predicting the development of such crime and developing new directions in the fight against it (Pływaczewski, & Duda, 2014).

4. The subjective side of controlled procurement is the motives, grounds for implementation, and tasks. As a result of familiarization with special literature, it is possible to determine the following tactical tasks of controlled procurement, which is precisely what is implemented in the plan of countering illegal activities in the sphere of circulation of excise goods:
 - Establishment of channels for the illegal sale of excise goods;
 - Identification of points of manufacture, storage, sale, or transportation of excise goods;
 - Identification of the person who purchases the goods and the person who sells them;
 - The possibility of using the received information in the interests of prevention, detection, and investigation of criminal offenses;
 - Establishment of corrupt connections of criminals who facilitate the illegal sale of excise goods;
 - Exposing persons who prepare or have committed criminal offenses related to the illegal manufacture, storage, sale, or transportation for sale of excise goods, and;
 - Establishment of reasons and conditions contributing to the commission of criminal offenses related to the illegal manufacture, storage, sale, or transportation for sale of excise goods.

Particular attention should be paid to the establishment of corrupt connections of criminals, which contribute to the illegal sale of excise goods. After all, this affects the difficulty of detecting illegal transport and distribution networks of alcohol and tobacco products, the latter are well organized and protected, with information provided (Czyżowicz, 2012).

Implications of Findings for Policy and Practice

Policy Enhancements:

- **Strengthening Legislative Frameworks:** The study reveals differences in legal approaches to combating excise smuggling in Ukraine and Poland. Ukraine could benefit from expanding its legal provisions to cover a wider range of offenses related to excise goods, similar to Poland's comprehensive Fiscal Criminal Code.
- **Harmonizing Laws:** Given the cross-border nature of excise smuggling, harmonizing legal definitions and penalties for smuggling-related crimes between Ukraine and Poland could enhance bilateral enforcement efforts.
- **Enhancing Operational Collaboration:** The findings suggest a need for deeper operational cooperation between Ukraine and Poland. This includes joint operations, shared intelligence, and synchronized enforcement strategies to better combat smuggling across their common border.

Improvement Strategies:

- **Integrated Border Management:** Implementing advanced technological solutions for border control (e.g., automated scanning, real-time data sharing) can improve the detection and interdiction of smuggled excise goods.
- **Training and Capacity Building:** Continuous training programs for law enforcement and customs officers on new smuggling techniques, investigative methods, and use of technology can enhance the overall effectiveness of anti-smuggling operations.
- **Public Awareness Campaigns:** Educating the public about the consequences of purchasing smuggled goods and encouraging reporting of suspicious activities can reduce demand for illicit products and support enforcement efforts.

Practical Solutions:

- **Use of ADR in Customs Disputes:** Implementing Alternative Dispute Resolution (ADR) mechanisms can streamline the resolution of disputes related to excise goods. This can reduce the burden on formal judicial systems and expedite the handling of smuggling cases.
- **Enhanced Intelligence Operations:** Strengthening undercover operations and surveillance (e.g., controlled deliveries, operational purchases) can disrupt smuggling networks. Both Ukraine and Poland should consider investing in covert investigation techniques and technologies.
- **Data Analytics and Risk Management:** Utilizing data analytics to identify smuggling patterns and high-risk shipments can focus resources on critical areas. Risk management frameworks can help prioritize enforcement efforts based on the likelihood of smuggling activities.

Addressing Limitations and Improving Data Collection

Complete and Reliable Data:

- **Unified Reporting Systems:** Developing a unified reporting system for recording and sharing data on smuggling incidents and enforcement actions between Ukraine and Poland can improve data accuracy and completeness.
- **Regular Audits and Reviews:** Conducting regular audits of data collection practices and implementing standardized reporting protocols can enhance the reliability of smuggling-related statistics.

Comparative Legal and Control Systems:

- **Legal Harmonization Workshops:** Organizing workshops and conferences where legal and enforcement experts from both countries can discuss harmonization of laws and best practices in combating excise smuggling.
- **Joint Training Programs:** Developing joint training programs focusing on the differences and similarities in legal frameworks and enforcement practices can facilitate better cooperation and understanding between Ukrainian and Polish law enforcement agencies.

Specific Improvement Strategies

Strengthening Operational Units:

- **Structural and Functional Restructuring:** Revisiting the organizational structure of operational units in Ukraine to enhance their capability in combating economic crimes, including smuggling. This includes empowering investigative units with broader functions and integrating operational control within their mandates.
- **Tactical Coordination:** Establishing clear protocols for tactical coordination between operational and investigative units to ensure seamless execution of anti-smuggling operations.

Corruption Prevention:

- **Anti-Corruption Measures:** Implementing stringent anti-corruption measures within law enforcement agencies to prevent the collusion of officers with smugglers. Regular integrity testing and lifestyle audits can deter corruption.
- **Whistleblower Protection:** Creating robust whistleblower protection programs to encourage reporting of corrupt activities within law enforcement and customs agencies.

Community Engagement:

- **Public-Private Partnerships:** Engaging with private sector stakeholders (e.g., logistics companies, retailers) to develop collaborative strategies for identifying and reporting suspicious activities related to excise goods.
- **Public Information Campaigns:** Launching public information campaigns to educate consumers about the risks associated with buying smuggled goods and the legal consequences of involvement in smuggling activities.

The findings of this study highlight the need for a multifaceted approach to counter excise smuggling, combining legislative enhancements, operational improvements, and community engagement. By addressing the identified limitations and implementing the suggested strategies, both Ukraine and Poland can strengthen their efforts to combat illegal activities in the circulation of excise goods.

Conclusions

Based on the research questions and objectives outlined in the introduction, the following conclusions can be drawn from the study:

Operational and Investigative Activity as a Central Strategy: The research confirms that operational and investigative activity plays a pivotal role in combating illegal activities in the sphere of excise goods circulation in both Ukraine and Poland. In Ukraine, this is primarily manifested through controlled procurement as a form of covert investigative (search) action, while in Poland, it is executed through operative intelligence activities. This structural and functional approach underscores the importance of such activities in effectively countering these offenses.

Organizational Differences and Functional Assignments: The study reveals a significant organizational difference between Ukraine and Poland. In Ukraine, the responsibility for countering illegal activities related to excise goods is predominantly assigned to investigators, which appears unjustifiable given the complexity and specialized nature of these offenses. In contrast, Poland assigns these functions to operational (police) units, which are better equipped to handle operative intelligence activities and other related tasks, such as monitoring compliance with customs legislation and conducting strategic criminal analysis. This distinction highlights a potential area for improvement in Ukraine's approach.

Systematic and Planned Activities over Single Acts: The research emphasizes that control over the commission of a crime should be viewed as a systematic and planned activity rather than a series of isolated investigative (search) actions. This systematic approach involves coordinated efforts by various law enforcement entities, thereby enhancing the effectiveness and comprehensiveness of countermeasures against illegal activities involving excise goods.

Material Objects as Controlled Procurement Targets: The study identifies that the objects of controlled procurement in combating crimes related to the illegal sale of excise goods are material objects, which can be classified based on the mode of circulation. These include items and substances whose sale is either restricted or prohibited. This classification is crucial for tailoring specific tactical approaches to different types of excise goods.

Comprehensive Tactical Tasks: Controlled procurement encompasses a wide range of tactical tasks essential for combating the illegal sale of excise goods. These tasks extend beyond the mere detection and apprehension of individuals involved in such activities. They include the identification of illegal manufacturing, storage, and transportation channels, the seizure of illicit goods, the withdrawal of

criminally acquired funds, and the thorough documentation and recording of evidentiary information. This comprehensive approach ensures that all aspects of the illegal activities are addressed.

Policy and Practice Implications

Reassignment of Functions in Ukraine: The findings suggest that Ukraine should consider reassigning the function of combating illegal excise goods activities from investigators to operational units. This shift would align Ukraine's practices with those of Poland, potentially leading to more specialized and effective countermeasures.

Enhancing Systematic Planning: Both Ukraine and Poland should emphasize the importance of systematic and planned activities over isolated actions. This involves better coordination among various law enforcement agencies and the integration of diverse tactical approaches to ensure a holistic strategy in combating illegal excise goods activities.

Expanding Controlled Procurement Tasks: Law enforcement agencies should broaden the scope of controlled procurement tasks to include not only the detection and detention of individuals but also the dismantling of entire networks involved in the illegal manufacture, storage, sale, and transportation of excise goods. This comprehensive approach will help in addressing the root causes and broader mechanisms of such illegal activities.

Training and Capacity Building: There is a need for enhanced training and capacity building for law enforcement personnel involved in combating illegal excise goods activities. This includes specialized training in operative intelligence activities, strategic criminal analysis, and the use of advanced technological tools for monitoring and control.

Future Research Directions

Further scientific research should focus on evaluating the effectiveness of the measures and policies implemented to combat smuggling in Ukraine and Poland. This includes assessing the impact of reassigning functions to operational units, the efficiency of systematic and planned activities, and the overall effectiveness of controlled procurement tasks in disrupting illegal excise goods networks. Such research will provide valuable insights for continuous improvement in policies and practices aimed at combating illegal activities in the excise goods sector.

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