

## Measures to combat smuggling and corruption in the customs clearance of commercial goods in Ukraine

Заходи боротьби з контрабандою та корупцією при митному оформленні комерційних товарів в Україні

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### Abstract

The article deals with an important and relevant issue – measures to combat smuggling and corruption during customs clearance of commercial goods in Ukraine. The authors analyze the scientific doctrine regarding the nature and level of influence of smuggling and corruption on the state budget and the level of economic growth in Ukraine.

It has been found out that scientists who choose different definitions and forms were unanimous about the negative nature and level of harmful influence of these phenomena on the economy of Ukraine.

Various methods were used in the article: dogmatic, formal legal, and system-structural. It is proposed to analyze the main measures necessary to overcome smuggling and corruption in the customs clearance of commercial goods in Ukraine.

First, the implementation of the principle of transparency in the activities of customs during the customs clearance of commercial goods.

### Анотація

Стаття присвячена важливій та актуальній темі – заходам щодо протидії контрабанді та корупції під час митного оформлення товарів комерційного призначення в Україні. Автори аналізують позицію наукової доктрини щодо сутності та рівня впливу контрабанди та корупції на наповнення державного бюджету та рівень економічного зростання в Україні.

З'ясовано, що є вчені обираючи різні дефініції та форми все ж однотайні щодо негативного характеру та рівня згубного впливу цих явищ на економіку України.

У статті використовувалися різні методи. Наприклад, догматичний, формально-юридичний та системно-структурний.

Пропонується проаналізувати основні заходи, що є необхідними для подолання контрабанди та корупції під час митного оформлення товарів комерційного призначення в Україні.

По-перше, реалізація принципу гласності у діяльності митниці під час здійснення митного оформлення товарів комерційного призначення. По-друге, оновлення

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Second, updating the qualification requirements for positions in this service and the procedure for competitive selection.

Third, criminalizing the smuggling of commercial goods.

Fourth, establishing coordination of law enforcement and regulatory agencies of Ukraine with the relevant authorities of neighboring countries.

Fifth, expanding the powers of the State Customs Service of Ukraine to investigate the smuggling of commercial goods

It is concluded that it is necessary and important to develop and introduce specific, rather than declarative, measures to counteract smuggling and corruption in the customs clearance of commercial goods in Ukraine.

**Key Words:** commercial goods, corruption, customs clearance, smuggling, State Customs Service of Ukraine.

кваліфікаційних вимог на посади у цій службі та процедури проведення конкурсного відбору. По-третє, криміналізація контрабанди товарів комерційного призначення.

По-четверте, налагодження координації правоохоронних та контролюючих органів України з відповідними органами суміжних з нашою країною держав.

По-п'яте, розширення повноважень Державної митної служби України щодо розслідування контрабанди товарів комерційного призначення

Робиться висновок про необхідність та важливість розробки та запровадження конкретних, а не декларативних заходів щодо протидії контрабанді та корупції під час митного оформлення товарів комерційного призначення в Україні.

**Ключові слова:** Державна митна служба України, контрабанда, корупція, митне оформлення, товари комерційного призначення.

## Resumen

El artículo aborda un tema importante y relevante: medidas para combatir el contrabando y la corrupción durante el despacho de aduanas de productos comerciales en Ucrania. Los autores analizan la doctrina científica sobre la naturaleza y el nivel de influencia del contrabando y la corrupción en el presupuesto estatal y el nivel de crecimiento económico en Ucrania.

Se ha descubierto que los científicos que eligen diferentes definiciones y formas fueron unánimes sobre la naturaleza negativa y el nivel de influencia nociva de estos fenómenos en la economía de Ucrania.

En el artículo se utilizaron varios métodos: dogmático, legal formal y estructural del sistema. Se propone analizar las principales medidas necesarias para superar el contrabando y la corrupción en el despacho de aduana de bienes comerciales en Ucrania.

Primero, la implementación del principio de transparencia en las actividades de aduanas durante el despacho de aduana de mercancías comerciales. Segundo, actualizar los requisitos de calificación para los puestos en este servicio y el procedimiento para la selección competitiva. Tercero, criminalizar el contrabando de bienes comerciales. Cuarto, establecer la coordinación de las agencias de aplicación de la ley y reguladoras de Ucrania con las autoridades relevantes de los países vecinos. Quinto, ampliar los poderes del Servicio de Aduanas del Estado de Ucrania para investigar el contrabando de bienes comerciales. Se concluye que es necesario e importante desarrollar e introducir medidas específicas, en lugar de declarativas, para contrarrestar el contrabando y la corrupción en el despacho de aduanas de bienes comerciales en Ucrania.

**Palabras clave:** bienes comerciales, corrupción, despacho de aduanas, contrabando, Servicio de Aduanas del Estado de Ucrania.

## Introduction

In the context of the formation, strengthening and development of the economy of each state, one of the main tasks of foreign economic policy is the development of international trade, strengthening economic relations with other states and protecting the interests of domestic producers (Peredalo H., Stasiv V., 2016). The state border plays a key role in the implementation of this task. The security of the

state, the development of its economy and human potential depend on the effective management of the state border. The development of an effective state border management system will facilitate cross-border cooperation, increase state and local budget revenues, tourism, and facilitate other forms of legal movement of persons, services, and goods. At the same time, state borders should be closed to all illegal activities that threaten the

stability of the state. Integrated border management is a coordinated activity of the competent state bodies of Ukraine and military formations aimed at creating and maintaining a balance between ensuring an appropriate level of border security and maintaining the openness of the state border for legitimate cross-border cooperation, as well as for individuals who travel.

Among others, the State Customs Service of Ukraine is a subject of integrated border management (Order of the Cabinet of Ministers of Ukraine "Strategies for integrated border management for the period up to 2025", 2019). The State Customs Service implements the state customs policy, the state policy in the field of combating offenses in the application of legislation on state customs issues (On approval of regulations on the State Tax Service of Ukraine and the State Customs Service of Ukraine, 2019). The transparent and honest functioning of customs is important in this aspect. At the same time, there are many problems regarding the activities of the State Customs Service. For example, geographically Ukraine has adjacent borders with the countries of the European Union and the CIS; therefore, it is attractive for smuggling, which leads to distortion of foreign trade (Sarvananthan, M., 2007) and the tense situation between neighboring states (Lichtenwald G., 2003). This phenomenon is a special problem for most countries of the world today and, unfortunately, it has a tendency to grow (Kuryliuk, Y., Khalymon, S., 2020). Moreover, the current socioeconomic and political situation in Ukraine has led to a significant increase in the level of corruption in our country (Podorozhnii Y., Obushenko N., Harbuziuk K., Platkovska O., 2020). Therefore, for effective, comprehensive counteraction to this destructive phenomenon, measures taken exclusively at the domestic level are not enough (Bondarenko O., Reznik O., Garmash Y., Andriichenko N., Stohova O., 2020).

In order to develop an effective model of the State Customs Service to combat smuggling of commercial goods and corruption during customs clearance of goods in Ukraine, the President of Ukraine issued the Decree "On measures to combat smuggling and corruption during customs clearance", which outlined such measures, on July 12, 2019. In particular, it provided for the following: creation of an information resource to enable voluntary and public declaration of goods of a significant number of items that are imported into the

customs territory of Ukraine in one batch; the study of the issue of publicizing in an open data format anonymized information on the customs value of goods transported across the customs border of Ukraine, and ensuring the systematic updating of such information; ensuring the creation at the Office of the National Security and Defense Council of Ukraine of a helpline for reporting cases of smuggling and corruption during customs clearance of goods, as well as actions that have signs of evading customs payments; taking measures in the prescribed manner aimed at introducing the possibility of real-time exchange of information with the relevant information systems of other countries on customs clearance of goods moving across the customs border of Ukraine, etc. (Decree of the President of Ukraine, 2019). However, we are convinced that this legal document has many shortcomings: it contains only declarative rules and does not provide for a real, effective procedure for their implementation; it does not fully define the range of responsible entities; the measures outlined therein require significant expansion. Therefore, in order to develop an effective model of activities of the State Customs Service to combat the smuggling of commercial goods and corruption during their clearance, it is necessary to develop sound scientific recommendations to supplement and specify these measures.

### **Theoretical framework**

The theoretical framework of the research is scientific works on smuggling and corruption during customs clearance of goods in Ukraine, as well as measures to counter these destructive phenomena. Regarding the essence of smuggling, Yu. Turchyn interprets smuggling through a historical prism, calling it a long-known, one might say, traditional offense, which is reflected in the legislation of Ukraine. The scientist emphasizes that smuggling appeared along with the formation of interstate trade relations. Transportation of goods, in most cases, was carried out for their sale, and, consequently, to obtain a certain material benefit. The legal rules that established the need to pay a fee for transporting goods across borders were adopted in other more developed countries. This caused a lack of understanding on the part of local carriers and merchants, as well as the desire of foreign merchants to violate them. The purpose of the smugglers was, first of all, not to pay taxes on imported goods. In the vast majority of cases, this is why smuggling was used (Turchin Yu., 2010). V. Marko defines smuggling as the illegal movement across the customs border

(state border) of goods and other items or such items, the movement of which according to the laws of the state, is illegal. The author notes that an essential feature of the public danger of smuggling commercial goods is that the smuggler, who illegally moves commercial goods, always pursues the goal of obtaining illegal material profit. Thus, by performing this action, the smuggler has the ability to actually dispose of these items, including redistributing them. It is known that distributive social relations belong to the category of economic relations. Thus, this type of smuggling significantly distorts social ties, disorganizes economic relations, and contributes to the illegal redistribution of public property (Marko V., 2010).

R. Kotsan believes that smuggling is a dangerous phenomenon that can harm not only the economic and financial-credit system of the state but also the political system. The spread of smuggling undermines the economy of the state, violates the state order of movement across the state border of material values, as well as items and substances, which circulation is restricted or prohibited, thus harming the national security and human health (Kotsan R., 2018).

A. Buehnan and M. R. Farzanegan are convinced that smuggling is an activity that is used to and that creates conditions for generating income from transporting goods across state borders in violation of current rules. The illegal movement of commercial goods accounts for a huge share of foreign trade in many developing economies. In addition, smuggling distorts the pricing of imports and exports (Buehnan A., Farzanegan M.)

According to A. Polese, smuggling leads to an over-saturation of the market with goods from abroad, and therefore the need for domestic production of goods is correspondingly reduced, and consequently, the state itself encourages citizens to participate in illegal actions to survive, such as new smuggling and corruption (A. Polese, 2012).

Thus, despite minor differences in wording, all the authors agree that smuggling is a negative phenomenon, which consists in moving various items, including commercial goods, outside the state border or hiding from it from customs authorities.

Regarding the essence of corruption, S. Vorontsov S., Yu. Mamychyev, A. Ponedelkov, V. Medvedev, R. Magomedkhanov define it as a

social phenomenon that is characterized by the venality of state or other employees and the mercenary use of official powers and related opportunities in personal or narrowly grouped or corporate interests (S. Vorontsov, Mamychyev Yu., Ponedelkov A., Medvedev V., Magomedkhanov R., 2018).

S. Sumah notes that the word corruption comes from the Latin word "corruptus", which means "corrupted", and refers to the legal abuse of a trusted position in one of the branches of government (executive, legislative and judicial) or in political or other organizations with the intent to obtain material benefits that are not legally justified for themselves or others. Corruption is actually a multi-functional process. On the one side, both the provider of benefits and the recipient know about the action that remains hidden. Although not every act of corruption is a criminal offense; however, it is unethical and harms the economic and political development of society (Sumah S., 2018).

V. Gvozdetzky notes that corruption is a complex and multidimensional (legal, economic, political, moral, and psychological) social phenomenon. The social essence of corruption is that it has a social conditionality (is a product of social life); has a social value that society pays; corruption significantly affects the most important processes; it has a historical origin and global character; is a legal, economic, political, psychological and moral phenomenon; tends to adapt to social realities, constantly changes. Specific manifestations of this social phenomenon receive legal and moral assessment from the state and society, which also demonstrates the social essence of corruption. Corruption characterizes the main social processes occurring in the state and society, the most significant problems of the state and society are reflected in it (Gvozdetzky V., 2012).

R. Mukhaev, E. Prokopenko believe that corruption distorts the national interests of states, which are designed to objectively reflect the significant needs of individuals, society and the state as a whole in ensuring security and sustainable development. Management decisions often reflect the interests of officials, politicians and business groups (Mukhaev R., Prokopenko E., 2020).

According to A. Ghatak, S. Iyengar, corruption is a network game that is characteristic of the market norms of society. Therefore, if a society is focused on corruption, it generates corruption and infects the entire global society through

sustainable transnational reproduction  
(Ghatak A., Iyengar S., 2014).

Summing up the positions of scientists, despite the various forms, everyone is unanimous about the destructive socio-economic and political influence of corruption on all spheres of society and its ability to distort absolutely all legal relations and the legal order as a whole.

### Methodology

The study of measures to counteract smuggling and corruption in the customs clearance of commercial goods in Ukraine was carried out using dogmatic, formal legal and system-structural methods. Thus, the dogmatic method allowed revealing common approaches to understanding smuggling and corruption. Clarification of the specifics of legislative measures necessary to improve the fight against smuggling and corruption during the customs clearance of commercial goods by employees of the State Customs Service of Ukraine made it possible to use a formal legal method. The system-structural method was used to analyze the latest scientific publications devoted to the study of the features of the State Customs Service of Ukraine in the context of customs clearance of commercial goods, generalization and presentation of the results of the study.

### Results and discussion

In our opinion, the legally defined measures to counter smuggling and corruption during customs clearance of goods in Ukraine should be significantly expanded. In general, counteraction to certain destructive social phenomena and offenses is a complex socio-legal phenomenon, which reflects the theory and practice of specific social and managerial activities and public and private initiatives, as well as justice efforts to prevent and respond to offenses (Kuts V., 2016). It is necessary to clearly distinguish between the concepts of “counteraction”, “prevention”, and “fight” to develop effective measures to combat smuggling and corruption in the customs clearance of goods in Ukraine.

M. Davidenko notes that the term “counteraction” is interpreted from the standpoint of semantics as an action that resists another action or phenomenon, and in the context of counteraction to offenses, counteraction means activity “to identify the causes and conditions of offenses, their elimination, mitigation or neutralization” (Davidenko M., 2003). Obviously, the actions mentioned in

relation to such factors of smuggling and corruption as their detection, weakening, neutralization, etc., hardly correspond semantically to the essence of the concept of “resistance”. Thus, the term “counteraction” can be used to denote the overall impact on these actions in a broad sense. Therefore, in modern works, scholars have already assumed that the targeted guidelines for the war on smuggling and corruption, hidden in Soviet times, contain the potential danger of returning to the path of punitive policy, which is inherent in a totalitarian society. Currently, according to recent research, mainly due to the critical attitude to the term “struggle”, it is proposed to use the concept of “combating crime” in a broad sense (Yukhno O., 2016).

A. Zakalyuk interprets the term “prevention” as a “kind of socio-preventive activity, the functional content and purpose of which is to impede the action of determinants of destructive illegal phenomena and processes and its manifestations, primarily the causes and conditions of the latter due to restrictions, neutralization, and, if possible, elimination of their action” (Zakalyuk A., 2007).

M. Golovkin defines “prevention” as the activities of the state, society and individuals to prevent, limit and eliminate negative phenomena and processes that produce and reproduce a certain type of offense, as well as preventing the commission of this type of offense at various stages (Golovkin M., 2004). We believe that a warning is a form of prevention.

Summarizing and critically analyzing the positions of scientists, we believe that countering smuggling is a common system-forming concept that includes prevention (a set of measures aimed at improving public relations in order to eliminate negative phenomena and processes that generate or contribute to smuggling and corruption) and combating them (choosing an appropriate type of legal liability and penalties that would actually serve to correct the convicted person and become an example for others to prevent them from committing both smuggling and corruption).

### *Implementing the principle of transparency in the activities of customs in the implementation of customs clearance of commercial goods.*

The Constitution of Ukraine does not contain a rule that would clearly enshrine the principle of openness, transparency, publicity, but it can be derived from a number of constitutional rules



(in particular, from the provisions of Article 57, Part 1 of Article 84, Parts 2, 3 of Article 94, paragraph 7 of Article 129), which constitute the regulatory basis for determining their content and essence in the scientific literature (Constitution of Ukraine, 1996). According to V. Seryogin, the principle of publicity is to recognize the need and requirement of mandatory compliance with the unimpeded movement of information flows within the political and legal system (Seryogin V., 2010).

The principle of transparency is the central principle of the relationship between state and society, the essence of which is openness, publicity of the organization and activities of public authorities, local governments, their officials, as well as the availability of information about their activities (Tomkina A., 2004). Moreover, in the context of control over the activities of the State Customs Service of Ukraine to combat smuggling and corruption, it is necessary to ensure proper control, and the results of such control should be available to all stakeholders involved in their formation, use, etc. (Yarmak, 2014).

The Lima Declaration of Guidelines on Auditing (1977) states that it is mandatory to publish annual reports on the findings and results of control activities. The Declaration of the Council of Heads of Supreme Audit Institutions of the Member States of the Commonwealth of Independent States on ensuring transparency in the activities of the Supreme Audit Institutions and their interaction with various authorities indicates that: transparency is one of the main principles of activity that ensures the implementation of democratic principles of economic management, the effectiveness of state control and protection of society from corruption and other offenses, which are formed by popularly elected heads of states and/or parliaments, carry out their activities in the interests of people, implement the principle of transparency by providing independent, reliable and objective information about the effectiveness of public financial resources management; public implementation of activities contributes to the effective implementation of their decisions, as well as allows society to participate in the management of public financial resources; the main form of ensuring the transparency of activities is the provision of reports on its activities, the use of public financial resources, the results of control (audit) and expert-analytical measures; The principle of transparency is also implemented by posting materials on the results of control (audit) activities, other information

about the activities in the media, holding press conferences, briefings, and other events (Accounting Chamber, 2000).

Access to this and other public information on customs clearance of commercial goods is provided in two ways: publication of information (in official publications, on official websites, etc.) and the provision of information upon request. The first one is publicly available, i.e. it can be used by absolutely everyone without exception. For this purpose, the Decree of the President of Ukraine "On measures to combat smuggling and corruption during customs clearance of goods" provides for the need to publish depersonalized information on the customs value of goods moving across the customs border of Ukraine in the format of open data, and ensure systematic updating of such information; taking measures in accordance with the established procedure aimed at introducing the possibility of real-time exchange of information with the relevant information systems of other states on customs clearance of goods moving across the customs border of Ukraine; the publication of monthly reports on the results of implementation in accordance with the Resolution of the Cabinet of Ministers of Ukraine No. 479 dated June 20, 2018 of a pilot project to create conditions to prevent evasion of customs payments (Resolution of the Cabinet of Ministers of Ukraine, 2018). We are convinced that these measures will certainly contribute to transparency in the activities of employees and officials of the State Customs Service of Ukraine, and then make it impossible or at least significantly complicate the possibility of smuggling commercial goods and corruption risks in their registration, because the development of the information society in Ukraine has led to the rapid development of electronic information resources. Now in an era of tremendous development and the dependence of society on electronic devices and, as a result, electronic information resources, it is they that occupy the first place in the ranking of means for obtaining information on the activities and results of activities of public authorities. At the same time, the implementation of these measures requires ensuring an appropriate level of information security, because public information cannot include information about persons who import commercial goods into the territory of Ukraine and are the subjects of customs declaration, in particular, their personal data. In our opinion, and given the experience of such information portals, for example, on anti-corruption declarations, state-run information agencies are far from always able to

ensure the safety of such information, and thus its leakage can happen. Therefore, the implementation of these measures requires the thorough preparation and development of special strategic programs and specific measures to ensure the security of personal data of subjects of customs declaration, as well as the establishment of liability both for officials, whose actions led to the leakage of such information, and to entities that caused the leakage and distribution of such information.

Given that information about the customs value of goods transported across the customs border of Ukraine is open information, all interested persons have the right to submit requests for access to such information. The legal basis for such requests are laws (Law of Ukraine "On Access to Public Information", Law of Ukraine "On Citizens' Appeals"), bylaws (Decree of the President of Ukraine "Issues of providing access to public information by executive authorities"; Resolution of the Cabinet of Ministers of Ukraine No. 583 dated May 25, 2011 "Issues of implementation of the Law of Ukraine "On Access to Public Information" in the Secretariat of the Cabinet of Ministers of Ukraine, central and local executive bodies"; Order of the Ministry of Justice of Ukraine No. 1537/5 dated June 8, 2011 "On approval of the List of information constituting official information in the Ministry of Justice of Ukraine"). We believe that the greatest achievement of domestic legislation in the context of access to information, which is designed to prevent corruption risks, including nepotism, the mutual cover-up is the elimination of the bureaucratic component. Upon receipt of a request for information submitted in accordance with the Law of Ukraine "On Access to Public Information", but which in its content is a citizen's request, the information manager must refuse such a request due to non-compliance with the law, and taking into account the principles of good faith and reasonableness, to consider the request under the Law of Ukraine "On Citizens' Appeals". At the same time, the requester must be informed within five days that his or her request for information will be considered as citizen's appeal. The condition for notifying the requester of information is significant, as the deadline for consideration of citizens' appeals and requests for access to public information is very different. Thus, for citizens' appeals, it varies between fifteen days and one month from the date of receipt of the request, while the period for consideration of a request for access to public information is significantly shorter and lasts from

48 hours to fifteen days from the date of receipt of such a request.

In case of unreasonable refusal to satisfy the request for access to information on the customs value of goods moving across the customs border of Ukraine, the requester may appeal such actions of an official of the State Customs Service of Ukraine in court or administratively. We are convinced that the administrative order is less effective because of corrupt relationships between managers and their subordinates. Thus, internal investigations that begin with complaints about the actions of officials related to violations of the right to access public information usually end in nothing. Thus, instructions in case of failure to provide a refusal, delaying the response to inquiries are received by the direct executors precisely from their managers. There is a vicious circle: corruption breeds corruption (Supreme Rada of Ukraine, 2011).

Therefore, the Law of Ukraine "On Access to Public Information" is an effective mechanism for ensuring the publicity of information that is or may be of the public interest. This law has a number of positive features; however, its proper implementation is hampered by information managers, who are constantly trying to either circumvent the law or openly abuse it.

#### ***Ensuring careful selection for positions in the State Customs Service***

It has long been known that various types of professional activity require a person to have different qualities and properties that not all people possess to the same extent. The quality of the work of specialists is primarily ensured by the effectiveness of vocational guidance for young people, professional selection, and then the intensification of training, the entire system of training and education. However, the solution of this problem requires the solution of a number of contradictions. Thus, the overall increase in labor resources is declining and the awareness of the responsibility of professional self-determination has significantly increased; against the background of an increase in labor intensity, requirements for a person, his or her psychophysiological and personal qualities have increased; applicants for positions also change qualitatively – the level of awareness and personal certainty, independence and criticality of judgments are growing. Moreover, in recent years, there has been a tendency to an increased level of neuropsychiatric disorders (Prihodko Yu., 2007). It is impossible not to note the increase in the level of corruption in the customs

clearance of goods because customs officers themselves can be both organizers and members of criminal groups or organized criminal groups for the illegal import and export of commercial goods. That is why the importance of properly organized professional selection for the position of a customs officer is growing. Professional selection is an important component of the customs officer's professional environment. Selection is a system that includes personnel technologies focused on establishing, studying and evaluating the professional suitability of an applicant for a position in the customs authority and predicting opportunities to achieve the required level of skills and perform the assigned duties (Cherkasova A., 2010).

The procedure of competitive selection for a position in the State Customs Service of Ukraine is established in accordance with the Order of the State Customs Service of Ukraine No. 1174 dated October 7, 2010 "On approval of the procedure for a competition for vacant positions of civil servants in the Customs Service of Ukraine" and provides for the following stages:

- 1) publication in the press or other media about the competition with an exhaustive list of vacant positions;
- 2) submission of documents by interested persons, verification of the compliance of these documents and the persons who submitted them with the qualification requirements, making a decision on the admission of a person to the competitive selection. The following persons are not allowed to participate in the competition: those who reached the age limit for civil service; were recognized in the prescribed manner incapable; have a criminal record that is incompatible with the position of civil servant; in the case of recruitment will be directly subordinate to persons who are their close relatives; deprived of the right to hold relevant positions in the manner prescribed by law for a specified period; in other cases established by law (Order of the State Customs Service of Ukraine № 1174 from October 7, 2010 "About the statement of the Procedure for carrying out the competition on replacement of vacant positions of civil servants in customs service of Ukraine", 2010) In our opinion, the lack of an exhaustive list of grounds for denial of access to service in the customs authorities is a violation of the principle of legal certainty and may be the basis for abuse and unjustified denial of access to service in the State Customs Service of Ukraine.
- 3) conducting the examination. The examination procedure consists of 3 stages: organizational preparation for the examination; the examination itself; assessment and summing up the examination results;
- 4) selection of candidates.

In our opinion, the existing procedure for conducting an examination for a position in the State Customs Service of Ukraine is imperfect. Thus, we suggest that it should not be limited solely to testing for knowledge of laws, but also be supplemented with an interview to establish the psychological characteristics and psychological compliance of a person with the position for which he or she applies. It is appropriate to involve in the interview both the employees of the State Customs Service of Ukraine and representatives of public anti-corruption organizations who can provide comprehensive financial monitoring of the applicants' lifestyle and check their social networks for illegal enrichment or hidden income. In addition, it is important to conduct a polygraph test to prevent access to work in the customs authorities of persons who have a tendency to commit corruption offenses.

### ***Introducing criminal liability for large-scale smuggling of commercial goods***

Countering smuggling is one of the priority tasks of the state to ensure the stability of its economic security. In particular, this is evidenced by the task of strengthening the fight against smuggling, which was set in June 2019 by the President of Ukraine to the leadership of the Security Service of Ukraine.

Illegal movement of products and goods across the state border of Ukraine has a negative economic aspect. According to the World Integrated Trade Solution (WITS), the volume of smuggled supplies to Ukraine for the period from 2013-2019 averages \$11.9 billion per year, or 8.8 GDP (The World Integrated Trade Solution, 2020). The situation is exacerbated by the fact that the growth rate of potential smuggling between Ukraine and neighboring countries, according to experts, is growing 10% faster than official trade, and budget losses from smuggling may exceed \$17.2 billion in 2021. As for the macroeconomic effect, the real problem of smuggling is not a budget loss, but the distortion of the domestic market and the principles of competition, which primarily affects the legal business; stimulation of the development of corrupt relations both among business entities



and representatives of state authorities; deformation of the fair distribution of public goods between different social strata of the population; the impossibility of controlling the quality of smuggled products for the life and health of end consumers.

This situation has developed due to the absence of criminal liability for the smuggling of commercial goods in the legislation of Ukraine. Despite the lack of social conditionality in 2011, there was an artificial narrowing of the subject of smuggling, which now includes only cultural values, poisonous, potent substances, explosives, radioactive materials, weapons or ammunition (except smooth-bore hunting weapons or ammunition), parts of firearms, as well as special technical means of covert information; timber or lumber of valuable and rare tree species, unprocessed timber, as well as other timber prohibited for export outside the customs territory of Ukraine and narcotic drugs, psychotropic substances, their analogs or precursors or falsified medicines. For violation of the order of customs control in the zones (corridors) of simplified customs control, a person is subject only to administrative liability (Customs Code of Ukraine, 2020).

The criminalization of smuggling of goods is necessary and urgent, given: the priority task of law enforcement agencies to combat the large-scale smuggling of commercial goods as defined by the Integrated Border Management Strategy for the period up to 2025; the importance of filling the state budget by paying taxes and fees with legal business, as well as the introduction of special confiscation in favor of the state of all commercial goods moved outside the customs border or concealed from the customs border.

***Establishing coordination of law enforcement and regulatory agencies of Ukraine with the relevant authorities of neighboring countries***

International economic cooperation, especially between states, necessitates cooperation in the organization and implementation of customs affairs. This area of cooperation aims to address the system of economic, organizational, legal and other issues that provide favorable conditions for the development and protection of economic interests of the states, protection of the rights of business entities and citizens (Dorosh M., 2015). According to the Customs Code of Ukraine, the state participates in international cooperation in customs matters. In customs affairs, Ukraine adheres to internationally recognized systems of classification and coding of goods, customs

regimes, customs statistics, and other generally accepted rules and standards in international customs relations, and also ensures the implementation of international agreements of Ukraine on customs matters concluded in accordance with the law (Customs Code of Ukraine, 2020).

The further development of the Customs Service of Ukraine in the conditions of transformations taking place in the global society will be based on a significant increase in the volume of goods moved across the border due to the globalization of trade, the mass introduction of computer information technologies, along with the increasing role of customs as a tool regulating trade and economic relations, and requires new approaches to customs business. The work of customs authorities is based on the task of promoting the development of international trade and creating appropriate conditions for foreign economic activity. That is why the priority task for the implementation of international economic cooperation is to reduce the risks of smuggling.

The main factors that create favorable conditions for smuggling are: insufficient coordination of law enforcement and regulatory authorities of Ukraine with the relevant authorities of neighboring countries on our exchange of information on countering the movement of goods outside customs control or with hiding from customs control. As a rule, the reason for this is the lack of a single base of the customs authorities of Ukraine with the customs authorities of foreign countries; the assistance of officials of state authorities, in particular law enforcement and regulatory authorities, to legal or physical persons in the movement of the specified type of product across the customs border of Ukraine (corruption component); imperfect and contradictory legislative regulation of activities to combat smuggling and violation of customs rules; the presence of a significant difference between the prices of certain groups of goods in the world and domestic markets; unemployment among residents of border areas (Busol O., 2019).

In our opinion, in order to establish coordination between law enforcement and regulatory authorities of Ukraine with the relevant authorities of states neighboring our country, it is necessary to develop unified requirements that will be enshrined not in bilateral but in a multilateral agreement. After all, the processes of globalization, unification of states, harmonization of legislation, creation of associations inevitably change the existing legal

order and require the introduction of standardized solutions. The purpose of implementing these standards is to ensure comparability and clarity of reports and data of customs offices of different countries, which is very important during the cooperation of these countries, especially in the field of countering smuggling. Standards have a certain flexibility to take into account the characteristics of the national economy, which is very important, since there are many differences between countries in all areas of functioning (Shulga T., Tovkun L., Perepelytsia M., & Duravkin P., 2019).

***Expanding the powers of the State Customs Service of Ukraine to investigate the smuggling of commercial goods***

The current state of customs security in Ukraine is characterized by a number of threats. Statistical data of the State Fiscal Service of Ukraine show that the value of commercial goods seized by customs authorities, illegally moved across the customs border of Ukraine, tends to increase from year to year. The inquiry agencies and pre-trial investigation agencies are overloaded with cases. The courts reduced the rates of application of criminal liability measures to violators of customs legislation (Moldovan E., 2020).

We are convinced that the current situation is primarily due to the lack of authority of the State Customs Service to investigate the smuggling of commercial goods. According to the Regulation on the State Customs Service of Ukraine, the powers of this service include only the organization and conduct in accordance with the law of operational and investigative activities and control over its implementation by operational units of the State Customs Service and its territorial bodies that fight smuggling; interaction within the powers defined by the law with other bodies carrying out such activity; taking measures to compensate the state for damages within the powers defined by law (Resolution of the Cabinet of Ministers of Ukraine, 2019).

Instead, other law enforcement agencies, in particular the Security Service of Ukraine, are competent to conduct pre-trial investigations. We believe that this dispersion of powers will inevitably lead to a lack of an adequate level of operational investigative activities and pre-trial investigation, as well as shifting responsibility to others.

At the same time, smuggling and other crimes in the field of customs activity do not belong to the jurisdiction of investigators of security agencies of most countries of the European Union, unlike Ukraine. These features should be taken into account in bills on reforming the State Fiscal Service and the creation in Ukraine of a specialized law enforcement agency like the Customs Investigation Center of the Ministry of Finance of the Federal Republic of Germany, the success of which has been reliably time-tested (Varava V., 2017).

**Conclusions**

Summarizing, we would like to note that the existing legislative measures to counteract smuggling and corruption during customs clearance of commercial goods in Ukraine require significant improvement. Moreover, they are declarative. We are convinced that in order to ensure the overcoming of these destructive phenomena, it is important to take systemic and comprehensive measures, both by the State Customs Service of Ukraine, which directly performs customs clearance of commercial goods, and other government authorities. In particular, first, the Verkhovna Rada of Ukraine should amend the Criminal Code of Ukraine in order to criminalize large-scale smuggling of commercial goods. Second, the Cabinet of Ministers of Ukraine should develop effective mechanisms for protecting information with limited access to open information resources on the customs value of goods transported across the customs border of Ukraine. Third, the State Customs Service of Ukraine should update the requirements for applicants for positions in this service and the procedures for competitive selection. Fourth, the State Customs Service of Ukraine should coordinate law enforcement and regulatory authorities of Ukraine with the relevant authorities of neighboring countries. Fifth, the Cabinet of Ministers of Ukraine should expand the powers of the State Customs Service of Ukraine to investigate the smuggling of commercial goods.

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