

CRIMINOLOGICAL ASPECTS ON CUSTOMS OFFENCES IN ROMANIA

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Abstract

The study undertaken aims at analyzing and determining the status, structure and dynamics of crime in the customs sphere, stressing that the charging structure in customs crime contributes to the knowledge of numerical composition and morphology (forms of crime) crime in a particular period and into a specific geographical area, understanding the general condition, overall, or those particular detailing the phenomenon on various statistical indicators, based on which can be carried out comparative studies on certain periods to see trends and dynamics of the whole and different parts, analytical, allowing the formulation of weather and detection determinants contributing to the commission of unlawful acts in the customs sphere. In the study they were used various research methods, including: analysis, synthesis, deduction, induction. In order to intensify the struggle with the phenomenon of crime in the customs sphere in the study are advanced some proposals to improve the legal framework incriminating. In the same row it was argued the need to shift prosecution competence as specialized subdivision besides the National Customs Authority in order to streamline the recording and investigation of customs offenses.

Keywords: *customs offense, crime, customs authority, smuggling, border security, illegal trafficking.*

JEL Classification: K14, K42

1. Introduction to criminological aspects of customs offenses in Romania

In this study elucidated the causes of customs offenses is reflected state, structure and dynamics of crime in the customs sphere in recent years. Finally, the range of activities to prevent and combat customs offenses are analyzed specific features of specialized bodies to prevent and combat crime in the customs sphere.

Studying crime on customs offenses, allow the national legislature to direct attention to improving the existing regulatory framework, which is necessary to develop ideas for reforming the legal system. Interested in terms of comparative law, in particular phenomenology no crime in customs sphere, but existing regulations in this area.

In the theory of criminal law mentions: "In many countries of the world smuggling offenses are recognized as some of the most dangerous types of criminal activity. Like crime in general, smuggling offenses obviously will exist as long as there are no frontiers. Even in developed countries like USA, Germany, Britain, France, there is smuggling. In these countries do not question the total eradication of these types of crimes. Of the prosecution's efforts are focused only on reducing the level of smuggling to within controlled ".²

This scientific approach is highlighted by the fact that it carried out a comprehensive analysis of economic crime since 2004 to date; and analysis of latest customs regulations addressed from the perspective of environmental causes, logics and their consecutiveness

In the study they were used various research methods, including: analysis, synthesis, deduction, induction.

Scientific material is divided into five sections: I. Introduction to criminological aspects of customs offenses in Romania; II. Investigation of customs offenses; III. Romania's customs border developments in crime; IV. Identifying root causes and factors contributing to crime committing customs; V. Measures to combat crime and competence in conducting customs investigation into the customs offenses; VI. Conclusions.

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² Lacusta N. *Elemente de drept penal comparat în materia infracțiunii de contrabandă*, „Legea și Viața”, 2012, no.7, p.26.

In order to intensify the struggle with the phenomenon of crime in customs sphere are advanced some proposals to improve the legal framework incriminating. All this is a result of the takeover of good practices from a comparative analysis of criminal regulations in the sphere of customs offenses.

2. Investigating customs offenses

Democratization of society, social and economic transformations, liberalization and reform foreign policy led to a new attitude of the state to regulate matters concerning criminal law offenses in the customs sphere, especially smuggling. By smuggling are actually threatened or harmed organizational and economic functions of the rule of law and a number of its higher interests, and to deter the commission of this crime all countries apply criminal sanctions.

In Romania, as in most countries in Southeast Europe in the early 90s smuggling experienced a very rapid development, because of the transition period that has traversed the country and due to incomplete legislation, closely lack of qualified personnel and logistics, affecting the state budget by not paying taxes.

Experience in Romania demonstrates that the existence of an offense is based on procedural activities, especially for collecting and using evidence to identify the perpetrators and establish their liability, elements needed to decide whether prosecuting disposition. With the sampling activity and taking preventive measures, insurers and safety.

The researcher Constantin Tanase says that achieving proper customs influence the achievement of legal interests of the state, such as protection of public finances, the safety of commercial operations and the normal economic processes. Therefore, economic activity carried out in an ineffective regulatory framework is in competition with another, which is illegal. In conclusion, legal economic activity is subject to the groundwater.³

Regarding the organization of the future customs authorities investigating agencies, the Romanian author Ion Suceavă record that, taking into account the example of the Member States of the European Union and the requirements of joining the European Union, that idea took shape and now is under implementation and is in draft legislation granting the customs authority in Romania the power to prosecute for a string of offenses (offenses of concealment, forgery of official documents, for forgery, breach of the provisions regarding operations import or export etc.). Simultaneously with the launch of the bill to the National Customs Authority, it was studying the possibility of a criminal investigation service rated at about 70 posts of inspectors, to be organized into a central service.⁴

Currently, the Romanian customs authorities when aware of an offense falling within the scope of customs offenses, according to the customs value of goods or goods stolen, calls the Border Police that they be notified if over the last year people who are responsible for those acts committed other crimes. Where offenders are first-time offenders are fined contravention accordance with the Customs Code of Romania; otherwise, it shall draw up a protocol handover, transmitting the competence of officers of the Border Police merchandise or goods subject to crime with means of transport that were discovered documents identifying the person and vehicle and property retention certificate, stating that the goods delivered, including means of transport, they can not be sold or alienated without prior announcement of customs and import duties.

Customs and police have established that customs offenses are committed in classic form by the passage of goods across the border through places other than those established by law. In this respect, the finding that the practice causes most affected areas of the country are port of Constanta, Lower Danube, Giurgiu port, the western border of the former Yugoslavia, the eastern border with Moldova and Hungary. In these regions, groups of local and foreign smugglers have established well-organized crime with international channels that are in collusion with the customs authorities have

³ Tănase C. *Contrabanda în legislația românească*. Galați: Scorpion, 2003, p.71.

⁴ Suceavă I. *Drept vamal*. Craiova: Sitech, 2007, p. 65.

financial and material important relationships among civil servants; In this way, exposing their illegal activity is complicated.

In the context of smuggling of drugs, psychotropic substances and other substances with similar effect, which is one impressive segment on trafficking in drugs, is the mainstay of interest allegation R.Noana Romanian author: "Trafficking and drug abuse is a growing scourge more dangerous for mankind, reaching now a special scale. Romania attracts more attention networks of traffickers who use his territory for carrying out such illegal actions. Before 1989, Romania had discovered two or three cases a year of drug possession and in most cases the amounts were small, the own consumption of those they held that, in general, were strangers. By 1989, traffic in narcotics but Romania has acquired new meanings. This is because Romania has become the depository country features so going from a purely transit country to one where drugs are introduced, and then kept much redeployed elsewhere in Europe. As a result of its geographical position and military conflicts in the former Yugoslavia, has become an important segment for the transit of drugs along the Balkan route and, in particular, on the northern route to it by countries like Iran, Turkey, Bulgaria, Romania, Hungary, Slovakia, Germany and the Netherlands"⁵.

Regarding the smuggling of weapons, ammunition and explosives, the doctrine is recorded: "Trafficking in arms and ammunition is a real threat to public order, peace citizens and even for national security. This is achieved for the supply areas of the criminal armed conflict, internal or interstate, where there are often conflicts between gangs of criminals for self-defense traffickers, smugglers and especially the heads of various organizations or criminal groups. Manufacturers from developed countries sell almost all kinds of weapons to countries involved in conflicts, trafficking taking place by neighboring countries, including Romania, taking into account not long conflict in the former Yugoslavia and Albania. Also in the former USSR resorting to theft of strategic materials perpetrated by certain individuals to complete their incomes, and with the help of smugglers Romanian is transiting the Balkan route (Russia - Ukraine - Romania - Hungary - Slovakia - Austria)"⁶.

3. Developments in crime customs at the borders of Romania

Customs crime in Romania is characterized by a certain structure, dynamics and status.

We highlight that in 2002, compared with 2001, the Romanian National Police found a clear increase in customs offenses: 283 to 266 cases of smuggling and contraband qualified; 70 to 50 offenses of using false documents to the customs authority; 488 to 218 crimes using forged documents to the customs authority. We note that customs criminal reaction must occur with the manifest character of unlawful conduct. These indicators increase the number of offenses detected was manifested in 2003, as demonstrated by preliminary data⁷.

Analyzing the Romanian Border Police activity that in 2004 were found in Romania 119.546 illegal deeds (13 183 106 363 offenses and penalties), most being recorded in illegal migration and people smuggling consumer goods. Compared with 2003, when 102 398 were found illegal deeds (93 350 9048 offenses and penalties), there is an increase by 16.7%⁸.

We note that the Romanian Border Police, in cooperation with the Prosecutor's Office attached to the High Court of Cassation and Justice managed dismantling of a network of international drug trafficking - 18 Romanian citizens - who are transported from Turkey to Spain (transit Romania) about 500 kg heroin. In the same circumstances, we specify that based on constructive cooperation with foreign authorities have identified two networks of drug trafficking, as follows: were taken research for a network of international trafficking of heroin through collaboration with the border

⁵ Noana R. *Contrabanda – sursă de alimentare a economiei subterane*. in: „Legea și viața”, 2007, no.6, p.30.

⁶ Noana R. *op. cit.*, p.31.

⁷ Olteanu G.I. *Cercetarea contrabandei și a altor infracțiuni ce implică trecerea frontierei de stat*. Bucharest: AIT Laboratories, 2004. p. 203.

⁸ Analysis of the Romanian Border Police activity for 2004 in „Revista Frontiera”, 2005, no.1, 40 p. <http://www.politiadefrontiera.ro/> (visited on 15.11.2015).

authorities Hungarian route Turkey - Romania - Netherlands and Italy is identified four Romanian citizens; through a controlled delivery, were identified in cooperation with French judicial authorities, a new network of international traffic of high-risk drugs that act on the route South America - Europe, being detained two Romanian citizens and being seized 17 kg of cocaine.

With regard to trafficking in stolen cars in 2004 were detected crossing the border 95 stolen luxury vehicles abroad, is made criminal to 72 people, compared to 2003 when they were discovered 45 luxury cars stolen.

In the reference period, in terms of illegal trafficking in arms and ammunition were found 33 guns, 39 924 cartridges, 25 grenades and 336.86 kilograms of explosives, being made criminal for 45 people in their charge whichever is the crime of trafficking arms, ammunition, explosives, toxic products. Citizens involved in this illegal activity from: Russian Federation, Republic of Moldova, Italy, Netherlands, China and Romania (one of shipments, respectively 35,000 cartridges from a German company).

Also in 2004, on trafficking in commodities, precious metals and heritage objects were discovered smuggled goods amounting to about 10.704 billion lei, of which: goods concealed and unreported, totaling approximately 483.2 billion lei, were detained for confiscation, for which exceeded the customs' legal, worth about 587.2 billion lei, not allowed to enter them in Romania. Sign goods: coffee, cigarettes, food, and electronics, garments etc.

It rampant smuggling cigarettes from duty-free shops (on the border with Serbia) and the prevailing international trains arrived from Moldova, Truck and freight trains (on the border with Hungary). For comparison: in 2003 were found smuggled goods worth about 725 billion.

Evaluation of crime in Romania for 2006 shows that:

a) persons who have committed crimes are: 129 - the regime of drugs, 411 - economic-financial, 95 - the regime of weapons and ammunition, 94 - trafficking in stolen vehicles;

b) the value of goods seized in 2005 was 75.2 mil., and in 2006 approximately 136.9 mil. RON.

Much of assets seized in 2006, consist of counterfeit products amounting: 8932 optical drives, cosmetics 132.023, 230.883 electronics and home appliances, clothing and footwear 1,388,359 and 2,402,385 packs of cigarettes.

The main offenses countered that violate the regime of weapons and ammunition the object of illicit trafficking: weapons - 26 cartridges - 1,807 grenades - 1 explosives - 5593 kg, radioactive material - 4380 kg; machine gun 7.62 mm pipes - 99; drugs and precursors - 31.214 kg of drugs (15.320 kg of heroin, 0.249 kg of hashish, 8.414 kilograms of cannabis, cocaine 0.3794 kg, 2.785 kg and 4.067 kg of opium other drugs) and 0.010 kg of precursors. Also, it was discovered false currency: EUR - 2.851 million, dollars - 49.65 million; and undeclared currency: EUR - 743.54 million, dollars - 308 801 000; Precious metals: Gold - 18.339 kg, silver - 16.429 kg; stolen cars from other countries - 94.⁹

In 2007, at the Iasi Border Police Directorate and coordinated DIOCT they were discovered 54 stolen vehicles from a wide range, from luxury cars to trucks, motorcycles and even construction equipment. Independently and in concert with the Customs and Excise Regional Operations Iasi and Galati were found goods worth about 6 million euros, of which over 4 million packages of cigarettes.¹⁰

Synthesis Romanian Border Police activity for 2008 demonstrate detention for confiscation of 9,537,657 packs of cigarettes with a total value of approximately 45,448,723 lei, and the discovery of 129 cars stolen abroad.

In 2008 it was discovered the amount of 393.986 kg of drugs (386.976 kilograms of heroin, 0.432 kg of cannabis, cocaine and 0.134 kg 6.444 kg of hashish), is made criminal to 99 people. Based on information submitted by Romanian border guards, over 660 kg of drugs were seized in other

⁹ *Evaluarea activității PFR pentru anul 2006. Statistică operativă*, „Revista Frontiera”, 2007, no. 1. 36 p. <http://www.politiadefrontiera.ro/> (vizited on 11.09.2014).

¹⁰ Tătaru V. *Măsura profesionalismului polițiștilor de frontieră este dată și de aprecierea procurorilor DIICOT*. in: „Revista Frontiera”, 2008, no. 1, <http://www.politiadefrontiera.ro/> (vizited on 14.09.2014).

states. People involved in drug trafficking originating from Turkey, Serbia, Hungary, Ukraine, Syria, Bulgaria, Belgium, Iran, Spain, China and Romania¹¹.

The economic crisis felt in Romania in 2008, influenced the growth of illegal activities, is prominently in the economy. According to statistics, the damage caused as a result of committing crimes is estimated at 19,228,260 lei (4.45 billion euros), with 210% more in 2009 compared to 2008. In 2009, the number of offenses of tax evasion increased to about 9,300. Following an action in October 2009, the 31 duty-free shops located in crossing the border with Serbia and Ukraine, it was found that in just eight days estimated damage resulting from evading excise duty and VAT was over 3.8 mil. euros, calculated at the minimum price of 2.5 mil. euro / pieces of cigarettes. As a result, the decision was taken at Government level to prohibit the sale of duty-free alcohol and tobacco products.

Compared with 2008, drug trafficking has increased by 400% in terms of seizures. In 2009 it was recorded the largest drug seizure in 10 years - 1200 kg of cocaine, about 40 mil. USD.

For 2010, the priorities in the fight against organized crime and border were: identification and recovery of damage caused by criminal groups; improving controls and reducing vulnerabilities in legislation; intensifying police cooperation under the EU and with third countries and joint work¹².

Also in 2010 it was detected 7823 offenses in the area of competence, to 7129 in 2009, concluding that the number of offenses detected by border guards increased by 9.7% yoy. Criminal offenses prevailing at Romania's borders are related to illegal migration, respectively crossing or attempting to cross the border illegally, forgery and use of forgery and smuggling of consumer goods.

Countering trafficking in commodities, precious metals and objects of heritage in 2010 by border guards amounted to confiscation, 5338 kg gold, 314 kg silver and 35 heritage items, total value of goods seized It is 141.7 million lei.

252 offenses were recorded economic-financial nature, have been involved people from Romania, Ukraine, Bulgaria, Moldova, Serbia, Turkey, Hungary, China, Russia, Greece, France etc., and illegal trade in cigarettes experienced a broad character at Romania's borders, traffickers relying on "profit" impressive what they can get from selling "black" markets both in Romania, and especially those in the West.

Thus, in 2010, the border guards have detained, in order to seize, 9,121,023 packs of cigarettes with an approximate value of 42,795,896 lei, of which 5,423,397 packages worth about 30,478,978 lei, made smuggled cigarettes. They were detained 11,376 kilograms of tobacco, vehicle excise duty, and 31,020 kg of unmanufactured tobacco and tobacco refuse, totaling 1,080,544 lei. The most active area is on the border with Ukraine, here being retained 25% of the total quantity of cigarettes, followed by the border with Moldova.

In the analyzed period, the area of competence on Line Traffic stolen vehicles were discovered 313 stolen vehicles from abroad (243 cars, 31 automarfare, 16 vans, 15 motorcycles, eight car trailers). Number discoveries concerning stolen vehicles increased by approximately 58% compared to 2009.

In committing these types of offenses represent the majority of Romanian citizens, followed by Moldovans, Ukrainians, Austrians and Italians. Further, it appears that the main "supplier" of stolen vehicles that cross the frontiers of Romania, is Italy, followed by Germany, Hungary and Spain.

Regarding drug trafficking, during the same year 2010 was discovered a quantity of 87.089 kg of drugs (85.620 kg of heroin, 0.565 kg of hashish, 0.800 kilograms of cannabis, opium 0.104 kg) and 14 915 pieces. other drugs, 40.197 pcs. anabolic substances, 8.456 pcs. narcotic drugs, the drugs regime were identified 79 offenses.

Countering trafficking in arms and ammunition were found 82 guns, 13,036 cartridges and 1398 kg of explosives being detected 148 offenses of weapons, ammunition, explosives, toxic products¹³.

¹¹ *Sinteza activității Poliției de Frontieră Române pentru anul 2008*. in: „Suplimentul Revistei Frontiera”, 2009, no.1. 43 p. <http://www.politiadefrontiera.ro/> (vizited on 16.09.2014).

¹² Crăciun G., Puică I. *Evaluarea activităților desfășurate de M.A.I. în anul 2009*. in: „Revista Frontiera”, 2010, no.2. 36 p. <http://www.politiadefrontiera.ro/> (visited on 16.09.2014).

¹³ *Analiza activității Poliției de Frontieră Române desfășurată în anul 2010*. in: „Revista Frontiera”, 2011, no.1. 36 p. <http://www.politiadefrontiera.ro/> (vizited on 15.09.2014)

Report activity DGV it should be mentioned that following activities results in preventing and combating customs fraud and irregularities in 2008 were detected 5740 cases, the total value of goods being illegally trafficked 222 162 649 lei in 2009 - 3,665 cases, the total value of goods being 254 808 104 lei, while in 2010-4068 the cases, the total value of goods being 729 015 382 lei.

In combating trafficking in goods suspected of infringing certain intellectual property rights in 2008 it was detected 406 cases and confiscated 21,411,728 pcs. goods with a total value estimated at 41,686,277 euros for 2009 - 524 cases and confiscated 70,076,524 pcs. goods with a total value of approximately euro 91.23 million, and in 2010-615 cases and confiscated 21,613,095 pcs. goods with a total value estimated at 28,000,000 euro.

In preventing and combating drug trafficking and products with special during the years 2008, 2009 and 2010, following actions were discovered (the most important) about 1418 kilograms of cocaine, 364 kg of heroin, 1,964 kg of cannabis, 43 043 pcs. The anabolic; 422 pcs. Arms + 1 charger, 409 904 pcs. ammunition and 112 880 pcs. pyrotechnics.

In 2011, Border Police officers found 9067 offenses in the area of competence compared to 7823 recorded in 2010, ie an increase of 15.9%. Border guards seize up to 1640 kg of gold and 1845 kg of mercury 400 heritage objects, the total value of goods seized 162.5 million. Also seized were 17 408 liters of alcohol in the amount of 382.135 lei and 2937 kg of coffee, worth 78.214 lei. 438 offenses were recorded economic-financial nature, have been involved people from Romania, Ukraine, Bulgaria, Moldova, Serbia, Turkey, Hungary, China, Russia, Greece, France, Syria, Vietnam, Lebanon, Poland and so on

Regarding the illegal trade in cigarettes, border guards have detained, in order to seize, 9,266,833 packs of cigarettes, totaling approximately 50.5 million lei, of which 5,710,045 packages, totaling about 33,600. 000 lei, were smuggling cigarettes. There were also identified 48 organized groups to commit the offense of smuggling cigarettes, according to Law 39/2003 of Romania and identified 435 persons. It is the most active area of the maritime border, whichever amount here forming 46.9% of all cigarettes, followed by the border with Ukraine. The main routes used for smuggling cigarettes are: Ukraine, Transnistria, Belarus, the Russian Federation and the Republic of Moldova - Romania and from Romania to EU countries.

Trafficking in stolen cars on line in the area of jurisdiction were discovered 372 stolen vehicles from abroad (276 cars, 32 automarfare 12 vans, 41 motorcycles, 11 auto trailers). Number discoveries concerning stolen vehicles increased by approximately 18.8% compared to last year. Further, it appears that the main "supplier" of stolen vehicles that cross the frontiers of Romania, is Italy, followed by Spain, Hungary and Germany.

Category trafficking of narcotics was discovered amount of 2.994 kg of drugs (0.500 kg of heroin, 0.661 kg of cocaine, 0.067 kg of hashish, 0.910 kilograms of cannabis, 0.856 kg of other drugs) and 10 027 other drugs, 54 727 substances anabolics, 364 narcotic drugs, the drugs regime were identified 72 offenses.

Countering trafficking in arms and ammunition were discovered 182 guns, 26,416 cartridges and 4362 kg of explosives was found 130 crimes of smuggling weapons, ammunition, explosives, toxic products.

Countering crimes related to intellectual property rights, border guards in cooperation with customs officials, border discovered Romania: 506 383 pcs. clothing and lingerie counterfeit brands bearing the protected 105 770 pcs. cosmetics and perfumery counterfeit 146 799 pairs of shoes¹⁴.

During 2012, the border police, under the leadership DIICOT prosecutors, participated in complex activities, finding 1,360 cases of smuggling and customs fraud. They confiscated 195 151 435 pcs. cigarettes, representing 9,776,609 packets of cigarettes with a total value estimated at 65.7 million lei and 22,086 kg of tobacco with an estimated total to 7.7 million. The actions undertaken to combateriii illegal trade in alcohol and coffee were discovered 13129.61 liters of alcohol, totaling approximately 235.858 lei and 671.95 kg of coffee a total value estimated at 30,000 lei. DPP issued

¹⁴ *Evaluarea activității Poliției de Frontieră Române pentru anul 2011.* in: „Revista Frontiera”, 2012. No .2. 36 p. <http://www.politiadefrontiera.ro/> (vizited on 08.09.2014)

440 indictments being inculpate 1,180 individuals and one legal entity, blamed for a loss of approximately EUR 30 611 295 612 470 lei.

Protective measures were imposed in the amount of RON 209 708 374, 394 387 euros and US \$ 1,611 have been confiscated goods worth 5,763,444 lei, Euro 8604 and \$ 1000.

Drug trafficking has increased over the previous year, Romanian citizens being involved in the transmission or distribution. So they were deconstructed 90 organized criminal groups, 650 persons were prosecuted, of which 370 in remand.¹⁵

From the Report of the Directorate General Customs 2012 that the activity of mobile teams to follow the following specific objectives: a) to combat fraud in the customs and tax excise goods by developing their own action supervision and control, and in collaboration with other institutions with responsibilities in combating tax evasion and smuggling; b) strengthening the control on major roads, especially in the surveillance of the external borders in order to combat illegal trafficking in cigarettes.

In September 2012 the effort of mobile teams and canine Directorates Customs: Bucharest, Constanta, Iasi, Galati, Timisoara, Cluj, Craiova, alongside bodies of border customs offices in Moravia, Jimbolia, Naidăș, Iron Gates and Iron Gates II, were found 106 violations of customs regulations, which were imposed fines worth 224,000 lei, seized 222 740 pieces. cigarettes and 7 vehicles, and other 16 vehicles were detained until the payment of the fines imposed.

However, the 46 canine teams have found and confiscated 6.2219 million units. cigarettes and other goods totaling 10,609,781 lei, for the prosecution submitted a number of 35 cases.

Drug teams found 13 cases of drug trafficking. The most significant amounts were found by canine teams of DV Timisoara - 1,500 grams of cocaine, DV Cluj - 3,440 grams of cannabis and the Directorate General of Customs - 5,330 grams of cannabis.¹⁶

In 2013, the Romanian Border Police is an increase by over 6% of illegal acts in the competence areas. Most illegal acts were discovered on illegal migration, including forgery and use of forgery - over 3,500 works, generally smuggle goods and of economic and financial crimes. Border most active in terms of crime, was the Ukraine, where he was found about 22% of all crime.

There were also detained for confiscation: 15 593 liters of alcohol; 1452 kg of coffee; 178 339 euros and \$ 608,180 undeclared border crossing; 33 items suspected to be part of the national cultural heritage; goods bearing counterfeit protected brands, such as: 340 286 pcs. clothing and lingerie; 194 608 pcs. cosmetics and perfumery; 86 236 pairs of shoes. 283 were detected criminal acts that intellectual property rights on the line, with about 32% more compared with 2012.

Also they were detected and confiscated 8,347,869 packs of cigarettes worth a total of about 89.6 million lei, of which 4,836,358 packages worth 44.8 million lei were smuggled cigarettes. 37 were detected groups organized for the offense of smuggling cigarettes, in which 282 people were identified. Only the first 6 months of the year were seized 4.6 million packets of cigarettes, with a total value estimated at 53.9 million lei, of which approximately 3,000,000 packs of cigarettes were discovered only in Constanta being deconstructed organized 21 groups and identified 120 persons.

Also in 2013 it was discovered 225 vehicles suspected of being stolen; 268 weapons (most lethal) 111 483 cartridges, for which there were no legal documents for border crossing and 6.5 tonnes of pyrotechnic material; 0.075 kg of cocaine, 3.4 kg of cannabis, 22 035 products containing anabolic substances, 271 products containing banned substances.¹⁷

The analysis for 2014 operational situation at national level can be drawn the following conclusions: a) in 2014, the main Romanian border crime phenomenon today is the smuggling of tobacco products; b) illegal trade in cigarettes from Ukraine and Moldova remains high and is far above that found in 2013; c) it is due especially small price established for cigarettes in Ukraine and Moldova and the high level of smuggling at the border between Romania and Ukraine was influenced

¹⁵ *Evaluarea activității Poliției de Frontieră Române pentru anul 2012*. in: „Revista Frontiera”, 2013, no.1. 36 p. <http://www.politiadefrontiera.ro/> (vizited on 11.09.2014).

¹⁶ *Raport de activitate al Autorității Naționale a Vămileor, Anul 2012* <http://www.customs.ro/UserFiles/1127Raport%2520de%2520performanta%2520pentru%2520anul%25202012> (vizited on 14.09.2014).

¹⁷ *Evaluarea activității Poliției de Frontieră Române pentru anul 2013*. in: „Revista Frontiera”, 2014, no. 2. 36 p. <http://www.politiadefrontiera.ro/> (vizited on 17.09.2014).

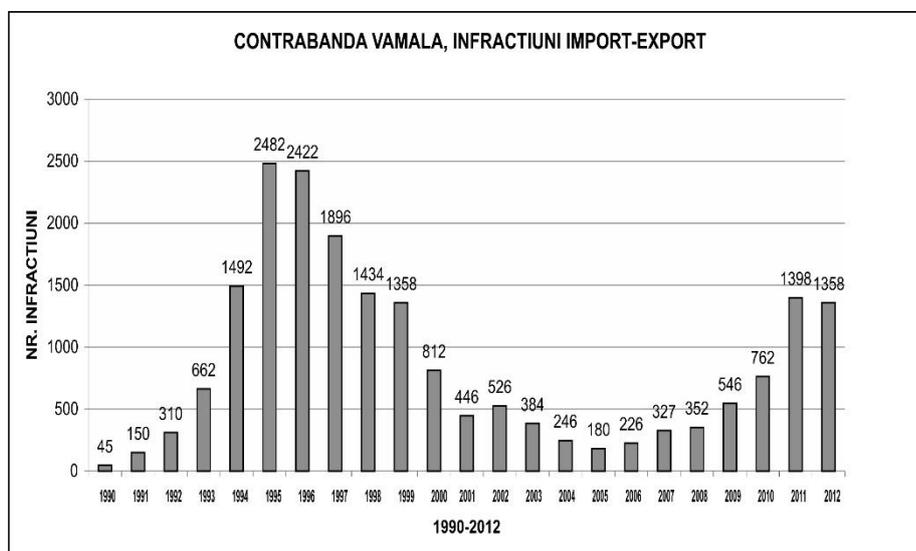
mostly by the military conflict in neighboring doeth the work of the structures in this responsible country in question turned out to be almost non-existent; d) the largest seizures of cigarettes recorded in 2014 occurred on the sea border as a result of discoveries made in containers that were to enter Romania, maintaining and further high risk of introduction of tobacco products by the blue border; e) border with Ukraine remains however most active border line in terms of criminal activity and smuggling of tobacco or tobacco products¹⁸.

In 2015, the Border Police, most offenses were the illegal border crossing and false facts or use of forgery 2,992, followed by economic-financial offenses, including smuggling of goods 1,578 works. At the border with the Republic of Moldova revealed most criminal acts, their number representing 23.3% of the crimes held at the Romanian border.

176 were discovered suspicious vehicle being stolen, 45 weapons, over 2899 cartridges and 16 kg pyrotechnic material; 39.16 kilograms of cannabis, 210 grams of hashish, 227 740 tablets and 135 ampoules anabolics¹⁹.

By using statistical methods and statistical data compiled by the National Institute of Statistics of Romania on the work of the Directorate General of Customs on customs offenses from 1990 to 2012, it was made a forecast of the evolution, detection and referral trends development of all acts of smuggling and customs evasion, drug trafficking. Forecasting methods allow the study of evolution while customs crime. In developing the forecast was started from the dynamic series represents the evolution of the number of customs offenses (smuggling and customs offenses import-export) recorded from 1990 to 2012; the trend of smuggling and import-export in the State during the period 1989-2014; particularities of the number of customs offenses every 5 years, 1990-2010; but development and evolution of the number of customs offenses alleged to have fought in the years 1990-2010.

The graph evolution of smuggling and import-export Romania

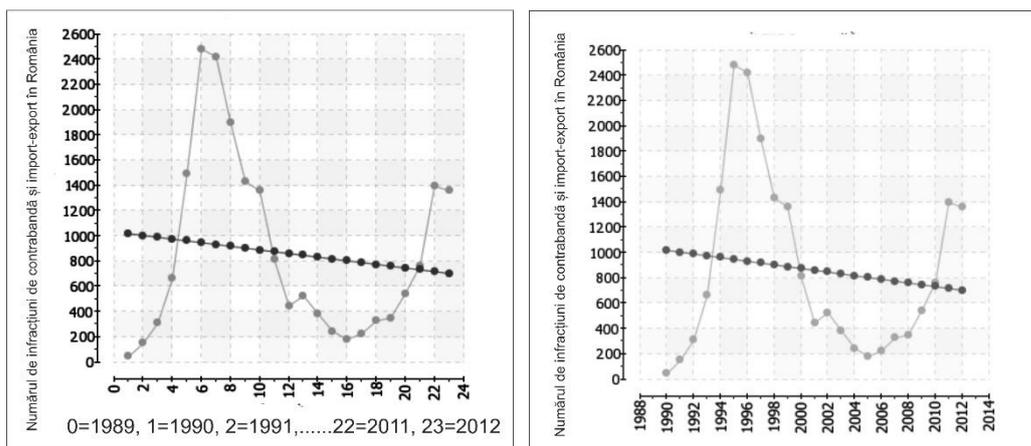


Source: The author, based on data method of forecasting and the Romanian National Institute of Statistics on the activity of the Romanian Customs Authority on customs offenses from 1990 to 2012.

¹⁸ Coman F. *Contrabanda. Specificul contrabandei la frontiera de nord a României: Autoreferat al tezei de doctor în drept*. București, 2015, p. 10.

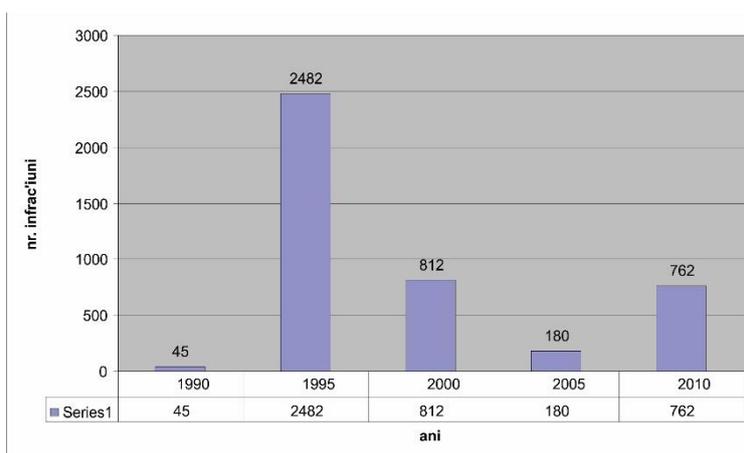
¹⁹ *Evaluarea activității Poliției de Frontieră Române pentru anul 2015:* <https://www.politiadefrontiera.ro/ro/main/i-evaluarea-activitatii-politiei-de-frontiera-romane-desfasurata-in-anul-2015-6715.html> (vizited on 15.09.2016)

The trend of smuggling and import-export Romania



Source: The author, based on data method of forecasting and the Romanian National Institute of Statistics on the activity of the Romanian Customs Authority on customs offenses from 1990 to 2014.

The graph evolution no. of offenses to five years in Romania



Source: The author, based on data method of forecasting and the Romanian National Institute of Statistics on the activity of the Romanian Customs Authority on customs offenses from 1990 to 2010.

4. Identifying root causes and factors contributing to crime committing customs

But what are the causes of crime customs in Romania?

Responding to the question, we note that some of them are similar to the determinants of crime Moldovan customs. However, the factors contributing to the offenses in the customs sphere customs territory of Romania and certain specific acts. Conventionally, the causes (factors) determinants of crime in the customs sphere can be grouped into: external and internal.

Preliminary mention that immediately after December 22, 1989 Romania's borders were opened fully so customs crime was increased and diversified, for which researchers have paid particular interest to identify appropriate measures to reduce it.

Opening the border created in many individuals taste rich quick through traffic in arms, drugs or counterfeit and placement of foreign currency. At the eastern border with Moldova under cover of cultural exchanges between the two countries and access to education they were committed minor offenses in customs matters by running small trade: food, alcohol, cigarettes, industrial goods etc.

In recent decades, due to market demand, it has developed greatly smuggling of cigarettes and alcohol producers and comerciații is looking to achieve bigger gains by evading taxes of all kinds.

With regard to external factors, the doctrine argues: "In the downturn affecting the European space, decreased demand for labor in the labor market and, moreover, some Member States perceive the issue of migration as a security threat internal; This prompted the reintroduction of border controls some Member States (Denmark, the Netherlands), but also created the prerequisites for updating the Schengen Agreement in accordance with the realities of the moment. Organized criminal groups existing in Ukraine, take advantage of permissive legislation and are very active especially in this period, due to the state of conflict between Ukraine and Russia, in which over 30% of flocks border guards Ukrainians were mobilized in the area conflict. One of the reasons favoring cigarette smuggling in large quantities to the Romanian-Ukrainian border is that in Ukraine there are communications almost along the border line, even in hilly or mountain, practicing transporting cigarettes trucks Russian manufacture in large quantities. In such big events are involved, usually many people, especially those living across these activities suitable localities, where the standard of living is low and income from practicing these activities are tempting or even substantial. These illegal actions are organized as a result of collusion between Ukrainian and Romanian citizens, being highly organized and with great financial possibilities, so even attract their side institutions responsible officials at the border"²⁰.

F.Coman²¹ author indicates determinants of smuggling following internal factors: a) poverty and high unemployment affecting the population in the border area, determining a number increasingly more people to engage in conduct illicit activities, bringing high profits in a short time; b) the increasingly specialized and organized criminal groups operating in the area of competence; c) the improvement and diversification of methods used by perpetrators (the use of small aircraft to transport cigarettes or insulating type diving suits for crossing the border waters); d) features Alpine restrict the vehicles supplied criminals and hinder achieving surprise; e) the extent of the border vulnerable to an altitude of 1500 m and far from inhabited areas; f) the vast majority of access roads to the mountain, passable by car, crossing the inhabited areas; g) monitoring of cross-border criminal groups is hampered by the fact that the operative times, they use means of Ukrainian Kievstar phone network; h) sale of cigarettes in high traffic areas or markets in Satu Mare, Negresti Oas, Sighet, Suceava, Radauti, purchased in small quantities from different people who transit frequently through PTFs or smugglers, is perceived as an activity by lucrative part of the population; j) the involvement of border guards / customs officers in criminal activities, either as part of the organized crime group environment or promoting criminal activities of these groups in exchange for money; i) defiant attitude of the population towards the police in all the north of Romania; k) illegal possession of arms and ammunition used for self-defense / bullying or wildlife poaching; l) the existence of a large number of cars registered, usually in the UK and Bulgaria, which are put into circulation but are radiated in countries of origin or have insurance or periodic technical inspection expired / falsified; m) continuing attempts to bring in goods above the ceiling or admitted evading customs control and the introduction into the country of prohibited goods or prohibited by law (agricultural seed, animal products, etc.); n) causes an increase in summer activities near the border and the possibility of violation of border regime; a) part of people entering the country by crossing points of other inspectorates use detours to evade control area of competence.

²⁰ Coman F. *op. cit.*, p. 20-21.

²¹ *Ibidem*, p. 21-22.

5. Measures to combat crime and competence in customs investigation into the conduct of customs offenses

Any criminal activity involves taking measures to prevent and combat. Among the first measures are legislative ones. Here we highlight the establishment of special bodies responsible for the prevention and combating of crime in certain areas.

In the context of major social and political change contemporary imbalances with multiple causes and processes flashpoints over it, preventing and combating crime generally and that of the customs sphere, in particular, can not be avoided, no matter how many difficulties and inconveniences pose.

In the fight against crime customs bodies of law must perform within the powers, actions to prevent, detect and counteract offenses vmale and other cross-border crimes related to illegal movement of people and vehicles, to establish the contraventions related to illegal residence aliens and illegal crossing of the state border by persons and vehicles to conduct special investigative measures.

As crime customs, the main state authority which has competence to carry out inspection and supervision to ensure compliance of customs and behaviors that meet the constituent elements of criminal customs is the Directorate General of Customs, and, if the detected facts criminal notifies the competent investigating authority, in this case Border Police authorities.

Thus, pursuant to the incumbent responsibilities according to Law 86/2006 on the Romanian Customs Code and GD 707/2006 approving the Regulation implementing the Customs Code and other laws incidence of customs, Directorate General of Customs provided: at central level, the activity of a specialized service in the field, responsible mainly for management, coordination and methodological guidance of business departments at regional and local level to prevent and combat illicit drug trafficking and products regime special; regional powers functioning of a compartment of coordination and guidance both teams drugs and physical customs control at the customs office and control operators authorized to carry out operations within the competence of customs; locally, conducting casework team of customs control drug and physically with responsibilities both in preventing and fighting through specific illicit trafficking in weapons, ammunition, explosive materials and radioactive substances, drug precursors, products and toxic substances, and in finding and sanction offenses committed as a result of non-compliance of customs.

An important role in the detection and punishment of customs offenses, including excisable products, they have mobile teams.

In the course of operational actions on missions unannounced established mobile teams implement the legislation in force in respect of: finding and punishing customs offenses; finding and sanctioning contraventions of the Code of Romania tax on transactions in excisable products; finding and punishing offenses under other laws within the competence of the customs authority and workers mobile teams have the quality of official examiners; detention or confiscation of goods provided by law and goods subject to customs or excise goods regulations; proposal for withdrawal, suspension or cancellation of permits or authorizations granted tax warehouses for operations with excise goods; proposal imposing excise duty in case of identification of excise goods for which the excise becomes chargeable is not paid to the state budget, according to Romanian Fiscal Code; proposal receipt of additional funds from the state budget as a result of establishing differences related payment or payment of excise duties; making available to prosecuting authorities of data, information and evidence in connection with the discovery of committing acts that meet the elements of a crime; participation in actions of controlled delivery undertaken in cooperation with relevant institutions belonging structures; identifying and communicating violation of legal provisions, detected and sanctioned by the competence of other institutions; participation in surveillance and control actions unexpected times to organize a flagrant, following the request of other institutions in the field of customs or excise products; gathering data and information on operations customs or excise goods

on which raise the suspicion of violation of legal provisions, which can be disseminated, stored and recovered by conducting further checks, or subject to holding deposit or alerts of authority customs.

Also, another organ of particular importance in the investigation of criminal offenses Customs Code of Romania is the Romanian Border Police. As part of the Ministry of Interior, it performs the duties incumbent on the supervision and control of state border crossing, preventing and combating illegal migration and deeds specific cross-border crime committed in the area of jurisdiction, to respect the legal regime of border State of passports and foreigners.

In the activity, the Border Police cooperates with other organs of the Ministry of Interior or the Ministry of National Defense, and other institutions that have competence public order and national security, or public administration authorities with responsibilities in the insurance sector and compliance legal regime of the state border.

We note that local inter-institutional cooperation is important for the Romanian Border Police, which has a permanent character and essential for the successful implementation of the strategies and legislation. Interinstitutional cooperation is achieved by: operative data and information exchange, joint actions, participation in joint training programs, joint exploitation of risk analysis specific to the activities of each institution etc. Thus, this implies better combating cross-border crime and achieving a fluent and operational control crossing points, the aim being to ensure state security and citizens.

In this respect, the Romanian Intelligence Service has jurisdiction preventing and combating transnational organized crime, prevent and combat related activities (drug trafficking, cybercrime, large-scale tax evasion and smuggling), proliferation of weapons of mass destruction. In turn, the Romanian Intelligence Service cooperates with other institutions in charge of security and public order, but also with international organizations.

Directorate General for Tax Fraud is another organ in charge of finding and fighting all criminal acts not only customs, but also in the economic or financial.

6. Conclusion

Summarizing the above mentioned herein, we make the following conclusions:

Criminal offenses consist prevailing at Romania's borders crossing or attempting to cross the border illegally, forgery and use of forgery and smuggling of consumer goods, trafficking in stolen cars, the regime of intellectual property rights, the fight against tax evasion. It noted that particular emphasis should be placed on combating illicit trafficking of excise goods, notably cigarette smuggling.

In recent years, with the development of business, in addition to offenses classic contraband and smuggling prohibited goods, drugs and weapons, smuggling of goods increased risk, excisable goods, strategic goods, new forms of contraband, such as illegal removal from the country of foreign exchange values, conducting fictitious transactions of goods, customs procedures facilitating use.

In 2014, the main Romanian border crime phenomenon today is the smuggling of tobacco products. Illegal trafficking in cigarettes from Ukraine and Moldova remains high and is far above that found in 2013, which is due in particular fixed price on cigarettes in Ukraine and Moldova. The high level of the Romanian-Ukrainian border smuggling was influenced mostly by the military conflict in the neighboring country.

From the research we support the re-establishment of the National Customs Authority, the independent structure with legal personality; more even setting criminal investigative body as a specialized division within this institution, authorized by law to prosecute, as takes place in most member countries of the European Union or in Moldova. In this way, they would be entitled to retain the perpetrator, to raise the corpus delicti, to request all information and documents necessary in order to establish the offense, to call people and get their statements, to assess the damage and make any approaches that do not support delay, draw up minutes in which to record the actions taken and circumstances ascertained as long as customs customs offenses detected.

Competences of finding and prosecuting those who carry out the Romanian legislation to be clearly defined, removing the art. 280, paragraph 2 of the Customs Code, because the content resides that when customs offenses are found by the police or other bodies with control in places other than the premises of the customs or other places where operations are under customs supervision; they are obliged to submit immediately to the customs documents attesting earliest possible, and in this situation, skills overlap.

Also, to deter crime at Romania's borders, the sanctioning system should be diversified, in line with European law systems, providing for the cumulative fines relative to the damage created and confiscation.

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