

## 1. SMUGGLING OF CONSUMER GOODS AND RELATED CORRUPTION

The **term smuggling** has three different meanings:

- a general term for illegal activities of importers and exporters in connection with customs legislation;
- a synonym for the term "customs violations and offences";
- it can denote one of the possible customs violations, regulated in Article 233 of the Customs Law – "transporting or carrying of goods through the state border without the knowledge and permission of customs authorities" (this term is used also for violations against the customs regime according to the Penal Code – Article 242).

In popular usage, the outright smuggling is defined as "**black import**" (and the corresponding "black export"), while violations, which for instance are related to frauds with documents, are considered as "**gray import**" ("gray export").

The term smuggling will be used here in its largest meaning – for all illegal activities involving import, export and transit of goods.

Smuggling or illegal transfer of goods, valuables and other items across the state border is international in character, because it involves violation of the laws of more than one country. The present report deals only with the national dimensions of smuggling, since there is still no appropriately accessible and systematic data for this type of criminal activities in the neighboring Balkan countries.

Discussing smuggling and counter-smuggling efforts of customs authorities in Bulgaria, it should be noted that the preconditions for the appearance of customs and currency violations and offences are of economic character.

Customs violations and offenses are a direct consequence of economic environment in the country and are highly influenced by a number of **crime-inciting factors**:

**In the first place**, the high level of gray economy and the "high liquidity" of smuggled goods stimulate the illegal import in large quantities.

**In the second place**, the profits from trade with illegally imported goods (compared with the trade with domestically produced or legally imported goods) are still too high and the risks of sanctions too low. It is often more profitable for perpetrators to risk being fined than to pay due taxes to the state.

**In the third place**, the less strict border control combined with the liberalization of import-export regimes stimulates the illegal import of goods, which do not meet the quality standards or were bought abroad under suspicious circumstances. Some of the neighboring states (for example, Turkey) create favorable conditions, used both by large-scale smugglers and by "suitcase traders" to conduct practically unlimited import of goods, sold on dumping prices and often on the gray market.

Apart from these factors, also displayed in the other countries in transition, a feature **specific to Bulgaria** should be noted, namely that the **import-export transactions represent a large share of the gross domestic product (GDP)**. This circumstance is not being given enough attention when the scale of smuggling activities is assessed or when priorities of state policies are set. The following needs to be considered in this respect:

- The border has turned to be one of **the main mechanisms for illegal redistribution of national wealth and for criminal accumulation of private capital**. The main reason for this is that Bulgaria, like other countries with small markets, has an "open economy." According to official statistics, between 65 and 80 percent of the GDP is transferred through state borders in the form of import and export. According to international estimates, with the almost complete liberalization of foreign trade, the border began to provide between 30 and 50 percent "price advantage" to those importers, who violate the laws, regulating import and export. With the value of annual import and export between \$8 and 10 billion, selective enforcement of the law resulted in redistribution of \$20-30 billion in the last 11 years. In other words, the wealth redistributed "along the border" equals or even exceeds the total value of privatization and restitution in the last 10 years.
- **The border functions as a generator of liquidations and bankruptcies**. The lack of normal border control favors "gray importers" of foreign goods to the detriment of Bulgarian industry. Paying the due taxes and fees, unlike their unscrupulous competitors, hundreds of Bulgarian enterprises and whole traditional branches were destroyed and subsequently disappeared.
- **The illegally acquired price advantage** of "gray importers" during the last decade additionally **deformed the economic rationality**<sup>1</sup> of the emerging market (including the activities of the large multi-national companies). This has additionally delayed the transition of the country to market economy and the integration of its economy into the global market.

Apart from the factors listed above, the following ones also influence the range of smuggling activities: development of the interaction between state institutions in regard with the control over the complete process, which involves the chain "producer – exporter/importer – trader"; the range of jurisdiction of authorities (including customs); the state of criminal and administrative-criminal law and its application with an optimal use of punitive prevention of potential violations; the state of judicial system, etc.

Since smuggling is closely linked to corruption, the paper focuses on those cases of smuggling, which are realized with the knowledge and cooperation of state ser-

<sup>1</sup> Trans-border crime is by far not the only or the main factor, distorting the normal market relations in the country

vants, whose prerogative is to cut illegal practices. This decision is determined by the fact that almost in all cases smuggling channels in Bulgaria function on such principles.

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When analyzing the situation and trends in trans-border crime and related to it corruption, we should note above all that in the end of 1990s, certain **favorable regional processes** have emerged. These have created conditions for normalization of trans-border trade and for limiting smuggling and other forms of customs violations:

- Above all, albeit slowly, the situation along the borders with neighboring countries began to stabilize. After the fall of the Milosevic regime, the new Serbian customs and border institutions started to limit some of the traditional schemes for customs violations.
- Few of the largest smuggling networks were cut after the international peacekeeping forces entered Macedonia and Kosovo.
- Positive development occurred also on Romanian borders, especially on the borders with Moldova and Ukraine.

These developments represent an objective precondition for limiting the smuggling to and through Bulgaria.

**Within the country** smuggling and related to it gray economy are naturally limited by the ongoing development of market economy relations. More specifically, **with the appearance of huge multi-national companies and well-known international hyper- and super-market chains, many of the traditional gray markets for various types of goods started to shrink.** This led to a substantial decrease of illegal import of certain consumer goods like coffee, milk products, detergents, alcohol, etc.

**The change of government, following the June 2001 Parliamentary elections, has also had a positive effect.** As a rule, each new government, especially in the beginning of its term, engages in anti-corruption efforts and strives to develop a positive public image together with the imperative need to attract additional revenue for the budget.

Unlike in the recent past, **no signs for political corruption** (that is for distribution of revenues from smuggling on political level) **have been detected in the Customs Agency in the period 2001-2002.** The topic of "briefcases" stuffed with dollars periodically delivered by couriers of smugglers to politicians' offices in Sofia seems to be no longer on the agenda. This in its own turn enlarges the revenues on the lower levels of corruption schemes, but at the same time, since this criminal activity is no longer secured by the political cover, increases the uncertainty and potential risk.

Yet, despite several actions of the law-enforcing institutions, which temporarily disrupted the work of the criminal groups controlling illegal import and trade with goods, **several smuggling channels continued to operate in 2002.** These channels harm the national industry and deprive the state budget of revenues.

This conclusion is confirmed by a number of **indirect indicators**:

- The "division of labor" between big bosses, specialized in illegal import of specific types of goods has been preserved.
- Despite several personnel changes, many of the accomplices within the customs administration, border police and other state law-enforcing and supervising institutions have kept their positions.
- Stable "rates" for illegal import of goods are a public secret, which testifies about the presence of smuggling services on the market.

## 1.1. CLASSIFICATION OF SMUGGLING

The following types of smuggling operations are the most widely spread:

- **Outright smuggling ("opened barriers")**  
In such cases, the imported goods are not registered at all with the customs and other institutions. In the large majority of cases of outright smuggling, criminal complicity of public servants at the border is involved.
- **Abuse of the "time" factor**  
Corrupt customs officials often abuse the fact that **time frame for accomplishment of customs service is not prescribed** in order to extract bribes. For example, by deliberately delaying the customs clearance for perishable goods, the owner is forced to pay a bribe in order to speed up the process. Alternatively, a bribe may be given by a third person in order to hold the goods until they get spoiled. Thus the bribe-giver eliminates the market competitor.  
The reverse case can be witnessed when a particular importer is given advantage before its competitors by speeding up the process of customs clearance or by getting the clearance after the end of the working day. Then, the importer's expenses are reduced (expenses for storage, those related to contracts for timely delivery of goods, etc.) and the customs officer turns to his benefit the importer's economic interest as a precondition for extracting a bribe.
- **Falsification of the documents accompanying goods**
  - A significant part of violations is linked to **the origin of the goods** and to taking advantage of certain preferences, related to this origin. Practice proved that cases in which false certificates of origin were submitted to and accepted by the customs are abundant. Despite the fact that in many of these cases it was possible to disclose the violation during the customs procedure, this did not take place. Often customs officials themselves instruct the violators which false documents should be presented and how they should be falsified. In such cases, the violator pays a bribe to the customs official for accepting the false document as genuine one. Bribes are not given only inside the customs service, but are paid also to experts in laboratories where untrue expert opinions are produced, to the administrative employees in Ministries and departments for issuing certificates containing false information, and to notaries legalizing apparently false documents.
  - A consequence of customs violations resulting from the use of **incorrect tariff number and description of goods** is that lower or no taxes and fees are paid.