



## THE ILLICIT TRADE OF TOBACCO PRODUCTS ALONG THE BALKAN ROUTE: BULGARIA, GREECE, ITALY AND ROMANIA

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The Balkans have long been a key route for various illicit goods and flows – drugs, firearms, human trafficking and human smuggling. Since 2000 Greece has become a key entry point and a source of ‘illicit white’ cigarettes. This was the onset of a resilient and hard to curb transnational criminal infrastructure. Upon entering Greece, the ‘illicit whites’ were further trafficked either to Italy and Western Europe or through Bulgaria and Romania to Central European markets. These four countries are also the four top-ranking member states in the EU in terms of levels of perceived corruption.<sup>1</sup>

The impact of the illicit trade of tobacco products (ITTP) worldwide is manifold – not only from economic, but also from public health and crime perspectives. ITTP encompasses criminal activities enjoying high levels of social tolerance and in many cases it is not even perceived as a socially harmful practice. Thus, despite its adverse economic and social impact, the ITTP is constantly expanding worldwide.<sup>2</sup>

A good indicator of the adverse social and economic effects of ITTP in Bulgaria, Greece, Italy and Romania

<sup>1</sup> See *Control of Corruption* in the World Governance Indicators (WB, 2014), as well as the most recent *Corruption Perception Index* (Transparency International, 2016).

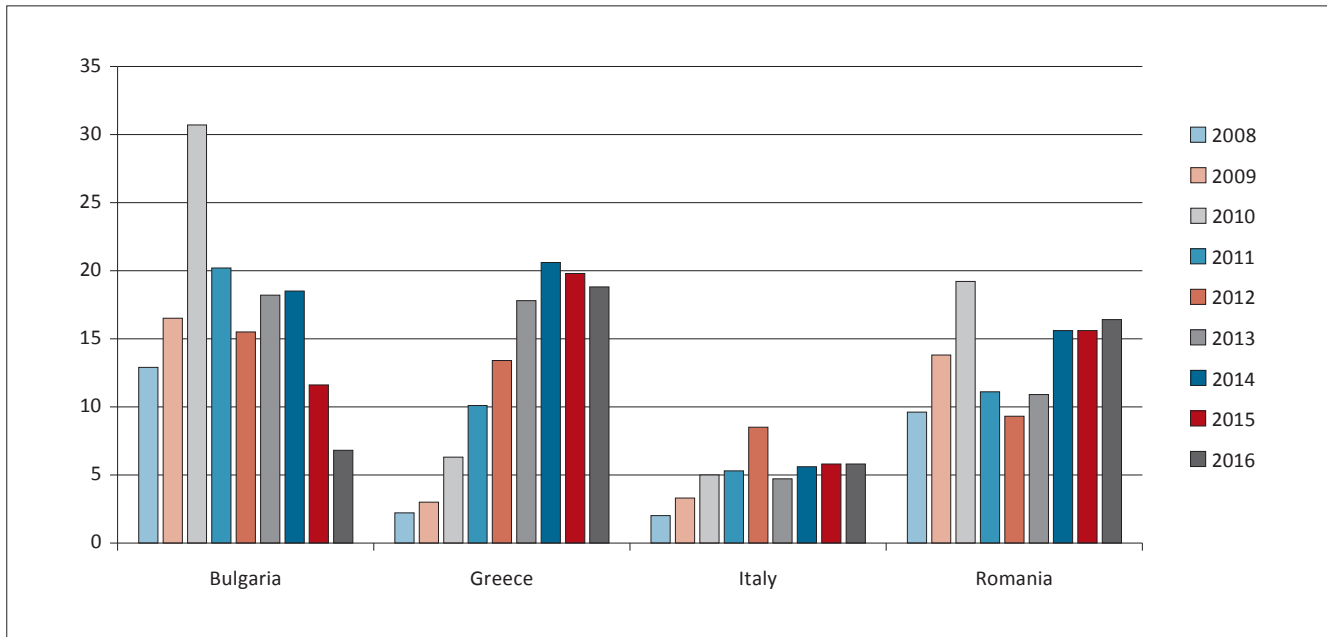
<sup>2</sup> OECD, ‘Smoking’, *OECD Factbook 2015 – 2016: Economic, Environmental and Social Statistics*. Paris, 2016.

### KEY POINTS

- The national tobacco policies in Bulgaria, Italy, Greece and Romania reflect the main trends and developments set by the international and EU regulatory mechanisms. However each country faces different challenges in the implementation due to differences in the institutional setup and administrative capacity.
- The tobacco sector in the four countries has undergone very similar evolution, where following the liberalisation, the Big Tobacco producers hold between 80 % and 90 % of the market, although local producers still maintain their presence on national level.
- The peak of the ITTP in the four countries was triggered by the economic crisis in 2008 – 2010, which led to 4 to 5 times increase in the consumption of illicit tobacco products. However, while Bulgaria and Italy eventually managed to stifle their illicit markets, Greece and Romania continue to face high levels of ITTP.
- Greece, Italy and Romania are among the top five transit points in the EU and Bulgaria is an important regional transit point. There is a long history of well-established collaboration between the criminal networks of the four countries.
- Three major categories of risks and vulnerabilities have been identified with regards to ITTP 1) Risks deriving from the overall political, institutional and legal environment in each country; 2) Risks related to the licit tobacco sector; 3) Risks related to the crime context in each country.

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**Figure 1. Budget revenue lost due to unpaid excise and tax duties related to ITTP as share of GDP (2013 – 2016)**



Source: KPMG, Project Sun reports.

are the budget losses due to evasion of taxes in each of the affected countries (see Figure 1).

Apart from resulting in loss of budget revenue, ITTP is also generating huge profits for organised crime, which in turn translate into corruption, money laundering and distortion of fair competition. For example, in Italy ITTP is of great concern due to the presence of well-rooted mafia-type criminal organisations, such as the Camorra clans and the

Sacra Corona Unita groups, which have been active in this market since the '50s and '60s, and in recent decades have started to collaborate with criminal entrepreneurs from Eastern European countries.

Given its social and economic impact, it is crucial not only to estimate the extent of ITTP, but it is also important to analyse vulnerabilities and threats that ITTP poses to the legal and institutional environments, the licit tobacco business and the consumption of legal tobacco products. With this aim, the current paper focuses on the ITTP in Bulgaria, Italy Greece and Romania. It reviews 1) the legal and policy frameworks regulating the tobacco sector; 2) the licit tobacco market; 3) the illicit tobacco

trade (volume, demand, supply and the main actors involved).

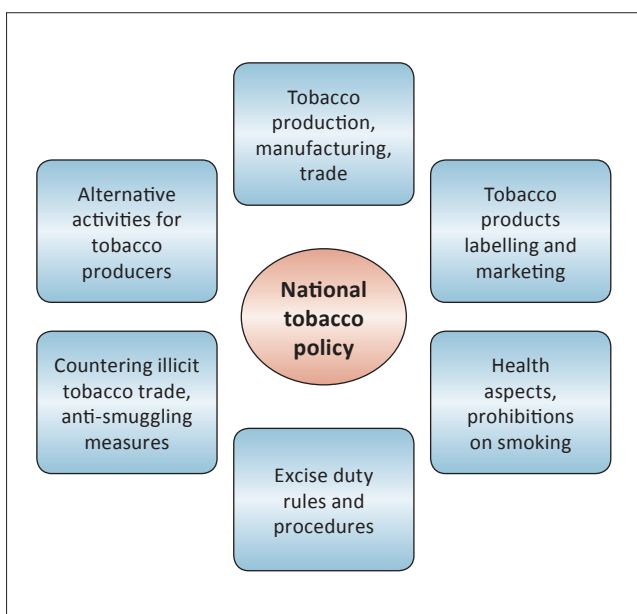
## LEGAL AND INSTITUTIONAL FRAMEWORK

The national tobacco policies in Bulgaria, Italy, Greece and Romania largely reflect the main trends and developments set by the relevant international and EU regulatory mechanisms (see Figure 2). The four countries, as member states of the European Union, have not only signed *the WHO Framework Convention on Tobacco Control (FCTC)*, but also comply with all European directives aimed at controlling the tobacco sector. The FCTC, adopted under the aegis of the World Health Organisation (WHO) in 2003, is the first international public health treaty with regards to tobacco. Its main goal is to tackle the social, health, economic, and environmental consequences of tobacco consumption and exposure to tobacco smoke. To this end, the FCTC encompasses a multifaceted set of measures for reducing both the demand for tobacco (e.g. rules for labelling and packaging; restrictions on advertising, promotion, and sponsorship; price, tax, and non-price disincen-

tives) and the supply of tobacco (e.g. countering illicit tobacco trade and sales to and by minors, provision of support for economically viable alternative activities).

The *Protocol to Eliminate Illicit Trade in Tobacco Products*, developed within the context of the FCTC, embodies the main response of the international community to the cross-border illicit tobacco trade.<sup>3</sup> The FCTC Protocol aims at eliminating all forms of illicit trade in tobacco products. At the EU level, the core measures of FCTC and EITTP are incorporated in the *Tobacco Products Directive*.<sup>4</sup>

**Figure 2. Main aspects of tobacco policies at national level**



Source: CSD.

Other key EU legal acts that have been approximated in the national legislation of the four countries include the Union Customs Code, the EU regulations and directives with regard to excise duties, mutual cooperation and assistance in customs and criminal justice matters to prevent and counter fraud and organised crime. Thus each of the countries has in-

corporated the minimum standards set forth in the above mentioned international and EU legal acts.

The *Union Customs Code* proved to be an important instrument of the customs modernisation process serving as an EU-wide customs regulatory framework. Among the objectives set forth in the Code is to ensure an electronic environment that provides for more effective personalised control based on risk analysis, including the risk of cigarette smuggling. Another important instrument in the fight against ITTP is *Council Regulation 2015/1525 of 9 September 2015*, which aims to improve the EU instruments for investigating and detecting customs and excise goods fraud, allowing investigators, inter alia, to juxtapose the import, transit, and export data concerning the movements of containers with excise goods, including data on cigarettes. The Regulation further facilitates the use of evidence obtained in one EU Member State in proceedings before the administrative and judicial authorities of other Member States.

However, each of these four countries has followed their own criminal justice response and established different institutional mechanisms to combat the illicit trade in tobacco products.

## Bulgaria

The cigarette and tobacco market in Bulgaria is shaped by excise taxation, state subsidies and the policy on counteracting illicit trade. The main legislative act regulating the manufacture, distribution and trade in tobacco and tobacco products in Bulgaria is the *Law on Tobacco, Tobacco Products and Associated Articles*.<sup>5</sup> The law defines the rules and procedures for trading in raw tobacco, industrial processing of tobacco, including the licensing of tobacco products manufacture, and trading in processed tobacco and associated articles such as elec-

<sup>3</sup> Progress report on the implementation of the Commission Communication Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products – a comprehensive EU strategy, COM (2017) 235 final, 12.5.2017.

<sup>4</sup> Directive 2014/40/EU on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products, OJ L 127, 9.4.2014.

<sup>5</sup> Law on Tobacco, Tobacco Products and Associated Articles, promulgated SG No. 101 of 30 November 1993, last amended and supplemented SG No. 103 of 28 December 2017.

tronic cigarettes. It contains both administrative and penal provisions.

The *Law on Tobacco and Tobacco Products* requires manufactures to have registered as commercial entities and buyers of raw tobacco to obtain a valid permit (Article 4) obliging the latter to register the contracts they have concluded. To prevent illicit production of tobacco and tobacco products, Article 24 of the Law allows only licensed entities to participate at the production stage.

Excise policy and the implementation of the relevant excise and tax legislation are among the main factors influencing the illicit cigarette market in the country. Bulgaria is obliged to reach excise rates equal to the minimum levels in the EU. The much lower local income level and the tight alignment deadline, however, have turned this effort into a challenge.

The Law on Excise Duties and Tax Warehouses has been in force since 1 January 2006. The institution authorised to apply the excise legislation is the Customs Agency.

Since its establishment, the Customs Agency has engaged in electronic exchange of documents on the movement of excisable goods under duty suspension arrangements. In 2013, it introduced the Bulgarian Excise Centralised Information System (BECIS).

It should be noted that the *Law on Excise Duties and Tax Warehouses* has been regularly amended in response to changing market risks. In 2010, after a series of steep rises of the excise duty on tobacco products (2008 – 2010) and the expected expansion of the illegal market, penalties against illegal traders were drastically raised (2009 amendment to Art. 108a and Art. 112). Due to such amendments, distribution of illicit tobacco products through the retail network has been successfully prevented. The Law's enforcement,

however, has been more problematic. The courts have refrained from imposing high penalties on retailers selling tobacco products without excise trade license, reasoning that the sanctions are too severe (Article 108a, amended 2009),<sup>6</sup> and, in case of minor violations, ruling suspension of the retail business. With a later amendment, the penalty for unlicensed retail sales has been reduced.

In February 2017, the Ministry of Finance issued a revised version of the *Regulation on the Implementation of the Law on Excise Duties and Tax Warehouses*.<sup>7</sup> The Law itself was last amended in December 2017 in an attempt to curb the advertising of illegal tobacco products online, which is a new trend replacing the public markets and bazaars in cities as the place to sell illegal cigarettes and hand rolling tobacco. The amendments also aim to regulate the rapidly expanding hookah market.<sup>8</sup>

Excise legislation, though, like other legislation is not corruption-proof. At various times, particular components of the government's excise policy have been influenced by the lobbies of different companies from the cigarette industry. The changes made to the so-called excise calendar in 2015 and 2016 are a glaring example. At the start of its term in office (2014), the then government, after consultations with the industry, had planned to raise excise duty and the ratio between its specific and ad valorem components. However, this arrangement was broken to the benefit of a couple of cigarette companies.

The *Criminal Code* contains a number of provisions on illegal activities related to tobacco and tobacco products. Art. 234 regulates the prosecution of offenses with excise goods, Art. 242 refers to smuggling, while Art. 321 governs the establishment, leadership and participation in an organised criminal group. Smuggling is also defined as a customs violation under Art. 233 of the *Law on Customs*.

<sup>6</sup> First time violations are penalised by a fine of 50,000 BGN, whereas repeated violations result in a temporary closing of the retail outlet for 6 months.

<sup>7</sup> Regulation on the Implementation of Law on Excise Duties and Tax Warehouses, promulgated SG No. 42 of 23 May 2006, last amended and supplemented SG No. 80 of 6 October 2017.

<sup>8</sup> Regulation Amending and Supplementing the Regulation on the Implementation of Law on Excise Duties and Tax Warehouses, promulgated SG No. 42 of 23 May 2006.

The Ministry of Interior (Mol) is the main authority investigating crimes related to the illicit manufacture, distribution and transportation of tobacco and tobacco products. Within the Mol responsibilities are divided as follows: the General Directorate for Combating Organised Crime (GDCOC) focuses its efforts on countering organised crime groups, the National Police General Directorate (NPGD) counteracts the spread of illicit tobacco products at the regional level, while the Border Police General Directorate (BPGD) tackles the smuggling of tobacco products. Since 2010, fighting illicit trade in tobacco products has become a priority for GDCOC and NPGD, leading to the transfer of resources from other key areas such as drug trafficking, car theft, etc.<sup>9</sup>

Over the last decade, the peaks in ITTP have frequently shaken state revenue levels. Institutional response, however, has ranged from blocking measures aimed at curbing the illicit market for years to hasty efforts that miss the target. Legal and regulatory amendments and the lack thereof have depended on the political party balance in parliament and, often, on lobbyist interests. The *Law on Duty-Free Shops* was perhaps the most flagrant example of blocking – it took 8 years and 3 parliaments to close down the high-risk duty-free commercial outlets on Bulgarian land borders. In other cases, anticipating the boost of illicit trade, hasty legislation has been adopted containing such severe sanctions against commercial outlets that a large number of them have had their operations suspended, and some have gone bankrupt.

In addition, in times of steep illegal market growth the law enforcement and revenue administrations' response tends to be slow due to the time needed to catch up on human resources and funding.

## Greece

The corner stone of the **Greek legal framework** for countering of ITTP is the *National Customs Code (Law 2960/2001)*, which, among other issues, addresses tobacco smuggling. In accordance with the Code, smug-

gling is considered an offence against the customs regime while at the same time it is also a criminal offense. Therefore, persons convicted for these actions are subject to a double punishment – administrative (the “multiple charge payment”) and penal (fine or imprisonment). A “customs offense” is defined as (a) non-observance of the Customs Code formalities relating to customs services (b) evasion or attempted evasion of duties, taxes, etc.; and (c) failure to conform to the formalities provided for in Art. 155 concerning smuggling.

The acts of smuggling are criminalised proportionally to the size of public revenue losses. Smuggling is considered a misdemeanour, if the duties and taxes due to the state or the European Union do not exceed 50,000 EUR. When the due customs duties and taxes exceed 150,000 EUR, smuggling constitutes a felony. When the customs duties, taxes and other charges for the smuggled goods do not exceed a total of 70,000 EUR, the perpetrator can avoid seizure of property and criminal prosecution, by paying directly the customs duties, taxes and other charges.

In 2015, a **General Secretariat against Corruption (GSAC)** was established in order to ensure coordination between the competent domestic services and agencies, active in the field of the ITTP. GSAC has also been designated as the national anti-fraud coordination service – AFCOS, in order to ensure cooperation with OLAF.

To reinforce the Customs Authorities, three **Mobile Control Units** in Customs offices in Piraeus, Thessaloniki and Serres were established in 2015. A **Special Department for Sea Controls** has also been established within the Customs Control Service of Attica (Athens greater area), authorised to conduct control using specialised anti-smuggling vessels.

The **Coordination Centre to Combat Smuggling** was created in 2016 with the purpose of combating the smuggling of products, subject to excise tax (tobacco, fuel and alcohol). It coordinates the services involved in the prosecution of smuggling and the reception, analysis, processing of all available information. The Coordination Centre operates as a

<sup>9</sup> Interviews with Mol and Customs Agency officials.

national intelligence unit and is composed of specifically assigned experts from several services: 1) the Independent Authority for Public Revenues, ii) The Greek Police, iii) The General Secretariat against Corruption, etc.

Austerity measures and other financial restrictions in public spending have evidently had a serious impact on the capacity and effectiveness of LEAs and the criminal justice system in Greece as a whole. A number of experts, interviewed under the current study, have identified the insufficient human resources and the lack of technological equipment and infrastructure as major obstacles to the effective fight against ITTP. Furthermore, the institutional gaps, the legislative decisions and their application and the severity of penalties have been at the centre of criticism for many years. Despite the increasing severity of penalties and the improved control over the market, organised crime groups continue to expand their activities.

Regarding the existing legislation a number of criticisms have been expressed by experts from the Greek customs and law enforcement authorities. First of all, the provisions of the National Customs Code allow the perpetrators to claim that the value of the evaded duties and taxes is below the threshold of 150,000 EUR and thus to avoid criminal prosecution and imprisonment. Smugglers also take advantage of this gap to avoid higher penalties. Additionally, experts pointed out that there were several cases where ships were confiscated and subsequently auctioned by the authorities, but at the end the same criminal network bought them back at a minimal price to use them again for smuggling.

## Italy

The main legal acts within the Italian legislative framework that aim at prevention and counteraction of the ITTP are as follows: 1) *Decree of the President of the Republic n. 43 of January 1973*, where Art. 291 defines the crime of criminal association for cross-border smuggling of tobacco (the crime is punishable with imprisonment from 3 to 8 years for the promoters of the association, and from 1 to 6 years for those

who participate in it); 2) *Title III of Law n. 907 of 1942*, Art. 64 regulating the crime of domestic smuggling; 3) Italian Penal Code, specifically Art. 416 on “Criminal association” (for crimes committed by 3 or more individuals) and Art. 416 bis on “Mafia-type association”.

A recent legislative amendment concerning the decriminalisation of offences subjected to a fine, have impacted the regulation and combatting of ITTP. The *Legislative Decree n. 8 of January 15, 2016* has included among the decriminalised offences, the contraband of illicit tobacco products when the quantity smuggled or sold is below 10 kg. Since this criminal activity is carried out by transnational organised crime groups, in practice, the effect is to avoid punishing sellers of illicit tobacco products applying custodial sentences, following the perception of the general public that ITTP creates less social harm.

The **institutional framework in Italy** for combatting ITTP includes several agencies involved in the prevention and control of this phenomenon, and in particular:

- Agenzia delle Dogane e dei Monopoli (Customs and Monopolies Agency) which monitors, controls and verifies the movement of goods and the due payment of excise duties within the international trade. Among the crimes counteracted by this Agency are tax evasion and tobacco smuggling;
- Guardia di Finanza – GdF (Financial Police), structured in dedicated Forces with expertise in the fight against ITTP, named SCICO (Central Service of Investigation on Organised Crime) which coordinates 26 investigation groups on organised crime (GICOs). The former gives logistical and operational support to GICOs and collects data on seizures and investigations, while the latter investigates organised crime groups involved in tobacco smuggling and counterfeiting of foreign tobacco. They operate jointly with the units on tax frauds within the Guardia di Finanza and are located in 26 cities where Anti-Mafia District Directorates (DDAs) are present;
- Direzione Nazionale Antimafia e Antiterrorismo – DNA (National Anti-Mafia and Anti-Terrorism Di-

rectorate), that coordinates and support DDAs and police forces in investigating serious organised crime. Among Italian prosecutor offices, DNA and DDAs are the only units dedicated to the prosecution of mafia-type criminal organisations, also with regard to tobacco smuggling (Law n. 92 of 19 March 2001).

Cooperation among these actors, and with European and other international counterparts, is governed by dedicated agreements and conventions, while the exchange of data on ITTP at the national level is still lacking complete coordination and systematic gathering. In an effort to address this issue, the **Observatory for the Fight of Contraband and Counterfeit Tobacco Products** was established in 2014 as a result of a joint initiative of the University of Padua, the Customs and Monopolies Agency, the Guardia di Finanza, the Ministry of Economic Development, and tobacco manufacturers. The Observatory gathers various data on the illicit tobacco trade and conducts research and analysis. It also develops and promotes prevention and control strategies.

## Romania

In Romania, the main act regulating the tobacco industry is *Law no. 201/2016* on the establishment of conditions concerning the manufacturing, presentation and marketing of tobacco and related products. Another instrument regulating the subject is *Law no. 236/2003* which concerns the raw tobacco market. The law regulates the complete tobacco's supply chain, from raw leaf to fine cigarette. It starts with the delivery operations from local producers to first-processing units, regulates the associations and cooperation among producers, authorization of first-processing units and quality standards.

The *Tax Code*<sup>10</sup> includes provisions for tobacco products and for producers. The income from farming and cropping tobacco from land tracts below 1 ha is considered non-taxable income. All processed tobacco (cigarettes, cigarillos, and smoking tobacco) is considered excisable product with the exception of

that used exclusively for scientific testing and quality control. The *Tax Code* defines also the responsibilities of authorized warehouses and importers for the destruction of confiscated processed tobacco. In respect to criminal liability, the law considers a crime holding outside a fiscal warehouse or selling on Romanian territory of excisable products without being labelled or labelled inappropriately or with false labelling above the limit of 10,000 cigarettes, 400 cigarillos of 3 grams, 200 cigarillos larger than 3 grams, and over 1 kg of smoking tobacco. What is below the above mentioned limits is considered an offence subject to fine and confiscation. The production of processed tobacco outside an authorized fiscal warehouse is also considered to be a criminal offence.

The *Customs Code*<sup>11</sup> is one of the most important legal acts with regard to ITTP. In the crimes section, it defines smuggling as importing or exporting from the country, by any means, of goods through places other than those established for customs control. Collecting, holding, producing, transporting, taking over, storing, handing over, or selling of goods to be placed under a customs procedure knowing that they are smuggled or intended to be smuggled is also assimilated into smuggling. Removing from customs control of goods placed under a customs regime, while being in a place set for customs control, is also considered smuggling if the customs value of the goods is greater than 20,000 RON (4,378 EUR) in the case of products subject to excise duty such as tobacco products. Removing from customs control of goods subject to excise duty with a customs value lower than 20,000 RON is considered an offence to be sanctioned by a fine and confiscation of the goods.

The *Emergency Ordinance no. 54/2010* on some measures to combat tax evasion is currently under intensive public debate. The Ordinance regulated the duty-free shops, among other provisions. In the explanatory note of this Ordinance, the Government claimed that in 2009 duty-free shops were responsible for 40 % of cigarette smuggling on Romanian territory and 93 % of the receipts for the purchase of cigarettes in this type of shops were false. Also, the contribution to the

<sup>10</sup> Law no. 227/2015.

<sup>11</sup> In force from 10 April 2006.

state budget of these companies was insignificant, the operations being economically not reasonable. Thus, by *Emergency Ordinance no. 54/2010*, the duty-free shops were strictly regulated: 100,000 USD authorization tax per shop, maximum selling quantities per person for cigarettes and other products, restriction of fiscal benefits. The effects of the Ordinance have been positive as the smuggling by duty-free shops stopped. Although being in force, *Emergency Ordinance no. 54/2010* has to be approved or repealed by Parliament, but in the last 7 years it has been blocked in the Chamber of Deputies' committees. In February 2017, the Government informed Parliament that it does not support anymore the *Emergency Ordinance no. 54/2010* and asked that the Ordinance be repealed. Repealing the Ordinance will put in force the former regulation and cigarettes smuggling is expected to get a boost again through the duty-free shops.

The latest draft legislation with impact on ITTP is the proposal to award 15 % of the amounts recovered by tax authority to the public sector employees who contributed to the recovery.<sup>12</sup> Such a measure has been applied before 2000, when customs control teams used to receive 10 % of the value of the products they confiscated. This measure has been repealed after 2000 because detecting smuggling is part of the regular duties of customs employees and they are compensated by a monthly salary.

The main stakeholders involved in combating ITTP are the Romanian Border Police, General Police Inspectorate, the Directorate for Investigating Organised Crime and Terrorism (DIICOT), and Customs General Directorate/National Customs Authority – DGV/ANV, Romanian Gendarmerie, Local Police forces, NGOs and civic groups.

**The National Customs Authority (ANV)** experienced a turbulent time in the past 5 years. In 2013, ANV

lost legal status and transformed into a directorate within National Agency for Fiscal Administration (ANAF), 120 mobile control teams being disbanded, including canine-assisted teams. Previously, ANV was a structure with legal status within ANAF, under the Ministry of Public Finance. In the last ANV annual report (2012), it is mentioned that ANV had 8 regional directorates and 42 county directorates. The main anti-smuggling activity indicators were severely affected by the 2013 reform: the number of seized cigarettes dropped to half compared with the previous year, the value and the number of fines dropped by 36 % and 27 % respectively. The mobile and canine-assisted teams were re-established in September 2016 as part of a plan to fight cigarette smuggling. After the 2013 ANV reform, the illicit trade raised from 11.8 % of total consumption in July 2013 (the ANV reform time) to 17 % in July 2014 and 19.2 % in January 2015.<sup>13</sup>

Romanian Border Police is also one of the important institutional actors in the fight against illicit traffic with tobacco products. It reported confiscation of 25 million of cigarettes packages throughout within 3 years (2014 – 2017).<sup>14</sup>

DIICOT has the legal mandate to investigate smuggling committed by organised crime groups. For the crimes not involving an organised crime group, the investigation is conducted by regular prosecutor's office. The customs division of the ANAF also occasionally reports a number of criminal complaints submitted. Thus, in 2016 there were 314 complaints,<sup>15</sup> while in 2012, ANV reported 35 complaints.<sup>16</sup> DIICOT reported that the main priority is human trafficking, drugs and cybercrime, with the economic crimes such as smuggling having a lower priority. Nonetheless, DIICOT reported that the complex smuggling cases with impact on the economic and financial sector will be finalized and treated with celerity.<sup>17</sup> DIICOT has to cover the

<sup>12</sup> *Emergency Ordinance on Some Budgetary Measures and Amending Some Normative Acts* – Published on 27.12.2017.

<sup>13</sup> Novel Research, Comerțul ilicit cu țigarete August 2008 – Mai 2016, Online: [https://www.novelresearch.ro/comertul\\_ilicit/](https://www.novelresearch.ro/comertul_ilicit/)

<sup>14</sup> IGPF Press Release, 05 July 2017.

<sup>15</sup> ANAF, 2016 annual report, p. 14.

<sup>16</sup> ANV, 2012 annual report, p. 6.

<sup>17</sup> DIICOT, 2016 annual report, p. 7.



entire organised crime spectrum in Romania but it lacks resources: equipment, software/data bases and appropriate headquarters. Thus for instance, a prosecutor has in average 100 cases/year, being able to finalize only half of them.<sup>18</sup>

## THE LICIT TOBACCO MARKET

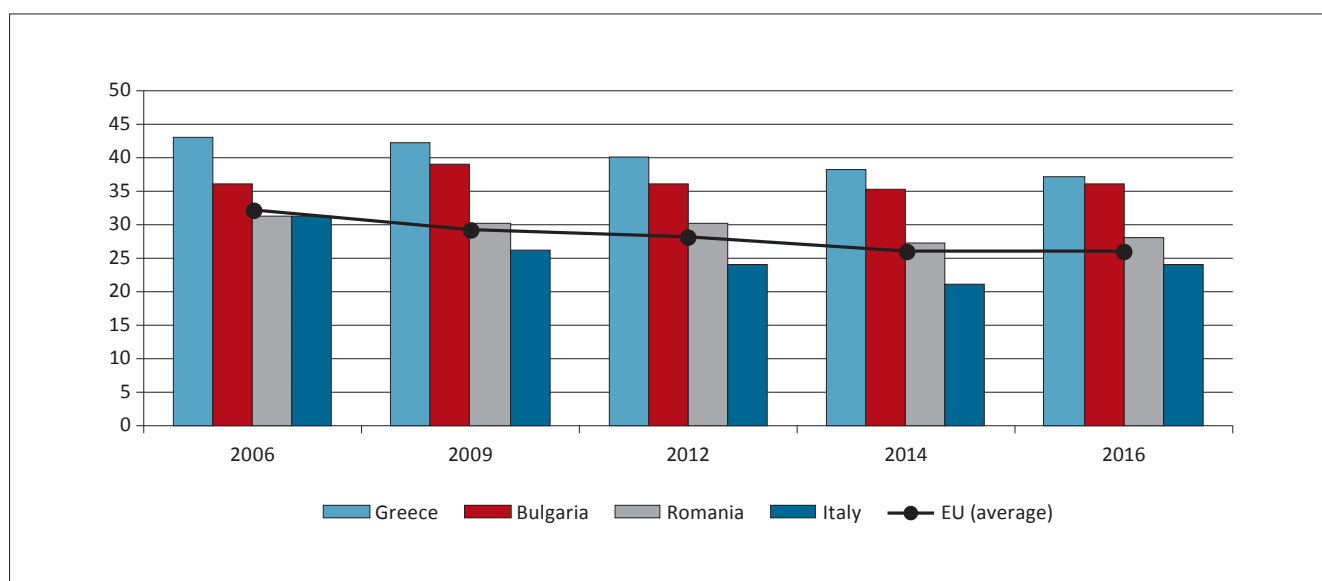
The licit market for tobacco products in Bulgaria, Greece, Italy and Romania has followed very similar development in the recent years. Following the liberalization of the tobacco sector, the Big Four tobacco producers hold between 80 % and 90 % of the markets in each of the four countries, although certain national producers had managed to keep their presence on national level.

The consumption of tobacco products differs in the four countries. When compared with the average EU levels of cigarette consumption, Greece and Bulgaria are with the highest prevalence of smoking in all Member States. The smoking prevalence in Romania is close to the average for EU, whereas Italy is the only country with smoking prevalence below the average.

Moreover, in all countries except Bulgaria, there is a steady trend of declining cigarette consumption among the overall population (see Figure 3).

**Bulgaria's** accession to the EU in 2007 led to the dissolving of the state monopoly on tobacco products that had been maintained up to this moment. In the first months of 2007, five multinational corporations entered the local market: *Philip Morris International*, *British American Tobacco*, *Japan Tobacco International*, *Imperial Tobacco* and the Greek *Karelia*. Within a year their market share reached 23 %. In 2008, two of the factories of the former state monopolist *Bulgartabac* were sold at the stock exchange to two Bulgarian companies that entered the tobacco products market with the brands *Kings Tobacco International* and *Sluntse Stara Zagora – Tabac*. By 2009, there were already 7 major players on the Bulgarian tobacco market: *Bulgartabac* with a market share of 49.1 %, *Philip Morris International* with 13.9 %, *British American Tobacco* with 13.5 %, *Kings Tobacco* with 57 %, *Karelia* with 12.2 %, *Japan Tobacco International* with 3.2 %, and *Imperial Tobacco* with 1.8 %. Since 2010 the severe competition between the market players led to further expansion of the Big Tobacco companies and *Karelia* at the expense of

Figure 3. Smoking prevalence in the Bulgaria, Greece, Italy and Romania (2006 – 2016)



Source: Eurobarometer.

<sup>18</sup> Interview and 2016 DIICOT annual report, p. 11.

*Bulgartabac*. In April 2017, a major shift in the legal tobacco market occurred. Following the purchase of all Bulgarian brands of *Bulgartabac* and its distributor *Express Logistics and Distribution* for EUR 100 million,<sup>19</sup> *British American Tobacco* became the market leader with a share of 40-42 %.

The consumption of tobacco products is hugely popular in Bulgaria and usage is heavy. The country ranks second in the EU according to several national representative surveys, the average percentage of smokers in the period 2006 – 2017 varying from 35 to 39 %.<sup>20</sup> Eurobarometer data from 2017 shows that active smokers in Bulgaria are 36 % of the population,<sup>21</sup> ranking the country second in the EU, preceded only by Greece (37 %). Moreover, the average daily consumption is 15.9 cigarettes, again – above the EU average of 14.1 cigarettes.

In **Greece** the Big Tobacco producers have also gained dominance on the market, since the beginning of the 2000's. Today, there are two local companies active in manufacturing and export of tobacco products – Karella Tobacco Company and SEKAP, which together hold about 20 % of the domestic market. Phillip Morris International's affiliate Papatratos has 34-35 % market share, followed by British American Tobacco with 19 %, Japan Tobacco International with 14,8 %, Imperial Tobacco with 11,6 % and other smaller companies (0,2 %), mainly active in the field of cigars, fine-cut tobacco and other tobacco products.<sup>22</sup>

Apart from its importance for the labor market of the country, the tobacco industry is also a significant contributor to the state budget, with 7 % of total tax revenues in the country derived from the taxation of tobacco products.

In **Italy**, Phillip Morris International is also a market leader with a market share of 50-51 %, followed by Ja-

pan Tobacco International with 23-24 %, British American Tobacco with 19-20 %, Imperial Tobacco Ltd with 4-5 % , whereas about 2 % of the market is shared by other small local and foreign producers.

The only domestic manufacturer of cigarettes and smoking tobacco is Manifattura Italiana Tabacco S.p.A. (MIT). The market for vapour products has steadily expanded since 2015, comprising at present of more than 150 companies, involved in manufacturing, import or distribution. Innovation, product appeal and cost efficiency are considered to be the key factors leading to the increased demand for alternative products.

Smokers in Italy account for 24 % of the population in 2017. The majority of the Italian population smokes between 10-19 cigarettes a day (45.9 %), and the mean age to start smoking is 18 years old, where the main reason is peer influence (53,2 %). Cigarettes are the most common product smoked (94.3 %), followed by hand rolling tobacco HRT (14,8 %), the use of which has been increasing since 2010. The major increase in the use of vapour products is registered in the period 2015 – 2016 (from 1.1 % to 3.9 %).

In **Romania**, the tobacco industry contributes approximately 1 % of GDP and is the second largest contributor after the oil sector. According to the Ministry of Finance, among the top 10 contributors to the Romanian state budget in 2012, there were 3 tobacco producers: BAT (second place, 5.6 billion RON), PMI (fifth place, 1.9 billion RON) and JTI (ninth place, 1.3 billion RON). In the top 10 there are 5 oil companies, one energy company and the National Bank of Romania.

The biggest tobacco market players in Romania are British American Tobacco, Philip Morris International and Japan Tobacco International, forming oligopoly

<sup>19</sup> *Capital weekly*, Peevski Sells His Cigarette Business to British American Tobacco, 12 April 2017.

<sup>20</sup> Flash Eurobarometer – Survey on Tobacco, 2009; Special Eurobarometer 429 – Attitudes of Europeans towards tobacco and electronic cigarettes, 2014.

<sup>21</sup> Special Eurobarometer 458 – Attitudes of Europeans towards tobacco and electronic cigarettes, 2017.

<sup>22</sup> IOBE, *The Illicit tobacco trade: Impact for the tobacco sector and economy*, Athens, 2013.

market as their aggregate turnover accounts for 98 % from the Romanian tobacco market.<sup>23</sup>

British American Tobacco has the biggest market share with 54-56 %, followed by Japan Tobacco International with 25-26 %, Phillip Morris International – 13-14 %, Imperial Tobacco – 4-5 % and some other small producers with 1 %.

All of these companies have both manufacturing and distribution entities in the country. The producers cooperate with several major wholesalers: Aquila (Imperial Tobacco), Interbrands Marketing & Distribution (BAT and PMI), Punctual Comimpex (BAT, JTI, PMI and China Tobacco Hongta Hering), Simba Invest SRL (PMI), Amigo & Intercost (PMI, BAT, JTI). There are over 150 brands of cigarettes, most popular among these are Kent (BAT), L&M (PMI), Marlboro (PMI), Pall Mall (BAT) and Winchester (JTI).

Statistics regarding the consumption of tobacco and associated products indicate that 5 million packs of cigarettes are smoked in Romania every day. According to a recent nationwide survey conducted in 2016 by IRES Institute, there were 5 million smokers, including 4.4 million daily smokers. The expenses for smoking represent an average of 5 % of the monthly household budget.

## Raw tobacco

Apart from being countries with tradition in manufacture and consumption of cigarettes, Bulgaria, Greece and Italy also have long history in growing and processing of raw tobacco. The EU Common Agricultural policy reform introduced in 2004 led to abolishment of tobacco production quotas and related subsidies for tobacco growing, which resulted in sharp decline of tobacco cultivation areas, as well as of the volumes of production. The new policy decoupled financial support from real productive activity.

During 2005 – 2007, the fields with tobacco in **Greece** decreased from 500,000 acres to less than 100,000 acres and the production volume from 108,000 tons to 22,000 tons. The number of farmers growing tobacco also decreased dramatically, from 48,000 in 2005, to 16,000 in 2010.<sup>24</sup> However, despite the reduction in tobacco cultivation volumes compared to the period before 2004, the share of tobacco production in the national economy continues to be significant and is even increasing.<sup>25</sup> Regardless of the discontinued subsidies for tobacco growing, during the last years tobacco cultivation in Greece is expanding again (see Table 1).

**Table 1. Cultivated land and tobacco production in Greece, 2011 – 2015**

Year	Oriental type		Burley Virginia	
	Acres	Tones	Acres	Tones
2011	144,118	26,991	14,815	5,052
2015	169,623	26,736	29,304	10,296

*Source:* ELSTAT Annual Agricultural Survey – 2011, 2015.

The data from the Bulgarian Ministry of Agriculture, Food and Forestry also shows that following the accession to the EU the raw tobacco produce in the country has dwindled from 41,100 tons in 2007 to 15,211 tons in 2016. The tobacco cultivation fields also decreased from 31,144 acres in 2007 to 10,049 acres in 2016.<sup>26</sup>

**Italy** is one of the biggest producers of raw tobacco in the EU.<sup>27</sup> However, in the period between 2011 and 2016, a steady decrease was observed in the total size of tobacco fields across the country, from 22,424 acres to 15 938 acres, respectively, having a positive correlation with the volume of produced tobacco. The total number of farmers has decreased by 85 %, from more than 27,000 at the beginning of 2000s to only 4,000 at the end of 2017. The gradual reduction of public subsidies, coupled with the lasting economic crisis

<sup>23</sup> Competition Council Order no. 609/11.12.2014, paragraph 12.

<sup>24</sup> Karanikolas P., Goussios, J., Nellas, El., Tsiboukas, K., *Tobacco Cultivation and Its Development with the CAP*, 2008.

<sup>25</sup> Fillippidis, N., *New Turn in Tobacco Cultivation*, 2013.

<sup>26</sup> Ministry of Agriculture, Food and Forestry, *Annual report on the situation and development of agriculture*, 2017.

<sup>27</sup> Ministero delle politiche agricole alimentari e forestali, *Presentazione tabacco*, 2017.

and ITTP have resulted in a 6 % decrease in production on an annual basis since 2011.<sup>28</sup> These reductions in domestic production naturally led to an increase in imports, resulting in Italy becoming the second largest importer of cigarettes worldwide.

In **Romania** there is only one domestic company involved in the production of raw tobacco – Rom-Ital, which has over 300 contracts and collaboration agreements with Romanian private tobacco farmers. Its annual turnover is 6 million RON and it employs 67 people.

## THE ILLICIT TOBACCO MARKET

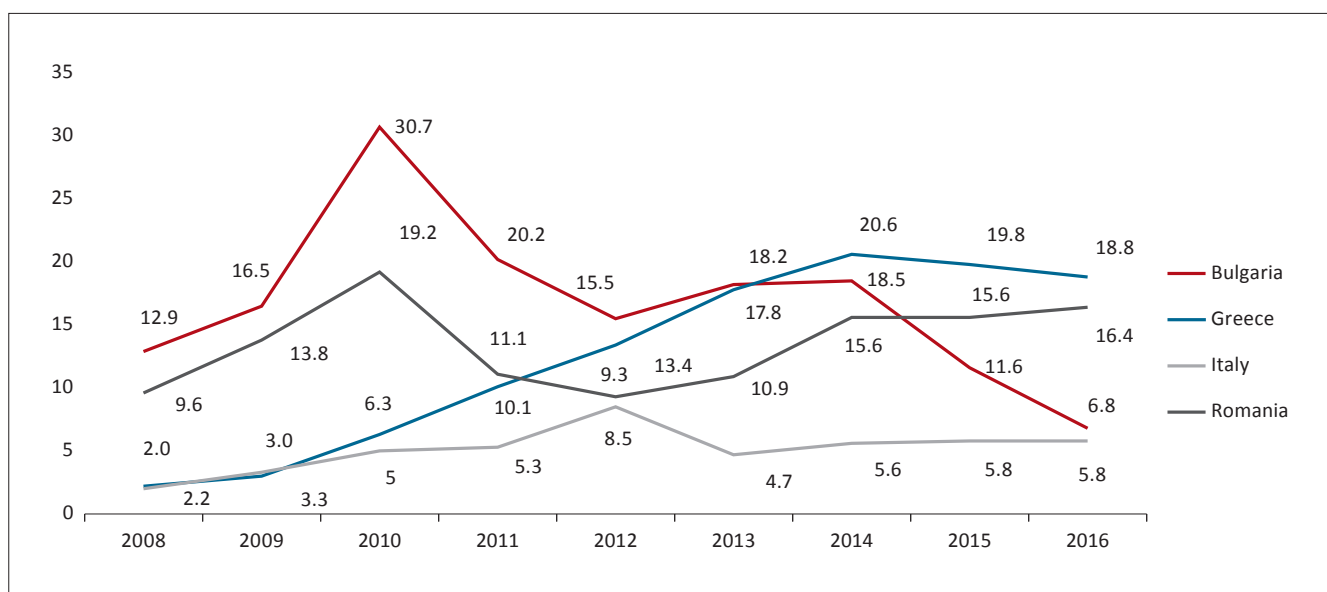
Bulgaria and Romania have long traditions in illicit tobacco trade rooted in the hardships of their transitions to market economy. Unlike them, Greece and Italy enjoyed lower levels of illicit tobacco consumption, which changed with the arrival of the global economic crisis in 2009. Thus by 2012 illicit market soared from 2.2 % up to 8.5 % in Italy and from 2 % up to 10 % in Greece. The economic crisis have also

led to sharp increase in illicit tobacco consumption in Bulgaria and Romania as well. However, while Bulgaria and Italy managed to stifle the illicit market, Greece and Romania continue to face high levels of counterfeit and contraband cigarettes (see Figure 4).

The latest available estimate of the ITTP revenues for the four countries is for 2013 and suggest that the biggest share of the illicit market adjusted by GDP is in Bulgaria, followed by Greece, Romania and then Italy (see Table 2). However, it should be noted that in the last 5 years the Bulgarian authorities have managed to curb the illicit trade by half, as evident from the EPS data in the SUN Project report.

The high tax burden on tobacco products is considered to be the main incentive for participation in ITTP and is one of the factors associated with the increase in illegal trade in all countries of the study. However, data from other studies stipulate that ITTP has become larger even in countries with low tax leading to the conclusion that taxation is not the only contributing factor.<sup>29</sup>

**Figure 4. Share of counterfeit and contraband cigarettes in Bulgaria, Greece, Italy and Romania (2008 – 2016)**



**Source:** KPMG, Project Sun reports.

<sup>28</sup> Confagricoltura, *Contraffazione e contrabbando: tra prodotti agroalimentari e prodotti del tabacco in “fumo” un mercato illegale di circa 4mld di euro*, 2017.

<sup>29</sup> Joosens, L., Raw, M., “From cigarette smuggling to illicit tobacco trade”. *Tobacco Control*, 2012, № 21, p. 230-234.

**Table 2. Estimates of the revenues of the ITTP market (EU 28, 2013)**

Country	Min (mil. EUR)	Max (mil. EUR)	Estimate (average)	GDP (mil. EUR)	ITTP revenues as share of GDP
Bulgaria	173	216	195	42,011	0.46 %
Greece	416	494	455	180,654	0.25 %
Italy	485	607	546	1,604,599	0.03 %
Romania	207	296	251	143,801	0.17 %

Source: *Transcrime*.

In the cases of Bulgaria and Romania, the swift and steep increase of excise duties – reaching 30-60 % in a single year – with the aim to comply with the minimum thresholds established in the EU, have led to particularly detrimental consequences. The steep rise in the prices of the tobacco products made them hardly affordable given the low average income in the two countries. The increase of the excise duties also coincided with the global economic crisis during 2009 – 2011. Thus a pack of cigarettes reached 26 % of the daily disposable income in Bulgaria and 20 % of the daily disposable income in Romania. For comparison, the cost of a pack of cigarettes is equal to 8-9 % of the daily disposable income in most EU countries (8.8 % in Italy and 7.6 % in Greece).

Further analysis of the ITTP markets in the four countries shows that despite some differences, they also share many common characteristics given their geographical position at the external EU borders.

## Bulgaria

In Bulgaria, the structure of the ITTP market and the types of actors have remained relatively stable, since the beginning of the twenty first century throughout the end of 2014. During this period ITTP is the fourth most important source of revenues for organised crime with 200-250 million EUR annually.<sup>30</sup> In comparison, for the period 2010 – 2012, the biggest criminal

market is trafficking in human beings with 650 million EUR, followed by organised VAT fraud, with 350 million EUR and fuel fraud with 200 million EUR. At that time ITTP is bigger source of revenue for organised crime than the combined proceeds from the four major drug markets (cannabis, cocaine, heroin and amphetamines). The situation changed in the period 2015 – 2017, when the Bulgarian authorities managed to drastically curb this criminal market and reduce the share of traded illicit cigarettes from almost 20 % down to 6-7 %.<sup>31</sup>

CSD estimates indicate there were about 8,000 to 15,000 participants in the criminal networks active on the ITTP market in the period 2009 – 2015.<sup>32</sup> A suitable representation of the way this market functions in Bulgaria would be a system of cascading reservoirs. The imported or manufactured cigarettes from the top reservoir overflow into tanks at lower levels which, in their turn, supply the ones below them. This system is not a formal hierarchy, as criminal entrepreneurs at the highest level work within the top reservoir, importing or manufacturing cigarettes and selling hundreds of containers annually to the lower levels, but not interfering in any way with the organisation and the interaction of the criminal structures below them.

The top level of criminal entrepreneurs, most commonly called “cigarette guys”, provides the bulk of illicit tobacco products through three different sources: a) import of illicit whites from non-EU countries to Bulgaria and other Member States;<sup>33</sup> b) local production through legal cigarette manufacturers with significant market share in the legal cigarette markets of Bulgaria and Greece. In this case, the manufacturer declares that the cigarettes are intended for export in non-EU countries and part of the production may actually be exported only to be returned to the country through organised criminal networks; c) manufacture in small illegal production facilities (imitations of well-known

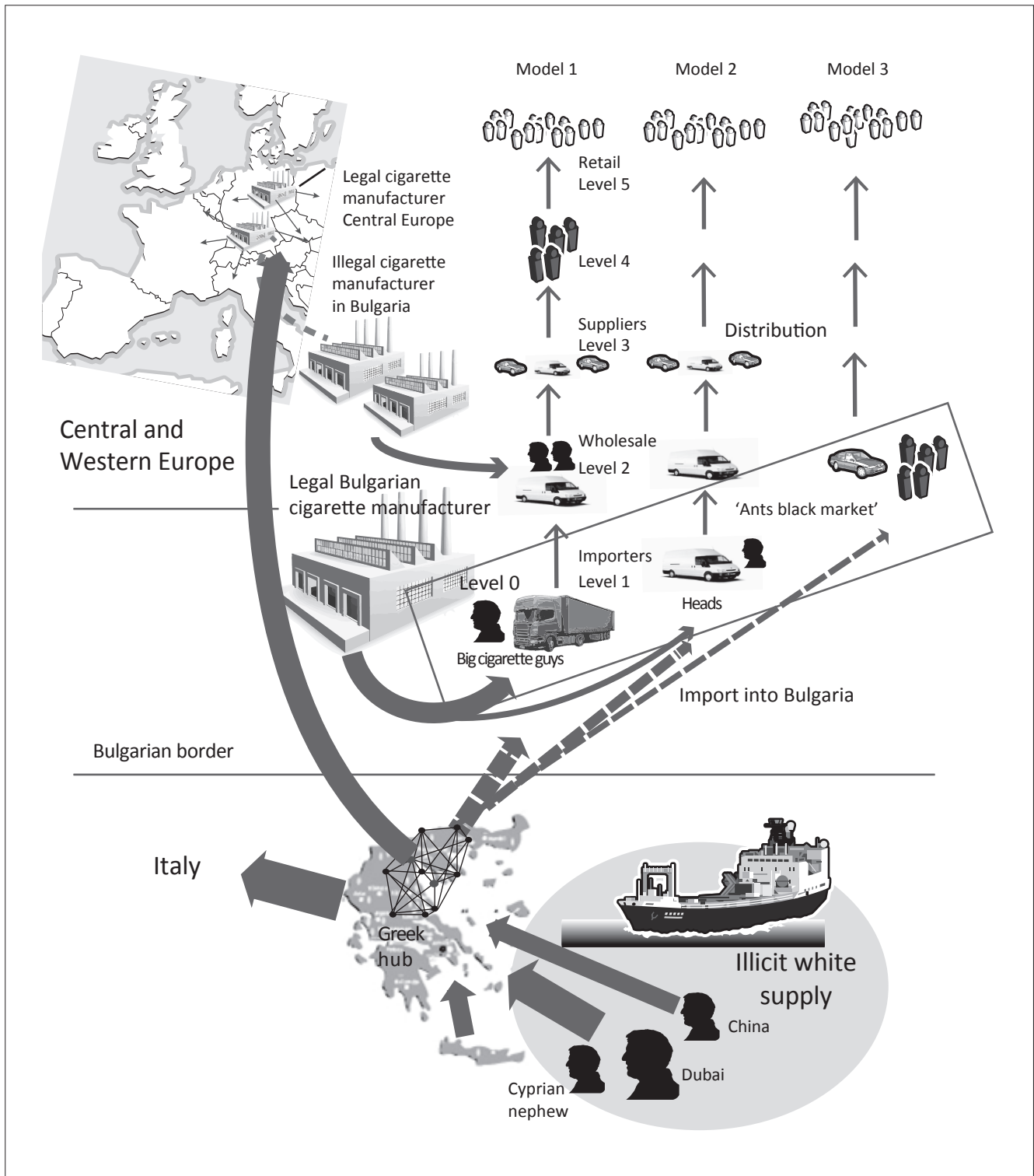
<sup>30</sup> CSD, *Serious and Organised Crime Threat Assessment 2010 – 2011*. Sofia, 2012.

<sup>31</sup> CSD, Policy Brief No. 75. *The Tobacco Market in Bulgaria: Trends and Risks*. Sofia, 2018.

<sup>32</sup> CSD, *Financing of Organised Crime*. Sofia, 2015.

<sup>33</sup> *Ibid*.

Figure 5. Illegal tobacco products import and distribution models (2009 – 2014)



Source: CSD.

brands or illicit whites) in Bulgaria or another neighbouring country organised by experienced players in the tobacco industry.<sup>34</sup> The top level supplied to

the Bulgarian illegal market several hundred containers annually.

The second or middle level comprises regional criminal entrepreneurs who buy wholesale from the big

<sup>34</sup> Ibid.

cigarette guys. These players, often referred to as “heads”, provide the link between the top level and the distribution networks. They operate in a market-driven mode, buying from the supplier that offers the lowest price and selling in a targeted area in competition with fellow local criminal entrepreneurs.

These criminal enterprises are responsible for the supply of tobacco products throughout the country and bear most of the risks in the process.<sup>35</sup> Bribes are means to escape pressing charges or getting effective sentences, if a member of the distribution network is arrested.

The third or low illegal tobacco market level deals with logistics and supply to retailers and, in some cases, its actors operate as retailers as well. Their purchases from distributors (second level) are market driven. This level is further stratified as per the regional market size and custom into 3 to 5 levels, such as warehouse keepers, merchandisers, couriers, etc. (see Fig. 5)

To escape involvement with higher level player’s small-scale importers in some border regions in South and West Bulgaria form ‘ant smuggling’ partnerships made up of socially disadvantaged locals and foreigners. Criminal subordination in this system is much more clear-cut than with regional dealers. Ant smugglers cross the border several times a day transferring small amounts of cigarettes at each crossing, which are stored in designated depots and distributed wholesale on the domestic market.

A fairly marginal level of the criminal market is the distribution of hand rolling tobacco. The consumers of the fine-cut tobacco are people with the lowest income, although they contribute to between 20 % and 25 % of the consumption of illicit tobacco products. Tobacco is illegally bought from Bulgarian producers and cigarettes are hand-rolled by the lowest level retailers or the end buyers. Distribution is run at the middle or low level in close relation to organised crime networks.

As the policy decision to steeply raise excise duties on tobacco products came at the economic crisis’ peak in 2009, Bulgaria seemed to revert to the smuggling golden age of the mid-1990s. Within two years, legal tobacco product sales dropped by an incredible 40-45 % or from 19 billion cigarettes in 2008 to 10.6 billion pieces in 2010.

The period 2010 – 2015 was dominated by illicit white cigarettes for two key reasons. Following Bulgaria’s accession customs control at those borders that became internal for the EU was removed. At that time Greece was the major hub for illegal cigarettes in the EU and the Bulgarian route to Central and Western Europe was put in nearly immediate use after accession in 2007. The second reason was the sharp rise of excise duty on tobacco products introduced in 2009 and peaking in 2010. In addition, Bulgarian organised crime has always been strongly tied to the Greek hub.<sup>36</sup> There is ample evidence from the period until 2010 that Bulgarian criminal networks smuggled cigarettes from Greece to other EU countries.

The next step was to establish a large retail network, a process of downward “contamination” facilitated by the economic crisis and the large number of socially disadvantaged people. Some of them, such as Roma and peddlers at open-air bazaars, had previous experience with illegal cigarettes. Others, such as marginalized urban and low-income rural dwellers, had no criminal past and relevant experience, but got involved in selling cigarettes at industrial sites, public buildings, small village shops, etc. upon huge pressure from criminal networks. At the time of the cigarette smuggling peak (2009 – 2010) there was a massive influx of criminal population into the middle-level, regional distribution networks.<sup>37</sup>

Law enforcement bodies and the revenue administration were unprepared for the illegal market boom that followed the 2010 dramatic increase of excise duty. Despite their solid experience in tackling the import and distribution of illicit tobacco products, they

<sup>35</sup> A ship container holds 1,000 master cases on average, which is 500,000 boxes of 10 million cigarettes.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

did not work effectively enough until 2011. Thus, the ratio between illegal tobacco products seized by law enforcement agencies and those sold in the country rose slowly from 0.5 % in 2008 to 14.4 % in 2011 three years after the tobacco market crisis began.

Sales peaked in 2010 and gradually shrank during 2011 and in the next 3 to 4 years to become stable afterwards. The numerous odd dealers were driven out of the market.

The success of illicit whites and the revival of smuggling routes going through the Greek hub are the first signs of an emerging new model, the so-called “domestic illicit white” or “Greek model” in the terms of Bulgarian tobacco experts. *Empty Pack Surveys* for the first half of 2011 have revealed that a small portion of illegal cigarettes can be linked to Bulgarian and Greek legitimate cigarette manufacturers.

A second, post-EU accession, stage of the evolution of Bulgaria’s illegal tobacco products market was the emulation of the Greek model at home as a result of two main precursors. First, the installation of scanners at seaport and land border crossing points and the assignment of mobile customs and police teams to control risky highway segments made anti-smuggling efforts more effective. Second, as in Greece, tacit governmental protection of the illegal supply of popular legally manufactured brands was available.

Political bargaining can be surmised both from *Empty Pack Survey* data and data about the brands available on the legal and illegal market alike. After mid-2011, the illegal cigarette market level remained poised between 18 and 20 %. At the same time, since 2012 a fast growth of domestic illicit whites has been observed by looking at ‘empty pack’ brands. In the autumn of 2014, when political instability had nearly subsided, their share was about 77 %, two thirds of which were provided by Bulgarian manufacturers. Notably, the rise of Bulgarian illicit whites was not prevented, but rather facilitated when a new government assumed power in 2013.

A new illegal tobacco market evolution stage commenced with the next government change in 2014

and continues to date. A month into its office, the government took an unprecedented step, placing all Bulgarian tobacco products manufacturing facilities under on-site physical control. Over the next six months, there were customs and MoI officers at and around their premises, with illegal distribution of tobacco products plummeting and tax revenues rising ostensibly.

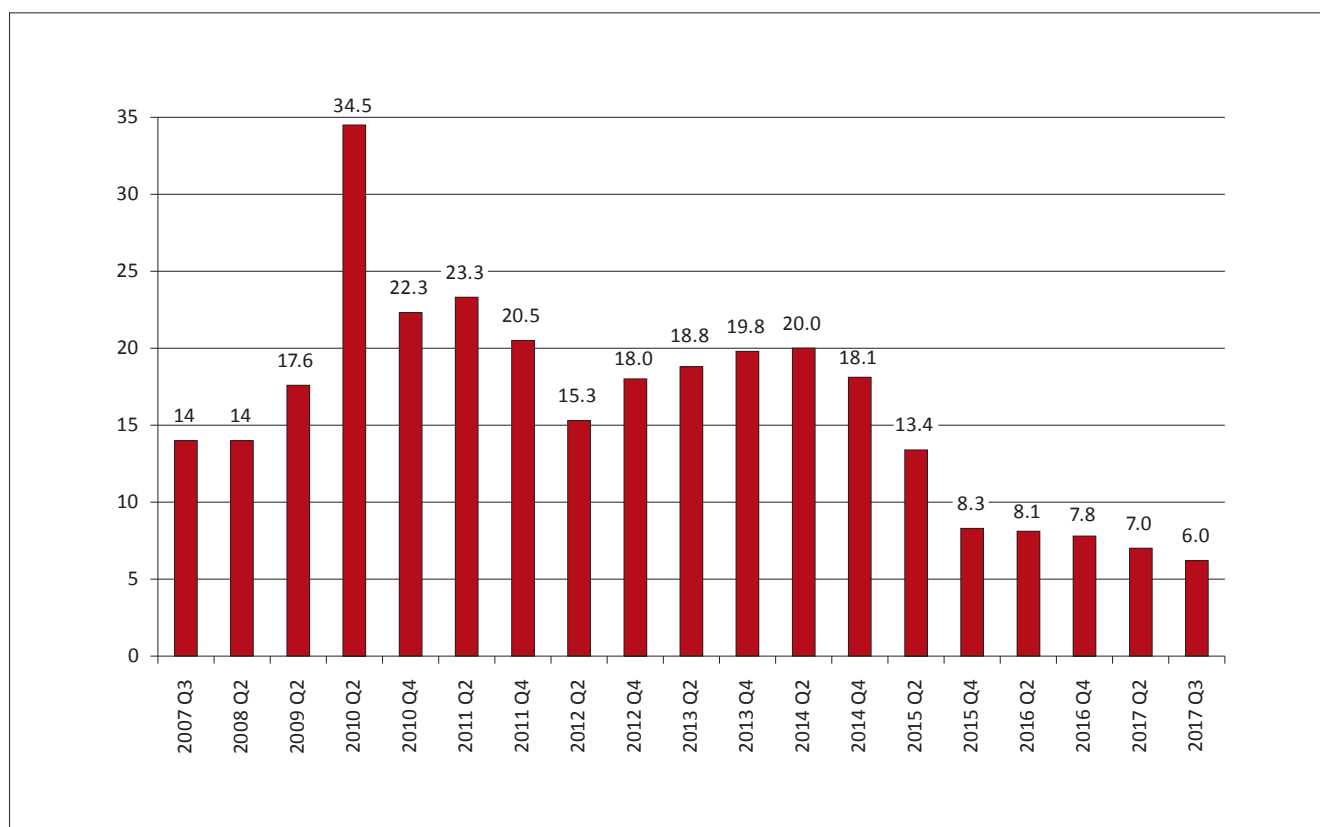
These measures brought about changes in the relative presence of illicit tobacco products from three main sources: domestic illicit whites from legitimate factories, illicit whites from Greece/Turkey and from illegal manufacturing facilities, whereas supplies from all three declined.

Domestic illicit whites’ supplies that dominated the market until 2015 greatly decreased due to the described on-site control. In mid-2015 customs and police officers were withdrawn from production facilities but, according to available data, supplies to criminal distribution networks remained low since suppliers recoiled at the threat of renewal of law enforcement’s rigorous presence. Studies reveal that in late 2016 domestic illicit whites accounted for 15-16 % of illegal sales in the country, a drastic shrink from 2-2.2 billion cigarettes sold in 2014 to 180-190 million two years later.

Smuggled illicit whites, on the other hand, re-emerged as the dominant source. Expectations that their imports from Greece, Turkey and other neighbouring countries will grow further as a result of another excise duty increase to fill the newly formed niche, however, were not fulfilled. Annual sales reached 500-600 million pieces, which was one third of their 2011 – 2012 level. The uneven distribution of Illicit whites in various parts of the country and the multitude of brands and packs were a sign that supply was problematic, which was corroborated by MoI and customs data on illegal cigarette seizures and *Empty Pack Surveys* in 2017. Clearly, it was not possible to establish big and stable smuggling channels. Since the start of the period in 2015 small illegal factories (the third source) have practically been missing.

According to the interviews, the old criminal entrepreneurs from the cigarette business have exported



**Figure 6. Share of brands not produced for the local market (2007 – 2017)**

Source: Empty Pack Survey.

their assets to Western and Central Europe to capitalize on profits 2-3 times as high as those on the domestic market.

In addition, Bulgarian law enforcement agencies have started actively cooperating with their European counterpart despite their limited resources, as they have become aware that a criminal entrepreneur, albeit operating abroad, would continue to pose a risk on the internal market. As a result, several illegal factories have been uncovered in Spain, Greece and Central Europe. The rapid expansion of migrant and refugee smuggling since 2014, has had a significant impact on the criminal landscape as well. Since one of the important smuggling routes for migrants from Turkey to Western Europe is the one through the Balkans, similarly to their Greek and Romanian counterparts, a sizeable portion of criminal entrepreneurs in Bulgaria have switched from illegal cigarette trade to people smuggling, considering the latter more profitable and less risky. 2015 was a year of transformation driven by the political will

to strictly curb the criminal market of tobacco products. The measures against domestic illicit whites are targeting influential economic actors in Bulgaria. There is every reason to believe that the model sustained by political corruption has been discarded. This change may well be rooted in awareness of the two major risks stemming from the illegal tobacco market expansion. The first one is economic, ensuing from the fact that in Bulgaria excise and VAT on tobacco products account for a significant share of the state budget, providing between 9 % and 11 % of all tax revenues. By comparison, in Western Europe, this figure is about 1-2 % (France – 1.1 %, Austria and Belgium – 1.2 %, Germany – 1.3 %, England – 1.4 %, Spain – 2 %).

The Bulgarian tobacco market is extremely responsive to political instability, which may span a year when presidential elections (late 2016) and preliminary parliamentary elections (early 2017) were conducted – the decline in sales continued until the “political scene” had stabilized.

## Greece

Data from Greece shows that the country is not only an important transit point, but also an increasingly important destination market.<sup>38</sup> During the period 2009 – 2016, a substantive increase of the illicit cigarette market (from 3 % to 19 %) was observed, combined with a net increase of consumption of smuggled cigarettes.<sup>39</sup>

The increase of organised crime in Greece was first recorded in the 90s. Human and drug trafficking, extortion racketeering and more recently different forms of smuggling and money laundering are some of the main financial sources for criminal enterprises' which expanded in Greece over the last 20 years. According to the findings of national and international studies,<sup>40</sup> there has been a significant increase in the smuggling of tobacco products in Greece over the last decade, when cigarettes and tobacco products smuggling became a profitable and low risk enterprise for organised crime in Greece.

Hellenic Police<sup>41</sup> also reports that key factors for the expansion of ITTP in Greece are the effects of the economic crisis, the high taxation and the social tolerance toward this type of crime. The police authorities have observed these factors to have contributed to significant changes in the "modus operandi" and to the structure of the criminal organizations, especially in the sector of illicit tobacco products. According to police reports criminal organizations in Greece are characterised by strong links to transnational criminal organizations, the tendency to be engaged with a variety of crimes and criminal enterprises, the increasing use of the internet in order to facilitate the criminal activity and the increasing involvement in serious economic crimes.<sup>42</sup>

The profits for criminal organizations from this type of activities are sky-scraping. Estimations of revenues of the ITTP market in Greece for 2013 indicate that the overall proceeds from this criminal market are more than the overall annual profits from trafficking in heroin, ecstasy, cannabis and cocaine combined. Correspondingly, in 2011 the total amount of lost revenues to the state budget was estimated at over 125 million EUR, while from 2008 to 2014 the budget suffered damages of 2.5 billion EUR, due to smuggling of tobacco products.<sup>43</sup>

ITTP is an important and lucrative activity for criminal groups.<sup>44</sup> According to representatives from law enforcement agencies in Greece, a pack of cigarettes which is legally sold at around 4 EUR, costs between 2 and 4 times less on the illegal market. Generally, the production cost of one container of cigarettes (500,000 packs) is around 150,000 – 200,000 EUR. The wholesale price is about 250,000 EUR, including transportation by sea to Greece. If smugglers sell at 2 EUR per pack on the street, their profit from a single container will amount to 750,000 EUR.

The general overview of the ITTP market can be mapped by the data of seizures of tobacco products, which are published by the custom authorities. The reliability of that data is conditioned by the performance of the custom authorities, so it is only indicative of the general trends in the illegal market.

The data published in the newsletter of the Independent Authority of Public Revenues shows that for 2017, the total amount of ITTP seizures and the lost taxes on 107 million sticks are equal to 22,6 million EUR. The majority of illicit products entered the country

<sup>38</sup> Calum Jeffray, *Organised Crime and Illicit Trade in Greece: Country Report*. On Tap Europe Series No. 3, RUSI, 2017.

<sup>39</sup> Center for Planning and Economic Research (ΚΕΠΕ in Greek). Newsletter.

<sup>40</sup> See Jeffray, C., *Organised Crime and Illicit Trade in Greece: Country Report*, RUSI, 2017.

<sup>41</sup> Hellenic Police, *Annual Report for organised crime*, Athens, 2016.

<sup>42</sup> Hellenic Police, *Annual Reports for organised crime*, Athens, 2012 – 2016. See also Europol, *Serious and Organised Crime Threat Assessment (SOCTA)*, p. 11, 2013.

<sup>43</sup> Project Sun, *A study of the illicit cigarette market in the European Union, Norway and Switzerland, 2014 Results*. KPMG, 2015. See also Hellenic Police, *Annual report on Organised Crime*, Athens, 2012.

<sup>44</sup> Hellenic Police, *Annual Report for Organised and Serious Crime for 2016*, Athens, 2017.

via the Piraeus and Thessaloniki ports,<sup>45</sup> which are the biggest ports in Greece. The most common type of tobacco products smuggled is cigarettes.

Indeed, the position of Greece as transit and destination country for the ITTP is well documented by both the Hellenic Police and the Custom Authority. Greece is mainly a transit country for the shipments from Asia and Africa which are directed to Central, Northern and Western Europe. The vast majority of illegal tobacco products (70-80 %) is directed to north and west European countries, mainly to Germany and the UK, and is smuggled through Italy. The remaining 25 % is domestically traded for internal consumption. Greece is a destination country for consignments of ITTP from Ukraine, Belarus, Montenegro, FYROM, Moldova, Bulgaria, Cyprus and Turkey.<sup>46</sup> The import of tobacco products via the land borders is made mainly through Bulgaria, Albania and Turkey. Especially with regard to Bulgaria it is very common that small quantities of cigarettes are transported by trucks and traded in villages in northern Greece.

The bulk of the illicit tobacco products is smuggled via maritime routes. Most common countries of origin are China, the United Arab Emirates, Egypt and Libya. The vessels carrying illicit tobacco products are making frequent intermediate stops in Lebanon, Malta, the Montenegrin port of Bar and Famagusta in Northern Cyprus. According to police reports, China is one of the main producers and country of origin for illicit products. The vast majority of such products that enter through the main ports of Greece is categorized as “illicit whites” produced in China or in the free trade zones of the UAE. They are usually declared for transit and enter Greek ports only to be unloaded to new containers and continue their route to other EU countries.

Again according to reports of the Hellenic Police, tobacco products constituted the majority of all products illegally trafficked in 2016. In particular, enforcement authorities dealt with 1,532 cases of smuggling

in cigarettes and 878 cases of smuggling in chopped tobacco, which resulted in a total of 546,389,730 pieces of cigarettes and 5,840,680 grams of chopped tobacco being seized. The largest volume of cigarette seizures (92 % of the total) concerned seizures of up to 50,000 pieces. However, the authorities report that during the last two years there is a decrease in the number of cases related to cigarette smuggling (respectively – quantities) and an increase in cases related to chopped tobacco smuggling. The data provided by law enforcement stipulates that most cases involved small scale contraband.

Although the largest quantities of illegal tobacco are seized in the two main ports and therefore are in the competence of the Custom authorities, most of the reported cases are under the jurisdiction of the Hellenic Police. Therefore Police handles the majority of the cases, while Customs seizes the bulk of the quantities.

According to the Division for Organised crime within the Hellenic Police, the numerous organised criminal groups involved in cigarettes smuggling are usually mixed (domestic and foreign), and are structured hierarchically. The roles are distributed among different stages of the supply chain, depending on the risks and types of products being transported. In the groups which are acting on Greek territory, it is mainly Greeks that have leadership roles. Generally, Greek authorities perceive ITTP as an “import” issue.<sup>47</sup> Therefore they develop control policies which target the import and export, completely excluding the domestic part of the supply chain from any control measures.

## Italy

Similarly to Greece, Italy represents both a transit and destination country for ITTP. In 2015, the main countries of origin of seized contraband cigarettes are respectively United Arab Emirates (28.1 % of the total of seized cigarettes), Greece (14.9 %), Turkey (12.4 %), Egypt (11.8 %), Malaysia (11.2 %), and Vietnam (11.0 %). In 2016, the share of the contraband

<sup>45</sup> IAPR, *Annual Report* (in Greek AADE).

<sup>46</sup> Hellenic Police, *Annual Report for organised crime*, Athens, 2017.

<sup>47</sup> Vidali, S., *Beyond the Limits. Crime Policy Today*. Athens, 2017.

cigarettes from Greece increased to 23.7 %, followed by Montenegro (22.6 %), Malaysia (20.6 %) and Tunisia (17.5 %). In 2016, United Arab Emirates are not included in the top ten countries of origin of contraband cigarettes.<sup>48</sup> Data from EPS and *Mystery Shopper*<sup>49</sup> also underline a key role of Eastern European countries such as Ukraine and Belarus whose inflows to Italy have changed between 2015 and 2016, explaining also the overall decrease in the presence of counterfeited and contraband products in the illicit national market (-4 %).

In the period 2015 – 2016, 1 out of 3 cigarettes in the illicit Italian market came from Ukraine, which can be assumed from the health warning on the packs. The share of cigarettes coming out illegally from duty free channels (around 29.0 %)<sup>50</sup> and the role of Belarus as a country of origin is also of significance. Considering that the mean price of a pack of legal cigarettes in Italy is 4.66 EUR compared to 0.58 EUR in Ukraine and 0.68 EUR in Belarus, price difference can easily explain these inflows. On the other hand, due to the small price difference between Italy and Greece (0.95 EUR), Italy is used by smugglers more as a transit country.

The majority of contraband cigarettes reach Italy by sea, although a land route via the region of Friuli-Venezia Giulia is used as well by smugglers. The usual method is to conceal cigarettes together with licit merchandise in container shipments or trucks exploiting terrestrial, port and airport customs entrance, accompanied with fake customs documentation that certifies the transportation of products with low commercial value or reduced tax rate. In 2015, the sea routes involved in ITTP are United Arab Emirates – Gioia Tauro (region of Calabria) and Egypt – Salerno (region of Campania), while in 2016 the seizures of most relevant quantities are carried out by

the customs agencies on the Adriatic route (between the cities of Bari in the region of Apulia and Ancona in the region of Marche) originating from Greece, Montenegro and in one occasion from Malaysia; and on the Tyrrhenian side originating from Tunisia. When illicit tobacco products originate from North Africa, the routes of transportation overlap with those used for human trafficking and the Strait of Sicily plays a key role as an entry point to Italy. Depending on the country of origin of contraband cigarettes, entry points in Italy vary: if cigarettes arrive from Libya and Tunisia, loads reach the Sicilian coasts, if they originate from Algeria, the used ports are situated on the French Riviera and the region of Liguria (city of Genova), and if they are transported from Egypt they pass through Greece and reach the region of Apulia in the south of Italy, for example the port of Bari and other Adriatic ports. Seizures of contraband cigarettes are registered also in the ports of Naples and Gioia Tauro (in South Italy) and along the main highway routes.<sup>51</sup>

Although the outflows of illicit tobacco products from Italy to neighbouring countries decreased during the 2015 – 2016 period (-7 %), France remains the main destination for cigarettes passing through the national territory (Table 3). The decrease (-30 %) registered between 2014 and 2015, in particular, has been probably influenced “by price stability in France in 2015”.<sup>52</sup>

If we take into account the seizures of illicit tobacco products at the provincial level, in the majority of cases (27 provinces out of 52) loads of illicit cigarettes were in transit to further destinations, especially in the provinces of Bolzano, Como, Imperia, Genoa, and Verbano Cusio Ossola; in the province of Treviso the seized cigarettes were directed out of the province but with a mixed destination both national and for-

<sup>48</sup> Direzione Nazionale Antimafia e Antiterrorismo, Relazione annuale. 1 July 2015 – 30 June 2016; data provided by the Customs and Monopolies Agency during the interview.

<sup>49</sup> Direzione Nazionale Antimafia e Antiterrorismo, Relazione annuale. Periodo 1 luglio 2014 – 30 giugno 2015; A. Di Nicola and G. Espa, *L'Italia del contrabbando di sigarette. Le rotte, i punti di transito e i luoghi di consumo*.

<sup>50</sup> A. Di Nicola and G. Espa, *L'Italia del contrabbando di sigarette. Le rotte, i punti di transito e i luoghi di consumo*.

<sup>51</sup> L. Zorloni, “La mappa delle sigarette di contrabbando in Italia”, Wired, May 2017; Project Sun, *A study of the illicit cigarettes market in the European Union, Norway and Switzerland. 2016 Results*. KPMG, 2017; A. Di Nicola and G. Espa, *L'Italia del contrabbando di sigarette. Le rotte, i punti di transito e i luoghi di consumo*.

<sup>52</sup> Project Sun, *A study of the illicit cigarettes market in the European Union, Norway and Switzerland. 2015 Results*. KPMG, 2016.

eign. In all the other provinces seized cigarettes were intended for the national market.<sup>53</sup>

**Table 3. Total outflows by country of destination, 2012 – 2016 (billion cigarettes)**

	2012	2013	2014	2015	2016
France	0.31	0.39	0.47	0.33	0.40
Switzerland			0.12	0.18	0.11
Germany	0.10	0.10	0.08	0.10	0.10
Netherlands	0.17	0.13	0.13	0.13	0.07
UK	0.16	0.03	0.04	0.05	0.05
Other	0.18	0.13	0.24	0.19	0.18
<i>Total</i>	0.93	0.78	1.08	0.98	0.91

*Source:* Intellegit elaboration on KPMG (2017).

At provincial and local level within the national territory, the incidence of illicit tobacco products varies significantly. In the period 2015 – 2017, the role of the provinces of Naples and Caserta is paramount and shows the highest incidence rate, along with other provinces such as Reggio Calabria, Bari, Genoa, Ancona and Venice which represent key areas for the transit of illicit cigarettes, in some cases due to the presence of key ports used for import (Gioia Tauro in the region of Calabria and Genoa in the region of Liguria).

As for illicit cigarettes, which are the most common type found and sold within the illicit market, data from EPS on the incidence of illicit packs of cigarettes reveals highest rates in the Southern part of the country, and in particular in Naples (28 %), followed by Palermo (12 %), Giugliano (municipality in the province of Naples) and Salerno (more than 6 %). A similar incidence is registered for illicit whites: 1 pack of cigarettes out of 5 is found in the city of Naples. In the Northern areas of the country illicit packs are also found, although in lower percentage, in the cities of Trieste (4.4 %), Milan (2.1 %) and Turin (2.1 %).<sup>54</sup>

Illicit white brands represent a large share of the illicit cigarette market in Italy, accounting for 49.9 % in 2015 and 63.4 % in 2016 of total counterfeit and contraband volume.<sup>55</sup> This trend, which started ten years ago, is in line with the wider tendency in Europe, and in Italy it is progressively replacing the consumption of counterfeit cigarettes.

As for the quantities of illicit tobacco products seized, data of the Customs and Monopolies Agency point out at an increase between 2014 and 2015 (+31.9 %) followed by a big contraction in 2016 (-48.6 %) of contraband packs of cigarettes, in line with the data from the Guardia di Finanza (274,434 kg of illicit tobacco in 2015 and 243,249 kg in 2016). The high increase in seizures of contraband cigars and hand rolling tobacco underline the role of the economic crisis that has pushed many consumers to turn to the illicit market to purchase products typically acquired through legal channels.

Similarly to the other three countries, in Italy, consuming illicit tobacco products is socially acceptable, and consumers do not feel they commit a crime when buying contraband cigarettes; on the contrary, they appreciate the opportunity to save money. At the same time, most people are aware that ITTP represents a source of profits for organised crime groups, and feel a sense of “guilt” to buy illicit cigarettes.<sup>56</sup> The higher level of social acceptance and availability of illicit tobacco products, especially in the cities of Naples and Palermo, is related to the presence of different open air stalls in streets or markets used for sale which are tolerated by the general population, without the need for suppliers to hide the products. In Naples, illicit cigarettes are sold openly from private apartments as well, with children and elderly seen selling counterfeited and contraband tobacco from ground floor windows. In stores, illicit cigarettes are sold openly, always in quantities of less than 10 kg, to keep this activity firmly in the category of administrative viola-

<sup>53</sup> A. Di Nicola and G. Espa, *L'Italia del contrabbando di sigarette. Le rotte, i punti di transito e i luoghi di consumo*.

<sup>54</sup> KPMG, *Project Sun. 2016 Results*; A. Di Nicola and G. Espa, *L'Italia del contrabbando di sigarette. Le rotte, i punti di transito e i luoghi di consumo*.

<sup>55</sup> KPMG, *Project Sun. 2015 Results*; KPMG, *Project Sun. 2016 Results*; A. Di Nicola and G. Espa, *L'Italia del contrabbando di sigarette. Le rotte, i punti di transito e i luoghi di consumo*.

<sup>56</sup> A. Di Nicola and F. Terenghi, “Managing finances in the illicit tobacco trade in Italy”, *Trends in Organized Crime*, № 19, p. 254-272, 2016; F. Calderoni et al., Italy. *The Factbook on the Illicit Trade in Tobacco Products 2*.

tion.<sup>57</sup> The widespread sale of illicit cigarettes in the city of Bari, although in covert places such as private apartments and clubs underlines a similar social tolerance of the local population to contraband products. From *Mystery Shopper* data, cigarettes brands that can be mainly found in the city of Naples and Bari are Marlboro and Regina, while in the city of Palermo the cigarette's brands are *Pine*, *Oris*, and *American Legend*. A common element of these cities and their suburban areas is the presence of native organised crime groups and Italian suppliers compared to the areas and cities in the North, e.g. Milan, where suppliers are foreign nationals. The few studies conducted so far, suggest a correlation between mafia presence and the trade in illicit cigarettes within provincial and local territories.<sup>58</sup>

## Romania

Romania is one of the EU countries most affected by ITTP, second to Poland. In 2016, Romania registered the highest rate of ITTP in the last 5 years, amounting to almost 4.41 billion illicit cigarettes. This represents 10 % of the 48 billion illicit cigarettes smoked in the EU. A more recent estimation from 2017 shows that the level of illicit market was at 18.3 %, which is double in size compared to the EU-28 average of 9 %.<sup>59</sup> As a consequence, the Romanian state budget is annually deprived by 650 million EUR. Throughout the period between 2010 and 2016, the incurred losses are estimated at around 4.8 billion EUR.

With regard to seizures, only in 2017, Romanian authorities have captured almost 150 million illicit cigarettes worth 80 million RON, representing only 3 % of the illicit market. Almost 60 % of the illegal cigarettes in Romania are illicit whites, 19 % having Moldavian origin and 17 % Ukrainian origin.

In 2016, DIICOT had a total of 588 cases involving crimes against the customs regime, with 303 cases

registered during the year. Out these, DIICOT finalised 164 cases, but only 17 of them with indictments.<sup>60</sup> In the last 7 years, customs crimes have been decreasing, both in terms of number of cases and number of perpetrators. This observation is also consistent with the sociological data on the illicit consumption. The data from the National Police reveal also a decrease of illicit market between 2011 and 2013 and a rise of smuggling in the beginning of 2014.

The main risk concerning the legislative landscape stem from the political priorities of the current Romanian government towards repealing duty-free legislation. If approved, the repeal will generate an increase in the illicit supply. There are also gaps in the legislation that are exploited by perpetrators (e.g. the lenient definition of customs value with regard to illicit whites).

The region most affected by cigarettes smuggling is Nord-Est, which borders Ukraine and Republic of Moldova. In 2017, the region had a level of smuggling of 37 %, although it is 9.3 % lower compared to November 2016. The smuggling route through Ukraine and Moldova is the most active one. Romania has 2000 km of border with 3 non-EU countries, namely Ukraine, Moldova and Serbia. This large border area offers enough opportunities to smugglers as surveillance procedures are difficult to implement because of the rocky landscape (especially at the Ukrainian border) as well as the capacity of perpetrators to constantly develop new smuggling techniques. For example, at the border with Moldova smuggling techniques involve scuba divers and fishermen.

In 2014, the average incidence of illicit trafficking with tobacco products was 15.9 %, while Nord-Est and Sud-Vest regions had the highest smuggling rate, namely 28.4 % and 26 %. In 2015, the registered illicit tobacco market share was 16 %, which is 75 % higher

<sup>57</sup> Project Sun. *2016 Results*, KPMG, 2017.

<sup>58</sup> A. Di Nicola and G. Espa, *L'Italia del contrabbando di sigarette. Le rotte, i punti di transito e i luoghi di consumo*; A. Di Nicola and F. Terenghi, "Managing finances in the illicit tobacco trade in Italy"; F. Calderoni et al., *Italy. The Factbook on the Illicit Trade in Tobacco Products 2*.

<sup>59</sup> Novel Research, Comerțul ilicit cu țigărete August 2008 – Mai 2016, Online: [https://www.novelresearch.ro/comertul\\_ilicit/](https://www.novelresearch.ro/comertul_ilicit/); KPMG, Project Sun reports.

<sup>60</sup> DIICOT annual report 2016, p. 19.

than the EU-28 mean value of 10 %. The majority of packs had Ukrainian (17 %), Moldovan (13.9 %) and Serbian (2.8 %) excise stamps.

An important illicit tobacco hotspot is the Port of Constanta where most illicit cigarettes enter the country. In March 2017 the customs authorities at the port discovered 1,400 boxes with 14 million Asian cigarettes boarded on a Thai flag ship. According to authorities, the cargo's estimated value was about 2.5 million EUR, with a final destination Bucharest. This was the biggest cargo of smuggled cigarettes seized in the last 5 years. Legal imports of cigarettes that transit Constanta harbour and Romania are also a concern as some of the trucks do not reach the destination countries and are unloaded in Romania.

Another recent hotspot is the border with Bulgaria, where a new bridge at Calafat-Vidin was opened in 2013. The south of Romania is supplied with illegal cigarettes by Turkish trucks that transit Bulgaria on their way from Greece and Turkey.

From 2008 until 2010 the Romanian illicit cigarettes market rose from 13 % up to 36 %.<sup>61</sup> This phenomenon has been encouraged by the large price differences between cigarettes from Romania and those from Ukraine and Republic of Moldova. In addition to that, some stakeholders complain about the laxity of security measures at the borders. For instance, Romanian authorities bought 15 high-tech scanners but the funds allocated to maintenance and insurance are scarce, resulting in non-regular use of the scanners.

A recent change of the legislation in Moldova introduced in 2015 also contributed for the increase in the levels of smuggling. A new customs code was adopted, which legalised duty-free shops in Transnistria separatist region. In 2016, 23 duty-free shops were functional in Moldova, out of which 9 in Transnistria. As

the region is not a tourist destination, the duty-free shops are apparently used for smuggling, an observation supported by the fact that only three of these duty-free shops imported over 4 billion cigarettes in a single year.

Another concern is the involvement of ordinary citizens in the smuggling operations who transport small amounts of illicit cigarettes on a regular basis in order to evade prosecution. People living in border regions have been known to provide smugglers with shelter and storage space for illegal cigarettes. In 2013, according to the border police, at only one of the customs checkpoints with Serbia there have been 1,300 individuals registered to have crossed the border (sometimes two or three times a day) to bring into Romania goods such as cigarettes and alcohol.<sup>62</sup> In the beginning of 2013, the regulation in Romania changed and weekly limits per person replaced the limits per crossing. Thus, instead of two packs of cigarettes per crossing per person, the new rule allows only for two pack per person per week.<sup>63</sup> Apparently, representatives of the local authorities are also involved in smuggling. For instance a mayor was sentenced in 2017 for smuggling, being part of a group along with other 36 individuals.

Corruption of custom personnel is also a key enabling factor. During the period between 2011 and 2014, DNA prosecuted 276 customs officers. In late 2016, DIICOT arrested 18 customs officers, serving at the border with Serbia, for facilitating illegal trade. This was the third serious case at this location, with groups of 69 and 41 officers being previously prosecuted. Practically, each year, entire customs structures are being sacked, with newcomers becoming involved in the same criminal practices.

Custom authorities acknowledge that the OCG's leaders are usually hard to sentence because they are not involved directly in the smuggling operations and only

<sup>61</sup> Novel Research, Comerțul ilicit cu țigarete August 2008 – Mai 2016, Online: [https://www.novelresearch.ro/comertul\\_ilicit/](https://www.novelresearch.ro/comertul_ilicit/).

<sup>62</sup> Jurnalul. Ro, „Restricții la granița non-UE. Românii pot aduce doar o dată pe săptămână țigările, băuturi alcoolice și alimentele din Serbia, Ucraina și Moldova”.

<sup>63</sup> National Agency for Fiscal Administration's Order no. 3477/2013 on the definition of the occasional character of passing into Romania of goods contained in the personal luggage of travellers coming from a third country. The order was repealed and replaced by Order no. 1888/2016 having similar provisions.

lower level members are caught red-handed. The criminal groups can afford to offer large bribes or contribute to electoral campaigns in exchange for protection and hints. The perception of these crimes also serves as an enabling factor because often the perpetrators are not considered as public threat and get suspended sentences or civil penalties, therefore many of them easily get back in business. Even if convicted, the average penalty is three years of prison time.

Romanian authorities report that the northern and eastern border areas are the most vulnerable and seem motivated to fight smuggling and cooperate with each other. They claim, however, that once the illicit cigarette loads manage to evade border control, they become very difficult to intercept as perpetrators operate in well connected and covert networks. Warehouses and delivery routes are changed often, so cigarettes could arrive to easily replaceable low-level sellers who are costly to be investigated and sentenced by the authorities. There are even cases of lawful courier services being used for the transport of illicit products within the country.

According to a recent survey, illicit cigarettes are most often offered on the street (83 % of the respondents who have been offered black market cigarettes), in ordinary shops (9 %), and in bars and restaurants (4 %).<sup>64</sup> According to several case studies, illicit cigarettes were sold using a store owned by the perpetrators. Separate accounting was used, the illicit sales being recorded on plain notebooks. In some regions controlled by OCGs, local shop owners are imposed a quota of illicit cigarettes to sell weekly in order to be allowed to operate.

Organised crime groups often recruit people from impoverished communities, especially in the rural parts of the border regions, where unemployment is high. Thus they exploit institutional vulnerabilities and involve poor people in their operations who in turn offer loyalty and protection.

International reports suggest that OCGs operating in Romania are highly inventive in their methods of concealing illicit cigarettes: cigarettes are being hidden in trucks or freight train transporting timber, hollowed-out logs or sawdust, in consignments of cement, brown wrapping paper and copier paper.<sup>65</sup> Thus, an organised crime group specialised in smuggling cigarettes from Serbia operated under the cover of a construction company.<sup>66</sup> Using two trucks registered in Serbia and Serbian drivers, the company was officially engaged in brick transport – 4-5 times per week. In fact, illicit cigarettes from Montenegro (25-35 packs) were hidden inside specially built compartments (under the floor and inside the tank) and smuggled into Romania.

Generally, most perpetrators are not pre-emptively arrested as there is no immediate public threat involved. In addition to this leniency, OCGs have been known to develop relationships at political and law enforcement level in order to receive protection. In the past there were allegations of involvement of military, intelligence and police personnel in smuggling activities. There is a widely shared public perception that law enforcement and criminal sector often collude.

## The Balkan hub

The functioning of the ITTP markets in the four countries cannot be understood without taking into account the cross-border flows and the links between the criminal networks operating in each of them. A recent assessment by Transcrime<sup>67</sup> indicates that Greece, Italy and Romania are among the top five transit points in the EU (see Table 4). Although Bulgaria is not among the top five transit points, it is also a key transit point because of the geographic position between Turkey and Greece.

The analysis of the collected data in the four countries for the period 2007 – 2017 has identified sever-

<sup>64</sup> European Commission, *Special Eurobarometer 443 – Illicit tobacco trade, Romania fact sheet*, July 2016.

<sup>65</sup> KPMG, *The SUN Project report*, p. 141.

<sup>66</sup> Criminal decision no. 270/A/31.10.2012, Timisoara Court of Appeal.

<sup>67</sup> Transcrime, *European Outlook on the Illicit Trade in Tobacco Products*, 2015.



**Table 4. The ITTP Transit Point Index. Top 5 transit points for illegal tobacco products within the EU borders (2010 – 2013)**

Transit Point	Index
Greece	100
Italy	63
Poland	49
Romania	41
Germany	40

*Source: Transcrime.*

al key ITTP cross-border flows. The main trafficking route is through Greece towards Central and then Western Europe. This route has two branches. The south branch of the route runs from Greece via Italy towards France and Germany. The northern branch runs from Greece via Bulgaria/Serbia towards Romania, Hungary, Austria and then Germany. A second important route begins in Italy towards Western Europe and the third one is from Romania towards Western Europe. Undoubtedly Greece is one of the main and long-established entry point for illicit tobacco in the EU<sup>68</sup> and a major hub for all Balkan criminal networks.<sup>69</sup> The smuggled illicit tobacco products periodically change their countries of origin, since the criminal entrepreneurs linked to this hub adapt to the changes in the market. Thus throughout the last 10 years illicit tobacco products have been smuggled from China, UAE, North Africa and the former Soviet republics. Seizures data from police and customs authorities also shows presence of illicit white manufacturing by some of the legal Greek producers.<sup>70</sup> The conducted interviews with police and customs officers in Bulgaria indicate that the perpetrators within the Balkan criminal networks operating from the Greek hub include Bulgarian, Macedonian, Serbian and Albanian citizens, although Greek nationals predominate. The transportation of illicit tobacco along the two trafficking routes (Greece-Italy and Greece-Bulgaria-Romania) is mostly organised by Bulgarian and Romanian per-

petrators and less often by nationals from the Western Balkan countries. The criminal networks exploit the specific advantages of Greece – the long sea border, the proximity to Turkey and the numerous free trade zones there, the lax customs control exercised by the countries of North Africa and in Northern Cyprus. The accession of Bulgaria and Romania to the EU opened up new opportunities, since the customs control between Greece, Bulgaria and Romania has been removed, which turned shipment of containers with illicit cigarettes from the Greek ports via Bulgaria and Romania directly to Central and Western Europe less risky for the criminal entrepreneurs. Another factor that contributed to the increased flow of illicit tobacco products through the Balkan route after 2007 was corruption, particularly high among the custom and police officers in Bulgaria, Greece and Romania at that time.

The public authorities in Bulgaria and Romania began to take more decisive measures against ITTP only after the financial crisis in 2009 – 2010 significantly deteriorated their budget revenues. In order to tackle ITTP the authorities in the two countries started to obtain and deploy mobile scanners on the main trafficking routes. A clear indication about the levels of corruption in Bulgaria and Romania is the large volume of contraband cigarettes entering from Turkey with falsified customs documents. The criminal networks have evolved and started to use more often legitimate businesses<sup>71</sup> for import/export and transportation, which are specifically set up as fronts for the smuggling of illicit tobacco. Once detected these companies are swiftly dissolved and new ones are incorporated. Another often used method to avoid detection is to split the shipping containers upon entering Greek territorial waters into smaller consignments and to transport them in small volumes through the borders with Italy, Bulgaria and Romania.

Italy is the second most important transit point for illicit tobacco products destined to Western European

<sup>68</sup> Transcrime, *The Eastern Balkan Hub for Illicit Tobacco*, 2016.

<sup>69</sup> CSD, *Financing of Organised Crime*, 2015.

<sup>70</sup> See Transcrime, *The Eastern Balkan Hub for Illicit Tobacco*, 2016, and CSD, *Financing of organised crime*, 2015.

<sup>71</sup> KPMG, *The Project Sun report*, 2017.

markets after Greece. Furthermore it is the fifth biggest market for illicit cigarettes in the EU.<sup>72</sup> The ITTP markets in Italy are closely linked with the Balkan criminal networks and in particular with the Greek, Bulgarian and Romanian organised crime. The data gathered through interviews suggests that the import of illicit tobacco products is financed and organised by Greek criminal entrepreneurs, who purchase the containers with illicit cigarettes from producers in third countries (and sometimes from Greek manufacturers). The illicit tobacco products are first transported to Greece and subsequently to Italy. The logistics to Greece and Italy are handled by specialized criminal networks from Eastern Europe. The owners of the maritime vessels, as well as the crews are usually Greek nationals, but there are also actors from Bulgaria, Ukraine and other Eastern Europe countries. Very similar is the organization of the land transportation, where usually the owners of the shipping companies are predominantly from Bulgaria, Romania, Ukraine and other Eastern Europe countries. Between 2010 and 2013 Bulgarian and Romanian citizens were on 4<sup>th</sup> and 5<sup>th</sup> place among all perpetrators arrested for contraband of illicit tobacco products.<sup>73</sup>

Romania is the fourth most important transit point for illicit tobacco products and the sixth biggest ITTP market in the EU. The data from Project Sun, as well as the seizures of illicit tobacco products indicate that there was a significant shift in the trafficking flows after 2010 – 2011. Before this period the main illicit flows were coming from Greece through Bulgaria. However, since 2011 the major source countries of illicit cigarettes became Moldova and Ukraine. The criminal networks smuggle both illicit whites and cigarette brands registered for sale in these two countries. The main incentive for the criminal entrepreneurs is the wide price difference, since the tobacco products in Romania cost five to six times more than in Moldova and Ukraine. A great deal of these tobacco products are subsequently trafficked to Central and Western Europe. The traffickers apparently exploit two main routes – the first one is through Hungary towards Germany, whereas the second one is through

Bulgaria, Greece, Italy to France, Germany, UK and the Scandinavian countries. For the organised crime groups from Bulgaria, Romania and Greece, markets in Western Europe are usually the primary destination compared to the domestic markets, not only because the bigger price difference, but also because of the larger demand.

The Bulgarian and Greek criminal networks also cooperate with regards to illicit tobacco manufacturing. According to the data collected from interviews with stakeholders, Bulgarian and Greek organised crime collaborate in order to secure raw tobacco and machines for illicit cigarette factories.

## VULNERABILITIES AND RISKS IN THE FOUR COUNTRIES

Although Bulgaria, Italy, Greece and Romania deal with different challenges related to ITTP, they also face many common threats and vulnerabilities. The analysis has identified 3 major categories of such risks: 1) Risks deriving from the overall institutional and legal environment in each country; 2) Risks related to the licit tobacco sector; 3) Risks related to the crime context in each country.

### Institutional and legal environment

Being members of the EU, all four countries have adopted the existing EU legislation with regards to customs and excise controls and tobacco taxation. However, in terms of criminal justice response to ITTP, each of the countries has developed its own institutional and legal framework. Apart from Italy, where the legal and institutional response to ITTP appears to be effective, the response of the authorities in Greece, Romania and Bulgaria is perceived as weak. The legal frameworks in these countries allow for interpretations of the norms, leading to leniency and inconsistent application of penalties. Law enforcement and customs often lack administrative and technical

<sup>72</sup> Ibid.

<sup>73</sup> Transcrime, *The Eastern Balkan Hub for Illicit Tobacco*, 2016.

capacity (e.g. insufficient number of scanners, poor or none IT infrastructure, lack of technical know-how), while the personnel lacks motivation. A major vulnerability factor, especially in Bulgaria, Greece and Romania, is the widespread corruption. In a number of instances, representatives of law enforcement and customs services are part of crime networks themselves. A major vulnerability is also the poor cooperation between the criminal justice and revenue authorities of the Balkan countries, which is successfully exploited by the Balkan criminal networks.

Another common vulnerability shared by Bulgaria, Greece and Romania is the politicization of the customs and law enforcement authorities. Thus a change of the ruling political formation also ensues changes of the heads of the law enforcement and revenue agencies. Thus any political instability easily translates into soaring of the illicit tobacco market. This tendency has been observed on several occasions in Bulgaria for example, when presidential or parliamentary elections have been held. The last change of the ruling coalition in Romania also led to active lobbying for the re-institution of duty-free shops at the external borders of the country. In sharp contrast, Italy has relatively stable legal framework and institutions, which remain immune to the political changes in the country.

Certain external factors also have significant impact on the political and institutional priorities in all countries. Thus the increased illegal migration flows in countries like Greece and Italy, but also in Bulgaria during 2014 – 2015, have led to prioritization of this issue over other organised crime threats including ITTP, since law enforcement agencies were under pressure to re-allocate significant financial and human resources to deal with the migration crisis.

## The licit market

Closely related to the vulnerabilities and risks related to the overall legal and institutional environment are the ones related to the licit tobacco sector itself. Thus, the harmonization of the excise duty rates across the EU has undermined the consumer base at the licit markets in some of the analysed coun-

tries. The pre-set minimum excise rates do not take into account the significant differences of the price affordability of tobacco products in the different countries. Thus, for example, the cost of a pack of cigarettes in Bulgaria has reached 26.1 % of the daily disposable income in Bulgaria as a result of the steep excise duty increase in 2010 and was a major driver for the surge in ITTP in the period. Although after 2010 this ratio has improved, the cost of pack of cigarettes is still 16.7 % of the daily disposable income. During the period 2010 – 2017 the price affordability in Greece, Italy and Romania has also worsened. Currently Romania is the country with lowest price affordability in the EU, 20.3 % of the daily disposable income. The increase of the taxation coupled with the worsening price affordability of tobacco products were reported as important vulnerability factors that contributed to the rise of the ITTP in Romania and Greece. In Bulgaria the increase of the price affordability in the last 5 years is one of the factors associated with the decline of the ITTP market.

Other important vulnerabilities related to the licit market is the presence of certain legitimate companies – either producers or retailers, which along with their legitimate business have periodically engaged in unlawful practices. In Bulgaria, one of the main domestic producers has engaged with high-risk traders linked to tax evasion schemes and illegal distribution of its cigarettes without the due excise duties. Similar cases have been reported about one of the big Greek tobacco producers and an Italian local producer. In Romania, a branch of a big Asian producer also engaged in such practices, along with numerous low-level retailers reported to distribute illicit tobacco products.

## Crime context

The third important category of threats and vulnerabilities related to ITTP are linked to the presence of well-established trafficking routes (the so called Balkan route), as well as the historic presence of native OCGs in the four countries. Organised crime in the four countries has managed to a different extent to infiltrate law enforcement, local authorities and administration in strategic areas and ports and makes use

of this for the manufacture or transit of illicit tobacco products. Similarly important vulnerability factor in this category is also the overall social acceptability of dealings on the black market and consumption of illicit products. Thus, perpetrators in the ITTP market are not seen as posing the same danger to society as other types of criminals. It is often that OCGs employ entire networks of low-level distributors from marginalised social groups – disadvantaged, poor, jobless, etc. Generally, rural, economically challenged areas seem more affected by illicit trade than the urban territories in all four countries.

The analysis of the structure and modus operandi of OCGs involved in ITTP in the four countries suggests that there could be distinguished two different kinds of criminal organisations. The first kind of organisations have specialised in illegal distribution of illicit tobacco products for the domestic markets. The second kind have specialised in cross-border trafficking and they smuggle illicit tobacco products for the major Western Europe markets. The latter organisations are often collaborating with criminal actors from all four analysed countries and are transnational. They

are also exploiting the free movement of people and goods within the EU and the legal constraints and weaknesses in the collaboration between the criminal justice authorities in Europe.

As evident from the analysis, the identified risks and vulnerabilities of the tobacco sector in the four countries are quite diverse and derive from different causal factors – from overall legal and institutional environment, to tobacco sector specifics and presence of organised crime.

Moreover, many of these factors are in a constant and complex interplay. Careful and thorough assessment of these factors is a necessary prerequisite for designing proper strategy to tackle ITTP on national and regional level, since only a comprehensive approach can guarantee clear and sustainable results. In this regard a major consideration is the availability of homogeneous data regarding the market. Institutional frameworks need to be shaped as to allow for the collection of data at all levels (production, transport, retail) that would allow for proper analysis and forecast on potential illegal activities.