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FEATURES OF CRIMINAL LIABILITY FOR SMUGGLING IN UKRAINE

Contraband belongs to the category of unlawful acts to the extent that it represents an attack on the vital interests of society. It harms the economy of society as a whole, is a direct tool of encroachments on the country's financial and economic system. Any person who moves banned goods or goods subject to duty without payment or does not comply with the prohibition is a violator of customs legislation, which consists of a set of customs rules, the violation of which entails criminal liability. That is why the legislators of all countries are taking rigorous measures against smugglers.

According to the effective Criminal Code of Ukraine, smuggling recognizes the illegal movement of certain items that constitute an increased danger to the health of people or public safety, through the customs border of Ukraine outside customs control or with concealment from customs control. Moreover, the responsibility for the smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines is stipulated in Art. 305 of the Criminal Code (section XIII of the Special Part - crimes against the health of the population), and for the smuggling of cultural property, poisonous, potent explosives, explosives, radioactive materials, weapons and ammunition, as well as special technical means of secretly obtaining information - st.21 of the Criminal Code (Section - VII Special part - crimes in the field of economic activity).

Today, the classification of the crime stipulated in Article 201 of the Criminal Code of Ukraine, section "Offenses in the field of economic activity" is rather problematic, since it does not meet the generally accepted criterion - the relations that constitute the generic

object of the attack - and looks scientifically unjustified in connection with the exclusion of criminal liability for smuggling of goods. This offense affects not so much on economic and tax relations, but on relations providing personal and public security.

Thus, it would be logical to put Section C of the Special Part of the Criminal Code of Ukraine - crimes against public safety logically in line with the generic object. In some articles of the Criminal Code of Ukraine, various sections deal with the illegal import of other items that are not covered by the disposition of Articles 201 or 305 of the Criminal Code, but in effect such actions are similar to smuggling (Articles 268, 300, 301 of the Criminal Code).

In this regard, a certain theoretical and practical interest may be a scientific classification of items that have an increased danger or a special significance for a society whose illegal movement, through the customs border of Ukraine, causes significant harm and requires criminalization.

In my opinion, most of these items can be divided into the following groups: 1) items of special value - cultural values; valuable species of animals and plants; organs and tissues of a human, etc.; 2) objects dangerous for human health - narcotic drugs, psychotropic substances, their analogues or precursors, poisonous, potent substances, counterfeit medicines; 3) items that pose a threat to personal and public security - explosives, radioactive materials, weapons and ammunition to it; hazardous waste, microbiological agents; 4) objects that threaten social morals - works that promote violence, cruelty, racial, national or religious intolerance and discrimination; pornographic items; 5) objects that threaten the inviolability of a person's personal life - special technical means of secret receiving information.

Criminal prohibitions on the illegal transfer of these objects across the Ukrainian customs border are inadvisable in one article entitled "Smuggling" (it will be a cumbersome and theoretically illogical construction), but it is better to enter into the relevant sections of the Special Part of the Criminal Code, which already

contain norms of responsibility for those or other illegal actions with such items. For example, as is done in Art. 301 Criminal Code in relation to pornographic subjects. Similarly, the illegal import or export of items specified in Art. 201 of the Criminal Code, should be indicated in the disposition of the relevant articles of other sections of the Criminal Code, namely: weapons, ammunition or explosives in Art. 263 of the Criminal Code, cultural values - in Art. 298, 298-1 of the Criminal Code; radioactive materials - in Art. 265 of the Criminal Code; special technical means of the secret receipt of information - in Art. 359 of the Criminal Code.

As far as counterfeit medicines are concerned, the responsibility for their illegal import (export) should be set in Art. 321-1 of the Criminal Code of Ukraine, excluding the instruction on these funds from Art. 305 of the Criminal Code of Ukraine. It is also necessary to establish criminal liability for similar actions regarding valuable species of animals - in Art. 248-249 CC, valuable species of plants - in Art. 247 of the Criminal Code; biological agents or toxins - in Art. 326 of the Criminal Code; organs and tissues of a person for the purpose of their transplantation - in art. 143 of the Criminal Code of Ukraine.

With regard to the illegal import of pornographic items for the purpose of their distribution, works promoting cruelty, etc., pornographic objects, hazardous wastes, criminal liability for such actions already exists in the relevant articles of the Criminal Code (Articles 268, 300, 301 of the Criminal Code).

But in connection with the European aspirations of Ukraine in all the mentioned articles of the Criminal Code, which deals with the illegal circulation of these objects, to provide for liability not only for their illegal import into Ukraine, but also for illegal export outside of our state.

Meanwhile, the head of the Transcarpathian Regional State Administration Gennady Moskal is going to prepare a bill on criminal liability for the smuggling of excisable goods. This is stated in a statement on the official website of the head of the Transcarpathian region. He believes that the administrative

responsibility for this crime demonstrates "helplessness of the state". "Administrative responsibility only stimulates the illegal transfer of goods across the border, Ukraine actually feeds transnational crime groups organized around this profitable" business "... I will personally prepare a bill on the renewal of criminal liability for the smuggling of excisable goods and I will ask several deputies from different factions to register it in the Verkhovna Rada ", - said G. Moskal [1]. The facts brought by the governor of Transcarpathia are really impressive.

Thus, one of the residents of Tyachiv district was drawn to the administrative responsibility 163 times. "This fact is a frank ridicule over the helplessness of the state," commented G. Moskal [1]. He also says that in the neighboring states such crimes are put in a completely different way. "In neighboring Romania, criminal responsibility comes for smuggling just one pack of cigarettes across the green border, in Hungary, for smuggling cigarettes worth more than 100 thousand forints (so much is about 15 blocks of cigarettes), and in Slovakia for more than 8 blocks of cigarettes," explains governor [1].

According to G. Moskal's proposal, up to 20 cigarette units can be left an administrative responsibility for illegal transportation through checkpoints (including by means of transport, technical means or aircraft), and from those who transport more than 20 blocks, it is necessary to attract criminal liability with the confiscation of personal property.

List of references:

1. National Association of Advocates of Ukraine. Council of advocates of the Kiev region. URL:

<http://radako.com.ua/news/chi-mozhliva-kriminalna-vidpovidalnist-za-kontrabandu>.