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RECRIMINALISATION OF SMUGGLING IN THE SYSTEM OF COMBATING ECONOMIC CRIMES: ANALYSIS OF CRIMINAL LAW

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Abstract. The practice of smuggling, as a manifestation of the shadow economy, has historically been regarded as a significant threat to national security. This is due to the fact that it has the capacity to undermine fiscal stability, legitimate competition, and institutional trust. Recent amendments to Ukrainian criminal legislation, which have resulted in the reclassification of commodity smuggling as a criminal offence, underscore the necessity for a methodical and scientific examination of the subject under investigation. Studying the issue of the recriminalisation of smuggling is important for improving criminal legislation and for developing effective state policies in the field of economic security. This study aims to provide a comprehensive analysis of the criminal law aspects of the recriminalisation of smuggling as part of the system for combating economic crime. This analysis will take into account modern challenges, changes in Ukrainian legislation and international experience. The objective of the study is to ascertain the most effective methods of regulatory enhancement, harmonisation of administrative and criminal liability, and the assurance of effective law enforcement in the field of combating smuggling in the context of European integration. The research methodology consists of such methods as: formal-legal, comparative-legal, policy analysis method, empirical method and synthesis method. The article provides a criminal law analysis of the phenomenon of the recriminalisation of smuggling within the modern Ukrainian system for combatting economic crime. It considers the reasons, consequences and merits of reintroducing criminal liability for certain smuggling activities, particularly those involving goods not subject to excise duty or prohibited items. The national legal framework is analysed, as are the positions of domestic and international experts, and the comparative legal experience of other countries. A meticulous examination is conducted to ascertain the prospective hazards and favourable elements of this methodology with respect to safeguarding the economic stability of the state. The text goes on to outline interdisciplinary approaches to the problem, and determine which approaches are relevant for the formation of a balanced and effective system for combating economic crime.

Keywords: recriminalisation of smuggling, economic crime, criminal law policy, customs law, cross-border crime, administrative liability, international co-operation.

JEL Classification: K14, K33

1. Introduction

In light of the prevailing conditions of European integration, Ukraine is confronted with the imperative to align its criminal legislation with European Union standards, particularly with regard to the combatting of economic crimes. A fundamental element of this process pertains to the necessity of revising strategies employed in the fight against smuggling. A study by the analytical centre "Price of the State" (2025) emphasises that the adoption of Law No. 3513-IX of Ukraine, which provides for the recriminalisation of commodity smuggling, was a step towards strengthening state control over the movement of goods across the customs border. It was also part of Ukraine's fulfilment of its international obligations to the EU, particularly the requirements of EU Directive

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2017/1371. Nevertheless, this legislation has evoked equivocal responses from both the scientific community and the expert body. On the one hand, the issue of smuggling is regarded as a significant threat to economic security, given its capacity to diminish budget revenues, exacerbate corruption, and engender market inequities. Conversely, the question of the legitimacy of utilising criminal instruments to regulate infractions of customs legislation arises, given that such a practice can engender risks of abuse, result in an overloading of the law enforcement system, and contravene the principle of proportionality. This issue is particularly pertinent in light of the need to ensure fiscal efficiency and respect for human rights. Therefore, studying the issue of the recriminalisation of smuggling from a criminal-legal perspective requires a comprehensive analysis involving international experience, an evaluation of the effectiveness of decisions made, and a prediction of their impact on law enforcement practices and compliance with European standards.

The study focuses on social relations that arise in the context of combatting economic crime, particularly the illegal movement of goods across Ukraine's customs border.

The study focuses on criminal law mechanisms for the re-criminalisation of commodity smuggling. This includes new legislative norms and trends in judicial practice, as well as their compliance with European criminal law standards.

The objectives of the study are as follows:

1. To analyse the legal nature of the recriminalisation of smuggling in Ukraine and determine its place in the system of criminal law measures to combat economic crime.
2. To investigate the compliance of Ukrainian legislative changes with European standards, in particular with the provisions of EU Directive 2017/1371.
3. To assess the risks of abuse associated with the reinstatement of criminal liability for moving goods across the border outside customs control.

2. Methodology

The study is based on a system of scientific approaches that provide comprehensive insight into the essence of the recriminalisation of smuggling within the context of combatting economic crime.

Primarily, a formal-legal method was employed, utilising which a comprehensive analysis of the prevailing regulatory legal acts of Ukraine and international documents was conducted. Consequently, it was possible to identify the peculiarities of the legal consolidation of the elements of the crime of smuggling, to compare the versions of the articles of the Ukrainian Criminal Code before and after the amendments made by Law of Ukraine No. 3513-IX, and also to reveal the absence of clear criteria for assessing the severity of the offence.

The comparative legal method enabled a comparison to be made between national legislation and the norms of European Union countries, with particular reference to France, Germany and Poland. It was established that the majority of EU countries retain criminal liability for smuggling, with this decision focusing on the characteristics of the act itself, including repetition, organisation, and the amount of damage or risk to national security. This analysis enabled the conclusion that the maintenance of solely administrative liability, as evidenced by the Ukrainian context prior to December 2023, does not align with European standards of legal response.

The application of the policy analysis method enabled an assessment of changes in criminal legislation within the broader context of Ukraine's anti-corruption policy and its European integration course. The reform of the criminalisation of smuggling has been found to be closely related to Ukraine's international obligations to protect the financial interests of the EU (in particular, under Directive 2017/1371), as well as to the need to reduce the level of the shadow economy.

The empirical method was utilised to analyse statistical indicators pertaining to the volume of offences related to the movement of goods across the Ukrainian customs border. A comprehensive analysis of analytical studies conducted by the State Customs Service, complemented by statistical data on the status of cases pertaining to smuggling, and reports from international organisations, has revealed a noteworthy trend. During the period of decriminalisation (2011–2023), there has been a discernible increase in the volume of illegal circulation, a development that has had a deleterious effect on budget revenues. Consequently, a determination was made regarding the necessity of augmenting the criminal-legal repercussions for economic crimes, particularly smuggling.

Applying the synthesis method enabled the results of previous methods to be generalised and a comprehensive position to be formulated on the role of recriminalisation in the system of combating economic crime. It was found that combining criminal prosecution for commodity smuggling with effective preventive measures, customs control and international cooperation strengthens the financial security of the state and brings national legislation into line with European standards.

3. Literature

The problem of smuggling, and the methods used to combat it, has traditionally been a focus of

scientific research. This research covers criminal law, criminology, economics, and legal aspects.

In his dissertation, Babikov (2023) undertakes an analysis of changes in the criminal law approach to smuggling, emphasising the risks of violating the principle of subsidiarity of criminal law. The author has expressed concerns regarding the reintroduction of criminal liability for all instances of goods being moved outside of customs control, as this could potentially result in an overburdening of the criminal justice system. There is concurrence with the author regarding the necessity for differentiation in approaches to criminalisation. However, it is posited that in conditions of martial law and economic destabilisation, the enhancement of criminal liability for smuggling is warranted from the standpoint of national security.

Dudurov and Movchan (2024) emphasise the necessity of maintaining a balance between the efficacy of countering smuggling and the prevention of excessive criminalisation. The authors draw attention to the apparent inconsistency between legislative changes and the doctrine of criminal law.

It is this author's opinion that reservations regarding the haste of legislative initiatives deserve attention. However, it is also believed that, given the growing scale of economic crime, even temporary recriminalisation of smuggling may be justified as a preventive measure.

Nikolayenko (2024) examines the contemporary challenges in the domain of criminalisation of commodity smuggling, with a particular focus on the role of legislative clarity and predictability. The author emphasises the necessity for interdepartmental coordination in the effort to combat economic crime. It is acknowledged that clarity of norms and predictability of law enforcement are of critical importance in the context of updating the Criminal Code.

Zabuga and Mykhailichenko (2024) consider recent changes in the legislation on smuggling to be ambiguous and potentially problematic for law enforcement practice. The authors of the study emphasise the necessity for unification of terminology and elucidation of the elements of crimes. It is this author's opinion that there is a need for terminological precision; however, it is also believed that a certain degree of legal breadth in the concepts applied can allow judicial practice to adapt to new challenges.

In their 2023 study, Nazimko, Danylevska, and Ponomareva emphasised the necessity of aligning Ukrainian legislation with European norms in the domain of combating smuggling. This position is endorsed by the present research, as the European integration of Ukraine necessitates the alignment of its criminal legislation with that of the EU.

In the 2023 study by Kamensky, the author posits the argument that the phenomenon of smuggling should be recognised as a significant threat to the economic foundation of the state. The author posits that the practice of smuggling exerts consequences that extend beyond mere fiscal implications, concurrently eroding the foundations of economic justice. It is evident that there is a shared vision and support for the concept of an expanded approach to assessing the harm from smuggling.

Kovaleva and Shevchenko (2024) consider ways to improve legal regulation, particularly by enhancing the effectiveness of law enforcement. Based on this, criminalisation alone is not effective without proper implementation, so it is important to focus on institutional capacity.

Dopilka and Pavlovska (2021) examine liability for customs violations within an administrative framework. While their conclusion that sanctions for administrative offences should be increased is valuable, the authors of the present article believe that increasing fines alone is not an effective deterrent against systemic smuggling.

Myroshnychenko (2017) conducted an analysis of the object and subject of smuggling, emphasising the necessity of a systematic approach to the formulation of criminal offences. It is acknowledged that a precise definition of the object of a criminal offence is pivotal to the effective functioning of law enforcement agencies.

Radutny's (2022) study explores the nexus of economic crimes and emergent economic activities within a contemporary milieu. The relevance of the findings extends to the field of smuggling, particularly in terms of assessing damages and restoring economic justice.

The primary focus of the research conducted by Dorofeeva and Korneva (2023) pertains to the harmonisation of Ukrainian customs legislation with the legislation of the European Union. The authors identify several challenges in the domain of international customs cooperation, underscoring the significance of digitalisation in streamlining customs procedures. Despite the absence of an exhaustive criminal law examination in the study, it is evident that customs reform should be implemented in conjunction with the criminalisation of smuggling activities.

Atkinson-Sheppard (2017) examines the involvement of marginalised groups (including children) in organised crime in Bangladesh. Despite the sociological nature of the study, it demonstrates the importance of understanding the motivational mechanisms of involvement in the shadow economy. This approach can be adapted to the Ukrainian context, emphasising the need for socially oriented prevention of economic crimes.

Pasechnyk, Fedorova and Biriukov (2025) discuss international legal mechanisms for tackling economic crime. They emphasise the importance of Ukraine's

integration into global security and fiscal structures, particularly with regard to information exchange and legal assistance. This is highly relevant in the context of the recriminalisation of smuggling, as effective counteraction requires cross-border co-operation.

Khomutyansky (2020) provides substantiated evidence for the effectiveness of administrative and legal influence in the field of customs offences. However, the author fails to consider the growth of organised smuggling and its criminal component. Consequently, administrative responsibility alone is inadequate in addressing systemic criminogenic threats.

The most comprehensive view of the problem is offered in the collective monograph edited by Yevdokimov and Hrytsyshena (2024). Within the context of the work, smuggling is conceptualised as a predominant form of economic crime, necessitating a multifaceted approach that incorporates criminal law, organisational mechanisms, and preventative strategies. Of particular value is the highlighting of the role of criminal policy in ensuring the economic security of the state, and the need for a legal balance between repressiveness and efficiency.

The analysis conducted indicates the presence of three main scientific approaches to the problem: administrative-legal, social-preventive and criminal-legal. It has been confirmed that in order to effectively combat smuggling, particularly in its organised form, it is necessary to criminalise its most dangerous forms in combination with international cooperation, electronic control and social measures. Based on this review, it could be argued that the recriminalisation of smuggling is a justified step in the fight against economic crime, provided it is combined with broader institutional reforms and legal harmonisation.

4. Main Research Material

The phenomenon of smuggling is a socially dangerous one, and is regulated by a number of legal acts at both national and international levels. In the context of reforming Ukraine's criminal policy, in particular its European integration course, particular attention is drawn to the analysis of legislative acts that determine approaches to countering this phenomenon.

At the national level, the Customs Code of Ukraine (Law No. 4495-VI, 2012) establishes the fundamental principles of customs regulation, encompassing the categorisation of customs offences, the procedures involved, and the liability for infringing the customs regime. Until 2023, the smuggling of goods was primarily regarded as an administrative offence. The adoption of Law No. 3513-IX in 2024 signalled a shift towards the criminalisation of this act, as reflected in the new Article 201-3 of the Ukrainian Criminal Code (Law No. 2341-III, 2001), which stipulates criminal liability for the intentional movement of goods outside customs control or with concealment from it. The law emerged as a response to the proliferation of illicit trade and the EU's stipulated requirement for the implementation of the standards outlined in the Association Agreement. Concurrently, the Tax Code of Ukraine (Law No. 2755-VI, 2010), in conjunction with the Law "On Customs Tariff of Ukraine" (Law No. 2697-IX, 2022), assumes significance from an economic perspective, as it delineates the nexus between tax and customs obligations. It is frequently observed that evasion of customs payments constitutes a derivative aspect of smuggling activities.

The adoption of the Law of Ukraine No. 3513-IX (Law No. 3513-IX, 2023) became a landmark stage in the transformation of criminal policy: the new version of Article 201-3 of the Criminal Code of Ukraine provides for criminal liability for the intentional movement of goods across the customs border outside customs control or with concealment from it. This approach is indicative of a broader trend towards the criminalisation of economically detrimental acts that compromise the state budget, erode customs discipline, and contravene the established principles of international trade.

The legislator defines smuggling as the movement of goods across the customs border of Ukraine outside of or with concealment from customs control. Concurrently, prior to 2012, the interpretation of the relevant methods of committing smuggling, as well as the determination of the moment of the end of the criminal offence, was predominantly informed by law enforcement practice, particularly on the basis of the Resolution of the Plenum of the Supreme Court of Ukraine. However, commencing in 2012, with the enactment of the new Customs Code of Ukraine, the terms "movement of goods outside customs control" and "movement with concealment" were explicitly delineated in Articles 482 and 483, respectively. In this regard, a number of conceptual questions arise regarding the expediency of replicating analogous provisions in criminal legislation, particularly in light of the fact that the pertinent definitions regulate the administrative-legal, not the criminal-legal, sphere. The duplication of norms is not only contradictory to the logic of lawmaking, but also creates potential conflicts in law enforcement, which, in turn, complicates the legal qualification of acts and overloads the regulatory material. Consequently, it appears pertinent to exclude the pertinent note to Article 201 of the Ukrainian Criminal Code, as it has become superfluous in terms of regulation.

Another pressing issue that requires rethinking, both theoretically and in practice, is how to define the object of smuggling. The recriminalisation of this act was accompanied by the delineation of contraband warehouses based on the nature and value of the goods. In criminal law, the nature of the goods being

smuggled is classified according to their civil legal status, strategic importance, and fiscal burden. For example, the objects of smuggling include:

a) Objects restricted in civil circulation, the movement of which requires special permits (Article 201 of the Criminal Code);

b) strategically important raw materials, in particular timber of valuable tree species (Article 201^1 of the Criminal Code);

c) goods of general circulation, excluding excisable goods and electricity (Article 201^3 of the Criminal Code);

d) excisable goods in accordance with the classification of the Tax Code of Ukraine (Article 2014 of the Criminal Code).

While such a classification may appear to demonstrate internal logic, the question of whether it is expedient to place each type of smuggling in a separate article remains. From the perspective of legislative technique, it appears more rational to systematise the objects of smuggling within a single article, incorporating internal structural differentiation by object type and the corresponding degree of social danger. This approach aligns with the principles of unification of legislation, enhancing the efficacy of criminal qualification and contributing to the establishment of a comprehensive understanding of smuggling as a criminal act.

Particular attention should be given to the issue of the value of contraband items. Ukrainian legislation sets different thresholds for different categories of contraband, raising questions about the basis of this differentiation. For instance, the threshold for "large size" is 80 nmdg for timber, 10,000 nmdg for goods, and 1,500 nmdg for excisable goods. Such a discrepancy (up to 125 times) is illogical and raises doubts about the fairness and effectiveness of the relevant norms. Furthermore, when considering the effectiveness of criminalisation, it is important to note that sanctions for violations of customs legislation under the Ukrainian Customs Code are much stricter. For example, fines can amount to up to 200% of the value of the goods, which is much higher than the fines set out in the Criminal Code of Ukraine (850 thousand UAH compared to 15.14 million UAH for goods of a large value). Therefore, a serious flaw in the current criminal legislation is the lack of a unified approach to determining the value thresholds for what constitutes a “significant” or "large" crime. This unmotivated differentiation creates conditions for ambiguous interpretation and violates the principle of legal certainty. It is therefore proposed that these indicators be unified by enshrining a single value threshold for all types of smuggling in legislation.

At the same time, the legislative technique used in the aforementioned law raises a number of concerns. In particular, note that Art. 201 of the Criminal Code of Ukraine repeats the provisions of the Customs Code of Ukraine, which already provides exhaustive definitions of methods of moving goods such as "outside customs control" and "concealment from customs control" (Articles 482–483). Such practice is in violation of the principles of unity of terminology, regulatory economy and systematic legal regulation. It is considered advisable to remove the corresponding note from the criminal law text in order to avoid duplication and maintain a clear demarcation of subject regulation between branches of law. The issue of subject differentiation of contraband compounds in the Criminal Code of Ukraine requires special attention. Currently, there are four separate provisions of criminal law that provide for liability for smuggling different groups of goods: Article 201 – goods whose circulation is restricted or prohibited; Article 201-1 – strategically important raw materials; Article 201-3 – goods for general use; Article 201-4 – excisable goods.

The fragmentation of criminal law not only complicates legal practice, but also contradicts the principles of the systematisation of criminal legislation. In view of this, it seems appropriate to bring together the relevant elements of crimes in a single article, differentiated internally based on the nature of the offence and the amount of damage caused.

Furthermore, there is an urgent need for regulatory consolidation of the legal definition of the concept of "smuggling". The absence of this element in the current Criminal Code of Ukraine complicates the interpretation of the elements of the crime and the practice of qualification. The definition of smuggling proposed in this study is an intentional and socially dangerous act consisting of the illegal movement of goods, objects or substances across the customs border of Ukraine outside of customs control or using means of concealment from customs control.

This approach has resulted in a fragmentation of norms to an excessive degree, which complicates law enforcement. It is recommended that all forms of smuggling be consolidated within a single article of the Ukrainian Criminal Code, meticulously divided into sections based on the nature of the infraction. This will allow for the unification of the structure of the criminal component, facilitate qualification, and ensure legislative logic.

The implementation of these proposals will help ensure the unity of criminal legislation, strengthen counteraction to smuggling activities, and increase legal certainty.

In the context of aligning national criminal legislation with European standards in the field of combating economic crime, the provisions of Directive EU 2017/1371 (Directive EU 2017/1371, 2017) serve as a significant reference point. The document stipulates that EU Member States are obligated to implement criminal sanctions for fraud that jeopardises the

Union's financial interests. In particular, a minimum threshold for criminal liability is established – losses or gains of 10,000 EUR, and in cases of significant damage (100,000 EUR), a penalty of imprisonment for a minimum of four years is provided.

A legal analysis of the customs legislation of France, the Fiscal Code of Germany and the Fiscal Criminal Code of Poland demonstrates a considerable degree of criminalisation of offences related to smuggling. In France, for instance, the illicit importation of prohibited goods or tobacco can result in a custodial sentence of up to three years, the confiscation of the goods and vehicle involved, and a financial penalty amounting to twice the value of the contraband. In the case of dual-use goods or dangerous goods, the penalty is increased to 10 years of imprisonment and a fine of ten times the value of the objects involved in the offence (Code des douanes).

Within the jurisdiction of Poland, criminal liability is established for a range of infractions, including the illicit import, export, or transit of goods (Article 372), the organisation of smuggling activities or the use of weapons in such operations (Article 373), and the storage or sale of goods obtained through tax evasion (Article 374). According to the Criminal Code of Ukraine, sanctions include imprisonment for a term of six months to ten years, confiscation of goods and means of transport, and additional restrictions such as the deprivation of the right to hold public office.

In Germany, the minimum threshold for criminal liability is 1,000 EUR. Sanctions include fines of up to 10,000,000 EUR depending on the offender's income, or imprisonment of up to five years; in exceptional cases, this can be increased to ten years. Both customs duty evasion and violations of the regime for the movement of controlled goods are considered infringements (The Fiscal Code of Germany).

Consequently, foreign legislation exemplifies a stringent approach to combating smuggling, predicated on specific thresholds of harm, substantial fines, imprisonment and supplementary sanctions. It is imperative that Ukraine gives due consideration to these approaches when implementing European norms and enhancing the effectiveness of the criminal law mechanism for combating economic crime. In view of the above, increasing the effectiveness of the criminal law mechanism for combating economic crime in Ukraine requires a systematic approximation to the norms and practices of the European Union. A long-term contribution to strengthening the rule of law, financial discipline and integration into the European legal space will be made by this process.

It is also important to note the limited effectiveness of the implementation of new norms in national practice. According to official data, during the initial nine months of 2024, a mere 47 criminal proceedings were initiated for smuggling goods, of which a mere three culminated in a verdict. Such indicators are indicative of the deficiencies in the system of detection, pre-trial investigation and trial, as well as the lack of proper institutional capacity of law enforcement agencies. Furthermore, even in cases of conviction, judges frequently exercise their discretion to impose milder sentences, such as fines or suspended sentences, thereby diminishing the efficacy of criminal punishment. This practice is indicative of significant shortcomings in the justice system and the need to revise approaches to the application of penalties for smuggling (Price of the State, 2025).

In the context of inadequate institutional capacity and the absence of certainty of punishment, the criminalisation of smuggling does not provide the expected deterrent effect. The prevailing tendency in law enforcement practice is towards a low level of probing and probation, frequently accompanied by evasion of responsibility. Moreover, evidence suggests systemic tolerance for corruption in the law enforcement sector. Consequently, criminal law measures, particularly those of a punitive nature, predominantly function in a declaratory capacity, thereby proving ineffective in modifying the behaviour of offenders. A critical analysis demonstrates that the recriminalisation of these behaviours, in the absence of a robust institutional framework, serves only to exacerbate legal formalism. This, in turn, diverts attention from the imperative of establishing effective mechanisms for the detection, investigation and substantiation of smuggling offences. Furthermore, the repressive model of combating smuggling does not take into account its socio-economic nature, in particular the impact of the shadow economy, low incomes of the population and distrust of state authorities. Consequently, a promising direction for future research is the implementation of a comprehensive strategy to combat smuggling, which includes not only criminal law, but also administrative, economic and social instruments. This involves the reform of the functions of law enforcement agencies, an increase in transparency and accountability, and the creation of incentives for legal business.

In order to combat the issue of smuggling in Ukraine, there is a necessity for a conceptual revision of criminal law support, with consideration of European standards, principles of legislative consistency and requirements of practical efficiency. It is imperative to recognise that a comprehensive approach to enhancing criminal legislation, coupled with the provision of adequate institutional support, is instrumental in ensuring the effective counteraction of this phenomenon.

5. Conclusions

Following a comprehensive examination of the criminal law implications of recriminalising smuggling

in the context of economic crime prevention, the following conclusions were reached.

1. The recriminalisation of the smuggling of goods in 2023–24 was an important step in the fight against economic crime associated with violations of customs legislation. This decision was made in response to the ineffectiveness of administrative measures and the need to strengthen the fiscal security of the state. Smuggling should be considered not only a customs offence, but also a criminal offence with a significant impact on the economic security and financial condition of the state. The recriminalisation of smuggling improves the level of law and order, as well as criminal liability, in relation to economic crimes. This allows for a more effective response to violations of customs legislation. Smuggling has been found to be a component of a broader category of economic crime, including violations relating to the financial interests of the state. Consequently, it is recommended that smuggling be incorporated into the existing framework of criminal law as a means of addressing economic crimes. The study confirmed that the criminalisation of smuggling is important for ensuring effective state control over the movement of goods across the border and for preventing budget losses.

2. With regard to the analysis of the recriminalisation of smuggling in the context of European integration, it was found that the restoration of criminal liability for smuggling of goods in Ukraine partially complies with the requirements of EU Directive 2017/1371, which defines the basic principles for the protection of the financial interests of the European Union. However, an analysis of Article 201 of the Ukrainian Criminal Code (CCU) in the context of international standards indicates that there is a necessity for further harmonisation of Ukrainian legislation with European requirements with regard to clarity in determining the thresholds of harm, as well as in the delimitation of the elements of crimes and the corresponding sanctions. Concurrently, in order to achieve maximum effect, it is imperative to align regulatory acts with the criteria stipulated by the EU Directive, particularly with regard to the unification of terminology and national thresholds for criminalisation.

3. The reinstatement of criminal liability for smuggling goods has the potential to result in risks of abuse by law enforcement agencies, due to the unclear formulation of the elements of the crime and the potential violation of the rights of entrepreneurs and citizens. The emergence of such circumstances may be attributed to the absence of explicit criteria for differentiating between administrative and criminal infractions. To date, Article 201 of the CCU requires clarification of the thresholds of significant damage, as well as mechanisms for protecting businesses from excessive pressure from law enforcement agencies. This objective can be realised through the implementation of enhanced oversight mechanisms within the investigative process, complemented by the establishment of explicit guidelines to determine the nature and extent of the damage inflicted upon the state. In this regard, it is advisable to also consider changing approaches to the qualification of smuggling depending on the specific circumstances of the case and taking into account legislative changes.

Thus, the research conducted allows to conclude that the recriminalisation of smuggling in Ukraine is an important step towards ensuring legal security in the area of economic crime. However, in order to achieve effective law enforcement, it is necessary to improve legislative norms, bringing them into line with European standards, as well as eliminate existing risks of abuse associated with the improper application of criminal sanctions. It is imperative that all modifications are directed towards establishing a lucid and foreseeable legal apparatus that will guarantee the safeguarding of both the state's interests and the rights and liberties of its citizens.

In the context of future scientific research on the recriminalisation of smuggling, it is asserted that efforts should be directed towards a comprehensive investigation of the efficacy of this legal instrument in the realm of combating economic crime. The present study focuses on the implementation of the recently introduced norms of Article 201-3 of the Ukrainian Criminal Code. A comprehensive analysis is necessary to assess the impact of these norms on the actual reduction of shadow trade, as well as on the volume of tax and customs revenues.

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