

Analysis criminology customs offenses under Moldovan law¹

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Abstract

This paper aims to highlight the fact that crime, including that committed in the customs sphere, has a certain structure, made up of acts of smuggling and the evasion of customs payments, combined offenses under art. 248 and 249 of the Criminal Code of the Republic of Moldova. In addition, by presenting statistical data reveal that crime has a certain way, a certain dynamic (increases or decreases stationary). State and dynamics of crime are two Subconcepts criminology. If the structure crime of known composition and configuration phenomenon in a certain unit of time and in a certain space, dynamics helps to develop more realistic assumptions on the causes that generate or facilitate crimes, some forecasts on its deployment in the future, and effective means of preventing and combating the phenomenon. In the study they were used various research methods, including: analysis, synthesis, deduction, induction. In the study are advanced some proposals to improve the legal framework incriminating in developing tools for identifying features of criminal-law of customs offenses under Moldovan law, which led to the submission of proposals to improve the text of the law to prevent and combat crime in the customs sphere.

Keywords: *customs offense, crime, smuggling, evasion of customs payments, social danger.*

JEL Classification: K14, K42

1. Introductory aspects of crime in the customs sphere in Moldova

In this study highlights that crime, including that committed in the customs sphere, has a certain structure, made up of acts of smuggling and the evasion of customs payments, art.248 and 249 offenses grouped under the Criminal Code. In addition, by presenting statistical data reveal that crime has a certain way, a certain dynamic (increases or decreases stationary). State and dynamics of crime are two Subconcepts criminology.

The statistical data of economic crime for the years 2004-2012 observe the following trend: in 2004-2007, smuggling registered a negative dynamic in the sense of increasing the number of crimes committed. From 2007 to 2013 the

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number of smuggling has decreased, as then, from 2014, their number will increase again.

The above findings have determined topicality investigated. In this context we must research and analysis of complex crime at the borders of the Republic of Moldova and Romania, which are a result of the dynamics of economic development and foreign trade between countries, aiming at optimization of criminality applied to persons guilty of infringement customs, the issues related to preventing and combating of customs offenses.

Scientific novelty consists and that knowledge of the structure of crime contribute to the knowledge of the composition and numerical (by type of crime) crime in a certain time and in a particular geographic area, to the knowledge of the general condition, overall, or those private, detailing the various statistical indicators phenomenon, under which comparative studies can be made for certain periods to see trends and dynamics of the whole and different parts, analytical, allowing the formulation of forecasts.

Also in this segment of our scientific approach we will analyze measures to prevent and combat crime in the customs sphere.

Scientific material is divided into five sections: I. Preliminary issues on crime in the customs sphere in Moldova; II. Analysis of the structure, dynamics and quantitative value of customs crime in Moldova; Section III. Identifying the causes offenses in the customs sphere; IV. The bodies empowered to conduct criminal investigation following the detection of customs offenses; V. Measures to prevent and counteract customs crime; VI. Conclusions.

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

2. Analysis of the structure, dynamics and quantitative value of customs crime in Moldova

Customs offenses is the scourge that destroys the economy, promotes unfair competition and substantial pressure on producers in the country, and in recent years, marked by the global economic crisis, this problem was more acute and more. One of the main reasons for resorting to this method is the excessive import duties, but also the desire rapid and substantial profits. But, equally, development smuggling was facilitated by the confusion of the transitional period, when it switched to a market economy, the gaps and shortcomings legislative, business failure, the lack of jobs, and the endowment of services to combat smuggling in terms of material and non-technical border crossing regime by customs.

Smuggling causes damage to all spheres of social life. Its social danger is expressed by the fact that: a) damage to the state economy, including the domestic economy, because the national budget of the state payments do not come from established customs fees, to be paid for the introduction or removal of goods from the country; b) introducing the customs territory of the State of narcotics, weapons and ammunition creates danger to life and health; c) increase profits for smugglers,

which stimulates further criminal activity them; d) cash smuggling signs can be used by international terrorist organizations for procurement of arms, munitions, to recruit new members and to finance terrorist acts on the territory of foreign states³.

By smuggling across the border from the Republic of Moldova east of the country are listed drugs, psychotropic substances etc. Drug trafficking links of the same chain criminal all participants: the producer, the speculator, the courier, the last dealer and the consumer, who can be identified and, like the others, exposed to legal charges. Traffickers of drugs wherever they are and whatever their position in the chain of crime, are conducted by a staff of top forever unknown, but currently the accuracy of orders, the payment password agreed by teaching hours, the refuges in an emergency, etc. In order to shift the drugs without being discovered on customs control some smugglers ingest them in the form of capsules, especially using some layers of rubber or plastics, condoms, small balloons specially made to withstand the stomach to the effect of gastric acid or they hide in various personal items.

In Moldova, lately of all economic crimes recorded about 50% constitute crimes of smuggling and evasion of customs payments⁴. Here it can be peeled off a simple conclusion: Moldova rate of customs offenses and, in particular, smuggling is very high, which demonstrates once again the extra effort that law enforcement agencies need to show to counter crime free.

Crime, including that committed in the customs sphere, has a certain structure, made up of acts of smuggling and the evasion of customs payments, combined offenses under art.248 and 249 Penal Code. In addition, crime has a certain way, a certain dynamic (increases or decreases stationary). State and dynamics of crime are two Subconcepts criminology. Finally, crime is a phenomenon caused by specific causes and favored certain conditions. Etiology or causation crime is also one of subconceptele this complex phenomenon. So crime is characterized by three basic indicators: state, structure and dynamics.

Referring to the state, structure and dynamics of crime customs mention crime as a social phenomenon that knowledge and, not least, drug trafficking, should include mandatory and knowledge of its structure, the component part.

Describing the structure of crime means:

- Revealing its constituent elements based on features;
- Establish specific weight of each element in the crime;
- Link the elements;
- Link the system each particular element of crime in general⁵.

Criminogenic situation analysis conducted based on statistics submitted by the Department prosecution of the Moldovan Customs Service for 2010 reflects the

³ Vakulenko A., *О понятии „контрабанда” в законодательстве РФ и в международном праве (On the notion of "contraband" in the Russian legislation and international law)*, in: „Закон и право” („Laws and regulations”), 2004, №.9, p.48-51.

⁴ Operative information on the state of crime in Moldova for 2014: <http://www.mai.gov.md/ro/advanced-page-type/date-statistic>. (Visited on 14.11.2015).

⁵ Ciobanu Ig. *Criminologie*. Vol. II. Chişinău: Cartdidact, 2004. p. 34.

following: in total were examined 244 complaints about offenses under 274 of the Criminal Procedure Code of the Republic of Moldova⁶ of which 180 were registered, 85 criminal cases were initiated, being fully investigated 200 criminal cases.

Criminal cases initiated in 2010 and handled by the legal classification state: a) 54 criminal cases brought under art.248 CP RM and 11 criminal cases brought under article 249 CP RM; b) 25 cases were received by competence of other organs, and 37 cases were sent by competence of other organs; c) the value of smuggled goods (criminal cases brought under art.248 CP RM) is 25,385,095.84 lei; d) amount of import object of evasion of customs payments (criminal cases brought under article 249 CP RM) is 1,908,720.34 lei.

According to the assessment of the Directorate prosecution of the Moldovan Customs Service in 2011, they were examined in total 420 complaints about offenses under the CPP RM 274 (R-1), of which 313 registered; 193 criminal cases initiated; 420 criminal cases investigated fully.

According to the criminal cases initiated in 2011 and handled by the legal classification, it was found: a) 98 criminal cases brought under art.248 CP RM 11 - RM according to 249 hp; b) 23 cases were received by competence of other organs, and 87 cases were sent by competence of other organs; c) the value of smuggled goods (criminal cases brought under art.248 CP RM) is 83,464,696.95 lei; d) amount of import object of evasion of customs payments (criminal cases brought under article 249 CP RM) is 7,615,897.0 lei.

Evaluation of the Directorate prosecution of the Moldovan Customs Service in 2012 shows that in total were examined 331 complaints about offenses under the CPP RM 274 (R-1), of which 211 registered; 145 criminal cases initiated; 329 criminal cases fully investigated.

Criminal cases initiated in 2012 and handled by the legal classification denotes: a) 84 criminal cases brought under art.248 CP RM 21 cases - according to RM 249 hp; b) 43 cases were received by competence of other organs, and 52 cases were sent by competence of other organs; c) the value of smuggled goods (criminal cases brought under art.248 CP RM) is 34,107,271.15 lei; d) amount of import object of evasion of customs payments (criminal cases brought under article 249 CP RM) is 22,025,581.09 lei.

In 2013, the assessment of the Directorate prosecution Moldovan Customs Service shows that in total were examined 249 complaints about offenses under the CPP RM 274 (R-1), of which 196 registered; 125 criminal cases initiated; 335 criminal cases fully investigated.

Criminal cases opened in 2013 and handled by the legal classification showed: a) 74 criminal cases brought under art.248 CP RM 42 cases - according to RM 249 hp; b) 44 cases were received by competence of other organs, and 14 cases were sent by competence of other organs; c) the value of smuggled goods (criminal cases brought under art.248 CP RM) is 76,765,418.00 lei; d) amount of import

⁶ Criminal Procedure Code of the Republic of Moldova, adopted by the Parliament on 14.03.2003. The Official Gazette of the Republic of Moldova, 2003, no.104-110.

object of evasion of customs payments (criminal cases brought under article 249 CP RM) is 22,669,337.00 lei.

In 2014 there were 41 144 cases of smuggling and acts of evasion from payment of customs duties. Only 15 criminal cases filed under art.248 CP RM were sent to court, four of which were issued sentences of termination. Of the 41 cases opened under article 249 CP RM, the court was submitted only three, which were issued conviction sentence⁷.

In the first six months of 2015 there were 14 108 cases of smuggling and acts of evasion from payment of customs duties. Only 15 criminal cases filed under art.248 CP RM were submitted to the court, of which three were issued sentences of termination. Of the 14 cases initiated under article 249 CP RM, the court was submitted only two for which were issued conviction sentence.

In another register, like any other social phenomenon, crime is always moving, being in an increase or decrease, depending on the specific circumstances for its performance. If the structure crime of known composition and configuration phenomenon in a certain unit of time and in a certain space, dynamics helps to develop more realistic assumptions on the causes that generate or facilitate crimes, some forecasts on its deployment in the future, and effective means of preventing and combating the phenomenon.

According to other authors, crime is dynamic quantitative and qualitative changes in the structure of crime, compared to successive time intervals and geographical space, reflecting general rate of crime and its future trends⁸.

In this respect, to note is this: lately of all economic crimes recorded about 50% constitute crimes of smuggling and evasion of customs payments. Eloquent in this regard are the following statistics: of all economic crimes committed as registered in Moldova in January 2014 of smuggling offenses is 68%; for February 2014-45%; for March 2014-49%; for April 2014-43%; for June 2014-46%; for July 2014-42%⁹. Here it can be peeled off a simple conclusion: Moldova rate of customs offenses and, in particular, smuggling is very high, which demonstrates once again the extra effort that law enforcement agencies need to demonstrate it fully counter crime free.

Meanwhile, the economic crime statistics for the years 2004-2012 certify the following trend: in 2004-2007, smuggling registered a negative dynamic in the sense of increasing the number of crimes committed. From 2007 to 2013 the number of smuggling has decreased, as then, from 2014, their number will increase again.

That dynamic is apparent from the following statistics: of all economic crimes registered by the competent authorities of the Republic of Moldova for 2004, approximately 74% constituted the offenses referred to art.248 CP RM;

⁷ Operative information on the state of crime in Moldova for 2014: <http://www.mai.gov.md/ro/advanced-page-type/date-statistic> (Visited on 14.11.2015).

⁸ Ungureanu, A., *Prelegeri de criminologie*. Iași: Cugetarea, 1999, p 141.

⁹ Operative information on the state of crime in Moldova for 2014: <http://www.mai.gov.md/ro/advanced-page-type/date-statistic>. (Visited on 14.11.2015).

During 2005 - 66%; for the year 2006 - 70%; For 2007 - 76%; for the year 2008-55%; for the year 2009-43%; for the year 2010-29%; for the year 2011-22%; 2012 - about 11% of all registered economic crimes¹⁰.

Practice shows that smuggling of goods predominate: alcohol and alcoholic beverages, tobacco and petroleum products, medicines, chemicals, consumer goods, automobiles (including stolen), etc.

3. Identifying the causes of crimes in customs sphere

One of the key questions that arise in the criminological analysis of customs crime, particularly customs offenses, lies in identifying the causes of crimes in customs sphere. In other words, it is imperative to establish causality crime in the customs sphere.

Correct scored in the literature that crime, like any human act, not an impersonal act, but the act of a man who is under the influence of its organic conditions, his or her family environment, social, physical; so the offense can not be regarded and treated as an abstract entity, legal person, as an act of free will, but as a result, the product of a competition case¹¹.

Explanations in criminology have great complexity, any explanation involving establishing multiple relationships between the criminal act (regarded as "dependent variable" or "effect") and include a wide range of facts, phenomena, processes, situations, actions and behavior history (seen as "independent variable", "causes" or "conditions")¹². Thus, the phenomenon that precedes and generates or causes another phenomenon is the phenomenon - cause and the phenomenon that follows and is determined is the phenomenon - effect or phenomenon - due, or phenomenon - the result¹³.

The doctrine states that as causes of smuggling can serve, in particular, the socio-economic nature, which causes, directly or indirectly, smuggling offenses, namely: the economic situation in the country; low living standards; increasing the number of businesses that receive benefits from foreign economic activity; weakening control of the state authorities of the activity of subjects who resort to smuggling offenses; imperfect mechanism of licensing activities related to the importation and exportation of goods; nonconformance prices on goods imported / exported¹⁴.

Smuggling offenses recorded significant growth in recent years, as they are gaining an organized and large-scale character, which actually causes considerable damage company interests.

¹⁰ Operative information on the state of crime in Moldova for 2014: <http://www.mai.gov.md/ro/advanced-page-type/date-statistic> (Visited on 14.11.2015).

¹¹ Ciobanu Ig. *Criminologie*. Vol. II. Chişinău: Cartdidact, 2004. p. 51.

¹² Banciu D., Rădulescu S.M., Teodorescu V. *Tendenţe actuale ale crimei şi criminalităţii în România*. Bucharest: Lumina Lex, 2002, p. 111.

¹³ Bujor V., Pop O., *Cauzalitatea în Criminologie*. Timişoara: Mirton, 2002. p. 2.

¹⁴ Fokov A., О судебной практике по делам о контрабанде. Российский судья (On judicial practice in cases of smuggling. Russian judge), 2008, №.7, с.2-7, p. 6.

There are several factors that contribute to the spread of contraband, including: lack of information exchange at national and international loopholes, infrastructure and tools that equip customs, corruption and the difference in taxes between the EU and non-EU countries.

To counter the financial losses they incur eastern border, the European Union, the operational cooperation, technical and financial assistance for both Member States and third countries. The European Union, through the European Commission considers a priority to stop the smuggling of excise goods originating in Moldova, Ukraine and Belarus. To fulfill its purpose it is imperative that the penalties provided in legislation which applies to such crimes in the countries of the eastern border to be tougher and aligned with the legislation of other member states to deter smugglers take advantage of certain loopholes in the law, rule that you must follow and Moldova, having in view that aspires to be an EU member.

So, one of the causes of smuggling in Moldova lies in the high rate of crimes of corruption and related evident corruption in customs. Corruption in customs bodies is widespread.

Practice shows that the majority of registered acts of smuggling via customs points are carried out by bribing customs officials. About 30 percent of publicans Moldova are involved in dubious affairs of reducing the real value of goods during assessment and other actions that allow some companies to avoid the law so the budget is deprived of necessary payments following implementation of import - export, endangering citizens and the state¹⁵.

An analysis of corruption in the customs system highlights the following forms of corruption: a) Extortion of bribes or goods for the flow of goods; b) Protection by certain persons responsible official of the Department of Customs (read - Customs - N.A.) of the infringing activity of economic entities; c) the involvement of officials in organizing the smuggling channels; d) creating unfair conditions for operators; e) reduction or increase of the customs value of goods; f) falsifying commodity codes; g) Seizure (confiscation) without marketing goods or goods without shedding those amounts in the state budget; h) the seizure of goods in the interests of competing undertakings; i) perform a dual activities (as customs official and entrepreneur); j) compliance with the customs of persons with criminal records; l) influence peddling, revealed through the use of "telephone law" by MPs and other senior officials¹⁶.

Corruption in customs is supported, including by traders who seek ways to avoid paying customs duties. This is actually one of the determinants in the increase of smuggling.

Doctrine reveals: "The offenses of smuggling denotes as causes of that scourge not so much lack of professionalism officials, but widespread corruption, plus organizing insufficient work to combat smuggling and other violations of customs law and to ensure integrity in customs. Importation of goods of dubious

¹⁵ Obreja E., Gâscă V., Calenic N., *Activitatea vamală în Republica Moldova și fenomenul corupției*. Chișinău: Bons Offices, 2003. p 67.

¹⁶ *Ibidem*, p 68-71.

quality that could harm the citizens and the national economy and exports of goods with exemptions from the requirements of the international market which damages the image of business entities and the entire Moldova abroad constitute the negative consequences of such cases. The import of dubious quality goods indicates multitude of commercial markets in the country where they are sold. The consequences are even worse in cases of smuggling prohibited items circulation (drugs, weapons, radioactive materials, etc.), threatening huge security of people and the state"¹⁷.

One of the causes that determine smuggling and evasion of customs payments is the large import duties, which is quite impressive.

Intensified significantly smuggling is conditioned by the existence of the separatist region of Transdnistria, the Moldovan customs bodies can not perform legal tasks. Located at the border with Ukraine, traders smuggle goods, then through other economic agents that tax related to the budget system of the Republic of Moldova, but with head office in Transdnistria, place in the country, importing them, and paying related fees, much lower than those provided by the budget Law of the Republic of Moldova, where they sell some trader, by not paying excise and customs duties damaging the state budget.

Also, these companies importing cigarettes in transit, store, performed the then marketing them illegally across the borders of the Republic of Moldova without applies excise and customs duties or sold within the country, but without them apply a fiscal control.

Frequently violate the legal verification of goods, shipments, units and vehicles crossing the customs border of their foreign state being committed acts of smuggling that violate international conventions and treaties to which Moldova is party.

The problem breakaway region of Transnistria became thorny, especially since the customs bodies can not operate in that it can not perform customs control and can not monitor transit operations.

Also, there is exchange of information between the bodies of the Moldovan and Transnistrian so-called authorities. Thus, in the area they have been set up legitimate bodies that replace those in Moldova. They compel carriers to undergo further formalities, to pay taxes and retain considerable transport unduly.

The issue regarding Transnistria and the on smuggling are related traders from the eastern being involved in the illegal importation of consumer goods and other illegal acts. Because ports of entry between Ukraine and Transnistria are nonexistent, the Chernobyl atomic power station were brought radioactive metals Rybnitsa.

Chisinau authorities increasingly recognize the seriousness of the problem Transnistrian segment of the Moldovan border with Ukraine is an area of extensive smuggling activity¹⁸.

¹⁷ *Ibidem*, p 45.

¹⁸ *Ibidem*, p 61-62.

To reduce crime, the Government has set up posts along the Dniester mobile tax. They are a means of intervention of internal organs, tax and customs to strengthen financial discipline to ensure raise revenue and combat crime, especially the smuggling.

Also in this respect was signed in Kiev on 15 May 2003 protocol on trade and customs documents recognition, insurance and customs between the Moldovan Customs Service and the State Customs Service of Ukraine¹⁹.

4. The bodies empowered to conduct criminal investigation following the detection of customs offenses

Smuggling in Moldova, to the adoption and implementation of the new Criminal Procedure Code has been exercised by the Department of Information and Security, Customs Department, internal affairs bodies, prosecution and by the Center for Combating Economic Crimes and Corruption (Article 107 of the Code of criminal procedure of 24 March 1961 - now repealed)²⁰. With the adoption of the new Criminal Procedure Code of the Republic of Moldova on 14 March 2003 smuggling is for the prosecuting authorities of the Customs Service. In this regard, according to art.268 CPC RM, the prosecuting authority of the Customs Service investigate and prosecute the offenses referred to art.248 and 249 of the Criminal Code. So, we see that the legislature changed its stance on the competent body to prevent and combat in most offenses in the customs sphere.

In this context, it is appropriate to mention that the detection of crime is the responsibility of customs. In this respect, the legislator indicated in item c) of Article 11 CV RM that the Customs has an important role, contributing, within its competence, to ensure the economic security of the state and thus the fight against smuggling, against violation of customs regulations and legislation tax, which refers to the passage of goods across the customs border. Under that article, the customs stop illegal crossing of border of narcotic substances, weapons, objects of art, objects of historic and archaeological objects of intellectual property, species of animals and plants threatened with extinction, the other goods.

The prosecuting authority of the Customs Directorate is the authority of the Department prosecuting law enforcement, criminal investigation department three departments: Nord prosecution; Prosecution service center; South prosecution service.

Department prosecution has the following objectives: ensure the implementation of principles of legality; ensure respect for human rights and fundamental freedoms and opportunities of the criminal prosecution of the Customs Service; prevents, detects and stops contraventions and offenses attributed

¹⁹ Interdepartmental Protocol on mutual recognition of documents of transport, trade and customs and customs assurances, signed in Kiev on 15 May 2003. www.customs.gov.md/ro/content/tratate-internationale-domeniul-vamal (Visited on 14.11.2015).

²⁰ Criminal Procedure Code of the Republic of Moldova on March 24, 1961. In: Official Gazette of the Republic of Moldova, 1961 no.010.

by law within its jurisdiction; summary offenses recorded within the competence of the Customs Service and the people who committed them; operative exchange of information and experience internally and externally in the conduct of the criminal investigation.

Preventing and combating of customs offenses is mainly in the person of the investigating officer of the Customs Service. According to article 4 of the Law on the status of the investigating officer, 333 from 10.11.2006, investigators are appointed and operate in the prosecution established by law in the Ministry of Internal Affairs, Customs service (emphasis ours - na) and the National Anti-Corruption Center.

The criminal investigation officer of the Customs Service, called the law and acting within its jurisdiction, has the following tasks aimed at preventing and combating of customs offenses:

- Preventing, detecting, investigating and stopping offenses and offenses of customs and other crimes in the competence of the criminal investigation body of the Customs Service;
- Carrying out operational investigative measures, including the use of audio and video recordings, filming, photos, and other criminal prosecution in order discovering the crime and those who commit it;
- Factual finding and fixing procedural actions, which can be used as evidence in the criminal case;
- Take all required measures to prevent and stop crime;
- Detection of crime indices, along with registration of the notice about it, starting the process of prosecution;
- Conducting criminal investigation in order to detect fraud and fixing evidence that confirms or invalidates the offense, making measures to ensure the civil action or the possible confiscation of ill-gotten gains;
- Interacting work with prosecution by the prosecutor's immediate announcement about starting offense and criminal investigation;
- Record single record and centralized recording of offenses within the competence of the Customs Service and the persons who have committed;
- Assigning a serial number to each referral, in order of its registration;
- Use standard forms of primary registration documents;
- Exercising control over the use of information;
- General coordination of criminal investigations by organizing practical and methodical aid in prosecution territorial subdivisions activity and analyze their work;
- Ensuring that all aspects complete and objective criminal investigation by investigators from the Customs Service;
- Identify and review causes and conditions that favor committing customs offenses;

- Organization of control on the execution of subdivisions prosecution orders, regulations, instructions, programs and plans of activities of the Customs Service and the Directorate;
- Ensuring cooperation Customs Directorate subdivisions, with other investigating agencies, public authorities, institutions, public organizations and citizens.

Also in the Interior Ministry runs the Border Police, tasked with implementing the state policy on integrated management of state borders, prevent and combat transnational crime (para. (2) Article 1 of the Moldovan Law on Police Border, no. 283 of 28.12.2011) ²¹.

Border Police activity is inextricably linked to preventing and combating crime in the customs sphere; or, in most cases, smuggling, in particular, is committed to the state border. Here we reiterate that the customs border of the Republic of Moldova largely overlaps with the state border of the Republic of Moldova. Ensuring the state border, thus leading to customs and border protection of its security.

The supervision and control of the state border, the Border Police, inter alia carried out in collaboration with other government authorities, in accordance with legislation, border control and authorizes the state border of the Republic of Moldova by individuals and means transport; provides the evidence, including automated, persons and vehicles that crossed the state border; not allowed to enter and exit the Moldovan people and means of transport which, under the law, are prohibited from entering Moldova who do not qualify for entry into Moldova or temporarily limited the right to leave the Republic Moldova.

5. Measures to prevent and counteract customs crime

In order to avoid proliferation of crime phenomenon in the customs sphere, state bodies, and not only, are to take certain measures to prevent and combat that crime phenomenon.

Maimescu Sava Moldovan according to the author, is conditional significance prevent smuggling of forbidden state pricinuirii damage as a result of its commission. Also by implementing the special measures taken by state bodies and other bodies of public land, sea can be prevented and combated crime phenomenon. In this respect, the measures stipulated by the legislation of the specialized agencies in the area should be taken into account when making operational measures targeted to prevent smuggling. In situations where concrete historical society is formed, overcoming a series of contradictions that exist in the state, generates cases and determine the conditions of committing such acts²².

²¹ Moldovan Law on Border Police, adopted by the Parliament on 28.12.2011. The Official Gazette of the Republic, 2012 nr.76-80.

²² Maimescu S., *Contrabanda și modalitățile ei în reglementarea legislației penale a Republicii Moldova*: PhD thesis in law. Chișinău, 2000, p 183.

In another context, experience shows that smuggling, including in large quantities, is often carried out by third parties (drivers, shippers, employees), which sometimes do not even know who the real owners of the goods, the latter being "back" and possibly even holding public office. Such smuggling cases are based on the existing links between the real owners of smuggled goods and people corrupt customs, law enforcement or other governmental entities. These corrupt links that lead to groundless dismissal of smuggling cases, causing enormous damage state. Moreover, in some cases, dismissing criminal charges creates conditions for investigators (read - criminal investigators - N.A.) and corresponding managers of abuse²³.

This demonstrates unequivocally that the fight against customs crime phenomenon in general and smuggling, in particular, must take place simultaneously with the fight against corruption, which is widespread today among customs officers. Stopping corruption in customs default would lead to lower crime in the customs sphere. In not a few cases, smuggling and evasion of customs payments occurs with competition officials, who previously are *mituți* to facilitate the passage of goods across the customs border of the Republic of Moldova.

It also requires a more thorough regulatory cooperation and coordination of activities of bodies specializing in the prevention and combating of crime customs and strict regulation of business retention and control of goods transported across the customs border.

The bodies of the customs system should focus not only to the accumulation of money from the state budget (mandatory customs payments) but also to ensure the protection of rights and legitimate interests of citizens and businesses. Additional review required customs payments, so smugglers or those who evade customs payments to be convenient not to resort to such criminal behavior. We support his opinion in the literature, that this measure will contribute to the reduction of smuggling, the proper payment of customs and as a result, increase to the budget, despite the fact that these tariffs will be in some cases more lower than the effective date²⁴.

Preventing and combating crime can occur by way of customs private sector involvement in this activity. Cooperation between customs and the private sector in the fight against smuggling was initiated by the World Customs Organisation in 1985. Then was established Memorandum of Understanding. Such programs have been set repeatedly. Their essence lies in the participation of businesses, carriers, along with the customs authorities for customs control and prevent illegal crossing of goods across the customs frontiera. Within such a partnership, the private sector contributes to the provision of customs information about possible smuggling scheme.

In the field of preventing and combating smuggling of cultural values, the United Nations Convention on Education, Science and Culture of 14 November

²³ Obreja E., Gâscă V., Calenic N. *op. cit.*, p 46-47.

²⁴ Olteanu G.I., *Cercetarea contrabandei și a altor infracțiuni ce implică trecerea frontierei de stat.* Bucharest: AIT Laboratories, 2004, p 57.

1970 on measures aimed at prohibiting and preventing the introduction, removal and transfer of unlawful ownership of cultural values, determined: to ensure protection of their assets cultural, against the illicit import, export and transfer of ownership of cultural property, States parties to this Convention undertake, in the specific conditions of each State to establish their territory, insofar as there is already one or more services to protect cultural heritage, with a qualified staff and in a sufficient number to ensure effectively the following functions: a) to contribute to the drafting of laws and regulations to protect cultural heritage and in particular, the suppression of the illicit import, export and transfer of ownership of important cultural property; b) establish and keep up to date, based on a national property inventory list of important cultural property, both public and private, whose export would constitute an appreciable impoverishment of the national cultural heritage; c) promote the development or creation of scientific and technical institutions (museums, libraries, archives, laboratories, workshops, etc.) to ensure preservation and enhancement of cultural goods; d) organizing the supervision of archaeological excavations, ensuring the preservation in situ of certain cultural property, and protecting certain areas reserved for future archaeological research; e) establish, for the persons concerned (curators, collectors, antique dealers, etc.) rules in accordance with the ethical principles set out in the Convention and to ensure compliance with those rules; f) to conduct educational activities in order to awaken and develop the respect due to the cultural heritage of all States and to ensure the widest possible dissemination of the provisions of the Convention; g) to ensure that adequate publicity be made of any case of disappearance of cultural property.

6. Conclusion

After highlighting the criminological aspects of customs offenses committed in the Republic of Moldova, we make the following conclusions:

One of the causes of smuggling in Moldova lies in the high rate of crimes of corruption and related evident corruption in customs. Corruption in customs bodies is widespread.

A major smuggling intensified in Moldova it holds existence separatist Transnistrian region, the Moldovan customs bodies can not perform legal tasks. By smuggling across the border from the Republic of Moldova east of the country are listed drugs, psychotropic substances etc.

Problem solved is to develop scientific instruments for identifying criminal-law particularities of customs offenses under Moldovan law, which led to the submission of proposals to improve the text of the law to prevent and combat crime in the customs sphere.

Moldovan legislation to improve matters in the customs sphere incriminations were submitted the following recommendations:

1) completing para. (4) art. 248 Penal Code of the Republic of Moldova with the other three methods of committing smuggling in para. (1) - (3) art.248 Penal Code of the Republic of Moldova, missing para. (4) art.248 Penal Code of the

Republic of Moldova (in the case where the harmful event expresses the action of crossing the customs border of cultural values);

2) filling para. (5) art. 248 Penal Code of the Republic of Moldova with the aggravating circumstance "with violence against the person exercising customs control";

3) replacing the phrase "a person of responsibility" within the norm c) para. (5) art. 248 Penal Code of the Republic, by "a public person";

The advantages of such recommendations are:

a) streamlining the criminal enforcement by authorized persons;

b) not to allow the offender to avoid criminal charges for crossing the customs border of the Republic of Moldova cultural values when it resorts to concealing, declaring inauthentic or fraudulent use of documents or means of customs identification;

c) the aggravation of criminal liability for smuggling and other customs offenses in circumstances exist to justify such meant worsening, which therefore would lower crime in the customs sphere;

e) coverage of legislative gaps.

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