

Shadow Economy and Crime in Ukraine: Features of Mutual Effects



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Abstract. *This article deals with the definition of the peculiarities of the mutual influence of the shadow economy and crime in Ukraine. In particular, the author determines the main segments of economic relations, which are closely connected with shadow economic activity and criminal demonstrations.*

Keywords: *shadowing of economy; shadow economy; criminalization of the economy; national security; legalization (laundering) of incomes, obtained in a criminal way; state material reserve; corruption; fake entrepreneurship; raiding.*

Problem statement

At the present stage of Ukraine's development, the shadowing of the domestic economy becomes especially urgent, as it is a significant threat to the national security of the country in the economic sphere, hampers the socio-economic development of the state. In particular, according to section 3 of the Strategy of National Security of Ukraine, one of the topical threats to the national security of Ukraine is the high level of "shadowing" and criminalization of the national economy, as well as the criminal-clan system of distribution of public resources [1].

The spread of shadow relations in the economy leads to the criminalization of economic processes and the widespread corruption. In our opinion, in particular with crimes committed in the sphere of shadow economic activity are connected such crimes, which are committed in sphere of economic activity as legalization (laundering) of incomes, obtained in a criminal way, false entrepreneurship, misuse of budget funds, fraud with financial resources, tax evasion, illegal reimbursement of value added tax, other crimes of economic and corruptive nature (in particular, obtaining illegal benefits, illegal enrichment, abuse of influence, production and sale of counterfeit alcoholic beverages, tobacco products, medicines and medical products, plant protection products, illegal sale of agricultural land, unauthorized occupation (seizure) of land, raiding, etc.). The shadowing of the economy in Ukraine is primarily due to the concealment of cash from taxation and subsequent transfer to cash; conducting business without proper registration (fictitious companies); conducting non-commodity operations.

The shadow economy is not isolated in society, but is the basis for the commission of a number of property, service and economic crimes.

Analysis of recent research and publications. A number of domestic scientists in the field of criminal law and criminology addressed the problem of counteracting the criminal manifestations of a shadow economy:

P. Andrushko, A. Bandurka, V. Borysov, I. Danshyn, O. Dolzhenkov, E. Dydorenko, O. Dzhuzha, V. Hlushkov, V. Holina, A. Horshchak, E. Fesenko, V. Ivanov, O. Kalman, M. Korzhanskyi, V. Lykholob, H. Matusovskyi,

P. Matyshevskiy, M. Melnyk, P. Melnyk, V. Navrotskyi, M. Panov, V. Popovych, V. Shakun, V. Stashys, V. Tatsii, I. Turkevych, S. Yatsenko, A. Zakaliuk, V. Zelenetskyi.

Significant contributions to the development of the conceptual foundations of criminal legal counteraction to criminal demonstrations in the shadow economy were made by such well-known scientists of the near abroad as R. Akutaiev, V. Burlakov, A. Dolhova, O. Hurov, I. Karpets, N. Kuznetsova, V. Kvashys, V. Lunieiev, B. Volzhenkin.

Despite the considerable number of publications devoted to the problem of shadow economy by representatives of economic, legal and managerial sciences, in numerous works of prominent scholars in this field are not sufficiently worked out the issues of identifying the features of mutual influence and the problems of the correlation of the shadow economy and crime, in particular, in Ukraine, which necessitates further scientific research in this direction.

The purpose of article is to consider the main segments of economic relations, closely related to shadow economic activity and criminal demonstrations.

Presentation of the main research material. Shadow economic relations have become widespread in such industries as agriculture, fuel and energy complex, banking, mining.

That is, the growth of the shadow economy covers all spheres of social production: property relations; production, distribution, exchange and consumption of the produced product; financial and banking activities; the sphere of public administration; foreign economic activity [2, p. 111].

The main institutions of the shadow economy, which accumulate significant amounts of financial resources, include fictitious financial and economic transactions and the illegal transfer of cashless cash, shadow export-import operations, shadow outflow of capital, shadow investment, shadow employment, non-target use of budget funds, shadow payment for services of officials, corruption, etc.

According to the Ministry of Economic Development and Trade of Ukraine, in 2017 the highest level of shadow segment was recorded in the field of financial and insurance activities –

49% of the official gross value added (GVA) of this type of economic activity [3]. Despite the significant reduction, the level of shadow in the extractive industry remained rather high (44% of the level of the official GVA emissions of this type of activity), which is largely due to the high level of monopolization in the market under consideration [3]. The traditionally low level of shadow economy remains in agriculture, forestry and fisheries – 6% of the level of the official GVA level of this sector [3].

On the basis of the generalized materials of the Department of National Economy of the National Police of Ukraine and the State Audit Office of Ukraine, we will consider the main segments of economic relations (major areas and sectors of the economy), which are closely linked to shadow economic activity and criminal demonstrations:

1. *Agrarian sector.* This is primarily the “shadow” turnover of agricultural land in Ukraine, illegal non-transparent land allocation, raiding land grabbing and other offenses committed in the field of land allocation, circulation and use of land resources, in particular, related to illegal alienation and change in the purpose of land use.

The analysis of crimes committed in the field of land relations shows that most of the illegal encroachments are agricultural land. Today exist corruption schemes and mechanisms for the transfer of land ownership rights by passing the moratorium on the sale of agricultural land, widespread agricultural raiding.

According to expert estimates, the volume of “shadow” land market in Ukraine is over UAH 800 billion [4, p. 33]. At the beginning of 2016, the State Geocadaster estimated the “shadow” market of only agricultural land worth 5 billion UAH [5]. However, in 2017, according to the Association “Ukrainian Agribusiness Club” (UCAB), the “shadow” market for agricultural land will amount to 10–12 billion UAH [6]. For comparison: the budget of expenditures for the Regional Development Fund in 2017 amounted to 9 billion UAH.

2. *Alcohol industry, alcohol and tobacco production.* Production and sale of counterfeit alcoholic beverages, tobacco products, production of non-alcoholic alcohol, withdrawal of working capital of State Enterprise “Ukrspyr”.

In the absence of adequate control by the controlling and law enforcement agencies, there is an increase in the volume of illegal production and circulation of unlawfully manufactured cigarettes. At the same time, the volumes of illegal trade in tobacco products are practically not analyzed by the relevant state authorities. According to the materials of the control measure of the Accounting Chamber of Ukraine at the end of 2014, during the period 2012–2013, the shadow market of cigarettes reached more than 9% of the domestic market, while volumes of legal production of tobacco and tobacco products decreased by 10% [7]. Under these conditions, the reserve of revenues to the state budget in 2013, under the excise tax only, amounted to almost 1,4 billion UAH [7].

In addition, at the end of 2014, the Accounting Chamber of Ukraine emphasized that the shadow sector of alcohol production increased to 30–50% against the backdrop of a decrease during the period of 2011 – the first six months of 2014, the volumes of legal production of alcoholic beverages at 16,5% and wine products on 33%, which, as a result, does not provide an increase in payments from the excise tax on alcoholic beverages to the state budget [8].

According to the results of the state financial audit of the State Audit Office of Ukraine, the activities of the SE “Ukrspyr” and its separate places of business activity, as well as enterprises belonging to the management of the Concern “Ukrspyr”, for 2015–2016 and the first quarter of 2017 revealed a number of schemes and operations, which can indirectly testify to the production of unpolished alcohol, the withdrawal of working capital of the enterprise [9, p. 17]. In particular, SE “Ukrspyr” unreasonably transferred funds to questionable economic entities, which are currently absent from the actual and legal addresses, for supposedly delivered grain crops, fuel, etc.

According to the EU, Ukraine has become a leader in the production of illegal alcohol [10]. As the European Parliament points out, the domestic shadow market for alcoholic beverages reaches 60% and deducts about € 360 million from the budgets [10].

3. *Fuel and energy complex, including illegal production, import and circulation of illegally produced gasoline for motor vehicles and other*

petroleum products, illegal mining of mineral resources and use of mineral resources (use of natural resources). So far, the state has not been provided with effective and efficient control over the volumes of production of motor gasoline for cars and the import of these products, which is the subject of taxation of excise tax. The share of petrol imported for automobiles in filling the domestic market is constantly increasing compared to the production of these products in Ukraine. As a result, Ukraine’s dependence on imports of petroleum products from other countries has become critical. At the same time, the share of excise tax on petrol for motor vehicles in the general structure of tax revenues to the state budget is practically not increasing, despite the growth of volumes of imported petrol motor, indicating a large scale shadow oil market in the country due to the evasion of business entities from paying excise taxes.

According to the calculations of the auditors of the Accounting Chamber of Ukraine, volumes of the illegal motor gasoline market for cars in 2013 amounted to 35–38% of the total consumption of these products [11]. In 2014, the situation improved somewhat – the volumes of the illegal market decreased to 15–20% of the total volume of gasoline used for motor vehicles [11]. In particular, the analysis of data from Ukrzaliznytsia and the State Fiscal Service of Ukraine (SDFS of Ukraine) regarding volumes of imported gasoline for motor vehicles in Ukraine has shown that in 2013 rail transport imported this product by 602 thousand tons more than the customs clearance of gasoline by motorized customs authorities [11]. In general, due to illegal import into Ukraine and illegal production of gasoline for motor vehicles, the amount of losses of the state budget in the period under investigation from the non-receipt of excise tax on the said products was estimated at more than 5 billion UAH [11].

In addition, the state budget loses significant amounts of rent for the use of subsoil to extract oil from non-payment of sub-users of tax debt.

It should be added that due to inadequate monitoring of the conservation and effective use of forest resources in almost every region of Ukraine, the facts of illegal and unauthorized logging of forest resources have been established [9, p. 15].

The illegal extraction of amber is widespread in Ukraine.

4. *The sphere of the state material reserve.* Demonstrations of shadow economic processes in the field of the state material reserve, which are closely related to the commission of criminal acts in this area, are: documentary registration of non-commodity transactions for the pledging of material assets to the state reserve by the responsible custodians, namely the purchase by the State Reserve of third-party (often – fictitious) companies material values and the conclusion of contracts with these companies on the storage of these supposedly set material values without the actual availability of the latter; official negligence on the part of officials of state enterprises during the conclusion and execution of contracts with companies involved in the process of acquiring tangible assets into the state reserve, which leads to an unjustified increase in the cost of services of the latter; inefficient, misuse of material assets of the state reserve; realization (purchase) of inventories of the state reserve for underestimated (overpriced) prices; the artificial application of the bankruptcy procedure and the subsequent sale of an integral property complex of a state-owned enterprise, which was under the jurisdiction of the State Reserve, at a reduced cost; numerous unreasonable resale “on paper” by the responsible custodians of the State Reserve of material values transferred to these custodians by the State Reserve for storage.

The lack of proper control over the actual placement of tangible assets into the state reserve provides the opportunity for enterprises to carry out non-commodity transactions or, in fact, take over budgetary funds and lead to unnecessary reimbursement of costs for the preservation of material assets that, in fact, have not been set in the state reserve.

The most widespread offenses committed by custodians of the material assets of the state reserve are the untimely return to the state reserve of borrowed material assets, their unauthorized alienation (use) and sale.

In practice, often the custodians of the material assets of the state reserve are, in essence, fictitious, since they either are either eliminated or absent from the addresses, or actually do not act as custodians of the material assets of the state reserve.

There are facts when the responsible custodians of the state material reserve were absent not only at the legal address, but also did not submit financial statements to the DFS of Ukraine (that is, they ceased their activity) from the moment of receipt of funds from the State Reserve, which calls into question the fact of laying material values to the state reserve.

5. *The sphere of healthcare and the sphere of production (manufacturing), storage, sale, import of medicines and medical products.* In the pharmaceutical market of Ukraine common cases of sale of low-quality, falsified and unregistered medical products are widespread. There is no systematic control over the availability of taxpayers licenses for the right to make wholesale and retail trade in medicines. The facts of unjustified receipt of privileges by importers of medical products due to the incorrect classification of products under the codes of UKTZED in the customs clearance of these goods are not unequal. No necessary measures are taken to control the validity of the declared customs value of pharmaceutical products, which, in many cases, is overstated by 2 to 4 times due to mediation schemes.

In addition, in Ukraine are sold, according to various estimates, up to 50% of counterfeit medicines [12]. Most often counterfeit medicines, which are in daily demand and advertised on television and radio, include painkillers, antibiotics, psychotropic substances. In addition, it exists misleading labeling of medicinal products, their smuggling, the sale of substandard (substandard) and unregistered drugs and handicraft products or other means (including, for technical purposes) and therefore can not be used for treatment.

6. *Production of plant protection products (pesticides, agrochemicals).* According to expert estimates and operational data of law enforcement agencies, about 20–25% of all pesticides and agrochemicals, other plant protection products used on the domestic market of Ukraine, are falsified, imported or repackaged illegally [13]. Thus, the proportion of counterfeit on the domestic market of plant protection products is striking – 30% of the total pesticide market [14]. At the same time, as experts point out, the entire market of plant protection products in Ukraine is estimated at \$ 1 billion.

According to expert estimates, today every six out of ten packages of plant protection products are fake. At the same time, if 30% of them – obvious falsification, then 60% – contain dangerous substances [15].

Imported plant protection products make up about 95% of the legal market, but according to the Ukrainian Agricultural Association (UAA), almost half of the total market for plant protection products is in the “shadow” [16, p. 14].

In addition, today the implementation of falsification of plant protection products through the Internet becomes extremely large.

Criminals cover their illegal activities, using fake companies, falsifying accompanying documents. Most often they use methods of separate delivery of packaging components and the counterfeit product of plant protection.

Today, the most widespread offenses in the field of the circulation of plant protection products are the turnover on the market of end-of-life plant protection products, the production, re-packaging and distribution of counterfeit pesticides in Ukraine, as well as the contraband of counterfeit plant protection products.

7. *Banking activity: legalization (laundering) of incomes, obtained in a criminal way.* Due to the

globalization of financial systems, international banking networks are being developed and electronic trading operations are spreading, which also has negative consequences in the form of creating favorable conditions for manipulating financial instruments to evade taxation and legalization (laundering) of proceeds from crime, in particular through transfer pricing [4].

In January 2018, the report of the Council of Europe’s Special Committee of Experts on Mutual Measures to Combat Money Laundering and Terrorist Financing (MONEYVAL) on Ukraine stressed that “Ukraine faces significant risks in terms of money laundering through corruption and illegal economic activity, including fictitious entrepreneurship, tax evasion and fraud” [17]. The report states, in particular, that “the enormous size of the shadow economy, aggravated by the large-scale use of cash, makes the country particularly vulnerable. Among the common mechanisms for money laundering in Ukraine are so-called conversion centers, through which money flows from the real to the shadow economy and are used to transfer money into cash with further exportation from the country” [17].

Conclusion

Therefore, on the basis of the above, should be emphasized the importance of overcoming the various demonstrations of the shadow economy in many sectors of the economy, since the growth of the shadow economy is directly related to the growth of crime rates, in particular economic ones. The shadow economy is a direct threat to the economic security of Ukraine, which is one of the elements of national security. The shadow sector interdepends with economic and common criminal crime, and therefore needs to be taken into account when analyzing and making managerial decisions at the state level, both in terms of preventing crime, and in shaping forecasts and prospects for further economic development of the country. Ignoring this phenomenon can cause serious mistakes in determining the indicators and developing these predictions.

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