

‘Where there’s Smoke, there’s Money’: *An Introduction to the Special Issue on ‘The Illicit Tobacco Market’*

Abstract

This paper provides an introduction to the special issue of *Trends in Organized Crime* bringing forward numerous empirical research findings and theoretical accounts on the illicit tobacco market in several European countries and the United States.

Keywords: illicit tobacco, smuggling, counterfeiting, illegal markets, organized crime

The illegal trade in tobacco products is widely considered to be a manifestation of organised crime with a long history which only relatively recently has begun to receive academic attention (see van Duyn & Antonopoulos, 2009). There are four main schemes characterising this trade in the last two decades or so:

- *Bootlegging* - buying cigarettes in countries with low excise taxes in amounts that exceed custom regulations. Bootlegging schemes typically involve individuals and small groups of entrepreneurs smuggling relatively small quantities of cigarettes (see Hornsby and Hobbs, 2007; L’Hoiry, 2013; Reuter and Majmundar, this issue). Often, there is little difference in the modus operandi between bootlegging and cross-border shopping for self-consumption. According to the European Commission (2009), for example, approximately one-third of EU citizens who travelled to another EU country in 2008 returned with cigarettes of lower prices with over 60% of Irish, British and French travellers engaging in this practice. There is no indication as to the extent to which these cigarettes were re-sold in the black market.
- *Large-scale smuggling* - of untaxed cigarettes diverted from *licit* international trade. This type of smuggling depends on an interaction with licit businesses (who wittingly or unwittingly participate) and are embedded in the legal business processes (von Lampe, 2002; Antonopoulos and Hall, 2016; von Lampe and Kurti, this issue; Transcrime, this issue).
- *Counterfeiting* – or the manufacturing of fake brand cigarettes. A source country for counterfeit cigarettes destined for the EU market is China. After aggressive and effective crackdowns against cigarette smuggling and domestic distribution channels, the Chinese illegal cigarette industry, in the late 1990s, shifted to exporting large numbers of counterfeit Western brand cigarettes to black markets abroad including many EU markets and most notably the UK. China emerged as a leading supplier of counterfeit cigarettes in the EU and beyond as a result of the contradictions of the economic reform process and of external licit and illicit forces that worked toward opening up the Chinese tobacco sector to the outside world (Shen et al., 2010; von Lampe et al., 2012). More recently, there have been reports about counterfeit cigarettes being produced in countries such as Ukraine, Poland and Greece, and closer to the destination markets within the EU (von Lampe, 2006; Antonopoulos and Hall, 2016; CSD, 2015).

- *Other sources* – Apart from legally manufactured cigarettes who are stolen from legal premises (retail markets, supermarkets, kiosks etc.) before they are introduced in the illegal market (Antonopoulos, 2006) as well as online sales of legally produced tobacco products, there is a relatively recent phenomenon which involves legally produced tobacco products manufactured in free zones of Eastern and South Eastern Europe, UAE, Malaysia and South Africa, and which are readily available to illegal marketers. The most known case in the European market is ‘Jin Ling’, a brand lawfully manufactured in the free zone of Kaliningrad (Russia) and elsewhere but destined for the EU illegal market. With packaging resembling that of ‘Camel’, ‘Jin Ling’ has been one of the most seized brands in the EU (Candea et al., 2009; see also Reuter and Majmundar, this issue).

This special issue of *Trends in Organized Crime* having ‘The Illicit Tobacco Market’ as its central theme, attempts at –directly or indirectly - highlighting a number of issues and problems but also contributing to a fruitful discussion about the topic. The special issue, which deals with the aforementioned trading schemes, is a result of a number of trends and phenomena: Firstly, the increased media interest on the topic and the alleged relationship between the role of the financial crisis and the resulting reduction in the buying power of consumers, and the illicit tobacco trade (see, for example, The Journal, 2014; Mandravelis, 2015; see also CSD, 2015; Chionis and Chalkia, this issue).

Secondly, the *dramatic* differences in the extent/size of the illicit market in tobacco along various contexts (even in the subnational and sub-city levels) despite the fact that tobacco products are a legal commodity and present almost everywhere in the world (von Lampe, 2016). There is a proliferation of methods that have been employed towards a quantification of the illegal trade in tobacco products. These include customs seizure data, smoker surveys, empty pack and cigarette butt collection analysis, household surveys of tobacco products consumption as well as governmental and trade monitoring data (see Calderoni, 2014; CSD, 2015; Transcrime, this issue). Whatever figures are produced need to be treated cautiously. Illegal markets involve economic activities that are intended to go unnoticed and thus unrecorded in the official statistics. Some data are produced and indeed presented in this special issue; however, this may reflect the intensity and success or failure of law enforcement operations as well as the weaknesses of the methods mentioned earlier rather than the actual extent of the illicit market.

Thirdly, the illicit tobacco trade has been associated with significant health, fiscal, and criminal and even terrorist risks (see also Billingslea, 2004; Joossens et al., 2009; Allen, no date); and much of the tobacco-related criminal entrepreneurial conduct presented in media, law enforcement and industry accounts has been cast in the rhetoric of ‘Transnational Organised Crime’, a phrase with much mystique and threat imagery (see National Audit Office, 2013). The illicit trade in tobacco, as is noted in a Financial Action Task Force report, has the potential to promote “*criminality and corruption within government, which can coincide with an increase in tolerance of criminality, which in turn encourages and attracts national and international crime groups*” (FATF, 2012: 16)

According to OLAF (the European Anti-Fraud Office): “*tobacco smuggling causes heavy yearly losses to the budgets of Member States and the EU in evaded customs duties and taxes. Smuggled tobacco respects no rules and poses great risks to consumers and businesses. It undermines anti-smoking and public health campaigns and violates the strict rules that the EU and Member States have on manufacturing, distribution and sale*” (OLAF, 2016). For the U.S. Department of State (2015: 6) “*the illicit trafficking of tobacco is a multibillion-dollar business [that] fuels organized crime and corruption, robs governments of needed tax money, helps expand the global illegal economy, and assists some terrorists by*

financing their operations [...] Often, illicit tobacco is trafficked through the same routes as drugs, weapons, and other illicit forms of trade”.

Finally, research on the illegal tobacco market is under-developed compared to other empirical manifestations of organised crime (e.g. drugs; human smuggling and trafficking), existing research tends to focus primarily on Western Europe, and only recently has research been conducted in criminologically important contexts such as the United States (see von Lampe and Kurti, this issue; Kurti et al., 2012; von Lampe et al., 2014). This special issue include contributions on the Czech Republic, Greece, Italy, Sweden, the European Union as a whole, and the United States. These contributions cover the issues of size of the market, the organization of the markets, structures and actors, as well as financial issues and law enforcement efforts relating to the trade.¹

Following this introduction, this special issue comprises six selected peer-reviewed articles, and one report excerpt. This brief introduction cannot possibly reflect the richness and depth of all contributions. *Petr Kupka* and *Kateřina Tvrđá*, in the first article for this special issue, focus on the recent trends in the illegal tobacco trade in the Czech Republic, one of the European Union countries impacted to a lesser degree by the illegal trade in tobacco. According to the authors, who provide an analysis on the basis of official documents, interviews with security experts, and interviews with actors in the illicit tobacco trade, this fragmented and decentralised market has country-specific characteristics that are primarily attributable to the geographic location of the Czech Republic; something that significantly affects the patterns of the market organization, the distribution of the merchandise, as well as financial arrangements within the market. One interesting and important aspect of the Kupka and Tvrđá’s article is that *“the financing and financial management for the black market in tobacco in the Czech Republic is embedded in social relations that extend far beyond the particular business dealings involved”*.

In the second article in this special issue, *Dionysis Chionis* and *Anastasia Chalkia* provide an account of the social organization of the illicit tobacco market in Greece as well as the financial management of the particular trade in the country. In their research endeavor, the authors obtained data from in-depth interviews with law enforcement officials, including the Greek police, the Financial and Economic Crime Unit and the Customs Authority, tobacco industry experts, and a deputy public prosecutor. They also utilized police and judicial files, media reports, and the existing academic literature. The illicit trade in tobacco in Greece seems to have significantly transformed since the beginning of the financial crisis (2008). As Chionis and Chalkia (this issue) argue, *“it has been noted that whenever the government raises the taxation level and the selling price per packet [...] there is an increase of the trafficking and selling of illicit tobacco products”*. Illicit whites are now the predominant type of merchandise sold in the Greek markets. According to the authors, the entities involved in the trade forge partnerships within and outside the European Union, they largely specialize in the particular trade, and they often transfer profits abroad in legitimate companies.

Andrea Di Nicola and *Fiamma Terenghi*, in the third article, focus on the financial aspects of the illicit tobacco trade in Italy. Drawing on a set of interviews with law

¹ Those articles on the Czech Republic, Greece, Italy and Sweden are based on research that has been conducted in the context of the FINOCA (Financing of Organised Crime) project, a project that investigated the different forms of financing adopted by criminal entrepreneurs in several illegal markets in order to develop strategies able to efficiently tackle those criminal groups operating in the EU Member States. This was a two-year project coordinated by the Center for the Study of Democracy (Bulgaria) and carried out in collaboration with Teesside University (UK), University of Trento (Italy), The State Police of Latvia, the General Directorate for the Combat Against Organized Crime (Bulgaria), and INHESJ - Institut National des Hautes Etudes de la Sécurité et de la Justice (France) (see CSD, 2015).

enforcement agents including the police and customs as well as interviews with public prosecutors, and data from judicial cases, media, official documents, and documents by tobacco manufacturers, the authors offer an overview of the trade in Italy as well as a detailed account of various stages in its financial management. These include sources of capital for tobacco smuggling operations and the profile of financiers, the settlement of payments, costs of doing business, and profits and investments schemes. What Di Nicola and Terenghi identify in their article – among other - is that the Italian illegal tobacco market is one with a plurality of actors and organizational models which is directly reflected on the financial aspects of the market, and the (financial) symbiosis between legal and illegal entrepreneurs, especially at the medium and upper levels of the market. Importantly, trust and pre-existing personal relationships are vital non-financial currencies that facilitate the financial management of the trade.

In the fourth article, *Johanna Skinnari* and *Lars Korsell* provide an account of the organization of the illicit tobacco trade in Sweden and its financial management on the basis of official and intelligence reports, interviews with illicit traders, law enforcement agencies, and a representative of the (legal) tobacco industry as well as a seminar involving participants from customs, the coast guard, the tax agency, the Economic Crime Agency, the police, the County Administrative Board of Stockholm and the prosecutor's office. Skinnari and Korsell describe how the market in Sweden has evolved and now it has attracted so called traditional organised criminals with financial and non-financial capital; criminals who have realized the potential for profit from tobacco with relatively low risk. In a diverse criminal landscape such as this of Sweden the authors identify distinct criminal *modi operandi* used in the illicit tobacco market: 'fraud by means of tax warehousing' in which legal companies responsible for importing large numbers of tobacco shipments are involved, 'mixed operations', 'frequent small-scale illegal imports/smuggling', and so called 'distance trade' facilitated by the internet.

The fifth article in this special issue is the one by *Transcrime - Joint Research Centre on Transnational Crime* of the Catholic University of Milan and the University of Trento in Italy. Based on a larger body of research, the article offers an overview of the illicit trade in tobacco products in the European Union. Based on an innovative methodology, the authors provide estimates of the volumes, prevalence, and products in the illicit tobacco trade from 2006 to 2013 at the subnational level. In addition, the article presents an analysis of the product flows in the market, offers an estimate of the actors involved in the particular business and an account of their *modus operandi*. Towards the end of the article, it is suggested that the focus of any prevention efforts should be on the reduction of criminal opportunities than on crime control policies. As the authors argue: "*if the reduction of opportunities is adequately developed, it could contribute to achieving the right balance between crime reduction and health improvement at lower costs*".

In the final article, *Klaus von Lampe* and *Marin Kurti*, examine the historical development and the nature of the cigarette black market in New York City, which is "*in many respects a microcosm of the illegal cigarette trade in the United States*" (this issue). The authors use data from their published research as well as numerous official and open sources to offer an account of the various procurement schemes in the United States including the distinct feature of interstate bootlegging, and bootlegging from Native American reservations. Then they discuss the current prevalence of illicit cigarettes in New York City, the historical trends in the illegal cigarette trade in NYC including the involvement of the Mafia (until the 1970s), measures to deal with the inflow of cheap cigarettes from Native American reservations to NYC, and law enforcement efforts in relation to illicit cigarettes in the city. Von Lampe and Kurti give special emphasis to the economically deprived area of the

South Bronx, and discuss prevalence of illicit cigarettes in the area, consumer motivations for buying illicit cigarettes, and patterns in the distribution of merchandise.

These six articles are followed by an excerpt from the 226-page report prepared in response to a request by the U.S. Food and Drug Administration (FDA), titled 'Understanding the U.S. Illicit Tobacco Market: Characteristics, Policy Context, and Lessons from International Experiences'. The report, which was edited by *Peter Reuter* and *Malay Majumdar*, was produced by the *Committee on the Illicit Tobacco Market* convened by the National Research Council and the Institute of Medicine of the National Academies, and included participants working on the issue of illegal tobacco from a variety of disciplines, including law, criminology, public health and economics. The excerpt in this special issue contains those parts that focus on the size and structure of the illicit tobacco trade, tax, price and non-price factors facilitating the trade, and on the actors on the supply side of the illegal tobacco market in the United States.

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Compliance with Ethical Standards:

Authors A and B declare that they have no conflict of interest. This article does not contain any studies with human participants or animals performed by any of the authors.

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