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ВПЛИВ ВОЄННИХ ДІЙ В УКРАЇНІ НА ОБІГ ТОВАРІВ КОМЕРЦІЙНОГО ПРИЗНАЧЕННЯ

Цивільно-правові, господарсько-правові та процесуальні засоби забезпечують обіг товарів комерційного призначення в Україні. В цілому можна навіть говорити про окреме правове забезпечення за допомогою певної системи. Значна частина таких засобів визначена, хоча динамічний характер цивільного обороту час від часу виявляє необхідність створювати нові та удосконалювати існуючі. Усталеність суспільних відносин в умовах різного роду збурень зовнішнього середовища значною мірою залежить від рівня правової культури в суспільстві.

Там, де є закон, є намагання його обійти. У всі часи контрабанда є одним із явищ у сфері суспільного життя, яке не обходить жодну з країн світу, а у зв'язку з воєнним станом та завдяки процесам світової інтеграції, стала проблемою без кордонів. Незаконне переміщення через митний кордон наркотичних засобів, зброї, боєприпасів, культурних та історичних цінностей традиційно перебувало в центрі уваги кримінальних угруповань як один із способів швидкого збагачення.

Зловживання в процесі обігу товарів комерційного призначення в умовах війни можна розглядати як військовий злочин, який не має виправдання та несе пряму загрозу національній безпеці України. Зловживання ж в митній сфері не лише знекровлюють економіку держави, а й послаблюють обороноздатність України

Ключові слова: військовий стан, комерційні товари, обіг, судова практика, контрабанда, порушення обігу товарів, безпека, охорона прав, митна сфера

Teremetskyi V., Popovych T. THE IMPACT OF MILITARY ACTIONS IN UKRAINE ON THE CIRCULATION OF COMMERCIAL GOODS

Civil-legal, economic-legal and procedural means ensure the circulation of commercial goods in Ukraine. In general, we can even talk about a separate legal provision with the help of a certain system. A significant part of such means is defined, although the dynamic nature of civilian turnover from time to time reveals the need to create new ones and improve existing ones. The stability of social relations in the conditions of various types of disturbances in the external environment largely depends on the level of legal culture in society.

Where there is a law, there are efforts to circumvent it. At all times, smuggling is one of the phenomena in the sphere of social life, which does not bypass any of the countries of the world, and in connection with the state of war and thanks to the processes of world integration, it has become a problem without borders. Illegal movement across the customs border of narcotics, weapons, ammunition, cultural and historical values has traditionally been the focus of criminal groups as one of the ways to get rich quickly.

Abuse in the process of circulation of commercial goods in wartime can be considered as a war crime that has no justification and poses a direct threat to the national security of Ukraine. Abuses in the customs sphere not only bleed the state's economy, but also weaken Ukraine's defense capabilities.

Key words: martial law, commercial goods, circulation, judicial practice, smuggling, violation of circulation of goods, security, protection of rights, customs sphere

Problem setting. The circulation of commercial goods can be the subject of research in various fields of law, including economic, administrative (customs), civil, agricultural, etc. In this study, we will try to determine the

questions that arise in this field in the conditions of war. Ways to solve the issue of circumventing legislative requirements will be proposed, including in the form of smuggling of goods through the customs border of Ukraine.

Analysis of recent research in this field. Since the beginning of the Russian-Ukrainian war, some scientific publications have considered the circulation of commercial goods. For example, V. Lysenko and G. Kurilov [1] analyzed the situation in Ukraine with the spread of counterfeit and falsified goods. The authors focused attention on the conditions that contribute to the spread of illegal circulation of goods and suggested ways to counter the crime. In their opinion, in order to effectively solve the issue of circumvention of legislative requirements, a complex of measures of both law enforcement and control bodies is necessary, strengthening the role of the state in controlling the production and circulation of goods in Ukraine.

V. Drapailo [2] studied the concepts and features of goods in customs law, and also analyzed the types of goods in customs law. He investigated legislative and scientific approaches to product definition. He determined that the main set of legal norms, dedicated to the definition of goods and their features, is concentrated in the acts regulating financial and customs relations. The study also deals with the relationship between goods in customs law and commercial vehicles as separate objects of customs control.

The collective of authors in the collection of scientific works "Stability of civil turnover in Ukraine: problems of provision. Issue two" [3] talks about the creation of an interdisciplinary theory of the stability of civil (property) turnover in Ukraine and its legal support with the help of a system of civil-legal, economic-legal and procedural means. The authors emphasize that a significant part of such means is defined by the current Ukrainian legislation, although the dynamic nature of civil turnover from time to time reveals the need to create new ones and improve existing ones. The stability of social relations in the conditions of various kinds of disturbances of the external environment largely depends not only on an adequate, scientifically based model of regulatory and legal regulation of these relations, but also on the stable practice of applying the norms of substantive procedural law. To some extent, the stability of civil turnover and the protection of the rights and legitimate interests of its participants also depends on the level of legal culture in society.

Presenting main material. At the current stage, the economic development of Ukraine has a rather ambiguous character: on the one hand, it is the presence of a significant range of problems related to political instability, on the other hand, it is certain achievements and positive developments thanks to the gradual reform of domestic legislation in the process of European integration. In this regard, the development of entrepreneurship in Ukraine takes place in a very complex system of uncertainties (economic, political, legal, ideological, etc.).

Even if we imagine an ideal model of entrepreneurship, built on relatively complete and accurate knowledge of this type of social activity as an object of research, there will still be uncertainty in predicting the development of its behavior, especially in the distant future. Modern Ukrainian legislation is far from meeting the requirements of the current stage of development of the state and entrepreneurship. Therefore, the development of entrepreneurship in our country becomes one of the indispensable conditions for the stability of the economic situation and, as a result, the weakening and overcoming of social tensions in society.

The main component of entrepreneurship as the fundamental basis of the constitutional system is the constitutional right of citizens to entrepreneurial activity. The Constitution of Ukraine enshrines the right of everyone to entrepreneurial activity, which is not prohibited by law, the possibility of certain behavior of a person and citizen in the sphere of production for the purpose of obtaining profit. By content, these are certain material goods in the field of production and the rights to these goods, namely: the right to their exchange, distribution, possession, use, disposal, and profit. By form, it is a measure or image, method, form of behavior, manifestation of will, interests, capabilities of a person and a citizen in the sphere of production. That is, it refers to the legal consolidation of a person's exercise of his natural and inalienable right to social freedom and creative activity in society, provided that the exercise of this right does not harm other subjects or society as a whole. Article 21 of the Constitution of Ukraine enshrines the principle of inalienability and inviolability of human rights and freedoms, according to which it is unacceptable not only to deprive a person of his legal rights and freedoms, which a person possesses, but also to violate them, that is, to limit the content and create obstacles to their realization.

A condition for the normal development of legal relations of civil turnover is the creation of the necessary level of legal certainty (certainty) as an element of the rule of law. Affirmation of the supremacy of law, which Ukrainian society strives for, presupposes its implementation in both law-making and law-enforcement activities, first of all, in laws whose content should correspond to the ideas of social justice, freedom, and equality. Legislation and law enforcement based on such principles create a state of legal certainty (certainty) in each participant in civil relations, which means, first of all, awareness, predictability of the determined legal consequences (legal result) of their normative behavior. Legal certainty (certainty) is achieved both through compliance with substantive requirements for the legal norms themselves (understandability, non-contradiction of legislative norms, minimally necessary and sufficient density of normative and legal regulation, reasonable stability of legislation and inheritance of general principles of regulation of relations when it is changed), and through compliance requirements for the application of normative legal acts (primarily, uniformity of application of the law as a manifestation of legal equality and stability of court decisions).

Ensuring the minimum necessary level of legal order in the country as a basis for the stability of economic turnover is directly related to the implementation of the rule of law and legal certainty as its element, proclaimed by Article 8 of the Constitution of Ukraine, in all spheres of public life. In the precedent practice of the European Court

of Human Rights, the principle of legal certainty was embodied in a number of ideas, in particular, the idea of ensuring the clarity and consistency of normative legal acts, which enables the subjects of legal relations to foresee the specified legal consequences of their behavior, its legal result, which corresponds to the existing in society to regulations.

A norm cannot be considered a "law" if it is not formulated with sufficient clarity, which gives the citizen the opportunity to be guided by it in his actions: he must be able (if necessary, with the help of appropriate consultations) to foresee sufficiently, under certain circumstances, the consequences that may be caused by such action. Predictability of these consequences with absolute certainty is not required: experience shows that this cannot be achieved.

Traditional legal positivism formulates a kind of request for the creation of a closed and axiomatic legal system, but the provision of complete, consistent and self-sufficient legislative regulation of all possible relationships is in principle impossible as such, which is incompatible with the market type of management with its multiplicity of autonomous decision-making centers and the mechanism of contractual self-regulation relations. An economic obligation, which arises on the basis of certain legal facts or legal structures and within which the transfer of property from one person to another in the field of business is organized and carried out, is an element of a complex system of legal relations that is covered by the concept of economic turnover. In turn, every contractual obligation is not a "fixed" construction and unfolds over time.

In the ideal model of any contractual obligation as a legal relationship aimed at the achievement by the parties of a goal that is not prohibited by law, its dynamics, movement - from the moment of its origin to its termination by properly carried out performance - depends, first of all, on autonomous, independent from the outside the influence of the actions of its parties (their unilateral or concerted expression of will) of the price, thereby restraining the monopoly.

At the current stage, the economic development of Ukraine has a rather ambiguous character: on the one hand, it is the presence of a significant range of problems related to political instability, on the other hand, it is certain achievements and positive developments thanks to the gradual reform of domestic legislation in the process of European integration. In this regard, the development of entrepreneurship in Ukraine takes place in a very complex system of uncertainties (economic, political, legal, ideological, etc.). Even if we imagine an ideal model of entrepreneurship, built on relatively complete and accurate knowledge of this type of social activity as an object of research, there will still be uncertainty in predicting the development of its behavior, especially in the distant future. Modern Ukrainian legislation is far from meeting the requirements of the current stage of development of the state and entrepreneurship. Therefore, the development of entrepreneurship in our country becomes one of the indispensable conditions for the stability of the economic situation and, as a result, the weakening and overcoming of social tensions in society.

Of course, in the conditions of war, there is not only the risk of disrupting the circulation of goods within the country. Often it is about the smuggling of goods, which is "justified" from a social point of view, since these goods are then transferred to the military.

At all times, smuggling is one of the phenomena in the sphere of social life, which does not bypass any of the countries of the world, and in connection with the state of war and thanks to the processes of world integration, it has become a problem without borders. Illegal movement across the customs border of narcotics, weapons, ammunition, cultural and historical values has traditionally been the focus of criminal groups as one of the ways to get rich quickly.

Traditionally, objects of smuggling are: (1) cultural and historical values, (2) poisonous, powerful, explosive substances and radioactive materials, (3) weapons or ammunition (except for smoothbore hunting weapons or ammunition for them), (4) strategic important raw materials for which the relevant rules for export outside Ukraine are established by law, (5) narcotic drugs, psychotropic substances, their analogues or precursors, (6) counterfeit national currency of Ukraine and foreign currency, (7) state or other securities.

During a full-scale invasion, all of Ukraine rallied to repel this attack on the frontline and volunteer front, and smugglers rob the state's treasury using customs schemes. Here, the situation is quite simple and typical when it comes to smuggling of excise goods and consumer goods, in particular, under the guise of postal transportation. Bypassing the filling out of customs declarations and avoiding the payment of taxes occurs through the mechanism of assessment of the shipment with a value of up to 100 euros, which is issued to fictitious natural persons. These goods are then delivered to retail outlets and sold for cash. In the best case, they go to the front, but a year after the start of a full-scale invasion, such a situation is rare. In fact, the state budget loses hundreds of millions of hryvnias, which affects the least protected sections of the population. Customs duties are one of the key sources of filling the budget for the payment of pensions, social assistance, wages, etc. Therefore, in fact, the victims of smugglers are primarily the most socially vulnerable and unprotected strata of Ukrainians.

Conclusion. Abuse in the process of circulation of commercial goods in wartime can be considered as a war crime that has no justification and poses a direct threat to the national security of Ukraine. Abuses in the customs sphere not only bleed the state's economy, but also weaken Ukraine's defense capabilities.

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ЮРИДИЧНИЙ АНАЛІЗ ЗАХИСТУ ПРАВ СПОЖИВАЧІВ У ЦИФРОВІЙ СФЕРІ

Наша країна протистоїть найсерйознішому безпековому виклику за всі роки своєї незалежності та є державою, що зазнала зовнішньої агресії з боку російської федерації під час збройного конфлікту. В умовах економічної нестабільності є потенційна загроза для основних прав і свобод людини і громадянина, зокрема, і у сфері захисту прав споживачів, саме тому законодавство України містить низку важливих гарантій охорони прав людини. Захист прав людини і громадянина як споживача - є однією з найважливіших ознак демократичного суспільства та напрямом захисту конституційних прав громадян. Стаття присвячена перспективам розвитку законодавства про захист прав споживачів у цифровій сфері.

Дотримання пріоритету інтересів споживачів поряд з інтересами окремих господарюючих суб'єктів є одним з найважливіших принципів ринкової економіки демократичної держави, яка повинна прагнути до забезпечення ефективного контролю за якістю і безпекою продукції, усіх видів робіт та послуг, удосконалення законодавства про захист прав споживачів. Подальших досліджень потребують питання розробки та прийняття сучасного законодавства про захист прав споживачів, яке б відповідало практиці Європейського Союзу.

В статті розглянуто Проект Закону України «Про захист прав споживачів» від 05.10.2021 року. В Проекті зазначається, що він покликаний регулювати відносини між споживачами товарів, робіт і послуг та суб'єктами господарювання незалежно від форми власності, які виробляють, продають товари чи харчові продукти, виконують роботи чи надають послуги, встановлює права споживачів, а також визначає механізми їх захисту та основи реалізації державної політики у сфері захисту прав споживачів. Законопроект суттєво посилює захист прав споживачів, оскільки адаптує базові стандарти захисту прав споживачів, що ефективно працюють в Європейському Союзі, зокрема, у таких специфічних сферах, як захист споживачів е-комерції, продаж товарів з цифровим вмістом, економічні права покупців харчових продуктів та інше.

Ключові слова: споживач; захист прав споживачів; цифрова сфера; цифрова трансформація.

Taldonova K. LEGAL ANALYSIS OF CONSUMER RIGHTS PROTECTION IN THE DIGITAL SPHERE

Our country is facing the most serious security challenge for all the years of its independence and is a state that has