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**V. V. Lysenko,***doctor of juridical sciences, professor**e-mail: charly\_niron@i.ua***ORCID ID 0000-0003-1541-5105;****N. A. Luhina,***Candidate of Law, Associate Professor,**State Tax University**e-mail: natali.luhina7@gmail.com,***ORCID ID 0000-0001-6005-2943**

## THE CHARACTERISTICS OF THE METHOD OF ILLICIT TRAFFICKING OF COMMODITIES IN UKRAINE

*The article analyzes the current situation that has developed in Ukraine with the spread of counterfeit and falsified goods. The conditions that promote the spread of illicit trafficking of commodities are defined and the ways of prevention of the criminal offenses are proposed.*

*It is noted that the illegal circulation of goods has a hidden nature and countering the commission of such offenses requires the implementation of special measures by law enforcement agencies to identify and document the content of criminal activity. The problems of uncovering such acts are also related to the fact that offenders widely use the possibility of legal economic activity to hide crimes. The level of spread of illegal goods circulation in Ukraine is also affected by the corruption of individual employees of controlling and law enforcement agencies.*

*It has been established that the spread of illegal circulation of goods in Ukraine is due, in particular, to the presence of the following factors: the hidden nature of counterfeiting and falsification of goods; lack of official statistics on the consequences of consuming low-quality, falsified products; low awareness of citizens about possible forgeries or falsification of goods; use of opportunities for illegal circulation of goods of officially registered business entities; the absence of a special state program to combat the spread of illegal goods circulation, the absence of a special state body that would carry out control in the field of combating illegal goods circulation, etc.*

*Based on the study of the practice of law enforcement agencies, the authors indicate that ethanol is often used in the criminal mechanism of falsification of alcoholic beverages. Ethanol is used in industry and medicine, it is a technical solvent, in particular, for dissolving fats. Drinking ethanol is harmful. Ethanol causes poisoning as a result of exposure to the human body.*

*It was concluded that the illegal circulation of goods in Ukraine is also characterized by the presence of other ways of committing criminal offenses, as well as their commission in other spheres of the national economy. To effectively counteract the facts of falsification and falsification of goods, a complex of measures of law enforcement and control bodies is necessary, strengthening the role of the state in exercising control over the production and circulation of goods in Ukraine.*

**Key words:** *illicit trafficking of commodities; falsification of goods; counterfeit goods; conditions that promote the spread of illicit trafficking of commodities; the ways of prevention of the criminal offenses.*

Along with the legal production of goods and products in Ukraine, as in other countries, there is a strong market for falsification, counterfeiting of goods and products. The practice of law enforcement agencies of Ukraine in compliance with the requirements of the current legislation on the consumer market shows that almost 85% of checked business entities violate existing norms and standards for the production and sale of goods [1].

The illicit trafficking of commodities has a hidden character and counteracting the commission of such offenses requires law enforcement agencies to carry out special measures to detect and document the content of criminal activity. Problems in detecting such acts are also connected with the fact that offenders widely use the possibility of legal economic activity to conceal crimes. The level of distribution of illicit trafficking in commodities in Ukraine is also influenced by the corruption of certain employees of the controlling and law enforcement agencies.

The consumer market in Ukraine continues to be saturated with counterfeits, surrogates, poor-quality, counterfeit and dangerous goods for people, in most cases, food products, alcoholic beverages, medicines, fuel and lubricants. Practice shows that the state is not able to fully ensure the proper realization of consumer rights to obtain the necessary, accessible, reliable and timely information about products, works and services, their proper quality and safety for consumption. Fire events at a petrol station near the Vasilkov town showed that falsification of excisable goods and products could threaten not only individual citizens as to their health and safe consumption, but also threaten the environmental safety of the whole region and the country as a whole [2–3].

The proliferation of illicit goods circulation in Ukraine is caused, in particular, by the presence of such factors: the hidden nature of activities for counterfeiting, falsification of goods; the lack of official statistics on the consequences of the consumption of low-quality, counterfeit products; low awareness of citizens about possible counterfeits or falsifications of goods; use for possibilities of illegal circulation of goods of officially registered business entities; the absence of a special state program to counter the spread of illicit circulation of goods, the absence of a special state body that would provide control in the area of combating illicit trafficking in goods, etc.

The methods of committing criminal activity related to the illicit trafficking of goods have not received sufficient attention in scientific research. In most cases, the issues of criminal-law qualification and criminological aspects of counteraction to the distribution of counterfeit goods of the excisable group (alcoholic beverages, tobacco products and other excisable goods) were investigated [4–5].

Under the falsification of goods (products) refers to actions that are aimed at cheating consumers by tampering with the object of sale to profit. In such cases, with the preservation of the most characteristic indicators of goods, products, in particular, relating to the name, appearance, consistency, color, packaging, etc., other important indicators of goods, products in relation to consumer characteristics (raw materials used, various impurities, harmful to health, non-food coloring, loss of the most important properties of nutritional value: inconsistency in the content of fats, carbohydrates, vitamins, proteins, etc.).

Proceeding from the provisions of clause 27 of Art. 1 of the Law of Ukraine "On Protection of Consumer Rights", counterfeit products are defined as products manufactured in violation of technology or the unlawful use of the mark for goods and services, or by copying the form, packaging, external design, as well as the unlawful reproduction of another person's goods [6]. In this case, unfair business practices - any business activity or inaction that is contrary to the rules, trade and other honest practices and affects or may affect the economic behavior of the consumer in relation to the products. Falsification of goods is the most common way of illicit trafficking, but not the only one. In the sphere of illicit circulation of goods can be attributed as follows: imitating the goods (products) of a well-known manufacturer; counterfeiting of goods; falsification of goods (products); original products imported into the customs territory of Ukraine by smuggling, etc. [7]. It is necessary to distinguish between counterfeit goods from substitute goods (surrogates, imitators) and defective (defective) goods that are the result of non-compliance with the established requirements for the technology of manufacturing goods or products, or is the result of low qualifications of the personnel involved in the manufacture of such products.

Falsification, for example, of foodstuff is accompanied by the falsification of one or several main characteristics of the product in terms of qualitative, quantitative, cost, informational indicators. It should be noted that falsification may have a complex nature of forgery, that is, the use of different types of forgery, depending on the characteristics of the product or products being sold. The above has a manifestation in replacing the higher grades with lower grades, replacing the real components with food and non-edible additives, replacing the natural product with the simulator, etc.

Practice shows that in most cases, food products (coffee, tea, sausage, sour cream, sunflower oil, salads, fruit juices, mineral water, pastes, milk, cheese, ice cream, various fats, meat semi-finished products, etc.) are falsified. Significant cases of falsification of alcoholic beverages (cognac, vodka, wine, liqueurs) have been reported. According to the Consumer Protection Committee of Ukraine [8], about 30% of the total gasoline sold from gas stations in Ukraine does not meet current quality standards and is an outright falsification.

Most complaints in Ukraine to food products. During certification, as well as during state supervision, food products are defective due to inconsistencies with its safety indicators, the input of raw materials is not provided for by the formulation and not indicated in the mark, that is recognized as falsified. With regard to consumer goods, the most fake radio electronic products, as well as light industry products, where many counterfeits are of Chinese manufacture. A significant number of violations were also found in light industrial goods, for example, synthetic materials were used for the manufacture of children's clothing and

footwear, and the marking indicated that the product was made of natural raw materials. Often, toys that have harmful chemicals that have a detrimental effect on the health of children, as well as poorly manufactured, can result in injury to the child as a result of which the child may be traumatized [9].

In addition to the most fake food products mentioned above, law enforcement practices indicate that there have been numerous instances of counterfeiting of specific products, including personal protective equipment (condoms). Thus, an organized criminal group distributed counterfeit personal protective equipment in the territory of at least 10 regions of Ukraine. For the distribution of counterfeit products, an Internet store was created in the global network, where information about products, the attractiveness of which was primarily at a low price for the goods of well-known producers, was created. In the course of the investigation, a large consignment of goods was withdrawn for a total amount of about UAH 0.5 million. Experts' conclusions suggest that counterfeit products did not meet any regulatory requirements of quality, and also posed a potential threat to its users [10].

Widespread, lately, have been cases of imitation of goods (products) of known manufacturers (trademarks). In such cases, the fake, false products mimic the individual elements of the name, design and design of the goods (products) of the well-known trademark in order to mislead the consumer and accordingly increase the number of sales of products for which there is a consumer demand. Typically, counterfeit products only in form and name have signs of similarity to genuine products. Sometimes there are cases of forgery of high quality. In most cases, for the purpose of eliminating possible court appeals, the person who falsifies the goods of the well-known producers knowingly changes the name of the product, leaving the form, color, image of the labels, and individual elements of the trademark. In such cases, counterfeit products are almost identical to those of a well-known manufacturer.

The imitation of goods is possible both in terms of imported goods and domestic production. In this case, the demand for products and the possibilities for its prompt realization are used. To some extent, the imitation of goods (products) is a means of parasitizing on someone else's popularity and the use of a well-known name on the market for the sale of goods. In some cases, legal producers use the mass media to inform consumers in order to report the facts of counterfeiting their goods and indicate signs that can distinguish genuine products from false and simulated.

Another kind of direct manifestation of the illicit circulation of goods is its fake. Counterfeiting of goods (products) is the complete copying of the original product (products), the full repetition of the logo, the shape and type of packaging, the natural composition of products, raw materials used for the production of genuine products, etc. Counterfeits of goods are the result of shadow activity and aim at maximally approximating the original products and obtaining uncontrollable income due to the demand for products of the famous trademark.

One of the varieties of illicit trafficking in goods is the circulation of original products (goods) smuggled into the customs territory of Ukraine. Such goods are imported outside of customs posts, with concealment from customs control and without payment of the corresponding customs duties and tax payments. Further circulation of such goods on the

territory of Ukraine is carried out under false documents, in particular, with the use of business entities with signs of fictitiousness. In such cases, smuggled goods are imported into the territory of Ukraine, and documented by a fictitious firm as purchased in Ukraine. The most widespread smuggling goods are: industrial goods; Groceries; vehicles.

The most widespread in Ukraine was the illegal manufacture of alcoholic beverages. Among the volumes of sales of alcoholic beverages in Ukraine, the vodka was the most widespread, the rate of production of which annually grows by about 8%. The growth of the production of alcoholic beverages in Ukraine is also due to an increase in the volumes of exports of such products abroad. According to some experts, the vodka market in Ukraine is estimated at 35 million dal., Which is an annual consumption of 8 liters. vodka per capita [11]. A significant market for alcoholic beverages, accordingly, creates conditions for the spread of cases of illegal manufacture of alcoholic beverages and their falsification. The practice of law enforcement agencies testifies to the spread of the facts of the manufacture of counterfeit goods in the territory of the temporarily occupied territories of the Autonomous Republic of Crimea and the zone of operation of the combined forces [12]. This is facilitated by the existence of illegal alcohol circulation, the presence of a large number of alcoholic beverages in Ukraine, an easy way to produce counterfeit vodka or other beverages, the possibility of illegally producing packaging, packaging materials, etc. The proliferation of counterfeit, falsified alcoholic beverages is also facilitated by the lack of proper control of law enforcement and controlling bodies and the availability of a network for the sale of such alcoholic beverages. For Ukraine [13], as for other states, this problem remains relevant at the present stage. According to experts, the market for shadow circulation of alcoholic beverages in Ukraine has recently dropped to 10 %, but this volume is threatening both for the country's economy and for the health of the population.

The existence of a market for illicit trafficking in counterfeit, falsified alcoholic beverages is detrimental to both public interests (non-taxation, reduction of official employment, etc.) and to the health of consumers of such products (including fatal cases). Official statistics show that in Ukraine annually about 10 thousand people die from the consumption of counterfeit, counterfeit, malnourished alcoholic beverages. According to law enforcement authorities, a significant amount of alcoholic beverages is produced on legally operating plants. This allows economic entities to receive uncontrollable income and not to pay relevant taxes.

Important in the implementation of the illicit circulation of counterfeit, fraudulent goods is the existence of appropriate channels for the implementation of such products in the trading network. According to law enforcement agencies, counterfeit (falsified) alcoholic beverages are sold in commercial batches of real alcoholic beverages, making it difficult to establish the facts of their counterfeiting. It is possible that such alcoholic beverages can be sold in famous supermarkets, non-expensive stores and it is very difficult, at first glance, to distinguish them from real alcoholic beverages.

The most common methods of falsification of vodka at the present stage are full or partial replacement of food alcohol with cheaper technical equipment; application of water that does not meet the requirements of manufacturing technology; dilution or complete replacement of

alcohol by water, etc. Often, various synthetic dyes and flavors are used to falsify alcoholic beverages. One way to falsify is to replace the natural components of the formulation on the surrogate, which merely simulate the corresponding organoleptic properties and the nutritional value of alcoholic beverages and do not meet the requirements of state standardization,

The practice of law enforcement agencies shows that ethanol is often used in the criminal mechanism of falsification of alcoholic beverages. Ethanol is used in industry and medicine, it is a technical solvent, in particular, for dissolving fats. The use of ethanol is harmful. Ethanol causes poisoning as a result of exposure to the human body.

Illicit circulation of goods in Ukraine is also characterized by the presence of other methods of committing criminal offenses, as well as their commission in other areas of the national economy. In order to effectively counteract the facts of counterfeiting and counterfeiting of goods, a complex of measures for law enforcement and controlling bodies, strengthening the role of the state in controlling the production and circulation of goods in Ukraine is required.

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#### **В. В. Лисенко, Н. А. Лугіна. ХАРАКТЕРИСТИКА СПОСОБІВ НЕЗАКОННОГО ОБІГУ ТОВАРІВ В УКРАЇНІ**

*У статті проаналізовано поточну ситуацію, яка склалася в Україні з поширенням контрафактної та фальсифікованої продукції. Визначено умови, що сприяють поширенню незаконного обігу товарів, та запропоновано заходи щодо запобігання кримінальним правопорушенням.*

*Зазначено, що незаконний обіг товарів має прихований характер і протидія вчиненню таких правопорушень потребує проведення правоохоронними органами спеціальних заходів щодо виявлення та документування змісту злочинної діяльності. Проблеми розкриття таких діянь пов'язані також з тим, що правопорушники широко використовують можливість легальної господарської діяльності для приховування злочинів. На рівень поширення незаконного обігу товарів в Україні також впливає корумпованість окремих працівників контролювальних та правоохоронних органів.*

*Костатовано, що поширення незаконного обігу товарів в Україні зумовлене, зокрема, наявністю таких чинників: прихований характер діяльності з підробки, фальсифікації товарів; відсутність офіційної статистики про наслідки споживання неякісної, фальсифікованої продукції; низька поінформованість громадян про можливі підробки чи фальсифікати товарів; використання можливостей незаконного обігу товарів офіційно зареєстрованих суб'єктів господарювання; відсутність спеціальної державної програми протидії поширенню незаконного обігу товарів, відсутність спеціального державного органу, який би здійснював контроль у сфері протидії незаконному обігу товарів тощо.*

*На основі вивчення практики правоохоронних органів автори вказують, що у злочинному механізмі фальсифікації алкогольних напоїв часто використовують етанол. Етанол використовують у промисловості та медицині, він є технічним розчинником, зокрема для розчинення жирів. Вживання етанолу шкідливо. Етанол спричиняє отруєння в результаті впливу на організм людини.*

*Зроблено висновок, що незаконний обіг товарів в Україні характеризується також наявністю інших способів вчинення кримінальних правопорушень, а також вчинення їх в інших сферах народного господарства. Для ефективної протидії фактам фальсифікації та фальсифікації товарів необхідний комплекс заходів правоохоронних і контролювальних органів, посилення ролі держави у здійсненні контролю виробництва та обігу товарів в Україні.*

**Ключові слова:** *незаконний обіг товарів, фальсифікація товарів, контрафактні товари, умови, що сприяють поширенню незаконного обігу товарів, методи попередження кримінальних правопорушень.*

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