

Forensic Classification of Criminal Offenses Related to Smuggling

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DOI: [10.32353/khrife.1.2025.07](https://doi.org/10.32353/khrife.1.2025.07) UDC 343.985(477)

Received: 10.03.2025 / Reviewed: 15.03.2025 / Accepted for printing: 26.03.2025 /

Available online: 31.03.2025



This article purpose is to develop a forensic classification of criminal offenses related to smuggling based on the most significant forensic signs. Methodological research basis are general scientific and special scientific methods. Separate group of criminal offenses that encroach on social relations in the field of ensuring economic activity is related to smuggling. This type of criminal offenses (despite availability of certain common signs) covers quite diverse types and forms of criminally illegal activity. This primarily concerns specifics of smuggling topic and the methods of committing criminal offenses. As a result of generalization of theoretical approaches to conducting forensic classification of criminal offenses, the need to apply an approach that, while studying legal phenomena, involves simultaneous consideration of both criminal-legal, which are basic and forensically significant, signs is substantiated. The main classification criteria for criminal offenses related to smuggling are: 1) method of implementing the criminal intent of smugglers; 2) topic characteristics of smuggling. According to the method of implementation, the following groups of criminal offenses can be distinguished: 1) those committed with concealment of contraband from customs control (using auxiliary tools and means); 2) those committed outside customs control. According to characteristics of smuggling topic, it is proposed to distinguish criminal offenses

This article is translation of the original Ukrainian content, which source is available at the link: <https://khrife-journal.org/index.php/journal> (translated by Andriy Bublikov). The author acknowledges translation as corresponding to the original.

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related to the illegal movement across the border of objects defined in Articles 201, 201-1, 201-3, 201-4 of the Criminal Code of Ukraine. According to possibility of the spread and free circulation of contraband items, criminal offenses under investigation can be divided into two independent groups: 1) criminal offenses whose subject matter is things not removed from free circulation by law; 2) criminal offenses whose subject matter is contraband goods, substances and means restricted or removed from civil circulation by law.

Keywords: *smuggling; forensic classification; criminal offense; crime; types and groups of criminal offenses; forensic methods.*

Research Problem Formulation

Smuggling is a rather trivial phenomenon, because with development of economic and customs relations, people were constantly looking for new ways to circumvent the law in order to avoid paying customs duties and transport goods beyond the control of state authorities. During development of the system of legal principles underlying the fight against smuggling, authorities introduced appropriate legal measures, including criminal law measures. In the current period of development of legal foundations of combating crime and scientific substantiation of this activity, issues of effective investigation of criminal offenses related to smuggling have repeatedly become the topic of researches. However, some of them are not fully consistent with current doctrines of criminal law and criminal procedure and some are limited to descriptive recommendations only. This indicates the need for thorough research, revision and scientific substantiation of individual researches which subject were recommendations on forensic support for the investigation of criminal offenses related to smuggling.

While developing recommendations for forensic support, groups of criminal offenses consistently refer to their forensic classification. Forensic classification of criminal offenses, determining the most common and typical characteristics of the phenomena under research, comparing them with similar ones and distinguishing them from the rest, allows a deeper study of the phenomenon itself, its impact on other processes and possible directions for further development. At the same time (for effective performance of this function), any classification has to be reliable in its internal content and properly structured externally. In other words, it should be based on the laws of dialectical and formal logic ¹.

Forensic classification of crimes is their differentiation or systematization according to criteria that have forensic significance. It contributes to the formation of forensic characteristics of crimes and the development of specialized investigative methods ². As V. Tishchenko rightly notes, forensic classification of crimes makes possible to carry out comprehensive analysis of the identified categories of socially dangerous acts, generalize their forensically significant

1 Кривоченко Л. М. Класифікація злочинів за ступенем тяжкості у Кримінальному кодексі України : монографія. Київ, 2010. С. 15.

2 Шепітько В. Ю. Криміналістика : підручник. Київ, 2010. С. 324.

characteristics and form appropriate forensic characteristics. It also contributes to the development of investigative techniques of various levels: interspecific, species, group and non-specific ones that ensures their effective application in specific investigative situations³.

Given the fairly recent amendments and additions⁴ to the Criminal Code of Ukraine by Articles: 201, 201-1, 201-3, 201-4⁵, we consider appropriate to classify smuggling-related crimes. Since most scholars substantiate the possibility of formulating forensic recommendations in the form of forensic methods by outlining approaches to the technologies for building such methods⁶, we consider forensic classification of criminal offenses to be an urgent research issue.

Article Purpose

Develop a forensic classification of criminal offenses related to smuggling on the basis of the most significant forensic signs.

Research Methods

The methodological basis of the research is general scientific and special scientific methods. Methods of analysis and synthesis, as well as dialectical, system-structural and system-functional ones, provided logical presentation of opinions, their argumentation and generalization in the form of conclusions. Data analyzed in this work is collected by studying provisions of legislative acts, theoretical scientific research and analyzed using a qualitative approach of judicial practice.

Analysis of Essential Researches and Publications

Problems of counteraction and investigation of smuggling, as well as application of specific expertise in this procedure were investigated by the following Ukrainian scientists: A. Buha, I. Hora, L. Kapitan-chuk, O. Kofanova, O. Kuznetsova, R. Maliuha, A. Padalka, A. Poliakh, I. Rudnytskyi,

- 3 Тіщенко В. В. Теоретичні і практичні основи методики розслідування злочинів : монографія. Одеса, 2007. С. 44.
- 4 Про внесення змін до Кримінального та Кримінального процесуального кодексів України щодо криміналізації контрабанди товарів : Закон України від 09.12.2023 р. № 3513-IX. URL: <https://zakon.rada.gov.ua/laws/show/3513-20#n6> (date accessed: 20.02.2025).
- 5 Кримінальний кодекс України від 05.04.2001 р. № 2341-III (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 20.02.2025).
- 6 Книженко С. Особливості розслідування злочинів проти правосуддя, що вчиняються свідками, потерпілими або іншими особами шляхом перешкоджання встановленню істини у справі. *Вісник Національної академії прокуратури України*. 2016. № 3 (45). С. 61—65. URL: http://nbuv.gov.ua/UJRN/Vnapu_2016_3_11 (date accessed: 20.02.2025) ; Мазур А. П. Побудова криміналістичних версій на початковому етапі розслідування окремих видів злочинів проти правосуддя. *Право і суспільство*. 2015. № 4. Ч. 2. С. 193—198. URL: http://www.pravoissuspilstvo.org.ua/archive/2015/4_2015/part_2/34.pdf (date accessed: 20.02.2025) ; Романаускас К. А. Основи методики розслідування надання завідомо неправдивих показань свідком і потерпілим : монографія / за заг. ред. д-ра юрид. наук, проф. В. О. Гусевої. Харків, 2024. 203 с. ; Русанівська Д. Д. Розслідування втручання в діяльність захисника чи представника особи : дис. ... д-ра філос. Київ, 2023. 260 с. URL: <https://elar.navs.edu.ua/server/api/core/bitstreams/87c654d4-47e0-4e7b-ae7c-8ecfdc784aaf/content> (date accessed: 20.02.2025).

A. Svintsytskyi, V. Topchii, Ya. Furman, V. Shevchuk, et al.

V. Shevchuk, in order to facilitate development of methods for investigating smuggling, called it promising to generalize and systematize the methods of committing this crime, taking into account specific objects of illegal movement. As the scientist noted, it is advisable to distinguish the methods of smuggling goods, jewelry, precious metals, etc. It is important to classify the methods of illegal movement according to specific types of smuggling. For example, determine specifics of the smuggling of excisable goods, food and industrial goods, alcoholic beverages, tobacco products, alcohol, fuels and lubricants, cars, petroleum products, non-ferrous metals, energy carriers and other resources. The researcher notes: improving the system of collecting and generalizing information on the most common methods of smuggling in Ukraine will contribute to a more effective fight against this type of criminal activity⁷.

Ya. Furman focused on the need to counteract criminal encroachments on cultural values, works of art and antiques of art experts, employees of museums and art galleries: he developed the basics of the methodology for investigating this type of criminal offense⁸.

R. Maliuha conducted a thorough analysis of various aspects of proving the smuggling of narcotic drugs, psychotropic substances, their analogues and precursors, as well as counterfeit medicines at the stage of pre-trial investigation. The researcher explains low efficiency of investigating this type of smuggling not only by the fact that a significant part of such crimes are committed by organized criminal groups that act in a conspiratorial manner and have corrupt connections in customs, law enforcement and judicial bodies: he names as additional factors the ambiguous understanding by law enforcement officers of the essence, boundaries, subject, means and other elements of criminal procedural evidence, insufficient scientific development of relevant theoretical aspects, as well as the lack of practical recommendations for proving evidence at the stage of pre-trial investigation in such criminal proceedings⁹.

A. Buha emphasized the importance of involving specialists in the investigation of criminal offenses related to the illegal circulation of medicines¹⁰. The researcher's classification of criminal offenses related to the illegal circulation, in particular, smuggling of medicines, should be positively noted. According to the scientist's

- 7 Шевчук В. М. Розділ VIII «Розслідування контрабанди» / Шепітько В. Ю., Коновалова В. О., Журавель В. А. та ін. Розслідування злочинів у сфері господарської діяльності: окремі криміналістичні методики : монографія ; за ред. проф. В. Ю. Шепітька. Харків, 2006. С. 481—537. URL: https://library.nlu.edu.ua/POLN_TEXT/KNIGI/PRAVO/Shepitko_Rozslid_2006.pdf (date accessed: 20.02.2025).
- 8 Фурман Я. В. Основи методики розслідування контрабанди культурних цінностей : автореф. дис. ... канд. юрид. наук. Київ, 2009. 22 с. URL: <https://uacademic.info/ua/document/0410U001200> (date accessed: 20.02.2025).
- 9 Малюга Р. В. Кримінальне процесуальне доказування контрабанди наркотичних засобів, психотропних речовин, їх аналогів чи прекурсорів або фальсифікованих лікарських засобів у досудовому розслідуванні : дис. ... канд. юрид. наук. Київ, 2015. 273 с. URL: <https://uacademic.info/ua/document/0415U005439> (date accessed: 20.02.2025).
- 10 Буга А. Ю. Методика розслідування злочинів, пов'язаних з незаконним обігом лікарських засобів : дис. ... д-ра філос. Одеса, 2020. 258 с. URL: <https://uacademic.info/ua/document/0822U100024> (date accessed: 20.02.2025).

position, forensic classification should be understood as the process of realizing intellectual abilities of an authorized subject in the context of ordering and systematizing objects by dividing them using logical operations, i.e. the studied phenomena or objects are combined into a certain system in accordance with the prescribed forensically significant criteria. In other words, they are combined into groups depending on common characteristics and differences determined on the basis of previously agreed forensic signs ¹¹.

General theoretical aspects of forensic classification of crimes have been studied by: S. Bondar, V. Husieva, V. Zhuravel, Yu. Komarynska, V. Korzh, S. Knyzhenko, M. Kryvonos, V. Maliarova, T. Matiushkova, O. Samoilenko, R. Stepaniuk, O. Pchelina, B. Shchur ¹². The scientists revealed essence and peculiarities of application of forensic classification, defined its importance and created the basis for further research in this area. They substantiated expediency of applying certain criteria for the classification of criminal offenses. Despite the significant contribution to development of this topic, some specific classi-

fications of offenses remain insufficiently researched (in particular, crimes against justice).

Researchers periodically refer to classification of criminal offenses related to smuggling. At the same time, existing researches do not yet allow to comprehensively solve this problem and outline the prospects for building separate forensic investigation methods.

Main Content Presentation

Criminal offenses and their groups (as independent objects of cognition) can be thoroughly investigated in the case of applying the classification method, as well as induction and deduction methods. Their complex application in compliance with the rules of formal logic makes it possible to delve from the whole to the structural components, parts and vice versa. This approach ensures the identification of patterns between their parts and elements, the definition of the relationship between them, as well as the grounds and features of interaction within the system that has become the object of research ¹³. Thus,

11 Буга А. Ю. Знач. твір. С. 50. URL: <https://uacademic.info/ua/document/0822U100024> (date accessed: 20.02.2025).

12 Щур Б. В. Теоретичні основи формування та застосування криміналістичних методик : монографія Харків, 2010. 319 с. ; Гусева В. О. Теоретичні основи методики розслідування злочинів проти авторитету органів державної влади у сфері правоохоронної діяльності : дис. ... д-ра юрид. наук. Харків, 2021. 538 с. URL: <https://core.ac.uk/download/pdf/442209993.pdf> (date accessed: 20.02.2025) ; Книженко С. О. Криміналістична класифікація злочинів проти правосуддя. *Право і безпека*. 2013. № 1 (48). С. 113—118. URL: http://nbuv.gov.ua/UJRN/Pib_2013_1_26 (date accessed: 20.02.2025) ; Самойленко О. А. Криміналістична класифікація злочинів, вчинених із використанням обстановки кіберпростору. *Науковий вісник Ужгородського національного університету. Серія: Право*. 2018. Вип. 49. Т. 2. С. 162—166. URL: <https://dspace.onua.edu.ua/server/api/core/bitstreams/a3762107-fa9f-4672-8044-18c86f567c0a/content> (date accessed: 20.02.2025) ; Степанюк Р. Л. Криміналістична класифікація злочинів, що вчиняються в бюджетній сфері України. *Вісник Харківського національного університету внутрішніх справ*. 2010. № 4 (51). Ч. 1. С. 175—180. URL: http://nbuv.gov.ua/UJRN/VKhnuvs_2010_4%281%29__24 (date accessed: 20.02.2025).

13 Тищенко В. В. Корыстно-насильственные преступления: криминалистический анализ : монография. Одесса, 2002. С. 18. URL: <https://coolib.cc/b/425251-valeriy-vladimirovich-tishchenko-koryistno-nasilstvennyie-prestupleniya-kriminalisticheskii-analiz/read> (date accessed: 26.02.2025).

the classification method creates the prerequisites for cognition of the essence of criminal law phenomena, develops recommendations for their cognition by scientists and in investigative activity.

It is worth agreeing with M. Kryvonos, who noted the advantages of this research method in the context of crimes related to drug trafficking. In his opinion, such a classification contributes to:

- developing schedule of actions of investigator during the pre-trial investigation;
- systematization of signs of criminal offense topic, formation of algorithms for its forensic research;
- improving information support of investigative activities, ensuring legal and organizational regulation of various areas of cognitive activity of prosecution;
- determining forms and tasks of interaction between the subjects of information and analytical activities during investigation of criminal offenses¹⁴.

Thus, the forensic classification can be applied to crimes that have fairly clear forensically significant criteria. Since the topic of our research is a group of crimes united on the basis of the generic object of the conceptual components of the mechanism of criminal activity and methods of commission, we believe that task of developing a forensic classification of smuggling-related criminal offenses is quite reasonable.

Each classification of criminal offenses is based on certain signs or criteria. Generalization of theoretical approaches makes possible to assert that a certain pluralism of views on essence of classification criteria persists in scientific community.

For example, S. Cherniavskiy and R. Dovbash believe that crimes can be classified taking into account both criminal-legal characteristics and forensic criteria that makes possible to distinguish three main groups of crimes: basic related and associated ones¹⁵.

Basic crimes are a key element of the mechanism of criminal activity. They reflect the main focus of unlawful actions of a person or group of persons and ensure the achievement of the criminal goal. *Related (auxiliary)* crimes are offenses that are a way or a necessary condition for the preparation, implementation or concealment of predicate crimes. They can help to disguise the traces of criminal activity or its individual episodes. *Related crimes* have certain common signs with predicate crimes, but differ in certain criminal law and forensic characteristics¹⁶.

B. Lukianchykov investigating the types of forensic methods, noted that criteria for their classification may be the patterns clarified both during the commission of the crime and in the process of its cognition by the subject of criminal proceedings. The scientist stressed that for classification it is advisable to apply not only formal signs (for example, object of criminal attack), but meaningful criteria

14 Кривонос М. В. Криміналістична класифікація злочинів як наукова основа застосування спеціальних знань у розслідуванні злочинів у сфері обігу наркотичних засобів, психотропних речовин, їх аналогів або прекурсорів. *Вісник Академії митної служби України. Сер.: Право*. 2012. № 2. С. 134. URL: http://nbuv.gov.ua/UJRN/vamsup_2012_2_23 (date accessed: 20.02.2025).

15 Чернявський С. С., Довбаш Р. С. Протидія злочинам, пов'язаним з незаконним відшкодуванням податку на додану вартість : наук.-практ. посіб. Київ, 2009. С. 22–23.

16 Там само.

that are crucial for investigation and take into account specific forensic specifics of crimes¹⁷.

Similar approach is shared by V. Tishchenko, who classified violent crimes by elements of forensic characteristics, distinguishing among them the following groups:

- according to offender person, take into account the number of participants in the crime, the level of organization, age, gender, affiliation, professional activity, hobbies, as well as the relationship between the offender and the victim;
- according to infringement object, take into account the identity of the victim and criminal infringement topic;
- according to crime circumstances, analyze the place, time and other circumstances that accompanied the crime;
- according to method, consider methods of preparation, direct commission and concealment of a crime;
- according to consequences, assess the result of the crime and its consequences¹⁸.

This classification contributes to a more detailed analysis of violent crimes which in turn ensures development of effective methods for their investigation.

Regarding best practices of scientists in the review of the chosen subject of re-

search, we should refer to classification of criminal offenses in the field of economic activity. S. Trach studies the latter comprehensively, determining the prospects for development of certain methods of investigating criminal offenses in the field of economic activity, scientist proposed to classify them according to the following criteria:

- 1) economic activity field (sectoral approach):
 - investigation of offenses related to violation of order of circulation of money, securities and other financial documents;
 - investigation of tax evasion offenses;
 - investigation of crimes in the field of budget regulation;
 - investigation of offenses related to illegal movement of goods across the customs border of Ukraine;
 - investigation of violations of business and other economic activities;
 - investigation of crimes against the rights and legitimate interests of creditors;
- 2) criminal law (species) characteristics:
 - investigation of basic criminal offenses (crimes provided for in Sec. VII of Criminal Code of Ukraine¹⁹);
 - investigation of subordinate criminal offenses (Articles 190, 191 of the Criminal Code²⁰);

17 Бахін В., Лук'янчиков Б. Склад і призначення криміналістичної характеристики злочинів. *Правничий часопис Донецького університету*. 2000. № 1 (4). С. 39–43 ; Лук'янчиков Є. Д., Лук'янчиков Б. Є., Петряев С. Ю. Криміналістична характеристика в структурі методики розслідування злочинів. *Криміналістика і судова експертиза*. 2021. Вип. 66. С. 178–190. DOI: 10.33994/kndise.2021.66.19 (date accessed: 26.02.2025) ; Лук'янчиков Б. Вневидові методики розслідування злочинів як напрямок удосконалення криміналістичної методики : дис. ... канд. юрид. наук. Київ, 2001. 194 с.

18 Тіщенко В. В. Зазнач. твір. С. 44.

19 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 20.02.2025).

20 Там само.

- investigation of related criminal offenses (Articles 364, 366 of Criminal Code²¹);
- 3) other forensically significant criteria:
 - depending on specifics of business transactions within which the offense was committed;
 - in accordance with the method of committing crime;
 - taking into account peculiarities of criminal offense topic, etc.²²

The above classification makes possible to more effectively structure the methods of investigating criminal offenses in the field of economic activity and take into account their key specifics.

S. Tiulieniev investigating criminal offenses in the field of economic activity related to the illegal acquisition of assets of economic entities, proposed to classify them according to the following criteria:

- direct object of encroachment;
- topic subject of criminal offenses;
- type of economic activity that has been subjected to criminal influence;
- nature and form of detection of traces of criminal activity;
- nature of obtained criminal result;
- composition peculiarities of persons involved in the implementation of criminal intent;
- nature of the actions carried out by the raiders²³.

According to the approach of V. Usatyi, the main criteria for the classification of criminal offenses in the field of economic activity are as follows:

- type of economic interests that have suffered damage;
- status of entity in the field of economic legal relations, in which respect the crime was committed;
- type of tools and equipment used;
- type of economic activity and branch of production to which the affected business entity belongs;
- form of complicity of persons who committed a crime;
- outstanding characteristics of the person;
- method of offense committing;
- topic specifics of criminal infringement and social relations that have suffered damage;
- amount of damage caused;
- type of violence used (if any);
- legal regime within which the criminal offense occurred;
- type of consequences that have arisen as a result of the crime²⁴.

As additional criteria, the author considers:

- purpose and motives that guided the guilty person or group of persons in committing offense;
- existence of preparatory actions and other factors that influenced

21 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 20.02.2025).

22 Трач С. С. Концепція методики розслідування кримінальних правопорушень у сфері господарської діяльності. *Науковий вісник публічного та приватного права*. 2021. Вип. 2. Т. 2. С. 93, 99. DOI: [10.32844/2618-1258.2021.2.2.16](https://doi.org/10.32844/2618-1258.2021.2.2.16) (date accessed: 20.02.2025).

23 Тюленев С. А. Криміналістична класифікація злочинів і кримінальних проступків, пов'язаних із протиправними посяганнями на активи суб'єктів господарювання. *Вісник Харківського національного університету внутрішніх справ*. 2024. Т. 106. № 3. С. 235—246. DOI: [10.32631/v.2024.3.20](https://doi.org/10.32631/v.2024.3.20) (date accessed: 20.02.2025).

24 Усатий В. О. Криміналістична класифікація кримінальних правопорушень у сфері господарської діяльності. *Вісник Харківського національного університету внутрішніх справ*. 2024. Т. 107. № 4. С. 220—230. DOI: [10.32631/v.2024.4.20](https://doi.org/10.32631/v.2024.4.20) (date accessed: 20.02.2025).

implementation of the criminal project ²⁵.

The forensic classification of crimes related to drug trafficking, as noted by A. Buha, can be developed on the basis of the following criteria:

- according to the method of committing crime (in particular, according to the form of criminal activity; according to the use of tools and means; according to the method of falsification of medicines; according to the method of distribution of illegal medicines);
- according to legality of infrastructure (illegal circulation through officially registered enterprises; crimes committed through illegal participants in pharmaceutical market, committed simultaneously in legal and illegal sectors of pharmaceutical activity; participation of officials of state institutions in a criminal scheme);
- according to the fact of concealment (crimes for which the traces of the offense are concealed and not concealed);
- according to the subject of a criminal infringement (falsified, poisonous or potent medicines; funds obtained from the illegal circulation of medicines; equipment for the illegal production of medicines; medicines for which the procedure for preclinical and clinical trials or state registration has been violated);
- according to the crime situation (localization; scale; international nature);
- according to the crime scene;
- according to the duration of illegal trafficking (short-term; long-term);
- according to the person of the offender (by social and professional status; by the number of participants; by availability of criminal experience; by gender; based on the motives of the crime);
- according to victims or aggrieved persons (according to the signs of the aggrieved party; according to nature of the caused damage) ²⁶.

The above classification makes possible to comprehensively analyze the illicit trafficking in medicines, which contributes to improving efficiency of investigation and prevention of such crimes. At the same time, in the above positions, the authors proposed a number of classification criteria that can be used to group criminal offenses.

In view of the above, let us summarize: scientists base certain criteria on the most significant forensic grounds (signs, characteristics). In our opinion, they can be recognized as elements of the mechanism of criminal illegal activity, forensic characteristics of criminal offenses.

In the context of criminal offenses related to smuggling, the methods of committing a criminal offense are of great importance, including, in particular: 1) committed with concealment from customs control; 2) realized outside of customs control. Ya. Furman identified a number of ways of illegal transportation of cultural property across the border committed with the avoidance of customs control, such as: the use of caches and other methods that complicate the detection of contraband items during inspection;

25 Усатий В. О. Зазнач. твір. DOI: 10.32631/v.2024.4.20 (date accessed: 20.02.2025).

26 Буга А. Ю. Криміналістична класифікація злочинів, пов'язаних з незаконним обігом лікарських засобів. *Прикарпатський юридичний вісник*. 2019. Вип. 2 (27). Т. 2. С. 77–83. URL: http://nbuv.gov.ua/UJRN/Pjuv_2019_2%282%29__18 (date accessed: 20.02.2025).

transportation in accompanied or unaccompanied cargo; by a person or animal; disguise by giving the items the appearance of other things²⁷. Another common way to realize a criminal intent aimed at smuggling is to provide customs authorities with falsified documents forged, illegally obtained or containing false information. This list includes cases when documents required for the transportation of certain goods are used for the illegal transportation of others, as well as physical (material) forgery of accompanying documentation. Separately, the researcher identified the methods of smuggling carried out outside the control of the customs authorities: illegal movement outside the locations of customs points, crossing the border outside of working hours, the use of illegal mechanisms to exempt from customs control²⁸.

In scientific literature, the methods of smuggling by concealment from customs control are also classified as moving by: 1) use of caches; 2) use of various methods of *physical concealment*; 3) falsification of customs and other documents²⁹.

Thus, the method of committing a criminal offense is classification significant that leads to other specifics that should be taken into account when developing scientifically sound recommendations for investigating crimes. For example, use of forged documents in commission of a crime makes necessary to find, seize and expertly examine them. Subsequently, it is necessary to find out forger iden-

tity, tools and means used, etc. Such tasks are primarily determined by the circumstances to be established, which, in turn, are situationally dependent. These factors necessitate a whole range of investigative (detective) and other procedural actions. Thus, the method of committing criminal offenses can be used as the basis for forensic classification of the criminal offenses under research.

The very subject of encroachment has the same significant forensic significance as a method for criminal offenses related to smuggling. Currently, the legislator has criminalized smuggling:

- poisonous and potent substances, cultural values, weapons or ammunition (except for smooth-bore hunting weapons or ammunition for them), parts of rifled firearms, explosives, radioactive materials, special technical means for secretly obtaining information (Article 201 of the Criminal Code);
- timber and lumber of valuable and rare species of trees, raw timber, as well as other timber prohibited for export outside the customs territory of the State (Article 201-1 of the Criminal Code);
- goods (Article 201-3 of the Criminal Code);
- excisable goods, except for electricity (Article 201-4 of the Criminal Code)³⁰.

Therefore, criminal offenses related to smuggling can be classified on sepa-

27 Фурман Я. В. Зазнач. твір. С. 8. URL: <https://uacademic.info/ua/document/0410U001200> (date accessed: 20.02.2025).

28 Фурман Я. В. Зазнач. твір. URL: <https://uacademic.info/ua/document/0410U001200> (date accessed: 20.02.2025).

29 Шевчук В. М. Зазнач. твір. С. 489—493. URL: https://library.nlu.edu.ua/POLN_TEXT/KNIGI/PRAVO/Shepitko_Rozslid_2006.pdf (date accessed: 20.02.2025).

30 Кримінальний кодекс URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (date accessed: 20.02.2025).

rate grounds of the subject of smuggling. Thus, if it is possible to distribute the topic of smuggling in free circulation, they can be combined into two independent groups: 1) criminal offenses, subject of smuggling of which are goods and other valuables in free circulation; 2) criminal offenses, subject of smuggling of which are goods, substances and means limited to free or withdrawn by law from civil circulation.

The following criteria can be used as additional grounds for classifying criminal offenses related to smuggling: time, situation and place of commission of criminal offenses; tools and means used; some characteristics of smuggler personality or group of smugglers, etc.

Conclusions

Significant level of public danger is characterized by a group of criminal offenses that encroach on public relations in the field of economic activity, in particular those related to smuggling. This type of criminal offenses (despite availability of certain common signs) covers quite diverse (by individual characteristics) types and forms of criminal activity. This primarily concerns specifics of smuggled goods and the methods of committing criminal offenses. Based on generalization of theoretical approaches to the forensic classification of criminal offenses, the author substantiates the need to apply an approach which while studying legal phenomena, provides for simultaneous consideration of both criminal law specifics which are basic and forensically significant.

The analysis of legislative and theoretical approaches makes possible to distinguish the main classification criteria for criminal offenses related to smuggling: 1) method of implementing the criminal

intent of smugglers; 2) topic specifics of smuggling. According to the method of implementing the criminal intent of smugglers, the following groups of criminal offenses can be distinguished: 1) committed with concealment of smuggled goods from the control of customs officers (with the use of auxiliary tools and means); 2) implemented outside the customs control.

According to peculiarities of the subject of smuggling, it is proposed to single out criminal offenses related to the illegal movement across the border of the objects defined in Articles 201, 201-1, 201-3, 201-4 of Criminal Code. If it is possible to spread and stay in free circulation, the investigated criminal offenses can be combined into two independent groups, the topic of which were: 1) things not withdrawn by law from free circulation; 2) goods, substances and means limited to free or withdrawn by law from civil circulation.

Additional criteria for classifying criminal offenses related to smuggling can be: time, situation and place of commission of criminal offenses; tools and means used; some characteristics of smuggler personality or a group of smugglers, etc.

Криміналістична класифікація кримінальних правопорушень, пов'язаних із контрабандою

**Юрій
Ковальов**

Мета статті — на підставі найбільш значущих криміналістичних ознак розробити криміналістичну класифікацію кримінальних правопорушень, пов'язаних із контрабандою. Методологічним підґрунтям дослідження є загальнонаукові та спеціальні наукові методи. Окрема група кримінальних правопорушень, що посягають на суспільні відносини у сфері забезпечення господарської

діяльності, пов'язана з контрабандою. Цей вид кримінальних правопорушень (попри наявність певних спільних ознак) охоплює доволі різноманітні види й форми кримінально протиправної діяльності. Це передусім стосується особливостей предмета контрабанди і способів учинення кримінальних правопорушень. На підставі узагальнення теоретичних підходів до проведення криміналістичної класифікації кримінальних правопорушень обґрунтовано необхідність застосування підходу, який під час дослідження правових явищ передбачає одночасне врахування ознак як кримінально-правових, що є базовими, так і криміналістично значущих. Основними класифікаційними критеріями кримінальних правопорушень, пов'язаних із контрабандою, ми вважаємо: 1) спосіб реалізації злочинного умислу контрабандистів; 2) особливості предмета контрабанди. За способом реалізації можна виокремити такі групи кримінальних правопорушень: 1) учинені із приховуванням предметів контрабанди від контролю митників (із застосуванням допоміжних знарядь і засобів); 2) реалізовані поза митним контролем. За особливостями предмета контрабанди запропоновано виокремлювати кримінальні правопорушення, пов'язані з незаконним переміщенням через кордон об'єктів, визначених у ст. 201, 201-1, 201-3, 201-4 Кримінального кодексу України. За можливістю поширення та перебування у вільному обігу предметів контрабанди досліджувані кримінальні правопорушення можна об'єднати у дві самостійні групи: 1) кримінальні правопорушення, предметом яких є речі, не вилучені законом із вільного обігу; 2) кримінальні правопорушення, предметом контрабанди яких є обмежені або вилучені законом із цивільного обігу товари, речовини й засоби.

Ключові слова: контрабанда; криміналістична класифікація; кримінальне правопорушення; злочин; види та групи кримінальних правопорушень; криміналістична методика.

Financing

This research did not receive any specific grant from funding institutions in the public, commercial or non-commercial sectors.

Disclaimer

Founders had no role in the research design, data collection and analysis, decision to publish or manuscript preparation.

Participants

The author has contributed solely to intellectual discussion underlying this document, case law research, writing and editing, and assumes responsibility for its content and interpretation.

Declaration of Competing Interest

Author declares no conflict of interest.

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