

The Ukrainian customs mafia

Taras Zozulinskyi

In our country there is a “war” for power at customs: winner takes it all, too bad for the loser



For the past ten months, strange things have been happening involving Lviv customs. Some call it a fight against corruption; others think it is a war between law enforcement

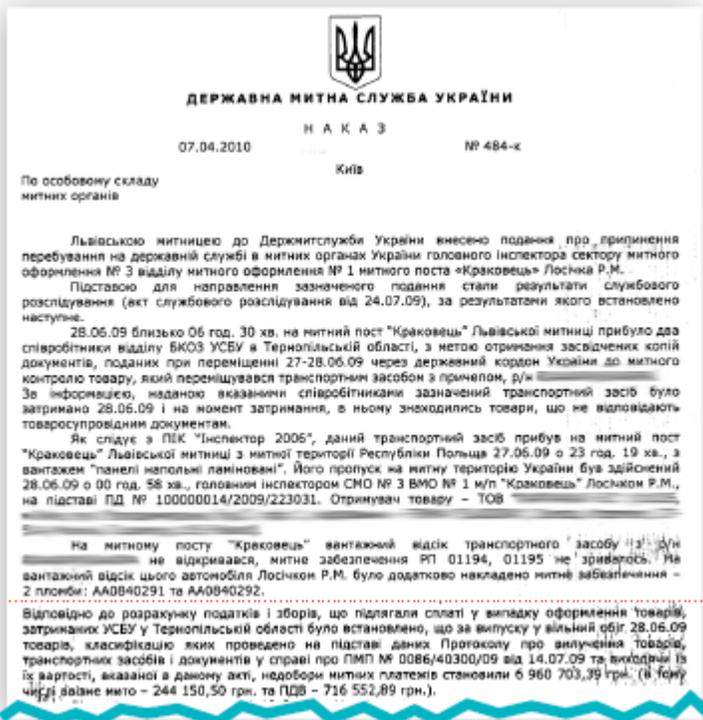
institutions, while yet others consider competition between local and incoming customs elites. There's also more speculation that deserves attention: Lviv customs serves a control base of cash flows, therefore the customs scandal was caused by a desire to change the head of the State Customs Service.

For a long time, Informator has conducted its own investigative journalism. Little by little, we collected information, analyzed events and monitored the situation. Therefore, we would like to present to our readers our vision and interpretation of rather ambiguous events that have stirred the Ukrainian customs environment.

Trucks are moving, reconnaissance is in process

The scandal broke out with one event – the deputy head of the Lviv customs was caught taking a \$7,000 bribe. A businessman gave the bribe to get a lower the customs value on imported tires. At first sight, it seems strange that this story became such a big deal, because it is a known fact that corruption thrives in Ukraine, and occasionally during anti-corruption campaigns, people get caught. However, the bribe from the entrepreneur was only pretext to detain the official. In fact, law enforcement services aimed much higher; their goal was to uncover a corruption scheme that spread far beyond Lviv – all the way to managerial positions “above” – in Kyiv. This bribe was merely a spark that started the “fire” that had been prepared by law enforcement.

So what did law enforcement find? Yuriy Kitsul, head of the Security Service of Ukraine (SSU) in Lviv region, told about the findings exclusively to Informator. “During 2010 – 2011, the management of Lviv customs organized a vertical scheme of receiving bribes,” said the major general. “Customs officers artificially lowered the value of goods and in this way enabled importers to evade payment of mandatory dues to the state budget.”



(Document: State Customs Service of Ukraine order to fire one of the head customs inspectors. The document lists some cases of procedural and legal violations. The last paragraph says that as a result of these violations, the state budget did not get 960,000 hryvnyas.)

Photo caption: State budget arrears of 960,000 hryvnyas.

The illicit mechanism worked in the following way: Lviv customs officers had a differentiated approach to determining the customs value of popular goods (household appliances, meat products, car tires, etc.). For importers who paid customs officers separately for this service, the minimal value was established for their goods. For example, the difference in the payments to the state budget for clearance of one truck with tires (considering the minimal and actual customs value of goods, determined by customs) is over \$10,000. And this clearance of a truck with tires at a minimum customs value only cost a \$3,000 bribe.”

All these schemes have been known for a long time to businessmen and customs officers. They demand bribes, they take bribes – we know that. However, at Lviv customs, it was a well-organized network of transferring bribes. The system was so well established that it ran like clockwork.

“The representatives of businessmen passed some “extra” money to certain middle level management of Lviv customs,” says Yuriy Kitsul. “The latter, in their turn, had to pass, twice a month, a predetermined amount to their superior – the deputy head of customs. During the detention of this high level manager in her office, except for \$7,000 bribe, the law enforcement service also found \$26,200. Of course, the staff of the SSU in Lviv region realized that the deputy head could also keep large amounts of money at home but the

search results have exceeded all expectations. In the apartment the deputy head of the Lviv customs was renting, they found not only \$96,000 but also notebooks with notes on the distribution of cash to other officials!” told Mr. Kitsul.

The law enforcement service documented all the links and the network. According to Yuriy Kitsul, Lviv customs officials used their trusted subordinates and organized a real “reconnaissance network”. Their duty was to monitor the amount and type of goods that went through Ukrainian customs in violation of customs procedures. This information was collected to be able to accurately determine the amount of bribes that was supposed to be passed to Lviv customs’ top management from their subordinates.

Customs officers “covered” both “black” and “grey” contraband. An additional source of income and bribes was a paid service – they provided illegal benefits of bringing administrative charges against businessmen for violating customs rules. The most common case was when a customs officer filed a protocol on the non-declaration of goods (on the basis of Art. 340 of the Customs Code of Ukraine) instead of referring to Article 352 of the Customs Code, which involves the confiscation of goods. Nevertheless, a number of other events preceded all these recently revealed schemes.

COMMENTARY

Serhiy Koval, former head of customs division #2 of the customs post Mostyskaa: “The corruption system is established in most law enforcement institutions. When a new head of customs comes to office, he/she gathers everybody for a meeting and sets tariffs and rates – that is the amount of money that needs to be collected. And officers have to collect money for this person. That creates preconditions for bribing. The subordinates are told that either they agree to work this way or they are removed from their positions or dismissed altogether.”

Staff transfers for the sake of protégés

“Back in May 2010, Lviv customs was already in fever,” says Serhiy Koval, former head of customs division #2 of the customs post Mostyskaa. “Everything started with 650 customs operations officers of Lviv customs being transferred without their consent to domestic customs. They were substituted by staff from non-operational divisions (e.g., accounting office). And only afterward we were forced to write backdated statements about transferring positions. People had to write these statements because we worked in a system where it was clear: if your management tells you that this is the way it should be, then you had better not contradict it.”

The State Customs Service explained this personnel shift as measures to fight corruption. So the key managerial operations positions were overtaken by new people. And then in summer, Lviv customs got a new head, Roman Mykytiuk, who came along with his protégé, the detained deputy head. We would like to remind you that a couple of months prior, Ihor Kaletnyk, new head of the State Customs Service of Ukraine, came to office.

As we found out, the official justification for shifting almost 90% of Lviv customs staff was to fight corruption. However, we can assume that the leadership, using this justification as

a cover-up, just sent their protégés to take up key operational positions. It is likely that law enforcement assumed the same and, we think, they carefully monitored the course of events, and not only monitored...

The first "bell" for the leadership of Lviv customs was the scandal on May 26. Then the Security Service of Ukraine staff detained one of the officers of the customs value control department as he was caught taking a bribe; they also detained two other officers of the same department as suspects for receiving bribes to lower the real customs value of goods for businessmen to pay smaller fees to the state budget. The press center of the SSU in Lviv region reported that law enforcement found over \$7,000 and 5,000 hryvnias in the office of the customs employees. Seven participants of this criminal scheme were revealed.

We were able to find out from Lviv businessmen that these events took place in the domestic customs office located on Horodotska Street. For a while, the bribing stopped. A representative of one Lviv small business told us that in the past they had to bribe to clear freight with all the needed documentation at the domestic customs. For example, even for issuing one declaration (even if it was a parcel of goods), they demanded 100 hryvnias. A customs officer would dial the amount on his cell phone and ask: "So, should we think about it?" They delayed documentation even for small goods.

Maybe the detained officers from the Horodotska customs office told many interesting facts to law enforcement, because from then on many Lviv customs officers were caught with bribes and detained. Probably law enforcement realized that the bribes go "higher up"; because if those receiving bribes forgot how to share, they would have been noticed by their internal security service.

Smuggling as it is

In the following months, the Security Service of Ukraine in Lviv region revealed more and more facts of the customs staff's "work". We will not describe all of them but will tell about a couple of the most important examples, because even these few cases will demonstrate that law enforcement worked in all directions: from domestic customs – to border customs posts. In July, a car with a trailer was detained not far from the border post Shehyni–Medyka; the car was transporting parts and accessories for imported cars. According to the press center of the SSU in Lviv region, law enforcement found out that the cargo came into Ukraine through the Mostyskaa border post, without making a mandatory payment to the state budget. The market price of the detained car parts exceeded a million hryvnias. A criminal case was filed against the customs officer who did not follow the proper customs procedure.

The next month law enforcement detained two trucks that crossed customs post Rava-Ruska and brought into Ukraine contraband computer equipment worth almost 10,000,000 hryvnias. One truck was found in the warehouse of one local company; the equipment was being reloaded for further distribution. It was revealed that at customs control, the importers presented documents where it was stated that both trucks were importing washing machines and mouse pads. During the review, law enforcement staff found 1,440 laptops, 2,268 computer screens and over 33,000 computer parts and

components. A criminal case was filed against Rava-Ruska custom officers for abusing their authority.

These cases are a good demonstration of three popular schemes used by customs officers to get additional illegal income. Stories about domestic customs on Horodotska Street and border post Rava-Ruska illustrate so-called “grey” contraband. That is when a customs officer, in exchange for a bribe, lowers the real value of goods and hence the amount of payments to the state budget (the Horodotska office case). Another kind of “grey” contraband involves the declaration of goods as something different (instead of washing machines and mouse pads, they imported computer equipment in large quantities).

The lowering of customs value, for instance, is also used while registering expensive imported cars. Such cases were revealed in December 2010 by the prosecutor service in Lviv region. Criminal cases were filed against the officers who abused their authority.

CASE STUDY

Praise honest officers!

At the Lviv customs, there was definitely one honest officer, who worked as an inspector in the cargo department, but now has a much lower title. In the customs environment, he earned his nickname of Kontuzhenyi (shell-shocked). The man was not wounded or hurt; he got this nickname because he did not take bribes. In the customs environment, this is considered to be a deviation from the normal, moreover and compares to being shell-shocked.



Caption: Instead of plumbing equipment and parts for it – Italian furniture

Invisible car... or “Have a safe trip!”

"Black" smuggling is illustrated by the case at Shehyni in July: cargo goes through customs without clearance and without any payments to the state budget. Custom officers just waved the smugglers "good-bye" and wished them a safe trip! In smugglers' slang this is called "to sink the cargo".

This is not the only example of this kind of contraband, proof of that is the Mostyska court resolution from January 31, 2011. It finds a Mostyskaa customs officer guilty of violating the Law of Ukraine "On fighting corruption" by illegally freeing a truck filled with shoes from customs clearance in July 2010. The driver had 1,845 pairs of sport shoes with an overall value of \$10,678. Once again, special team from the law enforcement demonstrated good work and 30 kilometers away from the Mostyska customs post caught a car without customs clearance documents for the goods.

On the State Customs Service website, we found out about the following two stories. Mr. Losichka, a Krakovets customs post inspector, was fired for breaching his oath; with his help, the state budget had a shortfall of 960,000 hryvnias.

Another customs registration inspector who worked at Lviv customs #3 (located on 127 Pashichna St.) was also fired. This internal customs office registered plumbing and furniture parts but in fact 14 sets of wooden Italian kitchen furniture were imported into Ukraine. As the result of this substitution of declared and imported cargo, the state budget did not get about 222,000 hryvnias. According to the State Customs Service resolution, this was possible because Mr. Oliinyk, the chief inspector, dishonestly performed his duties. Once again this was revealed thanks to the special team of law enforcement in Lviv region.

Of course, law enforcement realized that there was a reason why corruption thrived at the Mostyska, Krakovets and Rava-Ruska border posts, as well as in domestic customs offices (on Horodotska and Pashichna streets). Maybe the detained inspectors sincerely regretted their deeds and told on their patrons. In any case, law enforcement gathered a lot of useful information and it was obvious that the revelation and detention of the deputy head of the Lviv customs was not a coincidence – it was a well-planned operation with several months of information gathering.

Head of the SSU press center Maryna Ostapenko told Informator that they have dozens of documented cases when the deputy head took bribes from her subordinates. Since we already know that the "donations" were brought twice a month, then it becomes obvious that hidden cameras recorded criminal transactions at the Lviv customs for quite a long time. When we asked who exactly brought the bribes, Maryna Ostapenko responded that those were heads of divisions and customs posts (!).

Crossed the border, but did not come to Ukraine!

The final thing that inevitably influenced the events at Lviv customs and so-called beginning of the end for the current leadership of the State Customs Service of Ukraine was the story about 55 fired employees from three Lviv posts (Krakovets, Rava-Ruska and

Mostyska). Serhiy Koval, one of the fired staff who was a mid-level manager, insisted that the scandal could have been avoided and the story could be concealed from the public. According to Mr. Koval, the State Customs Service of Ukraine decided not to publicize this event widely.

"Everything started when Kyiv received information that one of the shifts at the Rava-Ruska post (where they carried out an experiment by exchanging information with Polish colleagues about imported goods) was not working well," said Serhiy. "All workers of that shift were called to the Lviv office on Kostyushko Street **where they were offered to write a statement about voluntarily quitting their job** (highlights by the author)."

So, according to Mr. Koval, the huge scandal could have been avoided if all the officers that faced the ultimatum just "left" voluntarily. However, only the head of the shift agreed to do so, the rest of the officers refused. So, that is when a committee called "a black team" among customs workers arrived; it found some very interesting facts. According to the State Customs Service of Ukraine resolution from November 24, 2010, there were 155 cases when vehicles with goods passed the international border posts Medyka-Shehyni, Hrebenne-Rava-Ruska, and Korchova-Krakovets but never made it to the Ukrainian customs zone or were not registered by Lviv customs.

So, here we are talking about the corruption schemes of "reloading" and "black" contraband. In the first case, Polish officers registered goods and afterward they could be reloaded onto regular cars (within the acceptable limit); then the goods did not have to be cleared at the customs as it was said to be purchased for private use. And "black" contraband is when the trucks passed the customs post without any clearance and registration of goods.

Customs officials deny all the accusations. Mr. Koval describes a third possible option and explanation for the situation. He insists that the only reason is the massive abuse of VAT refunds by Polish customs officers. "That is a so-called fake export," says Mr. Koval. "For example, a person fills out an export declarations form to export LCD TVs. If you export goods from Poland, you are subject to a VAT refund that equals 22% of the value. At the Shehyni customs post, there were many cases when we detained people had Polish stamps on export declaration forms. So, according to the documents, they were exporting goods from Poland but in fact they did not have these goods! They explained that there was a financial reward involved – it was a kind of "business" for them.

Thus, it turns out this documentation was done on the Polish side without any goods. In this way, the Polish registration documents state that certain goods were imported into Ukraine but in fact the goods never crossed the Ukrainian border. So some "smart ones" received a VAT refund and obviously Polish customs officers facilitated this. In addition, there is an interesting situation - for a certain reward, the Poles allow reloading goods. Therefore, goods are imported by individuals within the legal limit. This version of the story by Mr. Koval also deserves attention; however, a natural question arises: maybe this fired customs officer confused the countries and the customs authorities?

For subordinates – dismissal, for supervisors – only reprimand

There is a very interesting detail in the scandal with reloading: none of the three heads of the customs posts were fired. Inspectors and middle level managers were dismissed but their direct supervisors weren't!

Let's remember that according to Maryna Ostapenko, on the documented video, there were also heads of customs posts that brought donations to the Lviv customs supervisors. Maybe this is the key to the secret? So, we asked this question to an officer who has served over 18 years in the customs service. Of course, he wished to leave his last name unknown to the public, so we will call him Andriy Vasyliovych. On the documented video that was aired on TV, he recognized one person in a major's uniform. Andriy Vasyliovych said that this was the head of the Mostyska customs post, Vitalii Nechyporenko. On February 1, 2011, there was another detention but law enforcement did not reveal it to the public. Andriy Vasyliovych said that approximately at the same time, during the same hours, when the special operation in Lviv took place, another high rank official was detained near Brody. He was either running away with a bag full of money to Kyiv, or he was delivering donations to higher-ups. The detainee was questioned but then let free and his patron in the State Customs Service of Ukraine urgently covered him up and transferred him to a different custom post. Unfortunately, the press center of the SSU in Lviv region neither confirmed, nor refuted this information.

There is no coincidence that the anticorruption war in Lviv was happening at the same time as events at Odesa customs, where two key ports are located. In Southern Palmira (nickname for the Ukrainian city of Odesa), most businessmen without fear and anxiety for their business all together started talking about massive bribery in the local customs service. In Odesa, these events were happening publically with the involvement of many media outlets. It is clear that local businessmen would not have done that if they did not feel secure and protected by somebody. Shortly afterward came the answer to the question about who was protecting the accusers. The party "Silna Ukraina" ("Strong Ukraine"), headed by the Vice Prime Minister of Ukraine Serhiy Tigipko, stood up for the businessmen. Deputy Head of Silna Ukraina Ms. Kuzhel started a big campaign to protect businessmen from customs officers that demand and take bribes. All of this coincided with the work on the changes to the Customs Code of Ukraine, which was also being developed under the guidance of Serhiy Tigipko.

In Lviv, everything happened like in Odessa, where everything happened publicly, and the scandal spread far beyond the region's territory. And in our opinion, it is not an accident that the documented video by law enforcement was "given" to one TV channel. Therefore, analyzing all the information, we can make a conclusion that a war for the head of the State Customs Service of Ukraine has begun. On the Lviv "front," preparation for the astonishing "blitzkrieg" lasted a couple of months. That is because law enforcement did not want to merely catch with a bribe the deputy head of Lviv customs; they wanted to reveal the entire corruption scheme – from grassroots level (regular inspectors) and to the "tops" in the State Customs Service. We think that that the goal of the special operation was to "hit" really hard the top customs management in Kyiv, and then to further discredit the head of the State Customs Service along with his team.

P.S. The next issue of Informator will publish the second part of the customs investigation done by our reporters. The arrogant detention of customs officers, corruption schemes, and various contraband schemes in different regions – all of this will be described with specific names and facts in the next part of our journalistic investigation on “the Ukrainian customs mafia.”



ДЕРЖАВНА МИТНА СЛУЖБА УКРАЇНИ

НАКАЗ

№ 24 - 11 / 2010

№ 2189-к

Київ

По особовому складу

За результатами перевірки, проведеної відповідно до наказу Держмитслужби України від 16.11.2010 № 311-в, встановлено ряд порушень вимог законодавства України та службових обов'язків з боку посадових осіб Львівської митниці.

Зокрема, в результаті співставлення даних щодо проведеного митного контролю та митного оформлення в пункті пропуску «Рава-Руська», інформації ЄАІС Держмитслужби, даних Держприкордонслужби України, даних Митної служби Республіки Польща за період з 01.11.2010 по 15.11.2010 виявлено факти введення на митну територію України товарів з ухиленням від оподаткування.

Комісією встановлено, що з початку листопада поточного року посадові особи митного поста «Рава-Руська», які згідно з розподілом обов'язків здійснюють митний контроль на смугах червоного коридору», мають можливість переглядати розміщені в ПК «Інспектор 2006» ЄАІС Держмитслужби повідомлення Митної служби Республіки Польща стосовно транспортних засобів з товарами, щодо яких польською стороною проведено митне оформлення при виїзді з Польщі в Україну.

Однак, незважаючи на непрямоту ряду транспортних засобів, які відповідно до повідомлень польської сторони повинні були прибути для митного контролю на пункт пропуску «Рава-Руська», жодного разу посадові особи митного поста «Рава-Руська» не взяли заходів з метою встановлення причин цього. Окремі транспортні засоби, що за інформацією польської сторони переміщувалися з товарами, за результатами митного контролю в пункті пропуску «Рава-Руська» значаться як «порожні».



Комісією проведено звірку з польськими митними органами за період з 01.11.2010 по 15.11.2010 даних щодо в'їзду в Україну з території Республіки Польщі транспортних засобів з товарами, за результатами якої встановлено:

97 випадків, коли транспортні засоби, незважаючи на наявність повідомлення польської сторони про вибуття з польського пункту пропуску «Хрєбенно», не прибули в зону митного контролю пункту пропуску «Рава-Руська», або прибули пусті, або перетнули державний кордон пішім в інших міжнародних пунктах пропуску для автомобільного сполучення: «Медика - Шегіні», «Корчова - Краковець»;

32 випадки, коли транспортні засоби з товарами, які переміщувалися через міжнародний пункт пропуску автомобільного сполучення «Корчова - Краковець», не обліковані Львівською митницею;

26 випадків, коли транспортні засоби з товарами, які переміщувалися через міжнародний пункт пропуску автомобільного сполучення «Медика - Шегіні», не обліковані Львівською митницею.

Порушення та умови незаконного переміщення товарів через митний кордон України по «зеленому та червоному коридорях» стало неможливим та несумлінним виконання службових обов'язків посадовими особами митних постів «Рава-Руська», «Мостисьька», «Краковець», Служби боротьби з контрабандою та порушеннями митних правил Львівської митниці, неналежна взаємодія Львівської митниці з підрозділами Держприкордонслужби України, іншими правоохоронними органами, а також з суміжними підрозділами Митної служби Республіки Польща, в міжнародних пунктах пропуску для автомобільного сполучення «Рава-Руська - Хрєбенно», «Шегіні - Медика», «Краковець - Корчова» Львівської митниці, що призвело до систематичних порушень вимог статті 40 Митного кодексу України в частині пропуску на митну територію України товарів і транспортних засобів без проведення митного контролю, та інших норм львівсько-правових актів з питань митної справи, та сприяло реалізації протиправних схем ухилення від сплати податків до Державного бюджету України.

5. За неналежне виконання службових обов'язків, керуючись статтями 22, п. 2 ст. 23 Дисциплінарного Статуту митної служби України, затвердженого Законом України від 06.09.2005 № 2805-IV, оголосити догану:

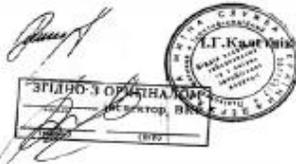
✓ Огороділку Олександрю Олександрівну, начальнику митного поста «Краковець» Львівської митниці;

✓ Петренку Віталію Михайловичу, начальнику митного поста «Мостисьька» Львівської митниці;

✓ Ціглайному Віктору Ростиславовичу, начальнику митного поста «Рава-Руська» Львівської митниці;



Голова Служби



Caption: In just 15 days there were 155 cases when vehicles with goods did not make it to the Ukrainian customs zone or were not registered by the Lviv customs.

CASE STUDY

Yuriy Kitsul, head of the Security Service of Ukraine in Lviv region: "Our staff found and stopped the illegal activities of the Lviv customs management who received illegal financial rewards from representatives of businesses carrying out international activities or from individuals who imported goods through customs posts located in Lviv region. They used schemes for "grey" contraband (understatement of customs value, declaring other goods than those being imported, etc.) or imported large cargo by reloading and dividing the goods within the legal limit of goods that can be transported with no dues imposed. Also in exchange for a bribe, cargo was let through Ukrainian border posts without the required customs clearance; customs officers abused their authority and used so-called "black" contraband schemes. This also applied to contraband exports of excisable goods from Ukraine. For example, in 2011 the SSU department detained two trucks that had special hiding places where smugglers tried to import into EU countries over 350,000 packs of cigarettes of various brands with a total value of more than 1,100,000 hryvnyas. If the smugglers sold the detained contraband in western European countries, their net profit would be over 350,000 Euros. Currently, the SSU in Lviv region is taking measures against specified unlawful schemes that operate at customs. It should be noted that to overcome contraband as a phenomenon it is essential to organize and coordinate the work of law enforcement and monitoring institutions, as well as state authorities and subjects of foreign economic activity. Great attention to fighting corruption is paid by Lviv region Governor Mykhailo Tymshyn. In particular, the issue of fighting contraband in the region will be discussed at the next session of the Lviv Regional State Administration on March 3, 2011; law enforcement representatives will be invited to participate in the session. In the meantime, I would like to ask residents of Lviv region: if you know of any violations of human rights in the field of foreign trade and other crimes, subjected to jurisdiction of the SSU, then you can call the **SSU hotline 298-66-22**. All information received will be verified. After verification, a decision will be made according to the Ukrainian legislation."

Press-center of SSU: "At the residential place of this person, 'black' accounting records were found"

Maryna Ostapenko: "Bribes were given by the heads of the subdivisions and customs posts"

Serhiy Koval, former customs officer: "Corruption exists!"

Informator. Newspaper of the Agency for Investigative Journalism. March 3-9, 2011.
www.informator.lviv.ua

The Ukrainian customs mafia – 2

Taras Zozulinskyi

Pseudo anti-corruption: customs staff goes to court but not to jail



Last year public detentions for corruption of customs officials stirred Ukrainian society. Not only low-rank inspectors and mid-level managers but even top officials of local customs were caught violating the law. It would be logical if Themis, blind to positions and ranks of wrongdoers, punished them. However, it did not happen with customs workers, at least not in this country.

The public does not even know that in reality customs workers evade punishment. And actually this feeling of impunity leads to corruption thriving in the State Customs Service.

RECORDING

Serhiy Koval, former customs officer:

“The SCS leadership artificially generates causes for customs clearance and creates obstructions for businessmen and their activities. There is a database of customs values with certain minimal and maximal rates of customs clearance. “Friend-businesses” can get the minimum rate and hence they have a favorable environment for work. Others can just go bankrupt when they have to pay the maximum rate. These issues are not the responsibility of either Lviv or Odesa; in Kyiv there are people in key positions at the department of custom tariffs. These people are the ones who make phone calls on who and how much should be paid for registering their goods. Unfortunately, this “phone law” is in full effect and that means that there is a monopoly over cash flows in all main spheres all over the country.”

In "captivity" of bribes

For quite a long time, we investigated and analyzed what was going on in the State Customs Service (SCS). Our goal was to find out why corruption and bribery has so firmly taken root and became an inevitable component of customs work. In our opinion, this negative phenomenon is caused by three main factors: the sense of impunity, bribe requests by high officials from their subordinates, and the willingness of businessmen to give bribes. Only by fighting these three factors together can corruption be overcome. Useless talk about increasing salaries and detaining lower ranking customs inspectors (who, in fact, become hostages of the situation, because they execute the will of their bosses), in reality, have nothing to do with fighting corruption. However, the SCS reports that they "become clean" and fire those who take bribes.... Every year the reports state the same thing but the established vertical bribery scheme continues running like clockwork.

Scandals at the Lviv and Odesa customs give only a slight glimpse into corruption schemes; and these are not one-time cases. Similar schemes of collecting "tribute" work in other SCS divisions as well. In the meantime, basically entire teams are fired for breaching their oaths as state employees. For example, on January 9, 2011 nine officers of customs registration division #2 at the Rozdilna customs post (that belongs to the Southern customs of Ukraine) were fired. Serhiy Stoianov, the head of this division, and Oleh Roshkovan, the deputy head of the Rozdilna customs post, were also dismissed. We found out about it from an SCS order. Nevertheless, can the SCS consider this an achievement in corruption fighting? – Obviously, not. The wrongdoings of the 11 staff members could have totally been ignored if it was not for the Bilhorod-Dnistrovskiy border customs crew that uncovered the corruption.

The aforementioned order (to dismiss staff for breaching the oath) states that on the night of January 6, surveillance cameras registered that the border was crossed by three low-tonnage vehicles. You might have guessed that they did not go through customs control. So, there is evidence that vehicles crossed the border but there no entry in the customs database and hence customs control was not done. We can assume that this was so-called "black" contraband. This is the only sensible explanation of the situation, but there is another explanation. The dismissed customs officers, all nine of them, simply did not notice the three vehicles – invisible vehicles.

This case of smuggling, that the SCS is so proud of revealing and take it to their credit, in fact illustrates the real picture of fighting smuggling at customs. Rather accidentally, Roman Matskul, inspector of the contraband fighting service, who was supposed to prevent such violations, left his post right at the time when the notorious vehicles were crossing customs control. So, he physically was not present there and there is the saying "if your eyes do not see this, your heart does not hurt" (*meaning "if you do not see it, then it does not bother you"*). We would just love to ask the SCS if this is what they arrogantly call fighting smuggling.

Nobody cared much about firing an entire shift at customs division #2 at Rozdilna customs post. It was less than a month later that Mykolaiv Region Department of Fighting Organized Crimes detained three Mercedes cars and a Ford on the Odesa-Novozovsk

route. The vehicles were completely packed with cigarettes. As it later became known, the cars crossed the border and entered Ukraine through... the Rozdilna customs post. Customs officers let the vehicles through with goods without proper registration and payment of relevant taxes to the budget. In the database, these Mercedes and the Ford were registered as... such that they did not import any goods. As the result, Oleksandr Hlizhyn, head of customs registration division #4, as well as Oleksandr Kulishov and Oleksandr Chehak, Rozdilna customs post inspectors, were fired for negligent execution of their duties. The customs service takes credit for disclosing these officers and bragging to the public for dismissing them. However, nobody knows if the fired officers would ever become held liable for their misdeeds if the Department of Fighting Organized Crimes staff had not detained the cars far from the Moldovan-Ukrainian border.

These are not single cases of detaining customs leadership, they happen every year. The accusations and charges are the same: facilitating contraband, demanding bribes from businessmen, and requesting "donations" from subordinates. In 2008, eight customs officers from the Dnistrianska customs post (Vinnitsya region), led by one of the top managers, were detained for facilitating contraband. The same year, the Odesa regional prosecutor's office filed a criminal case against the deputy head of the Southern customs and the deputy head of the customs office in Illichivsk and Bilhorod-Dnistrovskiy. According to the SCS press center, their staff found that during November 2008, the deputy head of the division was receiving money from Illichivsk customs post inspectors, who in their turn got money as bribes from businessmen. Law enforcement found out that right after the deputy head received his bribe of \$333,000 he returned \$86,000 to his subordinate as reward for being the mediator....

"Black" brokers. The feeling of impunity

Do you think Ukrainian customs officers were rightfully punishment? Unfortunately, these are just meaningless stories, but the facts speak for themselves. Informator was lucky to find interesting documents of the SCS and its internal security service. Thus, the SCS report on prevention and fighting on-duty legal violations states that in 2010 there were 64 filed criminal cases based on on-duty crimes and 86 administrative protocols about corruption activities or violations of special limitations established by the Law of Ukraine "On Fighting Corruption". All of this is merely disguising the truth for the public. The fact is that during all of 2010 only five customs officers were imprisoned! And this is the official statistics of the SCS. So, corrupt officials evade punishment while almost every day we hear breaking news about new detentions of customs officers for taking bribes and demanding money from businessmen. They evade not only criminal but even administrative punishment. On the basis of 86 registered protocols of corruption activity, only 12 customs officers were pronounced by the court as administratively liable. Thus customs workers have nothing to be afraid of. Such total impunity has lasted for years now. In 2009, for instance, 102 protocols on corrupt activities were filed and sent to court; and only 12 (!) customs officers were found guilty of violating the Law of Ukraine "On Fighting Corruption". So after having read these facts, do you still believe in the triumph of truth and justice? We, certainly, do not!

Another significant factor and a component of corruption is the willingness of businessmen to bribe. And that is where representatives of one more profession, whom we have not mentioned yet, come into play. We mean customs brokers. In our opinion, they can be divided into three categories: “black”, “grey”, and “white”. For example, the first category can be represented by brokers that participated in the criminal case and were detained together with the high-level customs officials in Dnipropetrovsk region. Another reason why we decided to tell this story is because the deputy head of the Dnipropetrovsk customs was one of those detained. The SCS press center told Informator that their operational staff and the main investigation department team uncovered and stopped the criminal scheme of collecting bribes from individuals and legal entities. As the result of the operation that was held on October 2-5, 2010 in Kryvyi Rih, one of the deputy heads of the Dnipropetrovsk customs, along with three associates, high-level managers of the Kryvyi Rih post. The corrupt officers were caught when they received a 65,000 hryvnya bribe. In addition, during the office search of one of those detained, law enforcement found 180,000 hryvnias and “accounting” notes about amounts and firms that paid for the smooth clearance of goods.

We compared this case with the Lviv customs scandal and found much in common. Like in Lviv, at Dnipropetrovsk customs, the deputy head of customs was detained. In both cases, there was a well established system of demanding bribes from businessmen. In both places “black accounting” was found. However, there is also one difference. In Dnipropetrovsk, a customs broker was involved in the scheme. The SCS press center said that the scheme and bribery was based on the following: the customs officers delayed the registration of goods or came up with made-up reasons not to clear the goods that were imported through the customs posts. They recommended businessmen consult “experts” – a customs brokers that would advise how to clear the goods without problems. Basically, this mediator had a prior agreement with responsible officials explained businessmen that except for official payments, they should also pay a bribe.

Thus, at the beginning of November, the main investigation department started a criminal case. Unfortunately, the names are not revealed but Informator was able to get the SCS order to dismiss Andriy Mykytin, the head of customs registration division #3 at the Kryvyi Rih post of Dnipropetrovsk customs. This dismissal coincides in time with the aforementioned case that was filed by the main investigation department. The mentioned order precisely states that the person was suspected of committing a crime, similar to that for which the deputy head of the Dnipropetrovsk customs was detained. Therefore, we can assume that Andriy Mykytin is the same high-level manager of the Kryvyi Rih customs post. However, it is also possible that they have many officials of similar standing there and it was a different corruption case.

How customs brokers are a party to corruption

We have already told about the activity of so-called “black” brokers. We think “grey” brokers are ones that help register goods (not contraband), but they inform businessmen that it is better to bribe the customs officer in order to document everything without any problems.

Nevertheless, there are also “white” customs brokers in Ukraine; they are the ones who do everything according to the law. Despite overwhelming corruption at the customs service, they try to work honestly and consequently their clients, businessmen, are not looking for whom to bribe. Teodor Diakiv is one of those law-abiding customs brokers; he is the head of two companies that help to clear cargo and goods. We heard about Mr. Diakiv’s honesty not only from him (it would be strange if a person told on themselves); to support his statement, Mr. Diakiv presents numerous court cases that his firms were involved with as the result of broker activity. As it turned out, businessmen do not have to pay bribes to customs officers, but then they should expect long-term court battles to fight for their rights.

We asked Mr. Diakiv how customs staff rope brokers into bribes. “Customs officers artificially and on purpose create corrupt situations in their relationships with brokers. If a broker filled out a declaration inaccurately and its estimated value was UAH10 less than the amount the customs officer thinks right, then the broker would have to pay a fine ranging from 8,500 hryvnias to 17,000 hryvnias. There are numerous cases when customs officers filed a protocol, knowing that the broker was not guilty. That is exactly what happened in the case of firm Formula. Both during the border examination and domestic customs examination, officers compiled an act for the clearance of a Mercedes-Vito; and then the customs officer wrote a protocol an administrative violation by the broker, even though we used the same code that was used in both acts written by the same customs service. It is clear that if these documents were illegal then the customs officers who signed such acts should also be made liable. In court, we proved right but a natural question arises: why did the customs officer of Lviv domestic customs do that? He did it on purpose to get a bribe and to demonstrate to everybody that he was a customs officer and he can do whatever he wants to. In this case, however, neither the broker, nor the businessman agreed to compromise and pay a bribe, so they went to court.

“There is an interesting fact: when we addressed the SCS to appeal the Lviv customs resolution to make the broker administratively liable and to pay a fine, at first their response had little connection with our question. When we addressed them again, they left the resolution in effect. This is an explicit cover of corruption that was initiated at the state customs service. It is obvious, that bribe flows go from the bottom up all the way to the leadership of the SCS; and those corrupt at the domestic customs offices have a cover “upstairs”. There are numerous stories about that. For customs staff, they are a normal phenomena and the SCS covers them up. That is why businessmen who do not want to have a legal battle for a couple of years pay bribes, even if the documentation is in order and their activity is legal.

“Please, try to understand that SCS leadership knows everything about bribes – there is no way they don’t know about that. The cash flows are moving “upwards” as they are meant to. Arrogant detentions do not change anything: somebody gets caught but there are always other cashiers,” summarized Teodor Diakiv.

Communism wonder – import increases but payments decrease

To conclude, we would like to share with the audience a bright example of the SCS leadership's pride. They talk about an increase of customs income into the budget: in 2010 the figure increased by 34.2% compared to the previous year. However, reporters from the publication Hlavkom managed to get a document that proves: payments increased indeed but the volume of imports increased by 39.7% (see the scanned document). Therefore, the increase in rates was less than the customs payment rates. Indeed, this can be called the miracle of communism, because Ihor Kaletnyk, the present head of the State Customs Service, comes from the Communist Party of Ukraine.



МІНІСТЕРСТВО ФІНАНСІВ УКРАЇНИ

01008, м. Київ, вул. М. Грушевського, 12/2, тел. 206-58-88
факс 425-90-26, e-mail: infomf@minfin.gov.ua

№ _____
На № _____

Першому віце-прем'єр-міністру
України – Міністру економічного
розвитку і торгівлі України
Клюєву А.П.

Шановний Андрію Петровичу!

Міністерство фінансів України на виконання Вашого доручення від 09.06.2010 №30753/3/1-10 доповідає.

Законом України «Про Державний бюджет України на 2010 рік» (із змінами і доповненнями) Державній митній службі визначено обсяг надходжень до бюджету на 2010 рік у сумі 93,6 млрд. гривень.

При цьому, Державною митною службою забезпечено надходження митних платежів до Державного бюджету України у сумі 85,9 млрд. грн., що становить 91,7% показника визначеного на рік.

Слід зауважити, що протягом 2010 року проводились наради у Прем'єр-міністра України з питань забезпечення виконання показників дохідної частини бюджету, визначених Законом України «Про Державний бюджет України на 2010 рік».

Поряд з цим, з метою виконання державного бюджету за доходами у 2010 році, Прем'єр-міністром України протягом минулого року багаторазово надавалися доручення Державній митній службі стосовно підвищення ефективності контролю за повнотою здійснення платежів під час ввезення товарів на митну територію України та посилення роботи спрямованої на наповнення дохідної частини державного бюджету.

Однак, вжиті Державною митною службою протягом 2010 року організаційні заходи, направлені на покращення адміністрування платежів та забезпечення надходжень до бюджету в повному обсязі, виявилися неефективними, в результаті чого Державний бюджет України недоотримав 7,7 млрд. гривень.

В свою чергу, Міністерством фінансів України проведено аналіз повноти надходжень платежів до бюджету, що забезпечувалися Державною митною службою у 2010 році.

Так, надходження до державного бюджету від Державної митної служби в 2010 році порівняно з попереднім роком (без врахування ПЦВ, сплаченого при митному оформленні газу) зросли на 34,2 відсотка.

При цьому, за оперативними даними обсяги імпорту товарів у гривневому еквіваленті (без врахування імпорту природного газу) зросли на 39,7 відсотка.

Тобто, темпи росту надходжень відстають від темпів росту імпорту товарів на 5,5 відсоткового пункту.

Також, у 2010 році митними органами допущено зменшення проти 2009 року податкового навантаження (питома вага надходжень податків і зборів у імпорті товарів) на 0,8 відсоткового пункту (без врахування газу): з 21,4% у 2009 році до 20,6% у 2010 році.

Зазначене свідчить, що Державною митною службою не використано всі наявні резерви для забезпечення повноти надходжень до бюджету у 2010 році.

Враховуючи наведене, Державній митній службі України в найкоротший термін необхідно проаналізувати стан адміністрування платежів та вжити вичерпних заходів, направлених на усунення недоліків для забезпечення в повному обсязі надходжень до бюджету у 2011 році.

З повагою

Перший заступник Міністра

А. МЯКЕШВСЬКИЙ

Caption: The revenue growth rate lagged the import growth rate by 5.5%
Published with permission from Hlavkom

Author: in 2010, five (!) customs officers were held responsible in criminal cases

Report: Imports are growing, customs taxes are decreasing