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On Tap Europe Series No. 1

On Tap Europe
Organised Crime and Illicit Trade in Poland: Country Report

Calum Jeffray
About the On Tap Europe Series

According to Europol, commodity counterfeiting and illicit trade in substandard goods are major emerging criminal activities in the EU. The low risks and high profitability associated with illicit trade increasingly attract organised crime groups and the number of counterfeit products seized by law enforcement agencies across Europe continues to grow. The eighteen-month On Tap Europe study provides a comparative analysis of the role of organised crime in the illicit trade of tobacco, alcohol and pharmaceuticals across the EU, gathering evidence from a number of member states.

The six-part series explores the scale, methods and routes of these organised criminal networks, and identifies best practice in policy and law enforcement responses. The final report examines how these issues affect Europe as a whole; it features a series of recommendations for the European Commission, its agencies and EU member states. This paper is the first in a series of five country-level reports and focuses on Poland.
On Tap Europe
Organised Crime and Illicit Trade in Poland: Country Report

Calum Jeffray
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Contents

Acknowledgements v
Preface vii
Executive Summary ix
Introduction 1
I. Organised Crime in Poland 3
II. The Scale and Scope of Illicit Markets 7
III. Organised Crime: Groups, Routes and Methods 19
IV. Legislation, Law Enforcement Response and Sanctions 27
V. Analysis 35
About the Author 39
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Preface

The Bakalarska Street market in Warsaw is similar to the hundreds of other bazars across Poland. Lining the left side of the street are stalls selling clothing, footwear, kitchen appliances, antiques, meat, fruits and vegetables. On the right side is one of the city’s well-known flower markets, which even on a cold December morning is a hive of activity.

Among the shoppers on each side of the street a line of 20 to 30 figures in groups of two or three stand guard. Every few seconds they look up and down the street, more to check for potential buyers than for the police (although they are wise to potential undercover officers). It is virtually impossible to avoid walking through them, and a dozen voices all ask you the same question: ‘Papierosy, cigarettes, cheap cigarettes?’ They do not mind who they sell to, how much you want, or even who makes the sale. As soon as you have chosen your vendor the others immediately back away – there is no competition here.

Your seller first shows you the two or three empty packs he has on his person (in case you turn out to be an undercover officer) – perhaps a couple of packs of Marlboro cigarettes, plus some exotic brands for the discerning customer. The choice is virtually limitless, however, and he reassures you that there is no problem supplying your preferred brand in any quantity. A short walk to a box behind a dustbin, the boot of a car, or the gap between two market stalls and he quickly reappears with your purchase; in this case, a pack of Brendal cigarettes. The price is PLN6 (around €1.35), less than half the price at the shop nearby. Having paid your money you go on with your day, left in peace by the other sellers – the whole transaction has taken little more than a minute.

Buying cigarettes this way is fast, cheap, anonymous and, most importantly, considered perfectly normal and acceptable in Poland. The exchange is seen as no different from those taking place a few steps away in the market itself, and passers-by are unlikely to see it as anything out of the ordinary. The dozens of sellers will each make dozens of sales per day, multiplied across the hundreds of street markets in towns and cities throughout Poland. Other products, from clothing to medicines, are also on sale through a variety of methods, from convenience stores to internet sales. This illicit trade is fuelling organised crime groups and costing the Polish economy millions each year. Organised crime in Poland may have become less violent in recent years, but it is no less visible.
Executive Summary

This is the first in a series of five country-level papers on the role of organised crime groups (OCGs) in the illicit trade of tobacco, alcohol and pharmaceuticals across Europe, focusing on Poland as a case study.

Despite the decrease in violent crime statistics, the annual reports of the national police authority suggest that organised crime in Poland is on the rise. One explanation is that, over the last decade, there has been a shift in organised criminal behaviour away from violent crimes, such as gun crime and robberies, towards economic crime, including illicit trade.

As a general observation, the illicit tobacco trade was found to be the more significant issue in Poland compared to illicit alcohol or pharmaceuticals. However, given the dearth of information on the illicit alcohol market, and still less on the illicit pharmaceuticals market, it is difficult to establish whether these are relatively limited issues in Poland, or whether they have just received insufficient attention to date.

From operations conducted by law enforcement agencies, it is clear that the majority of illicit trade in Poland is controlled by OCGs, which appear to be less reliant on traditional hierarchical structures, and have moved to a much more flexible system that reflects legitimate business service models. Membership is often transitory and given the opportunities to make significant profits there is more incentive for these groups to co-operate rather than compete, including transnationally.

One obvious enabler of illicit trade in Poland is the country’s geographic location between source countries to the east – Russia (Kaliningrad), Lithuania, Ukraine and Belarus, in particular – and large destination countries to the west (especially Germany), which has meant that it has always been likely to act as a transit country for smuggling. While some of this contraband is destined for the Polish market, Polish OCGs can typically generate greater profits by ‘exporting’ illicit goods to other countries, particularly Germany and the UK, where prices are higher. As a result, the size of the illicit market in Poland may not necessarily represent the full extent of illicit trade activities in the country.

There are five specific drivers of illicit trade conducive to the involvement of organised crime groups in Poland: the significant price differentials with neighbouring countries; a social acceptance of illicit goods and the perception among the public that illicit trade is not a serious criminal issue; the accessibility of illicit goods, particularly in street markets; relatively lenient sanctions available to penalise illicit trade activity; and legislative weaknesses and legal loopholes at both the national and European level.
On the whole, illicit trade is a significant, if insufficiently understood, organised criminal activity in Poland. The reason for this low knowledge is not lack of prioritisation by law enforcement agencies, but the fact that illicit markets in Poland are rapidly evolving and adapting to law enforcement efforts. A better understanding of this dynamic would therefore help authorities to understand the ways in which organised crime more generally is evolving in Poland.

Key Findings

1. Nationally and internationally, Polish OCGs have a reputation for being particularly capable, quick to identify opportunities to exploit, and adaptable in their approach and methods. Some groups appear to be specialised in fraud and tax-related crime, and move between trading in tobacco, alcohol and fuel, for example, while others move from other crime areas (including narcotics) into illicit trade. Many OCGs in this area appear to have a multinational component, and co-operate rather than compete with other OCGs.

2. Vulnerabilities in both legislation and regulation on illicit trade have attracted organised criminals and enabled them to evade conviction, resulting in poor case history and contributing to a culture of acceptance among the judiciary and the public. Current penalties do not provide an effective deterrent, allowing the same individuals to remain involved and OCGs to simply adapt their methods following seizures and convictions.

3. There is high public demand for illicit goods in Poland, which are both acceptable and accessible. Sophisticated distribution channels exist, particularly at street markets, which bring illicit goods within reach of consumers. And while bazaars continue to be a popular point of sale, the role of internet-based trade in illicit goods is increasing.

4. In general, illicit trade is not as high a priority for law enforcement as other organised crime threats, although the illicit tobacco and fuel trades are notable exceptions. There is surprisingly limited information available on the nature of the threat and no official estimates of scale, but rather a reliance on seizure data and the estimates of a number of industry and academic sources. Strategic analyses have been undertaken, but this has not led to a more strategic law enforcement approach across different agencies.

5. In recent years a number of policy and legislative changes have been made to tackle illicit trade, and while public acceptance remains an issue, Polish authorities have a wealth of experience to draw on to further improve the situation. Law enforcement collaboration with both the private sector and agencies overseas is considered a particular national strength.
Introduction

The nature of organised crime in Europe is changing. A number of strategic assessments have identified significant trends in both the structure of organised crime groups (OCGs), which are becoming more networked and often operate across multiple jurisdictions, and the criminal activities they undertake, with a rise in economic and relatively lower-risk crimes whose harm is more difficult to demonstrate. According to Europol, commodity counterfeiting and illicit trade in substandard goods are major emerging criminal markets in the EU. The Serious and Organised Crime Threat Assessment notes that the low risks and high profitability of illicit trade increasingly attract OCGs, and the number of counterfeit products seized by law enforcement agencies continues to increase. OCGs are often known for their previous activity in other crime areas and are involved in more than one crime type, co-operating with counterparts in other countries. As a result, the assessment concludes, the distribution and production, as well as the increasing demand and consumption, of illicit goods pose a serious threat to EU citizens.

Building on its UK-based research, RUSI is undertaking a comparative analysis of the role of organised crime in the illicit trade of tobacco, alcohol and pharmaceuticals across the EU. The On Tap Europe project is gathering evidence from five EU member states to assess the scale, methods and routes of OCGs involved in illicit trade. The project aims to demonstrate the impact of organised crime activity across source countries, transit hubs and destination markets. The research assesses how illicit trade is viewed and prioritised in different countries, looking at the scale and scope of the threat and the approaches of governments and law enforcement agencies to tackle the problem. In particular, the objectives of On Tap Europe are to:

- illustrate the routes and methods adopted by organised criminals in their counterfeiting and smuggling operations (identifying notable ‘hubs’ and trends).
- assess how the scale and impact of illicit trade varies across European countries to determine how extensive it is across the region.
- explore the role of common enablers and facilitators of illicit trade, such as postal, fast parcel and internet-based services.
- identify best practice in law enforcement responses, co-operation and information sharing, helping the public and private sectors to identify common strategies for tackling illicit trade.
- look to understand the dynamics of both organised criminal groups and law enforcement agencies in multiple countries in order to inform the EU’s response to illicit trade as a whole.

The final report will examine these issues at the European level and feature a series of recommendations for the European Commission, its agencies and member states. This is the first

in a series of five country-level papers, focusing on Poland as a case study. Poland is frequently identified as a source, transit and destination country for illicit goods, and evidence suggests that a number of European smuggling routes are operated by Polish OCGs. The country’s particular role as a transit hub for illicit goods is facilitated by its land border with the source countries of Lithuania, Belarus and Ukraine to the east, and wealthier destination markets (particularly Germany) to the west.

The research for the Poland case study was split into three phases. The first consisted of a review of the existing academic literature, government policy documents, law enforcement strategies and private sector reports on organised crime and illicit trade in Poland. In the second phase, a team of RUSI researchers spent one week conducting fieldwork in Poland. This combined operational research with customs officials at the ports of Gdansk and Gdynia with a series of semi-structured interviews with experts from the public and private sectors and academia in Warsaw. The final phase involved a half-day workshop held in Warsaw, gathering together representatives from Polish law enforcement agencies and research institutes, as well as the tobacco, alcohol and pharmaceutical industries. This allowed the researchers to validate their findings from the first two phases, and to generate an informed discussion on likely future trends and policy implications.

The paper has five chapters. Chapter I provides an overview of organised crime and the context for illicit trade in Poland. Chapter II assesses the scale and scope of the illicit trade in tobacco, alcohol and pharmaceuticals in Poland. It examines existing estimates of scale by public and private sector bodies, and identifies some of the main activities involved in relation to each commodity. Chapter III focuses on the OCGs behind the illicit trade, including common routes and methods used. Chapter IV addresses some of the drivers behind this organised criminal activity, such as vulnerabilities in existing legislation, before considering how law enforcement agencies have approached illicit trade to date. Chapter V brings together the primary themes and trends for further analysis, and provides an overview of the paper’s key findings.
I. Organised Crime in Poland

CONCEPTUALISING AND DEFINING organised crime presents ongoing challenges across the EU, and like many countries, Poland does not have a legal definition of the term ‘organised crime’. That said, the existence of a criminal organisation is an offence under the Penal Code of 1997, Article 258, which outlaws an individual who ‘takes part in an organised group or a criminal organisation intending to commit a crime or a fiscal crime’.¹ According to the legal academic, Wojciech Filipkowski, the Police Central Bureau of Investigation (Centralne Biuro Sledcze Policji, or CBS) developed a working definition in 1994, which identifies eleven characteristics of organised crime.² They include: profit or power as the main goal; activities being long term or unlimited in duration; the use of violence or other means of intimidation; and the capability to operate internationally. Five of the eleven criteria must be met for authorities to regard the group as an OCG.

Europol notes that ‘defining organised crime is increasingly difficult’ and the conceptualisation of organised crime ‘does not adequately describe the complex and flexible nature of modern organised crime networks’.³ The expansion of internet services, the globalisation of supply chains and the increase in economic crimes have had a significant effect on the activities of OCGs. As a result, ‘OCGs operate in a criminal economy dictated by the laws of supply and demand and are favoured by social tolerance for certain types of crime such as the trade in counterfeit goods and specific frauds against public authorities or large companies’.⁴ These were indeed trends remarked upon by Polish law enforcement agencies. As noted, authorities have seen a rise in the number of international groups operating in Poland, which increasingly co-operate with counterparts in other countries. While they were often unable to provide specific figures, another common trend identified by officers in their operational work was that some OCGs are moving away from high-risk activities, such as drugs trafficking, to lower-risk commodities such as tobacco, where penalties are substantially lower.

Statistics from both Polish law enforcement agencies and the UN Office on Drugs and Crime show an overall decrease in Poland since 2000 for all violent crimes, including assault, robbery, sexual assault, kidnapping and homicide.⁵ However, despite this statistical decrease, the annual reports of the CBS suggest that organised crime is on the rise, and show an overall increase in the number of OCG operations in Poland (Figure 1). According to these figures, the number more than tripled between 2005 and 2014, with a proportional increase in the number of international groups (some

⁴ Ibid.
experts suggest that the increase in numbers may be due to the largest OCGs being dismantled and ‘fracturing’ into numerous smaller ones).

**Figure 1:** Number of Central Bureau of Investigation Organised Crime Operations.

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Preventing organised crime is a strategic priority for the Polish government, and is listed among the sixteen strategic security objectives of the country’s National Security Strategy.\(^6\) Since it was established in 2000, the CBS has been the lead law enforcement agency in Poland for combating organised crime, co-locating with the National Police Headquarters (Komenda Główna Policji) in Warsaw in 2014. Among its specialist units is an economic crime division, one of the primary roles of

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which is to ‘counter the activities of organised crime groups involving fraud, and customs offences relating to the trade in goods’. 7

The CBS takes the lead on the most serious economic crime cases, while the national police (policja) are responsible for investigating all other cases relating to illicit tobacco, alcohol and pharmaceuticals before handing cases over to prosecutors. The Customs Service (Sluzba Celna) also plays an important role in relation to all three commodities. Although they have limited powers of investigation, Customs Service officers can conduct covert surveillance, confiscate goods and issue fines (proposals to increase their powers, including power of arrest, were rejected by the government in 2009). The pharmaceutical market regulator, the General Pharmaceutical Inspectorate (Glowny Inspektorat Farmaceutyczny, or GIF), has a very limited law enforcement function, with the authority to monitor websites advertising illicit pharmaceuticals and take down websites of illegal online pharmacies, but few other powers. GIF also assists the Customs Service in identifying whether a medicine has a market authorisation, but the seizures themselves are made by the Customs Service (or the border agency, Straz Graniczna).

Box 1: Case Study.

In January 2016, police officers from the District Police Headquarters in Nowy Tomysl, in the west of Poland, raided a property and arrested a 31-year-old Polish national on drugs charges, seizing more than 70 grams of amphetamine. From intelligence gained during the arrest, the officers were able to identify the supplier of the drugs, and the following day raided another property in the town. In addition to amphetamine, the officers discovered 60 litres of pure alcohol and 18 kilograms of shredded tobacco. They arrested a 36-year-old Polish national on suspicion of trading in drugs, alcohol and tobacco in the local area. The individual was subsequently charged with selling illegal drugs and the illegal possession of alcohol and tobacco.

As a general observation, the illicit tobacco trade was found to be a higher priority than alcohol or pharmaceuticals for law enforcement agencies in Poland. 8 This is reflected in the fact that the Customs Service has a dedicated strategy to combat illicit tobacco, which was last updated in 2012. Of particular relevance is the link the strategy draws between illicit tobacco and organised crime:

Notwithstanding the negative impact on the state budget, the trade in tobacco products from illegal sources (mainly smuggling) has other adverse effects. These include threats to law and public order, and social problems associated with the concentration of criminal groups in a particular area (e.g. in

8. In addition to the illicit tobacco trade, the illicit fuel trade was also highlighted as a significant problem and a major priority for law enforcement agencies.
the areas surrounding border crossings). In addition, smuggling and the illicit trade in tobacco products create the possibility of the emergence of criminal groups acting against different interests of the state.9

The strategy has three principle objectives: to reduce the domestic market supply of tobacco products from illegal sources; to prevent the smuggling of tobacco products to other EU countries using Poland as a transit country; and to gain public support for the implementation of the strategy. While the 2012 strategy had a foreseen end date of 2015, officials in Poland confirmed that the strategy remains in place while an updated strategy is developed.

As is the case in other countries, evidence suggests that illicit trade is not perceived by Poles as a significant criminal issue. A report by the Joint Research Centre on Transnational Crime (Transcrime) on the illicit trade in tobacco products in Poland highlights two studies by way of example. The first, by Szoszuk and Barchanski (2009), found that ‘43 per cent of Poles have purchased a counterfeit product in their lives’, while the second, from Nowak (2012), found that ‘28 per cent of Poles do not consider the sale of counterfeit products unethical’, although it also found that ‘the social perception of the negative consequences of counterfeiting is increasing’.10

II. The Scale and Scope of Illicit Markets

The relative scale of illicit markets is notoriously difficult to measure, given the covert, cross-border nature of criminal activities, as well as differences in volume and worth of commodities such as tobacco, alcohol and pharmaceuticals. Of these three categories, the illicit tobacco market has the most information available. Given the dearth of information on the illicit alcohol market, and still less on the illicit pharmaceuticals market, it is difficult to establish whether these are relatively limited issues in Poland, or whether they have just received insufficient attention to date. A further complication is the fact that Poland often acts as a transit country for illicit goods, as OCGs can typically generate greater profits by ‘exporting’ to other countries, particularly Germany and the UK, where prices are higher. The size of the illicit market in Poland may not therefore represent the full extent of illicit trade activities in the country.

Illicit Tobacco

Poland represents one of Europe’s foremost tobacco markets. It is the largest manufacturer of tobacco products in the EU, the fourth-largest consumer market in the EU (after Germany, the UK and the Netherlands) and the third-largest exporter in the world. The tobacco industry was deregulated in 1995, and over 20 years later the size of the market stands at PLN27 billion (approximately €6.3 billion), employing 6,500 people (the second-highest level of employment in the tobacco industry in the EU). According to industry estimates, in June 2015 the largest share of the cigarette market in Poland was held by Philip Morris International, followed by British American Tobacco, Japan Tobacco International and Imperial Tobacco Group. Cigarette prices are dynamic and companies can make up to a dozen price changes to a product in a single year in order to remain competitive.

As demonstrated by Figure 2, the legal cigarette market has been in steady decline since the mid-1990s, losing on average 6 per cent per year until 2012, when the rate of decline rose to 10 per cent.\(^2\) In the last ten years alone, the volume of cigarette sales has dropped by more than 40 per cent, from 73.9 billion in 2005 to 42 billion in 2014.\(^3\) According to figures provided by Customs Service officials, handrolled tobacco (HRT) has become a cheaper and increasingly attractive alternative for Poles, although the legal HRT market has also been in steady decline, reducing from an equivalent of 4.9 billion sticks to 3.8 billion sticks once rolled. During interviews with local experts, it was put to the researchers that the reason for this overall decline in

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\(^3\) Ibid., p. 3.
tobacco consumption was primarily due to increased awareness of health risks and the number of smokers declining to around 9.7 million.4

The production of tobacco in Poland is also in decline; there are approximately 13,000 tobacco farmers in the country, compared with 70,000 when production was at its peak in the 1980s. The largest tobacco-growing areas are in the east of the country, and farms are typically small, with an average area under cultivation of 1.19 ha.5 On the whole, Poland’s climate is not favourable to the cultivation of tobacco and, as a result, most of the manufacturers combine the relatively poor-quality raw Polish tobacco with higher-quality imported tobacco. Until 2010, farmers were obliged to have a contract with a registered tobacco company in order to sell their crop, but the law changed in 2010 to remove this restriction, as EU regulations required increased freedom in the market, enabling farmers to sell their produce freely (including, some believe, on the black market).

It is difficult to accurately gauge the size of the illicit tobacco market, and there are no publicly available official data on the prevalence, demand for, and consumption of illicit tobacco products.6 However, there are two relevant estimates made by the government, according to the Institute of Market Security (Instytut Bezpieczeństwa Obrotu Gospodarczego or IBOG, formerly Niemczyk I Wspólnicy). First, the Ministry of Finance and the Customs Service calculate the estimated revenue losses in 2014 from illicit tobacco from uncollected excise tax to be PLN2.7 billion for cigarettes and PLN1.9 billion for other tobacco products, giving a total of PLN4.6 billion (€1.07 billion).7 Second, the government monitors seizures of illicit tobacco by law enforcement agencies, which are then used to generate an estimate of the illicit tobacco levels across the country.8

In addition to these government estimates, a number of private sector organisations produce estimates of the scale of the illicit tobacco market. Most notably, these include those of the IBOG, as well as the annual Project Sun report prepared by KPMG.9 These private sector studies primarily use empty-pack surveys as their methodology, which involve collecting discarded empty cigarette packs in order to analyse their authenticity and origin, either in independent or company laboratories. This methodology is not without flaws, however, and its accuracy is frequently called into question. For example, the surveys do not collect data on HRT, and therefore produce estimates of the illicit cigarette market, rather than the illicit tobacco market as a whole. The process tends to involve collecting packs from urban rather than rural areas, where it can be difficult to collect evidence in Poland; those living in rural areas are likely to burn rather than discard their refuse, and the predominantly rural areas in eastern and northeastern Poland are thought to be where illicit market penetration is the highest. Nevertheless, such surveys are able to provide useful data on trends in illicit cigarettes over time, including the popularity of products and their origin.

4. Ibid., p. 11.
6. Ibid., p. 18.
8. Ibid., p. 72.
As demonstrated in Figure 3, the majority of private sector estimates are closely aligned and identify similar trends in terms of scale. The consensus appears to be that the illicit tobacco trade in Poland is increasing, representing at least 15 per cent of the total market in 2014. The most recent data from the IBOG suggest that there was a further increase in the first six months of 2015 to 19 per cent, equating to approximately 10 billion illicit cigarettes per year.10

**Figure 3:** Estimates of the Illicit Cigarette Market Share in Poland.

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This increase in illicit tobacco trading stands in contrast to the decline in legal sales of cigarettes, and further research is needed on this decline. Currently, it is difficult to determine the degree to which it can be attributed to a decline in the number of smokers, or the result of shifts in the illicit market. Similarly, it cannot be said with confidence that the illicit market is increasing in real terms, or that it is remaining constant in real terms but increasing proportionally as the legal market shrinks.

Based on existing literature and primary research conducted in the country, it is clear that Poland acts as a source, transit and destination country for the illicit tobacco trade, for which there appear to be two broad categories. The first is the unlawful importation of ‘illicit whites’ or genuine brands of cigarettes without payment of the appropriate duty, which are either destined for the Polish market or are transiting the country en route to more lucrative markets to the west. The second is the unlawful production of counterfeit branded cigarettes and, increasingly, fine-cut tobacco products in illegal factories, the emergence of which over the last few years is discussed in more detail in Chapter III. It seems that in Poland the vast majority of these illicit cigarettes are produced for export to other countries.

Table 1: Average Price for a Pack of Twenty Cigarettes.

<table>
<thead>
<tr>
<th>Country</th>
<th>Average Price for a Pack of Twenty Cigarettes (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>3.07</td>
</tr>
<tr>
<td>Lithuania</td>
<td>2.46</td>
</tr>
<tr>
<td>Russia (Kaliningrad)</td>
<td>0.91</td>
</tr>
<tr>
<td>Belarus</td>
<td>0.68</td>
</tr>
<tr>
<td>Ukraine</td>
<td>0.63</td>
</tr>
</tbody>
</table>

Source: KPMG, ‘Project Sun’.

As shown by Table 1, there are significant profits to be made by smuggling tobacco into Poland from countries along Poland’s external EU border – that is with Kaliningrad, Belarus and Ukraine – where cigarette prices are much lower. Throughout this study’s research, Belarus was consistently highlighted as the most significant source country for illicit tobacco in Poland. The tobacco industry in Belarus is highly regulated, and the country has only two cigarette manufacturers: Neman Tobacco Factory Grodno OAO, a government-owned company; and Tabak-Invest SP OOO, a privately owned joint Belarusian-US company. In 2007, Belarusian cigarettes accounted for just 2.1 per cent of the illicit market, but by 2012 this had reached a peak of 56.8 per cent; in other words, the number of Belarusian cigarettes in

11. ‘Illicit whites’ or ‘cheap whites’ are cigarettes which are lawfully produced in one country but manufactured for the purpose of smuggling into countries with higher tax rates where there is no lawful market for them.
12. ‘Fine-cut’, ‘loose’ or ‘roll-your-own’ tobacco refers to tobacco that has been cut into small shreds, typically used to make self-made cigarettes by handrolling the tobacco into rolling paper or injecting it into filter tubes.
Poland increased by over 3,000 per cent in this time, from 0.11 billion cigarettes to 3.52 billion, on average doubling every year for five years.\textsuperscript{14} The severe economic crisis that hit Belarus in 2011 was a factor in this increase, as the price differential between the two countries began to grow significantly. In 2014, Belarus had the second-lowest prices across the region, with an average pack of 20 cigarettes costing €0.68, and the average price difference with Poland was €2.39.\textsuperscript{15}

While inflows from Belarus showed a decline in 2013 and 2014, the vast majority of representatives from the tobacco industry thought that Belarusian cigarettes continue to represent a significant portion of the illicit market. Of the top ten consumed illicit brands in Poland, they estimate that six (Fest, NZ, Minsk, Premier, Magnat and Queen) are illicit whites manufactured by Nemen Tobacco Factory Grodno. Perhaps the most well-known brand of illicit whites continues to be Jin Ling, manufactured by the Baltic Tobacco Factory in Russia, Ukraine, Moldova. From Russia (Kaliningrad), smugglers move billions of Jin Ling cigarettes directly to Poland, or transport them by sea and inland routes to other European markets.\textsuperscript{16}


\textsuperscript{15} KPMG, ‘Project Sun’, pp. 191, 193.

\textsuperscript{16} Joint Research Centre on Transnational Crime, \textit{The Factbook on the Illicit Trade in Tobacco Products, Issue 4}, p. 75.
As Figure 4 illustrates, the source of most smuggled cigarettes in Poland fluctuates over time, with some notable trends. Since 2009, the volume originating from Russia (Kaliningrad) has remained more or less stable, while volumes from Belarus increased significantly, and those from Ukraine have decreased, particularly from 2013 onwards. A new feature in 2014 was the emergence of illicit whites with duty-free labelling; KPMG estimated that 82 per cent of duty-free labelled packs were illicit white brands. The proportion of counterfeit products over the last two years is also significant.

Illicit Alcohol

While the figures available for the illicit tobacco market raise some uncertainties over scale, the figures for the illicit alcohol market are themselves uncertain. Only a small number of datasets are available on which to make any assessment, estimates from different sources vary significantly and there is no means to indicate fluctuations in the market over time. In 2014, the legal market was dominated by beer, with registered per capita alcohol consumption estimated at 98.9 litres, dwarfing wine and spirits consumption (6.3 litres and 3.2 litres respectively), a situation that has existed since at least 2010.18

The scale of the illicit alcohol market, and how it has evolved over time, has proved impossible to measure with any degree of accuracy. The latest figures from the World Health Organization refer to 2010, when it estimated that unrecorded alcohol consumption stood at 12.8 per cent of the total market.19 The Polish Spirits Industry association (Zwiazek Pracodawcow Polski Przemysl Spirytusowy, ZPPPS) calculates unregistered spirits consumption to be approximately 15 per cent of the total spirits market, resulting in state revenue losses of at least PLN858.3 million (€194 million) in 2011.20 ZPPPS suggested that other illicit alcohol market estimates varied between 10 and 30 per cent. In 2012, it carried out a project in partnership with the Ministry of Finance (Ministerstwo Finansow) and the Customs Service, which concluded that the illicit alcohol trade was smaller than it had been ten years previously, but that there had been an observable upward trend in recent years.21 Specifically, it estimated that the illegal market decreased from 30 per cent in 2002 to 10 per cent in 2008, before increasing since then.22

There are a number of different categories that might cover illicit alcohol in Poland. For example, ZPPPS noted that as many as 40,000 Poles produce small volumes of unregistered alcohol, typically in the form of traditional artisan spirits, which around 9 per cent of Poles admit to drinking. Officials from the CBS and other law enforcement agencies did not recognise this household production, nor the counterfeiting of alcohol products (particularly for the domestic market) as significant issues. The absence of product counterfeiting at scale was explained by the fact that the legitimate products are so cheaply available that the potential profits in the illicit trade are minimal, offering little incentive for counterfeiters.

The primary issue relating to illicit alcohol, and in which OCGs were most likely to be involved, is the illicit trade in denatured alcohol, which in its industrial form has a number of legitimate applications, from household cleaning products to decontamination sprays. According to

18. Figures provided by Central Statistical Office of Poland.
industry experts, approximately 7 million litres of industrial alcohol ‘disappears’ onto the black market in Poland every year, based on inconsistencies between import and export figures. It is thought that some of this industrial alcohol is being used to make alcohol products sold to consumers on the black market, with claims that just below 60 per cent of the illicit spirits discovered in Poland between 2009 and 2011 was derived from such alcohol.23

Figure 5: Number of Hospitalisations in Poland for Methanol and Glycol Intoxication.

![Graph showing hospitalisations for methanol and glycol intoxication from 2004 to 2013.]

Source: ZPPPS.

This may explain the notable rise in the number of hospital admissions as a result of methanol or glycol intoxication (Figure 5). As these are toxic they do not appear in commercial alcohol products, but consuming such products can be fatal and in 2014, 94 Poles died while hospitalised for glycol or methanol intoxication. The problem received media attention in 2012 when a series of consumers in the Czech Republic, Poland and Slovakia died after drinking a fake version of local rum that was tainted with methanol (leading Poland to temporarily ban the importation of Czech spirits).24 According to law enforcement officials, the current trend is for such illegal alcohol to be sold in markets in clear plastic containers, rather than made to look like a counterfeit product.

23. OECD, *Illicit Trade*, p. 221.
Despite the overall increase in the number of hospitalisations, figures provided by law enforcement agencies suggest a declining trend in the illicit alcohol market since 2013. Officials from the Customs Service based this claim on the fact that seizures have decreased (Figure 6) while its performance indicators have remained stable since 2012. Better regulation, officials argued, has meant that the problem is significantly less than it was ten years ago.

**Figure 6:** Polish Customs Activity in Relation to Illicit Alcohol.

![Graph showing declining trend in illicit alcohol seizures and stable performance indicators since 2012.](image)

*Source: Sluzba Celna (Customs Service).*

Similarly, there has been an apparent decline in the volume of alcohol confiscated during organised crime cases since 2007 (Figure 7). While the primary issue in relation to illicit alcohol in Poland therefore relates to the illegitimate use of denatured industrial alcohol, there seems to be disagreement, or at least a lack of clarity, over how big the problem is and what proportion of the total illicit alcohol trade in Poland it represents.
Illicit Pharmaceuticals

In contrast to the illicit trade in tobacco and alcohol, virtually no data exist on the scale or nature of the illicit pharmaceuticals trade in Poland. Similar to the situation in other European countries, a significant obstacle to forming any official estimates is disagreement over definitions of what constitutes ‘illicit’ and what constitutes a ‘pharmaceutical’ or ‘medicine’.

During the research, officials argued that Poland is primarily a transit country for illicit pharmaceuticals, but this claim is in contrast to the illicit trade reports of the World Customs Organization (WCO). In its 2014 report, Poland emerged as one of the top source countries in terms of the number of counterfeit and/or illicit medicines. While trailing far behind China and India, it was third on the list and the top European country. The WCO attributes this to the ‘substantial amount of internal seizures performed during 2014’. At the same time, it also placed Poland eleventh in the top destination countries for illicit medicines by quantity (just over 2 million pieces). Given that illicit pharmaceuticals were not a high priority or area of focus

26. Ibid.
for Polish law enforcement agencies, these figures would suggest that the size of the problem is greater than authorities suspect.

From the information gleaned from law enforcement agencies, the illicit pharmaceuticals trade almost entirely consists of lifestyle drugs (including for erectile dysfunction, weight loss and muscle gain), and comprises three main problems. The first is the trade of legal pharmaceuticals that are sold via illegal online pharmacies; the second is the sale of illicit products (whether counterfeit or without a market authorisation)\(^{27}\) that are also primarily sold online; and the third is the purchase of large volumes of legal pharmaceuticals for export to Polish communities in countries such as Germany, France and the UK. The authorities were unable to confirm whether parallel trading was a significant issue in Poland. The term ‘parallel trade’ refers to the practice in the EU of trading pharmaceuticals that are bought cheaply in one part of Europe and sold in another part of Europe with higher prices. It is legal, but the system can be abused by criminals as products are allowed to be repackaged (in order for health warnings to appear in the correct language). The regional police force the researchers spoke to investigated around ten large illicit pharmaceutical cases per year, and it estimated that around 100 cases per year were being undertaken nationally by law enforcement. Officials from the Customs Service said it made an average of 150–200 seizures per year of small quantities of mostly steroids (a figure that has remained stable for some time).

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\(^{27}\) A pharmaceutical typically cannot be distributed or sold in a country without being granted a market authorisation from the appropriate regulator; in Poland the regulator is the Glowny Inspektorat Farmaceutyczny (GIF).
III. Organised Crime: Groups, Routes and Methods

A consensus view from the research was that Polish OCGs are particularly ‘entrepreneurial’; they are quick to identify opportunities to make a profit, to find loopholes and ingenious ways to circumvent laws and regulations, and to adapt their operations to evade detection by law enforcement agencies. OCGs involved in illicit trade often shift between different commodities, based on what is most profitable at any one time (although those in the ‘higher ranks’ of the OCG may specialise in one particular area), with a common overlap in OCGs trading illicit fuel and goods, including tobacco, alcohol and pharmaceuticals. One case cited by both law enforcement and industry representatives concerned an illicit cigarette factory discovered at the site of a former illicit alcohol factory, both of which were run by the same OCG and whose products were distributed via the same network.

Organised Crime and Illicit Tobacco

Organised crime is involved in every facet of the illicit tobacco trade in Poland. As discussed in Chapter II, this illicit trade consists of two relatively distinct issues: the counterfeiting of products in illegal factories in Poland for export; and the smuggling of contraband and counterfeit products from countries to the east of Poland, partly in transit through Poland and partly destined for the Polish market.

Smuggling of Contraband and Counterfeit Tobacco Products

Based on information gathered during seizures, law enforcement officials suggest that smuggling in northeastern regions of Poland (especially along the Lithuanian border) is conducted by larger OCGs. In the southeast, however (particularly along the Ukrainian border), smaller OCGs tend to dominate. Persons of these three nationalities – Polish, Lithuanian and Ukrainian – are thought to be those most commonly involved in illicit tobacco smuggling, with evidence suggesting a degree of co-operation between OCGs operating in each country. In 2011, Europol observed the recurrence of joint schemes based on imports of raw tobacco from Ukraine, other materials from Lithuania, and manufacturing in Poland.¹ More recently, Europol and the Office for Harmonization in the Internal Market believe there are ‘Chinese OCGs involved in the importation of raw tobacco leaves for the production of counterfeit cigarettes in illegal factories in Bulgaria, the Czech Republic, Poland, Romania and Slovakia’.²

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Some of this illicit trade involves low-level trafficking of relatively small quantities of contraband, also known as ‘ant smuggling’ (which may or may not be facilitated by OCGs). According to Transcrime, ant smuggling remains a significant problem in Poland, but is decreasing in importance as OCGs control the majority of illicit trade.\(^3\) Of the total number of people estimated to be involved in the illicit tobacco trade, for example, 23 per cent are thought to belong to OCGs but trade in almost 95 per cent of the goods; conversely just over 5 per cent of commodities are smuggled by ant smugglers and other individuals, such as bootleggers.\(^4\) Transcrime provides detailed information on these individuals, claiming that their average age is 27 (they largely consist of ‘unemployed persons, retirees, and students’) and they ‘operate primarily in border areas of the east, where economic conditions are worse’.\(^5\) Ant smuggling \textit{from} Poland seems to be much more organised. Anecdotally, it was thought that over half of the cigarettes transited to the UK on low-cost flights, for example, exceeded the amount expected for personal consumption. While it is legal to take advantage of free movement and keep cigarettes for personal consumption, some of these ‘mules’ travel up to twice a week to the UK, legally taking 800 sticks per trip, and selling them on at a profit.

Transcrime offers a breakdown of the most popular smuggling routes by method in its 2016 report.\(^6\) The report claims: ‘The bulk of illegal smuggling by motor vehicles occurs in Budzisko (Lithuania), Dorohusk, Hrebenne Koczowa, Medyka (Ukraine), Augustow and Kuznica (Belarus). International trains were stopped in Dorohusk, Kowalewo, Kobylyany and Medyka. Smugglers also targeted the ports on the Baltic Sea (Gdansk and Gdynia) mainly to import Chinese counterfeit cigarettes’. As noted in Chapter II, one of the most notable trends in terms of inflows into Poland in recent years has been in the levels of smuggling from Ukraine and Belarus. The percentage of contraband and counterfeit cigarettes from Ukraine has dropped from 64.4 per cent in 2009 to 0.9 per cent in 2014; conversely, the percentage from Belarus has risen from 14.6 per cent in 2009 to 50.6 per cent in 2014 (although this trend may have reversed in 2015).\(^7\) This is despite increased border enforcement activity along the Belarusian border, including the deployment of additional scanners, sniffer dogs and customs personnel. Industry intelligence suggests this may be due to OCGs smuggling illicit products into other EU countries first (notably Lithuania) and then taking advantage of free movement within the Schengen area to bring them into Poland.\(^8\) Shipments in trucks are therefore estimated to be the most common way to smuggle cigarettes across the border, although as the IBOG states, this is difficult to substantiate given the lack of available statistics on Polish–Lithuanian border crossings.\(^9\)


\(^4\) Niemczyk I Wspolnicy, \textit{The Illegal Tobacco Market in Poland}, p. 48.


\(^7\) KPMG, ‘Project Sun’, p. 196.

\(^8\) Ibid.

\(^9\) Niemczyk I Wspolnicy, \textit{The Illegal Tobacco Market in Poland}, p. 36.
Box 2: Case Study.

A number of seizures during 2015 at Budzisko, near the Polish–Lithuanian border, illustrate some of the origins, products and ingenuity involved in cases suspected or alleged to be OCG smuggling operations. In February, Customs Service officers stopped a Polish truck and arrested a 31-year-old Polish national, after discovering 275,000 packs of cigarettes with an estimated market value of over PLN3 million. The individual, and his supporting documentation, claimed that he was transporting furniture from Latvia to the Netherlands. The suspected contraband was hidden behind a ‘layer’ of furniture at the back of the truck. In March, officers seized 185,000 packs of cigarettes hidden within 20-tonne component parts for a bridge, which were being transported from Moscow on a Belarusian truck. The 33-year-old driver was a Belarusian national, and the packs themselves, hidden behind Styrofoam and wooden panels, also had markings in Belarusian. The market value of the cigarettes was estimated at more than PLN2 million. Two months later, officers stopped a Latvian truck. The two Latvian individuals inside, a 44-year-old and a 19-year-old, claimed they were transporting pillows and cushions from Latvia to the Czech Republic. When X-raying the truck, officers identified tobacco behind a stack of boxes, and on inspection discovered more than 440,000 packs of cigarettes of Belarusian origin. Their market value was estimated at nearly PLN5 million.

Another notable trend relating to bringing contraband into Poland has been towards ‘little-and-often’ trafficking operations. This has been remarked on over the course of the last few years, as the number of seizures has increased, while the number of cigarettes per seizure has reduced. In 2012 the Customs Service recognised a ‘fragmentation’ of smuggling, based on analysis of its seizure data: ‘In order to minimize losses in the event of detection, the organisers of smuggling have adopted a “little and often” strategy. This is confirmed by statistics on the average number of cigarettes per seizure made by Sluzba Celna’.10 The fear was that illicit tobacco was beginning to be transported under the radar of law enforcement, in sufficiently small quantities to evade detection. For this reason, it concluded, ‘it is recommended to increase surveillance of mail and courier services, as well as passenger traffic of airlines and ferries’.11

The use of courier services is a trend recognised by Transcrime, which argues that: ‘The exploitation of the internet and of postal services by [groups involved in the illicit trade in tobacco products] is increasingly common in Poland’.12 The IBOG, too, believes that the little-and-often strategy continues, and remarks that in 2014 the Customs Service once more increased the number of seizures it conducted (with an increase in the number of seizures found in cars compared to trucks), while the average number of cigarettes per seizure decreased.13

11. Ibid.
Once the smuggled cigarettes arrive in Poland, there is a significant degree of evidence to suggest that OCGs control the distribution networks that place the cigarettes in the hands of consumers. Street vendors in open markets are the primary channel for the distribution of illicit tobacco products in Poland.\(^{14}\) They are extremely well organised, with a three-stage process to supplying the illicit tobacco: the vendor; small storage facilities; and larger storage facilities.

The vendor himself will have only a small number of packs or empty packs on his person, in case he is challenged by police officers, including those undercover in the markets. Once a buyer has approached a vendor for a certain type or brand of tobacco, the vendor picks it up from a small storage facility nearby. This could be the boot of a car, a gap between market stalls or behind litter bins (although officers have also come across tobacco hidden beneath piles of leaves and snow). These can be restocked as often as every 15 minutes, supplied by larger facilities located a small distance from the market, in areas where frequent traffic and the movement of boxes will not attract suspicion. These larger storage facilities are often well protected (although experts concede this is as much to protect the contraband from theft by other OCGs as to conceal it from authorities). At all stages there are lookouts to check for police, while one expert suggested that some OCGs have lookouts monitoring police stations and customs offices, who send a warning if there are large numbers of cars leaving, meaning a raid is likely to be imminent. On frequent occasions OCGs will also warn other OCGs if they have spotted suspicious individuals in the markets, who may be undercover police officers, further highlighting the level of co-operation between groups.

These tactics have been known to authorities for a number of years, with the 2012–15 Customs Service strategy drawing attention to the highly organised nature of the distribution networks as one of the defining features of the illicit tobacco trade. The strategy notes that OCGs which sell tobacco in open markets tend to have a clear division of roles: ‘one offers merchandise, someone else takes the order, another reports the order and brings back the goods from the storage facility; usually a few people are on the look-out in the sales area, with the task of warning traders about the possibility of controls’.\(^{15}\) It also suggests extensive planning goes into the selection of sites for storage facilities, with wide use of surveillance and reconnaissance operations.\(^{16}\)

### Illegal Production Factories

As previously noted, Poland is not simply a destination and transit country for illicit tobacco, but also a source country. One major trend identified by authorities in recent years is the number of illegal cigarette factories set up by OCGs. As demonstrated by Figure 8, this activity appears to be on the rise, with an estimated 41 facilities closed down in 2015 alone. In addition to those producing cigarette packs, such facilities have been known to produce illicit white brands, counterfeit versions of legitimate brands, and fine-cut or handrolling tobacco, known colloquially as ‘chop-chop’.

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Figure 8: Illegal Production Facilities Closed Down in Poland, 2004–15.

While setting up a factory requires a significant financial investment, the illegal production of cigarettes is an extremely profitable activity. In early 2015, a joint CBS and Customs Service operation led to the discovery of one of Poland’s largest illegal tobacco factories in Wlochy, a district of Warsaw. Around 57 tonnes of tobacco cut filler were seized, with an estimated value of PLN36 million. There is a sizeable market of suitable machinery and expertise available, with much of it on the open market since the sector was deregulated in the 1990s. The factories themselves are usually the last link in the supply chain to be established; OCGs will only ‘sponsor’ a factory and employ a ‘factory manager’ to look after the production once the rest of the supply chain has been established, including identifying the final buyer and/or destination market. Distribution dictates production, so that a batch of stock will be made to order with the health warnings in the correct language, or the counterfeit duty-free markings for the destination market already prepared.

Authorities believe that illegal tobacco factories move regularly, perhaps every three months, to avoid detection. However, according to the IBOG, factories are mostly located in the central-western areas of Poland. This was confirmed by officials from the CBS, who indicated that

the factories it identified and targeted in 2015 were dispersed around central areas, and were notably absent from eastern parts of the country, where OCGs tend to focus their activity on smuggling across the border.

Illegal factories producing counterfeit cigarettes of various brands may be on the rise given that anti-illicit trade efforts have increased the risk of detection along the borders. Transcrime suggests: ‘For this reason, OC [organised crime] groups have moved cigarette production closer to final consumers’.\(^{18}\) In details of recent cases provided by law enforcement officials, there was also evidence of export products in their component parts, including a number of cases of printing factories producing only fake cigarette packaging. The OCG can then transport these component parts for manufacture closer to the point of sale, minimising risk while the goods are in transit.

Organised Crime and Illicit Alcohol

There is very limited information on the OCGs behind the illicit alcohol trade in Poland. From the available information, it appears that groups tend to specialise in one of two areas. The first is missing trader intracommunity fraud, a complex form of criminal enterprise in which an OCG defrauds governments of duties and/or VAT. An example would be an illicit trader selling goods to another illicit trader, who in turn sells it on, and so on. The first trader defaults or goes missing without paying VAT to the relevant national tax authority. The subsequent traders falsely reclaim the VAT on goods which they continually import and export to and from other EU nations (as they are sent round and round across numerous EU borders, the activity has also became known as ‘carousel fraud’). Similarly, the OCGs involved in this form of illicit trade take advantage of vulnerabilities in the ‘bonded warehouse’ system, which allows them to manipulate the stock, for example, or create duplicate loads.\(^{19}\) A noticeable problem in relation to vodka smuggled across the eastern border was reported by interviewees, but the general impression was that alcohol smuggling in general is a diminishing problem. One argument for this is that alcohol products in Poland are generally already cheap, so the profit to be made on smuggling products into Poland from other countries is limited, and it could be that OCGs are turning their focus elsewhere.

The second problem, industrial alcohol fraud, continues to be a profitable enterprise for criminals. Authorities suspect that OCGs are currently involved in three types of this fraud: the illicit domestic production of alcohol solvents (for example for cleaning products); the unlawful importation of completely denatured alcohol (with Hungary and Slovenia cited as the most common sources); and the unlawful importation of industrial goods containing alcohol from


\(^{19}\) European rules on excise holding and movement allow payment of duty on goods to be ‘suspended’ while they circulate between registered warehouses in the EU, known as ‘bonded warehouses’. These are designed to benefit traders who import goods, offering a facility that delays duty and/or import VAT payments until traders are ready for the goods to come out of ‘duty suspense’, entering free circulation or the customs procedure of another EU member state.
across the EU. Most concerning, and as discussed in Chapter II, denatured alcohol has been used to manufacture counterfeit alcohol in illegal factories. Common counterfeits include Ukrainian and Belarusian vodka, as well as Ukrainian counterfeits of Belarusian vodka, although they are more likely to be sold in markets in unmarked, clear plastic bottles than in shops as a counterfeit version of a legitimate product.

**Box 3: Case Study.**

In July 2008, an alcohol factory was discovered in Szczecin, a city close to the German border. Authorities seized around 33,000 litres of pure alcohol and 8,000 litres of partly decontaminated industrial alcohol, on the suspicion that they were being used to produce counterfeit vodka (Smirnoff, Glen’s and Kirov brands). A full-scale production line had allegedly been established, with counterfeit labels, holograms and caps. The factory was thought to be capable of producing 24 bottles per minute. All those arrested were Polish nationals, although authorities also suspected that there was a link with a bottling factory in London in the UK.

**Organised Crime and Illicit Pharmaceuticals**

According to officials, the CBS sees on average only two to three cases of illicit pharmaceuticals involving OCGs per year. Authorities believe that the majority of the illicit pharmaceuticals trade is conducted by opportunistic criminals, rather than OCGs. However, there are signs that this situation is changing, with two main categories of criminal actor involved: the ‘novices’ entering the market, with limited criminal experience and relatively small operations, and established OCGs who have diversified their activities to include pharmaceuticals, after discovering that it can be more profitable than narcotics, illicit tobacco or fraud. The activities of the illicit pharmaceuticals trade – including investing in pharmaceutical wholesalers, parallel export and money laundering – suit the existing modus operandi of these groups. The OCGs involved only rarely have any interaction with legitimate businesses, and it is believed that there is much more co-operation than competition between different groups, with one case cited of OCGs sharing websites and even bank accounts.

There is some evidence of the manufacture, rather than just the importation, of counterfeit medicines in Poland, following seizures of active ingredients sourced from China (sometimes shipments include both medicines and active ingredients, making it difficult to distinguish between legal and illegal importations). However, the illegal ‘factories’ discovered to date have been on a very small scale.

More significant is the sale of pharmaceuticals via illegal online pharmacies, which are typically operated by extensive criminal networks, and are quick to respond to market demand. For example, authorities noticed an increase in the supply of certain dietary medicines after EU rules outlawing these products were introduced. As in most EU countries, the use of internet-based services is much more of an issue in relation to pharmaceuticals than other commodities, and
attempts to take down websites have proved ineffective in the past, as the ownership of the domain name is quickly changed following a suspect’s arrest. Taking down websites hosted on foreign servers and identifying the individuals operating such websites (who typically use prepaid mobiles and constantly change e-mail accounts) were highlighted by authorities as further challenges.

Box 4: Case Study.

In 2012, a Polish national was arrested, suspected of being involved in illegal shipments of Viagra from China, which were alleged to have been falsely declared as coloured pencils. It was claimed that he addressed the packages to family members, including his grandmother, mother and daughter. His office was alleged to have doubled as a sorting facility for the illicit pharmaceuticals and thousands of pills were discovered there, along with (unencrypted) Excel spreadsheets detailing accounts, printers producing customer address labels (within Poland) and two employees who were packing orders. Analysis of the accounts indicated he was earning at least PLN50,000 per month.

According to officials from the CBS, the source of most illicit medicines is China and Southeast Asia, arriving in Poland via Lithuania (suggesting Lithuanian OCG involvement), Germany (the large postal hub at Hamburg in particular) and Turkey. The relationship between OCGs based in Poland and Chinese suppliers is limited, with any interaction between the two typically occurring on a transactional basis. The most popular destination markets are Germany, Hungary, Sweden and the UK. Poland also acts as a source country in relation to parallel trade, driven in part by the lower price of pharmaceuticals in Poland compared with other areas of the EU.

According to authorities, there is evidence to suggest that OCGs involved in the illicit pharmaceuticals trade now purchase from the UK and the Netherlands rather than Southeast Asia, as it is quicker to restock. This facilitates the operational model of ordering smaller amounts more frequently, which has two advantages. First, OCGs can adapt more quickly to market demand; second, they can limit the volume of contraband held at any one time to reduce the seriousness of the offence in case of arrest. While it is likely that Southeast Asia continues to be the primary source of illicit medicines, this suggests that there is an emerging ‘illicit wholesale’ market operating in the UK and the Netherlands.

A final notable trend has been the use of postal and fast parcel systems. Authorities remarked that the largest operations use the postal system to ensure the identity of OCG members remains anonymous, with both pills and cash sent via post to front and/or temporary addresses. According to officials from the Customs Service, the delivery of illicit pharmaceuticals via small, private couriers is also on the rise. Officials suggested that occasionally the recipient pays the courier for the product, who passes the payment on to the supplier (suggesting the couriers themselves become complicit in the illicit trade).
IV. Legislation, Law Enforcement Response and Sanctions

At the time this study was being undertaken, Poland was undergoing a number of legislative and executive reforms, with direct implications for efforts to combat illicit trade. Representatives from both the public and private sectors expressed frustration at perceived weaknesses in legislation and regulation, which continue to create an environment conducive to illicit trade and a system vulnerable to exploitation by OCGs. Overall, the performance of the various public bodies involved in countering organised crime and illicit trade activities was seen as good by those interviewed, with particular praise given to the level of co-operation between law enforcement and private sector companies, as well as collaboration with foreign law enforcement agencies. Specific suggested areas for improvement according to private and public sector representatives included more specialisation within law enforcement and enhanced financial investigations, but the most common frustrations related to a lack of awareness, both among the public and within the judicial system, and the relatively lenient sanctions available.

Legislation and Regulation

The high level of tax on products such as tobacco and alcohol is often considered the main driver of illicit trade. In itself, there is nothing ‘wrong’ with governments placing and increasing taxes on these products, which is often done for logical reasons concerned with improving the overall health of the population. What governments often fail to take into account, however, is that rapid and/or large tax increases on these products, and in turn their retail price, creates the underlying conditions for illicit markets and organised crime to flourish.

In Poland, excise rates on tobacco increased in the late 2000s, but it is not the fact that they increased, but that they increased rapidly, which seems to have contributed to the recent growth in the illicit tobacco trade. Poland, an EU member since 2004, has been required to implement a 2011 EU directive governing a new tax structure for manufactured tobacco. The new directive requires member states to increase, by 1 January 2014, the minimum excise rate from €64 per 1,000 cigarettes to €90, and the proportional minimum to 60 per cent of the weighted average sales price (from 57 per cent). However, the agreement also allowed for transitional arrangements until 1 January 2018 for member states that had not yet achieved the existing minimum rates, among them Poland.¹

Despite having until 2018 to implement the changes, Poland raised its excise rates rapidly between 2009 and 2012, during which time state revenues increased (Figure 9). However in 2013, despite further increases in excise rates, revenues began to decline, from a peak of PLN18.4 billion in 2012, to PLN18.2 billion in 2013 and PLN17.9 billion in 2014.\(^2\) A number of industry representatives and academic experts likened this trend to the tipping point on the Laffer curve,\(^3\) in that consumers were no longer able to accommodate or tolerate the price, and revenues dropped. Given the continued decrease in government income, 2015 became the first year that excise tax was not increased. According to industry figures, today excise tax represents 64.3 per cent of the cost of an average cigarette (with 18.7 per cent VAT and 17 per cent manufacturer production costs and margin).

**Figure 9:** Revenue from Excise Duties on Tobacco Products in Poland.

\[\text{Revenue (billion złoty)}\]

\[\begin{array}{cccccccccc}
\text{Revenue} & 8 & 10 & 12 & 14 & 16 & 18 & 20 & 20 & 20 & 20 & 20 & 20 \\
\end{array}\]

*Source: Niemczyk I Wspolnicy, ‘The Illegal Tobacco Market in Poland’.*

Other changes at the European level have affected the illicit tobacco trade in Poland, including the end of EU subsidies for tobacco production. Although farmers are still granted subsidies from the national budget, their level does not compensate for the level of lost subsidies from

\(^2\) Niemczyk I Wspolnicy, *The Illegal Tobacco Market in Poland*, p. 3.

\(^3\) The Laffer curve is an economic model that explains why a tax increase may reduce tax activity and raise less revenue than otherwise predicted.
the EU. Farmers also no longer have an incentive to record their annual production, meaning the monitoring of production is being lost, and with production less profitable, some have turned to the willing traders on the black market to increase profits. As a result, volumes of illicit raw tobacco on the market have increased, combined with easy consumer access to shredders, cigarette filter paper and roll-your-own cigarette machines (often sold in specialised premises or convenience shops), as well as an increase in the number of factories producing counterfeit cigarettes.

As a consequence, and due to the growing size of the problem, the Polish government soon became concerned and over the last five years has adopted a number of legislative measures to try to combat the problem. In January 2013, an excise tax on dried tobacco was introduced, meaning that anybody who bought raw dried tobacco (that was not a tobacco product) needed to pay this tax, with the exception of registered agents or manufacturers (who instead pay excise tax when the raw tobacco is turned into a tobacco product). However, the law specifically defined the tax as applying to ‘dry’ tobacco, and therefore contained a loophole. Soon, the illicit market began trading wet and humid tobacco. Producers would sell moist tobacco leaves straight from the field, with sellers even offering customers simple equipment to dry the leaves.

The government changed the law in 2014 to close this loophole, and all raw tobacco that is separated from a living plant, but which is not yet a tobacco product, became subject to the tax. At the same time, the tobacco market in Poland began to change and vending machines at retail points of sale became popular. Again, the illicit market took advantage of loopholes in the system, as the excise was based on units rather than weight, and this led to the production of ‘party cigars’, cigars up to 30 centimetres in length that could be unwrapped and used as loose tobacco.

At the end of 2014, the government again acted to close these loopholes, and in 2015 new legislation was introduced imposing excise based on product weight rather than units. Excise tax on vending machines at point of sale was also increased, and new sanctions introduced, which have subsequently led to a decline in the number of machines, according to industry representatives. Further legislation is planned for 2016, which will bring new controls over the whole lifecycle of tobacco production, from growers to processors and manufacturers, including regulations making detailed records mandatory.

While the vulnerabilities in legislation and regulation for tobacco have received the most attention, the researchers came across evidence of similar cases in relation to alcohol and pharmaceuticals. A number of court cases relating to illicit alcohol were cited by industry representatives, in which the defence counsel (often successfully) exploited vulnerabilities in the legislation. For example, the law criminalises the counterfeiting of or trade in illicit goods which are aimed at entering the market; as a result, some of those accused persons have argued that they are lawfully creating counterfeits for their own needs, with prosecutors having to

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counter this argument or prove otherwise. Similarly, a case involving an individual producing counterfeit bottle caps caused frustration among prosecutors when the judge interpreted the law for intellectual property offences as applying to the entire product, rather than just one component (for instance the caps or labels).

The only specific legislative issue raised for illicit pharmaceuticals related to the provision to increase the severity of the offence if a threat to public health could be proved (see below). There was also an issue raised in relation to the regulation of the pharmaceuticals industry, where it was argued that the process for gaining a wholesale or retail licence is currently too easy; the exploitation of this vulnerability by OCGs may explain why there has been a substantial increase in the number of wholesaler companies registered with the GIF, with no comparative growth in the market to justify this increase. It has been suggested that OCGs may be behind some of this activity, operating with legitimate licences until such time as the GIF can sort through the backlog of cases to identify false and/or illegitimate businesses.

**Law Enforcement Response**

Commentators have often been critical of the law enforcement response to illicit trade. For example, in 2007, one academic noted that, ‘Despite relatively strict control over illegal cigarettes along its borders, Poland’s enforcement of illegal cigarette sales within the country appears less vigorous. Street vendors sell smuggled cigarettes in open-markets across Poland with seemingly little negative consequence from local authorities’. Interviewees suggested that the situation has improved in recent years, particularly following the publication of a number of law enforcement strategies in place to tackle the problem. As previously noted, the Customs Service has a dedicated anti-illicit tobacco strategy, while the police has been aware that it needs to adapt its capabilities to a general shift towards economic crimes, and produced an internal strategy for tackling economic crime in late 2015. The researchers were told that the new strategy does not include any radical reforms to the organisation, but instead focuses on prioritisation and enhancing interagency co-operation and information sharing.

Overall, feedback from a variety of public and private sector stakeholders suggests that the weaknesses in the fight against organised crime and illicit trade relate more to vulnerabilities in the legislation, regulatory framework and judicial system than to law enforcement efforts. However, a number of issues relating to law enforcement were frequently raised with the researchers. The first common theme was the significant number of actors involved in tackling illicit trade in Poland, and to date there seems to have been limited processes in place to share information and co-ordinate resources. There is no ‘home’ for counter-illicit trade activities, and despite establishing a task force and interministerial working group for countering tobacco smuggling, interventions appear to predominantly rely on operational co-ordination between different agencies. This is one area of improvement that law enforcement officials themselves remarked upon, and is something that the Polish government recognises in relation to tackling

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organised crime generally: ‘As far as the fight against organised crime is concerned, it is necessary to improve the institutionalised exchange of information between all services and institutions engaged in combating this form of crime’.  

Conversely, collaboration between law enforcement agencies and the private sector, which often demonstrated superior specialist knowledge of its products, was highlighted as a notable strength. The researchers came across a number of companies with personnel or departments dedicated to counter-illicit trade activities, while the number of cited law enforcement investigations originating from private sector reporting and intelligence was significant. The degree of co-operation typically differs for each commodity: co-operation was seen as particularly good in relation to tobacco, with companies sharing significant amounts of information and intelligence with authorities (legislation prevents law enforcement sharing information with the companies); there was willing co-operation from alcohol companies and some joint inspections have been conducted; there was limited co-operation and assistance with prosecutions from pharmaceutical companies, and this was typically restricted to larger companies.

The division of roles and responsibilities between different agencies was a second common theme, and particularly the question of whether more ‘specialist’ agencies, such as the Customs Service or GIF, should have additional operational and investigative powers. As part of its activities to monitor border entry points, bazaars and distribution channels, the Customs Service has limited operational powers, including surveillance powers and running human intelligence sources. However, it soon reaches a point where its operational remit expires, and it must compile the initial information about a case before handing this to the police, which must investigate and prosecute if necessary. Similarly, the GIF can only report and refer cases to the police, and does not have enforcement powers. Proposals to expand the operational remit of the Customs Service were rejected in 2009, and there continues to be mixed feelings towards this decision. Police officials recognised that they do not typically have the extensive experience on individual commodities or customs procedures, for example, and frequently need the specialist knowledge and support of colleagues from other agencies to undertake an investigation. While the benefits of ‘centralising’ certain law enforcement capabilities was recognised, the idea of other agencies taking on cases that are often of lower priority for the police was broadly welcomed.

A third common theme to emerge was the relative success of law enforcement at the operational level, while strategic analysis and direction remained more limited. Generally, law enforcement capabilities were judged as very good and operations were seen as effective, but it was also noted that operations were most successful at disrupting low-level criminals (such as drivers, mules and illegal factory workers) rather than those at the higher levels within OCGs. There is evidence of good strategic analysis being undertaken by law enforcement agencies on some elements of the threat, especially in relation to illicit tobacco (as previously discussed, the 2012–15 Customs Service strategy noted the importance of the trend towards ‘little-and-often’ operations).

Yet there are also indicators to suggest that further strategic thinking on illicit trade would benefit law enforcement efforts. Seizures, particularly in the context of shipping containers, were described by officials from the Customs Service as ‘sporadic and decreasing’, and despite internal performance measures being stable, they noted that seizure rates for tobacco, alcohol and pharmaceuticals are decreasing. There is no clear evidence, however, that illicit trade is similarly reducing. Illicit production facilities, including illegal tobacco factories, are on the rise, and there was little evidence of strategic thinking on how to reverse this trend; one senior law enforcement official attributed their discovery to ‘luck’. Private sector representatives believed more could be done to collect and exploit intelligence, which was described as limited during seizures, and a common complaint was that related seizures and cases are not linked, preventing the investigation of the wider network behind illicit trade routes (further facilitating little-and-often operations).

The view from police and customs officials was that they must operate in an environment where government policy dictates resource allocation. In spite of their best efforts and operational successes, they believed that government should be required to make illicit trade a policy priority in order for them to focus resources on economic crimes such as illicit trade, and particularly on commodities such as tobacco, alcohol and pharmaceuticals, which have the potential to cause harm (compared with intellectual property offences for clothing).

A key point of law enforcement intervention when it comes to illicit trade is at the border; with EU accession, many of Poland’s eastern borders became EU external borders. The impact of this on smuggling operations in particular was seen as mixed: on the one hand, it incentivised criminal efforts to smuggle goods into the European market (in 2011 the European Commission published an action plan to fight smuggling of cigarettes and alcohol along the EU eastern border); on the other, investment in border controls and collaboration with neighbouring countries have both increased, and customs officials believed they were much more in control at the external EU border than at internal EU borders. Schengen rules limit the action that can be taken at internal borders, where a maximum of 5 per cent of vehicles can be stopped and searched. This is in contrast to external border crossings, where on average 35 per cent of trucks entering Poland are scanned.

The situation is similar at sea ports such as Gdansk and Gdynia, where just below 5 per cent of containers originating from within the EU are scanned. Customs officials noted that container-scanning capabilities have improved significantly in recent years with the introduction of new scanning technology, and the number of containers scanned per year increased from 7,000 in 2012 to 15,000 in 2014 (and once new mobile scanning vehicles are introduced this is set to rise to 40,000).

In terms of road traffic, customs officials also noted that checks at border crossing points are improving, with more people with more equipment able to conduct more searches, resulting in fewer large seizures of tobacco, in particular. However, the border with Lithuania has emerged as a problem. Given the increased effectiveness of controls at the external EU border, OCGs are instead rerouting their smuggling operations via Lithuania (potentially indicating less stringent
controls at Lithuania’s external EU border). There is no formal crossing point from Lithuania into Poland, and given restrictions on the number of vehicles that can be stopped, the chance of smuggling items successfully increases. Random checks conducted near the border, however, now lead to seizures in around 20 to 30 per cent of cases, according to customs officials.

Sanctions

There was a general consensus among representatives from both the public and private sectors that illicit trade is not taken sufficiently seriously by the judiciary. This was a particular frustration for law enforcement officials, who often see the same criminals involved in the same illicit trade activities, seemingly undeterred by the sanctions. According to one report, in 2012 only four people were sentenced to imprisonment for more than two years for crimes relating to illicit tobacco (of which two were suspended sentences), while according to industry representatives the average fine for tobacco smugglers in the same year was €2,700 (around PLN12,000).

The overwhelming conclusion of those interviewed was that prosecutors and judges do not fully understand the problem of illicit trade, with three particular issues highlighted. The first and most common complaint was that the sanctions available for illicit trade crimes are too low, and do not act as a deterrent. The separation between the government and judicial system in Poland is notable, but many advocated stricter sentencing guidelines, and for the criminal code to narrow the ‘choice’ available to judges, with an increase in minimum sentences. The previous government was thought to be generally reluctant to pursue stronger criminal penalties, given the perceived prison overpopulation, but it was thought that the situation may change with the new government, as the party had pledged to increase enforcement activity in order to reduce the tax gap.

The second problem was one of perception. Historically, it was felt that there had been a cultural acceptance of smuggling and similar activities, and this was reflected in the judicial system today, which does not view these crimes as a serious problem compared with other criminal activities. Some argued that prosecutors and judges did not appreciate the trend of some OCGs moving away from more violent, traditional forms of crime to economic crimes. Others felt that prosecutors and judges were adversely incentivised by performance indicators, with a focus on completing a large number of small cases quickly, rather than a relatively small number of large and complex prosecutions.

In general, it was felt that judges do not associate illicit trade with organised crime, and the third issue raised was that a trade-off is often made in cases that go to court. Illicit trade can cover a number of different offences – tax fraud, violation of intellectual property rights and customs violation – which are based in different areas of legislation. It was argued that cases are not linked to organised crime as they are rarely prosecuted as such, and again this is partly a question of incentives, as it is easier for prosecutors to base an indictment on the fiscal code, for example, than to pursue charges under Article 258 of the penal code relating to organised criminal activities, which requires more extensive investigation and a higher burden of proof.

The researchers came across other instances where prosecutors were likely to follow the path of least resistance, especially in relation to illicit pharmaceuticals. In Poland, introducing medicines to the market that do not comply with safety guidelines carries a sentence of between two and five years; in 2008, however, the first conviction took place on the basis of causing ‘danger to health and life’, which carries a higher prison sentence of up to eight years. While the introduction of this provision was generally seen as a positive development, legal experts have highlighted that providing evidence to support it is extremely difficult, and that it will therefore rarely be used by prosecutors.

Box 5: Case Study.

Some cases reveal the close link between suspected illicit trade and financial flows. For example, in 2011 an investigation into suspicious financial transactions revealed a large network comprising dozens of nationals, allegedly involved in the illegal importation and distribution of steroids and medicines. Authorities believe that around ten of the individuals worked at the ‘management’ level of the group, who were also suspected of running drugs and extortion activities. The remainder were thought to be ‘foot soldiers’, involved in preparing and distributing the orders for pharmaceuticals which were allegedly imported primarily from China, the UK and Amsterdam. The group was wary of holding large amounts of products, and so importations were limited to the low hundreds of pills, imported every few days.

These three issues contribute to what many perceive to be a vicious circle, in which illicit trade is not considered to be an organised criminal activity, and therefore penalties are relatively light, which means that they do not act as a deterrent to criminals. While a case was made for judicial reform, it was thought that criminal confiscation and asset recovery were more likely to act as an effective deterrent. Currently, financial penalties are based on the official status of the defendant, but defendants often class themselves as unemployed and hide funds with family members. The penalties are therefore relatively low. Authorities do have dedicated financial investigation units with powers to recover the proceeds of crime, and there have been some successful and substantial recoveries of proceeds, but officials called for increased capability in this area to help find and seize criminal assets, and to continue to pursue assets over a period of years and even decades.
V. Analysis

ILlicit trade is a significant, if insufficiently understood, organised criminal activity in Poland. From the operations conducted by law enforcement agencies, it is clear that the majority of illicit trade is controlled by OCGs. The reason for this low knowledge is not lack of prioritisation by law enforcement agencies, but that illicit markets in Poland are rapidly evolving and adapting to law enforcement efforts. The illicit tobacco trade (and to a lesser extent illicit fuel trade) is a priority, but this partly reflects the fact that, on the whole, much more is known about the illicit tobacco trade than the illicit alcohol and pharmaceuticals trades, and it has been subject to a number of reports in recent years. Much of this research, however, raises more questions than answers, and it is clear that a better understanding of the problem, as well as some of the key trends, would help with understanding the ways organised crime more generally is evolving in Poland.

Police officials were explicit in their view that, over the last decade, there has been a shift in criminal behaviour in Poland away from violent crimes, such as gun crime and robberies, towards economic crime. Officials are fully aware that many criminals moving into the illicit trade of tobacco, alcohol and pharmaceuticals have recognised the considerable profits to be made, the low risk of getting caught and low-level sanctions should this occur. Authorities also noted the frequent overlap between different OCG activities; drug traffickers linked to trade in illegal tobacco and amphetamines, or those involved in illicit pharmaceuticals linked to steroids and psychoactive substances. Once smuggling routes and distribution channels are established, it does not matter too much to the OCG what it trades in, and the commodity changes purely based on what is most profitable.

Based on the analysis of organised crime involvement in illicit tobacco, alcohol and pharmaceuticals, one critical theme to emerge is the similarities between OCG behaviour in this area and legitimate business practices (indeed, one expert we spoke to suggested that, for an entrepreneur in Poland today, the financial risk of setting up a criminal enterprise was substantially less than setting up a legitimate business). There are a number of indicators to support this. OCGs involved in illicit trade appear to be less reliant on traditional hierarchical structures and have moved to a much more flexible system that reflects legitimate business service models. Operations are financed by a number of criminal groups and investors, with products designed for different levels of the market, from cheap products to be sold domestically in bazaars to high-value markets for Germany, the UK and Scandinavia, for example. There is evidence to suggest that groups move from one commodity to another as opportunities arise and responding to market demand. The authors were told of three large OCGs involved in the illicit fuel trade that moved into pharmaceuticals, as well as a number of OCGs which began to illegally trade construction materials in the run-up to the Euro 2012 football tournament.

The distribution networks established by OCGs in Poland are particularly sophisticated. This is seen in the setup in street markets, particularly for tobacco and alcohol (as shown in Chapter III), but is perhaps most striking with regard to illicit cigarette production, where demand dictates
production and the factories themselves are only established once the rest of the supply chain has been put in place. A single transaction will take place between an OCG in the destination country (the buyer) and the OCG operating illegal factory facilities in Poland (the seller); production will not begin until the terms of the transaction have been agreed. As this illustrates, OCGs in this area operate internationally and co-operate with OCGs in other countries depending on the particular capabilities and skills of each OCG, similar to legitimate supply chains. A labour force of ‘technicians’ and criminals with particular areas of expertise in tobacco manufacturing, for example, are brought in from other countries on a contractual basis (reducing the risk for OCGs as the individuals are less likely to be known to Polish authorities).

Three further trends were observed in OCG behaviour and activities. The first trend towards little-and-often operations and ant smuggling controlled by OCGs has been on the radar of law enforcement since at least 2012, and it appears that breaking down contraband into small quantities and component parts, and conducting low-volume, high-frequency operations, have become the norm. Ant smuggling was highlighted as a particular challenge for law enforcement agencies, as it is extremely difficult to quantify its scale (particularly when related to movement across lengthy land borders), and to distinguish it from legitimate trade. The second trend results from recognition by OCGs that transporting contraband and counterfeit goods represents the biggest risk, while manufacturing goods near the point of distribution and putting together component parts as close as possible to the point of sale significantly reduces the risk of law enforcement detection. The third trend is an emerging tactic to divert law enforcement attention by overloading the regulatory system with information (for example, the spike in pharmaceutical wholesale companies registering with the GIF). This also suggests a degree of co-ordination, or at least tactical learning, between different OCGs.

**Drivers of Illicit Trade in Poland**

One obvious enabler of illicit trade in Poland is its geographic location between source countries to the east – in particular Russia (Kaliningrad), Lithuania, Ukraine and Belarus – and large destination countries to the west (especially Germany), which has meant that it has always been likely to act as a transit country for smuggling. Perhaps more significantly, however, there are five specific drivers of illicit trade conducive to the involvement of organised crime groups.

The first is price differentials: the low price of alcohol and pharmaceuticals in Poland explains why Poland is thought to be a source country for these commodities. For tobacco, the rapid increase in excise between 2011 and 2014 is likely to have been a factor in the recent growth of the illicit market. Excise increases are not in themselves inappropriate, but the rapid, successive increases over this period created large price differences between the legal and illicit market, as well as between Poland and neighbouring Kaliningrad, Ukraine and Belarus. Without mitigating measures in place, the public is more likely to be lured towards the illicit market in response.

This is reinforced by the second specific driver: social acceptance. There is clearly a market for illicit goods in Poland, and consumer attitudes indicate that it is not seen as a ‘crime’. Awareness of the risks (including health) is generally seen as mixed: the dangers of illicit alcohol are thought to be
well known, awareness of illicit tobacco varies significantly, while awareness of the risks of illicit pharmaceuticals is thought to be poor.

Social acceptance is linked to the accessibility of illicit goods, the third specific driver. Given the volumes of illicit products openly available to consumers, whether at markets, in shops or (increasingly) over the internet, there can be little doubt that illicit goods are easily accessible to Poles.

The fourth specific driver is the relatively lenient sanctions (including both custodial sentences and financial penalties) that apply to those convicted of illicit trade. This contributes to the popular perception that illicit trade is not considered a serious crime, while the lower penalties reduce the risk attached to illicit trade and explain the trend in OCG behaviour from high-risk to low-risk criminal activities.

The fifth driver concerns the number of legislative weaknesses and legal loopholes at both the national and EU levels. The vulnerabilities in legislation and regulation are rapidly exploited by Polish OCGs, which are able to adapt their methods appropriately.

**Key Findings**

1. Nationally and internationally, Polish OCGs have a reputation for being particularly capable, quick to identify opportunities to exploit, and adaptable in their approach and methods. Some groups appear to be specialised in fraud and tax-related crime and move between trading in tobacco, alcohol and fuel, for example, while others move from other crime areas (including narcotics) into illicit trade. Many OCGs in this area appear to have a multinational component, and co-operate rather than compete with other OCGs.

2. Vulnerabilities in both legislation and regulation on illicit trade have attracted organised criminals and enabled them to evade conviction, resulting in poor case history and contributing to a culture of acceptance among the judiciary and the public. Current penalties do not provide an effective deterrent, allowing the same individuals to remain involved and OCGs to simply adapt their methods following seizures and convictions.

3. There is high public demand for illicit goods in Poland, which are both acceptable and accessible. Sophisticated distribution channels exist, particularly at street markets, which bring illicit goods within reach of consumers. And while bazaars continue to be a popular point of sale, the role of internet-based trade in illicit goods is increasing.

4. In general, illicit trade is not as high a priority for law enforcement as other organised crime threats, although the illicit tobacco and fuel trades are notable exceptions. There is surprisingly limited information available on the nature of the threat and no official estimates of scale, but rather a reliance on seizure data and the estimates of a number of industry and academic sources. Strategic analyses have been undertaken, but this has not led to a more strategic law enforcement approach across different agencies.

5. In recent years a number of policy and legislative changes have been made to tackle illicit trade, and while public acceptance remains an issue, Polish authorities have a wealth of experience to draw on to further improve the situation. Law enforcement collaboration with both the private sector and agencies overseas is considered a particular national strength.
About the Author

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Prior to joining the Institute, Calum organised security and defence conferences for an international events company. He completed his MPhil in International Relations at the University of Cambridge, where his dissertation examined the role of international organisations in improving cyber security. He also holds a first class MA in French from the University of St Andrews.