On Tap Europe
Organised Crime and Illicit Trade in Romania:
Country Report
Cathy Haenlein and Jonathan Eyal
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Finally, thanks are due to current and former RUSI colleagues Calum Jeffray, Clare Ellis, Andrew Glazzard, Alexander Babuta, Joseph Millis, Edward Mortimer and Charlie de Rivaz.
Preface

No two days are the same for an officer of the Poliția de Frontieră Română (Romanian Border Police) on duty at Giurgiu. One of two crossing points with Bulgaria, the location is marked by the ‘Friendship Bridge’, which spans the Danube, linking Giurgiu with the town of Ruse. There is a steady stream of trucks to inspect, passport checks to complete on those arriving by car, spot-checks to perform on freight trains and a stretch of the Danube to patrol for irregular boat crossings. On the day of our visit, there is also the matter of a large, unannounced counterterrorism exercise to address.

Checking lorries is one of the most time-consuming activities. The list of illicit cargo they potentially contain is virtually unlimited, from fake branded clothing, to excise goods, such as tobacco, alcohol and fuel, to counterfeit electrical goods and even radiological material. Yet the priority, at least currently, is human cargo. The check most frequently carried out is to detect those being smuggled or trafficked across the border in vehicles (the Danube is too wide at this point for it to be a viable option to swim).

A lorry is pulled over to be searched and an officer stands on a purpose-built scaffold to check the roof for signs of individuals having cut an opening to gain entry, sometimes without the knowledge of the driver. The vehicle’s engine is switched off and silence is called for while a heartbeat detector is attached and switched on. A second instrument is placed in an opening on the side of the lorry to detect excess carbon dioxide (although to pass this check, individuals have been known to risk suffocation by cocooning themselves in plastic sheeting). There is a short wait for the results, during which the driver is questioned and his paperwork checked, before the lorry is cleared and he is sent on his way. One lorry check can take a team of three to four officers up to ten minutes to complete, and intelligence-led profiling is the only viable option to select vehicles for such a resource-intensive process. The alternative is for systematic checks of all vehicles, resulting in traffic being gridlocked and the movement of people and cargo – so crucial to the Romanian and neighbouring economies – grinding to a halt.

Even using intelligence-led profiling, it is difficult to prioritise activity in such an environment. Keeping up with the criminals is a continuous challenge. Commodities, routes and methods change on an almost daily basis. One day the focus may be on illegal migration via lorries, the next it may have to switch to small RIBs and other vessels smuggling goods across the river. At Giurgiu, for the moment, authorities believe that goods smugglers tend to focus their efforts on larger shipments, rather than little-and-often ‘ant smuggling’ via pedestrians. It is true that the limited number of entry points into Giurgiu enables law enforcement agencies to create a relatively controlled environment to intercept shipments; yet given the variety of available modes of transport, the never-ending stream of traffic, the huge demands placed on limited resources and the ingenuity of organised crime groups, it is easy to see how illicit goods slip so easily through the net.
Executive Summary

THIS IS THE fourth in a series of five country-level papers on the role of organised crime groups (OCGs) in the illicit trade in tobacco, alcohol and pharmaceuticals across Europe, focusing on Romania as a case study.

The criminal networks behind illicit trade in Romania are sophisticated, often internationally connected, and capable of adapting to exploit opportunities to maximise profits and avoid detection. As in a number of other cases across Europe, there is evidence that OCGs in Romania are moving away from trafficking in high-risk commodities, such as drugs, to engage in illicit trade in products such as tobacco, alcohol and pharmaceuticals. In some cases, OCGs will deal in different commodities simultaneously, as new opportunities and potential profits arise.

Against this backdrop, attention to illicit trade among law enforcement has increased. The issue is now understood to be one driven by organised crime and is addressed alongside other forms of fraud and corruption, to which a concerted response has been mounted. Despite this, domestic demand for illicit goods persists, with illicit consumption largely viewed without social stigma. While there is insufficient data to compare shifts in consumption of illicit alcohol and pharmaceuticals over time, available evidence indicates that consumption of illicit cigarettes in Romania is increasing, and continues to sit well above average European levels.

Romania plays numerous roles in facilitating the illicit trade in tobacco, alcohol and pharmaceuticals, acting at different times as a source, transit and destination country for different products. This paper identifies five core drivers that underpin illicit trade across the country.

The first is the broad social acceptability of purchasing illicit goods. Despite signs of growing recognition that illicit trade has contributed to the country’s historic economic challenges, the presence of a persistent domestic market for illicit goods is clear. Often, those involved in illicit trade may be viewed as providing a service to disadvantaged citizens, with many individuals quick to excuse participation in smuggling activities on this basis.

A second driver is linked to the country’s geographic position between EU and non-EU states, and the resultant price differentials across neighbouring states. Notably, the low price of tobacco and alcohol in Romania’s non-EU neighbours acts as an incentive for smuggling into the country. In the case of tobacco, further price differentials with other EU states drive Romania’s role as a transit state, as cigarettes are smuggled on to European markets further afield.

A third driver applies specifically to the illicit trade in pharmaceuticals, and concerns the Romanian government’s cap on the price paid for medicine. This policy makes the country vulnerable to illicit trade, as pharmaceutical companies have retreated and legal stocks have dried up. Demand for illicit sources has grown as patients have found themselves without the drugs they need, with gaps in domestic supply increasingly met by illicit sources.

A fourth driver concerns the inconsistent application of sanctions for illicit trade. Existing legislation offers relatively stringent penalties, yet these are infrequently applied fully; particularly for alcohol and tobacco, fines are the most common penalty. The result is that sanctions do not act as a consistent deterrent: in many cases, the same individuals return to illicit trade following the payment of fines, often with greater knowledge of law enforcement techniques.

Fifth, corruption has historically been recognised as a challenge, with numerous cases of arrests of officials for involvement in illicit trade at both land borders and ports. However, perceptions may also be influenced by a more stringent response in recent years, as a concerted attack has been launched on high-level corruption and considerable strides made in tackling the issue at a systemic level.

Key Findings

1. Disparities in the level and type of data available vary by commodity, making reliable comparative analyses difficult. As for other countries in this series, the data on illicit trade in tobacco dwarfs that on alcohol and pharmaceuticals, complicating efforts to establish the extent of illicit trade and potentially distorting perceptions of the threat landscape. Particularly in relation to alcohol and pharmaceuticals, few statistics are publicly available and while some studies have covered specific aspects of the problem, much of the information is anecdotal.

2. The role of OCGs in illicit trade is recognised by Romanian authorities, and the issue is addressed alongside other forms of serious criminality. Yet there are reports of an imbalance in the extent of efforts to tackle illicit trade in different commodities. Interviewees stressed particularly the tendency to take a reactive approach in the case of illicit alcohol, and to relegate this below efforts to disrupt other forms of illicit trade.

3. The criminal networks behind illicit trade demonstrate a clear ability to adapt to market opportunities, varying their modus operandi accordingly. Nowhere is this clearer than in the response of OCGs to Romania’s healthcare crisis: as the government has capped the rates paid for prescription drugs, legal supplies of pharmaceuticals have shrunk, creating gaps that OCGs have been quick to exploit. The shortage of drugs to treat chronic illnesses, in particular, has created opportunities: while OCGs have traditionally dealt in ‘mass market’ lifestyle products, an emerging trend has seen the growing illicit supply of ‘niche’ expensive drugs directly to consumers.

4. The legislative framework in Romania offers moderately strong penalties for involvement in illicit trade, bolstered in recent years by the strengthening of existing laws on tobacco and pharmaceuticals. Yet while law enforcement agencies have demonstrated
successes in disrupting smuggling activity, the current application of sanctions has been inconsistent. There is thus a degree of persistence among the groups involved; alongside debates about legislative reform, further action is required to ensure that prosecutors and the judiciary can use existing laws effectively.

5. Successful operations by Romanian authorities to disrupt smuggling activity have taken place mainly at ports and land borders. While there is a strong focus on the problem at the border, however, there appears to be less of a focus on inland investigations. The country’s external borders undoubtedly constitute a crucial area for intervention, and effective action here represents a key success. However, the use of Romania as a storage point, the exploitation of postal and courier services for delivery, and domestic illicit production demand an enforcement approach that covers the whole of the national territory.
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 flexible, and the 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. Its *Serious and Organised Crime Threat Assessment* of 2013 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, cooperating with counterparts in other countries. As a result, the assessment concludes, the distribution and production, as well as the continuing 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 in tobacco, alcohol and pharmaceuticals across the EU. The On Tap Europe project is gathering evidence from five EU member states to assess the methods and routes used by OCGs involved in illicit trade, which is understood as the unlawful production, transportation or sale of otherwise legal commodities. The project aims to demonstrate the impact of organised crime activity in this sphere 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 tackling 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, cooperation and information sharing, helping the public and private sectors to identify common strategies for tackling illicit trade.
- look to understand the dynamics of both OCGs and law enforcement agencies in multiple countries in order to inform the EU’s response to illicit trade as a whole.

This is the fourth in a series of five country-level reports, focusing on Romania as a case study. Romania is commonly identified as a source, transit and destination country for illicit trade, with evidence to suggest that Romanian OCGs play an active role in cross-European smuggling networks. Smuggling is facilitated by the country’s extensive land borders – both with EU states and the non-EU source countries of Ukraine, Moldova and Serbia. Romania’s principal Black Sea port, Constanța, similarly acts as a hub of smuggling activity, with incoming goods destined for both the domestic market and wealthier consumer states across Europe.

The research for the Romania case study was split into three phases. The first consisted of a review of existing academic literature, government policy documents, law enforcement strategies, and private sector reports on organised crime and illicit trade in Romania. In the second phase, a team of RUSI researchers spent one week conducting fieldwork in Romania. This combined operational research with border officials in Giurgiu with a series of semi-structured interviews with experts from the public and private sectors and academia in Bucharest. The final phase involved a half-day workshop held in Bucharest, gathering together representatives from Romanian 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 report consists of five chapters. Chapter I provides an overview of organised crime and the context for illicit trade in Romania. Chapter II assesses the scale and scope of the illicit trade in tobacco, alcohol and pharmaceuticals in the country, examining existing estimates of scale by public and private sector bodies. Chapter III focuses on the OCGs behind 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, and considers 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 findings.
I. Organised Crime in Romania

Before delving into the scale and scope of illicit trade in Romania, it is useful to place this activity within the broader context of organised criminal activity in the country. Much of this activity concerns the cross-border trafficking of illegal goods: the Balkan Peninsula is a key entry point for a range of illegal goods into Europe, and Romania’s geographic position makes it an important transit country. As the largest state in the Balkans with good access to the Black Sea, the country is vulnerable to illicit flows passing through both land borders and the eastern port of Constanța – flows facilitated by pervasive corruption both at key entry points and inland. It sits astride the ‘Balkan Route’ – the world’s principal opiate trafficking route: according to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), 334 kg of heroin were seized in the country in 2015.¹ The same year, 247 kg of khat and 180 kg of herbal cannabis were reportedly intercepted in Romania, travelling via different transit routes into Europe.² Romania’s key role as a source and transit country for victims of sex and labour trafficking across Europe is similarly well established.³

The imperative to effectively address this situation is recognised. Romania’s National Security Strategy cites cross-border organised crime as one of the main threats to national security.⁴ Various rounds of legislative and institutional reforms have been passed to better equip the country to respond to the threats posed.⁵ Such reforms have included the establishment of the Direcția Națională Anticorupție (National Anti-Corruption Directorate, DNA), which has led a crackdown against corruption across the country.⁶ At times, the impetus for reform has come from outside the country: in 2006, the European Commission delayed its decision on Romania’s bid to join the EU, requesting that the country demonstrate greater progress on tackling corruption and organised crime.⁷

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2. Ibid., p. 16.
The definition of organised crime in Romania mirrors that found in the UN Convention Against Transnational Organised Crime. Law 39/2003 defines an OCG as ‘a structured group, formed of three or more persons that exists for a period of time and acts in a coordinated manner to the purpose of committing one or more grave offenses, in order to obtain directly or indirectly a financial benefit or another material benefit’. A ‘grave offence’ covers a broad list of offences, from slavery to drug trafficking, organ trafficking, money laundering and, importantly for this paper, commodity smuggling. Alongside the offences themselves, Law 39/2003 criminalises the act of setting up or belonging to an OCG, offering penalties of between five and 20 years.

Under this legislation, the cases tackled by prosecutors under the Directorate for Investigating Organised Crime and Terrorism (Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism, DIICOT) are diverse and multifaceted. In 2016, they settled 4,525 cases involving drug trafficking, 552 involving human trafficking, 43 involving currency counterfeiting and 28 involving migrant smuggling. They settled a further 335 cases of economic and financial crimes, covering tax evasion, money laundering and crimes under Romania’s Customs Code. In addition to the above, in the same year, DIICOT settled a full 490 cases relating to the offence of membership or establishment of an OCG.

Of the trafficking flows entering the country, drugs are perhaps the most pressing concern for Romanian law enforcement. In 2015, authorities witnessed a sharp increase in volumes seized, particularly of heroin, cocaine and cannabis resin. In the case of heroin, this reflects the rise of a branch of the ‘Balkan Route’ circumventing Turkey: the UN Office on Drugs and Crime (UNODC) shows declining quantities of heroin seized in Turkey, Greece and Bulgaria in 2014–15 relative to 2012–13, alongside a sharp rise in volumes intercepted crossing Armenia, Azerbaijan and Georgia, and the Black Sea to Ukraine and Romania. According to UNODC, in 2015, Romanian authorities seized 334 kg of heroin, up from a reported 25 kg in 2014. Whereas in 2014, 71% of this entered Romania from Bulgaria, in 2015 93% entered from Ukraine, while only 7% transited Bulgaria.

Much of the heroin entering Romania is destined for other EU markets. According to Romanian authorities, 93% of the heroin trafficked into the country in 2015 was destined for the Netherlands, the main entry point and distribution hub for heroin sold in the EU. However,
domestic consumption appears to be rising; although usage figures remain low, according to the EMCDDA, drug-related deaths in Romania increased from fifteen cases in 2011 to 36 in 2014, with opioids accounting for the highest number.\textsuperscript{17}

Alongside this activity, Romania acts as a hub for human trafficking. Notably, the country is a key source of people trafficked for the purposes of forced labour, both in Romania and throughout Europe. As the US State Department notes, these victims are trafficked to work not only in the sex industry, but also ‘in agriculture, construction, domestic service, hotels, and manufacturing, as well as forced begging and theft in Romania and other European countries’.\textsuperscript{18} In recent years, Romanian authorities have enhanced their efforts to address these flows, opening 864 new human trafficking cases in 2016 alone.\textsuperscript{19}

People smuggling has also been a growing national concern, as migrants traverse both the eastern borders and eastern Mediterranean routes into Europe.\textsuperscript{20} In the latter case, having reached the Balkan Peninsula via Greece, increasing numbers have opted to cross Romania as police attitudes in Croatia have hardened and Hungary has sealed its borders. Although still low in relative terms, official statistics show an increase in irregular crossings into Romania from Serbia, with a high of 121 individuals intercepted in October 2016.\textsuperscript{21} Migrants are also known to cross the Black Sea from Istanbul to reach Romania;\textsuperscript{22} here, crime networks in larger cities provide onward smuggling services, often working with contacts overseas.\textsuperscript{23}

Illicit trade in tobacco, alcohol and pharmaceuticals plays out as a persistent problem against this broader organised crime landscape. The trade forms part of a wider shadow economy of unregistered activities, estimated by Romania’s Fiscal Council (Consiliului Fiscal) to represent as much as 28% of GDP in 2015.\textsuperscript{24} These activities present a critical challenge to law enforcement, which views illicit trade as a growing priority within the wider organised crime threat picture. Though limited information is available on the scope of illicit trade in alcohol and pharmaceuticals,

\textsuperscript{19.} \textit{Ibid.}, p. 334.
\textsuperscript{22.} Thomas Seibert, ‘Turkish Boat Disaster Reveals New Route for Migrants’, \textit{Al-Monitor}, 6 November 2014.
the extent of the illicit cigarette market has been expanding year on year, with an estimated 4.41 billion such cigarettes consumed in the country in 2016 alone.\textsuperscript{25}

Responsibility for tackling these activities lies with a range of agencies. Within the Romanian Police (Poliția Română), responsibility sits with the specialised Directorate for Countering Organised Crime (Direcția de Combatere a Criminalității Organizate),\textsuperscript{26} with six units or ‘services’ dedicated to drug trafficking, human trafficking, financial crime, cyber crime, terrorism, organised crime groups, and the running of a drug analysis laboratory. The directorate operates alongside the Directorate for Economic Crime Investigation (Direcția de Investigare a Criminalității Economice), a special unit focused on economic and financial crime, as well as coordinating district-level structures.\textsuperscript{27}

These directorates investigate crimes under the jurisdiction of DIICOT, the relevant prosecutorial body within the General Prosecutor’s Office attached to the High Court of Cassation and Justice. They also cooperate closely with the General Directorate of Customs – since 2013, part of the National Fiscal Administration Agency (Agenția Națională de Administrare Fiscală, ANAF) – and the General Inspectorate of Border Police (Poliția de Frontieră Română), part of the Romanian Ministry of Administration and Interior. With regard to illicit trade, Romania’s Direcția Generală Antifraudă Fiscală (General Directorate for Anti-Fiscal Fraud, DGAF) plays an important role,\textsuperscript{28} as does the country’s pharmaceutical market regulator, the National Agency for Medicines and Medical Devices (Agenția Națională a Medicamentului și a Dispozitivelor Medicale, NAMMD). NAMMD sits within the Ministry of Health and, despite having a limited law enforcement function, prioritises the exchange of information on illicit pharmaceuticals with the police.\textsuperscript{29}

The threat picture these agencies face is shifting, due to the adaptable nature of the groups involved. In Romania, as elsewhere in Europe, OCGs are becoming more flexible, cooperating across borders and adopting a networked ‘enterprise’ model, whereby membership is fluid and varies with the task at hand. According to academic Ioana Celina Pasca, the groups active in Romania can now be divided into three types: local crime groups, which have developed independently and operate on a localised scale; locally based groups of Romanian origin that have become part of foreign criminal networks; and OCGs of foreign origin that have expanded


into Romania.\textsuperscript{30} Although the share belonging to each category varies by crime type,\textsuperscript{31} growing cross-border cooperation and a stronger presence by foreign OCGs have been notable trends; OCGs now active in Romania are thought to range from Chinese Triads to Vietnamese, Belgian, Dutch and German groups.\textsuperscript{32}

Whether domestic or foreign, Romanian authorities believe that groups often shift between crime types over time. Of relevance to illicit trade in tobacco, alcohol and pharmaceuticals, there is evidence that OCGs in Romania are moving away from high-risk activities, such as drug trafficking, into relatively lower-risk yet still high-reward activities. For many, illicit trade has become the primary focus, with a number of groups specialising in smuggling or counterfeiting of one particular commodity. However, there is also evidence of polycriminality, whereby OCGs shift between commodities as profits dictate, or deal in multiple products at the same time.


\textsuperscript{31} In the case of human trafficking, for example, many of the groups involved are Romanian. Ernesto Savona and Michele Riccardi note the important role of domestic OCGs in human trafficking in Romania, in some cases collaborating with counterparts from Moldova, in Ernesto U Savona and Michele Riccardi (eds), \textit{From Illegal Markets to Legitimate Businesses: The Portfolio of Organised Crime in Europe}, Final Report of Project OCP – Organised Crime Portfolio (Trento: Transcrime – Università degli Studi di Trento, 2015), p. 131.

II. The Scale and Scope of Illicit Markets

Illicit Trade is notoriously difficult to measure. As noted for other countries in this series, this is due to the hidden, cross-border nature of the activities involved, and difficulties calculating the respective volume and value of illicit trade in commodities such as alcohol, tobacco and pharmaceuticals. Complicating this situation further is Romania’s role as a transit country for illicit goods destined for higher-priced EU markets. The issue in this regard is that existing data on illicit markets tends to relate either to seizures (which do not always reveal whether goods are destined for or passing through the country) or to the scale of the destination market. Neither data source adequately captures the extent of transit activity – the scale of which remains unknown.

At the same time, disparities in the level and type of data available vary by commodity, preventing reliable comparative analyses. As for other countries covered in this series, the data on illicit trade in tobacco dwarfs that for alcohol and pharmaceuticals, which makes it difficult to establish whether these are relatively limited problems in Romania, or whether they have simply received insufficient attention. Similar disparities in data concerning particular routes and entry points make it difficult to assess their comparative importance. Unless these limitations are accounted for, this situation risks distorting perceptions of the threat landscape.

Illicit Tobacco

Tobacco consumption in Romania is high. According to World Health Organization (WHO) data, Romania’s most recent survey of adult cigarette and tobacco smoking – from 2011 – found that 26.7% of the adult population – then more than 5 million adults – smoked tobacco products at least once per week.¹ Men were more than twice as likely to smoke as women, with smoking prevalence rates at 37.4% and 16.7% respectively (Table 1). In contrast to the trend of declining rates across the EU, smoking prevalence in Romania has remained relatively constant. Industry data based on empty-pack surveys (which involves collecting discarded cigarette packs to analyse their origin and authenticity) reveals a marginal decline in consumption between 2012 and 2015 – from 27.11 to 25.95 billion cigarettes. However, this rose again to 26.91 billion in 2016 (Figure 1, next page).²

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Table 1: Prevalence of Tobacco and Cigarette Use in Romania

<table>
<thead>
<tr>
<th>Prevalence (%)</th>
<th>Youth Tobacco Use</th>
<th>Adult Tobacco Smoking</th>
<th>Adult Cigarette Smoking</th>
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<tbody>
<tr>
<td></td>
<td>Current Tobacco Smoking</td>
<td>Daily Tobacco Smoking</td>
<td>Current</td>
</tr>
<tr>
<td>Male</td>
<td>20.0</td>
<td>14.0</td>
<td>37.4</td>
</tr>
<tr>
<td>Female</td>
<td>17.0</td>
<td>13.0</td>
<td>16.7</td>
</tr>
<tr>
<td>Total</td>
<td>No Data</td>
<td>No Data</td>
<td>26.7</td>
</tr>
</tbody>
</table>


Figure 1: Manufactured Cigarette Consumption, 2012–16

Such consumption patterns make Romania an important market for tobacco products. Yet a growing proportion of this market is supplied from illicit origins. While official public data on the size of Romania’s illicit tobacco market is not available, private sector studies based on empty-pack surveys point to a consistent rise in the share of total cigarette consumption comprised by illicit products.

An important point of reference when it comes to such surveys is the Novel Research study, which registered a countrywide rise in illicit consumption between 2015 and 2016, from 16% to 16.8% of total cigarette consumption. These findings largely align with the increase recorded by another illicit trade survey – KPMG’s Project Sun, according to which illicit cigarette consumption in Romania grew from 15.6% of total consumption in 2015 to 16.4% in 2016 (Figure 2, next page). KPMG puts this rise in the context of a longer upward trend: since 2012, it shows the share of illicit consumption to have risen by 75% – in volume terms, a rise from 2.52 billion cigarettes consumed in 2012 to 4.41 billion in 2016.

These figures put Romania significantly above the European average: a full 7.3% above the average 9.1% illicit consumption in the EU, Norway and Switzerland as a proportion of total consumption in 2016. KPMG data also reveals diverging trends over time between illicit consumption in Romania and the rest of Europe. As the share of total illicit cigarette consumption has grown year on year in Romania, it has fallen on average in the EU, Norway and Switzerland – down to 9.1% in 2016 from 11.1% in 2012.

Illicit consumption in Romania is rising against the backdrop of a persistent price gap between the legal and illicit markets, which dates back to European integration. When Romania became part of the EU in January 2007, it was required to raise excise duty to the minimum rate expected after a three-year transitional period. Academic János Nagy noted the sudden jump in the illicit cigarette market to a record 36% of the total illicit market following a sharp increase in the duty rate when the transitional period expired at the end of 2009. Today, the persistent price differentials between the legal and illicit market continue to drive illicit consumption, as consumers seek out lower-cost options.

6. Ibid., p. 11.
Figure 2: Illicit Cigarette Volumes and Share of Overall Cigarette Consumption in Romania, 2012–16

This is despite a relatively low price per pack (€3.26) in Romania compared with other EU countries. Yet this must be seen in the context of a much lower GDP: according to Eurostat, GDP per capita in 2015 in Romania’s poorest region – the northeast – amounted to as little as 34% of the EU average. With average salaries so low, the price of a pack in proportion to personal disposable income is in fact substantially higher than in many other EU countries. Also of relevance here are Romania’s borders with cheaper non-EU markets: a pack in Serbia, Moldova and Ukraine in 2016 costs as little as €1.80, €0.65 and €0.50, respectively. Flows of illicit cigarettes have long entered Romania from these countries: according to KPMG data from 2016, out of all cigarettes consumed in Romania of Ukrainian and Moldovan origin, more than 96% and 99% were contraband, respectively.

Indeed, cigarettes with labelling from neighbouring non-EU countries made up a significant proportion of inflow volumes in 2016. The Novel Research study put illicit cigarettes from Ukraine at 20% of total illicit inflows in 2016, followed by 14.9% from Moldova; Project Sun put them at 18.4% and 14.5%, respectively. These sources of inflow influence domestic consumption: aggregate data for Romania obscure highly localised illicit markets, concentrated in border regions. Novel Research data for 2016 shows the highest levels of illicit consumption in the northeast (both Romania’s poorest region and the one bordering Ukraine and Moldova), where it was 41.9% in 2016, significantly higher than the next-highest consumption rates in the southwest and west (bordering Bulgaria and Serbia), at 24.4% and 23.8% respectively.

Yet the largest proportion of all illicit cigarettes, according to both Novel Research and Project Sun, are illicit white brands with no country-specific labelling. Novel Research put illicit whites at 58.2% of all illicit cigarettes consumed in Romania in 2016; Project Sun data puts the proportion slightly higher, at 60.5%. The latter study finds Marble and Ashima to have been the largest illicit white brands registered in 2016, with 99% of these displaying duty-free labelling.

12. Ibid., p. 138.
15. Bernovici, ‘Record Losses of over EUR 670 M on Romanian Market due to Cigarettes Smuggling’.
16. ‘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.
Notably, these figures relate only to manufactured cigarettes. One of the limitations of empty-pack surveys is that they are unable to account for consumption of hand-rolled tobacco (HRT). In Romania, HRT constitutes only a small proportion of overall tobacco consumption: a 2015 European Commission Special Eurobarometer report places regular HRT consumption at just 4% of overall tobacco consumption – among the lowest rates in Europe.\textsuperscript{18} Although HRT constitutes only a small share of the market, however, the majority is thought to be illicit. In 2015, Transcrime estimated that as much as 77% of the cut tobacco consumed in Romania in 2015 was illicit, amounting to €51.8 million in potential lost tax revenue.\textsuperscript{19}

**Illicit Alcohol**

Estimates of the overall alcohol market in Romania vary, but generally reveal average to high levels of consumption. According to data from Romania’s Institutul Național de Statistică (National Institute of Statistics, INS), in 2014 Romanians consumed on average 82.1 litres of beer, 22.6 litres of wine and wine products, and 1.2 litres of distilled alcoholic drinks, amounting to an average of 8 litres of pure alcohol per person (Figure 3, next page). Other estimates put this annual rate higher: the most recent figures from the WHO refer to 2010, and put yearly average consumption of pure alcohol at 14.4 litres per person.\textsuperscript{20} In 2012, the British Beer and Pub Association put average annual consumption of alcohol (defined as beer, wine or spirits) in Romania at 10.5 litres per person, the second-highest level of consumption in the EU that year, after the Czech Republic.\textsuperscript{21} Meanwhile, in terms of binge drinking, OECD figures for 2016 show Romania as topping Europe, with 52% of all males aged over fifteen reporting regular binge drinking, compared with an EU average of 30%.\textsuperscript{22}

The illicit proportion of this consumption is unknown. Indeed, no reliable recent estimates have been made of the scale of the illicit alcohol market in Romania. The latest WHO figures (2010) estimate that unrecorded alcohol consumption stood at 28.4% of the market between 2008 and 2010. According to the WHO, out of the estimated average 14.4 litres per capita of pure alcohol consumed in those years, an average of 4 litres were assessed to have been unrecorded alcohol.\textsuperscript{23}

\textsuperscript{18.} This compares to rates of over 45% in countries such as the Netherlands, the UK and Hungary; European Commission, ‘Attitudes of Europeans Towards Tobacco and Electronic Cigarettes’, Special Eurobarometer 429, May 2015, p. 17.
Other estimates have looked to examine the cost of the illicit alcohol trade in Romania. In 2016, the EU Intellectual Property Office (EUIPO) sought to analyse the difference between forecast and actual sales across Europe from 2008 to 2013, to extract the effect of counterfeit consumption on legitimate sales. It estimates that 7.4% of total sales revenue between 2008 and 2013 was lost to counterfeiting of spirits in Romania, amounting to €19 million in lost sales revenue at producer prices.²⁴ When it comes to wine, Romania is estimated to suffer the highest impact from counterfeiting in the EU in terms of lost wine sales revenue as a proportion of total wine sales revenue. Here, average lost wine sales revenue is estimated at 13.9% of total wine sales revenue, amounting to €32 million in lost sales revenue between 2008 and 2013 (Figure 4, next page).

Figure 4: Average Lost Wine Sales Revenue as a Proportion of Total Wine Sales Revenue at Producer Prices, by Country, 2008–13


EUIPO also calculates the level of direct employment lost to counterfeiting of wine and spirits. This is calculated at the country level on the basis of lost sales by that country’s wine and spirits sectors, at home and across Europe. The study estimates that employment losses in Romania are the second highest in the EU after Spain, at 694 jobs lost in the wine and spirits sectors. At 10.1%, this equates to the highest proportion of jobs lost in the EU relative to employment in the legitimate domestic wine and spirits industry as a result of counterfeiting.25

Further indications of the scale and economic impacts of illicit trade in alcohol are provided by Romania’s national tax-receipt figures, specifically the revenues obtained from taxes on alcoholic beverages. Table 2 shows revenues declared by the state from ethyl alcohol and beer – the two largest sources of tax revenue from alcoholic beverages in Romania. VAT rates are 19% for both products;26 comparing these rates with the estimated consumption rates described above shows that tax receipts have largely failed to keep pace. This serves as a clear indication

25. Ibid., p. 15.
of the presence and extent of fraud in the sector, and shows that illicit trade in alcohol is an important component of Romania’s broader problems with tax evasion.

Table 2: Revenue Collected in Romania on Ethyl Alcohol and Beer in Millions of Euros, 2008–15

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethyl Alcohol</td>
<td>98.6</td>
<td>64.7</td>
<td>71.2</td>
<td>86.2</td>
<td>91.3</td>
<td>-</td>
<td>88.9</td>
<td>101.7</td>
</tr>
<tr>
<td>Beer</td>
<td>155.8</td>
<td>129.5</td>
<td>130.6</td>
<td>133.9</td>
<td>141.6</td>
<td>-</td>
<td>149.5</td>
<td>157.6</td>
</tr>
</tbody>
</table>

Source: Authors’ calculations extrapolated from European Commission, Directorate-General Taxation and Customs Union, Excise Duty Tables, Tax Receipts – Alcoholic Beverages, Ref. 1046, July 2016, p. 13.

Box 1: Case Study – Illicit Trade on the Black Sea Coast

In June 2017, DGAF announced that it was set to launch inspections on seaside merchants to combat tax evasion. In early July, the Directorate launched an extensive campaign against untaxed alcohol, cigarettes and food, through inspections of hotels and catering establishments on the Black Sea coast, Romania’s top tourist destination.

DGAF officers raided 255 corporate entities, resulting in the imposition of sanctions in as many as 215 cases. Of these, 171 took the form of fines and 44 were warnings. By the end of the operation, the total fines handed out amounted to RON 931,500 (over $241,500). In addition, ANAF inspectors confiscated money and goods worth RON 21,418 and suspended activity by three companies on the grounds of serious irregularities.

Although DGAF did not release statistics on the number of establishments selling undocumented alcohol versus cigarettes and food, the number of sanctions arising from this single operation suggests that a significant proportion of those raided were implicated in at least one of these activities.

Source: Ziarul de Iasi, ‘Inspectorii ANAF au aplicat sancţiuni de peste 950.000 lei în urma controalelor făcute pe litoral’ [‘ANAF Inspectors Apply Sanctions of over 950,000 Lei Following Seaside Raids’], News.ro, 10 July 2017.
Illicit Pharmaceuticals

Virtually no data exists on the scale of the illicit trade in pharmaceuticals in Romania. Notably, there are currently no publicly available estimates of the volume of counterfeit and unlicensed pharmaceutical products sold through illegal distribution channels. As for other countries in this series, an obstacle to the production of official statistics lies in disagreement over definitions, particularly over what constitutes ‘illicit’, and what constitutes a ‘pharmaceutical product’ or ‘medicine’. Most problematic is a lack of information concerning whether the threat is growing more or less severe, and the limited instruction this provides to those designing strategic responses.27

It is nonetheless useful to look at the context in which demand for illicit pharmaceuticals arises, which points to a number of drivers of this form of illicit trade. Romania is the lowest spender on healthcare in the EU, investing €816 per capita in 2015, compared with an EU average of €2,781, and €4,003 in Germany, a high spender.28 Romanian expenditure on pharmaceuticals per capita in 2014 was €283, compared with an EU average of €402, and €551 in Germany.29 At the same time, the proportion of Romanians who are obese, who smoke and who regularly binge-drink is greater than the EU average; the result is the imposition of acute demands on a poorly funded health service.

Squeezing health services further are mass emigration of medical professionals, an ageing population and a ballooning state deficit, which prevents substantial increases in healthcare spending (this has grown by only 0.7% per year between 2009 and 2015).30 Partially as a result, only 15% of Romania’s health expenditure is funded directly by the state, less than half the EU average of 37%.31 Meanwhile, 84% of health expenditure is financed through compulsory health insurance contributions taxed at source from employers and employees, and ‘out-of-pocket’ payments (defined by the WHO as direct payments made by individuals to healthcare providers at the time of service use), compared to a 57% EU average.32 This system leaves many with little protection; few pensioners, for example, have occupational pension funds, having worked for communist-era enterprises that have since disappeared. Instead, many rely solely on the state pension, which recipients often dismiss as a derisory amount of money relative to individual needs.33

29. Ibid., p. 121.
32. In Romania, 20% is financed through ‘out-of-pocket’ payments and 64% through compulsory health insurance contributions taxed at source from employers and employees. See OECD/EU, Health at a Glance: Europe 2016, p. 123.
Medicines are the battleground of the state’s quest to control healthcare expenditure. Romania has an extensive network of pharmacies, but the sector is almost totally privatised. In an effort to limit spending, the Ministry of Health passed Order 75/2015, which entered into force in July 2015, capping the price the government would pay for prescription pharmaceuticals. The decision, however, had a damaging impact, causing the disappearance of key drugs from the Romanian market, to which producers no longer found it profitable to sell.

In February 2017, Romania’s Generic Medicines Manufacturers Association announced that more than 2,000 drugs had disappeared from the market, of which 700 vanished in 2015.34 As a result, some clinics and hospitals – such as St Spiridon Hospital in Iași, capital of the north east region of Moldavia – have resorted to searching for substitute pharmaceuticals to ensure supply.35 The impact has been marked on drug treatments for chronic conditions such as cancer.36 To give just a few examples, family physicians in Iași have highlighted an absence from pharmacies of Sintrom (an anticoagulant), Isodinit (for heart disease) and Endoxan (for chronic lymphatic leukaemia).37

Many observers note the contribution to these shortages made by ‘parallel trade’.38 This term refers to the practice of trading products bought cheaply in one part of the EU and sold at higher prices in another.39 It is legal within the pharmaceutical market, but can have negative impacts: in Romania, one of Europe’s cheapest markets, many pharmaceutical companies send stocks abroad rather than supply the local market. The parallel export of vaccines, for example, is reported to have fuelled an immunisation crisis among children in Romania.40 According to Razvan Prisada, deputy head of the College of Pharmacists of Romania, a trade body representing 22,000 private pharmacists, parallel trade in Romania is now worth around €500 million per year.41

35. Ibid.
37. Ciuhu, ‘Cum s-a accentuat criza de medicamente din România. De câteva luni, pacienţii îşi caută în afara graniţelor pilulele indicate’ ['How the Pharmaceutical Crisis in Romania Has Developed. For Months, Patients Search for Pills Across Borders'].
38. Mirabela Tiron, ‘Cria medicamentelor se accentuează. “Pentru o reţetă pentru insulină se aşteaptă o lună sau două”’ ['The Drug Crisis is Intensifying. “For an Insulin Prescription, Expect to Wait a Month or Two”'], Zf.ro, 10 March 2017.
41. Tiron, ‘Cria medicamentelor se accentuează. “Pentru o reţetă pentru insulină se aşteaptă o lună sau două”’ ['The Drug Crisis is Intensifying. “For an Insulin Prescription, Expect to Wait a Month or Two”'].
In response, initiatives have been launched to allow patients to access supplies of pharmaceuticals beyond their immediate vicinity. The Ministry of Health runs a website that provides information to patients and medical personnel on drug availability across Romania, as well as an alert service when medication becomes available.\textsuperscript{42} Yet, in many cases, gaps in domestic supply are filled by illicit pharmaceuticals. Prisada notes the practice whereby Romanian medicine producers export pharmaceuticals to other EU states, with Romanian distributors then illegally re-importing the same products to evade the state procurement system.\textsuperscript{43} Two other main categories of illicit supply contribute to filling the gap: ‘mass market’ lifestyle products and expensive ‘niche’ medicines targeting shortages on the legal market, both of which are explored further in Chapter III.


\textsuperscript{43} Ibid.
III. Organised Crime: Groups, Routes and Methods

OCGS IN ROMANIA are professional and versatile, adapting to exploit opportunities to enhance profits and to evade detection by law enforcement agencies. They are renowned for their ingenuity, particularly in concealing illicit goods. As in several other countries covered in this series, there is evidence that OCGs in Romania are moving away from high-risk activities such as drug trafficking in favour of illicit trade.\(^1\) For many of these groups, the latter has become the primary focus, although there is also evidence of polycriminality, whereby OCGs move fluidly between different commodities. This applies particularly to illicit trade in tobacco and alcohol; numerous cases testify to OCGs’ involvement in both activities in parallel (Box 5).

Organised Crime and Illicit Tobacco

Few dispute the claim that OCGs are responsible for the vast majority of tobacco smuggling in Romania. Both the existing literature and primary research conducted for this paper highlight the extent of organised smuggling across the country’s land borders and ports. Perpetrators are often Romanian nationals, with many groups connected by familial links; however, there is also evidence of significant cross-border cooperation, particularly with Spain, Turkey, Bulgaria and Moldova. Numerous investigations testify to such cooperation, such as Operation Mangalica in March 2017, which uncovered a Romanian- and Bulgarian-led network smuggling cigarettes through Romania to Spain (Box 2). Europol describes another telling case, where a Romanian OCG with cross-border links to groups of other nationalities was engaged in importing illicit cigarettes to Romania from China and Turkey.\(^2\)

Across Europe, Romanian OCGs have an outsized impact. According to academics Ernesto Savona and Michele Riccardi, the majority of actors involved in tobacco smuggling across Europe are from Romania, Lithuania and Poland (50%), and from non-EU states, mainly Ukraine, Moldova and Belarus (25%).\(^3\) Romania’s cross-border links derive from its position as a core transit hub for illicit tobacco: as noted by Transcrime, products are known to transit Romania from Moldova, Ukraine, Greece, Bulgaria and Russia, amongst others, destined for higher-priced EU markets. In moving illicit cigarettes between these locations, the Romanian Border Police cites the main

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groups of smugglers with which Romanians collaborate as originating from Moldova, Ukraine, Bulgaria, Germany, Serbia, Bosnia, Croatia, Latvia, Hungary and Turkey.4

Box 2: Case Study – Participation in International Cigarette-Smuggling Networks

Operation Mangalica took place in March 2017, when the Spanish Guardia Civil worked alongside European counterparts and the European Anti-Fraud Office. The operation uncovered a Romanian-and Bulgarian-led network smuggling cigarettes along a range of different routes, including one from Bulgaria through Romania to consumer markets in Spain.

The network also operated routes through West Africa, importing cigarettes from Senegal to Spain via Portugal. Coordinated raids in Spain, Romania and Bulgaria resulted in the seizure of more than 31 million cigarettes, including illicit whites and counterfeit Marlboros, as well as €144,000 in cash. In the course of the operation, 42 arrests were made in Spain, seven in Romania and one in Bulgaria.


A series of routes are used to move illicit tobacco in and out of Romania. In 2015, as many as 161.1 million illicit cigarettes were seized entering Romania via Black Sea maritime routes, many converging at Constanța, which has experienced numerous large-scale seizures.5 To give just a few examples, in December 2013, authorities seized a shipment at Constanța containing 525,000 illicit packs of Shima and Marble brands; the next month, Coast Guard and Customs officers seized 525,000 cigarette packs being moved into Constanța from Malta by a Ukrainian company.6 In June 2014, Customs and Coast Guard officers intercepted a container arriving from Greece with 505,000 packs of Ashima and Marble cigarettes, worth €1.1 million.7 In March 2017, Customs officers seized a record 14 million cigarettes, worth almost €3 million, at the port, the largest seizure since 12 million illicit cigarettes were intercepted at Albița, on the Moldovan border, in 2012.8

As well as its ports, Romania’s extensive land borders offer extensive opportunities for cigarette smuggling.9 This applies particularly to Romania’s 1,877 km border with non-EU states – one of the longest EU external borders. The majority of seizures take place at the country’s northern

5. Information provided to the researchers by Romanian law enforcement agencies.
border with Ukraine (in Maramureș, Suceava and Satu Mare counties), its northeastern border with Moldova (in Galați, Vaslui, Iași and Botoșani counties), and its southwestern border with Serbia (in Caraș-Severin, Mehedinți and Timiș counties). The north and northeastern borders with Ukraine and Moldova pose particular challenges: both are major source countries for illicit tobacco, which is transported over terrain that is challenging to patrol.

OCGs move illicit tobacco across these borders in a range of ways, perhaps the most common involving transportation by truck and motor vehicle. These vehicles are often fitted with modified compartments; OCGs often ‘soundproof’ vehicles by hiding cigarette packs in tyres, doors and double walls (Box 3). Smugglers moving cigarettes in this way may use crossings at the country’s ‘green borders’, which span remote, inaccessible and often mountainous terrain served by very little infrastructure, and which border police vehicles have trouble accessing. Illicit cigarettes have also been detected at Bucharest and Timișoara airports, and on international freight trains bound for Iași, Dornești, Moravița and Ungheni.

**Box 3: Case Study – Cigarette Smuggling Across Land Borders**

In February 2015, Romanian Border Police uncovered more than 1,700 packs of illicit cigarettes at the Albița crossing point with Moldova, in Romania’s northeastern region of Moldavia. The cigarettes were discovered in a truck entering Romania from Moldova, with excise stamps from the Republic of Moldova. They were hidden throughout the truck cab, around the driver’s bed and behind the tape deck. Cigarettes worth over MDL 32,000 ($1,777) were confiscated, and the truck driver, a Moldovan national aged 31, was fined MDL 40,000.


Beyond these modes of transport, the Romanian Border Police has encountered a series of other smuggling methods. The ‘cable’ method has been documented in river border areas, whereby cigarettes are transported from one side to the other using a cable fixed across the banks. In mountainous areas, the use of animals has been documented: illicit cigarette loads have been uncovered harnessed to horses for transport along paths and tracks. In a number of cases, the border police have also documented the use of motorised hang-gliders and drones to move cigarettes across particular sections of the country’s borders.

11. Ibid.
12. Ibid.
15. Ibid.
16. Ibid.
For onward transportation both domestically and to markets across the EU, Romania’s large haulage industry provides OCGs with a range of options. The goods transportation sector is dominated by road freight; in 2015, road freight accounted for 60.4% of the 328.4 million tonnes of transported goods moved (Table 3). A 2016 survey by the daily Ziarul Financiar showed Romania’s transportation market to be in its seventh year of growth, despite the existence of poor road infrastructure in many parts of the country. Much haulage activity is cross-border: according to Eurostat, almost 70% of tonnes per kilometre (tkm) covered by Romanian laden transport in 2015 was comprised of international, as opposed to domestic, road transport.

Table 3: Goods Transport by Mode of Transport in Romania in Thousands of Tonnes, 2012–15

<table>
<thead>
<tr>
<th>Mode of Transport</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railway Transport</td>
<td>55,755</td>
<td>50,348</td>
<td>50,739</td>
<td>55,307</td>
</tr>
<tr>
<td>Road Transport</td>
<td>188,415</td>
<td>191,486</td>
<td>190,932</td>
<td>198,638</td>
</tr>
<tr>
<td>Inland Waterways Transport</td>
<td>27,946</td>
<td>26,858</td>
<td>27,834</td>
<td>30,020</td>
</tr>
<tr>
<td>Maritime Transport</td>
<td>39,454</td>
<td>43,552</td>
<td>43,707</td>
<td>44,485</td>
</tr>
<tr>
<td>Air Transport</td>
<td>29</td>
<td>32</td>
<td>32</td>
<td>34</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>311,599</td>
<td>312,276</td>
<td>313,244</td>
<td>328,484</td>
</tr>
</tbody>
</table>


OCGs are known to exploit this international haulage industry to move illicit tobacco to higher-priced markets, such as Germany, Italy, France, Hungary, Poland and the UK – the country’s main goods trade partners (Box 4, next page). According to some who were interviewed for the research for this paper, some hauliers are known to maintain contact with more than one OCG; others interviewed for this paper spoke of crossovers in the illicit goods transported, although few publicly available reports of such instances exist.

Whether travelling by road, rail or container, cover loads are used. Described by the Romanian Border Police as the ‘lid’ method, this offers at least some protection in case of visual inspection. Recent cases speak to the range of techniques encountered, with cigarettes uncovered encased in cement blocks and concealed in consignments of Xerox paper, among a wide range of other methods. Smugglers are also known to use timber as a cover load: a recent case revealed

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thousands of cigarette cartons being transported in hollowed-out logs by freight train from Moldova to Romania.\textsuperscript{19}

\begin{boxedtext}
\textbf{Box 4: Case Study – Cigarette Smuggling via Romania’s Haulage Industry}

In October 2016, border police officers intercepted Romanian lorry driver Simion Bocan at Dover attempting to smuggle 2.9 million cigarettes into the UK. The cigarettes – of the brand Regal King Size – were hidden among 30 pallets of frozen baguettes, and were worth £788,249 in evaded duties. Evidence gathered during an investigation by HM Revenue and Customs suggests a trial run was made a few days earlier.

After Bocan fled the UK while on bail, a European Arrest Warrant was issued and he was extradited from Romania in July 2016 and remanded in custody. Bocan pleaded not guilty to the fraudulent evasion of excise duty at Maidstone Crown Court in August, but changed his plea to guilty in December. He was jailed for four years and three months.

\textit{Source: HM Revenue and Customs, ‘Half-Baked Plot Sees Extradited Tobacco Smuggler Jailed’, press release, 8 December 2016.}
\end{boxedtext}

As well as a transit country in the traditional sense, there are indications that Romania serves as a storage point for illicit tobacco. Those interviewed for this paper spoke of cases where OCGs had built warehouses near the border to store goods, ready for onward transport to other EU markets. Here, and throughout the supply chain, OCGs are known to take measures to limit the information individual members possess, a practice that ensures that each person knows only what is required to perform their task. The driver responsible for moving illicit cigarettes across the border, for example, may not know the location of the warehouse, with handovers arranged instead at neutral locations.

Illegal factories have also been uncovered across Romania. Within them, equipment, people and machinery originating from Russia, the Czech Republic and Moldova have been discovered. According to officials interviewed for this paper, an estimated 20 such facilities have been shut down over the past five years, in various parts of the country. However, a lower rate of detection more recently may suggest that domestic production is in decline – although it might also hint at an as-yet uncovered shift in modus operandi.

Whether manufactured in this way or smuggled in from abroad, many illicit cigarettes are destined for the Romanian market. A 2016 Eurobarometer survey found that 27% of members of the public surveyed had been offered illicit cigarettes – well above the EU average of 19%. Distribution occurs openly: of those offered illicit cigarettes, more than 83% had been offered them in the street, compared to a 60% EU average.\textsuperscript{20} OCGs are also known to arrange delivery via postal and courier services: in a recent case, 32,000 cartons of cigarettes were intercepted

\textsuperscript{19} Clare Ellis, \textit{On Tap Europe: Organised Crime and Illicit Trade in Tobacco, Alcohol and Pharmaceuticals.}

\textsuperscript{20} European Commission, ‘Special Eurobarometer 443: Public Perception of Illicit Tobacco Trade’, July 2016.
moving by courier in a single delivery. This highlights a particular concern about the ability of OCGs to exploit small courier services; parcels are often delivered without verification of customer identity or inspection, with cash payment on delivery common practice.

Corruption facilitates many of these activities, both at land borders and ports. Although the scale of corruption at Romania’s borders is difficult to quantify, its role in enabling illicit trade is impossible to ignore. In a number of cases, corruption is known to have facilitated tobacco smuggling: in March 2015, for example, the former head of customs at Siret, on the border with Ukraine, stood trial for earning in excess of €900,000 from smuggling cigarettes, fuel and alcohol from 2010 to 2011.21 Fellow officers were also involved, resulting in 48 being sentenced to five years’ imprisonment and another fourteen to two years.22 In another case, border police officials told the researchers of the sentencing of customs and border police officers to between four and five years’ imprisonment after it emerged that they had assisted an international OCG to smuggle cigarettes and perfume into the EU.23

Organised Crime and Illicit Alcohol

There are two main ways in which OCGs in Romania engage in illicit trade in alcohol. The first is through the smuggling of genuine products without payment of the required excise duty; the second is through domestic production in unregistered facilities. Illicit alcohol procured in both ways is destined primarily for the Romanian market; unlike for illicit tobacco, the country does not play a significant transit role. This is due to the cheaper prices for legal alcohol in Ukraine, Moldova and Serbia, and the existence of a parallel counterfeit industry serving EU neighbours Bulgaria and Hungary.

In terms of cross-border smuggling, illicit alcohol is known to enter Romania via the country’s land borders with Ukraine, Moldova, Bulgaria and Serbia, as well as through Constanţa. In the north, Ukraine and Moldova serve as major source countries. Notably, the latter’s wine industry has come under pressure since September 2013, with the imposition of a Russian ban on wine exports following Moldova’s signing of Association and Free Trade Agreements with the EU. Russia was previously the main destination of Moldovan wine exports and in the final quarter of 2013, the ban caused declines of 21.9% in legal wine exports.24 During the first nine months of the ban, wine exports shrunk by over $40 million – equivalent to 0.5% of Moldovan GDP.25 It is thought that much of the unsold surplus may have been smuggled to neighbouring markets, but the full extent of this trade is unknown.

22. Ibid.
23. Information provided to the authors by Romanian law enforcement agencies.
25. Ibid.
Box 5: Case Studies – Smuggling Cigarettes and Alcohol

A series of recent cases speak to crossovers between the smuggling of cigarettes and alcohol in Romania. Four are briefly detailed here.

In September 2016, ten suspects appeared in court in Suceava accused of smuggling illicit cigarettes and alcohol. Their activities were uncovered during police raids on thirteen properties – ten private, three commercial – by police in the northeastern city of Suceava. Here, police discovered 23,600 cigarettes, 300 litres of alcohol, as well as foreign currency worth RON 22,000 ($5,668).

In February 2017, officers from the Dambovita County Police Inspectorate and DIICOT carried out raids on nineteen properties in the southern counties of Dambovita and Arges, and in Suceava county in the northeast. They arrested eight individuals and seized more than 236,000 illicit cigarettes, 987 litres of alcohol, in excess of RON 187,500 and €15,600 in cash, as well as 24 mobile phones and an unlicensed weapon with 66 cartridges. The officers also uncovered a production facility where the seized illicit alcohol had been manufactured.

In April 2017, police at the Iron Gates I Crossing Point between Romania and Serbia intercepted a 48-year-old Serbian citizen smuggling 300 litres of alcohol and 60 packs of cigarettes into Romania in his car and trailer. The quantities smuggled amounted to RON 9,720; the individual was fined RON 3,000.

In May 2017, police raided residential properties in the northeastern city of Câmpulung Moldovenesc. At one of the properties, they seized 275 packets of illicit cigarette of various brands, 35.5 litres of alcoholic beverages labelled as Ukrainian, Moldovan and duty free, and 44 litres of alcohol for which duty had not been paid. Authorities also inspected a stand inside Câmpulung Moldovenesc’s Bazar Shopping Complex, seizing 76 further packs of illicit cigarettes of Ukrainian and Moldovan origin, and duty free.

Beyond Romania’s immediate neighbours, another important source of illicit alcohol is Transnistria, a Russian-controlled territorial enclave between Moldova and Ukraine. The enclave’s former leader, Evghenii Şevchuk, is currently standing trial for presiding over a criminal network that smuggled alcohol and cigarettes, and faces a twelve-year custodial sentence.\footnote{Iurii Botnarenco, ‘Evghenii Şevciuk riscă până la 12 ani de închisoare. Ce învinuiri i se aduc fostului lider de la Tiraspol VIDEO’ [‘Evghenii Şevchuk Risks up to 12 Years in Prison. Accusations Against Former Leader of Tiraspol VIDEO’], Adevărul.ro, 29 June 2017.} A significant proportion of the outputs of Transnistria’s alcohol enterprises is thought to be smuggled into Moldova and Ukraine; according to some of those interviewed for this paper, some of these products are then thought to cross into Romania, as are illicit cigarettes produced in the enclave. Again, however, the full extent of this trade is unknown, with few publicly available reports on this smuggling route.

OCGs involved in smuggling across Romania’s borders often switch between alcohol and cigarettes (Box 5, previous page). In some cases, they deal in both simultaneously: illicit alcohol and cigarettes have been uncovered together in transit and in situ, at storage and distribution points across the country. In some cases, they have been found together at sites also used for illicit alcohol production – an activity that typically involves Romanian nationals operating from small-scale facilities. This is testified by the second case detailed in Box 5, concerning an unregistered alcohol production facility in Dambovita.

Numerous other cases of small-scale illicit alcohol production have been uncovered. In a typical case, in August 2015 police in Ilfov County uncovered an unregistered production facility and 140 litres of alcoholic beverages at the private home of a 61-year-old man from Balotesti: the facility was seized and the beverages confiscated, with a criminal case filed against the individual.\footnote{Observator de Constanta, ‘Instalatia artizanala de producere a alcoolului, descoperita de politisti’ [‘Alcohol Production Facility Discovered by Police’], 5 August 2015.} Alongside small-scale facilities, however, officials interviewed for this paper spoke of more sophisticated premises, including illicit factories that had been uncovered producing industrial quantities of alcohol, some going beyond the production of illicit alcohol to forge bottles, labels and caps.

Alternatively, OCGs may refill genuine bottles. In many cases, bar staff are thought to be complicit, with empty bottles sourced from urban bars. OCGs pay barmen to carefully remove caps and supply empty bottles for counterfeiting, and to remove plastic wrappers such that they can be easily replaced. Bars and restaurants themselves may procure or source untaxed and contraband alcohol, which they use in their establishments to evade tax (Box 6, next page). Interviewees noted that counterfeits supplied in this way tend to be of a high quality: this could indicate that OCGs are concerned about ensuring return business.

Beyond OCG involvement in smuggling alcohol and production in illicit facilities, there is also evidence of engagement in more complex forms of duty evasion, such as missing trader intra-community fraud, also known as ‘carousel fraud’. This takes place where an illicit trader sells goods to another illicit trader, who in turn sells them on to another, and so on.\footnote{Clare Ellis, ‘On Tap Europe: Organised Crime and Illicit Trade in Tobacco, Alcohol and Pharmaceuticals’.} The first trader defaults
on VAT payments owed to the relevant national tax authority; the subsequent traders then falsely reclaim the VAT on goods, which they continually import and export to and from other EU states. The case highlighted in Box 7 shows the result in a 2014 case in which Romanian OCGs were actively involved; the case also reveals the international links required for such schemes to function.

**Box 6: Case Study – Illicit Trade Through Bucharest Drinking Establishments**

In January 2015, police uncovered a scheme whereby the owners of high-end drinking establishments in Bucharest purchased smuggled alcohol, which was then sold on to customers at high prices. The scheme was run by a criminal network that stored illicit merchandise in a retirement home in the city – in a flat occupied by one member’s mother. Police raided the flat initially in search of illicit cigarettes, but instead uncovered 1,800 bottles of champagne, cognac and other liqueur, with no accompanying paperwork. Cash sums of $4,000 and €1,500 were also found in the flat; the goods and cash were confiscated and criminal proceedings initiated.


**Box 7: Case Study – Operation Cocktail, Alcohol Carousel Fraud**

In November 2014, a joint operation by eight EU states, supported by Eurojust and Europol, uncovered involvement by numerous OCGs in a sophisticated alcohol carousel fraud scheme.

The groups – active in Romania, Italy, Belgium, France, Germany, the Netherlands, Spain and the UK – were found to have employed similar modus operandi, using falsified export documents to create a hidden supply chain across EU member states. Using duplicate and phantom transactions, their aim was to conceal the destination (usually the UK) of the alcohol being traded. In this way, the groups were able to avoid the payment of VAT, while fraudulently reclaiming it at subsequent stages of the carousel.

Following the issuance of European arrest warrants in Romania, Germany and the UK, as well as national arrest warrants in Italy, nineteen individuals were detained. Thirty-one premises were searched, and cash, computers, mobile phones, weapons, vehicles and documents were seized.

Organised Crime and Illicit Pharmaceuticals

Traditionally, OCGs involved in illicit trade in pharmaceuticals have dealt in ‘mass market’ lifestyle products, such as those for weight loss, erectile dysfunction and steroids. As described in Chapter II, however, the shrinking range of pharmaceuticals available on the legal market under a state cap on rates paid for prescription drugs has widened the market options for OCGs. In particular, the shortage of expensive drugs to treat rare diseases and chronic illnesses has created gaps in supply, which OCGs have been quick to exploit. In line with this, over the last two to three years, an emerging trend has seen an increase in the illicit supply of expensive ‘niche’ drugs directly to customers.

As they have broadened their offerings, the groups involved have adapted their methods, using different techniques for mass-market versus niche products. Mass-market products, first, are typically sold online, with delivery via postal and courier services. Whereas once illicit pharmaceuticals of this nature were sold through small newspaper adverts, since 2010 this practice has declined as online platforms have offered OCGs wider access to potential customers. As noted by academic Székely Pál and colleagues, ‘Internet commerce … is [an] important source of counterfeit drugs entering Romania, … [with] many foreign and domestic websites … advertising and selling illegally drugs or other medicinal products’.

The reach offered by the sites they use is important. With mass products such as weight-loss pills, profit margins are relatively low, with significant volumes of sales required to generate substantial profits. In the case of specialist drugs to treat rare diseases, on the other hand, OCGs need sell only one or two products, rather than hundreds, to make substantial profits. This is not a mass market; rather than using mass-marketing principles, specific individuals are targeted and tailored approaches carefully pursued. Instead of appeals to generalised consumers, such niche products are sold on auction sites and online forums via personalised advertisements. Here, OCGs tailor their approaches to the very different motivations for purchasing via illicit channels: instead of consumers of ‘lifestyle’ drugs, they now deal with desperate patients for whom legitimate channels have been unable to provide.

Social media has also been used to target such sufferers. Experts described sellers posing as grieving relatives of loved ones lost to the same illness, with messages strategically posted in support forums to reach their target audience. Under this persona, OCGs offer to sell their remaining medication at a discounted price, in the apparent wish that it ‘help somebody else’. Their prospects of success are aided by an apparent general lack of awareness of the

risk of receiving illicit products. A survey of 253 patients using nine community pharmacies in 2010–11 found that one in three participants considered it safe to purchase medicines online, despite 48.6% of participants declaring themselves to be aware of the potential dangers posed by doing so.31

Yet online platforms are increasingly accompanied by other outlets as OCG methods continue to shift. For illicit treatments of chronic illness, for example, other avenues have been observed, including using the walls of public buildings to display adverts to sufferers, particularly in economically disadvantaged areas. These advertisements target patients not only as consumers, but also as potential suppliers: an emerging method has seen OCGs attempt to incentivise cancer sufferers who are being prescribed drugs to sell some of their medicines in return for cash. This is a move that again plays on sympathy;33 purchasers may claim to represent other sufferers who are unable to access the medicines they need. Many of the individuals targeted are disadvantaged enough to agree to sell either all or part of their medicines to those offering cash in return.34 The patient then either reduces their dose, returns to the doctor claiming to have mislaid the medicines prescribed, or claims that the medicine is not working.35 In some cases, patients have been known to sell drugs to the purchaser at around half the retail price; the drug is then sold to other sufferers at just below the price in private pharmacies.36

At the same time, parallel sales are manipulated to meet demand for specialist medicines. As noted in Chapter II, in some cases, producers export their goods from Romania only to illegally re-import them.37 In this way, they work around the state procurement system, selling the ‘imported’ drugs through parallel channels. Often the products are sold at prices below those in legal pharmacies; however, sellers may be careful to ensure they are not so low as to arouse suspicion, aiming instead to appear as legitimate sellers.

31. Pál, et al., ‘Attitude of Patients and Customers Regarding Purchasing Drugs Online’, p. 96. The survey was conducted between November 2010 and March 2011, with patients from nine community pharmacies from five Romanian cities: Braşov, Tîrgu Mureş, Carei, Reghin and Odorheiu Secuiesc.


33. Contabilitate Olaru, ‘Circuitul obscur sl medicamentelor de cancer decontate de stat si vandute pe zeci de mii de euro. Reteaua samsarilor de sanatate. De ce nu face Ministerul NIMIC?’ [‘The Hidden Trade in Cancer Medicines Prescribed for Free by the State but Sold for Tens of Thousands of Euros. The Network of Health Speculators. Why is the Ministry Doing NOTHING?’].


37. Tiron, ‘Criza medicamentelor se accentuează. “Pentru o rețetă pentru insulină se aşteaptă o lună sau două”’ [‘The Drug Crisis is Intensifying. “For an Insulin Prescription, Expect to Wait a Month or Two”’].
**IV. Legislation, Law Enforcement Response and Sanctions**

**The Role of Organised Crime in Illicit Trade in Tobacco, Alcohol and Pharmaceuticals** is recognised by Romanian authorities. The response to this activity is increasingly prioritised alongside other forms of serious criminality, particularly given the imperative to dismantle the country’s broader shadow economy. With unregistered activities representing as much as 28% of GDP and authorities collecting significantly below the EU average in tax revenue, the political will to tackle illicit trade is growing. The country’s legal framework is also considered broadly sufficient to respond to illicit trade, particularly as key pieces of legislation have been tightened. However, some experts criticise the inconsistent implementation of this framework to date and the lack of clear national strategies to tackle illicit trade in all commodities in question.

**Regulation**

Until May 2017, there were few restrictions on the retail of cigarettes and other tobacco products in Romania, with up to 75,000 retailers in the country selling and holding stocks of tobacco products, according to the National Association of Small and Medium-Sized Retailers. However, with the entry into force of Law 201/2016 in May 2016, the rules were redefined and tightened, as Romania transposed into domestic legislation the 2014 European Tobacco Products Directive. Despite domestic challenges on the basis of unconstitutionality, in January 2016 Romania’s Constitutional Court ruled unanimously that the law did not violate constitutional provisions and should enter into force.

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The new law requires retail outlets looking to sell tobacco products to register with ANAF. It also obliges traders to register the entry into their possession of all tobacco products, and manufacturers to provide traders with the information required to do so.\(^5\) It further obliges manufacturers and importers to establish data-storage contracts with independent third parties, and requires entities throughout the supply chain to keep complete and accurate records of transactions.\(^6\) In addition, the law specifies that all tobacco products must bear a unique identifier, as well as visible and invisible security markings that cannot be removed.\(^7\) Notably, the new law also bans cross-border distance sales of tobacco products by foreign entities to Romanian consumers. To prevent this, it mandates that ANAF cooperate with competent authorities in other EU states and third countries.\(^8\) The law does permit cross-border distance sales by Romanian entities to consumers in other EU states that themselves allow such sales. However, it requires that such entities register with both ANAF and competent authorities in the state in question.\(^9\)

With regard to alcohol, entities selling alcoholic beverages both on and off their own premises must be licensed. In terms of production, the home brewing of beer, wine and moonshine is legal; as noted by researchers Nina Alexevici and colleagues, a significant proportion of consumption in Romania derives from home production, compared with other EU countries.\(^10\) However, home producers of spirits are required to declare distilleries to the government, with production subject to inspection and the levying of alcohol tax.\(^11\) In line with this, it is illegal in Romania to operate undeclared distillation facilities, even for personal use.

The pharmaceutical trade is regulated by the Pharmacy Law (No. 266 of 2008), which covers manufacture, import and distribution.\(^12\) According to this law, all manufacturing activities must be authorised, with authorisation also required to import pharmaceuticals from outside the European Economic Area. In terms of distribution, legally approved pharmaceuticals can be sold only in pharmacies, local distribution offices and drugstores authorised by NAMMD. Until 2017, the online sale of pharmaceuticals was not regulated, but this changed with the adoption by parliament in March 2017 of an amendment to Law 266/2008. The amendment introduced

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5. ‘Legea Nr. 201 din 04.11.2016’ [‘Law No. 201 of 4 November 2016’], Article 15 ‘Trasabilitatea’ [‘Traceability’].
8. *Ibid*, Article 18 ‘Vânzări transfrontaliere la distanţă de produse din tutun, ţigarete electronice şi flacoane de reumplere’ [‘Cross-Border Distance Sales of Tobacco Products, Electronic Cigarettes and Refillable Bottles’].

In the case of tobacco and pharmaceuticals, the passing of new legislation offers enhanced traceability and security mechanisms for the legal supply chain. In seeking to prevent the sale of illicit goods through registered retailers, these mechanisms have the potential to complicate the operations of OCGs involved in illicit trade. Yet such regulations cannot prevent the supply of illicit goods through other means, beyond the regulated sector. Although the regulations are clearly beneficial, without strong parallel action to disrupt unregulated activity, illicit trade is likely to be displaced rather than suppressed.

**Law Enforcement Response**

Overall, there was consensus among interviewees that law enforcement agencies in Romania understood the various facets of the challenge posed by illicit trade and have the tools to respond. At borders, Customs authorities make regular seizures at key entry points, operating 43 canine teams and with access to fifteen scanners (although only one was operational at the time of writing).\footnote{14. Roxana Petre, ‘Scanere defecte la 14 vămi. Dispozitivele sunt folosite pentru detectarea produselor de contrabandă’, ['Faulty Scanners at 14 Entry Points. Devices are Used to Detect Smuggled Goods'], RomaniaLibera.ro, 29 March 2017.} Yet one broad assessment was that, despite a strong focus on the issue at the border, there is less focus on ‘inland’, domestic investigations. Certainly, much anti-illicit trade activity should focus on borders, particularly on goods for which Romania serves as a transit hub. Yet it is also clear that deliveries by postal and courier services, the use of Romania as a storage point and continued illicit production demand an enforcement approach that covers the whole of the country.

Likely to have contributed to this perceived gap is the fact that Romania’s 2012 anti-illicit trade strategy was signed but never published nor comprehensively enforced. Law enforcement agencies themselves recognise that the strategy was not fully implemented, with no formal commitments made and limited follow-up action. Expectations of the 2016–20 strategy are therefore high; most interviewees agreed that it is a comprehensive document and that political will exists to implement it.

As part of such a strategic approach, there is a need to address an apparent imbalance in efforts to tackle illicit trade in different commodities. Interviewees stressed particularly the tendency to take a reactive approach in the case of illicit alcohol, relegating this below other forms of illicit trade, particularly tobacco. In addition, it was suggested that the response may suffer due to the absence of a specialised unit in either police or customs focusing specifically on illicit alcohol. The limited intelligence picture – again, relative to illicit tobacco – is further cited as impeding the development of a similarly effective intelligence-led response.
At the operational level, interviewees stressed the importance of cooperation and intelligence sharing between agencies working on combating illicit trade. There was general agreement that relevant agencies are working together, but that their remits and priorities differ and, as elsewhere, lack of trust can pose obstacles where there are suspicions of corruption. It is clear that individual agencies have their own initiatives, which combat particular aspects of the problem; where cooperation occurs it often takes the form of specific technical assistance. As such, enforcement agencies appear open to cooperation and share Memorandums of Understanding for the delivery of training, but there are fewer active working groups or joint mechanisms to address the threat faced.

An exception is an observatory on intellectual property crime set up in the early 2000s by the public prosecutor. Crucially, this forum was devised as a platform to connect stakeholders not only within law enforcement but also within industry, through meetings, discussions and the formation of subgroups on particular issues. Through this and other mechanisms, public–private cooperation was described positively, although interviewees acknowledged limitations in the scope of interaction in some cases. With regard to tobacco, specific protocols for cooperation are in place between manufacturers and authorities, with intelligence-sharing mechanisms also in operation. With regard to pharmaceuticals, however, cooperation is less well established, although in recent years law enforcement agencies have begun to accept leads from industry, with increasingly fruitful outcomes.

The transnational nature of illicit trade also necessitates cooperation internationally. Romania is an active member of the Southeast Europe Law Enforcement Cooperation Centre (SELEC), which facilitates real-time information sharing through a network of liaison officers, and supports joint investigations – as many as 89 in 2015. Smuggling and customs fraud is the focus of one of the centre’s eight taskforces, which held its 16th meeting in Bucharest in September 2016.\(^\text{15}\) SELEC also supports a dedicated analytical unit, which produces assessments and strategic reports, and is hosted at the centre’s headquarters in Bucharest.

Beyond this, Romania engages actively with the European Anti-Fraud Office (OLAF). In 2015, the country was one of the most active contributors of information of potential investigative interest to OLAF, with Romania’s public sector submitting the second-highest number of notifications and the private sector the highest number across all member states.\(^\text{16}\) Engagement extends to joint customs operations (JCOs) – one of the three OLAF-led JCOs in 2015 was co-organised with Romanian customs, targeting both commercial and non-commercial consignments crossing the Ukrainian and Moldovan borders.\(^\text{17}\) As noted by OLAF, the operation aimed not only to disrupt criminal networks, but also to improve information sharing between participating agencies, from the EU Border Assistance Mission to Frontex and Europol, as well as Ukrainian and Moldovan


\(^{17}\) Ibid., p. 19.
The operation led to 81 seizures, with 3.74 million illicit cigarettes intercepted at the borders in question.\textsuperscript{19}

Cutting across efforts to disrupt illicit trade, at both national and international levels, is Romania’s ongoing fight against corruption. In a range of manifestations, the issue has bedevilled Romania since the fall of Communist dictator Nicolae Ceaușescu in 1989. Since accession to the EU and the reorganisation of Romania’s anti-corruption prosecution office, however, numerous sources point to considerable strides in tackling corruption at a systemic level.\textsuperscript{20} Such progress was symbolised by the jailing of one prime minister and the indictment of another in September 2015. The same year, the DNA successfully prosecuted more than 1,250 individuals, including 24 mayors, five parliamentarians, two ex-ministers and a former prime minister; in 2016, another 800 people were prosecuted, with the presidents of the Chamber of Deputies and the Senate currently awaiting trial.

As noted, action has also been taken against corrupt officials involved in illicit trade, mainly at external borders and ports.\textsuperscript{21} Despite this, a number of interviewees suggested that more such work remains to be done, a view that appears to mirror public perception. Eurobarometer surveys reveal significant concerns about corruption within agencies charged with disrupting illicit trade: in 2013, 67\% of Romanians surveyed expressed the view that corruption was likely to be ‘widespread’ within their police or customs agencies.\textsuperscript{22} This was the joint highest rate among countries surveyed and significantly higher than the EU average of 36\%.\textsuperscript{23}

These views come against a background of continued modest performance on Transparency International’s Corruption Perceptions Index.\textsuperscript{24} Although Romania’s scores have seen sustained improvement, the change is small, and does not alter the country’s position close to the bottom of the European table: in 2013 and 2014, Romania received a score of 43 (on a scale where 0 denotes highly corrupt and 100 very clean), rising to 46 in 2015, and 48 in 2016.\textsuperscript{25} Taken together, such perceptions imply that further sustained action is required – a view reinforced by the EU’s annual Cooperation and Verification Mechanism reports, which praise action taken in recent years, but push for further progress.\textsuperscript{26} It should, however, be noted that negative

\textsuperscript{18} Ibid.

\textsuperscript{19} Ibid.

\textsuperscript{20} In 2005, at the request of the EU Commission, an audit was prepared of Romania’s anti-corruption strategy, which showed that the existing National Anti-corruption Prosecutor’s Office was having little effect. The Office was subsequently transformed into the DNA, situated within the Office of the Prosecutor General, charged with investigating top officials. See UNODC, ‘Crime and its Impact on the Balkans and Affected Countries’, March 2008, p. 93.

\textsuperscript{21} Butu, ‘48 Customs Officers Get 5-Year Jail Sentences’.


\textsuperscript{23} Ibid., p. 22.


perceptions may themselves be symptomatic of a more effective approach: as tolerance for corruption has declined and the DNA has launched its offensive, the extent of the issue may have become more apparent than had it been left unchecked.

**Legislation and Sanctions**

As in other countries in this series, there was general agreement among interviewees that sanctions currently imposed on individuals involved in illicit trade do not act as an effective deterrent. In many cases, the same individuals resume their activities after the payment of fines, civil action or prosecutions, often doing so equipped with greater knowledge of law enforcement techniques and thresholds. It was suggested, however, that the issue lies not in the strength of sanctions available under existing legislation, but in their application by the judiciary.

A review of existing legislation supports such a view, revealing the availability of moderately strong penalties. The centrepieces of Romania’s legal framework for dealing with illicit trade are the Customs Code of 2006 and the Fiscal Code, the latest version of which has been in force since June 2017.\(^{27}\) Smuggling offences are set out in Article 270 of the former, covering ‘the introduction into or removal from the country, by any means, of goods through other places than those established for customs control’.\(^{28}\) The Customs Code specifies further that such offences (and related offences such as possession of smuggled goods) are punishable by two to seven years’ imprisonment – a more substantial sentence than those available in some other jurisdictions.

Trade in illicit goods may also infringe other legislation, from Law No. 241/2005 on fiscal evasion,\(^{29}\) to Law No. 656/2002 on money laundering,\(^{30}\) Law No. 39/2003 on organised crime\(^{31}\) and Law No. 78/2000 on corruption, among others.\(^{32}\) Under these laws, additional penalties

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are available; as noted, Law 39/2003 accords sentences of between five and 20 years for membership of an OCG.\(^{33}\) With regard to pharmaceuticals, Law No. 94/2006 on Healthcare Reform lays out the penalties for ‘counterfeiting or the placing on the market of a medicinal market in violation of the provisions of ... [Law No. 94/2006]’.\(^{34}\) These actions are punishable by three months’ to three years’ imprisonment, and where harmful to health, by imprisonment of one to eight years. Where products can be shown to have caused or exacerbated illness, terms are strengthened to two to eight years’ imprisonment; where they result in death, sentences rise to between five and fifteen years.

There was broad consensus among those interviewed that this framework was adequate to deal with illicit trade, but that there are gaps in its implementation. In the case of pharmaceuticals, violations appear to be taken most seriously, and have resulted in multiyear custodial sentences. In the case of tobacco and alcohol, however, penalties appear to be less consistently applied, with fines the most common sanction and prison sentences relatively rare. Strong penalties appear to be least frequently applied in the case of illicit alcohol, with perpetrators in some cases released with small fines not commensurate with the scale of activity undertaken.

It is also claimed that prosecutions too often target low-level smugglers, rather than more significant players in the OCGs involved. Interviewees also observed that the role of asset recovery appears limited where funds are held overseas or tied up in property in remote rural areas. Meanwhile, corruption among prosecutors and the judiciary was mentioned by some experts as an issue in holding perpetrators to account. Academics Philip Gounev and Tihomir Bezlov support this point, observing that in many relevant provisions in Romania, ‘the concept of “social danger” is quite vague, leaving ... judges a lot of discretion which they often abuse.’\(^{35}\)

In spite of such issues around implementation, much attention has focused exclusively on legislative reform. An example concerns the debates about Article 270 of the Customs Code: appeals were heard in Romanian courts in 2016 on the constitutionality of existing provisions on the possession of smuggled goods when compared to those on the act of smuggling itself.\(^{36}\) The appeals were ultimately rejected by the High Court of Cassation, but may still be referred to the European Court of Human Rights. Such debates are important, and the strengthening of

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36. For more, see \textit{Legestart}, ‘Studiu de caz: Contrabanda cu țigări’ [‘Case Study: Cigarette Smuggling’], 22 February 2016.
regulation and legislation around illicit trade are irrefutably positive. However, it is also clear that an equally pressing appeal could be made to ensure that prosecutors and the judiciary use existing laws effectively, such that criminal sanctions act as a consistent deterrent.

V. Analysis

THE OCGS BEHIND illicit trade in Romania are sophisticated, often internationally connected, and capable of adapting to exploit opportunities to enhance profits and evade detection. As in several other countries in this study, there is evidence that OCGs in Romania are moving away from high-risk activities, such as drug trafficking, in favour of illicit trade.¹ For many groups, commodity smuggling has become the core focus, with some evidence of movement between products as profit-making opportunities dictate. In some cases, OCGs will deal in different commodities simultaneously: this appears to apply particularly to illicit trade in tobacco and alcohol, where a range of cases testify to parallel involvement.

Against a backdrop of growing attention to Romania’s broader shadow economy of unregistered activities, illicit trade and associated economic crimes have acquired an increasingly prominent profile. ‘Smuggling of goods’ is cited in the country’s National Security Strategy as a ‘grave offence’, alongside nineteen other crime types,² and illicit trade is addressed by law enforcement agencies alongside other forms of fraud and corruption, to which a concerted response has been mounted. However, such activity appears less important to the Romanian public: in a 2016 Eurobarometer survey, 50% of respondents rated loss of taxes for the state as one of the main problems with the illicit tobacco trade, with far smaller numbers (31%) citing revenues generated for organised crime as a core concern.³ This implies that the Romanian public largely does not perceive illicit trade as a significant criminal issue, with illicit supply and consumption viewed largely without social stigma.

Drivers of Illicit Trade in Romania

This points to the first of five key drivers of illicit trade identified in Romania, namely the broad social acceptance of purchasing illicit goods. While there appears to be growing recognition that illicit trade has contributed to the country’s longstanding economic challenges, the presence of a persistent domestic market for illicit goods is also clear. In addition, some Romanian officials spoke of a perceived political dimension to anti-illicit trade initiatives amongst the general public; these are often seen as unfairly targeting some of Romania’s poorest citizens. Individuals involved in illicit trade may more often be viewed as providing a service to these citizens, with many quick to excuse participation in smuggling activities on these grounds.

A second driver is linked to price differentials, determined by the country’s geographic position between EU and non-EU states. In particular, the low price of tobacco and alcohol in non-EU

3. European Commission, ‘Special Eurobarometer 443’.
neighbours acts as an important incentive for smuggling into Romania. The illicit cigarette trade illustrates the point clearly: while selling for €3.26 in Romania, an average pack costs €1.80, €0.65 and €0.50 in neighbouring Serbia, Moldova and Ukraine respectively, creating ample profit-making opportunities for smugglers. In the case of cigarettes, further differentials with wealthier EU states drive Romania’s role as a transit state, with illicit packs frequently smuggled on to higher-priced markets.

A third driver – specifically of illicit trade in pharmaceuticals – lies in the country’s state deficit and government policy to control healthcare spending. Specifically, the capping of prices paid for medicine makes Romania vulnerable to illicit trade, as pharmaceutical companies have abandoned the market and legal stocks have dried up. Demand for illicit sources of supply has therefore grown as sufferers of chronic diseases have found themselves without the drugs they need. This has come despite government initiatives to increase patient access to pharmaceuticals across the country; in many cases, gaps in domestic supply can still be more easily met through recourse to illicit sources.

A fourth driver concerns the inconsistent application of sanctions against those caught engaging in illicit trade. While legislation offers relatively stringent penalties, these are infrequently fully applied, contributing to the perception that illicit trade is not a serious crime, or at least is worth the risk. This is the case particularly for alcohol and tobacco, where fines are the most common sanction. The result is that penalties do not act as a consistent deterrent: in many cases, the same individuals return to illicit trade following the payment of fines, often equipped with greater knowledge of law enforcement tools and thresholds.

Fifth, and finally, corruption has historically been recognised as a challenge to tackling illicit trade. In particular, arrests of officials for involvement in smuggling have fuelled perceptions of corruption among police and customs authorities, at both land borders and ports. In 2013, the perception that corruption was likely to be ‘widespread’ within police or customs authorities in Romania was the joint highest in Europe. However, perceptions may also be informed by a more stringent approach to routing out corrupt entities: in recent years, Romania’s DNA has launched a concerted attack on high-level corruption and made considerable strides in tackling the issue at a systemic level.

**Key Findings**

1. Disparities in the level and type of data available vary by commodity, making reliable comparative analyses difficult. As for other countries in this series, the data on illicit trade in tobacco dwarfs that on alcohol and pharmaceuticals, complicating efforts to establish the extent of illicit trade and potentially distorting perceptions of the threat landscape. Particularly in relation to alcohol and pharmaceuticals, few statistics are

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publicly available and while some studies have covered specific aspects of the problem, much of the information is anecdotal.

2. The role of OCGs in illicit trade is recognised by Romanian authorities, and the issue is addressed alongside other forms of serious criminality. Yet there are reports of an imbalance in the extent of efforts made to tackle illicit trade in different commodities. Interviewees stressed particularly the tendency to take a reactive approach in the case of illicit alcohol, and to relegate this below efforts to disrupt other forms of illicit trade.

3. The criminal networks behind illicit trade demonstrate a clear ability to adapt to market opportunities, varying their modus operandi accordingly. Nowhere is this clearer than in the response of OCGs to Romania’s healthcare crisis: as the government has capped rates paid for prescription drugs, legal supplies of pharmaceuticals have shrunk, creating gaps that OCGs have been quick to exploit. The shortage of drugs to treat chronic illnesses, in particular, has created opportunities: while OCGs have traditionally dealt in ‘mass market’ lifestyle products, an emerging trend has seen the growing illicit supply of ‘niche’ expensive drugs directly to consumers.

4. The legislative framework in Romania offers moderately strong penalties for involvement in illicit trade, bolstered in recent years by the strengthening of existing laws on tobacco and pharmaceuticals. Yet while law enforcement agencies have demonstrated successes in disrupting smuggling activity, the current application of sanctions has been inconsistent. There is thus a degree of persistence among the groups involved; alongside debates about legislative reform, further action is required to ensure that prosecutors and the judiciary can use existing laws effectively.

5. Successful operations by Romanian authorities to disrupt smuggling activity have taken place mainly at ports and land borders. While there is a strong focus on the problem at the border, however, there appears to be less of a focus on inland investigations. The country’s external borders undoubtedly constitute a crucial area for intervention, and effective action here represents a key success. However, the use of Romania as a storage point, the exploitation of postal and courier services for delivery, and domestic illicit production demand an enforcement approach that covers the whole of the national territory.
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