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“A Hazy Crisis: Illicit Cigarette Smuggling in the OSCE Region” July

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Cigarette Smuggling has become such a major problem in the OSCE region for the following reasons:

- 1) There is a long-term **Culture of Impunity**. This is particularly pronounced in the Balkans where there has been the involvement of **high-level officials** (see text and Appendix). But it also exists among the **migrant communities** that cannot find employment and marginalized communities who become sellers of cigarettes.
- 2) **Corruption is a key facilitator of this trade** and involves officials at all levels—at borders, ports, customs, policing and even heads of state.
- 3) Important role of **non-state actors including both criminals, terrorists** and hybrids of the two. Transfer of this much money to these illicit networks is a **security challenge in the OSCE region**. Example of this is one of the Kouachi Brothers, a terrorist who killed the cartoonists of Charlie Hebdo, sold illegal cigarettes. Other cases within the US and Europe.
- 4) **Numerous facilitators** help move cigarettes including truck drivers, corrupt officials who let the containers and trucks with illicit cigarettes transit and smugglers
- 5) **Importance of Hubs outside of OSCE Region**. Free Trade Zones play a key role in the illicit trade in cigarettes, The Jebel Ali free zone in Dubai is key in the import of illicit cigarettes into Europe.
- 6) **Illicit cigarette trade is not a stand-alone crime. It converges with the drug trade, wildlife smuggling, trade in counterfeit goods and other crimes**. The Czech police found an illegal shipment of rhino horn transiting Prague as they were tipped off by law enforcement following the cigarette trade of the Vietnamese diaspora community.
- 7) **Importance of new media**. Facebook, for example, has notices on delivery and pick-ups of illicit cigarette loads but does not do enough to police content even though the issue has been brought to their attention.
- 8) **Absence of law enforcement focus on cigarette smuggling in OSCE region, an “underpoliced crime”**—absence of network analysis, crime-terror analysis, they do not allocate enough law enforcement resources to combating what seems to many like petty trade. Criminals and terrorists go where there is low-risk of enforcement.
- 9) Sale of cigarettes provides the **venture capital for other forms of illicit trade**. For example, members of the Vietnamese diaspora community became key actors in the low-level cigarette trade in Germany and the Czech Republic. With this initial capital, they were able to become key conduits for the import of counterfeit goods from Asia and their distribution within Western Europe. That trade gave them the capital and the connections to escalate to the extremely profitable illicit rhino horn trade.
- 10) **The prevalence of illicit cigarette trade reveals the limits of our strategies to counter illicit trade**

The following is an excerpt from my forthcoming book under contract with Princeton University Press on illicit trade. It illustrates many of the key points that I have made above.

At the Museum of Immigration in Paris, there are headsets where you can listen to

immigrants recount their life stories. One especially moving audio that I heard was of an illegal North African migrant living in Southern France on the margins of society. His voyage out of Africa started on a precarious boat that crossed the Mediterranean several years before the mass transports of today. He arrived in impoverished Southern Italy and found no work. He worked his way farther north in Italy, still finding no employment. Then he crossed into France and made his way to Paris. There, he explained he found no better prospects to make a living. He moved south, this time, settling in Marseille. He ended his tale reporting he had found a way to survive. He was selling cigarettes.

What the immigrant does not mention is that most street cigarette vendors of Marseille are selling illegal ones. Hardly surprising, as France in 2016 merited the distinction—“European champion of illicit cigarette sales.” One form of illegality lies within another—irregular migrants, without the right to work, sell smuggled cigarettes. These illegal products arrive through smugglers—a third of France’s illegal cigarettes are smuggled from Algeria, and a quarter arrive from Spain where tax rates are lower¹ and Barcelona is a key hub for the receipt of smuggled cigarettes.² Cigarettes arrive in France from Algeria, having avoided all taxation, allowing them to be sold in open-air markets at substantially lower prices than legitimate retail products.

Marseille is the French hotspot for illicit cigarette sales—approximately 40% of all sales

¹ Laurent Martinet, “La France, championne d'Europe des cigarettes de contrebande,” June 8, 2016. Accessed June 16, 2017, http://lexpansion.lexpress.fr/actualite-economique/la-france-championne-deurope-des-cigarettes-de-contrebande_1800103.html; Bill Wirtz, “Why Counterfeit Tobacco is Plaguing France,” April 17, 2017. Accessed June 16, 2017, <https://fee.org/articles/why-counterfeit-tobacco-is-plaguing-france/>.

² “Spanish Customs,” in Interpol, *Against Organized Crime : Interpol Trafficking and Counterfeiting Casebook 2014*, 36 (Lyon: Interpol, 2014).

are of illegal imports.³ This port city has long been a center of illicit trade. Think of the French Connection, where drugs arrived from Turkey to be shipped to the United States via Canada.⁴ But international law enforcement expended formidable resources to combat the lucrative heroin trade. In contrast, police allocate few resources against the petty cigarette traders even though these also harm human life. This inattention is not a result of corruption, as the sellers lack the funds and the contacts to corrupt French officials.⁵ Therefore, the recorded migrant, as well as many others at the margins of the economy, exist in this trade as France is the contraband cigarette capital of Western Europe. In France, over 27% of its sales (820 million packs) in 2016 were bought in shops or locales not authorized to sell tobacco. Half of the cigarettes were contraband and counterfeit and many of the rest were illicit whites produced to be smuggled.⁶ In France, cigarettes on the street sell for about 5 euros for diverted products and illicit whites or counterfeited products can be found at 4€. In the shops the prices are much higher—7 euros. The difference in price results in massive tax losses to the state, approximately,

³ Anne Vidalie, “Contrebande: le boom des marques clandestines de cigarettes,” July 12, 2016. Accessed June 15, 2017, http://www.lexpress.fr/actualite/societe/contrebande-le-boom-des-marques-clandestines-de-cigarettes_1811389.html; Francesco Calderoni, et. al., *The Factbook on Illicit Trade in Tobacco Products-8 France*, June 1, 2016, Accessed June 15, 2017, [http://www.transcrime.it/publicazioni/the-factbook-on-the-illicit-trade-in-tobacco-products-8-france/..](http://www.transcrime.it/publicazioni/the-factbook-on-the-illicit-trade-in-tobacco-products-8-france/)

⁴ Ryan Gingeras, *Heroin, Organized Crime and the Making of Modern Turkey* (Oxford: Oxford University Press, 2014), 122 -123 and Jonathan V. Marshall, *The Lebanese Connection: Corruption, Civil War, and the International Drug Traffic*. Stanford Studies in Middle Eastern and Islamic Societies and Cultures Series. (Stanford: Stanford University Press, 2012), 33-48.

⁵ Nacer Lalam, “France from Local Elites to National Leaders,” in *Corruption and Organized Crime in Europe: Illegal partnership* eds. Philip Gounev and Vincenzo Ruggiero, 109-110. Abingdon: Routledge, 2012.

⁶ KPMG, Project Sun, *A Study of the Illicit Cigarette Market in the European Union, Norway and Switzerland, The Illicit KPMG 2016 Results*. 2017, Accessed July 13, 2017, <https://assets.kpmg.com/content/dam/kpmg/uk/pdf/2017/07/project-sun-2017-report.pdf>.

four billion euros of tax losses annually for the French economy.⁷ Moreover, the state may subsequently also incur greater health costs, as unregulated cigarettes may also be worse for individual health, as they are often produced under unregulated conditions and often contain components that are more carcinogenic. The massive tax losses also undermine funds that could be spent on social and health services, and invested in infrastructure.

There are also more pernicious sellers in these illicit markets. One of the Kouachi who killed the cartoonists of Charlie Hebdo also made money by selling cigarettes.⁸ But as we will see, the higher levels of the illicit cigarette chain may support terrorist funding in more significant ways.

An official US State Department report provided this slightly bizarre case. A major illicit cigarette smuggling operation was revealed when al Qaeda operatives successfully launched two rockets at a container transporting illegal cigarettes while it was passing through the Suez Canal in Egypt in transit to Ireland. The subsequent investigation of the facilitators behind this \$55 million illicit cigarette shipment revealed a wealthy Irishman who had made his fortune selling illegal cigarettes to UK and Irish markets. His clients included sellers known to have ties

⁷ Martinet, “*La France, championne d’Europe des cigarettes de contrebande,*” and KPMG, “Project Sun-Results 2015.” Accessed June 16, 2017, <https://home.kpmg.com/uk/en/home/insights/2015/05/project-sun-a-study-of-the-illicit-cigarette-market.html>. Project Sun is a project of KPMG as part of the agreements concluded among Philip Morris International, the European Commission, OLAF and the Member States to tackle the illicit trade. Project Sun involves all the four major multinational tobacco manufacturers (Philip Morris International, British American Tobacco, Imperial Tobacco and Japan Tobacco International).

⁸ Rajan Basra, Peter Neumann and Claudia Brunner, *Criminal Pasts, Terrorist Futures: European Jihadists and the New Crime-Terror Nexus* (London: ICSR, 2016), 44. Accessed June 16, 2017, <http://icsr.info/2016/10/new-icsr-report-criminal-pasts-terrorist-futures-european-jihadists-new-crime-terror-nexus/>; Katrin Bennhold and Eric Schmitt, ‘Gaps in France’s Surveillance Are Clear; Solutions Aren’t’, *New York Times*, February 17, 2015. Accessed June 16, 2017, <https://www.nytimes.com/2015/02/18/world/gaps-in-surveillance-are-clear-solutions-arent.html>.

with the IRA.⁹

The public face of the illicit cigarette trade, seemingly a low level activity, masks a variety of actors that go up to the senior leadership of many countries.... The leaders of illicit trade are often rich and powerful politicians who escape sanctions, whereas the street sellers are the ones targeted by law enforcement and suffer disproportionately.

Between the top and the bottom lie a significant group of diverse facilitators. Sales are also facilitated by social media that largely lies outside regulation. The sale of almost nine billion illegal cigarettes in France annually points to a large group of facilitators between the source and the street markets.¹⁰ This movement of product is not done by “ants” who carry a few cartons of cigarettes at a time.

The Algerian-origin cigarettes are produced for a legal market in Algeria. For millions of cigarettes to arrive in France illegally, there need to be factory workers, shippers and vendors in Algeria capable of diverting this product en masse to France. There are also high level Algerian officials implicated in this trade. This quantity of product requires containers arriving from Algeria, revealing corruption in the French port. Individuals must load the trucks from the ships and many drivers, both knowingly and unknowingly, move large quantities of illicit cigarettes overland from Spain to France.

But the drivers’ defense that they are not aware of what they transport is contradicted by examining social media. Just as false news can be disseminated through Facebook because it does not have the appropriate filters to weed out such posts, neither does it control the posts

⁹ “The Global Illicit Trade in Tobacco: A Threat to National Security,” US Government, 2015, 21. Accessed June 15, 2017, <https://2009-2017.state.gov/documents/organization/250513.pdf>.

¹⁰ KPMG, “Project Sun Results,”¹⁰.

placed on Facebook pages to facilitate illicit trade. Despite official complaints by those trying to arrest this illicit trade, posts on Facebook continue to advise truck drivers and distributors where to pick up these illicit shipments.¹¹ The problem in France is just the tip of the iceberg.¹² In the UK, Imperial Tobacco has targeted Facebook as a key facilitator of illicit trade in cigarettes.¹³ The new media is a force multiplier for the growth of illicit trade from human trafficking to drugs and wildlife products.

France is not the only illicit cigarette hub in Europe that combines massive low-level street sales with significant imports.¹⁴ Huge containers of illicit cigarettes travel along with the legitimate commodities destined for European ports, such as Naples, where the Camorra sell cigarettes in the markets they control.¹⁵ Another hotspot of this trade is Germany and the Czech Republic where Vietnamese vendors¹⁶ sell “illicit whites”, a product produced legally in the

¹¹ Interview with PMI official in France in 2015.

¹² C. Ben Lakhdar, “Quantitative and Qualitative Estimates of Cross-Border Tobacco Shopping and Tobacco Smuggling in France,” *Tobacco Control* 17, no. 1 (February 1, 2008): 12–16.

¹³ “Imperial Tobacco Targets Facebook Fraudsters,” Scottish Local Retailer Magazine, July 14, 2016. Accessed June 17, 2017, <http://www.slrmag.co.uk/imperial-tobacco-targets-facebook-fraudsters/>.

¹⁴ Francesco Calderoni et al., “United Kingdom. The Factbook on the Illicit Trade in Tobacco Products 1,” *The Factbook* (Trento, Italy: Transcrime - Università degli Studi di Trento, 2013). Accessed June 17, 2017, <http://www.transcrime.it/pubblicazioni/the-factbook-on-the-illicit-trade-in-tobacco-products-1/>, accessed March 6, 2017; Francesco Calderoni et al., “Italy. The Factbook on the Illicit Trade in Tobacco Products 2,” (Trento, Italy: Transcrime - Università degli Studi di Trento, 2013). Accessed June 17, 2017, <http://www.transcrime.it/pubblicazioni/the-factbook-on-the-illicit-trade-in-tobacco-products-2-italia/>; 7; Transcrime, *European Outlook on the Illicit Trade in Tobacco Products* (Trento: Università degli studi di Trento, 2015), 53, Accessed June 17, 2017, <http://www.transcrime.it/pubblicazioni/european-outlook-on-the-illicit-trade-in-tobacco-products/>; Francesco Calderoni, “A New Method for Estimating the Illicit Cigarette Market at the Subnational Level and Its Application to Italy,” *Global Crime* 15, no. 1–2 (2014): 51–76.

¹⁵ Isaia Sales, “Droga e contrabbando, stesso affare di Camora,” *Il Mattino*, August 1, 2016.

¹⁶ Klaus von Lampe, “The Trafficking in Untaxed Cigarettes in Germany: A Case Study of the

home country with the intent to be smuggled to countries with higher tax rates. In this region of Europe, the shipments emanate from illicit white producers in Asia and the Middle East. They illustrate a recurring principle, illicit trade is rarely of one commodity—products, routes and networks converge. A seemingly low level and “victimless” crime like the cigarette trade can provide the structure to facilitate the trade in one of the most endangered species.

Yet the cigarette trade can reach to the top of the political pyramid. The Organized Crime and Corruption Reporting Project, an amalgamation of some of the top investigative journalists in the world, decided to create an award that is a dark reflection of the “Time” magazine “Man of the Year.” This award, given annually to the political figure who has done the most to facilitate organized crime and corruption, was presented in 2015 to Milo Djukanovic who served either as President or Prime Minister of Montenegro from 1991 to 2016 as one of the nominators for the highly competitive award, “2015 Man of the Year in Organized Crime,” stated, “Djukanovic, the last European dictator, has captured our country for his own private interests and turned it into safe haven for criminals. While he, his family and friends enriched themselves, ordinary people suffer from poverty, injustice and lawlessness, while those who dare to talk about the corruption become his targets.”¹⁷

Social Embeddedness of Illegal Markets,” In *Upperworld and Underworld in Cross-Border Crime* , edited by Petrus van Duyne, Klaus von Lampe, Nikos Passas, 141-161. Nijmegen: Wolf Legal Publishers, 2002; M. Nožina, “Crime Networks in Vietnamese Diasporas, The Czech Republic Case,” *Crime Law and Social Change* (2010) 53: 229-58; M. Nožina, “The Czech Republic: A Crossroads for Organised Crime.”. In *Organised Crime in Europe. Concepts, Patterns and Control Policies in the European Union and Beyond*, edited by C. Fijnaut & L. Paoli , 435-66. Dordrecht: Springer: 2004; Miroslav Nožina and Filip Kraus, “Bosses, Soldiers and Rice Grains. Vietnamese Criminal Networks and Criminal Activities in the Czech Republic,” *Europe-Asia Studies*, Vol. 68 , No. 3 (2016): 508-28.

¹⁷Accessed June 17, 2017, <https://www.occrp.org/personoftheyear/2015/>.

Among the many cited crimes that merited this distinction was his major role in cigarette smuggling, for which he was particularly singled out in the award statement. The distinguished jury of OCCRP concluded that “Djukanovic and his close associates engaged in extensive cigarette smuggling with the Italian Sacra Corona Unita and Camorra crime families. He was indicted in Bari and freely admitted the trade, but said his country needed money. He invoked diplomatic immunity to get the charges dropped.”¹⁸ Furthermore, according to OCCRP, “While he claims to have stopped the smuggling, OCCRP found an island off the coast financed by his family bank and owned by his good friend Stanko Subotic, a controversial businessman who was three times indicted but never convicted of cigarette smuggling related activities. The island was run by Djukanovic’s head of security and was being used to smuggle cigarettes with some of the same organized crime figures who were previously involved.”¹⁹

The forensic evidence for this award was strong—the Italian courts presented wiretap-derived evidence and hundreds of thousands of documents to show that the Montenegrin government was making \$700 million annually from this illicit trade in the 1990s and the Italian mafia groups behind this trade laundered \$1 billion dollars through Swiss banks based in Lugano. The Italian authorities showed that this massive illicit cigarette trade went straight to the top—Djukanovic was behind this enormous racket.²⁰

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Leo Sisti, “The Montenegro Connection: Love, Tobacco, and the Mafia,” July 9, 2009, Accessed June 17, 2017, https://www.reportingproject.net/underground/index.php?option=com_content&view=article&id=7&Itemid=20; Calderoni, “A New Method for Estimating the Illicit Cigarette Market at the Subnational Level and Its Application to Italy.” Calderoni cites the Italian investigation on this topic: DIA, Esito Attività Di Indagine Svolta Sul Conto Di Djukanovic Milo + 4. N. 125/BA/2°SN. 125/BA/2°Sett. Inv. Giud. /H5. 148-1/ 1379 Di Prot.ett. Inv. Giud. /H5. 148-1/ 1379 Di Prot.,14, see online Accessed June 17, 2017, https://www.reportingproject.net/unholyalliances/docs/Smuggling_2.pdf; Walter Kemp, *Criminal Kaleidoscope: Organized Crime in the Balkans*, (Geneva: Global Initiative Against Transnational

The public face of the illicit cigarette trade, seemingly a low level activity, masks a variety of actors that go up to the senior leadership of many countries such as Bulgaria. The leaders of illicit trade are often rich and powerful politicians who escape sanctions, whereas the street sellers are the ones targeted by law enforcement and suffer disproportionately.

What these snapshots of the illicit cigarette trade reveal is a diverse array of participants from the highly vulnerable illegal immigrant up to the heads of small countries who engage in this activity for their personal advantage and possibly for some benefit for their state. Also involved in this trade are factory workers eager to add to their incomes, organized crime groups making vast profits, terrorists in Europe, and the Middle East. These are not the only ones to profit from this trade, as there are truck and cargo transporters who move this bulky freight, and bankers laundering huge profits of this trade. To move this much product, to evade billions in taxes and generate millions in profits requires more than just organized crime. It requires the complicity of the powerful and the enablers of the legitimate world.

Addressing the Illicit Cigarette Trade:

- 1) **Allocate more law enforcement resources to the problem** to focus on convergence with other forms of illicit trade, the problem of hybrids (criminal/terrorists) engaged in this activity. Focus on network analysis of the participants, facilitators and corrupt officials who promote and facilitate the trade
- 2) Europol is focusing more on the connections of crime and terrorism. **Encourage law enforcement in the OSCE region to focus on the cigarette trade as a security challenge**
- 3) **Address the high-level corruption** that facilitates this trade and end the culture of impunity for this activity, on this see the recent report: Walter Kemp, *Criminal Kaleidoscope: Organized Crime in the Balkans*, (Geneva: Global Initiative Against Transnational Organized Crime 2017), 13-4, 19-22. <http://globalinitiative.net/ocbalkans/>.
- 4) **Require corporations in the new media space to focus more on their facilitating role in the illicit cigarette trade.** Just as Facebook and other new media companies are being forced to focus more on the abuse of their platforms for terrorist recruitment, they should be required to do more to address the illicit trade that funds criminal and terrorist networks

Organized Crime 2017), 13-4, 19-22.

- 5) More attention needs to be paid to **counter the facilitating role of Free Trade Zones in illicit trade**. Their existence also has an important impact on the customs and tax revenues of OSCE member states
- 6) **We need research** to help us understand the illicit flows, the hubs of the trade and the convergence of different forms of illicit trade
- 7) We need greater **harmonization of tax policies on cigarettes** as it is the discrepancy of pricing in many countries in the OSCE region that provides the financial incentive to participate in smuggling
- 8) There needs to be **serious analysis of the optimum tax rates on cigarettes that address state revenue concerns but also do not contribute to smuggling**.

France that is already the contraband capital of Europe was discussing in early July raising tax rates to 10 euros a pack without analyzing the impact this would have on illicit trade.