

EXECUTIVE SUMMARY

This report provides the country profile of the project *The Factbook on the Illicit Trade in Tobacco Products*. It focuses on Germany, where illicit trade in tobacco products is not a political priority and there are no official estimates. Nevertheless, German Authorities, and especially German Customs are aware of the problem of cigarette smuggling.

WHAT CAN BE FOUND IN THIS REPORT?

This report is organised into three chapters:

- Chapter one deals with the **five drivers of the ITTP**: society and economy, the legal market, regulation, the crime environment and enforcement. ***The drivers are important areas whose structures may positively or negatively impact on the ITTP. To enable comparison with other country profiles, five indicators have been selected for each driver.*** The data for the driver indicators come from comparable sources (latest available years). When possible, the report provides the most up-to-date data from national sources.
- Chapter two focuses on the **four components of the ITTP**: demand, supply, products, *modus operandi* and geographical distribution.
- Chapter three identifies the **key factors of the ITTP in Germany and frames the drivers in the components**, analysing how different elements of the drivers influence the components of the ITTP.

THE FIVE DRIVERS

- **Society and economy:** Germany is a federal republic composed of 16 states (*Länder*) and one of the biggest world economies. The main effect of the 2009 recession was the rise of debt, whilst unemployment fell even during the crisis. GDP growth rebounded soon in 2010, and household expenditure on non-durable goods, including tobacco, has been constant in recent years. However, regional differences between Eastern and Western *Länder* are still marked.
- **Legal market:** the tobacco market is an important sector of the German economy. Germany is the first exporter of cigarettes in the world, and exports have grown in the past decade. The tobacco industry employed 10,057 people in 2011. However, national sales have fallen and consumers have shifted to cheaper products.
- **Regulation:** regulation of the tobacco market is medium in Germany. Tax incidence, as a share of the final retail price, is high in Germany, if compared with the global average. However, compared with high-income OECD members it is medium. Tax level, expressed in monetary terms (international dollar per 1,000 sticks) is high. Supply chain control is medium. The regulation on tobacco consumption and sales and on marketing and promotion is medium. Furthermore, many European requirements were applied with delay or at minimum levels. The country has invested a low per capita amount of resources in tobacco control policies.

- **Crime environment:** crime rates have slightly increased, while fear of crime has decreased. Consumption of cannabis, cocaine and heroin is constant and average compared with levels in other developed countries, whilst other drugs, such as amphetamines, are increasingly popular. Organised crime, corruption and informal economies are low.
- **Enforcement:** Germany has high levels of law enforcement, but action against the ITTP is medium–low. Cooperation between institutions and tobacco manufacturers is usually set at European level, as well as the legal duty for producers not to facilitate smuggling. There are different law enforcement agencies involved in the fight against the ITTP. In particular, the *Zollkriminalamt* (Customs Criminal Office) considers illicit tobacco as a priority and has undertaken several joint actions with authorities in neighbouring countries and the tobacco industry.

THE FOUR COMPONENTS OF THE ITTP

- **The demand:** the main causes of the demand for illicit tobacco are low prices and availability. In Germany, illicit cigarettes cost half the legal price. Furthermore, proximity to low price markets makes illicit products easily available.
- **The supply:** the supply of illicit tobacco is mainly driven by the opportunity to make very high profits with relatively low risks. There is a variety of actors involved in the ITTP.
- **The products:** there are no official estimates of the illicit tobacco market, which makes it difficult to assess the extent of the ITTP. However, there are some unofficial estimates. The main illicit products are contraband cigarettes. The market share of illicit whites is smaller but nevertheless significant.
- **Modus operandi and geographical distribution:** inland roads are the main smuggling routes, and some ports play an important role, also as European hubs. Germany is often a transit country from Eastern to Western Europe. Proximity to the Polish and Czech borders correlates with a larger share of non–domestic tobacco products.

FRAMING THE COMPONENTS IN THE DRIVERS

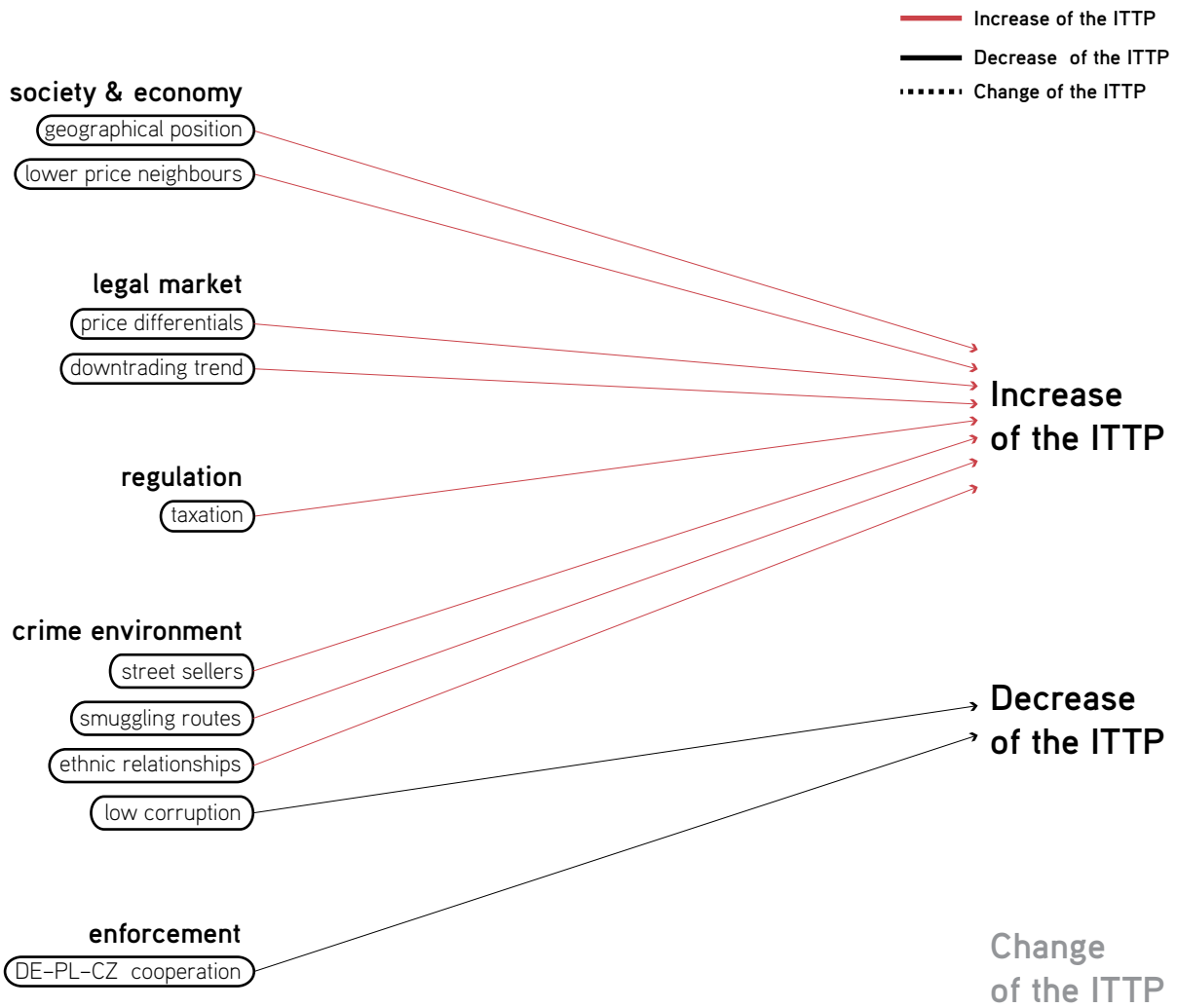
The four key factors of the ITTP

The report identifies four key factors of the ITTP in Germany. The key factors are the crucial elements through which the five drivers determine the features of the four components. This chapter analyses how the interaction between the drivers and the components impact or may impact on the ITTP through these four key factors (Figure 1, p.9).

- **Economic accessibility: the price of illicit tobacco, and particularly its relative price compared to the price of legal products.**
 - German consumers have not significantly cut their expenditure in tobacco, showing a downtrading trend towards cheaper products as a reaction to increasing price (see Legal Market, p.23). Therefore, the demand for ITTP products may increase through their economic accessibility.
 - The government has announced a five–year plan of tax increases in tobacco products (Euromonitor International 2012). Since tax increase result in higher retail price, illicit products become more economic accessible, boosting their demand.
- **Availability: easiness for both smugglers and consumers to obtain illicit tobacco products.**
 - Germany has more than 1,300 km of common borders with Poland and the Czech Republic. These countries have lower retail prices for tobacco products. Indeed, EPS show a higher prevalence of non–domestic packs along these borders.
 - Poland and the Czech Republic joined the Schengen area in December 2007 and their entry seems to have favoured smuggling activities towards Germany (Locke 2010). Indeed, in 2006, nearly a quarter of all counterfeit and contraband cigarettes stemmed from Poland and the Czech Republic. In 2012, the proportion more than doubled, reaching 80% (KPMG 2012; KPMG 2013).

Figure 1. Main interactions between the drivers and the components

Source: Transcrime elaboration



- The geographical position between East and West Europe makes Germany both a destination and a transit country for ITTP. Indeed, according to Customs press releases, a considerable number of intercepted illicit cigarettes is intended for more profitable Western markets, such as France or the UK.
- Contexts of the informal economy, like street markets, facilitate the selling of illicit tobacco products (Joossens et al. 2000; Antonopoulos 2009). In Germany, informal street markets are located especially in Berlin, where people may easily find illicit cigarettes (Von Lampe 2005).

•• **Profitability:** the ability of the ITTP to generate profits that exceed its operational costs.

- The tax level expressed in monetary terms (total taxes per 1,000 cigarettes) may encourage suppliers of illicit tobacco through the higher profitability of this activity. Indeed, the higher the taxes, the greater the potential profit for smugglers. In Germany, the monetary amount of taxes per 1,000 sticks is high (see The supply, p.56).
- The lower retail prices of tobacco products in Eastern neighbouring countries stimulates ITTP making bootlegging and smuggling profitable activities. Nevertheless, the increasing price of tobacco products in Poland may change the picture in the near future.

•• **Risk:** the threat of detection/accusation/conviction and the sanctions impossible to the actors involved in the ITTP.

- Cooperation among German and foreign enforcement authorities may significantly diminishes the effectiveness of anti-ITTP actions increasing the risk of detection for smugglers. Notably, Germany has recently increased its collaboration with Polish and Czech agencies (Hauptzollamt Dresden 2013; Zollfahndungsamt Dresden 2013; Koschyk 2013).
- The German motorway system may favour the transit and arrival of illegal ITTP products. Indeed, there are several consolidate smuggling routes, Indeed Autobahn A2 and A12 are known under the name "Warschauer Allee" (Warsaw Avenue) since they are the most important smuggling routes from Eastern Europe into Germany (DKFZ 2010; Teevs 2010).
- Ethnic and kinship relationships among ITTP players facilitate tobacco smuggling activities. Indeed, in Germany, the distribution of illicit tobacco relies on personal contacts. These networks affect the prevalence of ITTP by diminishing the risk for the actors involved (Von Lampe 2003).
- The retail distribution of contraband cigarettes in Germany is commonly associated with street selling by Vietnamese vendors in the eastern parts of the country (Von Lampe 2006), while the main suppliers are Polish (see The supply, p.56).

The ITTP is a complex problem not limited to an issue of law enforcement and criminal justice policy alone. Notwithstanding German Customs efforts, the ITTP seems to have increased over recent years. Additional preventive measures, such a national public awareness campaign, are necessary. Effective action against the ITTP requires comprehensive strategies including criminal law, administrative sanctions, and other indirect measures aimed at reducing crime opportunities.

The evolution of the project showed that countries have very different situations in relation to the available data on the ITTP. In some cases, the quality of the available data is low and there are no official, regularly updated, data. Inevitably, this may affect the quality and reliability of the results. In these cases, institutions, businesses and other stakeholders concerned by the ITTP should consider how to improve the data collection on illicit tobacco. This will result in an improvement in the knowledge of the ITTP and, in turn, in better tobacco control policies, since quite often the impact of specific policy measures upon crime may be overlooked due to the lack of reliable data.

Following the completion of the first phase of the project focused on collecting facts and data through the country profiles, Transcrime will perform a comparative analysis of the selected countries. This will provide additional insights in the complexity of the ITTP and allow for the elaboration of policy recommendations.

CONCLUSIONS

There are no official estimates of ITTP in Germany, although some unofficial estimates are available. Despite the lack of official data, contraband cigarettes seem to be widely available in Germany, especially in the Eastern part. In bordering states, it is difficult to disentangle smuggling, bootlegging and legal cross-border purchases. Historical and geographical conditions are the main causes of the diffusion of these products.

The results of this study demonstrate the need for more data and research. The main questions to address concern the demand for illicit tobacco and the types of products. First, the drivers of the demand are relatively unknown in Germany, since no consumer survey has been conducted on illicit consumption. Second, distinguishing between non-domestic legal and illegal cigarettes is an important challenge.