

Criminal profile of migrants' smuggler across the State Border of Ukraine

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Abstract

The research is grounded on the basic of study of judgments of the national courts of Ukraine against persons who committed human smuggling across the State border of Ukraine. The research covered 360 judgments in the period from 2013 to 2018; the studied judgments were passed against 406 people. The obtained results of the empirical research provides for the primary, reliable and representative information about persons who committed human smuggling across the State border of Ukraine. This made it possible to formulate a criminal profile of migrants' smuggler. Based on our research, description and analysis, we consider that there is a need for additional researches of the social organization of the illegal transfer of persons across the State border of Ukraine in order to obtain a deeper knowledge of this phenomenon. Especially it concerns the structure of the groups of smuggling of migrants in order to better define the typology of these criminal groups to promote more effective strategies from the side of law enforcement agencies.

Key words: migrants' smuggler, illegal migration, criminal profile, organized crime, Ukraine, State border.

Анотація

Дослідження ґрунтується на основі вивчення вироків національних судів України винесених відносно осіб, які вчинили переправлення осіб через державний кордон України. Охоплено 360 вироків в період з 2013 по 2018 рік, вивчені вироків були винесені відносно 406 осіб. Отримані результати емпіричного дослідження містять первинну, достовірну та репрезентативну інформацію про осіб, що вчинили переправлення осіб через державний кордон України. Це дало змогу сформулювати кримінальний профіль переправника мігрантів. Виходячи з дослідження, опису та аналізу, визначено, що для отримання глибших знань про це явище необхідні додаткові дослідження соціальної організації незаконного переправлення осіб через державний кордон України. Особливо це стосується структури груп переправлення мігрантів з метою кращого визначення типології цих злочинних угруповань для просування більш ефективних стратегій з боку правоохоронних органів.

Ключові слова: переправлення мігрантів, нелегальна міграція, кримінальний профіль, організована злочинність, державний кордон України.

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Introduction

While Europe is concerned about the significant influx of refugees from Syria, Iraq and other countries, illegal migration has been, is and will be a widespread phenomenon, the social danger of which is caused by a number of factors. Today for most countries of the world this phenomenon is a particular problem, which, unfortunately, has a steady trend to increase.

Over the last few years, the influx of migrants has doubled up, primarily because of the unstable situation in the Middle East, the emergence of terrorist organizations, the difficult economic situation, and so on. It is known that the countries that are members of the EU have suffered from the problems that have arisen, especially from illegal migration for quite a long time. Recently, the migratory crisis has also gained a considerable aggravation on the American continent.

Experience has shown that mass migration entails the internationalization of society and inevitable collision of the established legal norms in the social space of the host country, traditional values and customs of foreign ethnic and foreign cultural groups that are in no hurry to assimilate in this society and to fully adopt the laws of the State, the culture of the host society. Cultural incompatibility of ethnic groups at different levels of social and socio-cultural development also serves as one of the important factors contributing to the reproduction of tort in the modern society. In many cases, the mismatch of value policies becomes one of the reasons why migrants who are foreigners commit offenses and crimes (including grave ones) in the territory of the receiving States.

Ukraine has, over the last 20 years, become a transit country for illegal migration to European Union countries. Various analytical estimates have continually placed the number of illegal migrants present on the territory of Ukraine over the last ten years at 800 thousand to 1.6 million illegal migrants, patiently waiting for their chance to enter an EU country (Luptakova, 2009). Therefore, Ukraine, having a good geographical location and lacking effective mechanisms for combating illegal migration and trafficking in human beings, has significant opportunities for smuggling of migrants.

The above circumstances are confirmed by the results of the activity of the State Border Guard Service of Ukraine in this area. Thus, during the years 2013–2019, 8.4 thousand illegal migrants

were apprehended by the Ukrainian border guards for illegal crossing of the State border, most of them are citizens of Afghanistan (1374), Moldova (1081), Vietnam (861), Turkey (526), Syria (445), Bangladesh (424), Georgia (399), India (291) and Iraq (236). The majority of them (71.2%) were apprehended while illegal crossing of the joint border with the EU member states, 15.78% on the border with Moldova, the rest (13.02%) on the border with Belarus, Russia and at airports.

It should be noted that if in 2013–2014 there were detected just over 900 such criminals, in 2015 this number has doubled up. In subsequent years, it has already not decreased below 1000 violations per year. In addition, from year to year, there is a gradual increase in the number of cross-border smuggling of foreigners from countries with a migratory risk such as Bangladesh (from 16 in 2013 to 151 in 2018) and Vietnam (from 42 to 332).

The main causes that determine the illegal migration in the world are economic inequality, a dangerous environment, political instability (war) and terrorism. Illegal migrants look for better living conditions or even salvation from death. Migration remains an important problem that is organized by criminal syndicates. People who want to enter Western European countries through illegal ways pay high amounts of money that provides organized crime syndicates to gain high levels of financial profit (Roth, 2010).

For example, the income received by smugglers operating between Mexico and the United States is estimated at about \$ 6 billion a year (UNODC, 2010). According to the Interpol, human smuggling is ranked third in earnings by organized crime syndicates after drug and weapons trafficking (Weber, & Grewcock, 2011).

That is why researches in the field of counteraction to illegal migration become especially actual in nowadays conditions of searching for effective enforcement mechanisms and an optimal model for ensuring national security of the states from internal and external threats.

Methodological Framework of the Research

The methodology of our research is grounded on the basic of study of judgments of the national courts of Ukraine against persons who

committed human smuggling across the State border of Ukraine. The research covered 360 judgments in the period from 2013 to 2018; the studied judgments were passed against 406 people. This indicates a fairly significant representativeness of selection. On the basis of analysis of scientific literature, own experience of authors' work with such persons, a questionnaire was prepared, which encompasses 21 questions. This made it possible to formulate a criminal profile of a migrants' smuggler who committed the illegal transfer of persons across the state border of Ukraine.

The purpose of our research is: 1) to formulate a profile of a migrants' smuggler through the State border of Ukraine on the basis of study of judgments; 2) to identify the main causes and conditions conducive to the commission of crimes related to smuggling of migrants in Ukraine.

The formulated goal of the research made it possible to determine the main hypotheses, which should be checked in the process of its implementation:

1. To commit smuggling of migrants, a person should have knowledge of the particularities of the migration policy of both, the state from which the migrant is transferred, and the host and transit states, as well as certain life experiences, field knowledge and physical endurance for transfer of migrants.
2. The causes of smuggling of migrants across the State border of Ukraine are low social and economic development in Ukraine, high unemployment rates, relatively high earnings that may be received from human smuggling. A significant demand for such services, caused by economic inequality, a dangerous environment and political instability in the countries of migrants' origin.
3. The smuggling of migrants is controlled by transnational organized criminal organizations who receive huge profits from this.

Review of the Literature

The analysis of a criminal behavior is of considerable interest to both science and practice, since the profiling of the perpetrator makes it possible to predict the identification characteristics of an unknown criminal through

the study of his behavior and traces he left at the crime scene, analyzing for this evidence, collected from the crime scene, aiming to facilitate their identification and detention (Canter, 2004).

Studying of a person of a criminal was initiated by Lombroso, who rejected the doctrine of the classical school saying that crime is a feature of human nature. He proposed the theory of anthropological criminology and the formation of human species "Homo delinquens", which is formed of such physical features as low productivity, as well as craniocerebral abnormalities and of the genital organs, that is, the presence of such features point at inheritance of criminal capacity (Lombroso, 1876). However, the anthropological theory of Lombroso turned out to be inappropriate for use in academic sphere due to the disadvantages of the methodology.

In criminology, one of the methods is used, that is called Latin *Modus operandi*, with the help of which a psychological profile of a criminal is formed, which can help identify and apprehend a suspect in committing one or another crime. Knowledge of the characteristics of a criminal can help to investigate and reduce its length to detection of a criminal (Ainsworth, 2001).

Profiling consists of the identification of common characteristics and behavioral patterns associated with criminal offenders, and using this information to identify and apprehend individuals involved in criminal activity (Eliason, 2013).

The question of who commits a crime is primary and has always been of interest to both law enforcement and researches (Khoshnood, Vafors Fritz, 2016). Profiling of criminal offender is a common practice used in contemporary law enforcement and has been the subject of research by criminal justice scholars (Devery, 2010; Johnson, & Morgan, 2013; Messer, 2008 etc). Profiling of a criminal is carried out in various areas, for example, to determine the profile of police officers sentenced for bribery (Simonović, Djurdjević, & Janković, 2017). Researchers are also studying the Socio-psychological Profile of a Person Who Confidentially Provides Assistance to the Operational Unit (Khalymon, Polovnikov, & Volynets, 2019).

The problem of criminal profiling of persons committing the illegal transfer of persons across the state border remains not enough researched. There are some researches devoted to the study

of the criminal's personality in the commission of smuggling (Horbachenko, 2016).

Some aspects of a criminal profile of a criminal, who encroaches on the State border security, are investigated by Kuryliuk (2017, 2018). On the basis of empirical research, the author disclosed some moral and psychological and socio-demographic characteristics of such person, as well as the threats that may criminality contain in the border area as an important segment of crime. However, the research is limited to the characteristics of some features of a criminal, who encroaches on border security. In these studies, important aspects were outside of the attention that in general give an opportunity to formulate a criminal profile of a migrants' smuggler.

Attempt to examine the identity of a smuggler at the level of the dissertation research was taken by Ognev (2017). According to the author, on the basis of judicial statistics for the period of 2012–2014, he researched the features of a person of a criminal who commits illegal transfer of persons across the State border of Ukraine, developed a criminological portrait of a person of such criminal. According to his data, such crime in Ukraine is mainly committed by a male person in complicity with another person, a citizen of Ukraine, at the age from 30 to 50 years old, usually with a full general secondary or technical education, who does not work and does not study, has no prior criminal record (Ognev, 2017). The author described the results of this empirical research in his publication (Ognev, 2015). However, the survey-questionnaire that was developed by him, did not contain a significant number of important issues regarding: the relationship between a smuggler and a migrant; funds received for human smuggling; number of persons who were smuggled; reasons for committing a crime, etc. However, in this article we will use the Ognev's research to compare and search for correlations.

A certain research was devoted to the problem of illegal migration and drug smuggling as a significant problem for the United States on the border with Mexico (Izcarra Palacios, 2017a). The mentioned author, based on interviews of 107 intermediaries in crossing the US-Mexico border, studied the process of recruiting of such intermediaries, including from the side of the Mexican drug cartels. The researcher tried to find out what methods are used by drug cartels to hire guides to cross the border. What kind of activities former intermediary agents in crossing the border perform for these organizations. The author notes

that over the last decade, the American migration policy has transformed into national security policy (human smuggling), has fallen in the same line with the other threats: drug and arms trafficking, terrorism (Izcarra Palacios, 2017b).

Trafficking in human beings and smuggling are relevant to the rest of the world. Thus, as of March 2016, 4.8 million Syrian refugees were scattered in two dozen countries by the civil war. The smuggling of refugees is a major catalyst for human trafficking in the Middle East and in Europe. Mandić (2017) in his research studied how Syrian refugees interact with smugglers in the Balkan route. He interviewed over 100 Syrian refugees in Jordan, Turkey, Greece, Serbia and Germany; as well as conducted ethnographic observations at thirty-five refugees' camps or elsewhere. The researcher claims that most smugglers functioned as guides, informants and accomplices. His research showed that on average, one person's transfer service cost € 954.96. The maximum cost of the service per person was EUR 4,000 from Turkey to Serbia.

Also the scientific research of Içli, Sever and Sever (2015) is of research interest, who, through interviewing of 262 illegal migrants and 174 smugglers, apprehended in Istanbul from 2007 to 2013, have developed the profile of a Turkish migrants' smuggler. Rybakov & Kvon, (2019) studies the mass and uncontrollable streams of migrants into the European Union (EU) starting from 2014.

Problems of preventing illegal migration have always been of interest to researchers. The mentioned scientific problem was also investigated by Ukrainian experts in criminal law and criminology. The vast majority of these researches are devoted to the study of general migration problems and some aspects of counteraction to illegal migration both in the world and in Ukraine (Levkovsky 2007; Melnyk, & Shcherbina, 2010; Nikiforenko, & Berezhnaya, 2014). While individual researches are devoted to studying of a criminal profile of migrants' smugglers that only briefly describes this phenomenon.

In this case, migrant smugglers occupy a special place in the European 'migration crisis' discourse. They are depicted as the facilitators of irregular migrants' journeys, and as criminals who take advantage of people's vulnerability and naivete. These characterizations are not unique to Europe: around the world, smugglers are systematically depicted as immoral figures who

organized in networks have hijacked border controls worldwide (Sanchez, 2018).

Results and discussion

For criminological science it is traditionally to start study of a criminal's profile from socio-demographic features. The first feature of a profile of a person who committed the illegal transfer of persons across the state border is his/her age. Exactly this feature confirms one of the elements of the determined by us hypothesis in part of the obligatory availability with a

smuggler of life experience and physical endurance.

The results of the research of the empirical basis showed that the vast majority of convicts (67.24%) had the age of 25–44 years old, that is, a person in the prime of life, at the age that is most productive and able to work. The rest of the examined persons had the following age indices 18–24 years old – 10.84%; 45–54 years old – 17.98%; over 55 years old were only 3.94% (see the Table 1).

Table 1. Classification by age

	<i>N</i>	%
18-24	44	10.84
25-34	117	28.82
35-44	156	38.42
45-54	73	17.98
55 and older	16	3.94

The received by us data are fully correlated with the national statistics concerning the middle age of persons serving criminal punishments in Ukraine (Bukalov, 2015), according to which the middle age of sentenced persons to imprisonment in 2015 is 31 years old.

For comparison, we will describe the data obtained by other researchers. Thus, the middle age of smugglers who committed the illegal transfer of people from China to the United States was 30-40 years old (Zhang, & Chin, 2002, p. 37). The smugglers of migrants who were apprehended by the police in Turkey, by the age were ranged as follows: 41.4% – from 30 to 39 years old, 30.5% – from 19 to 29 years old (İçli, Sever, & Sever, 2015). The middle age of migrants' smugglers from Mexico to the United States was 37.9 years old (Izcara Palacios, 2014).

The results of the research conducted from 2012 to 2014 (Ognev, 2015) have slightly different

indicators. In 2012, the majority of convicted were at the age from 30 to 50 years old – 54.8%, in 2013 at the age from 30 to 50 years old – 60%, in 2014 at the age from 30 to 50 years old – 62.7%. In general, these indicators correlate with our data but the author's choice of gradation does not fully reflect the age characteristics of the studied persons. The participation of persons of this age in criminal activity is explained by other indicators that we will talk about below.

The next very important feature is the sex of a criminal. The obtained results of the research proved that a person of a criminal who committed the illegal transfer of persons across the state border has a "man's face". Thus, 92.12% of male sex and only 7.8% of females sex appeared among the studied persons (see the Table 2). However, smugglers in foreign countries are exclusively of male sex (İçli, Sever, & Sever, 2015; Zhang, & Chin, 2002, p. 37).

Table 2. Classification by gender

	<i>N</i>	%
Men	374	92.12
Women	32	7.88

The insignificant participation of women in committing of such crimes can be explained by a set of objective factors. First of all, the proportion of women sentenced to imprisonment in Ukraine as of December 2018 is only 1 444 women, that is 4% of the total number of convicts in places of deprivation of liberty (Bukalov, 2015). Approximately the same number of women serves sentences that are not related to deprivation of liberty. Second, the migrant environment itself is also composed of mostly of men (Vega et al., 2018, p. 50). Thirdly, the illegal transfer of persons across the State border of Ukraine is a physically complicated crime that

requires physical endurance, and so on. The result of our research has shown that women in the vast majority perform an intellectual component of this crime, or act as assistants.

The Table 3 shows that out of 406 studied persons 73.65% had citizenship of Ukraine, only 0.49% was stateless persons and 25.86% were foreigners. This is in some way conditioned by the need for smugglers to know the peculiarities of the migration legislation of the states as well as the areas, gaps in guarding of border, illegal paths and other local peculiarities for easier transfer of migrants.

Table 3. Classification by citizenship

	<i>N</i>	%
Ukrainian citizenship	299	73.65
Persons without citizenship	2	0.49
Foreigners	105	25.86

Information about the country of origin of convicted foreigners in Ukraine is of some scientific interest. The majority turned out to be representatives of Moldova – 16.19%, 10.47% were from Afghanistan, 9.52% were from Russia, 7.62% were from Georgia, 6.67% were from Syria, 4.67% were from Pakistan, 3.81% were from Bangladesh, Vietnam, Byelorussia, 2.86% were from Guinea and by 1.9% were from Algeria, Armenia, Lebanon, Germany, Poland, Somalia, Turkey, Uzbekistan, France and the Czech Republic; the rest (by 0.95%) – Azerbaijan, Belgium, Bulgaria, Great Britain, Egypt, Iran, Latvia, Kyrgyzstan, Norway, Tajikistan, Sri Lanka and Japan.

It should be noted that all citizens of Russia committed the smuggling of migrants across the Ukrainian-Russian border, and the majority (59%) of citizens of Moldova committed the smuggling of migrants through the Ukrainian-Moldovan border. However, citizens of Afghanistan, Georgia, Syria and Pakistan are “specialized” in smuggling of migrants from Ukraine to Europe.

Within the characteristics of the country of origin (citizenship), it will be interesting to find out the

level of relations between a smuggler and migrants. For example, the research done by Simon Pedro Izcara Palacios (2014) testifies to that smugglers originate from the same social layer as migrants. The main reason for their involvement in this process is economic problems. However, there are other factors such as loyalty and solidarity with an employer, affection for a friend, the influence of the family members or the desire to help other fellow citizens. The smuggling of people from China has its specific peculiarities. For example, half of all smugglers began to do criminal activity because of their relatives, friends or partners in this criminal activity (Zhang, & Chin, 2002).

That is, there may be other relations between illegal migrants and smugglers, including in the family. Our research proved that some of the smugglers commit this crime to help their relatives – 3.94%. The fourth part of the studied persons are migrants’ fellow citizens, 3.45% of the studied persons were acquaintances or friends of migrants. Yet, most of the surveyed people (over 67%) were not familiar with migrants (see the Table 4).

Table 4. Classification by the level of relations with migrants

	<i>N</i>	%
Relatives	16	3.94
Friends	4	0.99
Acquaintances	10	2.46
Fellow citizens	102	25.12
Not acquainted people	274	67.49

According to criminologists a family has a significant capacity both in terms of prevention and support for the unlawful conduct of its member (Bohatyrov, Khalymon, 2009). Criminological research among the features that are relevant to the prediction of a criminal behavior, or those that show a negative attitude

of a person to social values, distinguish among them the presence or absence of a family. The Table 5 shows that the vast majority of convicts (77.09%) were married at the time of the sentence, 16.75% were never married and 6.16% were divorced.

Table 5. Classification by family status

	<i>N</i>	%
Married	313	77.09
Unmarried	68	16.75
Divorced	25	6.16

Almost the same, even slightly higher, the indicator (72.4%) of being in marriage was due to the results of the research of smugglers in Turkey (İçli, Sever, & Sever, 2015).

It should be noted that this is quite a high level of marital status, which is explained by some aspects. First, the majority of convicts, as mentioned above, had a fairly mature age, which implies the existence of stable socially useful ties. Secondly, a large part of society does not accept smuggling of migrants as a crime.

In general, many countries around the world lack laws criminalizing smuggling. In many communities facilitating migrants' journeys is

seen as part of a complex series of care, support and knowledge that help communities and their members move and survive. This is also part of the reason why many migrants do not consider smuggling facilitators' criminal actors, but service providers and even benefactors (Sanchez, 2018). Similarly, smugglers see themselves as prominent businessmen or even benefactors who help their friends and neighbors in search for a better life (Zhang, & Chin, 2002).

The majority (58.87%) of convicts for illegal smuggling of persons across the State border of Ukraine kept children that also can testify to their social orientation and no significant criminal contamination (see the Table 6).

Table 6. Classification by number of children

	<i>N</i>	%
1 child	102	25.12
2 children	77	18.97
3 or more children	60	14.78
Not having children	167	41.13

Characteristics of convicts by the level of education makes it possible to determine the worldview, knowledge, ability, skills, the possibility of self-realization and the level of intellectual and cultural development. As a result of the research, 62.32% of the studied persons

had secondary and vocational education, 8.87% had first higher education (educated from a college, technical school), 20.94% had higher education, 7.14% had incomplete higher education (see the Table 7).

Table 7. Classification by level of education

	<i>N</i>	%
Primary (less than 9 classes)	3	0.73
Secondary and secondary vocational education	253	62.32
Primary higher education (college, technical school)	36	8.87
Higher education	85	20.94
Incomplete higher education	29	7.14

Unlike Ukraine, the educational level of smugglers in Turkey was mostly low. Thus, 91.4% of criminals had elementary education or were absolutely illiterate (İçli, Sever, & Sever, 2015, p. 4). According to Zhang and Chin (2002), an average smuggler usually has an elementary education or is absolutely illiterate.

Along with education it is necessary to consider such a feature as employment. Criminologists consider that one of the reasons for committing crimes is the lack of means of living (unemployment, poverty etc.). A person that was convicted of illegal smuggling of migrants across the State border of Ukraine is not an exception, 67.98% of whom turned out to be unemployed. Along with the unemployed, we observe a fairly high percentage of people who were employed and/or had means of living. Yes, there were 2.2% of pensioners and 29.82% of employees. The majority of the employed persons (37.19%) were workers, 17.36% were drivers, 23.14% were entrepreneurs, 5.79% were officials and 4.13% were students (see the Table 8).

In comparison, 75.3% of smugglers in Turkey were unemployed and 20.7% were self-employed. Only 4% of them reported their initial activity as smugglers (İçli, Sever, Sever, 2015, p. 4). According to Zhang and Chin (2002), 75% of smugglers were unemployed or self-employed,

that is, these individuals considered themselves unemployed because they did not receive official salaries or it was difficult for them to describe where they received their incomes.

Of particular interest is the presence of 12.39% of Ukrainian border guards among smugglers (out of 406 convicted there are 15 border guards). The presence of those convicted persons is explained by the fact that they are all representatives of the State Border Guard Service of Ukraine, who due to their duties should ensure the inviolability of the State border of Ukraine and prevent illegal smuggling across the State border of Ukraine. However, due to various circumstances they commit crimes related to smuggling of migrants.

The main reason of commitment of this crime by border guards, we see in low salaries. Luptakova (2009) rightly notes that a rank-and-file Ukrainian border guard earned around € 200 per month, with a warrant officer earning € 300 and an officer around € 400, with living costs being comparable to those in the Czech Republic. Smugglers make a profit of around \$ 125 million per year from illegal migration. It is for this reason that Ukrainian border guards take a material interest, being able to buy a car (priced at \$ 80 000 on the Ukrainian market) after 2 months of service).

Table 8. Classification by occupation

	<i>N</i>	%
Unemployed	276	67.98
Pensioner	9	2.2
Working people	121	29.82
including:		
Worker	45	37.19
Driver	21	17.36
Entrepreneur	28	23.14
Border guard	15	12.39
Official	7	5.79
Student	5	4.13

According to the place of residence, the studied persons are characterized in such a way that 22.66% lived in cities, 30.04% lived in villages, 13.06% lived in urban-type settlements. As a rule, these settlements are located in the border areas, and these individuals served as direct performers or

facilitated smuggling of migrants. 34.24% of the convicts lived in large cities (megapolises), which indicates that there are usually enough jobs in such cities, and therefore, if they wish, they may always find a job, but the studied persons chose criminal activity (see the Table 9).

Table 9. Classification by place of residence

	<i>N</i>	%
City	92	22.66
Village	122	30.04
Urban village	53	13.06
Megapolis (over 1 million people)	139	34.24

The next block of features is criminal law features, characterizing the identity of a criminal, creates a criminal profile of a migrants' smuggler. The basis of criminal law features are: elements of committed crime; motivation of a criminal behavior; individual or group nature of a criminal activity; form of complicity (performer, organizer, contributor, accomplice); the intensity of a criminal activity, the presence of convictions, etc.

The study of empirical material showed that the vast majority (81.53%) of convicts did not have a criminal history. Only (18.47%) were previously prosecuted, while 42.67% of them had criminal record, and 57.33% of them committed a crime without serving a previous sentence (see the Table 10).

Table 10. Bringing to criminal liability in the past

	<i>N</i>	%
Not brought	331	81.53
Brought	75	18.47
including:		
Criminological repeated crime (expired criminal record)	32	42.67
Criminal legal repeated crime (not served the previous sentence)	43	57.33

Unlike the smuggler in Ukraine, in Turkey such indicators were received as 53.4% had criminal record in Turkey, 22.4% for human smuggling, 9.2% for the storage of firearms and cold weapons and 8% were convicted of other crimes (İçli, Sever, & Sever, 2015, p. 4).

Regarding the criminal focus of the studied persons in Ukraine, it should be noted that (46.5%) of those who had a preliminary criminal record were again brought to criminal liability for committing the smuggling of persons across the State border of Ukraine. The rest had a preliminary criminal record for committing, as a rule, lucrative property crimes (thefts, robberies).

This testifies that the punishments that are applied to human smugglers are those that have not properly influenced or were too soft. In addition, based on our and Turkish colleagues empirical data, it can be convincingly affirmed that at least $\frac{1}{4}$ convicted of smuggling of

migrants will continue unlawful activities. Persons who were convicted of property crimes, as well as illegal possession of weapons are at the group of risk. This should be taken into account by law enforcement agencies when searching for smugglers among the local population on the border areas.

The method of committing a crime as one of the criminal legal features gives an idea of the role of a person in a criminal mechanism. As it was already noted the vast majority of examined crimes are committed by the way of smuggling across the "green border" (74.14%), only 18.72% of the studied persons committed this crime in a way of forgery or rendering someone else's documents, it is so-called intellectual way. Among the studied persons 4.19% committed a crime in a way that is dangerous to life and health and 2.95% committed a crime using their official status (see the Table 11).

Table 11. The method of committing a crime

	<i>N</i>	%
forgery or rendering someone else's document	76	18.72
smuggling across the "green border"	301	74.14
dangerous to life and health	17	4.19
use of official status	12	2.95

The Table 12 gives an opportunity to find out what role the participants of the human smuggling performed. Among the convicted smugglers, the organizers of smuggling turned out to be 43.84%; persons who led smuggling – 4.93%. The number of persons who facilitated the smuggling of migrants was 51.23%.

A very popular way of smuggling of migrants to the EU turned out a walking by foot across the state border. That is, smugglers transfer of illegal migrants through unprotected passages in mountainous areas of the border or through checkpoints masked in vehicles.

Table 12. Forms of committing a crime

	<i>N</i>	%
Organization of smuggling	178	43.84
Leadership of smuggling	20	4.93
Facilitation of smuggling	208	51.23

In scientific research, it is often possible to find a link to the fact that smuggling of migrants is a crime of trans-border nature, and therefore its commitment is carried out by organized criminal organizations. However, the results of our research do not allow us to affirm that this category of crimes

is a part of this group. Thus, only 0.49% of the examined persons committed a crime in composition of the criminal organization, 7.39% – as part of the organized group, 68.72% – by group of people and 23.4% – independently (see the Table 13). We can not guarantee the full reliability of the

received results, given that a large number of apprehended persons try to avoid responsibility or at least mitigate it, and therefore, in the absence of proper evidence indicating the involvement of organized crime groups in this crime, such individuals will try to respond independently. However, the results correspond to foreign data. So, according to Zhang & Chin, 2002, most smugglers have nothing common with traditional Chinese

criminal groups. İçduygu and Toktaş (2002) also emphasize that instead of well-organized criminal, mafia formations, independent individuals appear in this criminal activity. However, we must remember that we talk about cases when illegal smuggling is committed not on a scale similar to that in Africa or Syria by sea, where the number of migrants reaches 1,000 people in the same boat.

Table 13. The crime committed individually or in a group

	<i>N</i>	%
Independently	95	23.4
Group of people	279	68.72
Organized group 30	30	7.39
Criminal organization	2	0.49

The number of migrants smuggled across the State border of Ukraine is as follows: on average, one smuggler transferred 3 persons across the state border. Thus, 32.2% smuggled one person, 30.79%

– two to three, 13.55% – four to five and 23.64% –smuggled more than five persons (see the Table 14).

Table 14. The number of migrants smuggled across borders

	<i>N</i>	%
One	130	32.02
Two to three	125	30.79
Four to five	55	13.55
More than five 96	96	23.64

An important criminal feature characterizing a criminal profile of a criminal is the motivation for a criminal behavior. This feature can be detected by finding out the amount of money that the smuggler received for committing a crime (smuggling of one migrant). On average, one smuggler receives \$ 925 per smuggling of a migrant across the State border of Ukraine. Earnings of smugglers in other countries range from approximately \$ 500 to \$ 2000

per client (Zhang & Chin, 2002). We consider it necessary to note that the given data can not be completely reliable, their verification is possible only with cross-examination of illegal migrants, but in the conditions of this research it is impossible. Therefore, we are guided solely by the data verified by the national courts, based on the evidence collected by the pre-trial investigation bodies (see the Table 15).

Table 15. Amount of money received for commitment of a crime

	<i>N</i>	%
Up to 200 US dollars	19	5.09
Over 500 US dollars	52	13.94
Over 1000 US dollars	75	20.11
Over 2000 US dollars	227	60.86

A significant gap in the amounts paid by migrants for their smuggling is due, in particular, to the fact that prices and services vary greatly, and are often negotiated on the basis of reciprocity, social trust, or simply as a good business practice) (Maher, 2018). Some migrants are able to afford better or higher quality services than others and may travel under less precarious conditions (Hagan, 2008).

It should also be noted that 8.12% out of studied by us people turned to be those who committed a crime because of other (non-mercenary) motives. As a rule, these were relatives of migrants or their close acquaintances. Simon Pedro Izcarra Palacios (2014) points out that among smugglers are a lot of reliable people who take part in this activity, not only for profit, but also to help migrants to find a better life. Only (46.9%) stated that economic factors led to the fact that they began this criminal activity, (25%) indicated that the reasons were a sense of duty and solidarity with an employer. For example, according to Zhang and Chin (2002), almost all smugglers (92%) said that their motivation was to make money. Only 8% asserted that their main motive in this case was to help friends and relatives (to migrate to the United States).

Asked about the causes of work among “human smugglers”, 74.7% said that smuggling of migrants was an “easy way to earn money” (Içli, Sever, & Sever, 2015).

The results of our research showed that the main reason that encouraged smugglers to accept the proposal to commit such crimes is the lack of legal employment (67.98%), which is completely correlated with the number of people who did not have a job. 24.38% indicated that it was an easy way for them to earn, for 4.19% it was an additional income and only 3.45% committed this crime because of the fact that they helped their relatives. This gives grounds to consider that the vast majority

of convicted persons committed this crime because of lucrative motives.

More than 45% of smugglers intended to move migrants to the European Union countries. Most (14.53%) tried to get to Poland, 14.28% – to Slovakia, 12.06% to Hungary and only 4.18% to Romania. 31.53% of illegal migrants were transferred on the border with Russia, 8.37% on the Ukrainian-Moldovan border, 4.93% who smuggled migrants across the Ukrainian-Belarusian border.

When designing a criminal record of a smuggler of migrants it will not be complete, if not to analyze the state of criminal legal influence of the State on such criminals, that is, the appointed criminal penalties. Ukrainian law provides for the following types of punishment for committing this crime: imprisonment for a term from three to five years (if a crime is committed without aggravating circumstances); imprisonment for a term from five to seven years (if a crime is committed against several migrants or by a dangerous way to them, by a group of smugglers or repeatedly), imprisonment for a term from seven to nine years with the confiscation of property (if a crime is committed because of lucrative motives or by an organized group).

We analyzed sentences range from less severe to more severe punishments, and came to the following conclusions (see the Table 17). In the vast majority (59.61%) the courts apply imprisonment for a term from 4 to 5 years, with simultaneous release from serving a trial sentence, as well as 12.32% of imprisonment for a term from 1 to 3 years, and also with the simultaneous application of release from trial. In total, such persons turned to be 71.93%. Only 3.2% of those convicted have been punished as a restraint. The remaining prisoners were sentenced to imprisonment for a term: from 1 to 2 years – 3.2%, from 3 to 5 years – 13.05% and more than 5 years – 6.65%.

Table 16. Classification by the level of applied punishment

	<i>N</i>	%
Penalty	16	3.94
1-3 years of imprisonment (release with trial)	50	12.32
4-5 years of imprisonment (release with trial)	242	59.61
1-3 years of imprisonment (released under amnesty)	2	0.49
1-3 years of restraint	3	0.74
1-2 years of imprisonment	13	3.2
3-5 years of imprisonment	53	13.05
Over 5 years of imprisonment	27	6.65

Therefore, it is quite clearly traced the economy of criminal repression that has been taking place in Ukraine during the last decade. However, we see a certain shift of punishment to serving a trial sentence (so-called probation) as an alternative to deprivation of liberty. The presence, among convicted persons, a significant number of persons (more than 18%) who had criminal record in the past, 57.33% of whom did not serve previous sentences, indicates that the application of the release with probation does not facilitate their correction and does not ensure the achievement of the purpose of the punishment. In other words, this State's trust in a criminal does not actually work: the convicts leave the court premises with a thought that it was a "little fright" (Khalymon, 2006), and continue their criminal activity. The above points to the need to review judicial practice in the application of more severe sanctions. After all, soft penalties and relatively high earnings that may give human smuggling is also one of the determinants of commitment of this crime.

Conclusions

Summarizing our research, it should be noted that the identity of a criminal who committed the illegal transfer of persons across the state border can be attributed to the situational-criminal type. After all, the received results of the research showed that such persons commit crimes (often repeatedly) not because of persistent anti-social perceptions and understandings, but due to introduce of negative approaches in livelihoods of certain groups, lifestyle management at the socially acceptable and anti-social level. They combine the features of a criminal's personality and peculiarities of a personality of a law-abiding citizen. A criminal profile of a human smuggler is as follows: mostly men (92.12%) at the age of 25-44 years old (67,24%), citizens of Ukraine (62,32%), inhabitants of a city (56,9%), married (77.09%) keep one to three children (58.87%), mostly (67.98%) unemployed, without criminal record (81.53%), having lucrative motive during commitment of a crime (91.87%).

The received results generally confirmed the hypothesis No. 1 that smugglers of migrants have some kind of life experience, knowledge of the locality and physical endurance for the smuggling of migrants.

The hypothesis No. 2 also found its confirmation. As a result of the research, it was found that the main reasons of commitment of the illegal transfer of persons across the State border of Ukraine are: low socio-economic development in

Ukraine, high level of unemployment; relatively large amount of earnings that may give smuggling of people; soft judicial practice for committing this crime. And also there is a significant demand for such services.

The hypothesis No. 3 does not find its confirmation, the results of the research testified to that smuggling of migrants in Ukraine is controlled by organized criminal groups or organizations at level of 8%, which is also confirmed by researches of foreign scientists.

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