
THE FACTBOOK ON THE
ILLICIT TRADE IN TOBACCO
PRODUCTS

Directed by: Ernesto U. Savona

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Spain



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TRANSCRIME

Transcrime is the Joint Research Centre on Transnational Crime of Università Cattolica del Sacro Cuore of Milan and the University of Trento. The Centre, directed by Ernesto U. Savona, Professor of Criminology at Università Cattolica, represents the multiannual union between experience and innovation in the field of criminological research.

Its offices are located in Milan and Trento. In each office there is a team of researchers and secretariat/management personnel. Transcrime aims at being a national and international point of reference in the criminological field.

The vision of the Centre is to increase knowledge in the criminological field and in the prevention of crimes, developing innovative ideas and cutting-edge techniques. Transcrime.

Transcrime combines its experience in applied research with the consolidated scientific tradition of Università Cattolica del Sacro Cuore in Milan and University of Trento, mixing a practice-oriented approach with a profound understanding of criminal phenomena. Through this experience, it developed a solid network of relationships in the academic field, institutions, international organisations and businesses.

The Centre also plays an important role in the support and development of educational activities at Università Cattolica del Sacro Cuore of Milan. Its principal aim is to achieve close integration between scientific innovation and academic education. In particular, since the academic year 2005/06, Transcrime has managed a MA programme dedicated to crime and security (until academic year 2012/13 the curriculum Crime&Tech: Crime Sciences and Technologies for Security within the MA in Applied Social Sciences; since the 2013/14 academic year curriculum POLISI: Policies for security within the MA in Public Policy). In addition, the Centre has contributed to the development of the International Ph.D. programme in Criminology, coordinated by Professor Henk van De Bunt of Erasmus University (Rotterdam), which is currently the only doctoral course dedicated to Criminology in Italy.

Transcrime is an independent academic centre. It pursues an autonomous research agenda, which may be developed also through contracts and funding by private and public local, national and international institutions. The source of funding is always made public through Transcrime's website.

THE FACTBOOK ON THE ILLICIT TRADE IN TOBACCO PRODUCTS

This report is part of the project The Factbook on the Illicit Trade in Tobacco Products (henceforth ITTP)

The project has been developed by Transcrime after the *Round Table on Proofing EU Regulation against the Illicit Trade in Tobacco Products* hosted by Università Cattolica of Milan, on 5 May 2011. During the Round Table, participants (researchers and policymakers with experience in the field of the illicit trade in tobacco products) agreed on a research agenda concerning the ITTP (Transcrime 2011). Items 3 and 6 of the research agenda focused on the need for better analysis of the tobacco market taking account of its dual nature (i.e. legal and illicit) and how licit and illicit markets vary across different countries and regions. Given these considerations, Transcrime has developed the 'Factbook on the ITTP', a multi-annual research plan providing detailed analyses of the ITTP and of its relations with the legal market and other socio-economic and political factors in a number of countries around the world.

The aim of the Factbook is to provide an innovative instrument able to shed light on the complex mechanisms behind the ITTP in different countries. This report focuses on Spain.

Tobacco consumption is undoubtedly a danger for human health, and governments should carefully regulate the tobacco market. Illicit tobacco avoids state regulation and taxation and may jeopardize tobacco control policies.

The Factbook will contribute to raising awareness about the global importance of the ITTP and about the strategies available to prevent it. The Factbook has been developed for a wide readership ranging from policymakers, through academics, to interested stakeholders, **the intention being to provide a support to develop knowledge-based debates and policies on the ITTP.**

The information gathered for this report originates from **unofficial sources, academic literature, grey literature, open sources, questionnaires and interviews with experts and stakeholders.** Law enforcement authorities' reports and press releases were also a valuable source of information for the study.

The results of the report do not claim to be exhaustive, nor an accurate reflection of criminal practices. They provide an **initial assessment of the ITTP in Spain** and a starting point for future research.

As a concerned stakeholder in the fight against the illicit trade in tobacco products, Philip Morris International (PMI) welcomed Transcrime's initiative to develop the Factbook on the ITTP with financial support and the provision of data. However, Transcrime retained full control and stands guarantor for the independence of the research and its results. Information and data for the study have been collected by Transcrime and have not been shared with PMI.



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EXECUTIVE SUMMARY

This report is part of the project *The Factbook on the Illicit Trade in Tobacco Products* (hereafter ITTP). It focuses on **Spain**, where the **illicit trade in tobacco products is an emerging issue, particularly in certain regions**. After tax increases in 2009-2010, **Spain became a destination market** of illicit tobacco and the ITTP penetration peaked at 8.8% in 2013. Nevertheless, the ITTP level is lower than the European average. In the past, ITTP penetration had decreased from 6% to almost 1% between 1998 and 2010, due to the successful enforcement actions against contraband. Spain used to be a transit country.

Non-domestic cigarettes are widespread mainly in two Spanish regions, **Andalusia and Extremadura**. These regions are close to **Gibraltar**, where cigarettes cost half the price of Spanish cigarettes. Moreover, Spain also comprises the **Canary Islands**, which have a different tax regulation, making cigarettes cheaper than on the Spanish mainland. Indeed, Gibraltar and the Canary Islands are the main sources of illicit cigarettes.

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, legal market, regulation, 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, four key 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 Spain 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:** Spain has been hit hard by the global financial crisis. The unemployment rate has increased while both GDP per capita and household consumption have decreased. The Spanish Government is currently being aided by the EU and international organisations to accelerate economic recovery. Health and education expenditures are below the EU average and income inequality is among the highest among EU member states.
- **Legal Market:** The Spanish tobacco market is relatively large on a global scale. However, legal cigarette sales have fallen in the past decade while hand rolling tobacco (HRT) sales have grown significantly. Cigarette prices are high in global terms, but cigarettes are relatively affordable. Smoking prevalence is high and varies according to the region. Andalusia, Murcia and the Valencian Community have the highest prevalence.
- **Regulation:** Taxation on tobacco products has increased since 2005, and is among the highest on a global scale, both as tax incidence on the retail price and as monetary value per 1,000 sticks. However, the Canary Islands have a different taxation regime, enabling lower taxation to be levied on tobacco. There is a medium-low level of control on the tobacco supply chain and medium-high control on tobacco marketing and promotion, and tobacco consumption and sales.
- **Crime Environment:** Crime rates have decreased in recent years. There is a medium presence of organised crime activities mainly centred on drug trafficking, property crimes and human trafficking. Drug consumption is high, especially for cannabis and cocaine. The shadow economy is medium-low in extent, while corruption is a growing concern.
- **Enforcement:** Since 2011, Spain has implemented two awareness campaigns against the ITTP. Moreover, law enforcement agencies and the Spanish Customs have stipulated cooperation agreements with foreign customs and law enforcement agencies to tackle the ITTP. The average penalty for tobacco contraband is low, between 0 and 2 years of imprisonment. Overall, anti-ITTP action is medium-low due to the absence of official estimates on, and a national action plan against, the ITTP.

THE FOUR COMPONENTS OF THE ITTP

- **The demand:** The demand for illicit tobacco products in Spain responds to the economic crisis, rising unemployment, and higher cigarettes prices. Indeed, a pack of illicit cigarettes, especially of the most popular brands, is sold for half the price of a pack sold in the legal market. Illicit tobacco is easily available and generally tolerated by Spaniards.
- **The supply:** Individual smugglers and large-scale criminal organisations are the main suppliers of illicit tobacco in Spain. Price differentials and proximity to Gibraltar, Andorra and the Canary Islands, together with the current economic crisis, are conditions favourable for the supply of illicit tobacco in the country.
- **The products:** The main tobacco products smuggled into Spain are illicit whites and genuine contraband cigarettes. In particular, Ducal, American Legend and Elixyr are the most widespread illicit whites brands. Counterfeit cigarettes have a low incidence within the Spanish ITTP. The main source countries of illicit cigarettes are the Canary Islands, Andorra and Gibraltar.
- **Modus Operandi and Geographical Distribution:** Several *modi operandi* are used to traffic illicit tobacco in Spain. Both sea routes and inland routes are employed: the former for large-scale smuggling, the latter for small-scale smuggling. Andorra, Gibraltar and the Canary Islands are source hotspots of the Spanish ITTP. Finally, the incidence of non-domestic cigarettes is higher in the Southern region of Andalusia and particularly in the ports on the Mediterranean Sea.

Figure 1. The main interactions between the drivers and the ITTP

Source: Transcrime elaboration



FRAMING THE COMPONENTS IN THE DRIVERS: THE FOUR KEY FACTORS OF THE ITTP

The report identifies four key factors of the ITTP in Spain. **These key factors are the crucial elements through which the five drivers determine the features of the four components of the ITTP** (Figure 1).

- **Economic accessibility:** the price of illicit tobacco and particularly its relative price compared to the price of legal products.
 - The economic crisis in Spain, the high unemployment rate, and the decreased purchasing power of Spaniards are conditions favouring the demand for illicit tobacco due to its greater economic accessibility.

- **Cigarette tax** increases have caused a decrease in legal cigarettes sales and induced some Spaniards to switch to more economically accessible illicit tobacco.
- The increase in cigarette prices has generated demand for cheaper tobacco products. This is shown by the increasing number of Spaniards, in particular in Andalusia, crossing the border with Gibraltar in search of cheaper cigarettes.
- **Availability:** the relative ease with which both smugglers and consumers can obtain illicit tobacco products.
 - The availability of illicit tobacco in bars, shops, street vendors and small markets in Spain impacts positively on the demand for and supply of illicit tobacco.

- The **widespread social acceptance and tolerance of contraband** are factors important in boosting the availability of illicit tobacco and favouring its demand.
- Cigarettes with **lower prices in the Canary Islands and in neighbouring countries (Gibraltar and Andorra)** increase the availability of tobacco products to be bootlegged and smuggled.
- **The regulation or deregulation of the tobacco sector impacts both positively and negatively** on the availability of illicit tobacco. Indeed, on the one hand, the presence of a **licensing obligation for tobacco retailers** may reduce the availability of illicit tobacco products, as well as **the faculty of the CMT (*Comisionado para el Mercado de Tabacos*) to request any documents** concerning the origin and destination of tobacco products. On the other hand, **the absence of a licensing system for tobacco manufacturers, wholesalers and importers** may increase the diversion of tobacco from the legal supply chain. Furthermore, the agreements on supply chain control between the EC and the four major tobacco companies are legally binding only on the signatory parties, not on smaller manufacturers; which may increase the diversion of products into illicit channels.
- A **high level of perceived corruption** in Spain impacts positively on the availability of illicit tobacco.
- **Profitability: the ability of the ITTP to generate profits that exceed its operational costs.**
- The **proximity to markets such as Andorra, the Canary Islands and Gibraltar**, where there is a significant tax and price differential on tobacco products, favours the smuggling of tobacco products, increasing the profits of the ITTP.
- **Cigarettes price differentials between Spain and other markets** make the ITTP in Spain a profitable activity.
- **Risk: the threat of detection/accusation/conviction and the sanctions imposable on the actors involved in the ITTP.**
- **Spaniards' tolerance of contraband activities** may boost the demand for and the supply of the ITTP by diminishing the risks for the actors involved.
- The **controls of the CMT**, providing for customer identification and verification of the tobacco supply chain, increase the risks for the ITTP. However, the presence of **loopholes in supply chain controls** (e.g. the absence of a tracking and tracing system of all tobacco manufacturers) impacts on the ITTP by decreasing the risks for smugglers.
- The **presence of Free Trade Zones (FTZs), Vigo, Barcelona, Cádiz and Grand Canaria**, boosts the supply of illicit tobacco by decreasing the risks for smugglers.
- **Border permeability** between Spain, Andorra, the Canary Islands and Gibraltar decreases the risks for the illicit suppliers of tobacco.
- **Law enforcement cooperation in the fight against tobacco smuggling** may increase the risk for smugglers. Indeed, the **bilateral and multilateral agreements** signed by the Spanish Customs with other countries impact negatively on the supply of illicit tobacco by increasing the risks for smugglers.
- The **low penalties imposed for tobacco smuggling** in Spain (**between 0 and 2 years of imprisonment**) may decrease the perception of risk among smugglers.

CONCLUSIONS

The ITTP in Spain has increased in recent years, reaching **8.8% of total consumption in 2013**. From 1995 to 2000, the ITTP strongly decreased, remaining **stable at about 1% of the market until 2011**. Thinkcom, a research centre of the University of Madrid, reports that the **ITTP penetration is between 10.23% and 11.75% of the cigarettes market in 2013**. **Illicit whites are the most widespread products**. Genuine contraband cigarettes are the only other product smuggled.

According to Empty Pack Surveys – henceforth EPSs– the **regions of Andalusia and Extremadura** have the highest incidence of non-domestic packs collected in Spain. In particular, **cities in Andalusia, especially those with ports**, are more likely to receive illicit flows.

Smugglers exploit **sea routes** for large-scale smuggling and **inland routes** for small-scale contraband. Studies indicate that **individual smugglers** and **large-scale criminal organisations** are the main suppliers of illicit tobacco in Spain.

This report demonstrates that more research and accurate data would enable better assessment of the ITTP in Spain. Indeed, there are **no publicly available official estimates of the ITTP** in Spain. Furthermore, **there is no research on the socio-economic characteristics of illicit tobacco consumers**.

The ITTP varies according to regulatory and law **enforcement actions**. For example, enforcement actions against tobacco smuggling **in the late 1990s** contributed to decreasing the ITTP. However, **in 2009-2010 the Government increased taxation on tobacco products**. As a result, **the ITTP in Spain has increased**. Moreover, in 2011 and 2013, two **awareness campaigns** were launched; the former at national level, the latter at regional level, in Andalusia. However, no action plan against the ITTP has been implemented to date. Furthermore, the retail, manufacturing, wholesaling and importation of tobacco products is no longer subject to licensing in Spain. This may create loopholes in supply chain control at these levels.

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 affects the quality and reliability of the results. In these cases, institutions, businesses and other stakeholders concerned with the ITTP should consider how to improve data collection on illicit tobacco. This will result in improved knowledge about the ITTP and, in turn, in better tobacco control policies, since the impact of specific policy measures upon crime may quite often be overlooked owing to the lack of reliable data.

After completion of the first phase of the project focused on collecting facts and data through the country profiles, Transcrime will conduct comparative analysis among the countries selected. This will yield additional insights into the complexity of the ITTP and allow for the elaboration of policy recommendations.



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Location:
 Spain, officially the Kingdom of Spain, is located in the Iberian Peninsula in Southwestern Europe. It borders on France (Northeast), Andorra (Northeast), Portugal (West), Atlantic Ocean (Northwest), Gibraltar (South) and Mediterranean Sea (South). The Spanish territory also includes the Balearic Islands (in the Mediterranean Sea), the Canary Islands (in the Atlantic Ocean), and three exclaves in North Africa (Ceuta, Melilla, and Peñón de Vélez de la Gomera). The country consists of 17 autonomous communities. Its capital and largest city is Madrid. Spain covers an area of 505,600 square kilometres.



Population: 46,647,421 (2013)
Male: 23,043,826 (49.4%)
Female: 23,603,595 (50.6%)
Growth Annual Rate: -0.2% (2013)
Age Structure: (0–14) 15.0%; (15–64) 67.0%; (65+) 18.0%
Fertility Rate: 1.3 children born/woman (2012)
Life expectancy at birth (years): 82.0 (2012)
GDP: US\$ 1,358.26 billion (2013)
GDP growth: -1.2% (2013)
Inflation consumer price: 1.4% (2013)
Income level: High

Source: [The World Bank](#)

INTRODUCTION

WHY FOCUS ON THE ITTP IN SPAIN?

There are several reasons for studying the ITTP in Spain.

First, **Spain's geographical position** makes it a transit country for illicit tobacco. Indeed, due to its location on the Mediterranean Sea, and considering the **lower price of cigarettes** in comparison with other European countries, Spain is an important gateway for the illicit tobacco trade bound for Northern European countries.

Second, Spain borders on countries such as **Gibraltar** and **Andorra**, where cigarettes are significantly cheaper. Moreover, the Spanish **Canary Islands** have a different taxation regime on tobacco products, resulting in cheaper tobacco products. These issues together have an impact on cross-border purchases of tobacco products and consequently on the ITTP from these countries/areas to Spain's mainland.

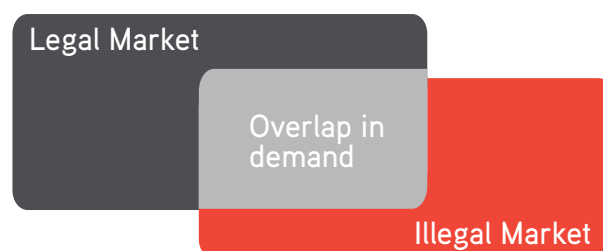
Third, the ITTP in Spain has a **regional concentration**. Indeed, the highest share of non-domestic cigarettes was found in the regions on **Andalusia** and **Extremadura**.

Fourth, the **social acceptance** and tolerance of cigarettes smuggling, a **severe economic situation** and the **reduced purchasing power** of Spaniards have a significant impact on the ITTP.

According to the **available estimates**, the ITTP in Spain ranged between **7.5%**, **8.2%** and **10.3%** in 2012 (KPMG 2013; Euromonitor International 2013a; Ipsos 2013). **In 2013**, according to KPMG data, the percentage increased to 8.8% (KPMG 2014). Thinkcom provides two other estimates for 2013, reporting a lower bound ITTP penetration (**10.23%**) and an upper bound (**11.75%**) (ThinkCom 2013).

Tobacco is a dual market consisting of a legal and an illegal part (Figure 2). The two sides of the market are connected with each other. Actions affecting one side of the market influence the other side as well.

Figure 2. The dual tobacco market



The ITTP comprises different activities and products:

Smuggling (or contraband): the unlawful movement or transportation of tobacco products from one tax jurisdiction to another without the payment of applicable taxes or in breach of laws prohibiting their import or export (Joossens and Raw 2008).

Counterfeiting: the illegal manufacturing of a product bearing or imitating a trademark without the owner's consent. Illegally manufactured products can be sold in the source country or smuggled into another country (Joossens and Raw 2008).

Bootlegging: the legal purchase of tobacco products in a low-tax country and their illegal retail in a high-tax country. Bootlegging concerns individuals or small groups who smuggle smaller quantities of cigarettes, taking advantage of tax differentials, with the aim of making extra income (Hornsby and Hobbs 2007).

Illegal manufacturing: cigarettes manufactured for consumption, which are not declared to the tax authorities. These cigarettes are sold without tax and may be manufactured in approved factories or illegal covert operations (Joossens et al. 2010).

Unbranded tobacco: manufactured, semi-manufactured and even loose leaves of tobacco (also known as 'chop-chop' (Geis 2005)), illegally sold by weight (e.g. in large plastic bags, also known as 'baggies'), with no labelling or health warnings and consumed in roll-your-own cigarettes or in empty cigarette tubes (Walsh, Paul, and Stojanovski 2006).

Cheap Whites or Illicit Whites: cigarettes produced legally in one country, but normally intended for smuggling into countries where there is no prior legal market for them. Taxes in production countries are normally paid, while they are avoided/evaded in destination countries (Allen 2011).

WHAT CAN BE FOUND IN THIS REPORT?

This report is organised into three chapters.

Chapter 1 is composed of five subsections analysing the **five drivers of the ITTP:**

- 1) Society and economy
- 2) Legal market
- 3) Regulation
- 4) Crime environment
- 5) Enforcement

The drivers are important areas whose structures may influence the ITTP positively or negatively. Transcrime selected the drivers based on a review of the literature on the ITTP and discussions with relevant stakeholders and experts. Each subsection provides information on the key aspects of each driver.

To enable comparison with other country profiles, each driver has four indicators. The data for the drivers' indicators come from different sources and ensure comparability among different countries in regard to the last available years (e.g. World Bank, WHO, UN). When possible, the report provides the most up-to-date data from national sources. For four indicators, Transcrime has developed composite indicators (see Regulation and Enforcement, pp. 33 and 47). Composite indicators assess the presence of specific policy measures in the country and range from 0 (no measure is present) to 5 (all measures are present). A higher value on the composite indicators does not always imply a better situation. The purpose of such indicators is rather to assess the intensity of policy measures in a specific field. The information used for the assessment is drawn from the literature, official sources (reports, websites, legislation), and experts.

Chapter 2 analyses the illicit trade in Spain, dividing it into the **four components of the ITTP:**

- 1) Demand
- 2) Supply
- 3) Products
- 4) *Modus operandi* and geographical distribution.

Chapter 3 combines the results of the two previous chapters to identify the **four key factors of the ITTP** and show how the various elements of the drivers influence the illicit trade. The four key factors are the following:

- 1) Economic accessibility
- 2) Availability
- 3) Profitability
- 4) Risk.

These factors are pivotal for demonstrating how the various elements of each driver influence the illicit trade.

Chapter 1

The five drivers

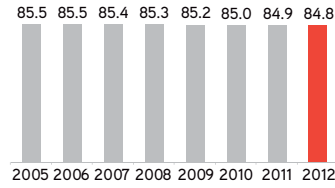


SOCIETY AND ECONOMY

S*pain has been hit hard by the global financial crisis. The unemployment rate has increased while both GDP per capita and household consumption have decreased. The Spanish Government is currently been aided by the EU and international organisations to accelerate its economic recovery. Health and education expenditures are below the EU average and income inequality is among the highest among EU member states.*

Adult Population

Population aged 15+
Source: The World Bank



84.8%

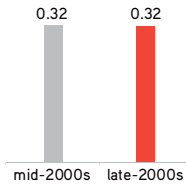
26 out of 225 countries

(2012)



Income Inequality

GINI coefficient after taxes
Source: OECD



0.32

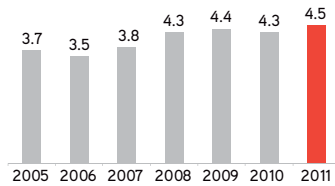
13 out of 34 countries

(late 2000s)



Education System

Education expenditure
as % of GDP
Source: The World Bank



4.5%

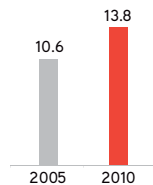
28 out of 163 countries

(2011)



Migration

International migrant stock
as % of population
Source: The World Bank



13.8%

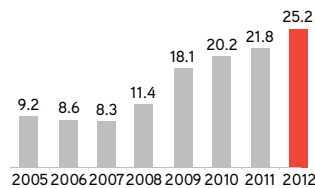
49 out of 213 countries

(2010)



Unemployment

Total unemployment
rate (% of labour force)
Source: OECD



25.2%

1 out of 35 countries

(2012)



Last national available data (2013): **26.4%** (INE 2014)

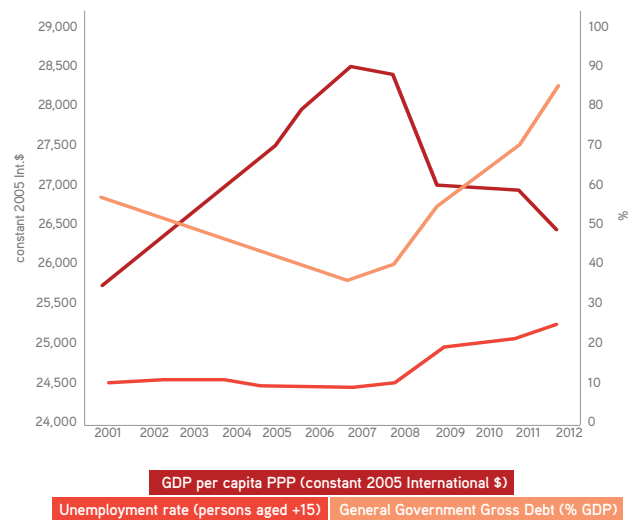
- **Spain is a developed country with a large percentage of adults in the population.**
- Spain is composed of 17 autonomous communities including the Balearic Islands and the Canary Islands, two autonomous cities (Ceuta and Melilla) and three small Spanish possessions off the coast of Morocco (Chafarinas Islands, Peñon de Alhucemas, and Peñon de Vélez de la Gomera) (CIA 2012a).
- The Spanish **Human Development Index** was 0.885 in 2012 and the country ranked 23rd out of 186 countries (UNDP 2013).
- Spain has a population of **46.22 mn inhabitants** and it has a **high percentage of adults in the total population**. In 2012, Spain ranked 26th out of 225 countries, with 84.8% of its population aged over 15 (The World Bank 2012).
- **Spain has been hit hard by the global financial crisis. Since 2007, GDP per capita has decreased, while general public debt has increased considerably (Figure 3).**

- **Before the crisis, the GDP per capita was rising in Spain.** After almost 15 years of GDP per capita increases, the Spanish economy began to slow down in late 2007 and entered into a recession in 2008 (CIA 2012a).
- The economy has undergone a prolonged **recession** since the outbreak of the economic financial crisis in 2008. The burst of the **housing bubble** and structural weaknesses, especially in the labour market, have been compounded by the European debt crisis (OECD 2012c).
- The average Spanish household has been severely affected by the crisis, with visible impacts on **household income, jobs, life satisfaction and civic engagement**. Between 2007 and 2011, the real household **disposable income declined by 5%**, which was one of the largest declines among the OECD countries (OECD 2013a).

- In Spain, **public debt** as a percentage of GDP is high, **84.10%** in 2012. In Europe, only Greece, Italy, Portugal, Ireland, Belgium and France have higher public debts. On a global level, Spain's **public debt is high and the country ranks 26th out of 155 countries** (CIA 2012a).
- According to the Sociological investigation 'Barometer' of January 2014, in **Spaniards' opinion, unemployment is the main problem affecting the country** (54.4% respondents). The second major problem concerns corruption and fraud (18.3%) (CIS 2014).
- People's **trust in institutions** and in how **democracy** works has also declined during the crisis. The **percentage of Spanish people reporting that they trust the government fell** from 48% to 34% between 2007 and 2012 (OECD 2013a).

Figure 3. GDP per capita PPP (constant 2005 International \$), general government gross debt (as % of GDP), unemployment rate (persons aged +15), 2001-2012

Source: Transcrime elaboration on World Bank (2012) and Eurostat (2013) data

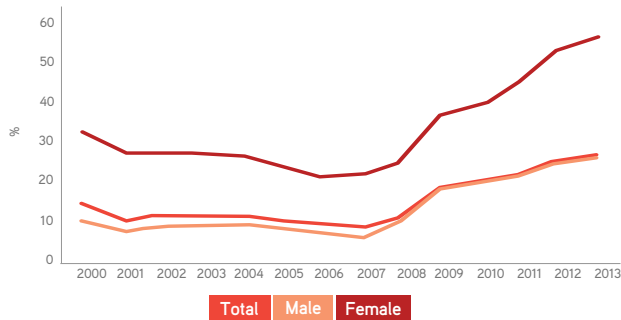


- **The adoption of international economic measures is aimed at helping the Spanish economy.**
- In June 2012, a Memorandum of Understanding set out the conditions for the Spanish government to receive \$130 bn in EU funds to recapitalise its banks and the real estate sector (CIA 2012a). The **European Commission, the European Central Bank and the International Monetary Fund** are in charge of monitoring the progress made within the framework of this recapitalisation (OECD 2012c).

- The global financial crisis has significantly affected unemployment (Figure 4).
- Spain has a very high unemployment rate. In 2012, 25.2% of the labour force was unemployed and Spain had the **highest unemployment rate among 35 OECD countries** (OECD 2012a). The unemployment rate reached **26.3% in 2013** (OECD 2013b).
- In Spain, half the female labour force is unemployed. In 2013, female unemployment reached 55%, increasing by around 3 p.p. from the previous year (51.9%) (OECD 2013b).
- The largest impacts of the crisis on people’s wellbeing consist in **lower employment and deteriorating labour market conditions**. Between 2007 and 2012, the employment rate decreased by more than 10 p.p. in Spain, while the long-term unemployment rate increased by 9 p.p. (OECD 2013a).
- During the economic crisis, **youth unemployment** has risen by 30 p.p., while it has grown by 12 p.p. for adult workers. This is mainly due to the high prevalence among young people of **temporary contracts**. The increase in youth unemployment in Spain is the highest among OECD countries (OECD 2012c).

Figure 4. Unemployment rate in Spain, people aged +15, 2000-2013

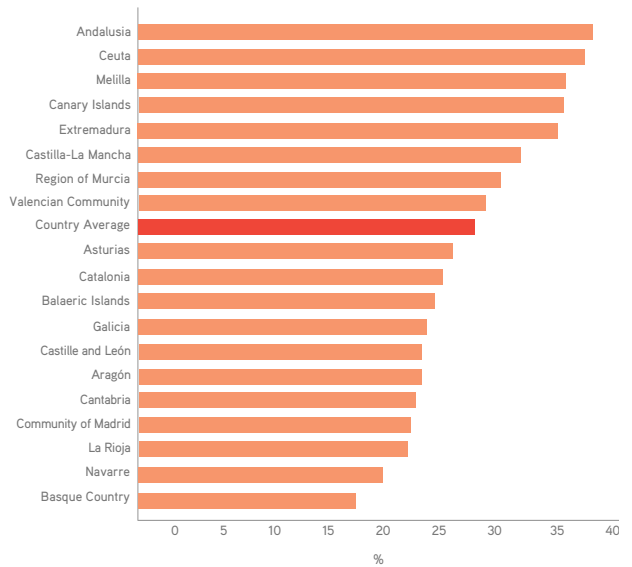
Source: Transcrime elaboration on OECD (2013) data



- On the Spanish mainland, the regions with the highest unemployment rates are the southern regions of Andalusia and Extremadura (Figure 5).
- While the national unemployment rate in 2013 was 26.4%, **Andalusia** and **Extremadura** recorded the highest unemployment rates with **36.3%** and **33.7%** respectively (INE 2014a).

Figure 5. Unemployment rate in Spanish administrative regions (including Ceuta, Melilla, the Balearic and Canary Islands), 2013

Source: Transcrime elaboration on INE (2014a) data

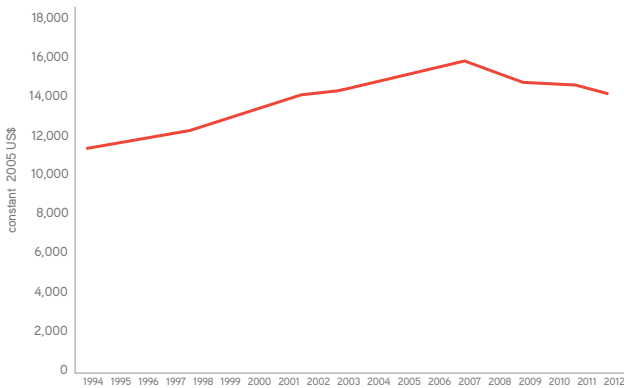


- After 14 years of successive increases in household consumption expenditure (1993-2007), since 2007 final household consumption expenditure has been decreasing (Figure 6, p. 21) (The World Bank 2012).

- Household expenditure grew until 2007. Between 2007 and 2012, it decreased by about 10.6% (The World Bank 2012). The largest decrease in household final consumption expenditure occurred in 2009, when it decreased by 4.5% in comparison with 2008 (The World Bank 2012).
- In 2011, most of household consumption concerned ‘Housing, water, electricity, gas and other fuels’ (21.5%), ‘Hotels, bars and restaurants’ (18.6%) and ‘Food and non-alcoholic beverages’ (14.6%). Since 2007, household final consumption expenditure has decreased in several categories. Between 2010 and 2011, the categories with the **largest decreases** were **‘Alcoholic beverages, narcotics and tobacco’** and ‘transport’ (-9.6% and -5.5% respectively) (INE 2013).

Figure 6. Household final consumption expenditure (constant 2005 US\$), 1994-2012

Source: Source: Transcrime elaboration on the World Bank (2012) data

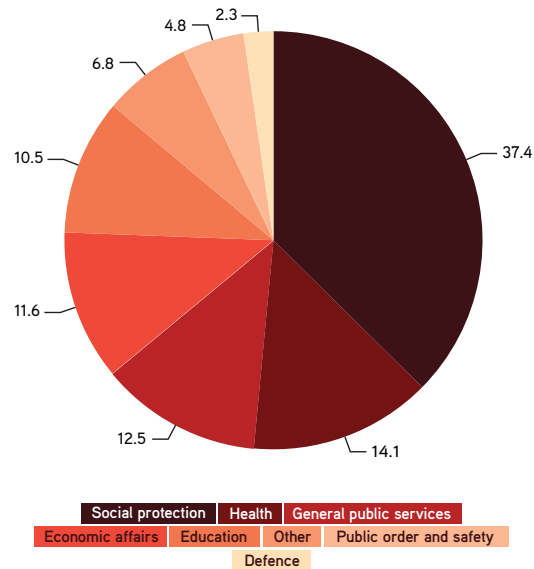


- As regards equality in the distribution of family income, Spain ranks 104th out of 136 countries for income inequality (CIA 2012b). Among OECD countries, the country ranks 13th out of 34 countries. Together with the UK and Italy, which record higher income inequality, Spain is the least equal among EU member states (OECD 2013b).
- In 2012, around 22.2% of Spanish people were at risk of poverty. This figure has remained stable since 2011. However it has increased in the last decade. Indeed, the percentage of people at risk of poverty in 2003 was 19.0% (The World Bank 2012).
- The regions on mainland Spain with the largest risk of poverty are Extremadura (34.1%), Castilla-La Mancha (33.1%) and Andalusia (31.0%). Considering the non-peninsular territory of Spain, Melilla, Ceuta and the Canary Islands are at high risk of poverty, 36.6%, 36.2% and 33.2% of the population respectively (INE 2012a).
- Health and education expenditures are average on a global level, but below the EU average.
- Spain ranked 28th out of 163 countries in 2011 for education expenditure (4.5% of GDP in 2011). This figure has increased steadily, rising from 3.7% in 2005 to 4.5% of GDP in 2011. The level of education expenditure is above the global average (3.0%), but below the EU average of 4.9% (The World Bank 2012).

- In 2011, total health expenditure was 9.44% of GDP. This figure is below the EU average of 10.14% of GDP, but above the global average of 6.9% of GDP. Per capita government expenditure on health was US\$3,027 in 2011 (The World Bank 2012).
- In 2011, life expectancy at birth was 82 years, above the European average (79.0) (The World Bank 2012). During the same year, life expectancy was the lowest in Andalusia and Melilla (80.8 and 80.4 years respectively), and the highest in the Community of Madrid (83.7 years) (INE 2013).
- In 2011, the largest share of government expenditure was on social protection (37.4%), health (14.1%) and general public services (12.5%) (Figure 7) (OECD 2013c).

Figure 7. Composition of total public spending, % of total government spending 2011

Source: Transcrime elaboration on OECD (2013c) data



- Spain has a large and increasing migrant population.
- As regards migration stock, Spain ranked 49th out of 213 countries in 2010, when the migrant population was 13.8% (The World Bank 2012). This is a significant increase in comparison with 2005, when the migration stock was 10.6% of the population.

- In 2011, 86.5% of the population was Spanish, 13.5% was born abroad. In particular, foreigners were mainly from Latin America (5.0%), other EU member states (4.6%) and Africa (2.3%) (INE 2013).
- In 2012, the administrative regions or autonomous communities with the **highest share of foreigners** were the Balearic Islands (21.7% of the population), the Valencian Community (17.2%), the Region of Murcia (16.2%), Catalonia (15.7%) and the Community of Madrid (15.6%) (INE 2013).

International organisations and the EU are supporting the Spanish government in recapitalising its financial sector and boosting the economic recovery. Indeed, since the beginning of the global financial crisis, unemployment has been increasing, while GDP per capita and consumption expenditure have decreased. Health and education expenditure are below the EU average and income inequality is among the highest among EU member states.

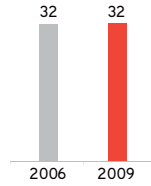


LEGAL MARKET

The Spanish tobacco market is relatively large on a global scale and tobacco imports have always exceeded exports. In the past decade domestic sales of cigarettes have fallen, while HRT has grown significantly. Cigarette prices are high in global terms, but cigarettes are relatively affordable. Smoking prevalence is high and varies among Spanish regions.

Smokers

Current smoking of any tobacco product (age-standardised rate)
Source: WHO-Country reports



32%

24 out of 147 countries

(2009)



Last national available data (2012): **22.8%** (Euromonitor International 2013)

Affordability

% of annual per capita income needed to buy 100 packs of the cheapest cigarettes
Source: Tobacco Atlas

1.5%

135 out of 168 countries

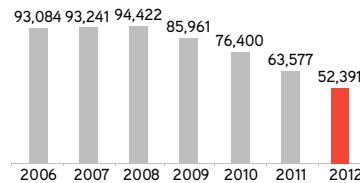
(2010)



Last available data (2012): **1.7%** (Euromonitor International 2012, International Monetary Fund 2012)

Market Size

Cigarette retail volume (mn sticks)
Source: Euromonitor International



52,391

18 out of 209 countries

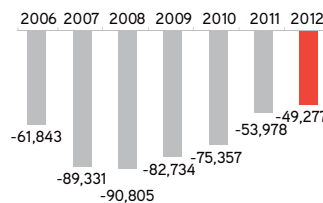
(2012)



24

Balance of Trade

Cigarette exports-imports (mn sticks)
Source: Euromonitor International



-49,277

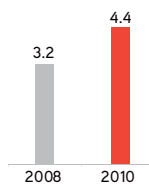
70 out of 72 countries

(2012)



Price

Price of a pack of the most sold brand (Int.\$, PPP)
Source: WHO



Int.\$, PPP 4.4

42 out of 166 countries

(2010)



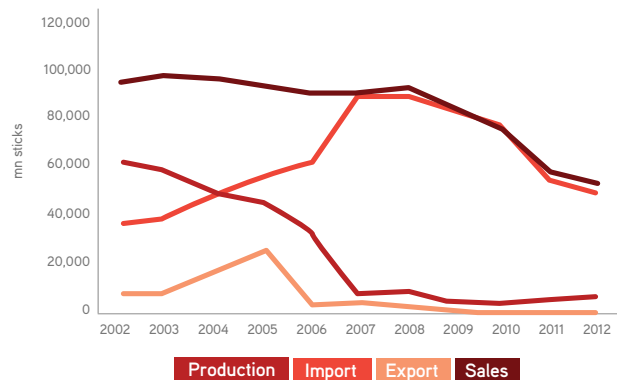
Last available data (2012): **Int.\$ 5.56** (WHO World Tobacco Epidemic 2013)

TOBACCO MARKET

- **The Spanish tobacco market on Spain's mainland, the Balearic Islands, Ceuta and Melilla, has rules and a taxation regime different from the tobacco market in the Canary Islands.**
- According to Law 13/1998, the retail of tobacco products on the Spanish mainland, the Balearic Islands, Ceuta and Melilla is under the Spanish state's monopoly and is subject to an homogenous taxation regime. Instead, the retail of tobacco products in the Canary Islands is not under the Spanish monopoly and has a different taxation regime (CMT 2014a).
- **Spain has been a traditional producer of tobacco products (Figure 8). In 2011, it was the fifth producer of raw tobacco in the European Union (14% of European production) (European Commission 2011a).**
- Since 2007, after the implementation of the reform of the CAP (Common Agricultural Policy) at the European level, tobacco **production in Spain has declined** due to the decrease in financial support for the sector (Euromonitor International 2012).
- Production in Spain fell from 40,171 tonnes of raw tobacco produced (11.6% of European tobacco production) in 2006, to 29,275 tonnes in 2011 (14% of European production). **The number of workers in the tobacco industry in Spain was 5,200 in 2012.** The number increased by 7.8 % in comparison with 2011, when it was 4,825 (Ministerio de Agricultura 2013).
- **The cultivation of tobacco traditionally occurred in the southern regions of Extremadura and Andalusia.** In 2011, 93% of the production of tobacco occurred in Extremadura. The other regions had minor shares (between 0.1% and 5.8%) (Ministerio de Agricultura 2013).

Figure 8. Cigarette production, imports, exports and sales in mn cigarettes, 2002-2012

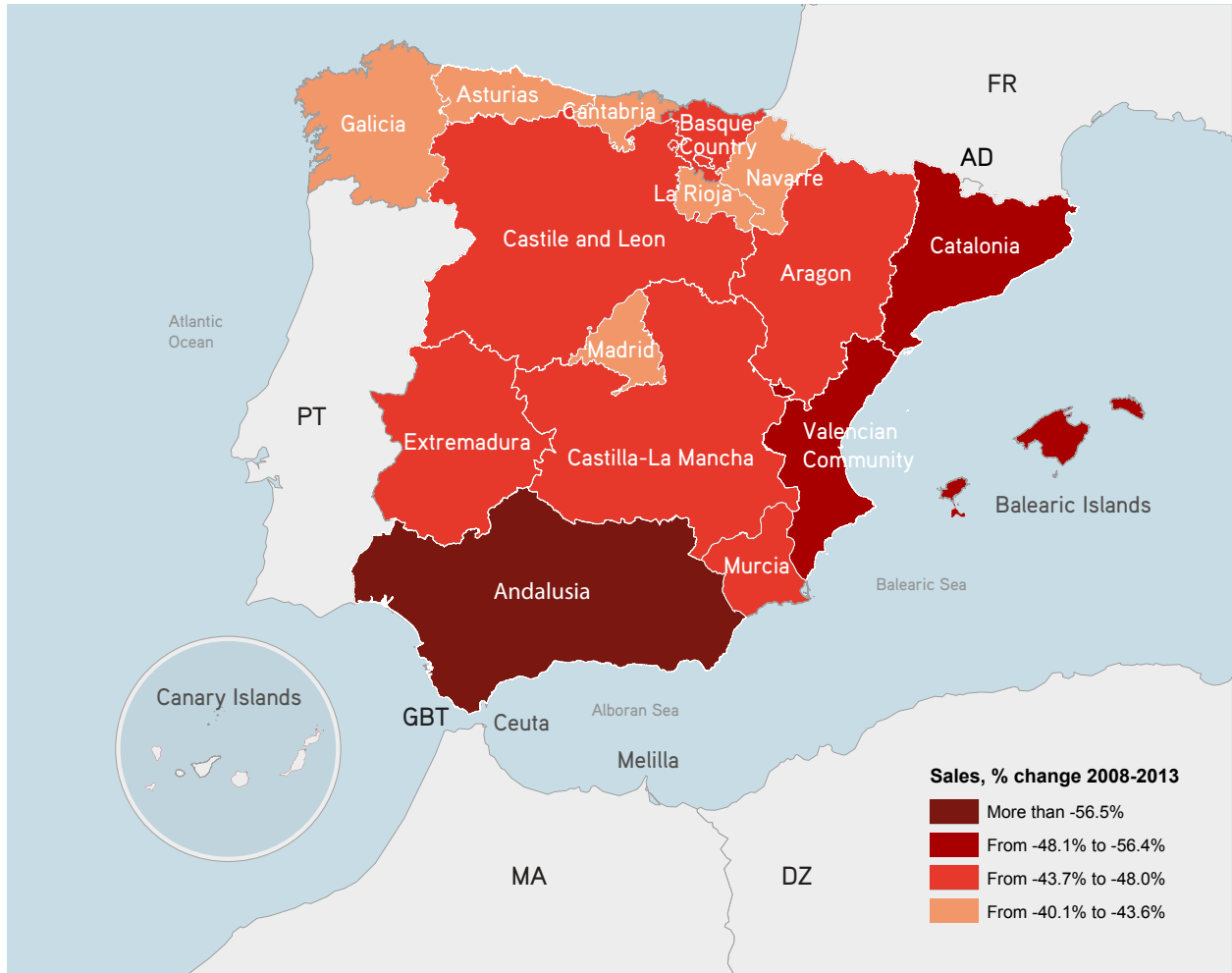
Source: Transcrime elaboration on Euromonitor International (2013a) data



- **In Spain, tobacco imports have always exceeded exports.**
- **Spain is one of the largest importers of tobacco products.** Indeed, it has a negative balance of trade and ranks 70th out of 72 countries. In 2012, the country exported around 973 mn cigarettes while it imported around 50,000 mn cigarettes. Since 2007, cigarette imports volumes have been in line with cigarette sales volumes (Figure 8) (Euromonitor International 2013a).
- **Tobacco sales have strongly decreased since 2008, with differences among regions.**
- **The Spanish tobacco market experienced a strong decrease in sales,** falling from 97.1 bn cigarettes in 2002 to 52.4 bn in 2012 (-46%). This reduction may be related to the economic crisis and to higher unemployment, but also to tobacco control measures such as the introduction of a Minimum Excise Tax on cigarettes and HRT in 2006 and 2009 respectively (see Regulation, p.33) (Euromonitor International 2012; 2013a).
- Cigarettes sales again decreased in 2013, reaching 47.5 bn cigarettes (-11% compared to 2012) (CMT 2014b). Indeed, **91% of tobaccoists confirmed that their sales dropped by an average of 38% between 2012 and 2013** and they expected that sales would continue to fall in 2014 (Millward Brown 2013).
- **The decrease in cigarettes sales differs across Spanish regions** (Figure 9, p.26). Indeed, the highest decrease between 2008 and 2013 was recorded in **Andalusia** (-56.5%), **Valencian Community** (-49.9%), the Balearic Islands (-49.6%) and Catalonia (-48.1%) (CMT 2014b).

Figure 9. Cigarette sales per region, % change 2008-2013

Source: Transcrime elaboration on CMT (2014b) data



26

- **The Spanish tobacco market is large in terms of retail volume on a global scale. Cigarettes have the largest share of the market (Euromonitor International 2013a).**
- In 2012, the sales of tobacco products reached a value of €11.9 bn. The volume of the Spanish market was 52.4 bn sticks in the same year. **The Spanish market is large in terms of volume of sales on a global scale (18th out of 209 countries) (Euromonitor International 2013a).**
- **Cigarettes are the most popular tobacco product, although the HRT share is increasing (Figure 10 and Figure 11, p.27).**
- **Cigarettes** constituted almost **85% of the Spanish tobacco market** in 2012. HRT is the second most popular product, with a share of 10.2%; cigars have a 3.4% share. Moreover, pipe tobacco has a 1.4% share of the market (Euromonitor International 2013a).
- **The share of HRT has increased in the past ten years, from 1.2%, to 10.2% in 2012. Conversely, the share of cigarettes has decreased from 97.5% to 85% in the same period.** Cigars sales have also increased in the past decade, mainly due to the growth of cigarillos consumption (favoured by a lower taxation) which has compensated for the decrease in cigars (from 1% to 3.4%) (Euromonitor International 2013a).

Figure 10. Cigarettes, HRT, cigars and pipe tobacco volume shares, 2012

Source: Transcrime elaboration on Euromonitor International (2013) data

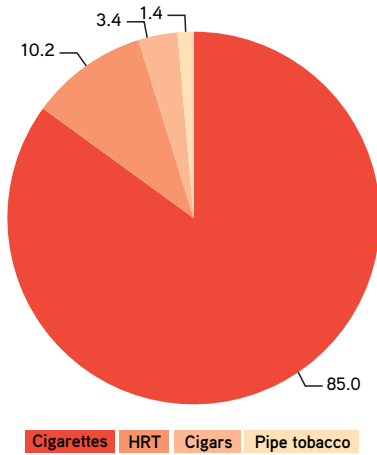
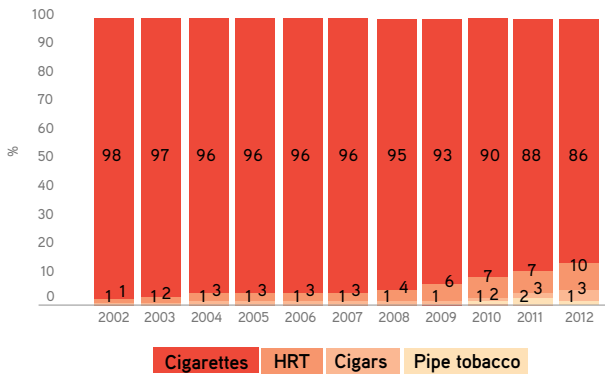


Figure 11. Cigarettes, HRT, cigars and pipe tobacco volume shares, 2002-2012

Source: Transcrime elaboration on Euromonitor International (2013) data



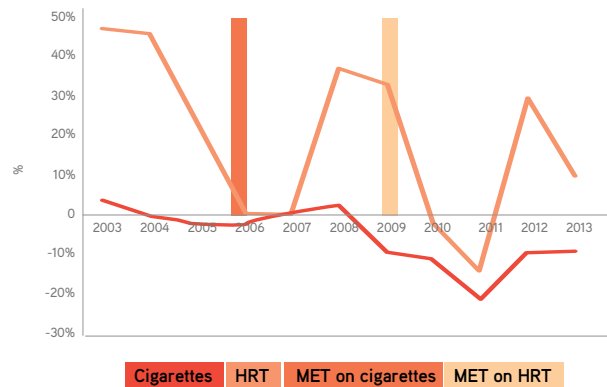
- Cigarette sales have decreased by 46% in the past ten years (2002-2012) in Spain; conversely HRT sales have registered a 410% growth (Euromonitor International 2013a).
- The volume of cigarettes sales has decreased in the past decade (-46% between 2002 and 2012), from 97.1 bn sticks in 2002 to 52.4 bn sticks in 2012 (Figure 12). The sharpest decrease was recorded between 2009 and 2010 (-11%) (Euromonitor International 2013a).
- The volume of HRT sales has increased (+410% between 2002 and 2012), from 1,236 tonnes in 2002, to 6,307 in 2012. The sharpest increase, +45.8%, occurred between 2002 and 2003 (Figure 12) (Euromonitor International 2013a).

- The introduction of a Minimum Excise Tax (MET) on cigarettes in 2006, and its subsequent hikes, lifted the cigarettes price-bottom and compressed the prices distribution. It reduced possibilities for downtrading to cheaper cigarette brands, and instead stimulated the switch to HRT (see Regulation, p.33) (López-Nicolás, Cobacho, and Fernández 2013).

- HRT bore no minimum tax on quantity until 2009, and the level of this new tax has not closed the price gap between manufactured and hand-rolled cigarettes. The availability of a cheaper alternative (HRT) in a period when cigarettes were becoming more expensive may have deterred price-sensitive smokers from quitting and persuaded them to switch to HRT (Figure 12) (López-Nicolás, Cobacho, and Fernández 2013).

Figure 12. Cigarettes and HRT annual growth (%), 2003-2013

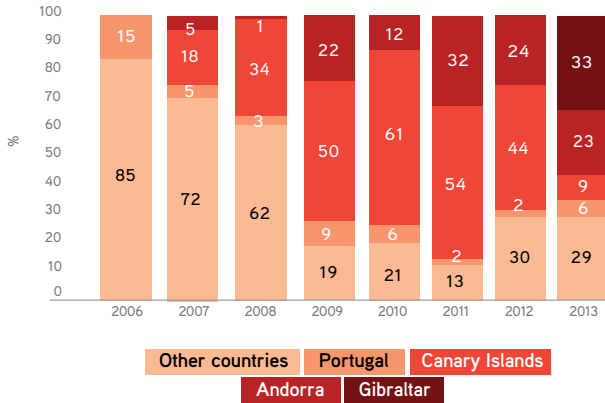
Source: Transcrime elaboration on Euromonitor International (2003-2012) and CMT data (2013)



- In 2013, the main source countries for legal non-domestic cigarettes were Gibraltar (33% of the legal non-domestic packs) and Andorra (23%) in 2012 (Figure 13, p.28, KPMG 2014).
- Andorra and the Canary Islands were major source countries of legal cigarettes between 2007 and 2012. In 2013, the share of the Canary Islands among legal non-domestic cigarettes declined, falling from 44% in 2012, to 9% in 2013. This decrease may be explained by the reduction in the number of packs that can be legally exported from the Canary Islands (2 cartons). Conversely, inflows from Gibraltar have increased. In 2013, Gibraltar accounted for a 33% share of legal non-domestic cigarettes in Spain (KPMG 2014).

Figure 13. Legal non-domestic packs by market of origin. Percentages of total non-domestic legal packs, 2006-2013

Source: Transcrime elaboration on KPMG 2014 data



•• **Multinational companies lead the Spanish tobacco market (Euromonitor International 2012).**

The four major tobacco manufacturers accounted for 95.47% of cigarettes sales in 2013 (95.72% in 2012). (CMT 2014c). Other minor players were Grand River Enterprises (1.13% market share), HVL (1.12%), Von Eicken (1.01%), Karelia Tobacco Company (0.44%), Dos Santos (0.24%) and other companies (0.59%) (CMT 2014c).

The Spanish subsidiary of **Imperial Tobacco Group Plc, Altadis-Imperial, is the leading player in the Spanish tobacco market.** Indeed, it has the largest volume share in the cigarettes market (32% in 2013). The company also ranks first for the HRT segment, with a 27.76% volume share in December 2013 (CMT 2014c).

In 2013, **Philip Morris Spain SA** ranked second in cigarettes sales with **31.1% volume share.**, PMI's share in the HRT market, in December 2013, was 12.62% (CMT 2014c). The company was established in 1971 and, in 2007, it signed agreements with the Ministry of Agriculture and has increased its purchases of Spanish tobacco leaves (Euromonitor International 2013a; Philip Morris Spain 2014).

JT International Iberia SL ranks third in cigarettes with a **21.6% volume share** in 2013. As for HRT, it ranks second, with a 12.84% share in December 2013 (Euromonitor International 2013a).

British American Tobacco España SA, founded in 1990, ranks fourth in cigarettes with a **10.75% volume share** (yearly share for 2013) and fourth in HRT with a 7.44% share in December 2013 (Euromonitor International 2013a).

•• **Tobacconists and vending machines are the only legal distribution channels of tobacco products (Euromonitor International 2012).**

In Spain, there were **16,049 tobacconists in 2013.** They are distributed across the country according to the number of inhabitants per region. Indeed, five regions (Andalusia, Catalonia, Castile and León, Galicia and Valencian Community) comprise almost 60% of the Spanish retailers. In Andalusia there are 2,630 tobacconists (16.3% of the total), in Catalonia 1,953 (12.2%), in Castile and León 1,687 (10.5%), in Galicia 1,675 (10.4%) and in Valencian Community 1,491 (9.3%) (CMT 2013).

According to a survey carried out in 2013, because of the strong reduction in cigarettes sales, 9.8% of tobacconists felt that their business was 'hanging by a thread' and 8.6% had 'seriously considered closing their business' (Millward Brown 2013). **Tobacconists mainly attributed this decline to the illicit tobacco trade (86%),** followed by the economic crisis (38%) and the increase in tobacco prices (30%) (Figure 14). Only 3% of the tobacconists interviewed thought that tax increases negatively influenced cigarettes sales (Millward Brown 2013).

Figure 14. Tobacconists' opinions on the decrease in cigarette sales, 2013

Source: Transcrime elaboration on Millward Brown (2013) data

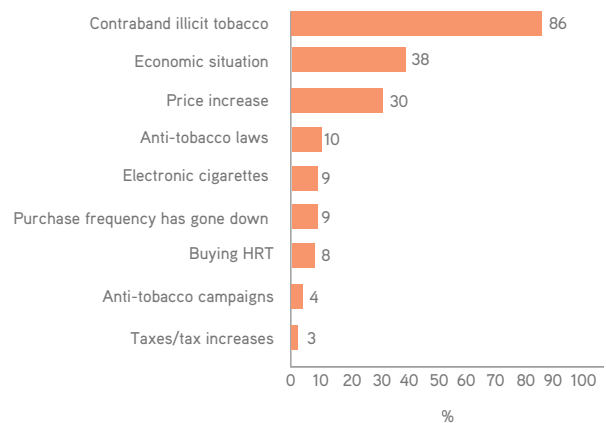
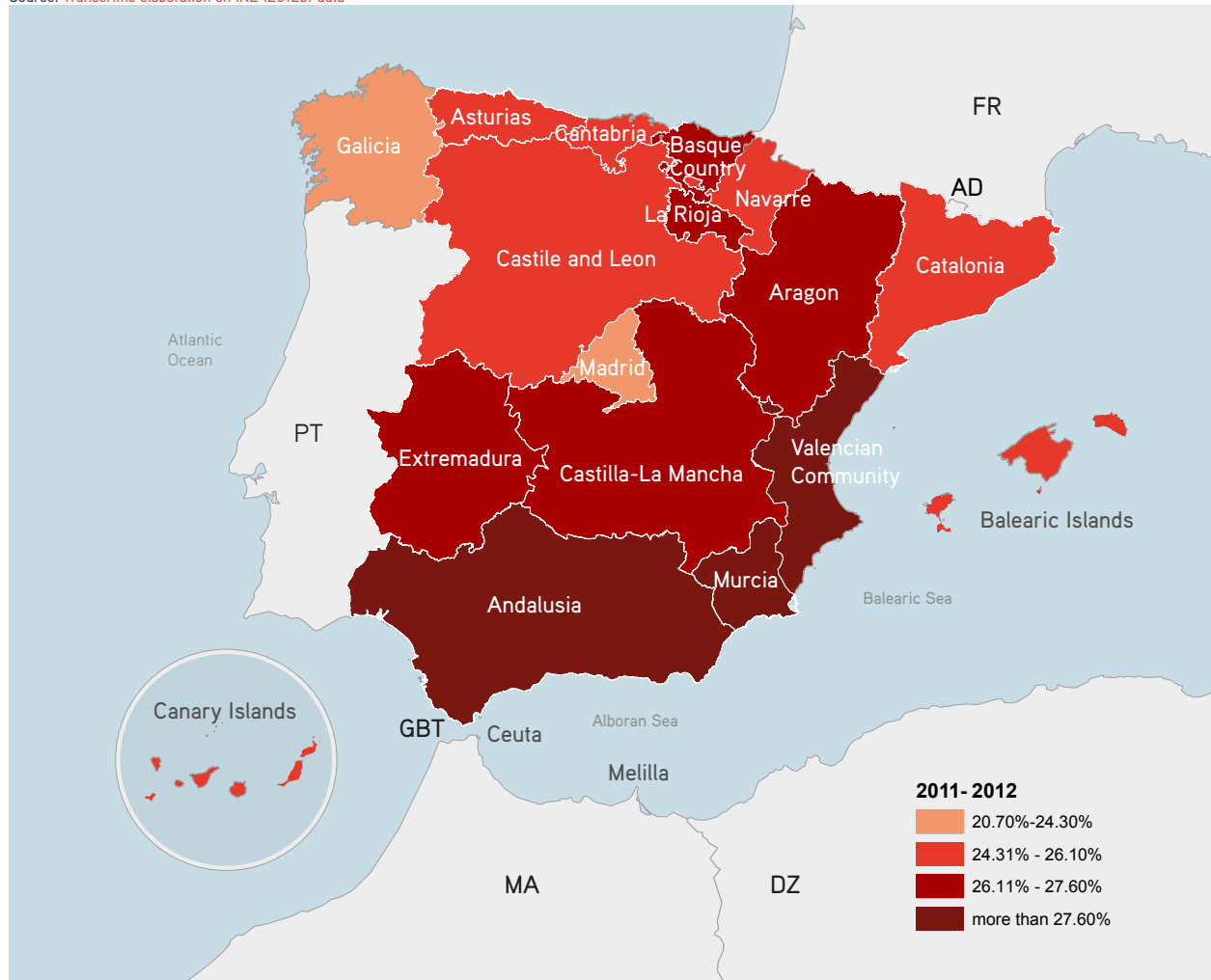


Figure 15. Smoking prevalence in 2011-2012 per region

Source: Transcrime elaboration on INE (2012b) data



TOBACCO CONSUMPTION

- Smoking prevalence is high in Spain (Euromonitor International 2012).**
 - According to the WHO, in 2009 Spain had a **smoking prevalence of 32%**, the 24th highest among the 147 countries surveyed (WHO 2012). According to the Spanish nationwide health survey, the smoking prevalence in 2011-2012 was 26.9%. It had decreased by approximately 5 p.p. since 2003, when it was 31% (INE 2012b).
 - According to other sources, smoking prevalence was 22.8% in 2012 (Daily smokers, +18) (Euromonitor International 2013a). **During the last decade, the strongest reduction in cigarettes consumption was registered between 2002 and 2003**, decreasing from 31.7% of the adult population to 28.1% (Euromonitor International 2013a).
- The reduction in prevalence may be attributable to **smoking bans, price increases and the reduced purchasing power of the Spanish population** connected with the growing financial crisis in Spain (Euromonitor International 2012).
- Smoking prevalence differs among Spanish regions (Figure 15).**
 - In 2011-2012, **Andalusia was the region with the highest smoking prevalence (30.2%)**, followed by the Valencian Community (30.1%) and Extremadura (27.6%). In the same years, the region with the lowest smoking prevalence was the Community of Madrid (24.1%) (INE 2012b).

- **Men smoke more than women and exhibit different patterns of consumption, also according to age group (Figure 16 and Figure 17).**
- **The prevalence of smoking is 27.1% among men and 18.7% among women (Figure 16) (Euromonitor International 2012).** Moreover, men smoke more cigarettes than women. Indeed, in 2012, the majority of men declared that they smoked more than 20 cigarettes per day (41.5%), women between 10 and 19 cigarettes per day (36.8%) (INE 2012b). In 2013, the WHO Global Tobacco Epidemic reported that males smoked 31.2 cigarettes daily, females 21.3 (WHO 2013a).
- **The age group with the highest smoking prevalence is the 25-65 group, with a 32.8% prevalence in 2011-2012, followed by the 15-24 age group (26.3% in 2011-2012) (Figure 17) (INE 2012b).**

- **Educational levels have an effect on the likelihood of being a smoker.**
- **People with secondary school education or a higher diploma (e.g. from a vocational school) are more likely to smoke (31.8% and 28.1% respectively).** Moreover, only 22.3% of persons with an elementary school education, and 22.5% of those with a university degree smoke (INE 2012b).
- **People with different occupational statuses have different smoking prevalences.**
- According to the National Health Survey, **cigarette smoking prevalence is the highest among skilled and semi-skilled manual workers (29.0% and 29.1% respectively) and the lowest among executives and managers with university degrees (21.9%) (INE 2012b).**

Figure 16. Smoking prevalence, by sex, 2002-2012

Source: Transcrime elaboration on Euromonitor (2013a) data

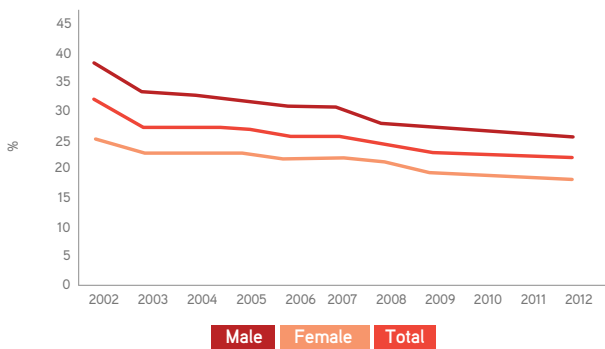
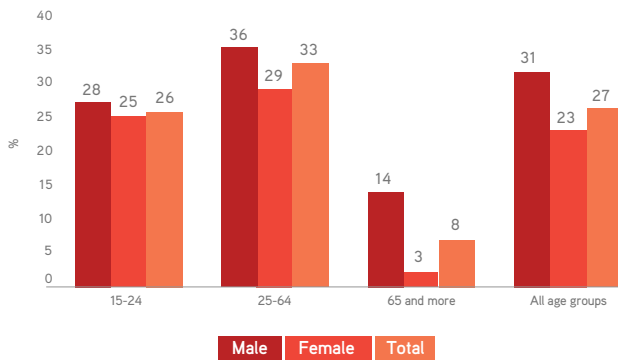


Figure 17. Smoking prevalence, by sex and age, 2011-2012

Source: Transcrime elaboration on INE (2012b) data (Encuesta Nacional de Salud 2011-2012)



- **The relative affordability of cigarettes is high.**

- Cigarettes are relatively affordable in Spain. In 2012, **1.7% of per capita GDP** was needed to purchase **100 20-cigarette packs of the cheapest brand** (1.5% in 2010). The country ranks 135th out of 162 countries for cigarettes affordability (Eriksen, Mackay, and Ross 2012).
- The most sold brand in 2013 was Marlboro, with a 13.37% share, followed by Chesterfield (9.31%) and Fortuna (7.78%) (CMT 2014c). In 2010, the price of Marlboro expressed in International\$ was 4.41.¹ This was the 42nd highest price among the 166 surveyed by the WHO (WHO 2011a). **In 2013, this price increased by 26% and reached 5.56 International\$ (WHO 2013b).**

1. An 'international dollar' would buy in the country cited a comparable amount of goods and services that a U.S. dollar would buy in the United States. This term is often used in conjunction with Purchasing Power Parity (PPP) data. 'Constant' series show the data for each year in the value of a particular base year. Constant series are used to measure the true growth of a series, i.e. adjusting for the effects of price inflation.

Table 1. Volume sales of tobacco by category, 2002-2013

Source: Transcrime elaboration on Euromonitor International (2002-2012) and CMT (2013) data

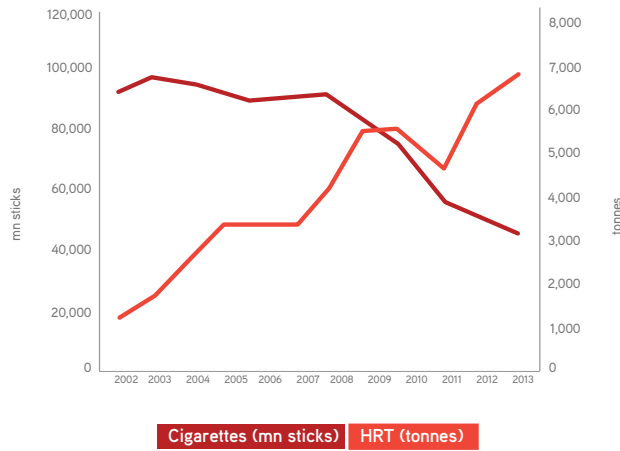
Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Cigarettes (mn sticks)	97,101.8	99,790.8	98,869.3	95,776.6	93,084.5	93,244.6	94,424.5	85,959.7	76,399.6	58,287.9	52,390.8	47,508.3
Cigars (mn units)	1,006.4	1,056.9	1,139.6	1,127.1	1,040.5	1,157.6	1,185.2	1,236.6	1,612.4	1,797.8	2,089.0	2,329.6
HRT (tonnes)	1,235.7	1,801.6	2,601.6	3,179.2	3,197.2	3,196.4	4,338.3	5,750.4	5,669.9	4,893.1	6,307.2	6,929.8

- In 2013, the average price of a pack of cigarettes in Spain was **€4.30 (€4.04 in 2012)** (CMT 2014c). The price differential between the most expensive and the cheapest brand was €2.80. In 2013, Davidoff (Altadis-Imperial) was the most expensive brand and cost €4.9 per pack, while Business Club was the cheapest and cost €3.1 per pack (Euromonitor International 2013a; CMT 2014d).
- **Some smokers have traded down to legal cheaper tobacco products during the economic recession.**

- **Tobacco companies have responded to decreasing sales and consumers' downtrading by reducing cigarette prices and introducing soft packs.**
- Tobacco companies have reduced the prices of premium brands in order to reduce the gap between the different price bands and inhibit consumers from trading down to cheaper products (Euromonitor International 2012).
- **The most sold cigarettes are mid-priced ones.** However, their share is contracting. It was equal to 71% in 2002, 64.9% in 2012. The share of premium brands increased from 22.0% in 2002 to 26.5% in 2012, while that of economy brands slightly increased (from 7.2% to 8.6%) (Figure 19) (Euromonitor International 2013a).

Figure 18. Cigarettes and HRT sales (volume), 2002-2013

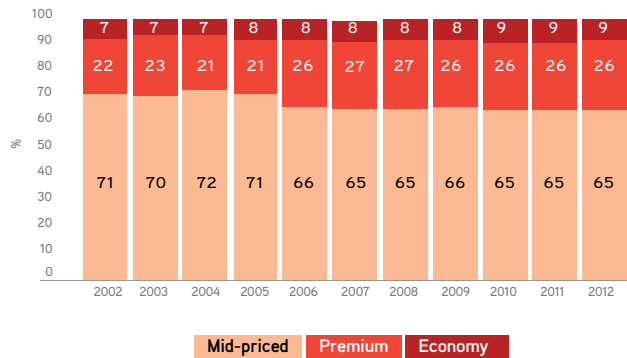
Source: Transcrime elaboration on Euromonitor International (2002-2012) and CMT (2013) data



- Spanish smokers switched to less expensive tobacco products to compensate for increasing cigarettes prices and maintain their smoking behaviours (Figure 18 and Table 1) (Euromonitor International 2012; 2013a).
- Cigarette price increases, due to higher taxation, caused a **mass migration to HRT**. Indeed, **HRT has been the best performer in the Spanish tobacco market** since the beginning of the economic-financial crisis (Table 1) (Euromonitor International 2012; 2013a).

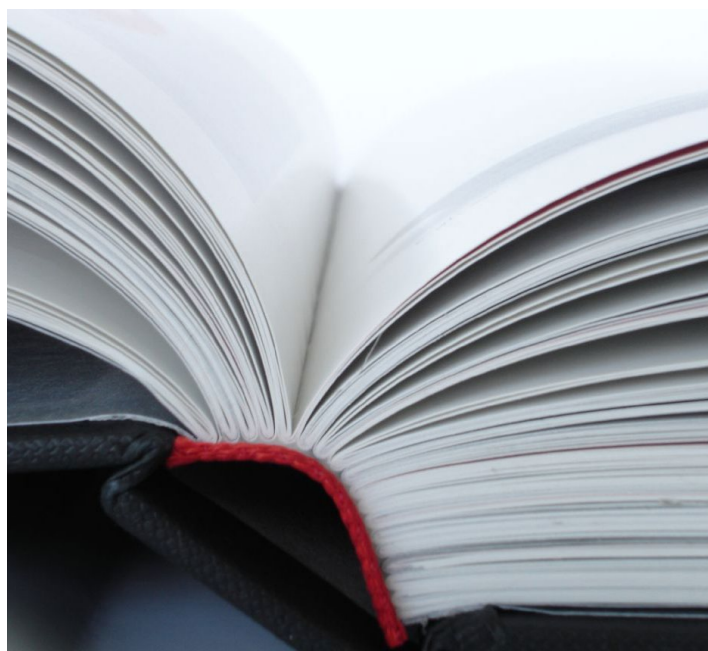
Figure 19. Cigarette retail volumes according to price bands, 2002-2012

Source: Transcrime elaboration on Euromonitor International (2013a) data



- According to the Tobacconists Association, the size of the **market of low-priced** cigarettes (cigarettes below the minimum tax price of €4.10) doubled in the last two years, from a 4.8% share in 2012 to 9.4% at the end of 2013. This occurred despite the introduction of the double minimum excise duty which imposes higher taxation on cigarettes below the price-threshold of €4.10 (see Regulation, p.33). The brands whose shares grew significantly within the super-low price segment were Brooklyn (from 3.5% in 2012 to 16.9% in 2013), Mark 1 (from 3.7% to 8.6%) and Golden American (from 3.7% to 5.3%) (Unión de Estanqueros 2014).

The Spanish tobacco market is relatively large on a global scale, and smoking prevalence is high. Cigarette sales have strongly decreased in recent years, while HRT sales have grown significantly. Tobacco manufacturers have responded to decreasing sales by lowering the prices of premium cigarettes. Cigarette prices are high on a global scale, but cigarettes are relatively affordable.



REGULATION

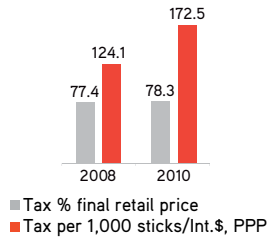
In Spain, taxation on tobacco products has increased since 2005, and it is among the highest worldwide, both as tax incidence on the retail price and as monetary value per 1,000 sticks. The Canary Islands have a different taxation regime, which allows them to apply a lower level of taxation on tobacco. Controls on the tobacco supply chain are medium-low. Finally, the regulation of tobacco consumption and sales, and of tobacco marketing and promotion, is medium-high.

Taxation

Tax as % of the final retail price

Tax per 1,000 sticks in Int.\$, PPP

Source: WHO



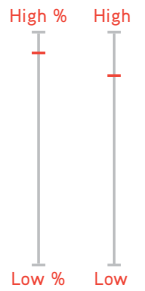
78.3%

16 out of 181 countries

Int.\$, PPP 172.5

31 out of 164 countries

(2010)



Last available data (2012): 79.2% (WHO Global Tobacco Epidemic 2013)

Last available data (2013): International \$, PPP 250.2 (European Commission 2013)

Government Action

Government expenditure on tobacco control not including the control on the ITTP per 1,000 inhabitants (US\$)

Source: WHO–Global Tobacco Epidemic

Missing data for Spain

Tobacco Supply Control*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



2/5 points

(2014)

34

Tobacco Consumption and Sale Control*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



4/5 points

(2014)

Tobacco Marketing and Promotion*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



4/5 points

(2014)

* The indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

- **In the past decade, Spain has improved its regulations of tobacco control.**
- **In 2010, Spain ranked 13th among 31 European countries (together with Denmark and the Netherlands) on the Tobacco Control Scale (TCS).²** Between 2005 and 2010, Spain gained several positions on the TCS. Indeed, by improving its regulations on tobacco control, it rose from the 26th to the 13th position in this ranking (Joossens and Raw 2011, 8).
- **Spanish regulations must comply with European standards and international treaty obligations.³**
- Since 26 December 2005 and with **Art.9 of Law 28/2005**, Spain has complied with the **European Directive 2003/33/EC** on the **advertising and sponsorship of tobacco products** by forbidding their free distribution, promotion, sponsorship, or advertising.⁴
- **European Commission Directive n°37 of 2001** recommends the adoption of laws, regulations and administrative provisions in the EU Member States concerning the **maximum tar, nicotine and carbon monoxide yields of cigarettes**, and the **appearance of warnings regarding health information on unit packs of tobacco products** (Official Journal of the European Communities 2001). Spain adopted this directive in 2002, with the **Royal Decree 1079 (modified by the Royal Decree 639/2010)**.⁵
- Since 11 January 2005, Spain has been a **Party to the WHO Framework Convention on Tobacco Control (FCTC)**. In May 2014, the Government agreed to access the Protocol on Illicit Trade in Tobacco products (Europa Press 2014).⁶ In June 2014, the Spanish Congress approved the Protocol and submitted it to the Spanish Senate (Congreso de los Diputados 2014; Senado 2014).
- **Taxation on tobacco products in Spain is high both as tax incidence on the final retail price and as total tax per 1,000 sticks.**

2. In 2005 and 2007 the survey was repeated in 30 European countries (27 EU countries plus Switzerland, Iceland and Norway), in 2011 with 31 European countries (the 2007 sample plus Turkey).

3. The EU Commission Communication entitled “Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products-A comprehensive EU Strategy” – of 6 June 2013 and directed to the Council and European Parliament – outlines the nature and scale of the EU problem of illicit tobacco trade, focusing on the causes and proposing a EU strategy to fight it.

4. Par.1 of Art.9 of Law 28/2005 states that ‘sponsoring tobacco products is prohibited, as well as all the advertising, and promotion of these products in all media and formats, including vending machines’. Par.2 of the same article provides that ‘the free distribution of products, goods or services with the direct or indirect aim of promoting tobacco products outside the legal network of tobacconists, is prohibited’. It is outside the network prohibits retail establishments snuff and timbre of the State, free distribution or promotional products, goods or services or any other action, the aim or direct or indirect, primary or secondary, is the promotion of a product. Par.3 of Art.9 prohibits in all media the sponsorship of tobacco products broadcasting of programs or images, in which presenters, collaborators or guests appear smoking or mention/display, directly or indirectly, trademarks, trade names, logos or other issues associated with tobacco products’ (Official Journal of the European Communities 2003).

5. Art.4 of the Royal Decree 1079 (as modified in 2010) states that the Ministry of Health shall verify, through laboratories, the level of tar, nicotine and carbon monoxide yields of cigarettes. Art.5 Par.2A provides that all packaging of tobacco products must carry a text health warning, which must occupy at least 30% of the packaging.

- In 2010, taxes represented 78.3% of the most sold brand retail price. Globally, this level is high. Indeed, Spain ranked 16th out of 181 countries (WHO 2011b). **In January 2014, taxes represented 79.2%** of the weighted average price (WAP) of a pack of cigarettes (European Commission 2013a).
- **Cigarette tax incidence** increased between 2005 and 2006, rising from 72.5% of the TIRSP (Tax Included Retail Selling Price), to 78.1%, between 2010 and 2011 (from 78.3% to 79.9% of the TIRSP) and between 2011 and 2012 (**from 79.9% of TIRSP to 80.3% of the WAP**) (Figure 20, p.36) (European Commission 2013a).⁷

6. Up to January 2014, only half of the European countries had signed the Protocol (Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Lithuania, the Netherlands, Portugal, Slovenia, Sweden and the United Kingdom).

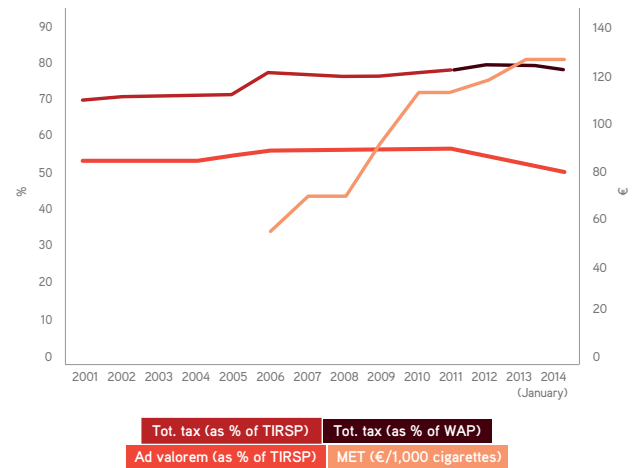
7. In 2011, only eleven countries (Argentina, Spain, Hungary, Israel, Italy, Latvia, Lithuania, Madagascar, Romania, Slovenia, Turkey) and one territory worldwide (West Bank and Gaza Strip) had increased tobacco taxes above 75% of the final retail price (WHO 2011b).

- **Specific excise per 1,000 cigarettes** has also increased in the past 10 years, from €4.0 in 2004 to €24.1 in January 2014. The highest increases were registered between 2005 and 2006 (+55%) and between 2011 and 2012 (+50%) (European Commission 2014a).
- In 2010, the tax per 1,000 sticks amounted to International \$172.5, and Spain ranked 31st out of 164 countries (WHO 2012). In 2013, the total **taxes per 1,000 sticks** amounted to **International \$250.2**.⁸
- **Ad valorem excise remained stable between 54% and 57% of TIRSP until 2011. In 2012, it was lowered to 55%, in 2013 to 53%, and lowered to 51% in 2014** (European Commission 2014a).
- **In 2006, the Spanish Government introduced a Minimum Excise Tax (MET) on manufactured cigarettes. In 2009, the MET was extended to HRT. Finally, in 2013, the MET was imposed also on cigars and cigarillos** (European Commission 2013b; López-Nicolás, Cobacho, and Fernández 2013).
- In 2006, the MET was €55 per 1,000 **manufactured cigarettes**. This minimum tax was subsequently increased to €70 in November 2006, €91.3 in June 2009, €116.9 in December 2010, €119.1 in 2012, and finally €128.7 in July 2013 (Figure 20) (European Commission 2013b).
- Additionally, in July 2013, a **double Minimum Excise Duty** was introduced on cigarettes. By complying with this provision, the total amount of taxes varies according to cigarette prices. Indeed, total taxes per pack of cigarettes below the price of €4.10, are €2.76 per pack (€138 per 1,000 cigarettes). Total taxes for packs of cigarettes equal to or above the price of €4.10, are €2.57 per pack (€128.65 per 1,000 cigarettes) (BOE 2013).⁹

- In 2009, the MET was imposed also on **hand rolling tobacco**. The minimum tax was initially €50/kg, it was raised to €75/kg in 2010, €80 in January 2013, and finally to €96.5 in July 2013 (European Commission 2013b).
- In January 2013, **cigars and cigarillos** were subjected to a minimum excise tax of €32.00/kg. This tax was raised to €41.50/kg in July 2013 (European Commission 2013b).

Figure 20. Cigarette Total Tax incidence as % of the Weighted Average Price and Tax Inclusive Retail Sale Price, 2001-2014

Source: Transcrime elaboration on the European Commission - Directorate General Taxation and Customs Union Tax policy (2001-2014) data



- **Although the Canary Islands are part of Spain, they have a different taxation regime on tobacco. Taxes on tobacco products in the Canary Islands are nearly half the taxes on the Spanish mainland.**
- In Spain, all tobacco products must carry a duty-paid stamp. Indeed, complying with Law 13/1998, the retail of tobacco products in Spain's mainland, the Balearic Islands, Ceuta and Melilla, is subject to state monopoly. However, this does not apply in the **Canary Islands**, where tobacco products have a different tax regime and a different fiscal stamp (Departamento de Economía, Servicio de Estudios 2012).

8. Transcrime calculations on the Excise Duty Tables-2013 of the European Commission. Tax incidence as % of the final retail price and taxation per 1,000 sticks (tax level expressed in monetary terms) were calculated according to the most sold brand in 2013. Euro prices were converted into International \$ through the International Monetary Fund conversion factor in 2011.

9. In order to compute the minimum €4.10 price, Transcrime made the following calculations. The total amount of taxes per 1,000 sticks may not be lower than €128.65 per 1,000 sticks (€2.57 per pack). The specific excise is €24 per 1,000 sticks (€0.48 per pack). By subtracting the specific excise from total taxes (€2.57-€0.48), the remaining quantity is 51% of the final retail price. The final retail price is €4.10.

- In the Canary Islands VAT is not imposed on cigarettes; rather, there is a **local consumer tax** known as the IGIC (*Impuesto General Indirecto de Canarias*, Canary Islands General Indirect Tax). Moreover, the Tax on Retail Sales of Certain Hydrocarbons and some Special Taxes (specifically, the Special Tax on Hydrocarbons and the Special Tax on Tobacco Products) are not applied (European Commission 2014b; Ministry of the Finance and Public Administrations 2014)
- In 2011, in the Canary Islands, the specific excise per 1,000 sticks was €6, while in Spain it was €12.7. Moreover, *ad valorem* excise and VAT/IGIC were around 36% in the Canary Islands and around 73% in Spain. In 2011, overall taxation on the final retail price was around 43% in the Canary Islands and 80% in Spain (Campo Hernando 2011; European Commission 2011b).
- **Despite recent improvements in tobacco control, Spain has long been considered as scarcely active in tobacco control activities.**
- In 2006, the **MAToC study** (Measuring Activities in Tobacco Control) ranked **Spain as one of the least active among the EU countries** in terms of tobacco control. This study was developed on a questionnaire based on eleven topics such as: taxation, smuggling, product control, smoking cessation, media, protection from second hand smoke, health care, research, politics, population, and prevention. Various experts in the field of tobacco control filled in the questionnaires across the EU countries. **Spain was the third least active country in tobacco control, after Greece and Germany** (Thyrian and John 2006).
- **The Spanish Government has adopted several anti-tobacco measures since 2003.**
- In **2003**, the Ministry of Health launched a **National Programme for Tobacco Control** (*Programa Nacional de Control del Tabaco*). The aim of the four-year plan was to reduce youth smoking prevalence by 6%, and increase the number of ex-smokers by 6%. No data concerning its actual impact are currently available (Saiz Martínez-Acitores et al. 2003)
- Since **2005**, several **anti-smoking campaigns** have been implemented in Spain at national level. Moreover, some anti-smoking campaigns, mounted by various anti-tobacco organisations, have targeted specific Spanish autonomous communities (Ministerio de la Sanidad 2014).
- In **2008**, Spain created an **Observatory for Tobacco Prevention** (*Observatorio para la Prevención del Tabaquismo*). It is under the Ministry of Health and has become a reference body at the national level in the fight against tobacco addiction. The Observatory monitors the degree of compliance with smoking prevention measures and tries to improve knowledge and actions on smoking prevention. Moreover, it promotes cooperation with the authorities of other countries, and with international organisations, for the implementation and development of tobacco control programmes (Ministry of Health, Social Services and Equality 2006; Ministry of Health and Consumption 2006).
- Spain joined the ‘*Help-For a life without tobacco*’, an **EU anti-tobacco awareness campaign**. It was launched by the European Union in 2005 with the aim of achieving prevention and smoking cessation, as well as a reduction in passive smoking (European Commission 2010c). Moreover, Spain joined the ‘*Ex-smokers are Unstoppable*’ campaign, the three-year EU-wide campaign launched on 16 June 2011. It used a coordinated mix of advertising, social media, and events to reach smokers and help them to quit.
- The **National Committee for Smoking Prevention** (CNPT, *Comité Nacional para la Prevención del Tabaquismo*) gathers smoking prevention organisations in Spain. It is also part of the European Network for Smoking Prevention, which groups similar coalitions of various EU countries (CNPT 2006).
- There is no single hotline for smoking, but rather **different hotlines**: one in Andalusia, one in Barcelona and one in Madrid. Their aim is to inform citizens on how to quit smoking (AECC 2013).

Table 2. Spain's regulations on supply chain control

Source: [Transcrime elaboration](#)

Supply chain control indicator	Value
1) The retail of tobacco products is subject to licensing	1 point
2) The manufacture of tobacco products is subject to licensing	0 points
3) There is a mandatory system of customer identification and verification applied to the supply chain of tobacco products	0.5 points
4) There is a tracking and tracing system for tobacco products	0.5 points
5) Absence of free-trade zones for tobacco products	0 point

Note: the indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

38

- **Spain has a medium-low level of supply chain control (2 points out of 5, Table 2).**
- **The retail of tobacco in tobacconists is subject to 'licensing'. The retail of tobacco through vending machines requires an 'authorisation' from the CMT (Point 1 in Table 2).**
- **Art.4 of Law 13/1998** (as amended by Law 14/2013) mandates that the retail of tobacco in tobacconists is subject to licensing granted by an **auction procedure**. The auction is convened by the Ministry of Finance and Public Administration and the CMT. There is a limited number of licenses and they have a duration of 25 years.
- On the other hand, it is not necessary to possess a licence in order to sell tobacco through vending machines. Rather, an authorisation from the CMT is sufficient. Interested parties submit a request to the CMT, which can reject the authorisation if the person making the request has personal or employment relationships with the tobacco market. The authorisation issued has a duration of three years. The law does not specify whether there is a limited number of authorisations issued (Art.4 of Law 28/2005) (CMT 2014e).
- Despite these licensing and authorisation provisions, in 2013, the CMT discovered 1,786 cases of tobacco retailing without a licence and 1,102 cases of vending machines not equipped with opening keys for CMT inspections (Alonso Miranda 2014).¹⁰
- **The manufacture of tobacco products is not subject to licensing in Spain (Point 2 in Table 2).**
- Art.2 of Law 13/1998 (as amended by Law 25/2009) liberalised the tobacco market, removing the licence obligation for tobacco manufacturers, wholesalers and importers. In particular, the establishment of new manufacturers occurs prior to the submission by interested parties of a sworn statement and formal documents¹¹ to the CMT. After 15 days from the notification, the person concerned is entitled to act in the tobacco market if the CMT does not intervene.
- **Art. 8 of the Royal Decree 1199/1999 (as amended in 2013) provides for a system of customer identification and verification (Point 3 in Table 2).**
- Tobacco manufacturers, importers and distributors are obliged to provide the CMT, upon request, with any documents, books and records with detailed information about the origin and destination of the tobacco products and the underlying transactions. However, this obligation occurs only upon request. Moreover, a mandatory system of customer identification and verification is provided by the EC agreements with the four major tobacco manufacturers. However, it does not bind all manufacturers; which may create loopholes in overall customer identification and verification.

¹⁰. According to Art.25 Par.2 of the Royal Decree 1199/1999 (as amended by Royal Decree 1676/2011), the owners of vending machines must provide the means to open the vending machines in the case of inspection by the officials of the CMT.

¹¹. For manufacturers, these formal documents comprise detailed plans of the stores and a specification of the future work, including forecasts of fabrication volume. For importers, they comprise detailed plans of the stores and a document indicating the future supplier of tobacco products (the manufacturer or wholesaler). For wholesalers, they comprise detailed plans of the available facilities (with the property or rent contract) (CMT 2014f).

Table 3. Regulation of tobacco consumption and sales in Spain

Source: [Transcrime elaboration](#)

Tobacco consumption and sales indicator	Value
1) Ban on smoking in public places	1 point
2) Ban on smoking in workplaces	1 point
3) Ban on the sale of tobacco products from vending machines	0 points
4) Prohibition of tobacco sales to minors	1 point
5) Ban on smoking in bars, cafés and restaurants	1 point

Note: the indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

- **An effective tracking and tracing system has not yet been applied in Spain (Point 4 in Table 2, p.38).**
- A mandatory system of tracking and tracing is provided by the agreements stipulated by the EU Commission with PMI (2004), JTI (2007), IT and BAT (both 2010) (European Commission 2004; 2007; 2010b; 2010a). **Nevertheless, these agreements have not been signed by smaller tobacco manufacturers, which are not obliged to comply with these measures.**¹²
- Spain has not yet signed the Protocol to Eliminate the Illicit Trade in Tobacco Products. However, the European Union signed it on 20 December 2013, demonstrating its commitment to the future implementation of the Protocol and of a tracking and tracing system (Art.8).
- **There are three free-trade zones in Spain (Point 5 in Table 2, p.38).**
- In Spain there are several FTZs: Vigo, Barcelona, Cádiz and Grand Canaria. However, only the port of Barcelona has been identified as receiving Chinese counterfeit products bound for Western Europe (BASCAP 2012).
- Spain also has some ‘bonded warehouses’ in Algeciras, Alicante, Bilbao, Cartagena, Gijón, A Coruña, Las Palmas de Gran Canaria, Madrid Airport, Málaga, Pasajes, Santander, Tarragona, Valencia, Burgos and Zaragoza (Espinar 2014). ‘Bonded warehouses’ are secured areas in which goods may be stored or manipulated with more simplified or reduced customs formalities (AEAT 2014a).
- **The regulation of tobacco consumption and sales is medium-high in Spain (4 points out of 5, Table 3).**
- **Smoking bans are in place in Spain (Points 1, 2 and 5 in Table 3).**
- The new anti-tobacco legislation (**Law 42/2010**), modifying Art.7 of Law 28/2005, **completely bans smoking in all public places**. Violators caught smoking in designated non-smoking areas are fined with €30-600, and the owner of premises from €601 to €10,000.
- **Previously, Art.7 of Law 28/2005** banned smoking in most public places (workplaces, public institutions, healthcare and education facilities, shopping centres, cultural and leisure places, foodservices establishments, elevators and public transport vehicles). However, **it allowed smoking in restaurants and bars according to the size of their premises**. Premises with a surface area of less than 100 sq. metres were not required to create a separate area for smokers, and the owners could decide whether they wanted to declare them smoking or non-smoking establishments (Euromonitor International 2012).

¹² The mandatory system of customer identification and verification provides that tobacco producers conduct their business relations with the ‘due licence’ and report to the competent authorities if customers are engaged in activities in contravention of the obligations arising from the Protocol. They must also ensure that quantities of tobacco products are commensurate with the demand for such products. Tracking and tracing systems (codes, signs and stamps) are helpful for monitoring and tracing or, put more simply, for reconstructing the path of tobacco products in the supply chain.

Table 4. Regulation of tobacco marketing and promotion in Spain

Source: [Transcrime elaboration](#)

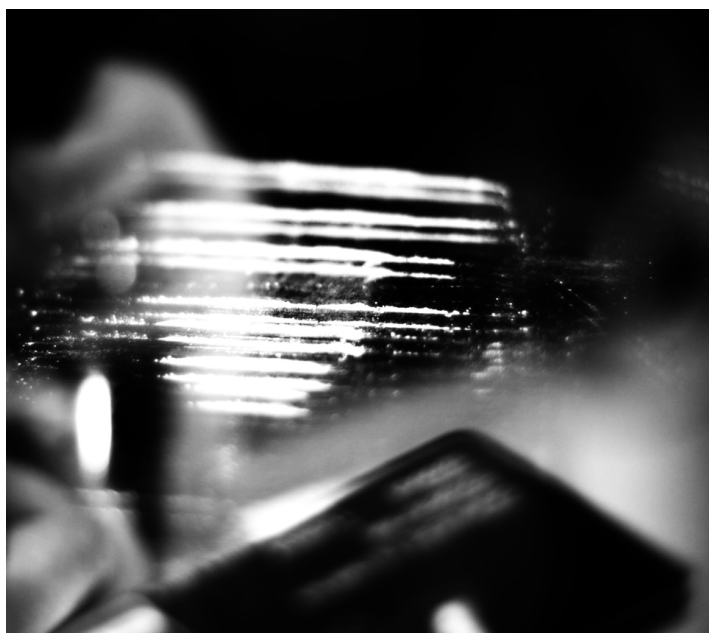
Tobacco marketing and promotion indicator	Value
1) Ban on tobacco sponsorship and advertising in radio, TV broadcasts and print media	1 point
2) Ban on billboards and outdoor advertising	1 point
3) Ban on the display of tobacco products at points of sale	0 points
4) Ban on free distribution of tobacco samples	1 point
5) Mandatory pictorial health warnings	1 point

Note: the indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

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- **The sale of tobacco products through vending machines is allowed in Spain (Laws 28/2005 and 42/2010) (Point 3 in Table 3, p.39).**
 - Under Law 28/2005 only restaurants and kiosks were allowed to sell tobacco products through vending machines. However, Law 42/2010 allows vending machines also in convenience stores and at petrol stations (Art.4). Vending machines must have adequate devices to prevent access to minors (younger than 18) (Resolution 16822 of 20 September 2006).
 - **Cigarettes sold through vending machines** are subject to a higher price. Indeed, they **cost + €0.15 per pack** (CMT 2014d).
- **The sale of tobacco products to minors is banned (Point 3 and 4 in Table 3, p.39).**
 - Art.3 Par.2 of Law 28/2005 set the legal smoking age at 18 years. The sale of tobacco to minors incurs a fine of between €601 and €10,000 (Art.20 Par.1 of Law 28/2005).
- **The regulation of tobacco marketing and promotion is medium-high in Spain (4 points out of 5, Table 4).**
- **Tobacco advertising through any media channel is banned (Euromonitor International 2012) (Points 1 and 2 in Table 4).**
 - Since 26 December 2005, with **Law 309/2005** (Art.9 Par1), **all forms of advertising, free distribution, promotion and sponsorship of tobacco products have been forbidden.** With this law, Spain implemented the **European Directive 2003/33/EC.**
- **In Spain there is no ban on the display of tobacco products at points of sale. It is allowed in tobacconists (Euromonitor International 2012) (Point 3 in Table 4).**
- **The free distribution of tobacco samples is banned in Spain (Point 4 in Table 4).**
 - Art.9 Par.2 of Law 28/2005 provides that ‘prohibited, outside the network of tobacconists, is the free or promotional distribution of products, goods or services or, with the direct or indirect aim of promoting tobacco products’.
- **Pictorial health warnings on tobacco products are mandatory (Point 5 in Table 4).**
 - **Art.5 Par.2A of the Royal Decree 1079** (modified by Royal Decree 639/2010) provides that all packaging of tobacco products must carry a text health warning, which must occupy at least 30% of the packaging. In 2010, Art.5 was integrated with Par.2B, which established that **every pack of cigarettes must also have pictorial health warnings.**

In conclusion, the taxation on cigarettes is high both as tax incidence on the final retail price and as total tax per 1,000 sticks. However, the Canary Islands, which are part of Spain, levy lower taxation on tobacco products. Control of the tobacco supply chain is medium-low. Finally, the regulation of tobacco consumption and sales, and of marketing and promotion, is medium-high.

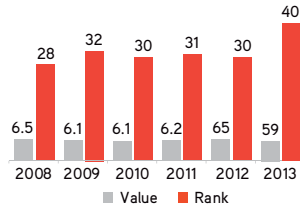


CRIME ENVIRONMENT

S*pain has recorded a decrease in crime rates in recent years. However, drug consumption is very high for cannabis and cocaine and medium for opioids. There is a medium presence of organised crime activities, and the shadow economy is medium-low in extent. Corruption is an emerging issue.*

Corruption

Corruption Perception Index
Source: Transparency International



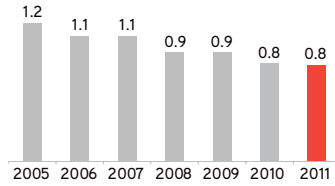
59*

40 out of 177 countries
(2013)



Homicides

Homicide rate per 100,000 inhabitants
Source: UNODC



0.8

170 out of 188 countries
(last available year)



Organized Crime Index

Composite Organized Crime Index
Source: Van Dijk (2008), "The World of Crime"

42

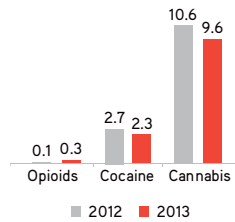
30.8

89 out of 156 countries
(last available year)



Drugs

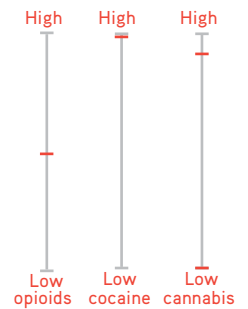
Annual prevalence of opioids, cocaine and cannabis (15–64) use
Source: UNODC–World Drug Report



opioids 0.3
cocaine 2.3
cannabis 9.6

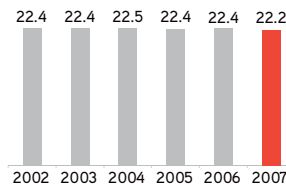
opioids: 65 out of 133 countries
cocaine: 1 out of 92 countries
cannabis: 10 out of 120 countries

(last available year)



Shadow Economy

Indicator of the presence of market-based activities that escape the official estimates of GDP
Source: Schneider, Buehn, Montenegro (2010), "New Estimates for the Shadow Economies all over the World"



22.2

41 out of 162 countries
(2007)



Last available data (2012): 19.2 (Williams and Schneider 2013)

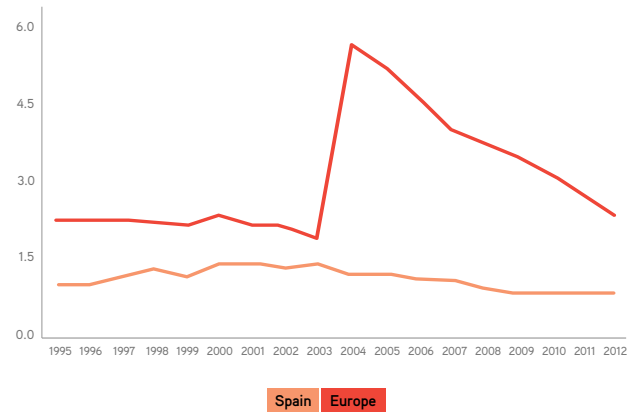
* Corruption perception index ranged from 0 to 10 until 2011. Since 2012, it ranges from 0 to 100. Highly corrupted countries occupy low positions in this rank.

CRIME TRENDS

- **Crime rates have recorded a decrease in recent years.**
- Crime figures show a **downward trend in violent crimes between 2005 and 2008**. Homicides, assaults, sexual violence, robberies, burglaries, thefts and motor vehicle thefts recorded a significant decrease. In particular, assaults and thefts decreased the most (-90.1%, and -78.8% respectively) (UNODC 2012a).
- **All property crimes have decreased since 2003**. Burglaries have decreased by approximately 60%, robberies by 23%, thefts by 79%, and motor vehicle thefts by 54% (UNODC 2012a). The data of the Ministry of Interior reveal that robberies and thefts decreased also between 2012 and 2013 (-10.9% and -2.9% respectively) (Ministerio del Interior 2014).
- According to official statistics, the **number of crimes decreased** by approximately 4% between 2012 and 2013. Moreover, the crime rate decreased from 48.0 crimes per 1,000 inhabitants in 2012, to 46.1 in 2013 (Ministerio del Interior 2014).
- Spain ranks 170th out of 188 countries for homicide rate. Homicides increased between 1996 and 2003 and then decreased, reaching the value of 0.8 homicides per 100,000 inhabitants in 2012 (UNODC 2012a). This value is below the European average (2.3) (Figure 21) (UNODC 2011; 2013a). According to official data, between 2012 and 2013 the number of homicides decreased by about 17% and the homicides rate diminished from 0.8 homicides per 1,000 inhabitants to 0.6 (Ministerio del Interior 2014).

Figure 21. Homicide rate per 100,000 inhabitants, Spain and Europe, 1995-2012¹³

Source: Transcrime elaboration on UNODC (2012a) data



- According to the International Crime Victims Survey (ICVS), in 2004-2005, **33% of Spaniards felt unsafe walking alone at night**. Moreover, 26% of respondents thought that their homes were likely to be burgled in the next year (van Dijk, van Kesteren, and Smit 2007).
- **In Spain, the problems of security and delinquency are not among the main concerns of Spanish people** (Barberet 2005). Indeed, according to a survey conducted in January 2014, only 2.3% of respondents thought that security and delinquency were among Spain's three main problems (CIS 2014).

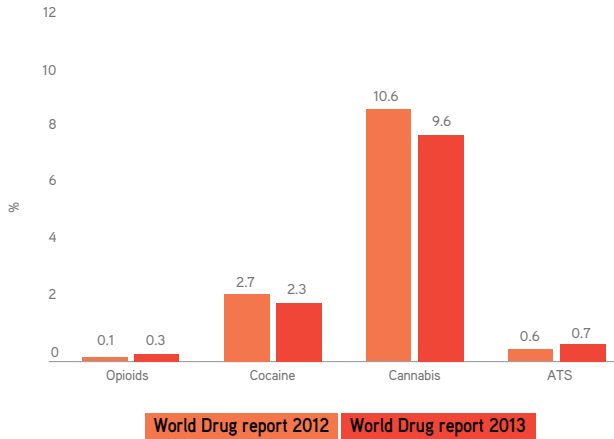
DRUG CONSUMPTION AND MARKETS

- **Drug consumption is high for cannabis and cocaine, and medium for opioids (Figure 22, p. 44).**
- **Cannabis is the most frequently used drug**. Moreover, compared with other countries, the prevalence of cannabis use is higher. Indeed, Spain ranks **10th out of 120 countries**, with a 9.6% prevalence in 2011 (UNODC 2013b).
- **Cocaine consumption is high** and the country ranks **1st out of 92 countries**. 2.3% of adults reported having consumed cocaine in 2011 (UNODC 2013b).

13. The value is calculated for the countries that the UNODC classifies as 'Europe'.

Figure 22. Prevalence of drug use in Spain, last available year

Source: Transcrime elaboration on UNODC-World Drug Report (2013b) data



- **The prevalence of opioids' use is medium.** Spain ranks 65th out of 133 countries, with a prevalence of 0.3% (UNODC 2013b).
- **The prevalence of amphetamine-type stimulants (ATS) is medium** compared to other European countries. 0.7% of adults reported having consumed amphetamines in 2011 (UNODC 2013b).

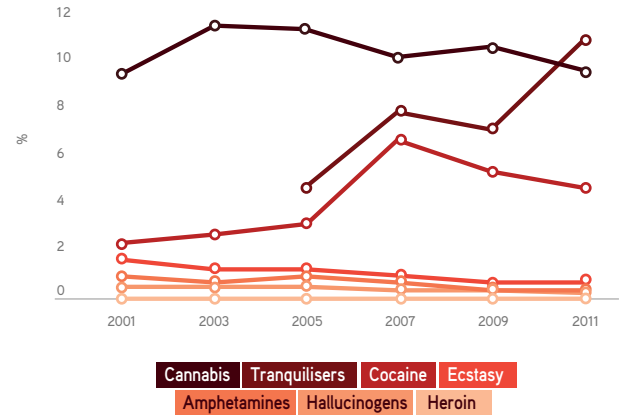
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- According to the most recent EDADES¹⁴ Survey, drug use has decreased in recent years. Indeed, the percentage of the population who reported having used cannabis in the past 12 months decreased by about 15 p.p. from 2003, reaching 9.6% of the population in 2011. The number of cocaine users, after increasing until 2007, started to decrease, from 6.6% of the population in 2007 to 4.7% in 2011. Also the number of ecstasy and amphetamines consumers has decreased in recent years (about -7% and -25% respectively, between 2003 and 2011). Hallucinogens and heroin consumers have remained stable during this period (Figure 23) (Ministerio de la Sanidad 2012).
- The only drug whose consumption increased between 2005 and 2011 is **tranquilisers** (Figure 23). The prevalence rose from 4.8% of the population in 2007 to 10.7% in 2011, with a strong increase, related to the increase in hypnosedatives (Ministerio de la Sanidad 2012).

14. The Household Survey on Alcohol and Drugs in Spain (*Encuesta Domiciliaria sobre Alcohol y Drogas en España*) is a biennial program of survey on drug use (population 15-64 years), promoted by the Government Delegation for the National Plan on Drugs in collaboration with the Autonomous Communities.

Figure 23. Prevalence of drug use in Spain, 2001-2011

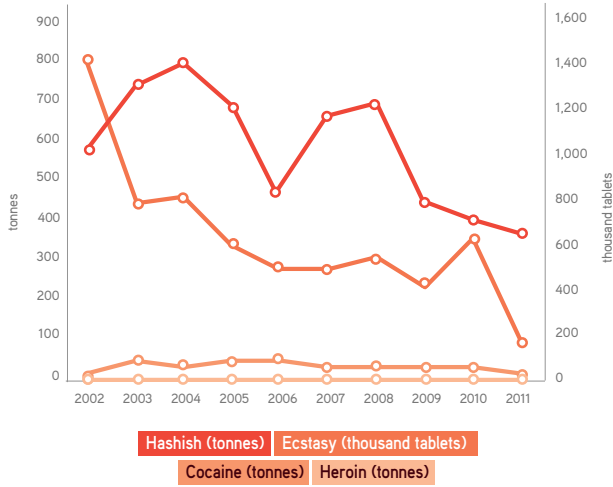
Source: Transcrime elaboration on Ministry of health (2012) data



- In regard to consumption in the previous 12 months, drug use in Spain is most widespread among individuals in the 15-34 age group. The exceptions are sleeping pills and tranquilisers, which record a higher percentage of users in the 35-64 age group (Ministerio de la Sanidad 2012).
- **Drug seizures have exhibited a decreasing trend since 2004 (Figure 24, p.45).**
- **Spain is a destination and transit country from North Africa to Western Europe.** For example, hashish enters Spain from Morocco. Moreover, Spain is considered to be one of the main entry points for cocaine bound for the European drug market (Frontex 2013).
- Seizures of hashish decreased by about 52% between 2008 and 2012. Seizures of cocaine decreased by about 26%. Seizures of ecstasy and heroin also decreased (-67%, and -58% respectively) (Ministerio de la Sanidad 2012).

Figure 24. Seizures of drugs, 2002-2011

Source: Transcrime elaboration on Ministry of Health (2012) data



ORGANISED CRIME AND CORRUPTION

• Spain has a medium presence of organised crime groups.

• The country ranks medium on the Composite Organized Crime Index, scoring 30.8 and occupying 89th place among 156 countries (van Dijk 2008). In 2012, the Security Forces of the State investigated 482 organised crime groups and dismantled 277 groups (Hierro 2013).

• According to the Secretary of State for Security, Francisco Martinez, there are three types of organised crime groups in Spain. The first are the ‘high intensity’ ones, which are complex international infrastructures that can generate significant economic benefits and have a high capacity to infiltrate social institutions; the second are ‘typical’ groups, with a good degree of organisation. These can become high-intensity groups if they operate for a long period of time. The third are ‘low intensity’ groups with little economic capacity (Hierro 2013).

• The Ministry of Justice analyses data on organised crime prosecutions. According to these data, organised crime is present in Asturias, Catalonia, Extremadura, the Canary Islands, the Community of Madrid, the Region of Murcia, the Basque Country, the Valencian Community, Aragón (only in Zaragoza) and Andalusia (only in Huelva and Cádiz) (Torres-Dulce Lifante 2012).

• Organised criminal groups are involved in various activities: **drug trafficking** (in Aragon, Asturias, Catalonia, the Canary Islands, Extremadura and Andalusia), **property crimes** (in Asturias and the Region of Murcia), **human trafficking** (in Catalonia and Basque Country), **exploitation of prostitution** (in Catalonia, Extremadura and Basque Country), **fraud and intellectual property crimes** (in the Community of Madrid) and **crimes against public health** (in the Valencian Community) (Torres-Dulce Lifante 2012).

• The situation in the Basque Country is different from that in other regions due to the presence of the organised group ETA (*Euskadi Ta Askatasuna*, Basque Homeland and Freedom). This paramilitary group is a Basque nationalist and separatist organisation established in 1959. Since 1968, ETA has been held responsible for a high number of homicides, injuries and kidnappings. This group declared several ceasefires (1989, 1996, 1998 and 2006) and subsequently broke them. However, on 5 September 2010, ETA declared a new ceasefire that is still in force and on 20 October 2011, it announced the definitive cessation of its armed activity (BBC 2010; 2011; 2012; Torres-Dulce Lifante 2012).

• Corruption is medium-low in comparison with the global average, but high if compared with most EU Member States.

• In 2013, Spain scored 59 on the Corruption Perception Index (CPI), and was the 40th country out of the 177 countries surveyed. However, corruption perception is increasing in Spain. Between 2008 and 2009, the country passed from 28th to 32nd position among 177 countries. Then the CPI remained stable between 2009 and 2012 and decreased again in 2013, when Spain ranked in 40th position (Transparency International 2013a).

- **The Global Corruption Barometer** surveyed 114,000 respondents in 107 countries, measuring the number of people who reported having paid bribes in the past year to various services and institutions.¹⁵ In this survey, a relatively low number of Spanish respondents stated that they had paid a bribe in the previous 12 months (**3%**) (Transparency International 2013b).
- However, **the perception of corruption has increased** (European Commission 2014c; GRECO 2014). According to national surveys, in 2011 **46.8% of respondents considered corruption to be very widespread** and 39.8% thought that it was quite widespread. Only 0.4% of respondents believed there is no corruption among Spanish politicians. A **2014 survey** found that Spanish people perceive corruption to be the second biggest issue for Spanish society after the economic crisis (CIS 2014; European Commission 2014d)
- **In February 2014, the European Commission invited Spain to improve its regulations against corruption.** It made a series of suggestions for the Spanish government, principally improvement of the law on the funding of political parties and on transparency, and increased controls at national and regional level (European Commission 2014c; 2014d).
- **Spain has a medium-low level of shadow economy compared with other EU Member States.**
- According to a study on shadow economies over the period 1999-2007, Spain ranked 41st out of 162 countries, with a value of 22.2 (Schneider, Buehn and Montenegro 2010). In recent years, the shadow economy has decreased (19.2 in 2012).
- However, according to a national study, the shadow economy in Spain has increased in recent years, but this growth has been combined with an increase in official economic activity (Funcas 2010; Ureta 2013).

Spain has recorded a decrease in crime rates in recent years, and the shadow economy is medium–low in its extent. However, corruption exhibits an increasing trend. Drug consumption is high and drug seizures have decreased in recent years. There is a medium presence of organised crime activities centred on drug trafficking, property crimes and human trafficking.

¹⁵ The services and institutions included were: education system, judiciary, medical and health services, police, registry and permit services, utilities, tax and/or customs, and land services.

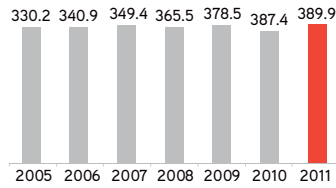


ENFORCEMENT

Since 2011, Spain has implemented two awareness campaigns against the ITTP. Law enforcement agencies and the Spanish Customs have stipulated cooperation agreements with foreign customs and law enforcement agencies to tackle tobacco smuggling. The average penalty for tobacco contraband is low: imprisonment for between 0 and 2 years. In conclusion, anti-ITTP action is medium-low in Spain owing to the absence of official estimates on, and a national action plan against, the ITTP.

Police

Police personnel rate per 100,000 inhabitants
Source: UNODC



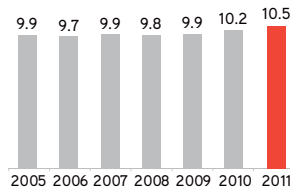
389.9

26 out of 87 countries
(last available year)



Judiciary

Professional judges rate per 100,000 inhabitants
Source: UNODC



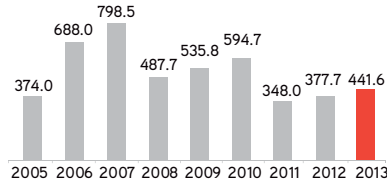
10.5

38 out of 75 countries
(last available year)



Tobacco Products Seizures

Quantity of seized tobacco in Kg per 100,000 inhabitants
Source: AEAT



Cig. 441.6 Kg

(2013)

48

Penalty for ITTP

Likely maximum penalty for an hypothetical serious case of ITTP
Source: Transcrime elaboration

5-8 years of imprisonment

Anti-ITTP Action*

Composite indicator measuring the presence of specific policy measures in the country
Source: Transcrime elaboration



2/5 points

(2014)

* The indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

LAW ENFORCEMENT IN SPAIN

- Spain had 389.9 **police personnel** per 100,000 inhabitants in 2011. This figure is relatively high on a global scale; indeed, the country ranked 26th out of 87 countries worldwide with available data (UNODC 2012a).
- The **rate of judges** per 100,000 inhabitants in 2011 was 10.5. Spain ranked 38th out of 75 countries. The rate has increased since 2005, when it was 9.9 (UNODC 2012b).
- In 2010, the total **number of persons held in prisons**, penal or correctional institutions per 100,000 inhabitants was 160.4. This rate corresponds to a total amount of 73,929 detained persons. In 2010, Spain ranked 46th out of 110 countries in terms of prison population (UNODC 2012b).
- According to the International Centre for Prison Studies' classification, Spain ranked 108th out of 221 countries surveyed in 2012 for prison population, with a rate of 143.0 detained persons per 100,000 inhabitants (ICPS 2013). More than half of the countries in the world have a prison population rate below 150.0 per 100,000 inhabitants (Walmsley 2011). Regardless of the estimate chosen, **Spain has an average-sized prison population.**

THE FIGHT AGAINST THE ITTP IN SPAIN

- **The main bodies involved in the fight against the ITTP are:**
- The **Cuerpo Nacional de Policía** (National Police Force) and the **Cuerpo de Guardia Civil** (Civil Guard). They monitor ports, airports, coasts, borders, and customs, control emigration and immigration, and suppress state fraud and smuggling.¹⁶

- The **Agencia Tributaria-Aduanas e Impuestos Especiales** (AEAT, Tax Agency- Customs and Special Taxes). It controls and guarantees the correct application of the tax and customs system. In particular, it collaborates in the prosecution of offences against the Public Treasury, including smuggling and money laundering (AEAT 2012). In regard to smuggling, the AEAT carries out surveillance and control actions in the **Spanish maritime and air space** in coordination with other state bodies. During 2012, its priority was the fight against tobacco smuggling (AEAT 2012).

- **The Spanish law enforcement agencies cooperate with European institutions to tackle the ITTP.**

- The **Cuerpo Nacional de Policía** (National Police Force), the **Dirección Adjunta de Vigilancia Aduanera** (Customs Surveillance Directorate) and the **Cuerpo de la Guardia Civil** (Civil Guard) are the Spanish agencies that cooperate with European Institutions through **Europol** and **Interpol** to investigate and tackle, among other crimes, tobacco smuggling (Europol 2014).
- **Europol**¹⁷ supports national law enforcement agencies in the fight against the illegal manufacturing and distribution of tobacco products, which annually cost the EU about €10 bn in lost revenues (Europol 2011).
- **Interpol** is the world's largest international police organisation. Among other tasks, Interpol works to identify, disrupt and dismantle transnational organised trafficking networks. This trafficking comprises counterfeiting, piracy and smuggling of legitimate products (Interpol 2013).

¹⁶ Law n°2/86 of March 13, on state law enforcement agencies in Spain (*Ley Orgánica 2/86, de 13 de Marzo, de Fuerzas y Cuerpos de Seguridad del Estado*)

¹⁷ On 11 July 2013 – on the occasion of the Law Enforcement Working Party of the Council of the EU – a proposal on the regulation of Europol was submitted to the European Parliament and Council for the EU in order to assist it in collecting and analysing criminal intelligence information and in exchanging the results of such analyses with the EU Member States, and to ensure more effective Europol support for national police forces. It was also proposed to merge Europol and Cepol. Both proposals received little support from Member States and the European Parliament.

- **Spain signed Schengen agreements in 1991.** By complying with these agreements, Spain undertook to accelerate police cooperation by exchanging information needed to combat crime, as well as information in the field of crime prevention (Europa.eu 2009).
- **OLAF** (French acronym for *Office de Lutte Anti-Fraude*) provides assistance in the organisation of joint consultations with law enforcement institutions in various EU countries on investigations including tobacco smuggling. **The Spanish Customs cooperates actively with OLAF.** For example, Operation 'BALMAN' in 2010, conducted jointly by the Spanish Customs and OLAF, dismantled a criminal organisation importing tobacco from China to ports on the eastern coast of Spain.
- **Spanish Law enforcement and Customs cooperate actively with foreign law enforcement authorities, both in Europe and outside Europe. However, cooperation with Andorra and Gibraltar could be improved (Dopico Martinez 2014).**
- The *Cuerpo Nacional de Policia and the Guardia Civil* actively collaborate with foreign police forces to perform their security tasks.¹⁸ However, in some cases, cooperation could be further improved. Indeed, neither Andorra, nor Gibraltar furnish full cooperation in the fight against tobacco smuggling (Dopico Martinez 2014).
- The AEAT provides assistance, collaboration and promotes cooperation activities with other Member States or third countries to prevent tax evasion (AEAT 2012).
- The *Guardia Civil* and the AEAT collaborate and exchange information with Andorran and Gibraltarian authorities with the aim of combating tobacco smuggling (Alonso Miranda 2014).
- The Spanish Customs have **signed bilateral¹⁹ and multilateral²⁰ agreements** with countries, both in the EU and outside the EU, on cooperation and mutual assistance in customs matters. The purpose of these agreements is to facilitate the exchange of information in the fight against fraud (AEAT 2013a).
- The Spanish Customs collaborates in various programmes for customs modernisation. In particular, since 2002, the Spanish Customs has engaged in eleven twinning programmes with European customs (three in Hungary, two in Romania, two in Bulgaria, two in Estonia, and two in Croatia) (AEAT 2013a).
- **The Spanish Criminal Code and the Trademarks Law are the main normative provisions on tobacco smuggling and counterfeiting in Spain. Overall, criminal penalties in a serious ITTP case seem to be severe (see box *Hypothetical case*, pp.51 and 52).**

50

18. Law n°2/86 of March 13, on state law enforcement agencies in Spain (*Ley Orgánica 2/86, de 13 de Marzo, de Fuerzas y Cuerpos de Seguridad del Estado*)

19. Bilateral agreements have been signed between Spain and: Algeria, Argentina, Austria, Cuba, USA, France, Italy, Morocco, Mexico, Norway, Portugal, Sweden, Russia, Turkey (AEAT 2013a).

20. Agreement between the National Customs of Latin America, Spain and Portugal on cooperation and mutual assistance (AEAT 2013a).

HYPOTHETICAL CASE

A criminal organisation composed of eleven members used a house in the periphery of a large city as an illicit factory for the production and distribution of tobacco products. For at least sixteen months, with a clear division of tasks and functions among them, the members of the organisation illegally manufactured tobacco products (cigarettes and hand rolling tobacco); packed them in packaging bearing false trademarks of legitimate brands (produced by the same organisation); distributed the products to various wholesalers and retailers; and sold the illicit products through a network of bars and street sellers. No tax or duty was ever paid on these products. The law enforcement seized a total of ten tonnes of illegal tobacco products stocked inside the house. All the members of the organisation had previous convictions for fraud, forgery and illicit trade in tobacco products. The members could not justify their incomes through any form of employment, suggesting that the illicit business was their sole source of income.

The applicable penalties in Spain

According to Spanish law, the above-described activities constitute criminal offences in the following areas:

1. Revenue Offences

- a) Tax evasion on a large scale
- b) Counterfeiting tax stamps

2. IP infringement

3. Membership of a criminal organisation

4. Money laundering

According to Art. 28 of the Spanish Criminal Code, in the case of joint commission of a criminal offence, each offender is liable as a principal. All members of the group are fully liable, even if some members of the group may have given orders and others may have executed them, as long as all members acted in pursuit of shared objectives.

1. Revenue Offences

a) Tax evasion on a large scale

According to Art. 305 bis of the Criminal Code, the members of a criminal organisation committing tax fraud shall be sentenced to an imprisonment from 2 to 6 years and a fine from 2 to 6 times the amount of evaded tax.

b) Counterfeiting tax stamps

According to Art. 389 of the Criminal Code, persons who forge tax stamps or import them to Spain in awareness that they have been forged shall be sentenced to imprisonment from 6 months to 3 years.

2. IP infringement

The use of a trademark on packaging material and its distribution without the consent of the trademark holder is a criminal offence under Art. 274.1 of the Criminal Code. Since the perpetrators belong to a criminal organisation (Art. 276 c), imprisonment from 1 to 4 years, a fine from 12 to 24 months of daily payments and prohibition from undertaking the profession related to the committed offence are imposed.

Pursuant to articles 109 and 116 of the Criminal Code and Art. 43 of the Trademarks Law, the perpetrators shall redeem the losses (*damnum emergens* and *lucrum cessans*) caused by the offence to the aggrieved party.

3. Membership of a criminal organisation

According to Art. 570 bis of the Criminal Code, those members who promote, constitute, organise, co-ordinate or direct a criminal organisation may be sentenced to imprisonment for 4 to 8 years. The other members of the organisation may be sentenced to imprisonment for 2 to 5 years.

This legal qualification may not be applied if the fact of being member of a criminal organisation has already been taken into account when other penalties have been imposed.

4. Money laundering

According to Art. 301 of the Criminal Code, the offence of money laundering is committed when a person acquires, possesses, uses, converts or transmits assets originating from an illicit activity. The penalties to be imposed for the commission of such an offence are imprisonment from 6 months to 6 years and a fine from 1 to 3 times the value of the seized goods. Should the crime be committed by a criminal organisation, a punishment not lower than the upper half of the applicable penalty shall be imposed (Art. 301.1).

Ruling on the penalties

Articles. 66.3 and 74.1 of the Criminal Code are considered in order to determine the punishment applicable to the individuals involved in this hypothetical case.

Previous criminal records with regard to the particular offences are taken into consideration (Art. 22.8 of the Criminal Code). Should one or more aggravating circumstance occur, *the penalty (in its upper half) is imposed (Art. 66.3)*.

Moreover, according to **Art. 74.1** of the Criminal Code, ‘whoever perpetrates multiple actions or omissions in the execution of a preconceived plan that offends one or several subjects and infringes the same criminal provision or provisions that are of equivalent or similar nature shall be punished as the principal of a **continued felony** or misdemeanour with the punishment stated *for the most serious offence, which shall be imposed either in its upper half, or in the lower half of the higher degree of punishment*’.

Applicable penalty²¹

Two options concern the penalties that may be applied to perpetrators.

1. The **first** is applied when the most serious offense is considered to be performed by those “promoting, constituting, organising, coordinating or leading a criminal organisation” (Art. 570 bis, Criminal code). In this case, the aggravating circumstance of recidivism is not applied. The penalty is thus established in accordance with Art. 74.1 on continued felony (see above). Therefore, those who promote, constitute, organise, co-ordinate or direct a criminal organisation (Art. 570 bis), may be sentenced to imprisonment for between 4 and 8 years. This penalty is imposed in its upper half in compliance with Art. 74.1. The final imposable penalty is imprisonment from **6 to 8 years**.

2. The **second** option, when the most serious offence is “tax evasion on a large scale committed by a criminal organisation” (Art. 305 bis, Criminal Code). In this case, the aggravating circumstance of recidivism is applied (Art. 66.3) as well as that of continued felony (Art. 74). Tax evasion on a large scale committed by a criminal organisation (Art. 305 bis) may incur imprisonment for 2 to 6 years and a fine calculated as 2 to 6 times the amount of tax evaded. This penalty is imposed in its upper half in accordance with Art. 66.3 and then imposed in its upper half in accordance with Art. 74.1. The final imposable penalty is **5 to 6 years** of imprisonment. Moreover, Art. 305 bis mandates a pecuniary fine 2 to 6 times the amount of tax evaded. Therefore, after the Court has determined the quantity of tax evaded, this is added to the imposable punishment (Mir Puig 2006; Faraldo Cabana 2012).

²¹ Valuable sources for construction of this hypothetical case study have been: Santiago Mir Puig, Derecho Penal-parte general, 7a, Edición, Editorial Reppertor, Barcelona, 2006; Patricia Faraldo Cabana, Asociaciones ilícitas y organizaciones criminales en el código penal español, Tirant Lo Blanch, Valencia, 2012.

Table 5. Measures against the ITTP in Spain

Source: Transcrime elaboration

Anti-ITTP action indicator	Value
1) National Action Plan against the ITTP	0 points
2) Cooperation agreements between national public bodies and tobacco companies to prevent and control the ITTP	0.5 points
3) National public awareness campaign against the various forms of the ITTP	1 point
4) Legal duty for tobacco manufacturers not to facilitate smuggling	0.5 points
5) Official estimates of the size of the ITTP	0 points

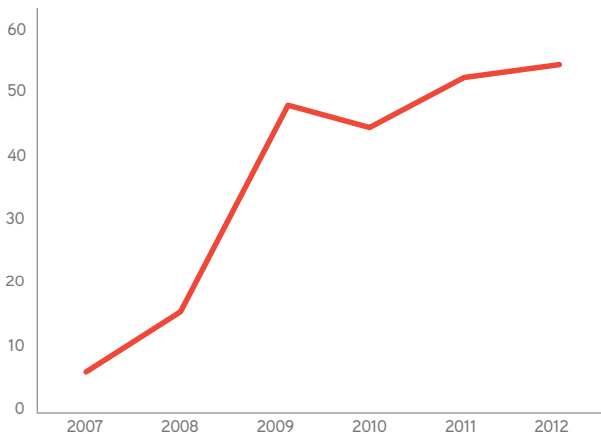
Note: the indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

•• **The number of arrests for tobacco smuggling increased by 800% between 2007 and 2012 (Figure 25).**

- The annual number of arrests for tobacco smuggling increased between 2007 and 2012, from 6 to 54 arrests (INE 2014b).
- Between 2010 and 2012, a **penalty of 0-2 years imprisonment** was imposed on offenders in 93% of the prosecuted cases for tobacco contraband (INE 2014b).
- In 2013, the CMT discovered 1,786 cases of tobacco retail without a licence and 1,102 cases of vending machines not equipped with keys for CMT inspections (Alonso Miranda 2014).

Figure 25. Number of convictions for tobacco smuggling (Ley de Represión del Contrabando), 2007-2012

Source: Transcrime elaboration on INE (2014b) data



•• **Anti-ITTP action in Spain is medium-low (2 points out of 5) (Table 5).**

•• **There is no national action plan against the ITTP in Spain (Point 1 in Table 5).**

- However, several anti-smuggling operations **have been mounted throughout Spain. Between March and October 2013, the Guardia Civil launched ‘Operación Meta 1’, in collaboration with the CMT and the Spanish Tobacconists’ Association. The operation focused on the inspection of legal premises and street kiosks selling tobacco during public events around the country** (Espinar 2014). National public bodies and major tobacco companies have signed specific agreements to prevent and control the ITTP at the European level (**Point 2 in Table 5**).

- **The European Commission has signed legally binding and enforceable agreements with the four largest tobacco manufacturers** (PMI, JTI, BAT and IT). The latter have pledged to finance the EU and the countries signatory to the agreement in preventing their products from falling into the hands of illicit traffickers; to supply only the quantities of tobacco required by the legitimate market; and to ensure that they sell only to legal clients by implementing a tracking and tracing system (European Commission 2004; 2007; 2010a; 2010b). However, these agreements legally bind only the four major tobacco manufacturers, not the other smaller ones.²²

²² The mandatory system of customer identification and verification provides that tobacco producers conduct their business relations with the ‘due license’ and report to the competent authorities if customers are engaged in activities in contravention of the obligations arising from the Protocol. They must also ensure that quantities of tobacco products are commensurate with the demand for such products. Tracking and tracing systems (codes, signs and stamps) are helpful for monitoring and tracing or, put more simply, for reconstructing the path of tobacco products in the supply chain.

- **In 2013, the *Mesa del Tabaco* launched an awareness campaign on the ITTP (Point 3 in Table 5, p.53).**
- In late 2013, the '*Mesa del Tabaco*' ('Tobacco Roundtable') launched an awareness campaign called '*Stop Contrabando de Tabaco*' ('Stop tobacco contraband'), also known by its slogan "*A mi me importa*", with the aim of raising public awareness on illicit tobacco and its harmful consequences for Spanish society. The campaign was publicized in the press, outdoor billboards and on the radio. The pilot campaign was launched in Andalusia, where illicit tobacco consumption is higher and where 91% of tobacco retailers reported a drop in sales between 2012 and 2013 (Europa Press 2013c).
- **In Spain there is no legal obligation on tobacco manufacturers not to facilitate smuggling (Point 4 in Table 5, p.53). However, some provisions on tobacco supply chain control are present.**
- Royal Decree 1199/1999 (as amended in 2013) obliges **tobacco manufacturers, importers and distributors to provide the CMT**, upon request, with any documents, books and records containing detailed information about the origin and destination of tobacco products and the underlying transactions.
- In compliance with the above-mentioned EC agreements (see Point 2 in Table 5, p.53), the four major tobacco companies undertake to eliminate the ITTP on the EU's territory and to assist law enforcement agencies (European Commission 2004; 2007; 2010a; 2010b).
- **There are no publicly available official estimates on the size of the ITTP in Spain (Point 5 in Table 5, p. 53).**
- Spanish institutions do not provide publicly available estimates of the illicit tobacco market.
- **Seizures of cigarettes have exhibited an unstable trend since 2001, with a peak in 2007.**

- According to AEAT's annual reports between 2001 and 2012, the largest amount of cigarettes impounded was recorded in 2007, with 358 mn sticks seized by AEAT. On average, between 2001 and 2012, the quantity of tobacco seized per year was around 221 mn sticks.
- **Between 2007 and 2013, the number of cigarettes seized by AEAT decreased by 43% (from 358 mn to 206 mn sticks) (Figure 26).**²³

Figure 26. Cigarettes seized by AEAT in mn sticks, 2002-2013

Source: Transcrime elaboration on AEAT data (2001-2013)



Spain has a large number of police forces, a medium-high rate of judges, and a medium-sized prison population. Since 2011, the country has implemented two awareness campaigns against the ITTP. However, national action plans against the ITTP and official estimates on the ITTP are lacking. There is consequently a medium-low level of anti-ITTP action.

²³. Transcrime elaboration on AEAT data, years 2002-2013.

Chapter 2

The four components



THE DEMAND

***T**he economic crisis, rising unemployment, and higher cigarette prices have induced some Spaniards to choose cheaper illicit cigarettes. Indeed, a pack of illicit cigarettes, especially of the most popular brands, is sold for half the price of a pack sold in the legal market. Illicit tobacco is easily available and generally tolerated by Spaniards.*

•• **Research on the demand for illicit tobacco in Spain is limited.**

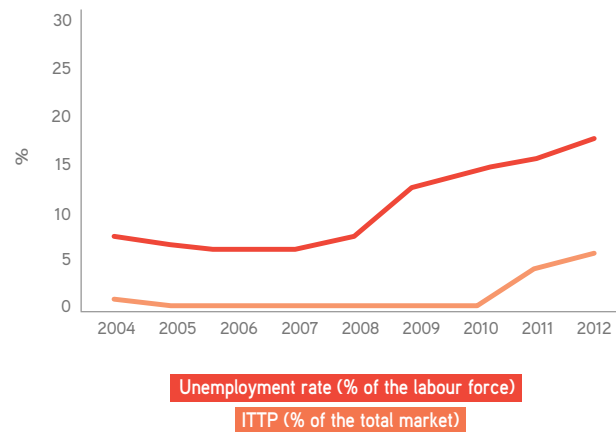
- ThinkCom, a research centre of the University of Madrid, conducted an interview-based study on tobacco consumption in Spain. According to this study, in 2012, **3.3% of respondents reported having purchased cigarettes from illegal channels** (ThinkCom 2013).²⁴
- According to another market research, conducted by Altadis-Imperial, 16% of Spaniards declare that they have purchased tobacco through illicit channels. This percentage reaches 28% in Southern Spain (Altadis-Imperial Tobacco 2013).

•• **Some Spaniards choose to buy cheaper illicit cigarettes due to the economic crisis.**

- According to researchers and media releases, **the economic crisis and the increasing unemployment rate are the main reasons for substituting cigarettes with illicit tobacco products.** Smokers decide to change their smoking habits by switching to HRT or illicit cigarettes (Bonilla Panvela 2003; La Razón Digital 2012; Afi 2013; Eade 2013; El Nuevo Lunes 2013; El País 2013; laSexta.com 2013; Libre Mercado 2013; Yamagata 2013).
- In Spain, the unemployment rate increased to the largest extent in 2009 (+58.9% compared with 2008) and the ITTP started to increase thereafter (from 2011). **Indeed, unemployment rate and ITTP penetration follow the same increasing trend** (Figure 27).
- In 2013, the unemployment rate reached 23.4% in Spain. Andalusia and Extremadura had the highest rates, 36.3%, and 33.7% respectively (INE 2014a). Similarly, in the fourth quarter of 2013 the highest incidence of non-domestic cigarettes packs was recorded in Andalusia and Extremadura (37.7%, and 33.8% respectively) (see *Modus operandi* and geographical distribution, p.75).

Figure 27. ITTP penetration and unemployment rate, 2004-2012

Source: Transcrime elaboration on OECD (2012b) and Euromonitor International (2013a) data



•• **Smokers' use of illicit tobacco in Spain is related to its affordability. A pack of illicit cigarettes, especially of the most popular brands, is sold for half the price of a pack sold in the legal market.**

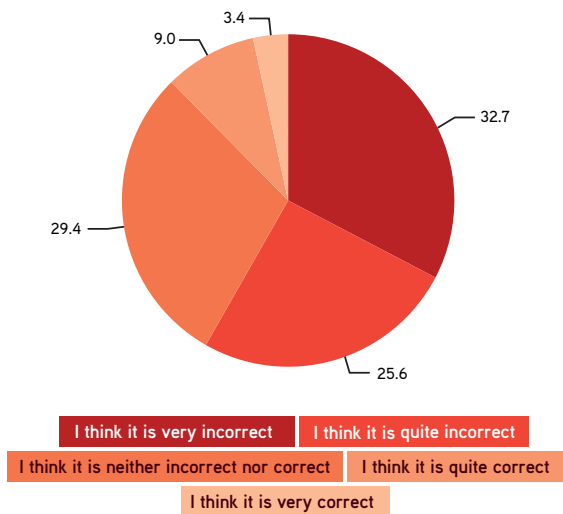
- Higher prices may be a strong incentive for smokers to seek out low/untaxed cigarette sources. If higher prices combine with the relatively easy availability of alternative cheaper sources of tobacco, consumers will exploit these opportunities (Hyland et al. 2006).
- The demand for illicit tobacco is strongly influenced by its lower price, **often 30% to 50% cheaper** than legal products (see The products, p.67) (Moodie, Hastings, and Joossens 2011).
- **The price of legal cigarettes ranges from €3.1 for the cheapest brand to €4.8 for the most expensive one** (Euromonitor International 2013a). The legal Marlboro brand, the most widely sold in Spain, cost €4.75 at tobacconists or €4.90 from vending machines in 2013 (Gómez 2012; Firefly Millward Brown 2013; laSexta.com 2013; Libre Mercado 2013; Millward Brown 2013; ThinkCom 2013; La Voz de La Línea 2014). **The average price of a pack of illicit cigarettes in Spain**, for which data are available, **is €2.6** (Philip Morris International 2012). Contraband Marlboro are generally more expensive, while illicit white brands, like American Legend, or cheaper brands, cost less than €2.00 (Baigorri 2012; Yamagata 2013).

²⁴. ThinkCom conducted 1,204 interviews with people aged between 14 and 75, asking where they usually bought tobacco products (ThinkCom 2013).

- **Cigarette smuggling is generally supported and tolerated by Spaniards** (Euromonitor International 2012; La Razón Digital 2012; Afi 2013; El Nuevo Lunes 2013; Firefly Millward Brown 2013; La Voz de La Línea 2014).
- ThinkCom’s survey found that **41.8% of respondents did not condemn the purchase of illicit cigarettes**. Among them, 12.4% thought that buying illicit tobacco was ‘correct’. The percentage was higher in the 35-44 and 25-34 age groups (15.9% and 15.4% respectively) (Figure 28) (ThinkCom 2013, 31).
- In March 2012, a group of residents of Línea de la Concepción, near Gibraltar, demonstrated against the customs authorities at the Spanish border with Gibraltar. They demanded that the agents be less rigorous in their inspections at the border and, if possible, turn a blind eye to tobacco imports from the British territory (Gómez 2012).

Figure 28. To what extent does it seem to you correct or incorrect to buy illicit tobacco, thus evading tax duties? (% share)

Source: Transcrime elaboration on ThinkCom (2013) data



- **There are several reasons why Spaniards tolerate cigarettes smuggling.**
 - The economic crisis and the high unemployment rate (the highest in the EU) have reduced the purchasing power of citizens. **Spaniards therefore condone the purchasers of illicit cigarettes’ buyers on grounds of their difficult economic circumstances** (Bonilla Panvela 2003; Euromonitor International 2012; Gómez 2012; La Razón Digital 2012; Eade 2013; El Nuevo Lunes 2013; El País 2013; laSexta.com 2013; Yamagata 2013).
 - **Spanish citizens have been outraged by recent episodes of political corruption and do not trust institutions.** They believe that the state’s earnings do not result in benefits for citizens. Hence Spaniards do not feel guilty when they buy illicit cigarettes without paying taxes (Firefly Millward Brown 2013, 12–13).
 - Spaniards see **the trafficker as a social victim** struggling to survive and protect his family. They also believe that **traffickers offer better products at lower prices**. Furthermore, Spaniards believe that **smugglers are social facilitators** because they help people to continue smoking in times of economic crisis (Millward Brown 2013).
- **Illicit tobacco is available in Spain in legal premises. The availability and the awareness of illicit tobacco have a positive effect on the demand.**
 - There is evidence that illicit cigarettes are sold at **petrol stations, restaurants, bars and 24-hour shops** in Spain (Samper and Valdés 2013). Indeed, Joossens reported in 1999 that 40% of illicit cigarettes were sold on the streets and 23% in bars (Joossens 1999).
 - According to a survey conducted in 2008 in the EU Member states, the proportion of Spanish respondents who had seen smuggled tobacco products being sold in the past six months was low (9.4%, 2.2% said that it happened regularly) (The Gallup Organisation 2009).

- Thinkcom reports that, among the **3.3%** of respondents who purchased illicit cigarettes from illegal channels, **42.0% did so from illegal outlets, 24.6% from tobacconists, 21.0% from Gibraltar and 12.3% from supermarkets** (ThinkCom 2013, 25).
- Illicit tobacco consumers can also purchase tobacco **on the Internet**. This is a safer way for customers to purchase illicit tobacco given the apparently more difficult traceability of transactions. According to a survey on tobacco use conducted in the EU Member states, **less than 1% of EU citizens have ever bought tobacco products online. Spain is below the EU average with 0.7%** of respondents who have ever purchased tobacco products online (The Gallup Organisation 2009).

Illicit tobacco is easily available in Spain. The economic crisis and the rising unemployment rate have induced some Spaniards to purchase illicit cigarettes. Indeed, the high price of legal cigarettes and social distrust of the public institutions drive the demand for illicit tobacco. Moreover, the selling of illicit cigarettes is tolerated and supported by Spaniards.



THE SUPPLY

Individual smugglers and large-scale criminal organisations are the main suppliers of illicit tobacco in Spain. Price differentials with Gibraltar, Andorra and the Canary Islands, together with the current economic crisis, are conditions favourable for the supply of illicit tobacco in the country.

- **Tobacco smuggling in Spain is mainly carried out by Spanish citizens. However, Asian groups are specialised in the smuggling of counterfeit cigarettes (AEAT 2014b).**
- Traditional smuggling organisations in Spain are mostly composed of Spanish citizens, resident or established in specific areas where smuggling is more frequent, such as Andalusia, Galicia, Catalonia, Basque Country, Valencia and, more recently, the Canary Islands (AEAT 2014b).
- In some instances, Asian criminal groups resident in Spain traffic not only counterfeit textiles and shoes but also counterfeit tobacco products (AEAT 2014b).
- Groups of Spanish citizens collaborate with Spanish criminal organisations in tobacco smuggling. Indeed, Spanish individuals from the Mediterranean coasts of Spain work with criminal organisations to export cigarettes, especially counterfeit and ‘cheap whites’, in containers directed to Northern European markets (United Kingdom and Ireland) (AEAT 2014b).
- **In the Spanish regions bordering on Gibraltar and Andorra, tobacco smuggling is a socially accepted opportunity to earn a living (see box *Tobacco smugglers and the perception among Spaniards*).**
- **Tobacco smuggling near Gibraltar is a long-standing tradition.** For some inhabitants of Andalusia, it is a way to earn a living. The main cause of this widespread practice is the cigarette price differential between Gibraltar and Spain: a carton of cigarettes costs around €25 in Gibraltar, while it costs €42 in Spain (Gómez 2012).
- **Tobacco smuggling is a common practice on the Spanish side of the Pyrenees border with Andorra.** The activity is transmitted from parents to children and is seen as a complementary source of income, rather than as a ‘criminal activity’ (Visa 2012).

- According to the Spanish Customs of La Línea de la Concepción, near Gibraltar, around five hundred people cross the border every day to import tobacco into Spain. They make between 20 and 50 trips a day and resell cigarettes to kiosks, bars and establishments in Andalusia. The majority of these ‘matuteros’ (smugglers) are Spanish, Moroccan and Romanians (Rivas 2013).

TOBACCO SMUGGLERS AND THE PERCEPTION AMONG SPANIARDS

“I buy it from an old woman who sells it at the door of the supermarket for her grandchildren. Her son is out of work and they’re going through a rough patch” (Seville).

“The families involved in illicit goods smuggling are very dysfunctional. A typical smuggler is a student with five brothers, his mother is unemployed, and his father left the family a long time ago” (Algeciras).

“Instead of Barcenas²⁵ keeping everything, I prefer that a neighbour going through a rough time, should keep the profits” (Seville).

“Not everyone does it out of necessity. There are also many people who sell it because it’s the easy option” (Malaga).

“I think there are people who do it to supplement their incomes, not all of them are unemployed” (Seville).

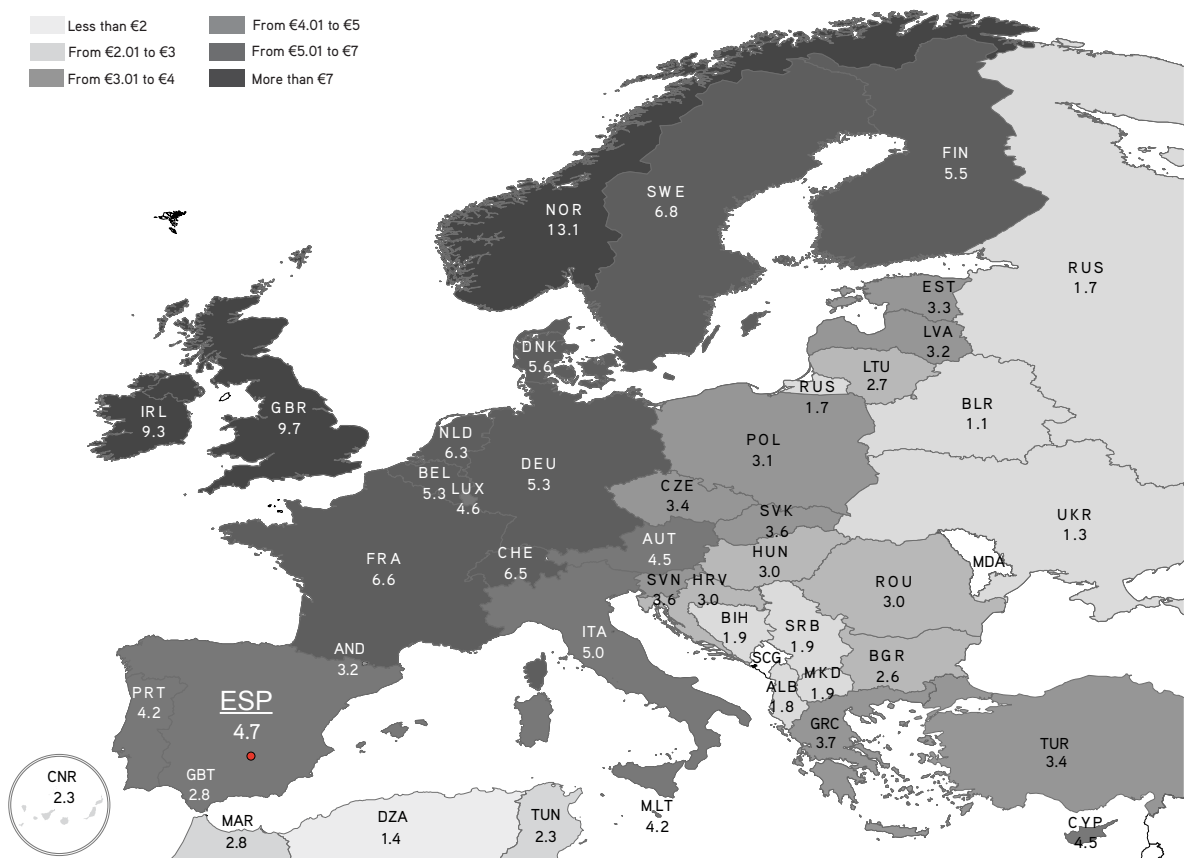
“There are people who traffic tobacco, but then they drive really nice cars...it’s not all out of necessity” (Malaga) (Firefly Millward Brown 2013).

²⁵ Barcenas is a Spanish politician who was involved in a political corruption scandal in January 2013.

- **The economic crisis and a high unemployment rate have boosted the supply of illicit tobacco in Spain and revived old networks of tobacco smugglers.**
- Smuggling may provide income opportunities, especially when **unemployment is high. Indeed, unemployment may encourage people to offer their services as carriers or distributors of contraband**, notably in the region of Andalusia near the border with Gibraltar (Rivas 2013).
- According to the *'Plataforma de Parados de La Línea'* (Platform of unemployed people of La Línea), tobacco smuggling is a way of life in times of crisis in La Línea de la Concepción. Some argue that if tobacco contraband did not exist in the area, the social circumstances of people would worsen further (Gómez 2012).
- According to the Spanish attorney Jaume Ribes, who is specialised in defending tobacco smugglers, the names of tobacco smugglers in La Seu d'Urgell, near Andorra, are nearly the same as those of smugglers in 2000. The reason for this revival of tobacco smuggling is sudden unemployment (Baquero 2013).
- The Spanish Customs in Galicia argue that there has been a **'resurgence' of former Galician tobacco smuggling**. However, the patterns have changed. Today, Galician autonomous groups import tobacco from Andorra, the Canary Islands and Gibraltar, whereas in the past it was mainly tobacco imported from the USA to Galicia (Europa Press 2013d).
- **The proximity of markets such as Andorra, the Canary Islands or Gibraltar, where there is a significant tax and price differential on tobacco products compared to those inland, and border permeability, favour the resale or 'spatial arbitrage' of legal products (Afi 2013).**
- The prices of cigarettes in **Gibraltar** (a British Overseas Territory), **Andorra** and in the **Canary Islands** are significantly lower than in Spain. In 2013, a pack of Marlboro cost €2.80 in Gibraltar, €3.80 in Andorra and €2.50 in the Canary Islands, while a pack of Marlboro in Spain cost €4.75 (PMI 2013). **The cigarette price differential, together with the tradition of tobacco smuggling in those areas, particularly Gibraltar and Andorra, have a positive effect on the supply of illicit tobacco in Spain.**
- **Price differentials on excise goods across the EU borders foster the ITTP and make Spain a source country of illicit tobacco directed to other European markets.**
- Portugal and Spain have the **lowest cigarettes prices in Western Europe**. In January 2013, a 20-cigarette pack of Marlboro in Spain cost €4.75, and a pack of the cheapest brand €3.80: a price differential with the UK of €5.00 for the Marlboro brand and €3.80 for the cheapest brand (see Figure 29 and Figure 30, pp. 64 and 65).
- **The high profitability of the ITTP stimulates the supply.**
- **The ITTP offers high profits.** Diverting tobacco products into the illicit market, where sales are tax free, generates considerable margins for illicit traders (Joossens and Raw, 2012, p.232). Taxes account for a large share of the final retail price of tobacco, making it a highly profitable product to smuggle.
- In Spain, **the amount of total taxes per 1,000 sticks in International\$-PPP was 250.2 in 2013**. In 2010, when the amount was the 31st highest in the world, it was International\$-PPP 172.5 (WHO 2012).
- In 2013, in Spain **tax incidence** accounts for 80.3% of the WAP and 79.2% of the most sold brand (WHO 2012; European Commission 2013a). The share of taxes in the retail sale price provides incentives for the ITTP at the national level, favouring illicit manufacturing and wholesale/retail distribution of illicit tobacco products within Spanish borders.

Figure 29. Marlboro price in euros per 20 cigarettes, January 2013

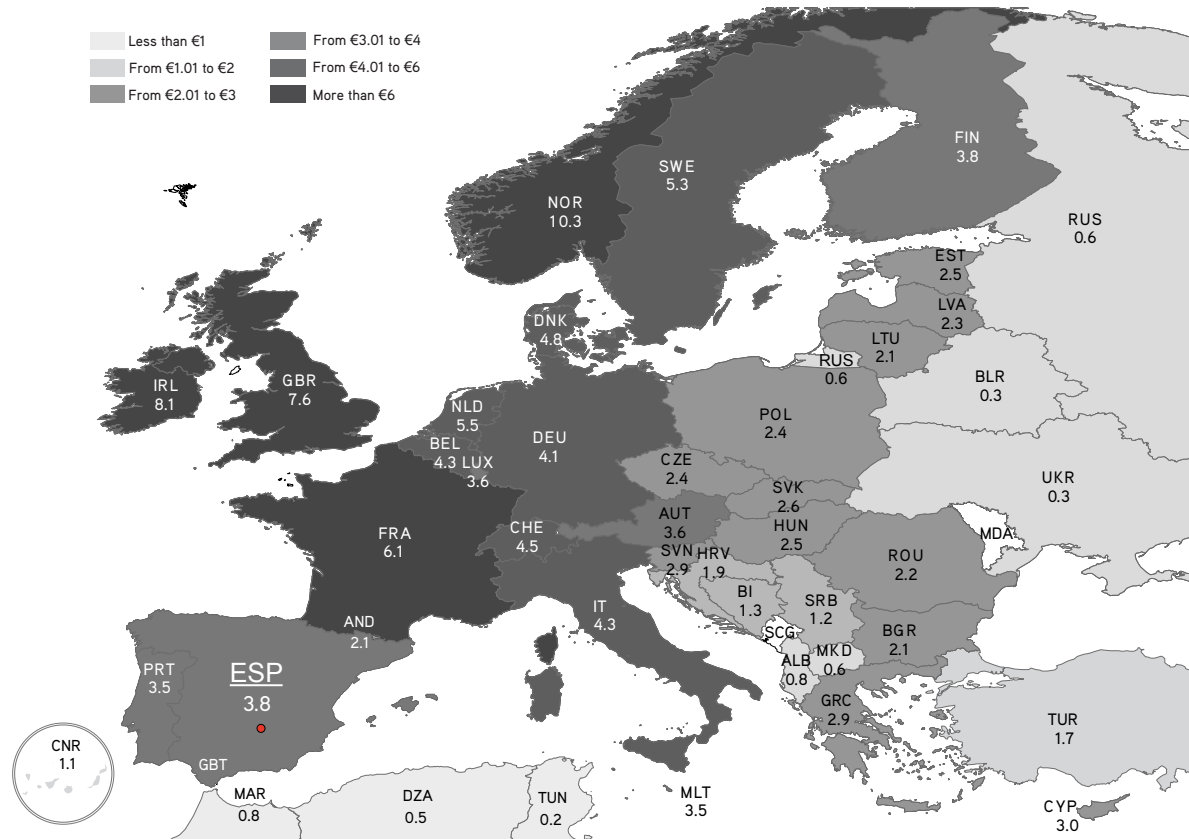
Source: Transcrime elaboration on PMI (2013) data



- **The ease of retail distribution increments the supply.**
- According to the Spanish Association of Tobacconists, illicit tobacco can be found in secondary retail channels such as **petrol stations, bars, restaurants and 24-hour shops** (Samper and Valdés 2013).
- Bars, shops, street vendors and small markets sell illicit cigarettes packs at an average price of €3.00, about 20% cheaper than the legal price (García 2011).
- **In some cases, law enforcement agents have been involved in tobacco smuggling in Spain.**
- In 2007, a criminal organisation was dismantled in Vigo, in the Galicia region. Several agents of the Guardia Civil were arrested for controlling the illicit importation and distribution of tobacco from the Canary Islands to the Galician port of Vigo (Foces 2011).
- Tobacco smuggled from Andorra transits mainly through the Spanish area of La Seu d’Urgell, twelve miles from the border with Andorra. The mountain passes separating La Seu d’Urgell from Andorra are historical routes for tobacco smuggling. In 2000, some corrupt civil guards in this area were discovered taking bribes from tobacco smugglers to turn a blind eye to the traffic and reveal secret information about enforcement operations (Visa 2012).
- **In 2013, an illicit tobacco manufacturing facility was dismantled near Madrid (García 2013).**
- In June 2013, the AEAT dismantled the first illicit tobacco manufacturing facility in Coslada, near Madrid, related to another illicit manufacturing facility in Guadalajara. Four Poles, a Ukrainian and a Spaniard were arrested. This clandestine factory had the capacity to produce 1.5 mn cigarette packs a month (B. García 2013; AEAT 2014b).

Figure 30. Cheapest brand prices in euros per 20 cigarettes, January 2013

Source: Transcrime elaboration on PMI (2013) data



Note: Prices for the UK and Ireland are recommended retail prices. Prices for Cyprus, Estonia, Latvia, Lithuania, Malta, Romania, Slovenia and Sweden are maximum retail prices. Norway is a free pricing market.

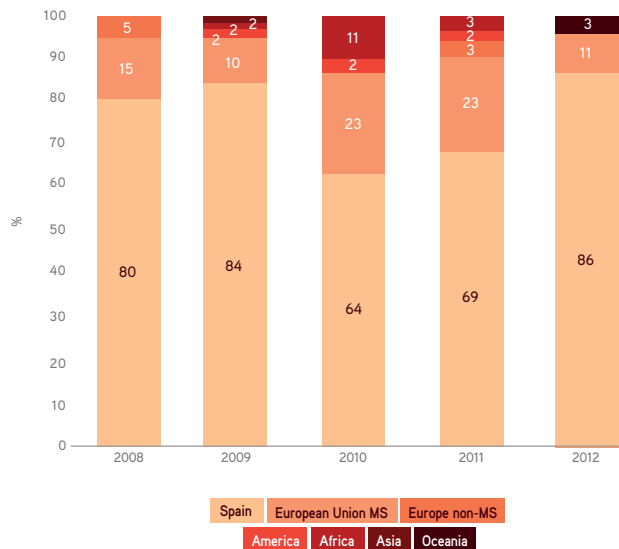
- **Two main categories of suppliers take part in the Spanish ITTP. They are:**
 - Large scale smuggling organisations;
 - Single Spanish individuals.
- **Large scale organised groups are involved in tobacco smuggling.**
 - According to the *Cuerpo Nacional de Policía* (Spanish National Police), **there is a strong relationship between organised crime and tobacco smuggling and counterfeiting.** The proceeds of tobacco smuggling are reused to fund other crimes such as human trafficking, drug trafficking and money laundering (García 2013)
 - In May 2013, the *Guardia Civil* dismantled an international criminal organisation dedicated to tobacco smuggling and money laundering in a joint operation carried out in several Spanish provinces (including Cádiz, Malaga, Cordoba and Seville) as well as in Portugal, France and Belgium. The organisation imported tobacco from Asia, routed it to some African states, and then introduced it into Europe through Eastern European countries (Europa Press 2013a).
 - In the Andalusia region, in Southern Spain, criminal organisations rent homes close to the Gibraltar border to receive and smuggle the tobacco illegally imported from Gibraltar. According to the SVA (*Servicio de Vigilancia Aduanera*), these organisations have more than one hundred ‘employees’ and are present in many Andalusian towns (Gómez 2012).

- **In some cases, foreign terrorist groups have been involved in large-scale smuggling.**
- According to the independent think tank *Foro Europa Ciudadana*, criminal organisations and terrorist groups see the illicit tobacco trade as a more secure source of funding than drug trafficking and prostitution (lainformacion.com 2013).
- The IRA organisation in Northern Ireland uses tobacco contraband in Gibraltar to fund its illicit activities (Páramo 2013).
- **Single individuals are increasingly involved in the fraudulent importation of tobacco products from neighbouring countries with lower cigarette prices.**
- Since the beginning of the economic crisis, the number of **Spanish citizens** going to Andorra to buy cheaper tobacco has increased. According to the *Guardia Civil*, the profile of the tobacco smuggler has changed. Smugglers do not live only in the areas surrounding Andorra; rather, they come from Barcelona, Tarragona, Zaragoza or even from Andalusia. The typical individual smuggler is around 40 years old and travels alone (Baquero 2013).
- The **'farderos'** are individuals, or small groups of people, who carry boxes of contraband tobacco over the mountain passes near Andorra in order to import them fraudulently into Spain (Alonso Miranda 2014).
- The **'matuteras'** are Spanish women who cross the border between Gibraltar and Spain carrying illicit tobacco. They are generally mothers seeking an additional source of income. They earn around €10-12 per day, approximately €2.00 per carton of cigarettes transported to Spain across the Gibraltar border (Diario de Jerez 2013).
- Individuals and organisations from Romania, England, Bulgaria and France are increasingly involved in tobacco smuggling in Spain. Indeed, the illicit tobacco detected by the Spanish Police is often directed and distributed in France or the UK, where cigarette prices are higher (Baquero 2013).

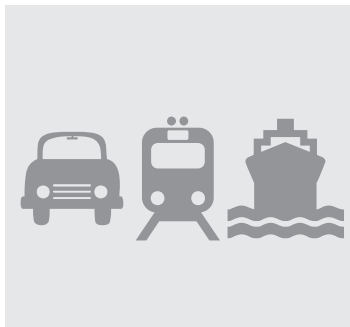
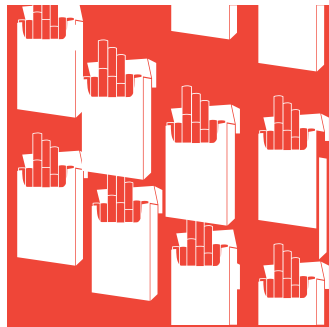
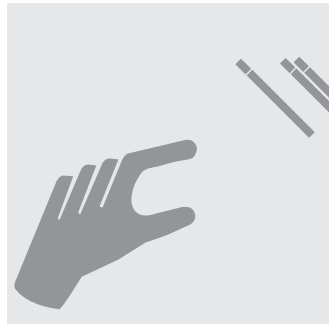
- In 2013, a higher incidence of bootlegged tobacco was detected in mail deliveries, air luggage, and at the border with Gibraltar (Dopico Martinez 2014).
- **Individuals arrested for tobacco smuggling in Spain are mainly men, of Spanish nationality, aged between 41 and 50 (INE 2014b).**
- Analysis of the arrests for tobacco smuggling in Spain between 2007 and 2012 found that, in more than 77% of cases, the persons arrested were Spanish. In particular, in 2012, 85.9% of the arrests involved Spanish citizens. Other arrests concerned individuals from 'other EU Member states' (10.9%) or from Africa (3.1%) (Figure 31) (INE 2014b).
- In 2013 in Andorra, 45 people were arrested for tobacco smuggling. 33 were Spanish nationals, 7 Portuguese, 3 Andorran and 2 French. They were mostly men and 35 years old on average (Alonso Miranda 2014).

Figure 31. Arrests for tobacco smuggling (Ley de Represión de Contrabando), 2008-2012

Source: Transcrime elaboration on INE (2014) data



Individual smugglers and large-scale criminal organisations are the main suppliers of illicit tobacco in Spain. The main factors impacting on the supply of illicit tobacco are cigarette price differentials with Gibraltar, Andorra and the Canary Islands, together with the current economic crisis.



THE PRODUCTS

The main tobacco products smuggled into Spain are illicit whites and genuine contraband cigarettes. In particular, Ducal, American Legend and Elixyr are the most widespread illicit whites brands. Counterfeits have a low incidence in the Spanish ITTP. The main source countries are the Canary Islands, Andorra and Gibraltar.

- **Spanish institutions do not provide official estimates of the illicit tobacco market. Nevertheless, several institutions furnish estimates useful for analysing the ITTP (Table 6 and Figure 32, p.69).**
- In 2003, the study by **Bonilla Panvela** analysed the trend of the ITTP in Spain in the years 1995-2002, examining data from *Tabacalera* and Altadis. According to this study, in 1995 16.2% of cigarettes were illicit. This percentage diminished to 1.8% in 2002. This strong decrease (-88.9%) was related to law enforcement action against tobacco smuggling (Bonilla Panvela 2003).
- **KPMG**, through its *Project Sun* and by using several sources, investigates the penetration of illicit tobacco into the Spanish tobacco legal market. It divides cigarette packs among C&C (Counterfeit and Contraband), LDC (Legal Domestic Consumption), and ND(L) (Non-Domestic Legal Consumption). According to the results, C&C increased significantly between 2006 (2.4%) and **2013 (8.8%)**. The largest increase was registered between 2010 and 2011 with C&C rising from 2.5% to 7.2% of total cigarette consumption. In 2013, the figure for C&C incidence in Spain is lower than the European average (10.5%), and **Spain ranks 16th out of 28 countries surveyed for C&C incidence** (KPMG 2014).
- **Euromonitor International** estimates the size of the Spanish illicit market as a percentage of the total market.²⁶ **The ITTP's penetration decreased from 6% to almost 1% between 1998 and 2010**, due to successful enforcement actions against contraband. A marked increase was registered between 2010 and 2011, from 0.8% to 6.1%. **In 2012, the ITTP's penetration was 8.2%** and Spain ranked 19th out of 25 European countries (Latvia ranked first and Denmark last, with 49.6% and 1.1% respectively) (Euromonitor International 2012; 2013a).
- **'Empty Pack Surveys'** – henceforth EPSs – are estimates regularly provided by the tobacco industry on the incidence of **non-domestic packs found in Spanish towns**.²⁷ In 2013, the non-domestic incidence among packs collected in Spain was 11.3%. A significant increase was registered **between 2010 and 2011, when non-domestic incidence grew by 126% passing from 4.2% to 9.4%**. This increase was driven by increased C&C flows (Ipsos 2013; KPMG 2013).
- **ThinkCom**, a research centre of the Universidad Complutense de Madrid, conducted an interview-based study on tobacco and alcohol consumption in Spain. According to this study, **3.3% of respondents bought cigarettes from illicit channels**.²⁸ Further, ThinkCom estimates that illicit cigarette penetration ranges **between 10.23% and 11.75% in 2013** (ThinkCom 2013).²⁹
- A study on the ITTP conducted in 2012 in 18 countries in Europe, estimated that only **3.4% of the Spanish tobacco market is illicit**. Indeed, on considering the tax evasion score, an *ad hoc* defined measure of cigarettes purchased from illicit channels derived by analysing the packs bought by consumers, the prevalence of tax evaders in Spain was below the average (6.5%) (Joossens et al. 2012). The study relied on self-reported information provided by a small sample of smokers, around 300.

²⁷. These data should be used with caution because EPSs consider only packs of cigarettes – excluding HRT and individual butts – and because they do not differentiate between legal and illegal packs, paying attention also to the former. Finally, EPSs do not consider the smuggling of domestic tobacco products and their diversion to illicit channels. In spite of these shortcomings, EPSs are valuable sources for analysis of the illicit cigarettes market in Spain. The EPSs data for Spain are available from 2006 to 2012.

²⁸. ThinkCom conducted 1,204 interviews with people aged between 14-75, asking where they usually bought tobacco products (ThinkCom 2013).

²⁹. ThinkCom calculates these estimates by comparing data on sales and reported consumption. Data on consumption are calculated using interviews. Data on sales are estimated using 2012 data from the Comisionado para el Mercado de Tabacos and by taking into consideration the decrease in cigarettes sales for the first semester 2013 (-12%). Researchers suppose two scenarios for the second semester: in the first scenario, the decline in cigarettes consumption remains stable at -12%; in the second scenario, the decline reaches -15% in the second semester of the year. In this way, they create two estimates on the number of cigarettes bought in 2013 outside the network of legal retailers (ThinkCom 2013).

²⁶. Euromonitor International estimates the illicit market through industry press releases, press materials, interviews with manufacturers and retailers, as well as local market sources.

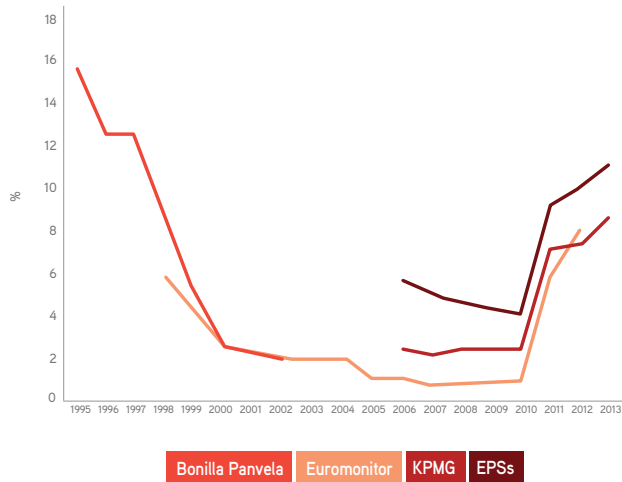
Table 6. Estimates of the size of the Spanish illicit cigarette market. Percentage of the total market, 1995-2013

Source: Transcrime elaboration on Bonilla Panvela (2003), Euromonitor International (2013b), KPMG 2014, Thinkcom (2013) and EPSs data

Year	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10	11	12	13
Bonilla Panvela	16.2	12.9	12.8	9.0	15.1	2.5	2.1	1.8											
Euromonitor				6.0	4.3	2.5	2.3	2.1	1.9	1.9	1.1	0.9	0.6	0.6	0.7	0.8	6.1	8.2	
KPMG												2.4	2.2	2.5	2.4	2.5	7.2	7.5	8.8
EPSs (non-domestic incidence)												5.7	5.1	4.7	4.4	4.2	9.4	10.3	11.3
Thinkcom Upper Bound																			10.23
Thinkcom Lower Bound																			11.75

Figure 32. Estimates of the size of the Spanish illicit cigarette market, 1995-2013

Source: Transcrime elaboration on Bonilla Panvela (2003) Euromonitor International (2013b), KPMG (2014) and EPSs data



•• Two types of illicit products are most widespread:

- Illicit whites;
- Genuine contraband cigarettes.
- Counterfeits have a low incidence among non-domestic cigarettes, equal to 0.2% in the second quarter of 2013. In that period the company with the largest share of counterfeits was Philip Morris International (1.4%). The share of counterfeits among non-domestic cigarettes has been less than 0.1% since 2009 (Ipsos 2013).

ILLICIT WHITES

•• Approximately 55% of illicit cigarettes in Spain are illicit whites (KPMG 2014).

- The *Project Sun* by KPMG found that illicit white consumption is mostly concentrated in Poland, Greece and Spain: these countries have significantly higher values than the other European countries. KPMG estimated that in 2013 around 2.5 bn sticks of illicit whites were consumed in Spain. **This volume increased by around 34% between 2012 and 2013.** In particular, **Spain has the 3rd largest illicit white consumption in Europe (KPMG 2014).**
- It is estimated that half of all illicit cigarettes that enter Spain come from **Gibraltar** (2.3 bn cigarettes out of 4.43 bn illicit cigarettes in 2013). A large proportion of them are illicit whites with unspecified and duty free labeling (KPMG 2014).
- **According to EPSs, the share of illicit whites has increased in Spain, rising from 5.2% of non-domestic packs in 2011 to 41.8% in the second quarter of 2013. In the fourth quarter of 2013 it decreased to 14%.**
- According to KPMG, the largest illicit whites brands are Ducal and American Legend. Other large C&C brands include Austin, Gold Classic and Elixyr. Moreover, in 2013 there was a proliferation of smaller brands, with over 50 new brands of illicit whites identified in Spain (KPMG 2014).

- Among the three most widespread brands of illicit whites in the second quarter of 2013, **Ducal** had the highest share among non-domestic packs (**15.6%**), **American Legend** the third (**13.1%**) and **Elixyr** the sixth (**4.2%**) (Ipsos 2013). **These three brands were not present in the illicit tobacco market before the fourth quarter of 2012.** In the fourth quarter of 2013, the illicit white brands with the largest share among non-domestic cigarettes were American Legend (51%) and Gold Classic (30%).

- **Ducal, American Legend and Elixyr are legally sold in the domestic Spanish market. Nevertheless they have a small share of the market.** Indeed, in 2013 Elixyr had a 0.7% share of the Spanish legal market, American Legend 0.06%, and Ducal 0.02% (CMT 2014b). According to the empty packs collected in the fourth quarter of 2013, the non-domestic incidence of these brands is high (44%, 59.8%, and 99% for American Legend, Elixyr, and Ducal).

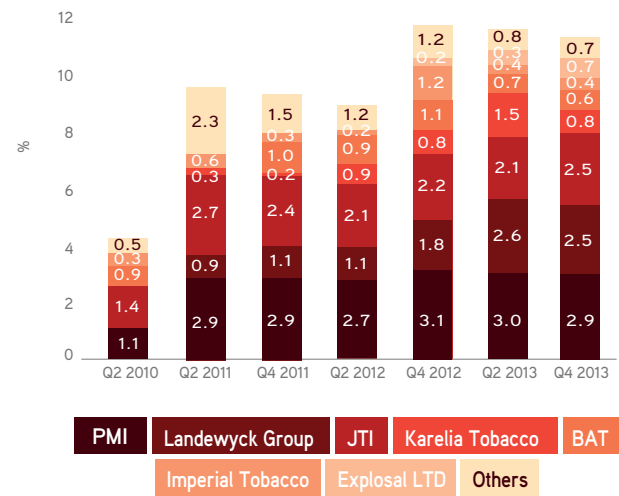
- The ‘**Elixyr**’ and ‘**Ducal**’ brands are produced by Heintz Van Landewyck, reorganised in 2003 into the **Landewyck Group** (GAL). Ducal was launched on the Spanish cigarettes market in 2004, Elixyr before 2002. Landewyck Group has production facilities in Germany, Luxembourg, the Netherlands, Belgium, Hungary, and Andorra. Moreover, in 2012, it established wholesale distributors in Spain, particularly in the Community of Madrid, Andalusia and in the Canary Islands (GAL 2014a; 2014b).

- The ‘**American Legend**’ brand was launched on the Spanish market in December 2010. They are produced by Karelia Tobacco, whose production facilities are based in Greece (Karelia Tobacco 2012).

- **The share of Landewyck Group and Karelia Tobacco among non-domestic products increased until the second quarter of 2013 and then decreased in the fourth quarter of 2013.** Between 2012 and the second quarter of 2013, the number of non-domestic packs pertaining to the Landewyck Group increased from an average of 1.5% to 2.6%. The same happened for Karelia Tobacco, from 0.9% to 1.5% (Figure 33).

Figure 33. Non-domestic cigarettes, % share by company, 2010-2013

Source: Transcrime elaboration on EPSs (2010-2013) data



- **Bootlegging and small-scale smuggling occur between Spain, Andorra and Gibraltar (Espinar 2014).**

- While in Spain a pack of the most widely-sold cigarettes brand (Marlboro) cost €4.75 in 2013, in **Andorra** it cost €3.20 and in **Gibraltar** €2.80. This difference in prices, due to the different level of taxation (see Regulation, p.33), increases the opportunities for small-scale smuggling between Andorra and Spain (Espinar 2014).

- Tobacco bootlegging also occurs at the border between **Spain** and **Gibraltar**. Here, the ‘*matuteros*’ earn a living from tobacco smuggling. Indeed, they cross the border with Gibraltar several times a day to smuggle tobacco (ThinkCom 2013; Yamagata 2013). In comparison with other Spanish regions, Andalusia (the region surrounding Gibraltar) has the higher non-domestic incidence among cigarettes packs collected (see *Modus operandi* and geographical distribution, p.75).

GENUINE CONTRABAND CIGARETTES

- **The number of contraband cigarettes has increased in recent years.**

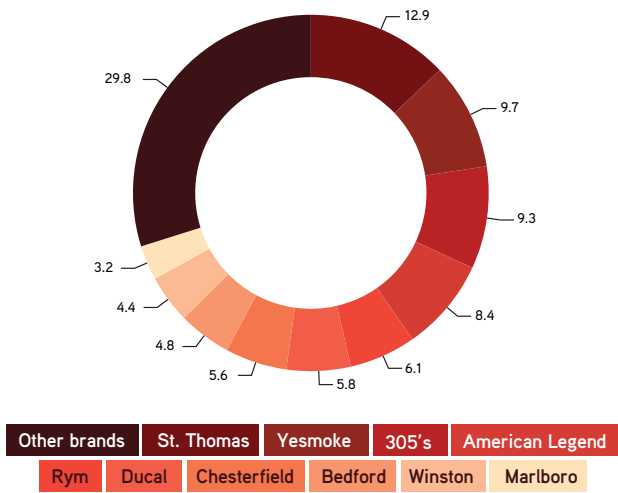
- EPSs data on the fourth quarter of 2013 show that the incidence of non-domestic cigarettes was 11.2%. The largest share among non-domestic cigarettes was occupied by **PMI products (2.9%)**. The second companies with the same level are **Landewyck Group** and **JTI (2.5%)**, followed by **Karelia Tobacco (0.8%)** (Figure 33).

SEIZURES OF ILLICIT CIGARETTES

- According to the data on seizures provided by the Spanish *Guardia Civil*, the most seized brand in 2012 was ‘St. Thomas’, followed by ‘Yesmoke’ and the ‘305’s brand (Alonso Miranda 2014).
- In 2012, 12.9% of seizures concerned the ‘St. Thomas’ brand, 9.71% ‘Yesmoke’, 9.29% ‘305’s and 8.42% American Legend (Figure 34).

Figure 34. Seizures of illicit tobacco in 2012, (% share)

Source: Transcrime elaboration on *Guardia Civil* (2014) data



PRICE AND ORIGIN OF ILLEGAL TOBACCO PRODUCTS

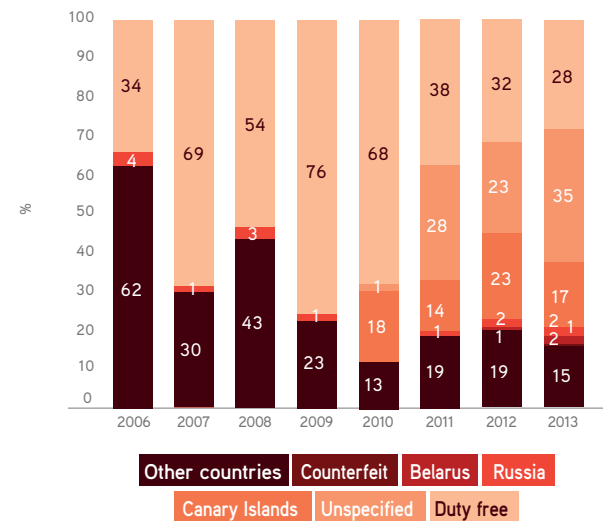
- The average price of a pack of illicit cigarettes in Spain, for which data are available, is €2.5 (Philip Morris International 2012).
- In Spain, a pack of illicit cigarettes, especially from the popular brands, is sold for about **half the price of a pack sold in the legal market**.
- Media sources report a wider price range, **from less than €2 for illicit whites to almost €3 for a pack of Marlboro** (Philip Morris International 2012; El País 2013; lainformacion.com 2013).

- A large share of contraband and counterfeit cigarettes in Spain have either an unspecified or duty-free origin (KPMG 2014).

- In 2013, 35% of illicit cigarettes had ‘unspecified origin’, 28% ‘duty free’ origin and 17% originated from the Canary Islands (Figure 35). The high prevalence of unspecified and duty free products may be explained by inflows **from Gibraltar**. Indeed, cigarettes sold in that country do not carry a national fiscal stamp; rather, they have a duty-free label (KPMG 2014).

Figure 35. Contraband and counterfeit cigarettes by country of origin, % share, 2006–2013

Source: Transcrime elaboration on KPMG (2014) data



- EPSs report that 20% of the non-domestic packs collected in the fourth quarter of 2013 originated from the Canary Islands, 19% from ‘other countries’, and 14% had an ‘unspecified’ origin (Figure 36, p.72). The source countries for non-domestic cigarettes have changed over the years. Between the second quarter of 2009 and the fourth quarter of 2013, the incidence of ‘duty free’ areas fell from 53% to 23% of the total non-domestic packs. The incidence of the Canary Islands also decreased (from 23% to 11%). On the other hand, **the highest increase was registered for cigarettes of ‘unspecified’ origin (from 0% to 14%)**.

- **Investigative reports and media release indicate Gibraltar as one of the main source countries for illicit cigarettes consumed in Spain** (Gómez 2012; ABC 2013; El País 2013; Rivas 2013; Yamagata 2013; La Voz de La Línea 2014). According to EPSs, the number of cigarettes arriving from **Gibraltar** increased in 2013, from **less than 1% of the non-domestic packs in the second quarter of 2013 to 12% in the fourth quarter of 2013**.
- **It is estimated that half of all illicit cigarettes consumed in Spain come from Gibraltar**. These illicit flows have been increasing since 2009 (KPMG 2014).

Figure 36. Non-domestic cigarettes by country of origin, % share, 2007-2013

Source: Transcrime elaboration on EPSs (2007-2013) data

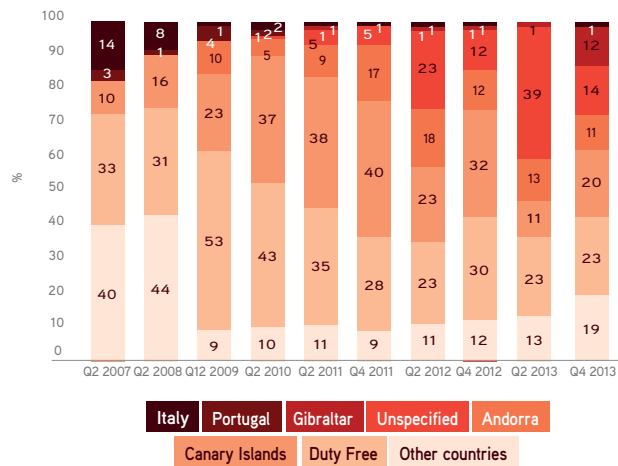
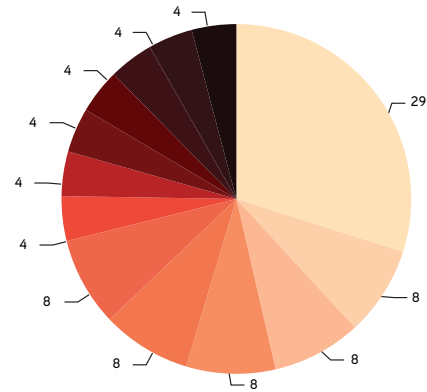


Figure 37. Source countries of containers seized in 2012 in Spanish ports (% share)

Source: Transcrime elaboration on Guardia Civil (2014) data.

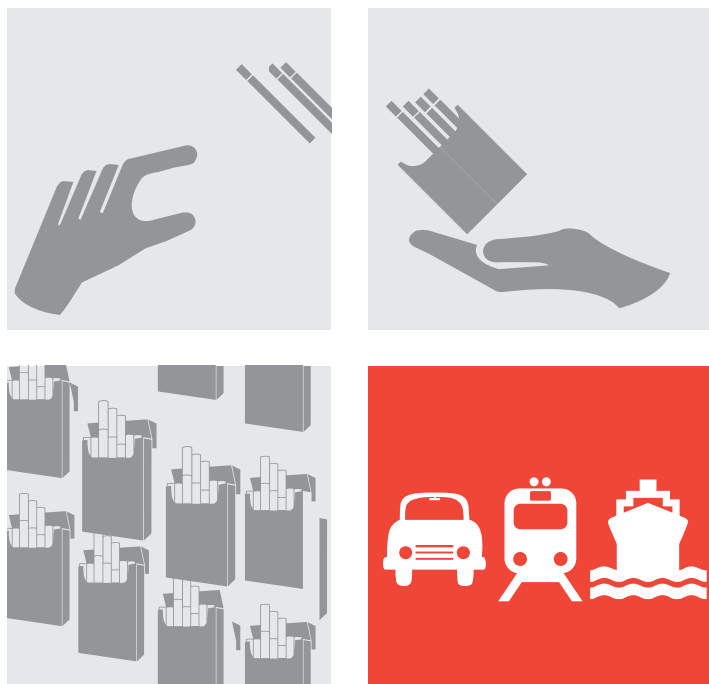


- **Andorra and the Canary Islands are source countries for illicit tobacco entering Spain** (Visa 2012; Acosta 2013).
- Tobacco smuggling from Andorra is particularly concentrated in the Spanish area of La Seu d'Urgell, 12 miles from the border with Andorra. The **mountain passes between Spain and Andorra** have been historical routes for tobacco smuggling (Visa 2012). According to EPSs (fourth quarter 2013), the largest share of non-domestic cigarettes coming from Andorra (46.7%) was found in Catalonia, due to its geographical proximity to that country. However, the non-domestic incidence in Catalonia is below the Spanish average (7.8% and 11.2% respectively).
- In 2006, the Civil Guard seized 67,000 packs of tobacco originating from Andorra. In 2009, the figure reached 311,000 packs. In 2010 and 2011, seizures stood at 262,172 and 242,024 packs, then increased considerably in 2012 with 491,842 packs seized. Between 2006 and 2012, the number of **seized packs from Andorra increased sevenfold** (Baquero 2013).

- **According to the data on seizures provided by the Guardia Civil and the AEAT, the main source countries of containers carrying illicit tobacco is China** (Alonso Miranda 2014; AEAT 2014b).
- 29% of the containers seized in 2012 in Spanish ports originated from China, particularly from the port of Shanghai (Figure 37).
- In volume terms, China is the main source country of illicit cigarettes. However, its incidence is decreasing compared with the period between 2005 and 2009. This may be due to the increase of 'cheap whites' imports, mainly from the Canary Islands, UAE, Cyprus, Vietnam and Panamá (AEAT 2014b).

- The Canary Islands are both a transit point for illicit tobacco evading tax and customs duties towards the Spanish peninsula, and a source country for illicit whites imported and manufactured in the islands (Acosta 2013).
- According to other sources, the majority of illicit tobacco products originate from duty-free areas, China, United Arab Emirates, Russia and Belarus (Bonilla Panvela 2003; Euromonitor International 2012; Afi 2013; lainformacion.com 2013).

The main products smuggled into Spain are illicit whites and genuine contraband cigarettes. Counterfeits have a low incidence among non-domestic packs collected. Apart from illicit whites, whose origin is unspecified, the main source countries of illicit cigarettes are the Canary Islands, Andorra and Gibraltar.



MODUS OPERANDI AND GEOGRAPHICAL DISTRIBUTION

Several *modi operandi* are used to traffic illicit tobacco into Spain. Sea routes are prevalent for large-scale smuggling, inland routes for small-scale smuggling and bootlegging. Andorra, Gibraltar and the Canary Islands are source hotspots of the ITTP. Finally, the incidence of non-domestic cigarettes is higher in the Southern region of Andalusia and particularly in the Southern ports on the Mediterranean Sea.

THE MODUS OPERANDI

- **Tobacco smuggling is endemic in Spain.**

The modus operandi of the ITTP varies according to the destination, the availability of transportation connections, and the need to evade countermeasures (see box *The modus operandi of smuggling organisations in Spain*, p.78).

- Tobacco contraband is a traditional activity in Spain. In the second half of the 19th century it was estimated at around 25% of the tobacco market. The traditional way to import illicit tobacco into Spain was to use **a combination of sea and inland routes**. Since Spain's entry into the EU, in 1986, inland routes have been increasingly used to transport illicit tobacco. Indeed, the free circulation of goods within the EU has made it possible to enter items at a lower cost than if maritime connections are used (Bonilla Panvela 2003).
- An element of continuity of the Spanish ITTP is the activity of importing and reselling of **tobacco from Andorra and Gibraltar into the Spanish mainland** (Bonilla Panvela 2003).
- Police operations at the end of the 1990s identified smuggling networks using **airplanes** to transport illicit tobacco (Bonilla Panvela 2003). This technique is still used, especially by organised groups from Eastern Europe, mainly from Bulgaria, Moldova, Romania and Ukraine (AEAT 2014b).
- Inspections by the Spanish Customs show that illicit tobacco is often **concealed among legal products inside containers**. The main merchandise covering the illicit tobacco are textiles, furniture, plastic articles, PC monitors, ceramic and wooden goods (Bonilla Panvela 2003). Another method is to use two containers: one of low value and loaded with legal goods and the other loaded with contraband tobacco. The smugglers exchange the containers' numbers and vary their destinations, sending illegal tobacco to Spain (Alonso Miranda 2014).

- According to the Spanish Police, an emerging issue in tobacco smuggling is the illicit cultivation of tobacco. Indeed, illicit tobacco crops have recently been discovered in Spain (Dopico Martinez 2014).
- **Spain is a destination, transit, and source country for the ITTP.**
- The AEAT maintains that there has been a '**radical change**' in the purposes of the ITTP in Spain. **Nowadays most of the illicit tobacco entering Spain remains in the country for domestic consumption** whereas, in 2010, 80% of tobacco seized was bound for other EU countries, and national consumption was 'residual' (La Razón Digital 2012).
- The prices of cigarettes are significantly higher in Northern European markets than in Spain. According to a study by the Spanish Customs on tobacco contraband in Spain, **between 1994 and 2002 Spain was mainly a transit country for illicit tobacco directed to Northern Europe**. Indeed, the most frequently seized brands had little or no consumption in the Spanish market. These brands were mainly Benson & Hedges, Regal, Super Kings, Magnum and Sovereign (Bonilla Panvela 2003).
- A nit of the Spanish Judicial Police (*Policía Judicial*) specialised in Money Laundering, Contraband and Frauds (*Blanqueo de Capitales, Contrabando y Fraude a la Hacienda Comunitaria*) informs that Spain is a transit country for illicit tobacco mainly directed to Germany and Holland (Notimex 2011).
- Spain is also a **source country** for illicit tobacco products. In 2013, around 0.39 bn illicit cigarettes were diverted from Spain to other EU countries. However, illicit outflows have decreased in comparison with 2012, when 0.96 bn sticks were destined to other illicit markets (KPMG 2014).

- **Smugglers exploit different channels to smuggle cigarettes in Spain.**
 - The Spanish regions used to introduce illicit tobacco into Spain are western Andalusia, on the border with Gibraltar, Galicia's bordering provinces with Portugal, and Catalonia, on the border with Andorra (Dopico Martinez 2014).
 - The Fiscal Unit of the Spanish Civil Guard reports that 62% of the tobacco seizures made in 2012 occurred in customs areas and 37.5% outside customs areas. The remaining 0.5% occurred in territorial waters, on the coasts, on beaches, and almost exclusively on the coast of the Bay of Algeciras, where tobacco is imported from Gibraltar (El Nuevo Lunes 2013).
 - The most traditional way to introduce tobacco fraudulently into Spain is to **import it from border areas** where tobacco has a tax advantage and prices are lower than in Spain. These areas are mainly **Gibraltar, Andorra and the Canary Islands** (García 2013).
 - The Spanish *Guardia Civil* warns that between 2006 and 2012, **Andorra** and **Gibraltar** significantly increased their tobacco imports. In particular, Andorra doubled its imports, from 48 mn to 94 mn packs. Gibraltar, from 38 mn packs in 2006 to 139 mn in 2012 (García 2013). The population of these countries is relatively small, 30,001 inhabitants in Gibraltar and 76,246 in Andorra. If all the tobacco imported was consumed by locals, the amount would correspond to 12 packs of cigarettes a day per every inhabitant in Gibraltar and 3 packs of cigarettes a day for every inhabitant of Andorra.³⁰
- **Gibraltar is a focal point for the introduction of illicit tobacco into Spain. This is mainly due to the permeability of its borders (Foro Europa Ciudadana 2013).**
 - The main *modus operandi* for bringing illicit tobacco into Spain through Gibraltar involves the use of vehicles with hidden compartments, the employment of '**matuteros**', people walking across the border carrying more than the allowed quantity of tobacco, the use of **speed-boats**, and less frequently, **fishing boats** (Rivas 2013).
 - **Smugglers cross the border between Gibraltar and Spain in vehicles** and hide tobacco inside the seats or in hidden compartments. These cars distribute tobacco from Gibraltar to Jerez de la Frontera, Seville and Malaga, in the Andalusia region. Some of these cars are headed for Madrid and Barcelona (Voz Populi 2013).
 - **Many people enter Gibraltar on foot, others by bicycle.** Some smugglers carry their ID card around their necks because they cross the border several times a day. They use old and broken bicycles in order to minimise their loss in the case of arrest and seizure by law enforcement (Voz Populi 2013).
 - In 2012, the *Guardia Civil* seized more than **725,000 packs of cigarettes originating from Gibraltar**. The largest quantity (80%) was hidden in vehicles, a smaller amount (15%) under the clothes of individual smugglers (Europa Press 2013b).

³⁰ The figure for the population of Gibraltar in 2012 has been taken from the Statistics Office of Gibraltar. The figure for the population of Andorra has been taken from the *Departament d'Estadística* of Andorra.

THE MODUS OPERANDI OF SMUGGLING ORGANISATIONS IN SPAIN

In June 2013, the *Guardia Civil* dismantled a criminal organisation which imported tobacco from Gibraltar and distributed it in the cities of Cádiz and Seville. The group was formed of fifteen people and had a hierarchical structure with one lead person. The *modus operandi* was threefold: either it used single 'matuteros', individuals who repeatedly crossed the border with Gibraltar carrying illicit tobacco, or it unloaded the cartons of cigarettes in boundary waters, or hid tobacco inside containers stuffed with legal commodities. The members of the organisation used a restaurant to store the tobacco and as a place where 'workers' were paid for the goods delivered throughout the day (Guardia Civil 2013).

The *Guardia Civil*, with the 'CUMPAI' operation mounted in Cádiz, Málaga, Córdoba, Seville, Valencia, Santa Cruz de Tenerife, Portugal, France and Belgium, dismantled an international organisation involved in tobacco smuggling and money laundering. The network had members in various ports of the EU and facilitated the transportation, transfer of tobacco to ships, and the wholesale distribution. The organisation was able to introduce at least 10 containers of smuggled tobacco every month, with a profit of €1.1 mn per container (Europa Press 2013a).

In 2012, more than 35 tonnes of illegal tobacco were seized within the 'AGUIJÓN' operation. This was the largest seizure made by the Spanish Customs in recent years. The tobacco arrived in Valencia from the Chinese port of Shenzhen. The tobacco was smuggled into Spain in order to be distributed to other countries in Europe (World Customs Organization 2013).

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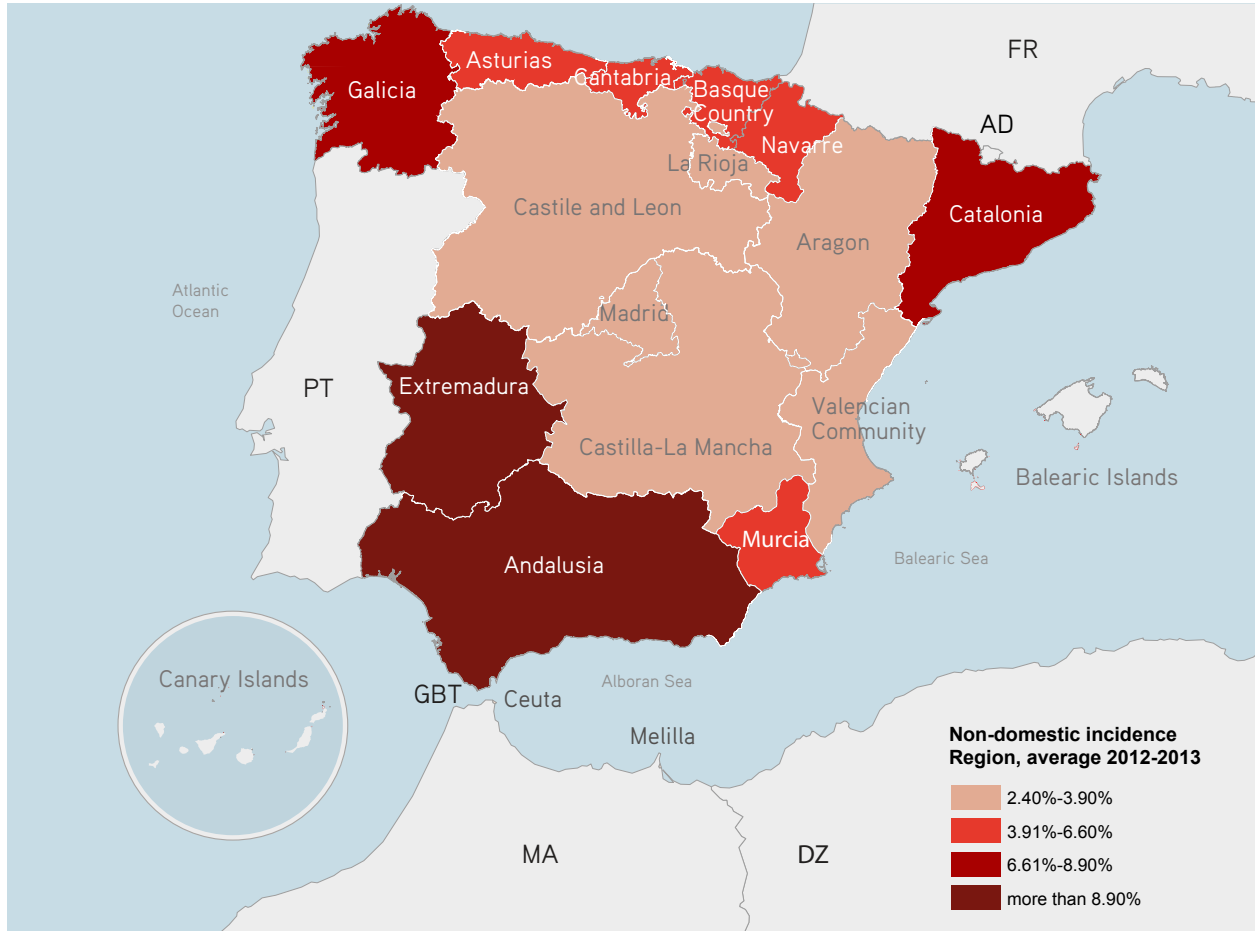
- **The New IRA imports tobacco from Asia to Spain and distributes it in the UK and Ireland.**
- The new IRA imports tobacco from China and Vietnam to Spain. Tobacco is shipped in containers and is directed to the ports of Valencia and Gibraltar. Once in Spain, the tobacco is stocked in storages, and then transported on trucks carrying mainly fruit, frozen vegetables or fish to the final destination in the UK and Ireland (Colmenero 2013).
- The organisation also imports tobacco from the Canary Islands by using charter flights and hiding cigarettes in luggage to transport it to Ireland (Colmenero 2013).
- The criminal organisations involved in tobacco smuggling operate from several points in Spain and have contacts in various provinces. **Andalusia is one of the hot spots, and the Strait of Gibraltar is considered one of the transit points for tobacco smuggling** (García 2011; AEAT 2014b).
- **According to the EPSs conducted in Spain in 2013, the highest non-domestic incidence among packs collected is registered in the southern regions of Andalusia and Extremadura (Figure 38, p.79).**
- **Andalusia**, the Spanish region bordering on Gibraltar, had the highest non-domestic incidence in the fourth quarter of 2013 (**37.7%**). In this region, twelve cities have been surveyed as part of the Empty Pack Surveys' research. Moreover, in the period between 2007 and 2011, the non-domestic incidence rose **from 3.9% to 39.7%**, a 900% increase in six years.
- Between 2012 and 2013, **eleven out of twelve cities surveyed in Andalusia had a non-domestic incidence above the country average (10.8%)**. The cities with the highest non-domestic incidence were **Algeciras (76.2%), Marbella (66.6%) and Malaga (40.8%)** (Figure 39, p.80).

GEOGRAPHICAL DISTRIBUTION

- **The AEAT has designated Catalonia, the Canary Islands, Galicia and the Andalusian border with Gibraltar as major 'sources of risk' for the illicit trade in tobacco products (La Razón Digital 2012).**
- According to the AEAT, Catalonia is the entry point for 40% of the illicit tobacco in Spain. The tobacco mainly arrives in Lleida, on the Andorran border, at the Farga de Moles customs point, or at the port of Barcelona (La Razón Digital 2012).

Figure 38. Non-domestic incidence of regions, average 2012-2013

Source: Transcrime elaboration on EPSs data

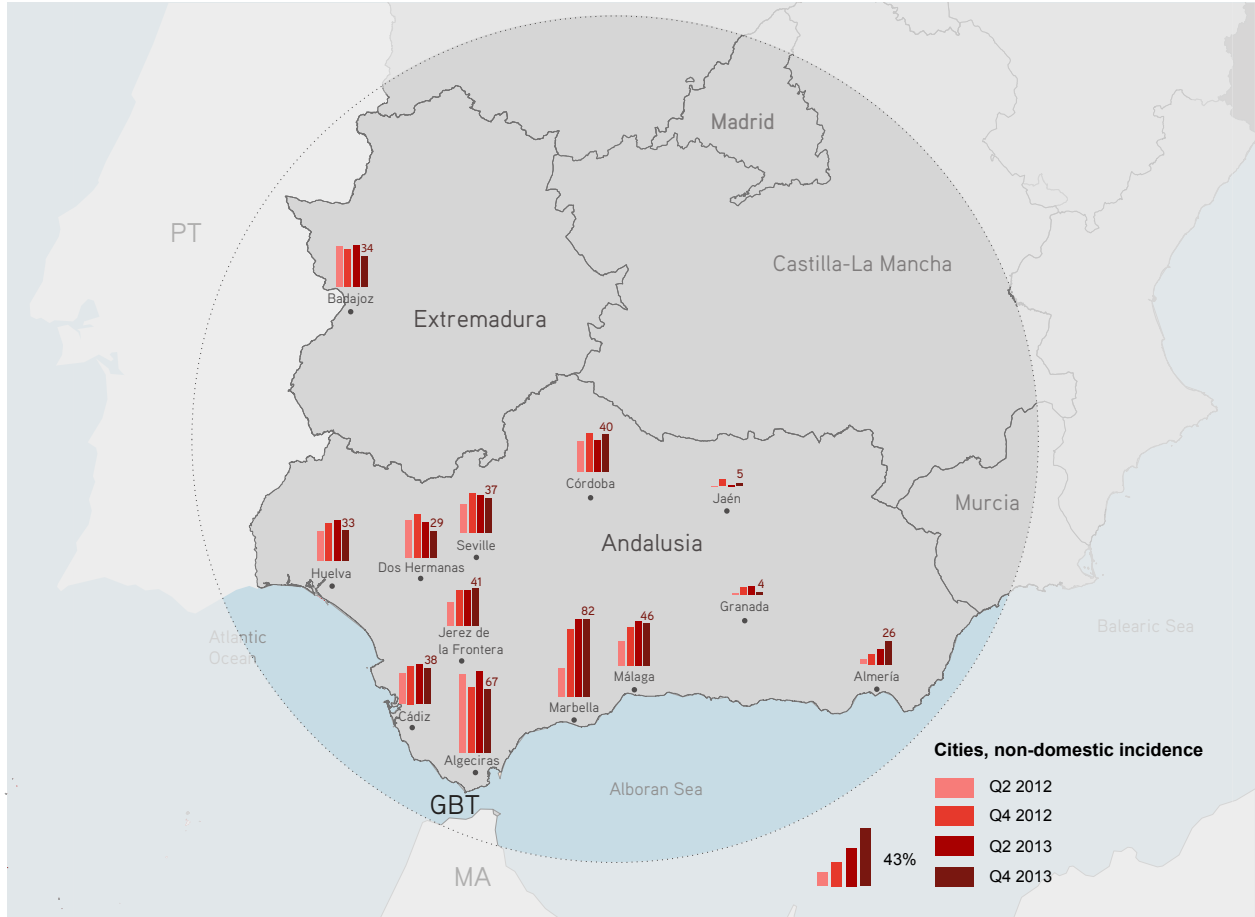


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- **Extremadura** is the Spanish region with the second highest non-domestic incidence, **33.8%** according to the EPSs of the fourth quarter of 2013. However, the results should be treated with caution because the sample of collected packs in the region refers only to the city of Badajoz.
- **Non-domestic incidence in the Southern ports of Andalusia is higher than in other Spanish ports. However, in 2012, the majority of seizures of containers occurred in the port of Valencia (Alonso Miranda 2014). According to the AEAT, the ports of Malaga and Cadiz are strategic hotspots for the ITTP in Spain (AEAT 2014b).**
- Analysis of the empty cigarettes packs collected in 23 Spanish ports between 2012 and 2013 showed that **nine ports were above the national average for non-domestic incidence (10.8%)**. These ports included the Andalusian ones of Algeciras (76.2%), Marbella (66.6%), Málaga (40.8%), Cádiz (38.7%), Huelva (37.2%), Jerez de la Frontera (36.0%), and Almería (1.0%), and the ports of Badalona (12.4%) in Catalonia, and A Coruña (11.4%) in Galicia.
- In 2012, 38% of seizures of containers with illicit tobacco occurred in the port of Valencia, 25% in the port of Barcelona and 8% in Algeciras (Alonso Miranda 2014).
- In January 2013, the AEAT dismantled a smuggling organisation in Algeciras. The organisation was based in Madrid, the Canary Islands and Algeciras. It imported illicit tobacco into Spain by falsifying declarations on the merchandise transported inside containers in order to distribute it in the domestic market (AEAT 2013c).
- **Police operations show that the port of Bilbao is used as a transit point for illicit tobacco directed to Northern Europe.**
- In January 2014, a ship container stuffed with illicit cigarettes originating from Russia and directed to the UK, was seized in Bilbao by the AEAT. The organisation was ramified between Madrid, the Canary Islands and Algeciras (AEAT 2013c).

Figure 39. Non-domestic incidence per towns in Andalusia and Extremadura, 2012-2013

Source: Gráfico elaborado por Transcrime con datos de EPS



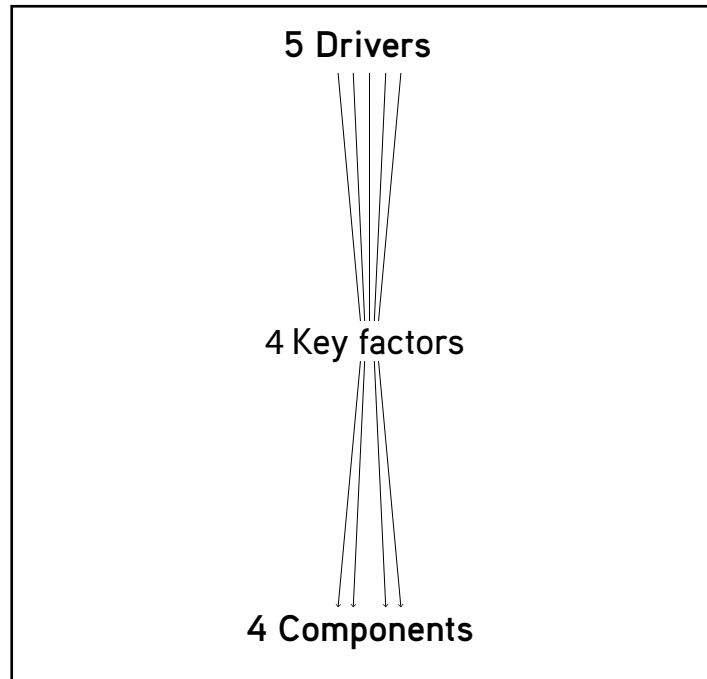
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- Operation 'TRUYEYE', carried out in March 2013 by the AEAT, dismantled an organised cigarette-smuggling network which transported tobacco from the port of Bilbao to Ireland. The higher pricing of cigarettes in Ireland, as well as the good road communications of the port of Bilbao and its high merchant traffic with the British Isles have made cigarette-smuggling along this route particularly attractive (AEAT 2013b).

In conclusion, in Spain tobacco smugglers use both sea and inland routes. Gibraltar, the Canary Islands and Andorra are source hotspots for the ITTP, and Andalusia has a high penetration of non-domestic cigarettes. Cities with ports, particularly in Andalusia, have a non-domestic incidence higher than the national average.

Chapter 3

*Framing the
components in the
drivers*



THE FOUR KEY FACTORS OF THE ITTP

THE FOUR KEY FACTORS

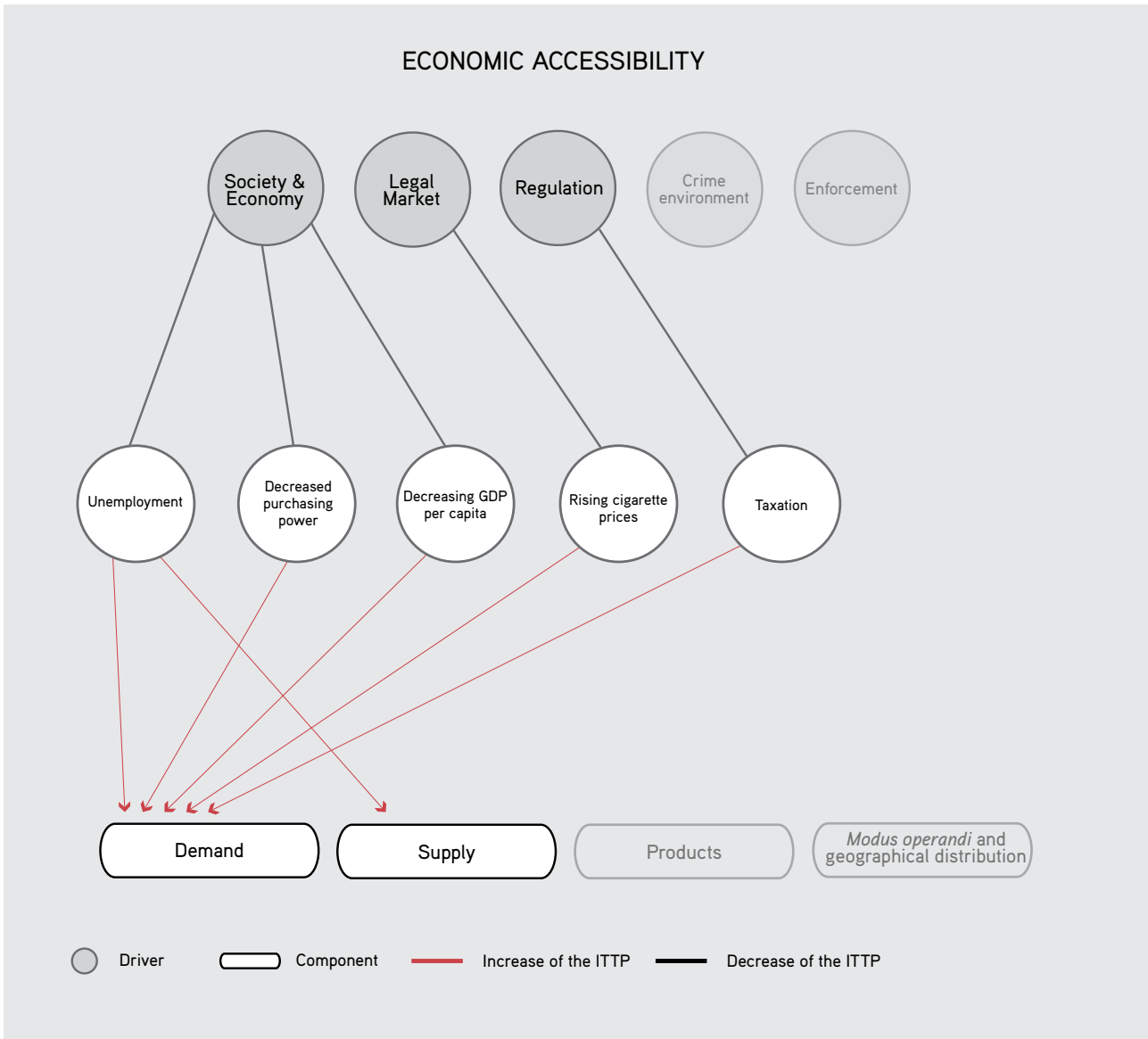
This chapter draws on the results of the previous analyses and identifies the key factors of the ITTP. The key factors are the **opportunities that can affect the ITTP**. Like any other market, also that for tobacco products creates illegal opportunities and hosts specific actors and activities. **They derive from the link between drivers and components of the ITTP. The drivers impact or may impact on the different components of the ITTP through four key factors.** Therefore, it is necessary to identify the possible interactions between drivers and components in order to remove any possible opportunity/vulnerability which may facilitate the action of criminal players and shape the illicit trade in tobacco products.

The four key factors of the ITTP are economic accessibility, availability, profitability, and risk.

- **Economic accessibility:** the price of illicit tobacco, and particularly its relative price compared to the price of legal products.
- **Availability:** the ease with which both smugglers and consumers can obtain illicit tobacco products.
- **Profitability:** the ability of the ITTP to generate profits that exceed its operational costs.
- **Risk:** the threat of detection/accusation/conviction and the sanctions imposable on the actors involved in the ITTP.

Figure 40. Framing the components in the drivers through economic accessibility

Source: Transcrime elaboration



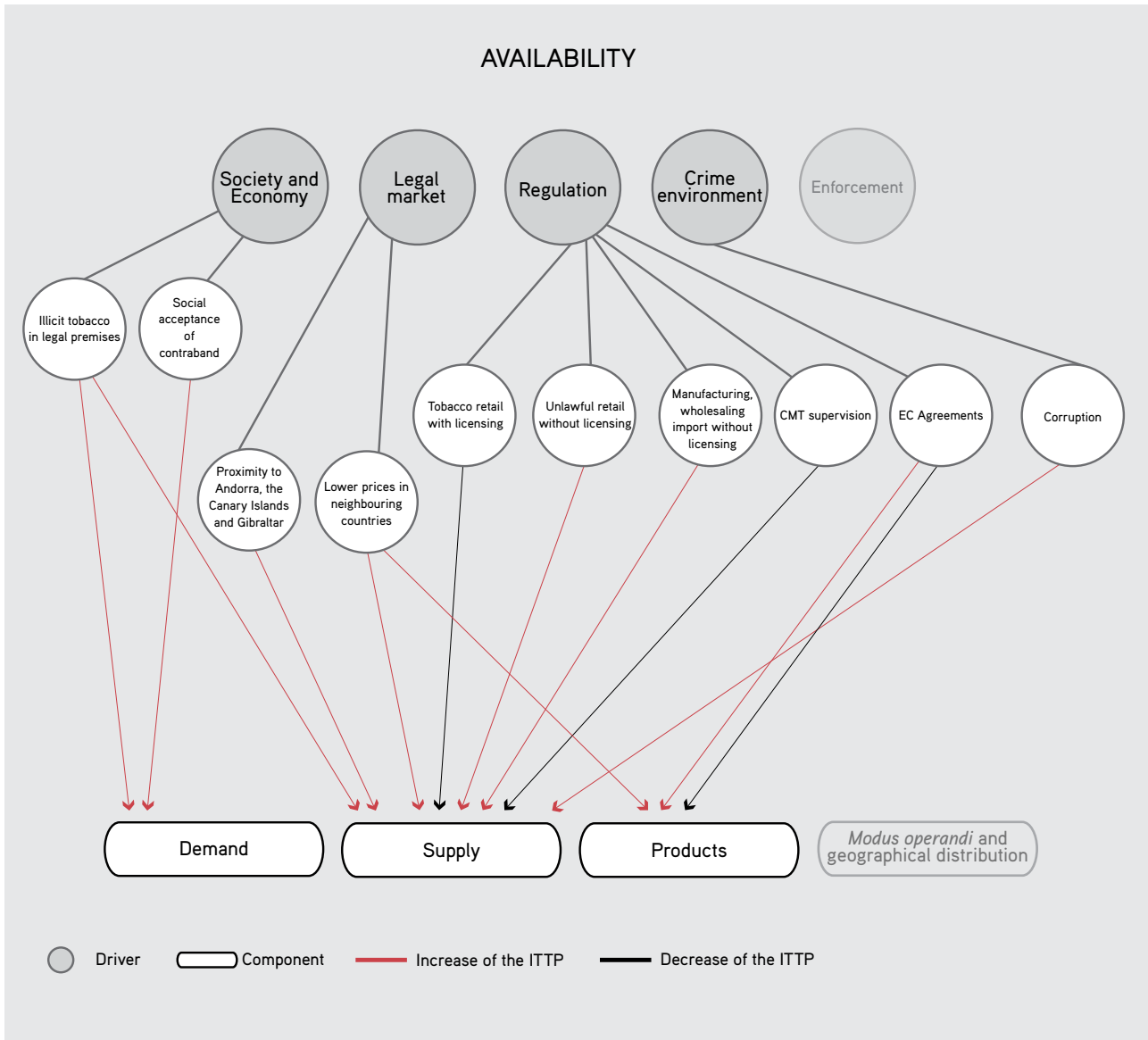
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ECONOMIC ACCESSIBILITY

(Figure 40)

- **The economic crisis in Spain, the high unemployment rate and the decreased purchasing power of Spaniards are conditions fostering the demand for illicit tobacco due to its greater economic accessibility.**
- **People decide to buy or sell illicit cigarettes because of their difficult economic circumstances** (Bonilla Panvela 2003; Gómez 2012; La Razón Digital 2012; El Nuevo Lunes 2013; El País 2013; laSexta.com 2013).
- **Spain has the highest unemployment rate among 35 OECD countries** (26.3% of labour force in 2013). This has an impact on both the demand for and the supply of illicit tobacco. Indeed, unemployment rate and ITTP penetration are positively correlated and follow the same increasing trend (see The demand, p.57). Moreover, illicit tobacco is **more widespread in Andalusia and Extremadura, where the unemployment rate is higher** (Gómez 2012; Ipsos 2013; INE 2014a).
- **Cigarette tax increases and higher cigarette prices have caused a decrease in legal cigarette sales and induced some Spaniards to switch to more economically accessible illicit tobacco.**

Figure 41. Framing the components in the drivers through the availability

Source: [Transcrime elaboration](#)

- **Taxation** on tobacco products in **Spain is high**, both as tax incidence on the final retail price, and as total tax per 1,000 sticks. Illicit cigarettes can generally be purchased at €2 less than legal ones. Nevertheless, there is **no fixed price in the black market**. Indeed, while illicit white brands are sold at a price of less than €2, contraband cigarettes are more expensive (Baigorri 2012; Yamagata 2013).
- The increase in cigarette prices has generated demand for cheaper tobacco products. This is shown by the **increasing number of Spaniards, in particular in Andalusia, crossing the border to Gibraltar to purchase cheaper cigarettes** (Diario de Jerez 2013; Rivas 2013).

AVAILABILITY

(Figure 41)

- **The availability of illicit tobacco in Spain impacts positively on the demand for and supply of illicit tobacco.**
- **Illicit tobacco is easily available in some regions of Spain.** Indeed, in some cases, **bars, shops, street vendors and small markets** have been reported selling illicit cigarettes (García 2011).
- A survey reports that **3.3%** of smokers buy cigarettes from illegal channels. Within this percentage, **42.0% buy illicit cigarettes from illegal sources, 24.6% from tobacconists, 21.0% from Gibraltar and 12.3% from supermarkets** (ThinkCom 2013, 25).

- **The widespread social acceptance and tolerance of contraband are important factors boosting the availability of illicit tobacco goods and favouring the demand.**
- In Spain, smuggling enjoys **social acceptance**. A survey reports that around 41% of **Spaniards do not have a negative opinion on tobacco smuggling** (ThinkCom 2013).
- There are several reasons why Spaniards tolerate cigarette smuggling. First, **people justify illicit cigarette buyers on grounds of their difficult economic circumstances**. Second, Spaniards believe that **the state's earnings do not result in benefits for citizens**. Third, they **see traffickers as social victims** struggling to survive. Finally, they believe that traffickers offer better products at lower prices (Bonilla Panvela 2003; Gómez 2012; Firefly Millward Brown 2013).
- **Cigarettes with lower prices in neighbouring countries increase the availability of tobacco products to be bootlegged and smuggled.**
- The majority of inflows into Spain originate from the surrounding low-priced markets of Gibraltar, Andorra and the Canary Islands. These markets have lower or no taxes on tobacco products, and their cigarettes are significantly cheaper. Their average price is €2.50-€3.00 per pack (KPMG 2014).
- Higher prices may be a strong incentive for smokers to seek out low/untaxed cigarettes. If higher prices combine with the relatively easy availability of **alternative cheaper sources of tobacco**, consumers will exploit these opportunities (Hyland et al. 2006).
- **In the Canary Islands**, which are formally part of Spain, the **price of cigarettes is lower due to a different taxation regime**. It is for this reason that, in 2013, 17% of contraband and counterfeit cigarettes in Spain came from the Canary Islands (KPMG 2014).
- Prices of cigarettes in Spain are among the lowest in Europe. However, the country shares borders with Portugal, Andorra and Gibraltar, which have lower cigarette prices. **Spaniards cross the border with Andorra and especially with Gibraltar to buy cheaper cigarettes** (Gómez 2012). Indeed, it is estimated that half of all illicit cigarettes entering Spain come from Gibraltar (KPMG 2014).
- **Regulation and enforcement measures have an ambivalent effect on the availability of illicit tobacco products. They may either discourage or boost the availability of illicit tobacco in Spain.**
- The **retail of tobacco is subject to licensing** in Spain (Royal Decree 1199/1999 and Law 13/1998). This may have a negative impact on the availability of illicit tobacco.
- However, the **manufacture, wholesale and importation** of tobacco products are no longer subject to licensing (Law 13/1998, as amended by Law 25/2009). In particular, it is only necessary to submit a sworn statement and formal documents to the CMT. After 15 days from the notification, the person concerned is entitled to act in the tobacco market if the CMT does not intervene.
- Article 8 of the Royal Decree 1199/1999 (as amended in 2013) obliges all tobacco manufacturers, importers and distributors to provide the CMT, upon request, with any documents, books and records with detailed information about the origin and destination of the tobacco products and the underlying transactions. **This may contribute to reducing the availability of illicit tobacco products in Spain.**

- The **European Commission agreements**, which have specific provisions for supply chain control, **are legally binding only for PMI, JTI, BAT and IT**, while its provisions do not bind the other tobacco manufacturers. The lack of specific agreements with tobacco manufacturers, other than the four majors, may increase the diversion of tobacco products from their supply chain and favour the availability of illicit tobacco products.
- In 2013, **CMT controls on the tobacco market found 1,786 cases of sales without licence**. In these cases the tobacco was legal, but the retailers did not comply with the regulatory requirements. This type of retailing may increase the availability of illicit tobacco.
- **Increasing corruption may impact positively on the availability of illicit tobacco.**
- The Corruption Perception Index is medium-low in comparison with the global average but high if compared with most EU Member States. Further, **the perception of corruption has increased in Spain** (European Commission 2014c; GRECO 2014). According to national surveys, in 2011, **46.8% of respondents considered corruption to be very widespread** and 39.8% thought that it was quite widespread. **More recent surveys in January 2014 placed corruption second in the range of public problems identified by Spanish respondents** (CIS 2014; European Commission 2014d).
- In some cases, law enforcement agents have been involved in tobacco smuggling in Spain. They have been persuaded to turn a blind eye to the traffic. The corruption of law enforcement officers increases the availability of illicit tobacco by diminishing the risk of arrest and conviction for smugglers.

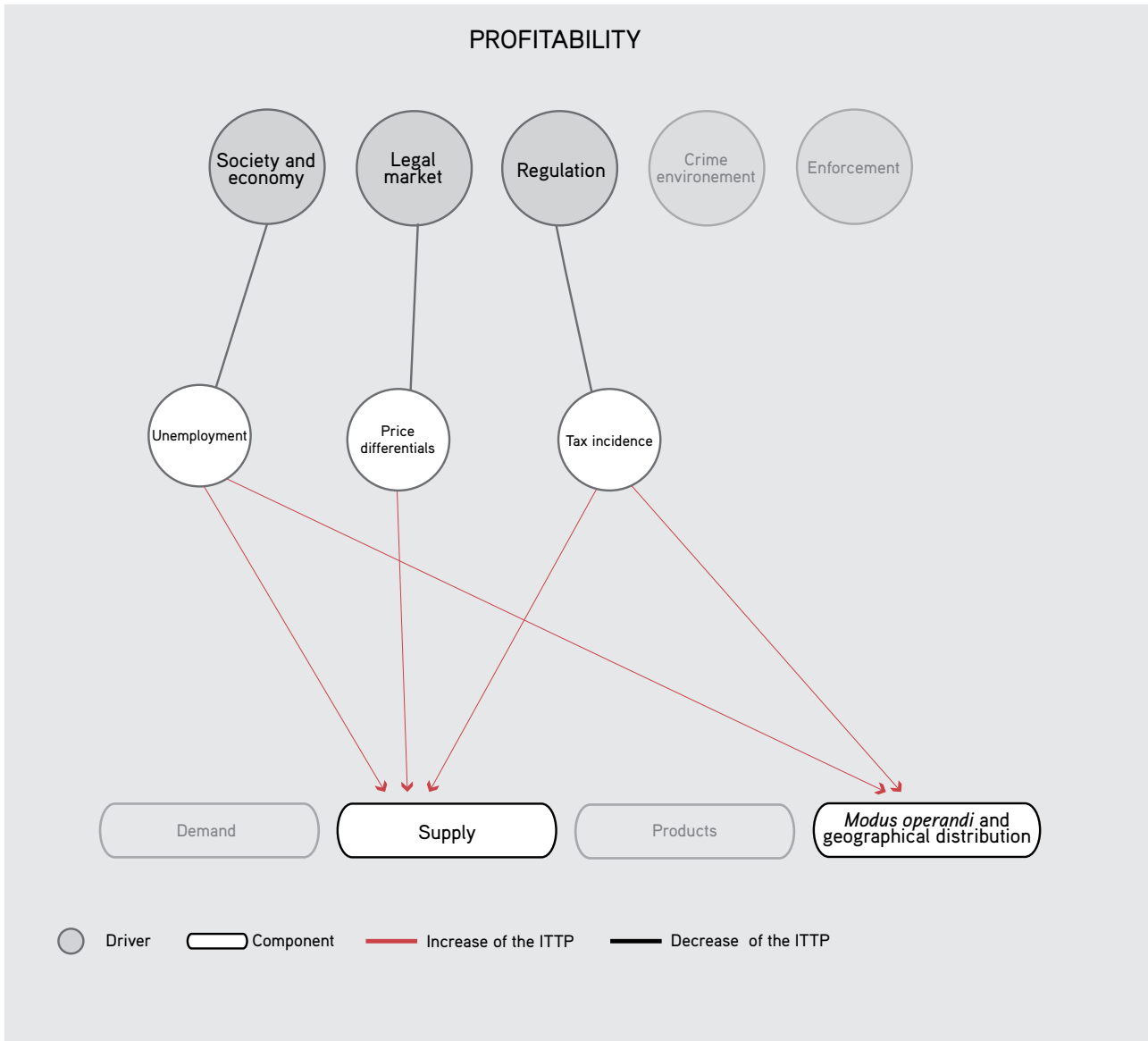
PROFITABILITY

(Figure 42, p.88)

- **The proximity of markets such as Andorra, the Canary Islands and Gibraltar, where there is a significant tax and price differential on tobacco products, favours the retail or 'spatial arbitrage' of legal products (Afi 2013).**
- **Taxation on tobacco products in the Canary Islands is lower than on the Spanish mainland**, both as tax incidence on the final retail price and as monetary value per 1,000 sticks. This makes the ITTP profitable between these two areas.
- **Tobacco smuggling between Gibraltar and Spain is a consolidated activity.** The main cause for this widespread practice is the cigarette price differential between Gibraltar and Spain (Gómez 2012).
- **High unemployment** may encourage people to offer their services as carriers or distributors of contraband, notably in the region of Andalusia, near the border with Gibraltar (Rivas 2013). The '*matuteros*' in Andalusia earn a living from tobacco smuggling. Indeed, they cross the border with Gibraltar several times a day to smuggle tobacco out of necessity (ThinkCom 2013; Yamagata 2013).
- **The Spanish side of the Pyrenees bordering on Andorra** is a hotspot for tobacco smuggling. This activity is seen as a complementary source of income, rather than as a 'criminal activity' (Visa 2012).
- **The prices of cigarettes are significantly higher in Northern European markets than in Spain. This makes the ITTP towards Northern EU markets a profitable activity.**
- **Portugal and Spain have the lowest cigarettes prices in Western Europe.** In January 2013, a 20-cigarette pack of Marlboro in Spain cost €4.70, and a pack of the cheapest brand €3.80. The price differential with the UK is €5.00 for Marlboro and €3.80 for the cheapest brand.

Figure 42. Framing the components in the drivers through profitability

Source: Transcrime elaboration



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- The illicit tobacco seized by the Spanish Police is often **directed to and distributed in foreign countries** like France or Britain, where its price is higher (Baquero 2013).

RISK

(Figure 43, p.89)

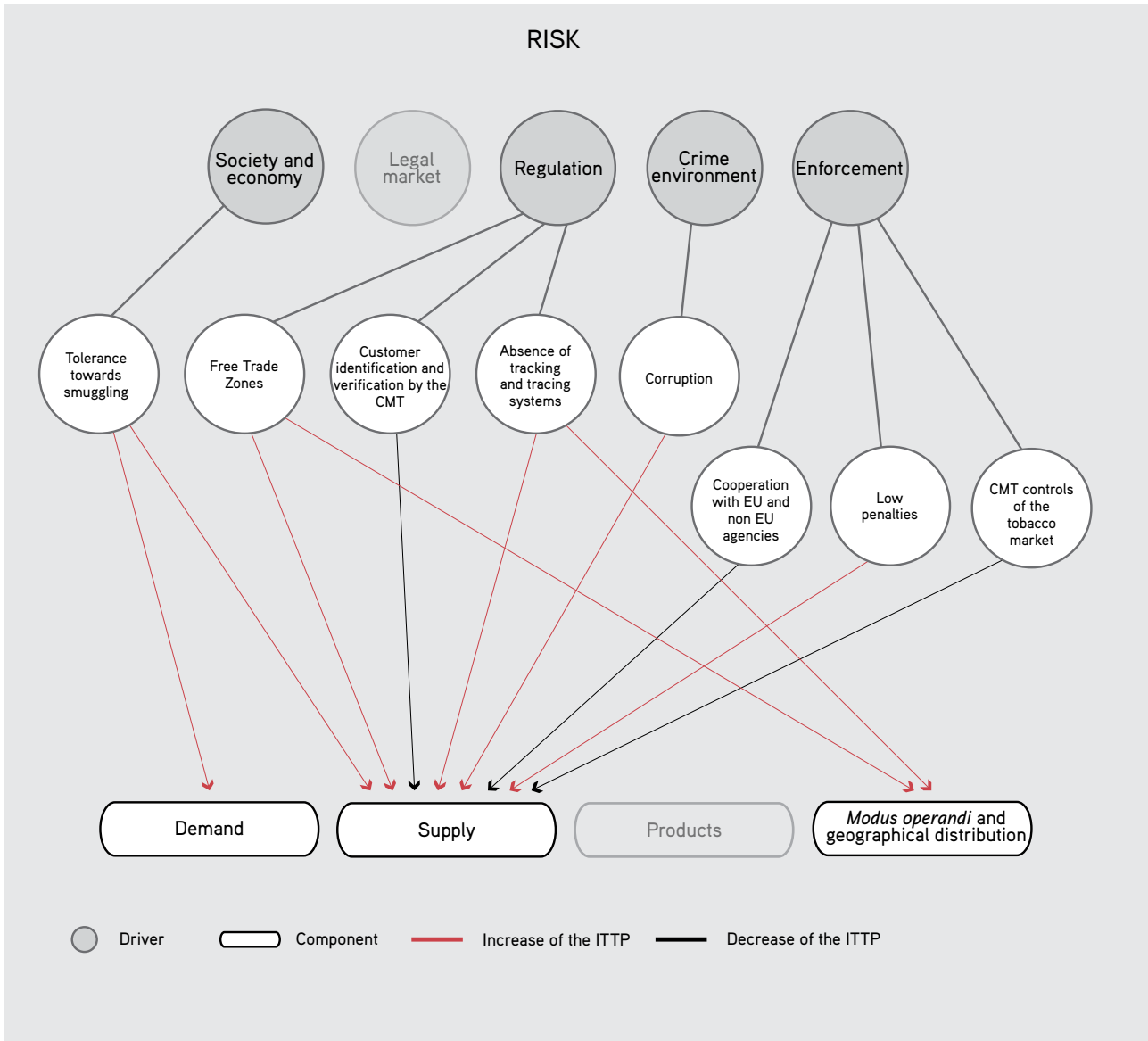
- **'Spatial arbitrage' of legal products between Spain, Andorra, the Canary Islands and Gibraltar is favoured by 'border permeability' (Afi 2013).**
- The **permeability of the borders** between Spain, Andorra, the Canary Islands, and Gibraltar decreases the risks for the actors involved in the ITTP. In particular, **Gibraltar is a focal point** for the introduction of illicit tobacco into Spain (Foro Europa Ciudadana 2013).

- **The CMT's controls on the tobacco supply chain increase the risks for the ITTP. However, the presence of loopholes in supply chain control impacts on the ITTP by decreasing the risks for smugglers.**

- The **absence of a tracking and tracing** system may increase the availability of illicit tobacco by reducing the risks for smugglers.
- The **obligation on the tobacco industry (manufacturers, importers and distributors)** to provide, upon request, the CMT with any documents regarding the origin and destination of tobacco products increases the risks of the diversion of tobacco products from the legal supply chain.

Figure 43. Framing the components in the drivers through the risk

Source: Transcrime elaboration



- CMT controls in 2013 found 5,017 infringements of Law 13/1998. These **CMT controls on the tobacco market can increase the risks for smugglers.**
- **Increasing corruption may decrease the risks connected with the ITTP.**
- The occurrence of episodes of corruption among Spanish law enforcers may decrease the perception of risk among smugglers and favour the supply of illicit tobacco.
- **Tolerance towards contraband activities may boost the demand for and the supply of the ITTP by diminishing the risks for the players.**
- Spaniards in general tolerate and support cigarettes smuggling. **This tolerance significantly reduces the risk for smugglers of being accused and prosecuted.**
- In particular, in the Spanish regions bordering on Gibraltar and Andorra, tobacco smuggling is a **socially accepted opportunity to earn a living.**

- **The presence of FTZs: Vigo, Barcelona, Cádiz and Grand Canaria boosts the supply of illicit tobacco by decreasing the risks for smugglers.**
- In particular, the port of Barcelona has been identified as receiving Chinese counterfeit products bound for Western Europe (BASCAP 2012).
- **Law enforcement cooperation in the fight against tobacco smuggling has a significant impact on the ITTP by increasing the risks for the actors involved.**
- The Spanish Customs has **signed bilateral and multilateral agreements** with countries, both in the EU and outside the EU, on cooperation and mutual assistance in customs matters. These agreements impact negatively on the supply of illicit tobacco by increasing the risks for smugglers.
- **The hypothetical penalty adopted for a serious ITTP case ranges between 9 years and 24 years of imprisonment. However, in the majority of ITTP cases prosecuted in Spain, the penalty imposed oscillates between 0 and 2 years of imprisonment.**
- The low penalties imposed for tobacco smuggling in Spain may not be a good deterrent for the ITTP because they reduce the perception of risk among smugglers.

CONCLUSIONS

This report provides the Spanish country profile of the *Factbook on the Illicit Trade in Tobacco Products* project. Considering the relative limited number of studies and the lack of data, the results of this study are provisional. It offers a first analysis of the ITTP in Spain and shows that more research is needed in this field. The ITTP is a complex phenomenon comprising a variety of activities, products and actors. The analysis of the illicit trade must take into account a number of factors, which may significantly influence it.

This report has analysed the multiple facets of the ITTP in Spain. The information gathered originates from academic literature, grey literature, open sources, questionnaires and interviews with experts and stakeholders.

THE FIVE DRIVERS

Chapter 1 (The Five Drivers) of the report analysed in detail the five drivers of the ITTP: society and economy, regulation, legal market, crime environment and enforcement. The five drivers are areas whose structures positively or negatively affect the various components of the ITTP.

- **Society and Economy:** Spain has been hit hard by the global financial crisis. The unemployment rate has increased, while both GDP per capita and household consumption have decreased. The Spanish Government is currently being aided by the EU and international organisations to accelerate its economic recovery. Health and education expenditures are below the EU average and income inequality is among the highest among EU member states.

- **Legal Market:** The Spanish tobacco market is relatively large on a global scale. However, legal cigarettes sales have fallen in the past decade, while HRT sales have grown significantly. Cigarettes prices are high in global terms, but cigarettes are relatively affordable. Smoking prevalence is high and varies across Spanish regions.
- **Regulation:** Taxation on tobacco products has increased since 2005 and is among the highest on a global level, both as tax incidence on the retail price and as monetary value per 1,000 sticks. However, the Spanish Canary Islands have a different taxation regime, which allows them to levy lower taxation on tobacco. There is a medium-low level of control on the supply chain and a medium-high level of control on tobacco marketing and promotion and on tobacco consumption and sales.
- **Crime Environment:** Spain has recorded a decrease in crime rates in recent years. There is a medium presence of organised crime activities mainly centred on drug trafficking, property crimes and human trafficking. Drug consumption is high, especially for cannabis and cocaine. The shadow economy is medium-low in its extent, and corruption is a growing concern within Spanish society.

- **Enforcement:** Since 2011, Spain has implemented two awareness campaigns against the ITTP. Moreover, law enforcement agencies and the Spanish Customs have stipulated cooperation agreements with foreign customs and law enforcement agencies to tackle the ITTP. The average penalty for tobacco contraband is low, between 0-2 years. In conclusion, the anti-ITTP action is medium-low in Spain owing to the absence of official estimates on, and a national action plan against, the ITTP.

THE FOUR COMPONENTS OF THE ITTP

Chapter 2 (The Four Components) discussed in detail the characteristics of the illicit trade in Spain by breaking the illicit tobacco market down into its four components: demand, supply, products, *modus operandi* and geographical distribution.

- **The demand:** The demand for illicit tobacco products in Spain responds to the economic crisis, rising unemployment and higher cigarettes prices. Indeed, a pack of illicit cigarettes, especially of the most popular brands, is sold for half the price of a pack sold in the legal market. Illicit tobacco is easily available and generally tolerated by Spanish people.
- **The supply:** Single smugglers and large-scale criminal organisations are the main suppliers of illicit tobacco in Spain. Price differentials with Gibraltar, Andorra and the Canary Islands, together with the current economic crisis, are conditions favourable for the supply of illicit tobacco in the country.
- **The products:** The main tobacco products smuggled into Spain are illicit whites and genuine contraband cigarettes. In particular, Ducal, American Legend and Elixir are the most widespread illicit whites brands. Counterfeits cigarettes have a low incidence within the Spanish ITTP. The main source countries of illicit cigarettes are the Canary Islands, Andorra and Gibraltar.

- ***Modus operandi* and Geographical Distribution:**

Several *modi operandi* are used to traffic illicit tobacco in Spain. Sea routes and inland routes are both employed: the former for large-scale smuggling, the latter for small-scale smuggling. Andorra, Gibraltar and the Canary Islands are source hotspots of the Spanish ITTP. Finally, the incidence of non-domestic cigarettes is higher in the Southern region of Andalusia and particularly in the ports on the Mediterranean Sea.

FRAMING THE COMPONENTS IN THE DRIVERS

Chapter 3 (Framing the Components in the Drivers) addressed the interactions between the drivers and the components of the ITTP. The analysis identified four key factors with a fundamental role in shaping the illicit market (economic accessibility, availability, profitability, risk).

- **Economic accessibility:** the economic crisis in Spain, the high unemployment rate, and the decreased purchasing power of Spaniards are conditions favourable for the demand for illicit tobacco. Cigarette tax increases result in higher cigarette prices and may induce some Spaniards to switch to more economically accessible illicit tobacco.
- **Availability:** the regulation or deregulation of the tobacco sector impacts both positively and negatively on the availability of illicit tobacco. Indeed, on the one hand, the presence of a licensing obligation for tobacco retailers may reduce the availability of illicit tobacco products. However, on the other hand, the absence of licensing for tobacco manufacturers, wholesalers and importers may increase the diversion of tobacco from the legal supply chain. Furthermore, the agreements of the European Commission with the four major tobacco companies on supply chain control may reduce the diversion of tobacco products from the legal supply chain. Nevertheless, these agreements are not legally binding on smaller manufacturers; which may increase the diversion of tobacco products into the illegal market. Furthermore, the availability of illicit tobacco in legal premises, Spaniards' tolerance towards smuggling, and proximity to markets with lower cigarette prices may increase the availability of illicit tobacco.

Figure 44. Main interactions between the drivers and the ITTP in Spain

Source: Transcrime elaboration



•• **Profitability:** taxes account for a large share of the final retail price of tobacco in Spain, and this makes the ITTP a profitable activity. Moreover, proximity to markets such as Andorra, the Canary Islands and Gibraltar, where there is a significant tax and price differential on tobacco products, favours the smuggling of legal products. Finally, the high price of cigarettes in Northern European markets makes the ITTP from Spain towards Northern EU markets a profitable activity.

•• **Risk:** the CMT's controls on the tobacco supply chain increase the risks for the ITTP. However, social acceptance and tolerance towards contraband, the absence of a tracking and tracing system, and the presence of FTZs may reduce the risks for tobacco smugglers. The permeability of the borders between Spain, Andorra, the Canary Islands, and Gibraltar may reduce the risks for smugglers. Moreover, the low penalties imposed for tobacco smuggling in Spain may decrease the perception of risk among smugglers. Despite these factors favouring the ITTP, Spanish law enforcement agencies cooperate with European and international institutions to combat the ITTP, increasing the risks connected with this activity.

As pointed out, the ITTP is a complex phenomenon with several determinants. After close analysis on the ITTP in Spain, there follow the main findings of the Factbook (Figure 44, p.93).

The ITTP in Spain decreased strongly between 1995 and 2000, remaining stable at about 1% of the cigarettes market until 2011, and reaching 8.8% of the cigarettes market in 2013. **Unemployment and higher cigarette prices are the main drivers of this increase.**

The **increase in the unemployment rate, and both the decrease of per capita GDP and consumption expenditure**, have changed the habits of Spaniards in terms of tobacco consumption. While legal sales of cigarettes halved between 2008 and 2012 (-44%), both **HRT sales and ITTP penetration grew. Higher cigarette prices due to regulatory interventions** in the tobacco sector (e.g. the introduction of the Minimum Excise Tax on cigarettes in 2006 and its increase in 2009-2010) may explain this tendency of consumers to downtrade to cheaper tobacco products.

The ITTP in Spain is not widespread throughout the country, but is mainly concentrated in two regions, Andalusia and Extremadura. These two regions are also those with the highest unemployment rates on the Spanish mainland. Moreover, Andalusia shares borders with **Gibraltar**, where tobacco costs nearly half the price in Spain. As in the case of the border with **Andorra**, the price differential for tobacco boosts smuggling across the borders.

Moreover, Spain is a country of origin, transit and destination for tobacco products. It formally includes the **Canary Islands**, where the price of cigarettes is lower due to a different taxation regime. This makes the Canary Islands one of the main sources of illicit tobacco.

Illicit tobacco is easily available in Spain. It can be found in **legal premises**, such as bars, shops, petrol stations, and in street markets. Moreover, tobacco smuggling enjoys **social acceptance** and is largely tolerated by the population, who associate it with difficult economic circumstances.

Illicit whites are the main illicit tobacco product smuggled into Spain. The most widespread illicit whites' brands are also legally sold in the domestic Spanish market. Nevertheless they have a small share of the market (between 0.02% of the cigarettes market and 0.7% in 2013).

The **agreements between the European Commission and the four largest tobacco manufacturers** (PMI, JTI, BAT and IT) contain specific provisions for supply chain control in the tobacco sector. Nevertheless, some smaller manufacturers, such as Landewyck Group and Karelia Tobacco, which had a large share of non-domestic packs collected in Spain last year, are not bound by these agreements. This may increase the availability of tobacco diverted from the legal tobacco supply chain into the illicit market.

RECOMMENDATIONS FOR FURTHER RESEARCH

Considering the relative lack of data, the results of this study are provisional. They offer a **first analysis of the ITTP in Spain** and show that more research and data are needed in this field.

- Research regarding illicit cigarette demand in Spain is limited. There are **no public surveys** or studies on the demand for illicit tobacco products. **Identifying the socio-economic characteristics of consumers and the reasons for illicit purchasing is fundamental** for building effective strategies, preventing illicit behaviours, and reducing the demand for illicit tobacco.
- The penalty for a hypothetical ITTP case (see pp.51 and 52) ranges between **6 to 8 years of imprisonment** for the leaders of the smuggling organisation and between **5 to 6 years of imprisonment** for the other members of the organisation. **However, the effective application of this penalty, in terms of number of years, is low (between 0 and 2 years)**. Further research on this issue may assess whether applicable penalties shape the perception of risk among ITTP smugglers and consequently impact on the ITTP in the country.

- Investigative reports and media release indicate Gibraltar as one of the main source countries for illicit cigarettes consumed in Spain. Despite this, the EPSs report that less than 1% of the non-domestic packs originate from Gibraltar. **Better and more certain identification of cigarettes packs originating from Gibraltar**, through EPSs, would enable broader and more complete assessment of the ITTP deriving from this area. A significant improvement has been made with the KPMG *Project Sun* (2014), which provides a new methodology with which to estimate Gibraltar outflows on the basis of EPSs.
- **Several estimates are available** on the illicit tobacco trade's penetration of Spain. However, **it would be important to distinguish among the different types of illicit tobacco products consumed and include illicit HRT**. Moreover, the *Project Sun* could be **improved** with the participation of national institutions.

In conclusion, the results of this study show that the ITTP is a complex and multifaceted phenomenon. Both individual factors, such as employment status and structural conditions such as proximity to countries with lower-priced tobacco products or to producers of illicit products, should be considered when developing anti-ITTP policies.

Given the complexity and the multitude of the factors involved, **it is necessary to develop effective law enforcement and criminal justice policies**. In addition, **it is necessary also to adopt non-criminal measures to prevent illicit consumption and to reduce smuggling**. Finally, the government should tackle the ITTP, especially in larger cities and near ports, with comprehensive strategies including criminal, non-criminal/administrative, and other indirect measures, for example through a wide-ranging situational crime prevention approach.

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