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The Electronic Transport Supervision System (SENT) as a measure to combat the grey market in fuel trade

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***Abstract*— Recent reforms of the Polish fuel market have aimed to eliminate the grey market linked to VAT and excise fraud by strengthening transparency, oversight, and fair competition. A key instrument is the Electronic Transport Supervision System (SENT), which requires the registration and monitoring of the carriage and trading of sensitive goods through an electronic platform. This article places SENT within the broader regulatory framework and examines its effectiveness in the context of new risks following Russia's invasion of Ukraine, which reshaped fuel supply chains and exposed regulatory vulnerabilities. The study applies doctrinal legal analysis of statutory provisions and the governmental draft amendment known as SENT Connect, intended to enhance data integration, enforcement, and cooperation between authorities and market participants. The analysis indicates that SENT has improved transport monitoring and limited irregularities but faces challenges related to evolving geopolitical conditions and market practices. The article concludes that the proposed SENT Connect reform provides a coherent direction for strengthening fuel market supervision and reducing irregularities, provided that implementation ensures legal clarity, proportionality, and reliable technological infrastructure.**

Keywords— Fuel market regulation, SENT system, grey market, transport monitoring, energy security, SENT Connect reform

I. INTRODUCTION

In recent years, the Polish fuel market has undergone extensive regulatory reforms. Their primary objective has been to eliminate the so-called "grey market", understood as fuel trading conducted in breach of legal regulations, in particular through VAT and excise tax fraud. To achieve this aim, the legislator introduced a number of sector-specific and systemic legislative measures, including the transport package, the fuel package, the energy package, the VAT anti-fraud package, the establishment of the National Revenue Administration, the split payment mechanism, and the obligation to submit VAT records in the form of the Standard Audit File (SAF-T). A common feature of these control instruments is the strengthening of transparency in business activity (including transport operations), the elimination of dishonest market participants, and, consequently, the protection of fair competition. Equally important is the objective of increasing state budget revenues.

Among these measures, particular significance for the fuel sector is attributed to the Electronic Transport Supervision System (System Elektronicznego Nadzoru Transportu – SENT), introduced as part of the transport package. SENT is regulated by the Act of 9 March 2017 on the road and rail transport monitoring system and trading in heating fuels. This Act imposes obligations on entities transporting so-called "sensitive goods" to and through the territory of the Republic of Poland, as well as on entities trading in heating fuels, to register and monitor road and rail transport and fuel trading activities within a dedicated electronic system. The SENT system serves to collect and monitor data on transport and trading activities, in particular through the use of technical monitoring devices, as well as to verify compliance with

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statutory obligations. It is modelled on similar systems implemented in other legal frameworks (Musolf, 2021, commentary on Article 1, para. 1.2).

Recent transformations in the fuel market, significantly influenced by the outbreak of the war in Ukraine, have revealed new threats to the achievement of the legislator's objectives. This, in turn, has rendered the need to improve the existing legal solutions even more urgent. An important driver of these changes has also been the necessity to make Poland independent from fuel supplies from Russia, which, prior to the outbreak of hostilities in Ukraine, had been their largest supplier. As a result, legislative work on the amendment of the SENT Act, referred to as SENT Connect, has been ongoing for several years. The governmental bill was submitted to the Sejm on 17 July 2023. At present, as a consequence of the end of the previous parliamentary term, work on the above mentioned bill is not being continued. Nevertheless, the developed and submitted draft amendments undoubtedly set the direction for future changes in the law.

The objectives of this article are fourfold: (1.) to present the currently binding legal framework governing SENT, (2.) to identify threats to the EU and Polish fuel markets arising from Russia's invasion of Ukraine, (3.) to outline the key assumptions of the proposed SENT Connect amendment, and (4.) to assess both the existing and proposed regulations, in particular with regard to their effectiveness in counteracting the identified risks.

II. Current legal framework governing the SENT system

As indicated above, the SENT Act imposes on entities transporting certain goods to and through the territory of the Republic of Poland, as well as on entities trading in heating fuels, an obligation to register and monitor the transport of goods and the trading in heating fuels within SENT. The system commenced operation on 18 April 2017 and is administered via the Electronic Tax and Customs Services Platform (PUESC) (Macudziński, 2019, p. 27). Pursuant to Article 4(1) of the SENT Act, the technical means used for monitoring include:

1. the notification register together with a module collecting and processing geolocation data,
2. a locator device (pursuant to Article 2 point 2a of the Act, a locator shall be understood as a telecommunications terminal device using satellite positioning and data transmission technologies, on which software made available by the Head of the National Revenue Administration is installed, serving to monitor the route of the transport of goods),
3. an external localisation system transmitting the geolocation data of the means of transport to the register.

Legal scholarship rightly notes that the monitoring obligation covers the transport of goods in respect of which the highest number of irregularities in the settlement of value added tax and excise duty have been identified (Zalewski, 2022, p. 15). This applies in particular to alcohol, tobacco products, and fuels. The overarching objective of the Act is to counteract tax related abuses. Consequently, entrusting the operation of the system to the Head of the National Revenue Administration (Article 4(3) of the SENT Act) is fully justified, while supervision over compliance with the statutory obligations (including the imposition of sanctions) lies with customs and tax authorities (nevertheless, the SENT Act is not regarded by administrative courts as a tax statute. See, for example, the judgment of the Voivodship Administrative Court in Poznań of 8 February 2018, I SA/Po 1158/17, LEX 2452115). SENT is intended to serve as an effective instrument enabling these authorities to counteract the phenomena described above.

Article 3(2) of the SENT Act sets out the catalogue of goods subject to the monitoring system. For the purposes of this article, it is particularly relevant that the catalogue includes energy products used, or capable of being used, as motor fuels. Moreover, as of 1 September 2019, heating fuels have also been brought within the system (Article 3(2)(1a) of the SENT Act), as referred to in Article 89(1)(9), (10), and (15)(a) of the Excise Duty Act of 6 December 2008. The SENT register concerns the transport of so called "sensitive goods" on public roads and across the railway network (Macudziński, 2019, p. 34).

The Act provides for a relatively extensive set of exclusions from the monitoring system for transport and trading activities. Several illustrative examples are worth highlighting. First, pursuant to Article 3(2) of the SENT Act, SENT does not apply to goods listed in that provision where the gross weight of the consignment does not exceed 500 kg or its volume does not exceed 500 litres. Second, under Article 3(7) of the SENT Act, the monitoring system does not apply to transport that is not connected with the performance of VAT taxable activities, provided that the transported goods are accompanied by a document confirming an intra warehouse transfer issued by the consignor. Third, since the obligation to submit a notification to the system applies only to transports destined for "recipients" within the meaning of Article 2(5) of the SENT Act (i.e., entities carrying out business activity), it does not arise in the case of supplies to farmers who are not entrepreneurs. It is argued that these exclusions create opportunities for abuse. A typical example mentioned in the literature is a declaration, in the context of transport excluded from SENT, that the delivery is made to a farm.

Within the SENT system, both the transport of goods (pursuant to Article 2(9) of the SENT Act, the transport of goods is defined as the movement of goods to or through the territory of the state by means of transport on a public road or the national rail network, including any stops required during such movement, as well as transhipment and unloading) through the territory of the Republic of Poland and trade are subject to monitoring. The Act differentiates the obligations imposed on individual entities carrying out transport depending on where the transport begins and ends. Article 5 of the SENT Act regulates the obligations related to movements commencing within the territory of Poland, irrespective of whether the transport is completed in Poland or abroad (Musolf, 2021, Article 5, para. 1.1). Article 6 of the SENT Act sets out the obligations connected with movements commencing outside Poland and terminating within its territory. Article 7 of the SENT Act, in turn, governs movements carried out through the territory of Poland, that is, those beginning and ending outside its borders. Obligations related to the trade in heating fuels are regulated in Articles 6a–6c of the SENT Act.

In all cases, the obligations include the submission of a transport notification to the SENT register and the obtaining of a reference number for the notification. These obligations rest with different entities, depending on where the transport begins and ends. If the transport commences in Poland, the obligation to submit the notification lies with the consignor. If the transport begins in another state and ends in Poland, responsibility rests with the consignee. In the case of transit through Poland, the notification must be submitted by the carrier. As a rule, the notification should contain the necessary data concerning the consignor and the consignee, as well as information on the goods and the transport route. In certain cases, it is mandatory to provide the reference number – depending on the circumstances – to the carrier or the consignee. Pursuant to Article 11(1) of the SENT Act, the reference number is valid for 10 days from the date of its issuance. After the expiry of this period, the transport of goods may be continued. However, this requires the submission of a new notification and the obtaining of a new reference number by the consignor, the consignee, or the carrier, as appropriate. Importantly, pursuant to Article 10(1) of the SENT Act, the carrier is obliged to refuse the transport of goods subject to notification in the event of failure to receive the reference number, a document replacing the notification and confirmation of receipt of the document replacing the notification, or a document indicating an inter warehouse movement.

However, the submission of a notification and the obtaining of a reference number do not exhaust the requirements related to transport or trade. Further activities connected with the supplementation of the notification are also subject to monitoring. It is worth illustrating the above by reference to the transport of goods from the territory of a Member State or from the territory of a third country to Poland. Pursuant to Article 6 of the SENT Act, prior to the commencement of the transport of goods within the territory of Poland, the carrier is obliged to supplement the notification submitted by the consignee with data concerning, inter alia, the means of transport and the date of entry into Poland, as well as the planned date of completion of the transport, the place of delivery of the goods, and the transport licence number (Article 6(3) of the SENT Act). Responsibility for closing the notification rests with the consignee, who supplements the notification with information on the receipt of the goods no later than on the next working day following the day on which the goods are delivered (Article 6(4) of the SENT Act).

The obligation to submit a notification and to obtain a reference number is not, however, exhaustive of the requirements related to transport or trade. The duty to update the data contained in the notification is also of considerable importance. The basic regulation in this respect is set out in Article 8 of the SENT Act, which provides that all entities involved in the transport are obliged to promptly update the data contained in the notification to the extent to which they were required to submit such data (Article 8(1)). This requirement does not apply solely to data concerning the goods, where an incorrect indication necessitates the submission of a new notification (Musolf, 2021, Article 8, para. 2). If, on the other hand, the transport of goods has not commenced, the consignor, the consignee, or the carrier, as appropriate, updates the notification by providing information on the withdrawal from the transport of goods. Pursuant to Article 9(1) of the SENT Act, the submission, supplementation, and updating of notifications is carried out via the Electronic Tax and Customs Services Platform (PUESC), which is available to all obliged entities.

The entities authorised to use data collected within the SENT system are – within the scope of their competences as defined in the Act –the officers of the Customs and Tax Service, the Police, the Border Guard, the Road Transport Inspection, officers of the Customs and Tax Service and employees of the authorities of the National Revenue Administration, as well as the Chief Pharmaceutical Inspector.

An important element of the protection system is, finally, the regulation of the consequences associated with breaches of the rules of conduct arising from the Act. In this respect, Articles 21–32 of the SENT Act are of key importance, as they establish a range of powers vested in the competent authorities. These include, inter alia, the inspection of transport (including the power to stop a means of transport together with the goods) as well as the imposition of monetary penalties and criminal fines for breaches of statutory obligations. It should be emphasised that, for the achievement of the objectives of monitoring fuel trade, at least as important as the adoption of specific legal solutions is their effective enforcement by the authorised authorities, in particular the customs and tax authorities (Mojak and Żywicka, 2018, pp. 310 ff.).

III. Threats to the European Union fuel market, including the Polish market, arising from Russia's invasion of Ukraine

The assertion that a lack of stability, and in particular various types of crises, foster the development of illegal markets and lead to an increase in criminal activity does not require extensive justification. An example of this pattern on the Polish fuel market was the significant growth of illegal fuel trading in the early 1990s, which was associated with the transformation of the economic system and a "turbulent" socio political environment. The situation deteriorated further following the outbreak of the armed conflict in the Balkans.

The situation is no different in the case of Russia's invasion of Ukraine, as a result of which the European Union imposed a ban on the import of Russian crude oil. This forced a change in the fuel procurement policies of the Member States. A significant consequence of the above has been the emergence of new threats and the intensification of previously known risks related to the illegal inflow of fuels, which also affect Poland. These include, in particular, the reactivation of previously existing smuggling routes, as well as the development of new routes and methods of illegal transport.

Among approximately forty known fuel smuggling points in Serbia alone, the Danube and the Black Sea have for years remained among the main routes for smuggling from Russia into the territory of the European Union. Since the imposition of restrictions on Russian crude oil imports into the European Union, the Balkan region has become increasingly relevant for both lawful and potentially irregular fuel-related flows. In this context, Bulgaria obtained an exemption allowing it to continue importing Russian crude oil delivered by sea despite the EU-wide ban, which enabled the Neftochim Burgas refinery to continue processing Russian crude oil (Shikerova and Wesolowsky, 2023). According to press reports, fuel destined for Ukraine was transported from the Russian port of Novorossiysk through the Romanian port of Constanța, where it was stored at Oil Terminal, and then further via the Giurgiulești Port in Moldova (Știri.md, 2022). These developments illustrate the complexity of post-2022 fuel flows in the region and the difficulties associated with monitoring the origin, destination and further circulation of petroleum products.

The above conclusions are confirmed by statistical data. In 2022 alone, the police and customs services of seven Balkan countries seized more than 3,000 tonnes of illegal fuel with a retail value of EUR 4.3 million, which is almost four times the value of fuel confiscated in 2021 (Dordevic, 2023, p. 2).

Moreover, in December 2022 Bulgaria replaced Turkey as the world's third largest purchaser of Russian crude oil, after China and India. This was due to the fact that the Black Sea port of Burgas was the only port in Europe where Russian crude could still be received after the European Union had exempted Bulgaria from the ban on imports from Russia. Supplies of Russian crude oil to Bulgaria increased by 30% in mid 2022 and remained at a stable level until December 2022, when they began to decline (The Jamestown Foundation, 2023). Subsequent analyses confirmed that Bulgaria continued to occupy a significant position among buyers of Russian seaborne crude oil in 2023, ranking fourth behind India, China, and Turkey (Levi, 2023).

Russian crude oil transported to Bulgaria was delivered to the Neftochim Burgas refinery located at the port of Burgas. The refinery is owned by the Russian company Lukoil, the second-largest oil producer in Russia. In 2022, Lukoil processed more than 7 million tonnes of crude oil at Neftochim. This volume was almost twice as high as in 2021, when approximately 4.2 million tonnes were processed. As a result, Bulgaria is strongly dependent on the operations of the Neftochim Burgas refinery and on Lukoil. At the same time, a significant challenge for the Bulgarian authorities is to monitor whether petroleum products manufactured from Russian crude oil are supplied exclusively to the domestic market or exported to other states. The risk in this respect is high. In practice, fuels produced from Russian crude oil may be labelled or mixed in a way that makes it difficult to determine their actual origin (Shikerova and Wesolowsky, 2023).

In the analysis, it is difficult to disregard the doubts and speculation emerging in the public sphere in this context. Although they do not constitute established facts, they nevertheless allow for the identification of risks that should be taken into account by the legislator and supervisory authorities. It is suggested that Lukoil intends to export fuels to EU Member States, while the crude oil used must not originate from Russia. It is also claimed that Lukoil imports crude oil from Kazakhstan via a pipeline running through Russian territory. This arrangement poses numerous challenges from the perspective of control authorities. First, determining the origin of crude oil used in fuel production by Lukoil in Bulgaria is technically impossible within that country. Advanced chemical analysis enabling the identification of the source of the fuel is reportedly available only at a laboratory in Western Europe. Second, doubts arise as to whether crude oil sourced from Kazakhstan is mixed with Russian crude oil, which further complicates the situation.

The seriousness of the situation is further underscored by the uncertainty surrounding Lukoil's operations in Bulgaria and in the wider region. The company reportedly considered selling some of its assets in Romania and Moldova, while the restrictions on exports of fuels and petroleum products from the Neftochim Burgas refinery could significantly affect its business model. In Bulgaria, these circumstances prompted discussions on a possible state takeover of the refinery in order to protect critical infrastructure and ensure fuel supplies. At the same time, experts pointed to the risk that exported fuels could be labelled or mixed in a way that would make it difficult to determine their actual origin (Shikerova and Wesolowsky, 2023).

Another geopolitical factor giving rise to a particularly high risk of the development of the grey market in fuel trade is the issue of the planned construction of an oil pipeline between Burgas and Alexandroupolis. One year after the outbreak of the war in Ukraine, Bulgaria and Greece signed an interim agreement on reviving this project. Illegal activity related to fuel trade may also be fostered by the conclusion of an agreement on the construction of a pipeline between Serbia and Hungary, aimed at supplying Serbia with cheaper Russian crude oil. There is also a risk that flows of this raw material from Russia may be redirected via Serbia and Bulgaria to other European Union countries. A second group of recipients of Russian crude oil consists of refineries owned by Rosneft and Lukoil, operating from Romania to the Netherlands.

An important development for the fuel market is that Bulgaria introduced restrictions preventing the import and processing of Russian crude oil at the Neftohim Burgas refinery. The refinery, located near the Black Sea port of Burgas, is owned by the Russian company Lukoil and constitutes the largest refinery in the Balkans. According to press reports, Lukoil has been considering various options for continuing its operations in Bulgaria, while the Hungarian fuel company MOL submitted an offer to acquire the refinery. MOL was reported to be one of seven bidders interested in the acquisition and the only bidder from the European Union

(Dybińska, 2024).

In conclusion, it should be stated that the outlined geopolitical and market background gives rise to real threats to the entire fuel sector of the European Union and, consequently, to the Polish fuel sector. It creates a relatively favourable environment for the re export of Russian crude oil to the EU through intermediaries and increases the risk of illegal financial flows.

IV. Draft Amendment to the SENT Connect System

Originally, the SENT Connect amendment was planned to be implemented in 2021. However, it was not until 31 January 2023 that its draft, resulting from inter-ministerial work, was published on the website of the Government Legislation Centre. This initiated the consultation process, within which entrepreneurs and their organisations were able to submit comments and proposals. The draft bill was submitted to the Sejm on 17 July 2023. It differs from the solutions originally adopted. It should be noted that, as a result of the expiry of the Sejm's term of office, the draft bill is currently not being proceeded with.

The draft Act amending certain acts in order to reduce irregularities in the trade in certain goods and to improve the functioning of the National Revenue Administration was intended to amend the following statutes: the Act of 21 March 1991 on the maritime areas of the Republic of Poland and maritime administration, the Act of 18 February 1994 on pension provision for officers of the Police, the Internal Security Agency, the Foreign Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Central Anti-Corruption Bureau, the Border Guard, the Marshal's Guard, the State Protection Service, the State Fire Service, the Customs-and-Tax Service and the Prison Service, as well as their families, the Act of 10 April 1997 – Energy Law, the Act of 29 August 1997 – Tax Ordinance, the Act of 21 December 2000 on inland navigation, the Act of 3 July 2002 – Aviation Law, the Act of 28 March 2003 on rail transport, the Act of 6 December 2008 on excise duty, the Act of 16 November 2016 on the National Revenue Administration, and the Act of 9 March 2017 on the road and rail transport monitoring system and the trade in heating fuels.

The proposed amendments may generally be divided into changes relating to the SENT system itself and proposals connected with SENT, primarily in the area of licensing and supervision of the fuel market exercised by the President of the Energy Regulatory Office.

Among the most significant proposed amendments to the Act is, first and foremost, the planned extension of the definition of the consignee. The explanatory memorandum to the draft indicates that, in the course of the experience gained to date in applying the provisions of the SENT Act, risks of potential abuses were identified, which justify the introduction of further sealing measures. The basic assumption of the draft, as a rule, is to cover the transport of sensitive goods by the SENT system irrespective of the purpose of such transport. To date, monitoring has covered the transport of goods through the territory of the Republic of Poland under so-called transit (where the transport begins and ends outside the country), as well as, in the case of transport commencing or ending within the national territory, situations in which the goods constitute the subject of a supply, an intra-Community supply of goods, an acquisition, or an intra-Community acquisition of goods, within the meaning of the Act on value added tax. The proposed amendment consists in extending the SENT system to also cover the transport of goods for the purpose of performing services on them or for temporary use (for example, for fuel colouring or the repackaging of tobacco drying material), as well as cases where goods are moved between warehouses of the same entity (as part of so-called inter-warehouse transfers) or where goods are returned (not accepted or subject to complaint).

The drafter indicated that the failure to regulate these cases in the currently applicable Act had been exploited to circumvent notification obligations, which resulted in the inability to monitor the transport of sensitive goods. The draft proposes that the consignee be defined as any person conducting business activity who carries out:

- an intra-Community acquisition of goods or an import of goods within the meaning of the provisions of the Act on value added tax, or
- the movement of goods which is not regarded as an intra-Community acquisition of goods within the meaning of the Act on value added tax, where such goods:
  - have not been consumed or used and are being returned (e.g. the goods were not collected or are subject to complaint but were not used),
  - were the subject of services performed or were temporarily used outside the territory of the state and, following the performance of services or temporary use, are moved into the territory of the state (returning to the country after temporary use, storage, exhibition, repair, processing, packaging, or the performance of other activities),
  - are intended to be the subject of services to be performed or temporary use within the territory of the state and, following the performance of such services or temporary use, are to be moved outside the territory of the state (being brought into the country for the purpose of temporary use, storage, exhibition, repair, processing, packaging, or the performance of other activities).

It should also be noted in this context that, according to the initial governmental version of the draft, deliveries to entities not conducting business activity (and thus also to farmers) were to be subject to notification under the SENT system. This proposal was not included in the version of the draft submitted to the Sejm. Such a departure from the above solution should be assessed negatively.

The draft provided for a clarification as to which entity is to be regarded as the consignor in a situation where the same goods transported in a single shipment are the subject of several supplies between more than two entities, and where those goods are transported directly from the initial supplier to the final purchaser in the chain, while both the commencement and completion of the transport take place within the territory of the state. It was clarified that, in such a case, the consignor is the entity effecting the last supply prior to the commencement of the transport. In addition, under the Act, the consignor was also to be any natural person, legal person, or organisational unit without legal personality conducting business activity who carries out a supply of goods, an intra-Community supply of goods, an export of goods within the meaning of the Act on value added tax, or the movement of goods which is not regarded as a supply of goods or an intra-Community supply of goods within the meaning of the Act on value added tax, where the goods moved:

- have not been consumed or used and are being returned (e.g. the goods were not collected or are subject to complaint),
- were the subject of services performed or were temporarily used within the territory of the state and, after the performance of such services or use, are moved either within the territory of the state or outside its territory (being dispatched after their temporary use, storage, exhibition, repair, processing, packaging, or the performance of other activities),
- are intended to be the subject of services to be performed or temporary use within the territory of the state or outside its territory and, after the performance of such services or use, are to be moved into the territory of the state (being dispatched for the purpose of temporary use, storage, exhibition, repair, processing, packaging, or the performance of other activities),
- are moved between warehouses of that entity as part of so-called inter-warehouse transfers. An inter-warehouse transfer means the movement of goods between individual warehouses belonging to a single entity holding a legal title to those warehouses (ownership, perpetual usufruct, permanent management, a limited real right, or a document confirming a contractual obligation). An inter-warehouse transfer constitutes an internal receipt and issue – the goods remain the property of the entity carrying out the movement. The goods remain within the resources of the entity at all times – only their place of storage changes.

The draft also provided for a clarification of the definition of the carrier. It was indicated that in cases where a carrier entrusts the performance of the transport to another carrier, and not infrequently that carrier to yet another one, the carrier within the meaning of the Act is the natural person, legal person, or organisational unit without legal personality to whom the transport of goods was first entrusted, namely, in the case of:

- Article 5(1) – the entity to whom the consignor provided the reference number,
- Article 6(1) – the entity to whom the consignee provided the reference number,
- Article 7(1) – the entity obliged to submit the transport notification.

That entity remains the carrier even where it entrusts the performance of the transport to another carrier. This solution is consistent with transport law, pursuant to which a carrier may entrust the performance of transport to other carriers but remains liable for their actions as for its own.

Under the SENT Act, the system for monitoring transport and trade encompasses the collection and processing of data on the transport of goods and the trade in heating fuels, in particular through the use of technical means serving such monitoring, as well as the supervision of compliance with the obligations arising from the Act. The transport of goods subject to the monitoring system is limited to goods precisely listed in the Act. In the draft legislative act, it was decided to modify the catalogue of goods covered. The changes in this respect concern, inter alia, LPG gas, goods used for the production of cigarettes, and goods containing alcohol among their components.

Another change envisaged for introduction was to clarify that the technical means used for monitoring the transport of goods and the trade in heating fuels also include technical means used within the monitoring system itself. The proposed amendment extends this catalogue to cover POS devices – terminals used at fuel stations to process sales transactions.

The draft included a provision concerning motor fuels, including LPG, transported to liquid fuel stations, company-owned liquid fuel stations, container stations, or other places of delivery of the goods. In such cases, the consignee to whom the fuel is transported is obliged, prior to the performance of the first activity (most frequently the purchase of such fuels), to obtain a unique registration number. It should be emphasised that, in the case of motor fuels, the SENT notification requirement applies to the transport of goods (trade in motor fuels without their physical transport is not covered by the transport and trade monitoring system). Motor fuel is transported for the purpose of delivery to a liquid fuel station or a container station and loaded into tanks from which it will subsequently be distributed to the station's customers, or into tanks at a company-owned station or at another place of delivery of the goods, from which it will be distributed for own use. The consignee, when registering the place of fuel receipt, that is, when submitting data to the register, must have tanks into which the fuel will be loaded.

Analogously to cases where the reference number of the notification has not been received, the carrier is obliged to refuse to accept motor fuels for transport where:

- the address data of the place of delivery of the goods differ from the address data of the registered place indicated by the consignee,
- the carrier has not received the registration number of the place of receipt.

Verification of the compliance of the place of receipt is carried out within the register. After entering the registration number of the place of receipt, the register indicates the address data of the registered place linked to that number, which enables the carrier to verify the consistency of the address data of the registered place with the address data of the place of delivery of the goods. The intention of the drafter was that the transport of fuel to entities conducting business activity should be possible only where such entities have registered the place of fuel receipt and possess a registration number for that place of receipt.

Taking into account the directions advocated by the European Commission in the fight against illegal fuel trade, in particular the strengthening of the enforcement of sanctions in the future, it is necessary to consider the potential consequences of fuel smuggling and the related threats (including those directly affecting Poland), as well as to assess which areas of combating illegal fuel trade still require optimisation. Consideration is also required as to what changes should be implemented as part of the optimisation of the SENT procedure.

The above-mentioned amendments should be assessed positively. Taking into account the implementation of the SENT procedure in 2017, the effectiveness of detecting economic crimes increased and, as a consequence, fuel-related offences were reduced. Pursuant to the Act of 9 March 2017, entities transporting sensitive goods on the territory of the Republic of Poland and through its territory are required to register such transport in an online system and, where necessary, update the relevant notification. Nevertheless, the matter also has a negative aspect. As is frequently emphasised in the literature, enterprises that do not engage in illegal activities are often unnecessarily penalised for minor infringements, insufficient knowledge, or inadequate information flow from inspecting officials, who are sometimes overly zealous in their search for offenders (Simińska-Domańska, 2019, p. 29). However, it should be borne in mind that the SENT system has led to a reduction in crime related to the trade in liquid fuels, and that SENT Connect was intended to further limit this phenomenon. Ultimately, however, the amendments discussed were not adopted and are currently not being proceeded with by the Polish Parliament.

Traditional methods of circumventing regulations in the fuel market, such as the decolourisation of heating oil on the basis of agricultural fuels and oils, are still in use. However, criminals have developed new methods, including the smuggling of fuel using vehicles not adapted for the transport of such substances. It is necessary to strengthen the role of the Energy Regulatory Office as the authority coordinating supervision over the sector and to make full use of the instruments provided for in the applicable legal provisions. It is also necessary to tighten the licensing process and improve the enforcement of the new legislative packages. It is observed that the effects of the new legislative tools are moving in the right direction with regard to reducing the scale of fraud in the area of liquid fuels. The elimination of unregistered trade in liquid fuels translates into increased sales by domestic fuel companies and generates higher revenues for the state budget. It should be emphasised, however, that those who derive profits from illegal fuel trade are constantly seeking new ways to evade regulation. In order to counteract this phenomenon, it is necessary to integrate the activities of a number of state services and law enforcement authorities in joint action aimed at eliminating illegal activities on the Polish liquid fuel market.

V. Assessment of the implementation of the SENT system and the proposed SENT Connect regulation

In undertaking an assessment of the currently binding Act on the road and rail transport monitoring system and the trade in heating fuels, it should be stated that the implementation of SENT for road and rail transport was more than necessary. It constitutes a key instrument in the management of deliveries of sensitive goods, including fuels, enabling effective counteraction against the grey market in their trade. The proper operation of the SENT system by authorised entities allows for the identification, detection, and combating of crimes and misdemeanours. These conclusions are confirmed by statistical data.

Over the years, tax fraud – particularly in the area of value added tax – has been associated with the emergence of complex and organised mechanisms of a distinctly criminal nature. Consequently, both the actions of the competent authorities and the legal framework must evolve and move towards limiting the grey market and tightening the tax system. The introduction of further measures aimed at sealing tax regulations may bring greater benefits where invoice based trade is linked to control over the actual movement of goods. Control practice confirms that, in many cases, discrepancies between invoiced trade and the actual movement of goods are exploited by dishonest entities.

The implementation of the SENT system has therefore significantly increased the effectiveness of detecting economic crimes and, consequently, has contributed to a reduction in fuel related offences. At the same time, the limitation of unregistered fuel trade translates into increased sales by domestic fuel companies and generates higher revenues for the state budget. In a broader perspective, the above also contributes to the long term restoration of order in the economy, the protection of entrepreneurs' capital, and the ensuring of appropriate conditions of competition among market participants (Bełch, 2018, pp. 47-55).

It should be maintained that the legal framework currently in force in Poland does not provide full control over the trade in sensitive goods and leaves room for potential abuses. However, in introducing new restrictions, the legislator must bear in mind the need to maintain an appropriate balance between the desirable minimisation of administrative burdens imposed on entrepreneurs and the ensuring of proper application of the law and the prevention of abuses in sensitive areas.

These difficulties are further compounded by the geopolitical situation currently affecting the fuel market. In 2024, Bulgaria introduced a ban on the import of crude oil from Russia, and the European Union expects Member States to strictly comply with these sanctions. At the same time, there is a risk that crude oil originating from Russia may be transported while being formally imported into Bulgaria as crude oil from Kazakhstan. Such practices may contribute to the development of the grey market, posing a threat to EU Member States, including Poland.

It should also be noted that, apart from the threats related to the current geopolitical situation, traditional methods of circumventing regulations in the fuel market – such as the decolourisation of heating oil using agricultural fuels and oils – are still employed. However, offenders have also developed new methods, including the smuggling of fuel using vehicles not adapted for the transport of such substances.

It should be emphasised, however, that those who derive profits from illegal fuel trade are constantly seeking new ways to evade regulation. As a result, legislative efforts aimed at optimising the existing SENT framework should be regarded as fully justified. The overall assessment of the SENT Connect draft, which was planned to be adopted, is positive. In particular, it is appropriate to extend the SENT system to include the transport of goods for the purpose of performing services on them or for temporary use (for example, fuel colouring or the repackaging of tobacco drying material), as well as cases where goods are moved between warehouses of a single entity (as part of so called inter warehouse transfers) or where goods are returned (not accepted or subject to complaint).

Entering into commercial transactions involving the transport of sensitive goods imposes on the parties thereto, namely the consignor, the carrier, and the consignee, an obligation to report and update information on such transport in the SENT register, which has been implemented within the national administration for this purpose. These activities are carried out via an account created on the Electronic Tax and Customs Services Platform (PUESC). Prior to the commencement of the transport of goods, the consignor is obliged to submit a transport notification to the SENT system, obtain a reference number for that notification, and provide the generated reference number to the carrier.

However, concerns arise regarding the exclusion from SENT notification requirements of deliveries to entities not conducting business activity (and thus also to farmers). This proposal was not included in the version of the draft submitted to the Sejm. Such a departure from the above solution should be assessed negatively, as it leaves room for potential abuses. This principle should be subject to change and optimisation, with a view to further limiting the grey market.

VI. References

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