

Research Article

The Criminal Law Aspect of Preventing the Illegal Circulation of Narcotics (Foreign Experience)

Serhii Bratel^{*}, Andrii Babenko¹, Stanislav Samoilo², Eduard Kopylov³, Mykola Chernov¹

¹Department of Law, Odessa State University of Internal Affairs, Ukraine

²Department of Law, Cyberpolice Department of the National Police of Ukraine, Ukraine

³Department of Operative and Investigative Activities, Dnipro State University of Internal Affairs, Ukraine

**Address Correspondence to Serhii Bratel, E-mail: sergeibratel@gmail.com*

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Abstract

Background: The article summarizes the international experience and foreign practice of preventing criminal offenses committed by organized groups and criminal organizations in the field of illegal drug trafficking.

Methods: In order to determine the methodological support for researching theoretical and practical foundations of the foreign experience of responsibility, the following methods of scientific knowledge are used in the article: Abstract-logical, analysis, synthesis, historical, comparison, induction, deduction, generalization, modeling regarding international practice of preventing illegal narcotic drug trafficking.

Results: The analysis of UN Congresses and Conventions showed that none of them addressed the issue of war and its impact on organized crime. However, in today's conditions, organized forms of crime pose a real threat to the country's national security. Criminal elements, having close interregional and international ties, increasingly direct their efforts to establish control over the sphere of circulation of narcotic drugs, psychotropic substances or their analogues.

Conclusion: Two approaches to the prevention of criminal offenses committed by organized groups and criminal organizations in the sphere of illegal circulation of narcotic drugs, psychotropic substances or their analogues in foreign practice are distinguished: Autocratic-by creating an effective system of law enforcement agencies on the basis of effective criminal legislation (strengthening of sanctions-this Article 209, 307-309 of the Criminal Procedure Code of Ukraine (granting wide powers of security authorities), as well as means and resources that allow effective implementation of prevention measures; liberal-"permissive" approach to people who use drugs, their legalization through controlled and registered sale and distribution; prosecution of organized forms of crime.

The analysis of entities that carry out the prevention of criminal offenses committed by organized groups and criminal organizations in the field of illegal circulation of narcotic drugs, psychotropic substances or their analogues made it possible to establish that today it is necessary to review the national prevention system in the direction of granting wider informational powers-analytical units of the National Police of Ukraine regarding the accumulation and processing of operational information, especially during criminal investigations.

Keywords: Narcotic drugs (substances); International combating of drug crimes, International experience; Illegal drug trafficking, Criminal

organizations; Criminal groups

Introduction

The study of the state of drug crime and the experience of preventing the sale of drugs in foreign countries gives grounds for asserting that in terms of the degree of danger, the attitude towards the illegal drug business in the world is similar to terrorist activity, arms trade and other extremely dangerous types of criminal activity. According to experts' estimates, the total global circulation of drugs is currently estimated at 900 billion US dollars. This exceeds the budgets of many countries of the world, poses a threat to the socio-economic, demographic and political life of certain political systems. In the United States alone, annual revenues from the illegal drug trade amount to more than \$400 billion. The activities of international organized criminal groups that specialize in the sale of drugs, including in Ukraine, are widespread in almost all regions and reach an extremely dangerous level [1].

The illicit distribution of narcotics, psychotropic drugs, and precursors in Ukraine has reached a significant scale. It is one of the most important social factors negatively affecting moral, physical, and mental health, people's well-being, and the development of society as a whole. In Ukraine, despite the adoption of many concepts and state programs, over the past decade the number of people taking narcotic drugs and psychotropic substances, irrespective of medical reasons, has increased 1.5 times.

Procedures to study the international experience in preventing the illicit distribution of narcotics, psychotropic drugs, and precursors by criminal groups and criminal organizations provide an argument for the claim that the risk level of such crimes is equivalent to the typical risk

level of crimes such as human trafficking, arms dealing, and terrorist activities.

International experts estimate that the total global distribution of narcotics exceeds the budgets of many countries around the world. This poses a serious threat to the economic, demographic, social, and political life of certain political regimes. Criminal activities of international organized crime groups involved in the procedures of illegal drug distribution, including in Ukraine, have spread to almost all regions and have reached dangerously high levels [2].

Europe has become a priority market for drug production and supply. Poland is the world's largest producer of psychotropic drugs. Ukraine also borders Poland, and a significant number of Ukrainians defected to Poland in search of work not only during the full-scale invasion of the Russian Federation, but also before the war. Smuggling of synthetic amphetamine-based stimulants from Western Europe (especially from Poland to Ukraine) is on the rise. Cocaine is also being transported from South America to Poland from Ukraine *via* seaports [3]. More recently, the illegal synthesis of particularly dangerous psychotropic drugs such as α -PVP (α -pyrrolidinopentiophenone) and mephedrone (Mephedrone) has increased on the territory of the oblast. The manufacture of such psychotropic drugs requires precursors to enter Ukraine (except acid), enter legally (licensed companies), and then illegally distribute them, conceal them at customs checkpoints, or use other codes of Ukraine's Foreign Economic Activity Commodity Classification Act for international shipments in the mail are. According to preliminary estimates, the amount of psychotropic drugs illegally transported across Ukraine's customs borders reaches more than 1,500 kilograms per month [4]. The illegal distribution of narcotics, psychotropic drugs or their analogues is a serious threat not only to Ukraine, but to the entire civilized world [5].

The abuse of narcotic and psychotropic drugs leads to chronic addiction in the human body, causing mental disorders and leading to drug addiction diseases. There is also the risk of damage to the human body by diseases such as AIDS and viral hepatitis, which can lead to the birth of children whose genes are affected, whose health is weak, and who are unable to resist various diseases. All of this has a negative impact not only on the health of the individual, but also on the health of society and the gene pool of humanity as a whole [6]. The main age group of consumers of these synthetic psychostimulants are young people between 16 years and 30 years old. Regular use of psychotropic drugs leads to deterioration or complete loss of the body's reproductive functions and, in the short term, deepens Ukraine's demographic and economic crisis. It is extremely difficult to prove that drugs are transported or sold. This is because criminals use various mechanisms to prevent direct contact during drug transfers, use electronic wallets to pay for sales, and engage in other criminal activities under disguise.

Materials and Methods

In order to determine the methodological basis for the study of the theoretical and practical foundations of the international practice of combating illicit drug distribution, this paper used the methods of scientific knowledge: Abstract logical, analytical, synthetic, historical, comparative, inductive, deductive, generalization, modeling, and drunk driving (international norms, administrative and criminal aspects).

The deductive method made it possible to formulate directions for the application of international practices in the prevention of illicit drug distribution, using knowledge of the trends in the development of administrative and criminal liability systems related to the prevention of illicit drug distribution. With the help of the inductive method, practical problems of the international practice of prevention of illicit drug distribution were established. Both the general and special scientific methods of scientific knowledge were used in conducting the study. Thus, with the help of the dialectical method of scientific knowledge, the international practice of drug illicit distribution prevention as a socio-legal phenomenon of contradiction, development, and change was investigated.

The historical-legal method was used to study the origins of the international practice of preventing the illicit distribution of narcotics. Formal legal methods contributed to the definition and classification of legal categories in the study area. With the help of the logical-legal method, practical recommendations for preventing the illicit distribution of drugs were developed. Analytical and generalization methods made it possible to take into account foreign experience in preventing illegal drug trafficking and (on the basis of this experience) to formulate general principles of responsibility for illegal drug trafficking. Comparative legal methods were used to compare national and international laws and practices applied to prevent the illegal distribution of narcotics (Figure 1).

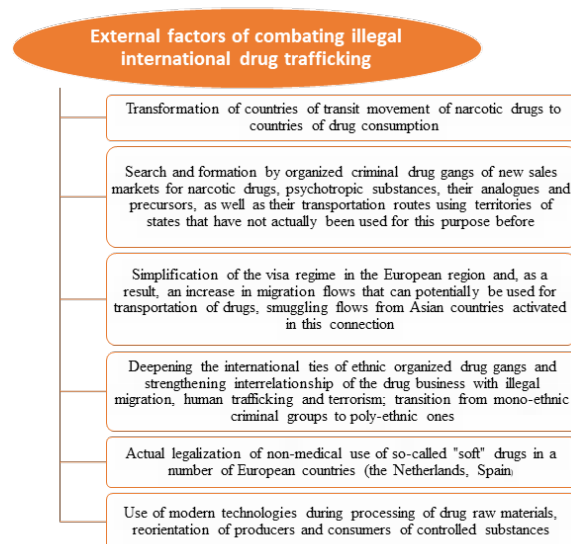


Figure 1: External factors of combating illegal international drug

trafficking

Results and Discussion

The United Nations Office on Drugs and Crime estimates that the United States has had the greatest success in combating the illegal drug trade, with the number of drug users having been cut in half over the past decade [15]. Currently, the most common U.S. strategy for outlining the criminal intelligence process is the National Criminal Intelligence Sharing Plan [16].

It is also worth mentioning legislative mechanisms aimed at the additional anti-criminal effect of prosecution for drug smuggling. For example, if a person registered as a resident of a special border area or who entered the U.S. territory through a special system or program commits a crime, his or her status, preferential system, or right to use the program is revoked for life. In addition, “deprivation of rights” may also apply when certain drug offenses are committed. That is, after serving their sentences, convicted persons may be deprived of federal assistance, i.e., the right to receive grants, loans, and special licenses issued by federal authorities and financed by the federal budget [17] (Figure 2).

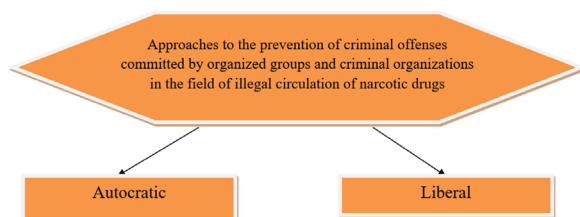


Figure 2: Approaches to the prevention of criminal offenses committed by organized groups and criminal organizations in the field of illegal circulation of narcotic drugs

Autocratic, which is associated with the creation of an effective system of law enforcement agencies based on effective criminal legislation, especially in terms of illegal drug trafficking, money laundering and confiscation of criminally obtained funds (increased liability up to life imprisonment for a minor criminal offense), criminal procedural legislation (granting broad powers of security agencies), as well as means and resources that allow effective prevention measures (Spain, Italy, China, Germany, USA, Turkey, France); Liberal-covers preventive activities and includes various approaches at the community level (providing citizens with information about the drug risks of organized crime, implementing hotlines; participation in the work of various public organizations), as well as balanced democratic politics (Belgium, the Netherlands, Norway, Sweden). Also, this direction covers preventive activities and includes a “permissive” approach to people who use drugs, and the demand for drugs is legalized through their controlled and accounted for sale or distribution. However, organized forms of crime are prosecuted by the state and criminal liability is provided for such actions (Belgium, Denmark, the Netherlands, Norway, Sweden).

Spain has developed a national action plan on combating

drug trafficking, which provides for the establishment of a supervisory body to control the use of new technologies by drug trafficking organizations. As part of the National Action Plan on combating distribution, a supervisory body will be established to control the use of new technologies by organized drug businesses. The country has established the Department for combating the use of high technology to combat crime, which is part of the Ministry of the Interior. This department is actively working to prevent the use of the Internet for illegal advertising of controlled substances, including psychotropic drugs [18].

It is interesting to note that Sweden is implementing strategies to combat drug trafficking at all levels in relation to the worsening drug addiction problem in the country.

At the international symposium on the problems of combating organized crime and terrorism held in the USA (Chicago, 1989), the report of an Interpol representative expressed the opinion that there are countries that are unable to fight organized crime due to the lack of reliable legal and weak technical the equipment of law enforcement agencies, the impossibility of tracing the flows of “dirty” money. And if they are not helped, then in 10 years-20 years the world community may have to deal with huge mafia state and political structures, and then the fight against organized crime may become simply hopeless [19].

Rejecting unnecessary ambitions, our society was forced to admit that these factors, which hinder the effective prevention of organized crime, are also characteristic of our country. This is evidenced by the alarming trends in its spread, when our society faced a bold assessment of threats, rather than their underestimation. Therefore, the risk of extreme negative consequences is very high. The experience of fighting organized crime abroad is of indisputable interest to us, but it is unlikely to be widely copied and mechanically transferred to our conditions [20].

In Great Britain, since April 1, 2006, the service for combating the most dangerous organized crime, in particular in the field of illegal drug trafficking 80CA (8egioi8 Ogapi8egi Sgite Adepsu), whose priority areas of activity are: Increasing the level of awareness of the population about organized crime; increase in the volume of returned funds obtained illegally and the number of criminal cases opened; increasing the threat to the activities of organized criminal groups in Great Britain due to the proven operational and investigative actions, as well as the implementation of new ways of combating this phenomenon [19].

Also, the modern crime prevention strategy developed in Great Britain contains a section devoted to the use of data and technology (using data and technology to prevent crime). This section indicates that the following areas of crime prevention are promising: Mapping of criminologically significant information; online analysis of digital images obtained from high-resolution video cameras; use of cloud technologies to collect, analyze and store operational information coming from various sources,

including online video materials from the public regarding committed crimes; monitoring of information in social networks; use of the Internet of Things [21].

In Spain, a national action plan related to the fight against the distribution of drugs has been developed, which provides for the creation of a supervisory body to control the use of new technologies by drug-trafficking organizations. As part of the national plan of actions related to the fight against the distribution of drugs, it is envisaged to create a supervisory body to control the use of the latest technologies by the organized drug business. In the country, as part of the Ministry of Internal Affairs, there is a Department for combating crimes related to the use of high technologies, which takes an active part in preventing the use of the Internet for the purpose of illegal advertising of controlled substances, including psychotropic substances [19]. Therefore, an important prerequisite for ensuring an effective fight against the drug business is the creation of an effective (effective) regulatory and legal framework, in particular, there is an urgent need for the urgent development and adoption of a new Law of Ukraine "On Combating Organized Crime".

In Italy, in order to strengthen the fight against organized crime in the area of illegal drug trafficking, the country's parliament established a special council of regional offices to combat the mafia, regional offices to combat the mafia, and an investigative unit to combat the mafia. In addition, the Italian Public Prosecutor's Office established an operational investigation unit for the fight against organized crime and the mafia [22]. Such an extensive system, consisting of multifunctional and specialized operational, investigative, and intelligence elements to prevent organized crime, is quite effective [6].

It should not be forgotten that some countries, like the Netherlands, are loyal to drug use and distribution. In the Netherlands, some drugs are legalized and can be bought like ordinary tea [23]. In this country, prosecution, including criminal prosecution, is only possible for the illegal sale of "hard" drugs. A special model has been developed in the country, according to which law enforcement agencies are prohibited from prosecuting people who use drugs. All police activities are aimed at combating the unauthorized sale of "hard" drugs and preventing and assisting drug addicts [24].

Today Poland is one of the main leaders in the region in the production of psychotropic drugs and in the transportation, consumption, and sale of narcotics. Polish organized crime groups actively participate in enriching themselves through drug trafficking [25]. Since Poland is one of Ukraine's closest western neighbours, the country's experience in drug crime prevention is useful for improving the drug prevention system both at the national and regional levels. As a member of the European Union, the country has adopted long-term drug control programs. These programs are adequately funded from the national budget and contribute to reducing the supply of drugs through their preventive effect on potential drug users [26,27].

In addition, Poland's proximity to Ukraine allows it to incorporate the Ukrainian experience, as well as the high level of illicit trafficking in Poland, which is also dangerous. Synthetic drugs are also such a danger.

Conclusion

The illegal distribution of narcotic substances and precursors is, by its very nature, an international crime, because criminal organizations that commit such crimes can sell drugs in different countries, use certain countries as transit countries, use other countries for growing raw materials, and recruit members of various origins into drug trafficking groups. International cooperation is both informational and financial. International cooperation can be informational or financial. Both types of cooperation are equally important.

This is because measures that are effective in combating the illegal distribution of drugs in one country may significantly worsen the situation in the fight against drug-related crime in another country. Furthermore, we believe that close attention should be paid to the situation of illegal drug trafficking in neighbouring countries. This is because it can have a significant impact on the distribution of narcotics and their precursors in Ukraine and therefore appropriate measures need to be taken to combat such crimes.

We also believe that the fight against corruption is one of the essential factors in the international fight against illicit drug trafficking. Law enforcement officers need to be constantly aware of the mechanisms of new methods and techniques of illegal drug trafficking, which are constantly being improved by drug criminals. Therefore, it is definitely necessary and useful to establish a continuous exchange of experience and necessary information among law enforcement agencies of different countries in order to combat the illegal distribution of drugs.

One of the tools for collecting operational information during criminal intelligence is the use of Open Source Intelligence (OSINT). In some law enforcement agencies of Western countries, there are even special units that carry out such activities (Scotland Yard OSINT, Royal Canadian Mounted Police OSINT, OSINT unit of the New York Police Department, OSINT unit of the Los Angeles County Sheriff's Department).

According to the legislation in force in the USA, responsibility for the fight against organized crime is assigned to law enforcement agencies at all levels: Federal, state and local. But the main department for combating organized crime should be considered the FBI, whose organizational structure includes the Main Office (Washington) and 59 regional agencies and branches. Regional offices include several local offices. Local offices consist of several agents or groups of special agents, depending on the size of the population and the number of investigations conducted.

Coordination of the activities of law enforcement agencies, including those operating in the field of border security, is entrusted to the Ministry of Internal Security (Department of

Homeland Security, DHS). Three agencies are responsible for border security. In particular, border protection is entrusted to the United States Border Patrol (USBP), customs control is provided by the Customs and Border Service (U.S. Customs and Border Protection, CBP), and the US Coast Guard is responsible for the protection of the sea border. At the level of the Administration of the President of the USA, an executive body-the Office of National Drug Control Policy (ONDCP)-was created. Issues of combating migrant crime are entrusted to the US Immigration and Customs Enforcement (ICE), Bureau of Narcotics. In the United States, the Office for the Implementation of National Drug Control Policy operates the Center for Evaluation of Drug Control Methods, which supports scientific and technical research and development in the interests of drug law enforcement agencies. The Anti-drug abuse act, which came into effect in 1988, increased liability by allowing the forfeiture of property used in illegal money transfers, their crushing and the involvement of third parties in them. This regulatory act allowed the US Treasury Department to request any additional information about customer transactions from credit institutions. The law also gave the US Treasury Department the authority to enter into bilateral international agreements that help track suspicious financial transactions abroad.

Conflicting Interests

The authors declare that there is no conflict of interest in this report.

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