

Research Article

Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, their Analogues and Precursors: Administrative and Criminal Aspect

Yevhen Leheza^{1*}, Volodymyr Shablysty², Irina V. Aristova³, Ivan O. Kravchenko³, Tatiana Korniakova⁴

¹Department of Public and Private Law, University of Customs and Finance, Ukraine

²Department of Criminal Law Disciplines, Dnipropetrovsk State University of Internal Affairs, Ukraine

³Department of Administrative and Information Law, Sumy National Agrarian University, Ukraine

⁴Department of Administrative and Criminal Law, Oles Honchar Dnipro National University, Ukraine

*Address Correspondence to Yevhen Leheza, E-mail: yevhenleheza@gmail.com

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Abstract

Background: The article highlights a type of illegal drug trafficking using the internet (the virtual drug business) that is currently relevant for Ukraine. Illegal distribution of narcotic drugs, psychotropic substances and precursors *via* the internet is characterized.

Methods: The methodological basis of the research is presented as comparative-legal and systematic analysis, formal-legal method, interpretation method, hermeneutic method as well as methods of analysis and synthesis. The following research methods were used in the process of performing the set tasks: With the help of the formal-logical method, the main legal categories of the legal regulation of combating crime in the sphere of trafficking of narcotic drugs, psychotropic substances, their analogues and precursors were studied; the system-structural method was used to identify and analyze methods of combating crime in the sphere of trafficking of narcotic drugs, psychotropic substances, their analogues and precursors; with the help of the comparative-legal method, the foreign experience of legal regulation of combating crime in the sphere of trafficking of narcotic drugs, psychotropic substances, their analogues and precursors was analyzed, which deserves attention; with the help of the formal legal method, appropriate proposals for Ukrainian legislation were prepared.

Results: Positive experience of special law enforcement agencies of the United States of America, Great Britain, Spain, Sweden, the Czech Republic and Estonia was studied. A separate legal analysis of the legal acts of foreign countries on combating illegal sale of narcotic drugs, psychotropic substances or their analogues *via* the internet and improving activities performed by Ukrainian law enforcement agencies in the specified area were carried out.

Conclusion: It was established that as of today functions of countermeasures in foreign countries give way to criminal-based prevention of ensured elimination of causes and conditions as well as to preventive measures aimed at controlling crime with the use of a wide range of citizen assistance. During the research, the main scheme of illegal sale of narcotic drugs, psychotropic substances or their analogues using the internet was established

- Methods of ordering (various messengers, free services of instant transmission of SMS, audio, video messages, social networks: Facebook, Instagram, Twitter, Skype, Viber, WhatsApp, etc.);
- Methods of payment for the ordered narcotic drug (methods of transferring money through self-service payment terminals: PrivatBank, IVOH; Savings Bank; *via* electronic payment systems and electronic wallets Privat24, Oschad24, Global Money, QIWI, PayPal, EasyPay; by replenishing electronic wallets with “electronic money,” as well as payment with electronic currency “Bitcoin” or cryptocurrency (crypto-services: BTCU, Bitobmen. Pro, EXMO); by replenishing a mobile phone number; in person during the meeting; by leaving money at the specified place; by leaving money at the place of a stash point organized);
- Drug packaging depending on the type of substance, their forwarding or forwarding of drug stash points (openings between windows, electrical panels in entrances, deserted places in parks and squares, tree hollows, empty buildings and structures, etc.)

Keywords: Foreign experience; Illegal trafficking; Narcotic drugs and psychotropic substances; Precursors; Countermeasures; Legal regulation

Introduction

The problem of combating drug crime is one of the most acute social and legal problems of Ukraine at the beginning of the 21st century, which has a growing tendency and threatens the national security not only of Ukraine, but also of other countries, since it is characterized by its transnational nature, professionalism, and high technical equipment of criminal groups, presence of own intelligence and counter-intelligence services, mastering the latest forms and methods of counteraction to law enforcement and judicial bodies [1,2]. In this regard, the UN International Narcotics Control Board, in its report back in 2001, noted the increase in cases of trafficking in narcotic and psychotropic substances *via* the internet [3]. The internet has completely changed the world of communication and information exchange and now it is a valuable tool for gathering information to communicate with friends, business partners and the whole world for the purpose of selling and buying goods. The internet has revolutionized the sector of communication and commerce. Sale of drugs *via* the internet greatly complicates the work of law enforcement agencies, since criminal proceedings are required to obtain information upon request [4]. According to expert assessments and the results of sociological studies, the latency characteristic of non-medical use of narcotic drugs allows us to assume that the real number of users exceeds official data by 8-10 folds [5].

Outdated methods should be replaced with new methods of solving crimes using information technologies, specialized software with involvement of narrow-profile specialists-analysts [6]. Continuing the above, it should be noted that the information space, information resources, information infrastructure and information technologies play a relevant role in increasing the level and pace of socio-economic, scientific, technical and cultural development, and also have a significant impact on the effectiveness of management decision-making, including that in the sphere of combating organized crime and corruption [7]. Thus, the study of the foreign experience of countermeasures against the illegal sale of narcotic drugs, psychotropic substances or their analogues by special police units using the internet is impossible without referring to the world experience, which is reflected in the basic laws of various states [8]. That is why the study and legal analysis of foreign experience in countermeasures against illegal sale of narcotic drugs, psychotropic substances or their analogues *via* the internet needs improvement, which determined the relevance of the chosen topic.

Methods

The methodological basis of the research is a set of methods and techniques of scientific knowledge. The main role in this system belongs to the general scientific dialectical

method of cognition, which makes it possible to investigate problems in the unity of their social content and legal form, to carry out a systematic analysis of the administrative-legal mechanism of ensuring counteraction to the illegal circulation of narcotic drugs and psychotropic substances [9]. With the help of the logical-semantic method, the conceptual apparatus has been deepened, the general principles of formation and implementation of measures aimed at counteraction to illegal drug trafficking have been determined. The systemic-structural and comparative-legal methods have made it possible to study the concept and content of preventing administrative offenses in the sphere of illegal trafficking of narcotic drugs and psychotropic substances, as well as problems in activities performed by subjects countering the illegal trafficking of narcotic drugs and psychotropic substances. The historical-legal method was used to study the status and the general nature of administrative offenses in the sphere of illegal trafficking of narcotic drugs and psychotropic substances. With the help of the formal-legal method, the content of legal norms, which provide for administrative responsibility for violations of legislation in the field of narcotics trafficking, was investigated, and proposals for their improvement were formulated.

Results and Discussion

An important aspect in the context of the subject of our research consists in the non-contact sale of narcotic drugs which has become widespread over the past few years. According to M. Griga “ordering” of narcotic drugs and psychotropic substances *via* the “internet” network is topical. Really, information about e-mail addresses of relevant resources can be obtained from other persons who received narcotic substances in this way or directly in public places by means of special “messages”: “Graffiti inscriptions (“cones,” “salt,” “hair dryer,” “cartel,” “spice,” etc.) painted on the walls of buildings, near shopping centers, water points, subway entrances, underpasses, on fences near educational institutions, schools, colleges, vocational schools and other crowded places. Drug users do not need to personally look for drug dealers and communicate with them or to arrange meetings with them. It is enough to find graffiti on the wall with information about the messenger channel for smartphones or a special site and make an order” [10]. Therefore, analysis of foreign experience in counteraction to illegal sale of narcotic drugs, psychotropic substances or their analogues using the internet is necessary for law enforcement agencies of Ukraine, since today the latter lack positive experience in counteraction to illegal sale of narcotic drugs, psychotropic substances or their analogues *via* the internet [11].

In this regard, one should agree with the French jurist Mark Ansel, who notes that it is the study of foreign experi-

ence that opens up new horizons for lawyers, allows them to better understand the law of their country, because the specific features of this law are especially clearly revealed in comparison with other systems. Comparison can arm a lawyer with ideas and arguments that cannot be obtained even with a very good knowledge of solely the law of one's own country [12].

In the context of the above, let's turn to the position of I.M. Okhrimenko, who conditionally divided the process of borrowing foreign experience into several stages

- gathering information about the experience of an individual state or a group of states;
- performing analysis with the aim to identify positive and negative aspects of a certain model distributed in another country (other countries);
- establishing the degree of acceptability of such a model for Ukraine;
- developing scientific principles, methodological recommendations for introduction of such experience in Ukraine;
- implementing the model in practice with constant scientific support, monitoring of the state of "implantation" of innovations in the domestic field;

- supporting the educational process, starting from class time table scheduling and up to organization of interaction with teachers, the work of methodologists, heads of courses [13].

The term "cybercrime" frequently used in foreign literature covers any crime committed using a computer, a computer system using the global internet, or against a computer system or network. This term covers such types of actions that are usually defined as illegal or may be classified as criminal actions in the near future. A specific feature of the global network consists in absence of borders. The exchange of offers between members of criminal groups is possible *via* anonymous postal addresses, which are closed (deleted) after successful completion of the operation [14]. In connection with the development of modern computer technologies and foremost the internet worldwide electronic network, a new term "cybercrime" has been introduced in international legislation (Table 1). Computer (network) crimes can be divided into 2 groups

- crimes that directly affect security of computer systems and computer information;
- crimes against a person, property, management order and other objects, but which are committed with the use of computers, computer systems and modern network technologies [5].

Table 1: Main channels supplies of narcotic drugs and psychotropic substances to the territory of Ukraine (including transit)

Kind Narcotic tool	Country provider	Type of transport	The main ones methods delivery
Cocaine	Latin America	Aviation transport	Couriers (luggage, human body cavities)
		Sea transport	Containers (cargo, hiding places)
	European Union Countries (Netherlands, Poland, Germany, etc)	Aviation transport, motor vehicle	Couriers (luggage, body cavities, hiding places)
Heroin	Afghanistan, Iran, Pakistan, Turkey	Cargo	Cargo, hiding places
		motor vehicle	Containers, cargo (hiding places)
		(transit)	Couriers (luggage, human body cavities)
New ones	Chinese	Sea transport (transit)	Without shelter from customs control
psnhoaktpvni	People's	Air	Couriers (luggage, body cavities, hiding places)

So, due to the fact that the internet has now become an "endless" source of information and communication, criminals involved in the illegal sale of narcotic drugs and psychotropic substances use it very successfully. The "Internet" network allows criminals to remain conditionally anonymous and to advertise and sell narcotic drugs and psychotropic substances without any risk to themselves [15]. Therefore, the very procedure of choosing the "goods" (narcotic drug or psychotropic substance) does not take place through direct participation of the seller, but the communication process is carried out remotely through the use of various

messengers, free services of instant transmission of SMS, audio, video messages, social networks: Facebook, Instagram, Twitter, Skype, Viber, WhatsApp, etc. [16].

Therefore, one of the main tools for gathering operational information during criminal intelligence consists in the use of Open-Source Intelligence (OSINT) (Table 2). 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) [17]. In particular, counteraction to illegal sale of narcotic drugs, psychotropic substances or their analogues *via* the internet is directly performed by the following law enforcement agencies in the USA: Drug Enforcement Administration (DEA), Special Action Office of Drug Abuse Prevention

(SAODAP), The Office of National Drug Control Policy (ONDCP), Financial Crimes Enforcement Network-FinCEN, Bureau of Narcotics, Center for Evaluation of Drug Control Methods; Spain: The Supervisory Body for controlling the use of the latest technologies, including the internet, by the organized drug business [9].

Table 2: Dynamics and specific weight of crimes in the sphere of trafficking in narcotic drugs, psychotropic substances, their analogues or precursors in 2016-2022

Parameters	2016	2017	2018	2019	2020	2021	2022
Number crimes	53 206	45 322	33 180	30 045	25 325	22 217	27 912
Coefficient criminal intensity	116	99	72	70	59	52	68
Specific weight (%)	10.3	10.2	5.9	5.7	4.5	3.8	5.3

According to estimates of the United Nations Office on Drugs and Crime, the United States has achieved the greatest success in their combat against illegal drug trafficking, where the number of drug users has halved over the last decade [18]. In contrast to the Ukrainian practice of operational investigative activities, results of such activities in the USA are mostly used as evidence in criminal proceedings. Also, the US Department of Justice is constantly developing Instructions and methods on the procedure for collecting electronic evidence on drug trafficking using the internet.

If we consider the activities of the United States regarding functioning of the organizational mechanism for combating and preventing drug addiction, it should be noted that func-

tions of combating drug trafficking are assigned to all special services: The CIA, the FBI, the US State Department, Customs agencies, Coast Guard, the Internal Revenue Service (IRS), Police, etc. In addition, in 1973, the Drug Control Administration (DCA) was created, with a staff of over 20,000 people. During its activity, the DEA has enriched itself with a considerable number of its representative offices in various countries of the world, which cooperate with local law enforcement agencies in identifying the routes of transportation and the main suppliers of narcotic drugs in the United States (Figure 1). In addition, there is a special agency for the prevention of drug addiction in the USA it is called the Special Action Office of Drug Abuse Prevention (SAODAP) and its task is to reduce the number of drug addicts [19].



Figure 1: Arrival of cocaine to Ukraine

There are no investigative units in the structure of the US Drug Enforcement Agency, and its employees are only engaged in operational work [20]. The peculiarity of police tactics in the USA is that it includes the tactics of covert actions: Use of informants and external surveillance [21]. The law enforcement agencies of Great Britain are also engaged in combating distribution of narcotic substances *via* the internet. The leading analytical center of Great Britain (Policy Exchange) conducted a study on the prospects for the development of police until 2020, in particular, in matters of crime prevention. The following directions are taken as a basis: Technological re-equipment of police, professional development of employees, close cooperation and partnership with the public in crime prevention. In particular, one of the main focuses is the maximum use of the internet to ensure effective police activities by increasing the level of communication between the police and the public. In general, the essence of improving preventive police activities in the future can be characterized as increasing the level of intellectual influence on this process, involvement of modern internet technologies for data collection, analysis and storage, as well as criminological forecasting. It is indicative that the analytical report of Policy Exchange, in particular, includes such sections as: Technological support for Crime Prevention Officers which indicates the need to plan purchase of necessary equipment for the period up to 2020, taking into account development of information technologies; creation of innovation centers (Innovation Hubs) engaged in developing crime prevention methods based on technological innovations. It is significant that the specified document also presents a model the working day of a police officer in 2020 (A day in the life of a Crime Prevention Officer in 2020). At the same time, the main tool of a police officer is the use of devices for working on the internet to study crime maps of a certain area, analyze reports of its residents about the status of online crime, conduct preventive activities in social internet networks, on specialized websites, etc. [22]. Regional crime prevention strategies are also being developed. Thus, according to the Plan for ensuring public safety and crime prevention of the city of Cambridge for 2016-2020 (Great Britain), implementation of a strategic direction to increase the level of legal awareness of the community regarding public safety and crime prevention using the capabilities of the internet is foreseen [23]. It is expected to increase the level of communication between the public and the police, in particular, by means of developing programs for citizens to quickly provide internet messages (E-Watch) regarding the status of crime in the streets, public places, educational institutions, etc. [24].

Spain has developed a national action plan related to the process of combating drug trafficking, which provides for creation of a supervisory body to control the use of new technologies (including the internet) by drug-trafficking organizations. As part of the national action plan related to

combating distribution of drugs, it is envisaged to create a supervisory body to control the use of the latest technologies, including the internet, by the organized drug business. The country has got the Department for Combating Crimes Related to the use of high technologies operating as part of the Ministry of Internal Affairs. And this department takes an active part in preventing the use of the internet for the purpose of illegal advertising of controlled substances, including psychotropic substances [25].

Sweden has launched a large-scale crackdown on drug trafficking at all levels, starting with drug syndicates and ending with small-time street dealers. In connection with aggravation of the drug addiction problem in the country, Sweden is implementing a strategy to combat drug trafficking at all levels: Criminal liability is also introduced for the use of drugs, and not only for their possession; detected cases of drug use are immediately registered by the social service; a “zero border” is being established a ban on the use of drugs while driving vehicles; activities of public organizations are intensified, in particular the Union of Public Organizations called “For a drug-free society.” According to the Continental Service, an increasing part of the illegal traffic of narcotic substances in Sweden is ordered on the internet with their subsequent delivery by regular mail. In 2004, the Swedish Postal Service seized 776 parcels containing narcotics. In 2006, the number of withdrawals reached 1280, and for the first half of 2007, this indicator is 920. Thus, the state drug combating policy of Sweden consists of a complex of organizational, methodological, legal, social, financial, administrative, educational, educational and other measures [26].

Thus, the project “Safe Prague Online” (Czech Republic) aims to protect residents of Prague (primarily children and adolescents) from crimes related to the use of the Internet and allows to create conditions for crime prevention by increasing the level of communication between the public and the police in online mode [27]. The project of Estonia “Internet constables” regarding the active involvement of police in crime prevention using capabilities of the internet was also considered. The main goal of the project was to create virtual police stations on web portals, which are most frequently visited and popular among young people [28]. Police institutions created their own accounts and e-mail addresses in the web environment, which is mostly used by young people. Specific police officers are behind the accounts. Therefore, each network user knows whom exactly he/she has virtual communication with. Such work enables the police to get closer to citizens, carry out more effective preventive activities and, thanks to its virtual presence on the internet, reduce the level of crime in it, especially by means of preventing crimes committed by young people and against young people [29]. Main areas of work: Combating cybercrime and juvenile delinquency;

prevention of victimization; ensuring presence of police officers (as real persons) in the virtual internet environment of communication of other citizens for conducting targeted campaigns, lectures and consultations on crime prevention. That is, the biggest innovation of the project is the concept of an electronic constable demonstrating that the police is aware of modern communication technologies and is ready to cooperate with citizens [30].

The Crime Prevention Strategy in the Czech Republic for 2016-2020 indicates that crime in the virtual environment is one of the new threats. At the same time, a transfer of crimes “from the streets” to the virtual environment has occurred. The strategy envisages implementation of measures regarding the use of the internet to prevent crime in 2 areas

- Direct prevention of cybercrime by means of disseminating information about existing risks and protection options, including technical measures, as well as by means of providing assistance and support to victims of internet crime;
- The use of a wide range of internet technologies to increase the overall level of crime prevention [31].

Conclusion

Given the above, it seems possible to reach some conclusions and proposals. There is an urgent need for discussion and adoption of the Law of Ukraine “On Interception of Telecommunications” which will provide legislative principles for prevention and cessation of criminal activities, including those involving trafficking drugs on the internet. It is necessary to create a National (interagency) operational/mobile response department on the basis of the Security Service of Ukraine and the Department for Combating Illegal Drug Trafficking of the Ministry of Internal Affairs of Ukraine which would perform functions of monitoring and tracking the use of the internet by the drug business using the anti-narcotics system of operative and investigative measures. In Ukraine, it is necessary to develop and introduce special software for monitoring and intelligent blocking (disabling) of pro-narcotics sites. As an example, in the USA, about 35 billion dollars is allocated for similar purposes. Development and imperative (required) for providers of placement in the Ukrainian-speaking segment of the internet on youth pages of anti-narcotic advertising, such as bright banners with visual images, is necessary.

In order to improve the process of identifying transnational, ethnic, and economic organized criminal groups that smuggle narcotics, a system of special tools is proposed, which include the following: Confidential cooperation; performance of a special task to uncover the criminal activity of organized groups or criminal organizations; conducting special tactical operations under the name “Channel,”

international controlled delivery, as well as information search systems (information or analytical search); software and technical means of searching in information systems (computer intelligence or network monitoring).

Summarizing the above, today it is necessary to revise the modern national system of operational service in the direction of granting broader powers to information and analytical units for accumulation and processing of operational and investigative information, especially during criminal intelligence. This proposal is fully consistent with the practice of the leading countries of the world. For objects that provide services using the internet, it is easier to implement the specified idea, since it is possible to collect a large amount of necessary information indirectly, with the help of computer networks. In Ukraine, it is also necessary to develop and introduce special software for monitoring and intelligent blocking (disabling) of pro-narcotics sites that direct information about the illegal activity of the resource, followed by confirmation of the information and establishment of additional information on the specified resources. 95% of the surveyed employees of operational units of the National Police of Ukraine consider introduction of such a practice to be a progressive step for Ukraine in strengthening the law enforcement function of the state and protection of rights.

Based on the domestic and foreign experience, it has been confirmed that it is important to improve the norms of the Criminal and Criminal Procedure Codes of Ukraine, separate laws of Ukraine and departmental regulations in order to activate and optimize the use of forces, means and measures used by operational units of law enforcement agencies in combating crimes in the sphere of drug trafficking.

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Conflict of Interest

Authors have no conflict of interest to declare.

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