

Social, Economic and Legal Aspects of Fighting Against Illegal Distribution of Drugs or Psychotropic Substances

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Abstract: In the real work an attempt to analyze institute of fighting against illegal distribution of drugs or psychotropic substances through a prism of the social and economic and legal phenomena is made. The real research is devoted to theoretical development and formulation of practical recommendations about problems of criminal and legal and social and economic measures of fighting against illegal distribution of drugs or psychotropic substances in Kazakhstan. On the basis of an integrated approach to studying and research of a perspective of fighting against illicit trafficking in narcotic or psychotropic substances a number of conceptual scientific and practical provisions and the recommendations submitted on increase in efficiency of social and economic and legal corrective actions concerning persons, engaged criminal distribution of drugs or psychotropic substances is proved by the researcher. Indeed, drug trafficking process assumes the menacing scale now. The quantity annually withdrawn from illicit trafficking only in heavy drugs (heroin) passed already for ton and the quantity of other types of the withdrawn drugs or psychotropic substances is estimated in tons for several years.

Key words: Economy, right, social and economic relations, penal law, social sphere, punishment, fighting against illegal distribution of drugs or psychotropic substances, non-property punishments, imprisonment

INTRODUCTION

Problem statement: The president of the Republic of Kazakhstan N.A. Nazarbayev, characterizing the developed drug abuse situation and calling the state and society for activation of crime control, formulated the following basic provisions having a direct bearing on development of a problem of activation of fighting against illegal distribution of drugs or psychotropic substances: "... the last century forced us to realize and to recognize that drugs considerably raised the status: from the chemical medicine menacing to physico-moral health of the individual they turned into permanent social and public threat for a homeland security of many states. Oddly enough, wide circulation of drugs as to a specific

product of consumption was promoted by development of market and trade relations. The subject of an entertainment of elite and medical soothing medicine, drugs gradually became a subject of broad purchase and sale" (Nazarbayev, 2013).

Really, drug trafficking process assumes the menacing scale now. The quantity annually withdrawn from illicit trafficking only in heavy drugs (heroin) passed already for ton and the quantity of other types of the withdrawn drugs or psychotropic substances is estimated in tons for several years. "A drug abuse situation in the Republic of Kazakhstan, M.O. Nukenov notes, for the last fifteen years sharply became aggravated. Considerably population narcotization level increased, not medical consumption of drugs extended everywhere. As of

January 1, 2016, according to Committee on legal statistics and the special accounting of the Prosecutor General's Office, in the Republic of Kazakhstan 54411 consumers of drugs or psychotropic substances, including 4652 minors and 4890 women stay on the official registry of bodies of health care". Studying of the matter in the Council of Europe in 2005-2015 shows, this problem for the Old World is how big. Annually in Europe 11-12 t of heroin, from 20-40 t of cocaine, to 9 t of amphetamine, to 900 t will be confiscated. hashish and to 600 thousand doses of an acid. If this confiscation makes about 15% of all drug traffic, then the called indicators should be increased by 6-7 times. Then we will receive the actual level of a drug traffic to Europe" (Nukenov, 2016) (Fig. 1).

The provided official data confirm drug trafficking scales in the 21st century in general on our planet and in particular in Europe. The number of consumers of drugs or psychotropic substances increasing from year to year are a consequence of active sale and drug trafficking in the republic. If for sale, storage and some other the acts connected with drug trafficking or psychotropic substances a criminal responsibility is provided, then direct distribution of drugs or psychotropic substances under our law does not admit penal act owing to what the state has no sufficient opportunities for use of all potential force of the law in the organization of fighting against drug trafficking or psychotropic substances. At the same time, in the foreign criminal legislation there are positive examples of establishment of a criminal liability for the facts of distribution of narcotic, psychotropic and toxic substances. So, for example, according to Art. 369 of the Criminal code of Spain a criminal responsibility and strict measures of punishment are provided for distribution of toxic substances, drugs and psychotropic substances.

The problem of increase in efficiency of fighting against distribution of drugs and psychotropic substances in our republic is in the center of special attention of our state and society and, first of all, heads of our state the President of Kazakhstan N.A. Nazarbayev, approved the Strategy of fighting against drug addiction and a drug addiction in the Republic of Kazakhstan.

Strategy answers basic provisions of the Presidential decree of the Republic of Kazakhstan of December 4, 2011 with No. 735 "About further measures for implementation of the strategy of development for Kazakhstan till 2030" in which counteraction of drug addiction and to drug trafficking is determined by one of the main activities of public authorities and public institutes. In it provisions of the Bishkek declaration proclaimed on August 25, 1999



Fig. 1: Drug traffic statistics in the countries of Europe

heads of states members of the Shanghai Cooperation Organisation, the Contract on joint actions for fighting against terrorism, political and religious extremism, transnational organized crime and other threats of stability of the parties signed in the city of Tashkent by heads of states participants of Central Asian economic community and also other regulations in the field are considered (Presidential Decree of RK, 2016).

ANALYSIS OF THE LAST RESEARCHES AND PUBLICATIONS

The theoretical basis of a research is made by conclusions of scientists-lawyers and economists on the studied problem and also provisions of the general theory of the state and the right, penal law, the criminal and executive right and other branch sciences. Relevance and complexity of a perspective of economic, criminal and legal and criminological struggle with drug trafficking or psychotropic substances caused keen interest of many scientists of our republic and also the CIS countries in this problem. In Kazakhstan or psychotropic substances such scientists as Abdirov N.M., Intykbayev M.K. actively are engaged in theoretical development of criminal and legal and criminological problems of fighting against drug trafficking., Kurmanbekova Sh. E., Narikbayev T.M., Nukenov M.O., Sarsekov B.S., Sartayeva N.A., Sarykulov K.R., Smagulov A.A., Fetkulov G.H., etc. Theoretical aspects of this problem found reflection in works of such scientists as Ashitov Z.O., Baltabayev K. Zh., Borchashvili I. Sh., Dzhekebayev U.S., Dzhansarayeva R.E, Dulatbekov N.O., Zhunusov B. Zh., Kairzhanov E.I., Korzun I.V., Maulenov G.S., Mindagulov A.H., Moldabayev S.S., Narikbayev M.S., Nurtayev R.T., Ongarbayev E.A., Rogov I.I.,

Rustemova G.R., Toleubekov B.H., Turkish N.N., Chukmaitov D.S., etc. Scientists of the Russian Federation and other CIS countries among which the special attention is deserved by Avanesov G.A. works devoted to questions of activation of counteraction of crime, danger of distribution of drugs or psychotropic substances a set of scientific works., Bogolyubova T.A., Volkov B.S., Gilinsky Ya. I., Y.V., Grinko S.D., Dashkova G.V., Debt A.I., Zhalinsky A.E. Broom., Kurinova B.A., Krieger G.A., Kudryavtsev V.N., Kuznetsova N.F., Kurmanova K.Sh., Lebedeva S.Ya., Luneeva V.V., Martsev A.I.A. Mamedova, Naumov A.V., Ovchinsky V.S., Pobegaylo E.F., A.I. Raroga, Yu. Fomenko, etc.

Research purpose: The overall objective of the real work consists in studying of criminal and legal, criminological and social and economic features of distribution of drugs or psychotropic substances in the territory of Kazakhstan and justification of a criminal liability for criminal distribution of drugs and psychotropic substances by modification and additions of the existing criminal legislation of the Republic of Kazakhstan. For achievement of the specified purpose the following tasks were set:

- To carry out studying of the problems connected with disclosure of a concept, contents and the principles of criminal policy in the organization of counteraction to illicit trafficking in drugs and psychotropic substances
- To define the main directions of carrying out criminal policy in implementation of fighting against illegal distribution of drugs or psychotropic substances
- To designate a circle of the questions connected with a concept, the purposes and function of a criminal liability for illegal distribution of drugs or psychotropic substances
- To develop and prove theoretical bases of qualification of illegal distribution of drugs or psychotropic substances
- To carry out the legal analysis of elements and signs of structure of illegal distribution of drugs and psychotropic substances
- To offer system of measures of punishment concerning the persons guilty of commission of criminal illegal distribution of drugs or psychotropic substances
- To formulate measures of the prevention of illegal distribution of drugs or psychotropic substances

MAIN RESEARCH RESULTS

In research the attempt of a complex scientific-theoretical research of institute of qualification of illegal distribution of drugs or psychotropic substances taking into account those questions and problems which exist in the theory of the right and which arise in practice at application is made. Studying of these questions in close interrelation allowed to receive the following results.

In the field of fighting against illegal distribution of drugs or psychotropic substances it is necessary to understand the fundamental, leading ideas and the beginnings in the field of crime control directing to process of formation of a package of measures of influence in this fight to practice of their application enshrined in the Constitution of the Republic of Kazakhstan, in the Concept of policy of law and other regulations as the principles of criminal policy.

The system of the principles of criminal policy in the sphere of fighting against illegal distribution of drugs and psychotropic substances is formed by the following: the principle of legality, guilty responsibility, differentiation and individualization of responsibility and punishment, equality of all citizens before the law and court, presumptions of innocence, humanity, democratism, justice, interpretation of doubts in favor of the defendant, inadmissibility of accountability of the person twice for the same crime.

Criminal liability for distribution of drugs or psychotropic substances consists in approach of consequence in law for the person exposed in illegal distribution of drugs or psychotropic substances. These consequence in law are characterized in condemnation of the perpetrator on behalf of the state. According to the contents criminal liability for illegal distribution of drugs and psychotropic substances consists in the state coercion interfaced to recognition of behavior of the perpetrator illegal or release from a criminal responsibility of the person which voluntarily handed over drugs or the psychotropic substances or who voluntarily addressed to medical institution behind delivery of health care and also showed active assistance to disclosure and control of offenses connected with illicit trafficking in drugs and psychotropic substances, to exposure of persons made them.

The state imposes criminal liability for distribution of drugs or psychotropic substances forcibly, regardless of desire and will of the offender. And it is lawful to purpose to differentiate functions of a criminal liability for illegal distribution of drugs or psychotropic substances on the purpose and function of an introspective and retrospective criminal responsibility in their uniform,

complete set. A main objective of a criminal liability for illegal distribution of drugs or psychotropic substances is its inevitability, the formation purpose among citizens of feeling of intolerance to the drug trafficking facts and also respect for the law, norms and rules, system of the values protected by the criminal law, providing the atmosphere of law-abiding lawful behavior of citizens and creation by that of conditions for real prevention and deduction of citizens from participation in illegal distribution of drugs or psychotropic substances.

Functions of a criminal liability for illegal distribution of drugs and psychotropic substances in total make system of measures of real legal impact on the facts of illegal distribution of drugs and psychotropic substances. Such functions log in: retaliatory, regulatory, preventive, recovery and educational functions of a criminal liability for distribution of drugs or psychotropic substances in our republic.

Increase in efficiency of prevention of illegal distribution of drugs or psychotropic substances first of all requires taking measures to creation of an appropriate legal, organizational, material and social basis of activities of law enforcement customs authorities for the prevention of these acts (Kapysheva, 2015). The facts of illegal distribution of drugs or psychotropic substances as practice shows, are made by the organized criminal formations specializing in drug trafficking.

In structures of this kind of organized criminal formations the contingent of the persons committing drug trafficking as well as other members, is selected taking into account their personal features and at a stage of selecting candidates and in the subsequent in the course of distribution of criminal roles and realization of a criminal plan. As distributors of drugs or psychotropic substances persons men's and female can act equally. In most cases it is the unemployed, needy, agreeing to execution of a criminal assignment with the purpose to earn money for existence. In cases of successful execution of a task such persons agree to new, accumulate gradually experience and gradually turn into the self-assured qualified distributors and distributors of drugs.

The extending scales of transnational narcocrime turn now already not only into serious social threat, but also pose a threat of a homeland security of the country. The number of the people appearing in insuperable dependence on drugs constantly increases, creating thereby real threat to a country gene pool. Due to these circumstances now special relevance is acquired by acceptance of concrete measures for the organization of victimologic prevention against distribution of drugs or psychotropic substances (Gilinsky, 2015). These measures gain value of the increased state and social importance as it is that it is necessary to make everything to save our citizens and in particular youth from harmful hobby for drugs.

CONCLUSION

Theoretical development of a problem of further activation of fighting against drug trafficking or psychotropic substances in our republic is focused on search of new methods and ways of the detailed, in-depth and versatile study of the vital phenomena connected with drug trafficking and drug addiction, illegal distribution of drugs or psychotropic substances, aggravation of a drug abuse situation in the republic.

In a wide complex of the developed problems of activation of fighting against drug trafficking or psychotropic substances the independent place is taken by studying and a research of a problem of activation of fighting against illegal distribution of drugs or psychotropic substances.

Responsibility for the facts of distribution of drugs or psychotropic substances is not provided in the criminal legislation, going acts in the form of distribution of drugs or psychotropic substances form independent crime components and for them has to be, respectively and an independent criminal responsibility and punishment is provided.

In carrying out counter-narcotics policy by the state acceptance in attention happening in the state and society of the new political, social and economic, legal and moral changes connected with polarization of society on the independent social groups and the countries demanding to themselves in the characteristic and creation of relationship according to new approaches is represented urgent.

In such socio-political atmosphere it is expedient to carry out a complex of the measures for the organization of impact on the facts of distribution of drugs or psychotropic substances taken by the state on the basis of multivector policy of opposition to such social evil.

In turn, the package of measures for realization of multivector policy of opposition to distribution of drugs or psychotropic substances includes realization put in concepts of the policy of law approved by the President of the country of the ideas, principles and tasks and also construction according to this Concept of criminal policy on fighting against distribution in the republic of drugs or psychotropic substances (Dzhekebayev, 2011).

In realization of concrete measures for the organization of fighting against distribution of drugs or psychotropic substances policy of law has to be focused on the constitutional ideas of the constitutional and social state, on strict respect for the principles of legality, justice and humanity as the current legislation regulating responsibility for drug trafficking or psychotropic substances needs serious adjustment and change.

The strategy of fighting against drug trafficking and drug mafia puts forward a problem of creation of effective methods and means of strengthening of law and order,

material, organizational and legal, political guarantees of the rights and freedoms of the person and citizen, for formation, finally, in the society of the steady atmosphere of intolerance to manifestations of distribution of drugs or psychotropic substances. As the crime connected with drugs in a most part is organized and transnational, at creation of criminal policy it is necessary to consider these specific features of criminal distribution of drugs or psychotropic substances.

The acts which are shown in the form of distribution of drugs or psychotropic substances are not covered by dispositions of existing rules about illicit manufacturing, acquisition, storage, transportation, transfer or sale of drugs or psychotropic substances though it is actually possible to observe a set of cases when the distribution of drugs which is shown in gratuitous transfer of drugs or psychotropic substances, representing by the nature and an essence of act of the increased social danger, a criminal liability for which is not provided by the law (Kairzhanov, 2013), takes place.

Hundreds of centers of heroin, opium, marijuana and other drugs withdrawn from circulation, testify to the developed dangerous tendency of distribution of scales of this social evil. At the same time, lack of an effective legal mechanism capable to constrain such dangerous distribution, in particular, lack of a criminal and legal regulation of responsibility and punishment for illegal distribution of drugs or psychotropic substances can initiate to some extent creation of the social and psychological atmosphere of the statement of some part of the population in the opinion on an insufficient submission to control to public authorities of trafficking in narcotics and psychotropic substances in our republic.

Law enforcement agencies, according to such people, are not capable to carry out effective fighting against the persons who are engaged in distribution of drugs or psychotropic substances.

In work justification of a criminal responsibility and punishment for distribution of drugs or psychotropic substances in the republic is carried out. In the course of that justification the concept, the purposes and functions of a criminal liability for illegal distribution of drugs or psychotropic substances are opened. The questions connected with the legal analysis of structure of criminal distribution of drugs or psychotropic substances are considered.

Need of criminalization of illegal distribution of drugs or psychotropic substances is proved by the author of a research the increased social danger and socially

dangerous consequences of the acts which are shown in illegal distribution of drugs or psychotropic substances.

Criminal and legal corrective actions, as we know, belong to the most strict measures of the state coercion and are applied for elimination taking place in the society of the facts of legal anomaly when others, except as compulsory, state corrective actions it is impossible to overcome such acts. Problems of use of system of measures of the state coercion include safety of the personality, society and state from potential and real threats (Nukenov, 2015). Legal measures of the state coercion concerning the persons exposed in illegal distribution of drugs or psychotropic substances need to be carried out competent public authorities and their public officials according to the current legislation. Strict legislative measures of the state coercion for such facts of socially abnormal behavior as drug trafficking in the republic, need their obligatory introduction and application owing to the fact that other corrective actions are not capable to contain the galloping growth of distribution of drugs or psychotropic substances in our country.

Inclusion in the maintenance of measures of the state coercion for the facts of illegal distribution of drugs or psychotropic substances of criminal and legal contents and character as which it is necessary to understand various legal restrictions provided by the criminal law, deprivations, encumbrances and others of the retaliatory maintenance and property of a coercive measure can give additional opportunities for prevention and suppression of the facts of drug trafficking in the country.

The embodiment in our reality of system of criminal and legal measures of compulsory influence concerning the persons who are engaged in illegal distribution of drugs or psychotropic substances can open a certain prospect for further strengthening of guarantees for safety of the personality, the state and society from the potential and real threats connected with further increase of drug trafficking or psychotropic substances both in our country and beyond its limits.

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