

Countering transnational drug crime

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Annotation: Transnational drug crime is a kind of organized criminal activity, characterized by quantitative and qualitative indicators, carried out on the territory of several states, in order to obtain financial benefits from the commission of crimes in the field of drug trafficking, thereby representing one of the most serious global problems.

Key words: transnational drug crime, counteraction, criminal law measures, structuredness, drug threat.

At present, according to the degree of danger, the drug threat can be put on a par with international terrorism and the proliferation of weapons of mass destruction. The existing forms and methods of combating transnational drug crime contribute to the improvement of the drug situation, however, they cannot change it radically.

Transnational drug crime is a type of transnational organized crime. Currently, there are no countries that are completely protected from it. As Ya.I.Gilinsky, "the drug trade ... knows no boundaries" [1].

Transnational organized criminal activity destroys the normal existence of the world community. The state as the main subject of combating organized criminal activity is not able to fully resist criminal organizations of the transnational level.

The evolution of organized criminal activity at the international level is a process of rational reorganization of criminal organizations through inclusion in legal or unregulated areas of activity.

In this regard, there is a tendency to form branched complex organizational structures that are characteristic of modern society, both in developed and developing countries.

The existing administrative and legal regimes of the border and the rules for the import of goods into the territory of the Republic of Uzbekistan impede drug trafficking. However, the current international, intergovernmental and interdepartmental agreements do not contribute to full control over it.

In the study of transnational drug crime, difficulties arise due to the terminological uncertainty of this type of crime. This concept does not have an unambiguous scientific and theoretical understanding, as well as legislative consolidation.

To form a unified terminological platform, we propose to understand transnational drug crime as a relatively massive social and legal phenomenon, consisting of a set of crimes in the field of drug trafficking (drug business) committed in order to obtain financial benefits (super profits) persons, as a rule, having citizenship of different countries. With the participation of organized criminal groups operating in the territory of different states.

Whose activities are aimed at extracting financial income by criminal means, involving the joint coordinated participation of an unlimited number of criminal formations located on the territory of several states that have stable corrupt ties, and therefore pose a threat to the security of not only an individual state. However, the entire international community, countering which requires the joint efforts of many states.

Accordingly, transnational drug crime has the following features:

1. Structurization of criminal associations and a high level of their organization. These associations operate on the territory of several states (two or more), which actually reflects (together with other signs of transnational drug crime) crime of the ninth level of the Shestakov funnel [2] and thereby demonstrates the extremely high degree of danger of transnational drug crime.

2. Organization can be manifested in the hierarchy of the organization, which is the subordination of participants, the establishment of rules of conduct with a clear system of rewards and punishments, discipline. Criminal transnational organizations, as a rule, have two or more levels of management, a network structure: a management body (management), functional and organizational units (directly involved in the organization of the drug business) and units that ensure the activities of a criminal organization (legal service, security units, communication with the public, etc.).

3. Committing drug crimes. The public danger of drug crimes committed in organized forms, including including at the transnational level, lies. First of all, in the fact that this is a constantly ongoing criminal activity, which is an integral and complete system of closely interconnected independent criminal acts aimed at expanding the scope of illegal activities for the production, sale and (or) acquisition of narcotic drugs means and (or) psychotropic substances and their analogues.

3. Availability of a material base (movable and immovable property, bank accounts, etc.);

4. Official (legal) type of activity (bars, clubs, restaurants, consulting organizations, security companies, etc.);

5. Splicing with power. Corrupt ties create serious problems for the administration of justice. Under these conditions, law enforcement agencies have to deal not only with the problem of crime itself, but also to counteract hidden pressure from corrupt politicians and officials.

6. Information and analytical base. The use of modern technologies by organized criminal structures may have a certain impact on the nature and extent of crime in the coming years. The formation of interrelations between previously traditionally autonomous types of criminal activity is planned.

7. A specific communication system (the presence of a linguistic-conceptual system, for example, jargon, crypto-language; a combination of information technologies that make it possible to avoid monitoring and identifying the source of information, for example, on the Internet).

8. The purpose of the drug business is to increase drug use and demand for psychoactive substances. Moreover, the drug business includes externally a completely legitimate type of activity is the work of banks, which, as A.P. Danilov, may participate in drug business

1) funding companies that import chemicals used to process opium into heroin and produce other drugs;

2) cash injections into the drug trade; 3) laundering of money received as a result of drug trafficking [3].

When evaluating the factors influencing transnational drug crime, it is necessary to distinguish between common (conditioned macro-trends in the world community) and specific (characteristic of individual countries).

On an international scale, there are three largest producing regions of narcotic substances - Asia, South America and Africa. Specific (national) factors include the geographical location of the country (region of the country), its migration attractiveness, climatic and agro-economic conditions conducive to the cultivation of drug-containing plants.

At the national level, individual states are distinguished that have the fundamental characteristics of a consumer country either a drug-supplier country or a drug-trafficking country.

In addition, there are areas in the world that have a special drug danger. For example, Afghanistan is a world producer of opium and heroin, Colombia, Peru and Bolivia are the largest producers of cocaine. It is no coincidence that experts note that "Afghanistan annually gives the world 150 billion doses of heroin" [4].

The main factors that determine the need to optimize the fight against transnational drug crime in the Republic of Uzbekistan, at the same time show the reasons for the impossibility of effectively influencing those involved in the drug trade. One cannot but agree with S.F. Milyukov, who believes that "in counteracting global drug expansion, our legislator has chosen a deliberately losing strategy of "frontal" counteraction, playing by the rules composed by drug barons and their powerful lobbies in the legislative, executive and judicial branches of government" [5].

The form of combating transnational drug crime should be understood as various external manifestations and (or) the order of organizational and legal interaction of the subjects of such counteraction.

Under the methods - ways of regulatory and legal influence on persons involved in the drug trade, that is, methods of legal descriptions of appropriate enforcement measures. The terminological consolidation of these categories is due to the need to make changes to legal acts relating to various substantive and procedural branches of law.

The main activities of law enforcement agencies to combat transnational drug crime include the suppression of the activities of criminal groups by bringing to justice the leaders and members of organized criminal groups, criminal communities, as well as the identification and suppression of international and interregional drug supply channels, countering legalization of proceeds from the sale of narcotic drugs, psychotropic substances and their analogues.

Given the difficulties faced by law enforcement officials seeking to prosecute responsibility of persons involved in drug trafficking as members of a transnational criminal organization, it is necessary to direct the main efforts to overcome existing barriers, as well as to eliminate gaps and conflicts in national criminal legislation.

International, as well as the legislation of some foreign states, has stepped forward in this direction. The category "persons involved in drug trafficking" is actively used in international practice.

The U.S. Foreign Drug Enforcement Act (called the Drug Lords Act) of December 3, 2009 allows criminal prosecution of persons involved in drug offenses outside the territory of the state where justice is carried out.

In this aspect, the experience of France is interesting, the legislator of which establishes sanctions for the traffic of "hard" drugs. For example, according to Art. 222-34 of the French Criminal Code (as amended by Art. 3 of the Ordinance of September 19, 2000 No. 2000-916), a person guilty of directing and organizing drug trafficking is punished with life imprisonment and a fine of up to 7,5 million euros.

It should be noted that French law provides for criminal liability as violating the law themselves foreigners, as well as persons involved in one way or another in these violations, namely, facilitating the illegal entry of a foreign citizen (or stateless person) into French territory.

Here, a foreign citizen (or a stateless person) who violates the requirements for entry and stay in France (including stay beyond the period established by the visa) is held criminally liable with a penalty of imprisonment for up to 1 year with a fine of up to 3,750 euros.

In addition, the judicial authority may prohibit him from entering or stay in the territory of the state for up to 3 years. The same sanctions apply to foreign citizens in respect of whom the decision to prohibit entry was made in another member state of the Schengen Agreement [6].

Taking into account the current criminal legislation in the law enforcement activities of law enforcement agencies, the actions persons involved in the drug trade, in some cases, it is possible to qualify as one of the types of involvement in the crime - concealment not promised in advance, which can be expressed in concealing the traces of the crime (destruction, modification of the original form commission of actions that prevent the authorities from detecting justice); concealment of items obtained by criminal means, for example, narcotic drugs and (or) psychotropic substances (destruction, modification of the original form, alienation in favor of other persons, other actions that prevent their detection by the justice authorities) [7].

Based on the foregoing, it seems appropriate to give the category "involvement in the commission of a crime or offense" a "cross-cutting" for domestic legislation and, accordingly, an intersectoral character, which should optimize legal measures to combat transnational drug crime.

It seems that this proposal reflects modern trends in crime studies and is generally consistent with such criminological theory as the right to combat crime [8], which, of course, is a promising and broader direction for the formation of modern criminological anti-drug legislation.

The most important component of combating drug trafficking is undermining the economic foundations of the drug business, including at the transnational level. In this regard, one of the most important areas of combating drug crime is the consistent and complete withdrawal of proceeds from this type of criminal activity.

Identifying, investigating and proving this goal creates certain difficulties for law enforcement agencies. Therefore, it seems reasonable and meeting the requirements of international legal acts to amend the regulatory legal acts of the legislation of the Republic of Uzbekistan, establishing responsibility for the disposal of funds (property) obtained as a result of a crime without the purpose of legalization (laundering) [9].

An alternative solution is proposed in FATF Recommendation No. 30 Explanatory Note 4: "Competent authorities investigating money laundering and terrorist financing should be allowed to delay or refuse the arrest of suspected persons and the seizure of money in order to identify persons involved in such activities or to collect evidence.

Without such measures, the application of controlled delivery procedures and undercover operations is impossible." This proposal should also be enshrined in national legislation.

In order to strengthen the criminal law counteraction to transnational drug crime in the field of illicit trafficking chemicals that are not subject to control, but can be used for the manufacture of narcotic drugs, psychotropic substances and their analogues, transported under the guise of other goods across the customs border, it is necessary to criminalize the smuggling of such substances.

Thus, transnational drug crime is a kind of organized criminal activity, characterized by quantitative and qualitative indicators, carried out on the territory of several states, in order to obtaining financial benefits (surplus profits) from committing crimes in the field of drug trafficking (drug business), thus representing one of the most serious global problems.

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