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Digitization of combating drug crime (including juvenile) as the need of the time: international legal analysis

Цифровізація протидії наркозлочинності (зокрема за участі неповнолітніх), як потреба часу: міжнародно-правовий аналіз

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Abstract

An essential component of the activity of law enforcement units is combating crimes in the field of drug trafficking. In the conditions of digitalization, significant attention is paid to the digitalization of methods of combating crimes in this field. Therefore, it is necessary to examine the international legal experience of digitalization of methods of combating crimes in the field of drug trafficking. The research methodology includes such methods as theoretical methods (identification and resolution of contradictions, problem statement, hypothesis creation, analysis, synthesis, comparison, abstraction, concretization), empirical methods (survey, monitoring, experiment, observation, measurement, survey, testing), methods of direct data collection (interviews, questionnaires), methods of information processing and analysis (method of generalizing indicators, method of correlation analysis). As a result of the study, the problematic issues of the international practice of digitization of methods of combating crimes in the field of drug trafficking are outlined.

Анотація

Важливою складовою діяльності правоохоронних підрозділів є протидія злочинам у сфері незаконного обігу наркотиків. В умовах цифровізації значна увага приділяється цифровізації методів протидії злочинам у цій сфері. Тому необхідно вивчити міжнародно-правовий досвід цифровізації методів протидії злочинам у сфері незаконного обігу наркотиків. Методологія дослідження включає такі методи, як теоретичні методи (виявлення та вирішення протиріч, постановка проблеми, висунання гіпотези, аналіз, синтез, порівняння, абстрагування, конкретизація), емпіричні методи (опитування, моніторинг, експеримент, спостереження, вимірювання, тестування), методи прямого збору даних (інтерв'ю, анкетування), методи обробки та аналізу інформації (метод узагальнюючих показників, метод кореляційного аналізу). У результаті дослідження окреслено проблемні питання міжнародної практики оцифрування методів протидії злочинам у сфері незаконного обігу наркотиків.

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Keywords: digitalization, crimes, drug trafficking, drugs, precursors.

Ключові слова: цифровізація, злочини, наркобізнес, наркотики, прекурсори.

Introduction

The sphere of drug trafficking and its organized segment in the world has a tendency to grow, despite all countermeasures carried out by law enforcement agencies. The situation becomes threatening if we take into account the scale of the influence of organized criminal groups involved in the drug trade on the economic and political situation in some countries, and even the whole regions of the world. Accordingly, there is an urgent need to strengthen the fight against crime in the sphere of drug trafficking by all possible means.

In modern conditions of the development of social relations, digital technologies continue to change the environment of criminal activity. Even developing countries in particular benefit from this technology. Africa, for example, is expected to have access to the same level of internet infrastructure as countries in the European Union. Also, the new connectivity and use of smartphones, which provide users with instant access to several online communication platforms, have a significant impact on the dynamics of the illegal market.

At the same time, the growth of drug crime on the Internet does not occur with the same dynamics in all countries. Opportunities to access the Internet, opportunities, and resources to fight cybercrime, as well as different levels of technical awareness among customers have created different opportunities for the growth of crime in the field of drug trafficking. New ways of committing crimes are emerging, ways of receiving payment for goods are changing, and methods of hiding traces of crimes are being improved. This creates prerequisites for digitizing ways to fight against crimes in the field of drug trafficking.

Back in 1988, the Verkhovna Rada of the Ukrainian SSR ratified the UN Convention on Combating Illicit Traffic in Narcotic Drugs and Psychotropic Substances (United Nations, 1988). Currently, an important component of the activity of units and territorial bodies of the National Police of Ukraine is countering the illegal circulation of narcotic drugs, psychotropic substances, their analogs, and precursors. To fulfill this task and to overcome the spread of illegal drug trafficking, prevent their non-medical use, and digitize the methods of countering drug crime, law enforcement agencies

must take necessary, effective, and sufficient measures.

States should improve their own legislation in the field of combating illegal drug trafficking, and law enforcement agencies should focus on improving methods of combating it. Therefore, at this stage, a successful investigation of the specified category of crimes is possible only if there are digital methods of combating the investigated type of crimes and the presence of qualified specialists in the IT field. Both foreign countries and Ukraine pay attention to the digitalization of methods of combating drug crime.

Due to the mentioned above, there is a need to analyze the international legal experience of digitalization of methods of combating crimes in the field of drug trafficking and identify positive aspects of the implementation of such methods and problems in their implementation.

Theoretical Framework or Literature Review

World criminological crime prevention systems were reviewed by Dzhuzha (2019). The author analyzed the criminological systems on the criminological map of the world, which reflect the peculiarities of the state of crime and ideas about its causes and ways of neutralization in different countries and regions, and highlighted the problems and issues of criminological globalization, in particular, criminological practice with the application of criminological legislation.

A general description of activities related to the prevention and counteraction of drug addiction at the regional level was carried out by Halyuk (2019). As a result of the study, the conclusions were drawn that under the activity of preventing and combating drug addiction at the regional level as an object of administrative and legal regulation, we mean a set of measures regulated by the norms of administrative legislation of a preventive, control, treatment-prophylactic, medical-social and punitive nature, which are implemented on at the regional and local levels by entities authorized to do so for systematic monitoring and timely regulation of the drug situation in the direction of streamlining the procedure of legal drug circulation, developing an effective mechanism for reducing the volume

of drug supply, reducing the demand for them, returning (reintegration) drug addiction patients to normal life, overcoming manifestations of stigmatization.

Tactical operations aimed at overcoming opposition to the investigation of criminal offenses committed with the use of modern information technologies were considered by Zavydnyak (2019).

The question of the possibilities of blockchain technologies for the investigation of criminal offenses in eSports was analyzed by Kalaida (2021). In particular, the author revealed the development trends of the digital economy and the importance of cryptocurrencies and blockchain technology in the modern world. At the same time, emphasis was placed on the problematic issues of the use of cryptocurrencies and the directions of law enforcement activities aimed at preventing and technologically blocking illegal operations with cryptocurrencies were detailed. The achievements of the use of software used in illegal activities are highlighted.

The experience and current state of combating crime in Ukraine was reviewed by Malogolova (2020).

Pohoretskyi and Chernysh (2012) drew attention to the international legal experience in the field of combating illegal drug trafficking.

Also, the subject of the research of Striltsiv and Bukovsky (2021) was the direction of improvement of the normative and legal regulation of the activities of units and bodies of the National Police of Ukraine in combating illegal drug trafficking.

Striltsiv (2011) also paid attention to countering illegal drug trafficking using the example of Germany and Ukraine.

The peculiarities of the investigation of crimes related to the illegal circulation of narcotic drugs or psychotropic substances with the use of modern telecommunication and other technologies were investigated by Yukhno, Matyushkova and Korshenko (2019).

Andrea Di Nicola (2022) pointed out that it is worth testing old criminological theories about organized crime in digital spheres, as well as developing and testing new criminological explanations for the causes of digital organized crime. According to the author, doing digital sociology of organized crime also means, and

increasingly means, using an interdisciplinary and multidisciplinary approach to the study of security and crime, which brings criminology and the social sciences into deep dialogue with many other scientific disciplines, including law, statistics, mathematics, informatics. Similarly, criminologists studying the digital dimension of organized crime and countering digital organized crime are unlikely to achieve meaningful results without an intention to interact with other disciplines. Lavorgna (2014) examined trends in organized crime related to drug trafficking among foreign countries. Also, Bertrand (2015) and Greenberg (2014) investigated the international aspects of digitization of the sphere of narcotics circulation.

The issue of transformative technologies in the fight against organized crime was analyzed by Lucia Bird Ruiz-Benitez de Lugo, Thi Hoang, Julia Stanyard, Summer Walker and Simone Haysom (2020). Among other things, the researchers noted that the online market has created new ways to buy and sell illicit drugs, sales of which are particularly prevalent on the dark web, the volume of illicit drugs for sale and the profits they are estimated to generate are growing rapidly in the dark web. That is why there is a need to implement effective technologies to combat drug trafficking.

Henrik Hvid Jensen (2019) reviewed ways to use digital tools to fight crime.

Tropina (2016) noted that the new concept of illicit financial flows has become a cross-cutting theme of the international agenda and with the development of digital technologies, the use of information and communication networks as a tool to facilitate illicit financial flows becomes one of the key challenges in solving the problem of the movement of illicit funds. At the same time, digital technologies must be used to effectively fight against organized crime.

McSweeney, Turnbull and Hough (2008) outlined key findings on strategies to combat illicit drug markets and distribution networks in the UK.

Savary, Hallam and Bewley-Taylor (2009) review zero features of the British experience in combating crimes in the sphere of drug trafficking.

From the above analysis of the literature, it can be concluded that the issue of methods of combating crimes in the field of drug trafficking has been studied by various scientists. However,

the issue of the international legal experience of digitalization of methods of combating crimes in the field of drug trafficking remains insufficiently researched.

Methodology

During the study of the international legal experience of digitalization of methods of combating crimes in the field of narcotics, theoretical methods were used. In particular, the method of identifying and resolving contradictions made it possible to understand problematic issues regarding contradictions in the legal regulation of the fight against criminal groups. Thanks to the formulation of the problem, controversial issues regarding the digitization of methods of combating crimes in the field of drug trafficking were established.

The analysis method made it possible to determine the nature and type of interrelationships between each element of the studied system, which ensures the complexity of the research and the cause-and-effect relationship between them. Thus, it was determined how the policy of states regarding the legalization and prohibition of narcotic drugs affects the prevention and detection of crimes in the field of drug trafficking. The use of the synthesis method made it possible to connect the components of a complex phenomenon and to expand previous experience taking into account the available experience.

The method of comparison contributed to the comprehensive study of the issues and the comparison of international experience on this issue. Among other things, this method helped to identify cause-and-effect relationships and systematize data. The use of the abstraction method contributed to the selection of essential, most essential features, relations, and aspects of social relations in the field of digitalization of methods of combating crimes concerning drug trafficking. When using this method, the essential was separated from the non-essential and the independence of the object of knowledge from certain factors was established to turn away from them.

The use of the concretization method made it possible to investigate the digitalization of methods of combating drug crime in the qualitative multifaceted nature of real existence, taking into account the latest technologies and conditions of historical development.

For a comparative legal analysis of international legal experience, empirical methods (survey,

monitoring, experiment, observation, measurement, survey, testing) were used, which made it possible to take into account the practical problems of using digital methods of combating crimes in the field of drug trafficking.

Determination of the scale of drug crime and, accordingly, the volume of the shadow economy in this area was carried out using the monetary method. In general, monetary methods contribute to the quantitative assessment of the extent of the spread of the shadow economy, which is based on the idea of the predominant use of cash (as opposed to the dominance of cashless payments of the official segment) between business entities at the level of financial transactions. And therefore, the use of this method made it possible to conclude the prospects of digitalization of methods of combating drug crime.

Results and Discussion

Taking into account the experience of foreign countries dealing with the problem of illegal drug trafficking, most countries can be divided into three main groups for combating drug trafficking.

1. Group of hard policy – Malaysia, Iran, Pakistan, China. Combating crimes in the field of drug trafficking in these countries are carried out with the harshest means, up to the death penalty, and the legislation regarding drug dealers has been strengthened as much as possible. For example, in Iran, over a thousand people were publicly executed by the 1989 Law in just one and a half years. In Hong Kong, persons involved in drug trafficking can be sentenced to life imprisonment. There are eleven articles of the Criminal Code of the People's Republic of China aimed at combating drug addiction (Articles 347-357) (Fifth National People's Congress, 1979). According to Art. 348 the one is responsible for the illegal possession of opium in the amount of more than 1,000 g, heroin or methylphenylamine in the amount of more than 50 g, or other drugs in large quantities and is punishable by imprisonment for a term of more than seven years or life imprisonment.
2. The Liberal group. This refers to countries that are relatively tolerant of drug trafficking. First of all, this applies to narcotics that are used for personal use and are considered "light", such as marijuana. A prominent representative of this group of

countries is Holland, where the circulation of certain types of narcotics is legal.

3. Strict control group - USA, Great Britain, France. Drug trafficking in these countries is under the control of law enforcement agencies, however, the harshest measures, such as life imprisonment or the death penalty, are not applied. Forced treatment is often applied to drug addicts instead of criminal punishment. At the same time, the state conducts active anti-drug propaganda. (Pohoretskyi & Chernysh, 2012). Regarding the specified mechanisms for combating crimes in the field of drug trafficking for Ukraine, we consider it unacceptable to liberalize the policy on combating drug trafficking and legalizing drug trafficking, since this policy has shown its inefficiency in several countries and creates prerequisites for the commission of other crimes.

At the same time, the process of investigating and recording the circumstances of the preparation and commission of illegal drug trafficking with the help of digital tools makes it impossible for suspects or witnesses to testify about the peculiarities of the appearance of drug dealers, as well as their identification. In addition, the use by criminals of modern telecommunications and other technologies, computer and technical means, and the Internet as a way of committing a crime requires the investigator, detective, and operational unit employee not only to possess high-quality skills in handling computer equipment and programs but also skills of searching, identifying, recording and copying information contained on computers and smartphones.

Regarding countering crimes in the sphere of drug trafficking, countermeasures can be divided into two groups:

1. The interaction with the counter-cybercrime units and operational-technical units of the National Police of Ukraine.
2. Using the capabilities of full-time and part-time undercover employees (Yukhno, Matyushkova & Korshenko, 2019).

But in the modern conditions of the rapid development of the drug business, the need to implement digital methods of combating drug crime becomes obvious.

It is worth paying attention to the peculiarities of the international experience of digitalization of methods of combating crimes in the field of drug trafficking committed by minors.

For example, several drug crime problems among minors have emerged in the Netherlands due to the legalization of drug crime. In particular, non-medical use of drugs has become widespread, resulting in 1.3 million offenses 2000 in 2000, which is too high for the 16 million population of the state. Moreover, it was in the Netherlands that in 1998 was the highest in Europe the most dangerous crimes were 26.8 %, which was reflected not only in the development of tourism in the country but also led to a decrease in the economic activity of the state. Therefore, to solve these problems, the Netherlands had to take measures to combat drug crime, including among minors. The main task of the developed programs was to reduce the level of demand for drugs among children and young people following specific local needs. Thus, the creation of the Youth Policy project was initiated, which provided an extended day at school "(to help teenagers to learn interesting and useful to organize their leisure); continuation of school education (to counteract school skills, as well as encourage teenagers to complete their studies); warranty plan of employment; it is planned to carry out free courses for young people who want to get a job as permanent or temporary work; A program of "new prospects" for "problematic" children and young people has been created.

A separate area of crime prevention in the Netherlands is to introduce of preventive programs for persons who have previously committed crimes. The experience of implementing the prophylactic program "approach 600", which was aimed at reducing the level of street crime and envisaged to identify and register six hundred of the most dangerous criminals and drug addicts, with subsequent individual preventive work with them, is noteworthy. Also, along with measures to reduce the level of demand for drugs in the Netherlands, they actively opposed their supply. It is about reducing the number of coffee bedding – varieties of establishments that have permission to sell hemp and products from it (Striltsiv, 2011).

Therefore, as you see from the above, it is important not only to digitize the methods of combating crimes in the field of drug trafficking but also to implement effective measures to prevent such crimes.

As for digitalization tools, for example, for example, the United Nations Office on Drugs and Crime for Central America and the Caribbean with the help of the «Cybercriminality» and

«CRIMJUST» («Strengthening of cooperation between investigation and criminal justice on the routes of illegal drug trafficking») conducts activities for the digitalization of drug trafficking investigations (Continuation of training on cyber elements of drug trafficking and open source research in Central America and the Dominican Republic) (UNODC, 2021).

The emergence of blockchain and cryptocurrencies shows that digital currencies have some direct benefits to society. Specifically, just as police use cell phone tracking in their investigations, they can also use CBDC tracking to track payments from one person to another. This makes it impossible to hide payments, for example, to drug dealers.

Government-issued digital IDs and signatures for citizens, businesses, and government agencies are the new digital trend. Digital leader countries show that, for example, hacker attacks on financial institutions are lower in number compared to countries without a central digital identity. It will be more difficult to corrupt a document if the document is digitally signed (Jensen, 2019).

So, it is clear that digital tools are useful for fighting crime, including in the field of drug trafficking. But to carry out such an analysis, you need to have special knowledge and special software. For example, such software is «Crystal», which belongs to the Dutch developer company «Bitfury Group». This software is capable of detecting and tracking illegal activities in blockchain technology networks, namely: detecting criminal and illegal activities in blockchain systems; providing evidence regarding suspicious transactions concluded on cryptocurrency exchanges, indicating the addresses of wallets associated with the suspect; speeding up the process of investigating cybercrimes (allows automated tracking of the most suspicious network participants). This company offers its software solution, primarily, for law enforcement agencies. This software is actively used by both law enforcement agencies and financial organizations in the USA, EU, and Asian countries.

Conclusions

As a result of the study of the international legal experience of digitalization of methods of combating crimes in the field of drug trafficking, the following conclusions were drawn.

1. The use of modern software in law enforcement activities is an important area of combating crimes in the sphere of drug trafficking.
2. For effective disclosure of crimes committed in the researched area, it is expedient to speed up the approval of legal frameworks that should regulate the development of methodological bases for the disclosure and investigation of this category of criminal offenses.
3. It is also necessary for law enforcement agencies to establish conceptual interaction with blockchain companies to block illegal activities in blockchain platforms. Solving this problem is complex and requires the development of a strategy aimed at preventing criminals from using new modern digital mechanisms.

Regarding further scientific research on the specified issue, we consider it necessary to analyze in more detail the specifics of crimes in the sphere of drug trafficking on the Internet and the ways of combating such crimes.

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