



 Research Article

ISSUES OF CRIMINAL LAW REGULATION OF LIABILITY FOR ILLEGAL MARKET OF NARCOTIC DRUGS OR PSYCHOTROPIC SUBSTANCES

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ABSTRACT

The article provides a theoretical analysis of the norms of the current Criminal Code establishing responsibility for the illegal distribution of narcotic drugs and psychotropic substances, and on its basis the author puts forward his proposals for improving the criminal legislation of the Republic of Uzbekistan.

KEYWORDS

Criminal legal policy, criminal legislation of the Republic of Uzbekistan, fight against crime, illicit trafficking in drugs and psychotropic substances, qualification of crime, differentiation of criminal responsibility, encouraging norms.

INTRODUCTION

In modern conditions, the state of crimes constituting illegal turnover in narcotic drugs or psychotropic substances, in particular acts related to their distribution, is of particular concern. An analysis of crimes in this category shows that in 2021 the number of detected crimes constituting the illegal circulation of narcotic drugs or psychotropic substances increased

by 18.4% compared to 2020, the number of crimes related to the illegal distribution of drugs increased by 19.3% [1, P. 49].

The observed drug situation in the Republic of Uzbekistan, as well as throughout the world, continues to be tense, directed towards the expansion of drug

trafficking, the growth of non-medical consumption of psychotropic and potent substances.

Among the effective means of combating crime, it is impossible to overestimate the importance of the criminal law. One of the methods for fulfilling the tasks facing it is the application of criminal law sanctions to individuals who have committed socially dangerous acts. At the present stage, one of the key priorities of the democratic renewal of the country is the consistent democratization, liberalization of the judicial and legal system, aimed at ensuring the rule of law, legality, reliable protection of the rights and interests of the individual, in short, - the formation of the rule of law and the legal consciousness of people, which leads to a clear and justified application of the provisions of the criminal law, which is the legal basis for the qualification of crimes.

The legal assessment of a socially dangerous act involves a comparison of the signs characterizing the circumstances of the committed act with the signs of a specific corpus delicti. The qualification of the illegal distribution of narcotic drugs or psychotropic substances requires a clear understanding of its qualifying features.

Criminal liability for the illegal market of narcotic drugs or psychotropic substances is provided for in Art. 273 of the Criminal Code of the Republic of Uzbekistan. The legal analysis of this norm shows that liability is differentiated depending on the amount of the narcotic drug or psychotropic substance being distributed.

An analysis of the criminal legislation on liability for the illegal distribution of narcotic drugs or psychotropic substances and the practice of its application shows that there are certain difficulties in the legal

assessment of the illegal market of these substances and means, which necessitate its improvement.

In particular, the fourth part of Art. 273 of the Criminal Code provides for criminal liability for the acts provided for in parts two and three of this article, committed by a particularly dangerous recidivist (paragraph "a" part 4) and an organized group or in its interests (paragraph "b" part 4). An analysis of the disposition of part four of this article shows that these qualifying features can be applied only in cases of illegal manufacture, acquisition, storage, transportation or shipment for the purpose of distribution, as well as the distribution of narcotic drugs or psychotropic substances in small amounts, as well as in cases exceeding a small amount. committed: by a person who has previously committed a crime constituting illegal circulation of narcotic drugs or psychotropic substances; by prior agreement by a group of people; in places of serving a sentence in the form of deprivation of liberty; in educational institutions or in other places that are used by pupils, students for educational, sports or social events.

In other words, the illegal manufacture, acquisition, storage, transportation or transfer for the purpose of distribution, as well as the distribution of narcotic drugs or psychotropic substances in small amounts, committed by a person recognized as a particularly dangerous recidivist or by an organized group or in its interests in the absence of the signs provided for in part the third (by a person who has previously committed a crime constituting illicit trafficking in narcotic drugs or psychotropic substances (paragraph "a"); by prior agreement by a group of people (paragraph "b"); in places where a sentence of imprisonment is served (paragraph "c"); in educational institutions or in other places that are used by pupils, students for educational, sports or social events

(clause "d"), must qualify under the first part of Art. 273 of the Criminal Code.

It is known that the commission of a crime by a person who has previously committed a crime constituting illicit trafficking in narcotic drugs or psychotropic substances (clause "a" part 2 of article 273 of the Criminal Code) involves the commission of this act repeatedly, in conjunction with other crimes constituting illicit trafficking in narcotic drugs or psychotropic substances, or in the presence of a simple or dangerous relapse. It turns out that the illegal distribution and other actions with narcotic drugs or psychotropic substances for the purpose of distribution, committed by a particularly dangerous recidivist on a small scale in the absence of the qualifying features mentioned in part two, are less socially dangerous than the distribution of the named drugs or substances on a small scale, committed by a dangerous recidivist.

In addition, part four of this article needs some adjustments, since its current version is unnecessarily cumbersome, which makes it difficult to understand its content. In this sense, taking into account the above provisions, we consider it appropriate to state the disposition of the fourth part of Art. 273 of the Criminal Code as follows:

"Illegal manufacture or processing of narcotic drugs or psychotropic substances in laboratories or with the use of means and equipment that are someone else's property, or with the use of precursors, as well as the deeds provided for in the first, second or third parts of this article, committed:

- a) a particularly dangerous recidivist;
- b) by an organized group or in its interests, -".

Further, considering that the provisions of part four of this article, concerning the organization or maintenance of a den for the consumption or distribution of narcotic drugs or psychotropic substances, are objectively characterized by actions aimed at "... its creation, for example, finding, acquiring or hiring residential or non-residential premises, financing the costs of repairs, equipping the premises with various devices and similar actions committed for the purpose of subsequent use of the said premises for the consumption or distribution of narcotic drugs, their analogues, psychotropic substances by several persons "or "... its functioning, i.e. on the intended use of the premises allocated and (or) adapted for the consumption of narcotic drugs, their analogues or psychotropic substances, on the payment of expenses associated with the operation of the premises (payment of rent, regulation of customer attendance, security, etc.)" [2], and if at the same time the den owner sold or distributed narcotic drugs or psychotropic substances, then his actions must be qualified according to the totality of the crimes provided for by the relevant parts of Art. 273 of the Criminal Code, and it is advisable to establish criminal liability for the organization or maintenance of dens for the consumption of narcotic drugs or psychotropic substances in an independent norm.

Part five of the article under consideration provides for liability for the illegal market of narcotic drugs, their analogues or psychotropic substances. We agree that the sale of narcotic drugs or psychotropic substances represents a significant public danger compared to other forms of distribution, and, undoubtedly, this form of distribution should affect the severity of the punishment. However, its presence in the disposition of the fifth part of Art. 273 of the Criminal Code creates serious difficulties in law enforcement practice. For example, in cases of other (except sale) forms of illegal

distribution of narcotic drugs or psychotropic substances (donation, transfer in payment of a debt, etc.) on a large scale. Here the question rightly arises: what should be guided by the legal assessment of such a situation - the quantity or form of distributions?

The current wording of the article indicates that such situations can only be qualified under the second (not even the third!) part of Art. 273 of the Criminal Code. In this regard, given that the sale is one of the forms of distribution and the changes we propose will ensure a uniform interpretation and application of this norm, will contribute to the achievement of the principle of fair punishment, we consider it appropriate in part five of Art. 273 of the Criminal Code, the words "Illegal market" shall be replaced by the words "Illegal distribution".

If the legislator considers it necessary to maintain a more severe punishment for the illegal market of narcotic drugs or psychotropic substances, then we consider it right to restore the effect of Art. 272 of the Criminal Code, which provided for independent liability for the illegal market of narcotic drugs or psychotropic substances, differentiating it depending on their size according to the List.

In modern conditions of reforming the judicial and legal system, one of the priority areas for the liberalization of criminal policy, including in the field of combating crimes constituting illicit trafficking in narcotic drugs or psychotropic substances, in our opinion, should be to increase and expand the scope of incentive norms. Incentive norms of the criminal law are special cases of stimulating positive behavior associated with the characteristics of the composition of a particular crime. They contain a brief, but at the same time quite complete definition of the signs of positive behavior, the presence of which is the basis for

a possible criminal law incentive for a person who has committed a crime [3, P.27].

So, in accordance with the sixth part of Art. 273 of the Criminal Code, a person who has committed a crime under the first part of this article is exempt from punishment if he voluntarily turned himself in to the authorities and surrendered narcotic drugs or psychotropic substances. Consequently, the composition of positive behavior in this incentive norm is expressed in two independent active actions of the perpetrator. The first is the voluntary appearance of the perpetrator with a confession to the authorities; the second is the delivery by this person of narcotic drugs or psychotropic substances.

At the same time, it should be taken into account that for the use of encouragement by the judiciary, these two independent types of positive behavior must exist in combination with each other. At the same time, cases of seizure of narcotic drugs or psychotropic substances during the detention of a person, as well as during the performance of investigative actions to detect and seize them cannot be recognized as voluntary surrender.

In this aspect, we consider it appropriate to expand the scope of the incentive norm provided for in part six of Art. 273 of the Criminal Code, not only in cases of committing an act provided for in part one, but also in other qualified types of this crime. The consolidation or expansion of the scope of the incentive norm in the law and its implementation in law enforcement are determined by the fact that, with the right approach, they can significantly reduce society's losses from the harmful consequences of crimes committed, reduce the level of latent crime, significantly limit the scope of the intensity of the use of criminal repression, material and other state resources spent on combating crimes constituting illicit trafficking in narcotic drugs or

psychotropic substances, significantly "unburden" law enforcement agencies and influence the content and direction of the criminal law policy of the state.

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