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CRIMINAL LIABILITY FOR ILLEGAL TRAFFICKING OF NARCOTIC DRUGS OR PSYCHOTROPIC SUBSTANCES UNDER FOREIGN AND INTERNATIONAL CRIMINAL LAW

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Less than 30 years later, Kazakhstan is still concerned about the problem of drug addiction, and its scale and pace are already calling into question the social stability of the country and the future of youth, in particular. Judging by the rate at which drug addiction is spreading across our country, we do not yet have serious immunity to a terrible threat that, along with another equally terrible one, AIDS, can destroy not only Kazakhstan, but also all of humanity. But drug addiction is more socially dangerous, because an AIDS patient does not live long, but he is conscious, and an addict is a zombie who does not understand anything, but is capable of any crimes for the sake of a dose. Therefore, drug addiction is an extremely complex and socially dangerous phenomenon in the modern world. The harm it causes is enormous and almost incalculable. This includes the degradation of the personality of drug addicts, the impulse to commit various crimes, the reduction of the material, technical and intellectual potential of society, the deterioration of its gene pool, and much more.

Moreover, the trend of drug addiction among young people is particularly alarming. All researchers of the problems of domestic drug addiction record the fact that children and youth predominate among drug users (76%). Between 15 and 30% of teenagers had tried drugs and other psychoactive substances by the age of 16. More than 14 thousand .

Minors are registered as drug users and about 7 thousand are registered as users of strong drugs and other intoxicating substances.

The professionalism and organization of criminal groups is increasing, and the number of drug traffickers is inexorably growing. Illegal production of narcotic drugs is increasing. Currently, in most countries of the world, including the Republic of Kazakhstan, the tasks of combating drug trafficking and preventing drug addiction are particularly acute.

It is becoming relevant to study and master acceptable international experience in legislative regulation of the fight against drug addiction, since the problem of drug addiction is a global problem, and each state has different national measures to combat this harmful phenomenon.

Thus, E.G. Gasanov correctly notes that “such an analysis contributes to the mutual enrichment of states with positive experience of legal regulation in this area; identification of gaps and shortcomings in national legislation and its further development and improvement; establishment of the degree and nature of integration of international legal norms into domestic legislation; creation of prerequisites and conditions for the convergence of domestic legislation of different states and thereby - a significant expansion, deepening and increase in the effectiveness of international cooperation in the implementation of activities to combat drug addiction” [1; 114].

Conventionally, foreign countries can be divided into three groups, depending on the severity of laws aimed at combating illegal drug trafficking.

The first is the "hard-line group", which primarily includes Malaysia, Iran, Pakistan, Turkey, China, Thailand, Nigeria, etc. Here, the fight against the distribution and consumption of drugs is carried out using harsh methods - up to the death penalty, and the legislation regarding drug distributors is

extremely strict. For example, in Iran, in just one and a half years, more than a thousand people were publicly executed in accordance with the 1989 Law.

The second is the "strict control group". This includes the USA, Great Britain, France, etc. These countries closely monitor all types of drugs, actively oppose the drug mafia, but do not apply extreme measures to consumers and distributors.

The third is the "liberal group". The representatives of this group of countries are the Netherlands (Holland) and Spain. The most famous representative is Holland. The legalization of "soft" drugs that began here in the mid-50s somewhat reduced the number of crimes related to them.

However, there were no cardinal changes, but be that as it may, Amsterdam has turned into the "drug pit of Europe", but the Dutch government still believes that it has enough capacity for effective drug control.

At the same time, it is obvious that it is practically impossible to carry out an analysis of the criminal legislation of all or at least a significant number of states.

This is due to a number of key points. Firstly, such an analysis is associated with an immense amount of work, which is within the power of a large number of scientists of a research institution, who have been studying this problem for a number of years, and not one author.

Secondly, when carrying out such an analysis, the volume of scientific work would be equal to the volume of several monographs.

Thirdly, due to the changes and additions periodically introduced into the criminal legislation of a particular state, the above-mentioned analysis would be practically endless in time, since it would have to be constantly adjusted in connection with the changes and additions, and this process would be impossible to stop at any particular moment.

Therefore, in this case, to illustrate the specifics of criminal law norms regulating the fight against drug addiction, our comparative legal analysis is limited to six states from the above-mentioned conditional division of foreign countries that differ in their criminal measures to combat the distribution and consumption of drugs, namely China, Turkey, the USA, France, Holland (Netherlands) and Spain [2;100].

Having analyzed the legislation of China, Turkey, the USA, France, Holland (Netherlands) and Spain, providing for liability for the illegal trafficking of narcotic drugs or psychotropic substances, the conclusion suggests itself that drug addiction is a pressing problem throughout the world.

This is evidenced by the fact that, starting in 1909, numerous international forums were held to discuss the problems of combating drug addiction and its most dangerous part - drug crime, and appropriate decisions were made, which were reflected in a number of conventions of the United Nations.

Thus, at a meeting of the Shanghai Opium Commission in 1909, documents were adopted on limiting drug trafficking between states, at the International Opium Conference in The Hague in 1911-1912, the first ever Convention on Narcotics in 1912 was developed; at the opium conferences in Geneva in 1924-1925, The Agreement of 11 February 1925 was adopted and signed, according to which the production of smoking opium was recognized as subject to transfer to a state monopoly;

- at the Second Opium Conference in Geneva in 1925, the Convention of 19 February 1925 was adopted, expanding the list of narcotic drugs and establishing that narcotics can be produced only for the legitimate needs of states;

- the international Convention on the Organization of Production and Regulation of Distribution of Narcotic Drugs was signed in Geneva on 13 July 1931 and entered into force in 1933 (the USSR joined this Convention on 29 January 1936);

- the Convention for the Prohibition of Illicit Traffic in Narcotic Substances was concluded in Geneva on 26 July 1936, establishing the possibility of international criminal prosecution for drug-related crimes and significantly more severe criminal penalties than those provided for by previous conventions;

- During the work of the third session of the UN General Assembly, on the initiative of the Commission on Narcotic Drugs in Paris on November 19, 1948, a Protocol was signed that extended international control to narcotic drugs that were not subject to the 1931 Convention (the USSR joined this Protocol on December 1, 1949);

- at the UN Opium Conference in New York on June 23, 1953, an international treaty was signed - the Protocol, which included the Preamble and the Final Act, - providing for control over raw materials (opium poppy);

- at the UN conference in New York in 1961, the Single Convention on Narcotic Drugs, which is currently in force, was adopted; at a special diplomatic conference in Vienna in 1971, the Convention on the Establishment of Control over Psychotropic Drugs was adopted; at the UN conference in Vienna on

December 19, 1988, the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was adopted.

The norms set out in the above-mentioned conventions have been integrated into the Criminal Code of the Republic of Kazakhstan. This is confirmed, for example, by the partial overlap of the range of acts considered as crimes in paragraph 1 of Article 36 of the 1961 Single Convention as amended, which "shall prohibit, under penalty, the commission of such acts as the illicit cultivation, production, manufacture, preparation, possession, offering, offering for commercial purposes, distribution, purchase, sale, delivery under any conditions whatsoever, brokerage, sending in transit, transport, import and export of narcotic drugs and any other action provided for by a Party related to such drugs, provided that the listed actions are intentional, with the establishment of severe penalties for serious crimes, in particular imprisonment or other deprivation of liberty", and acts related to narcotic drugs and psychotropic substances, which are provided for in Articles. 297, 298, 299, 300, 302 of the Criminal Code of the Republic of Kazakhstan.

In summing up the issues considered in the article, it is necessary to note that, firstly, an analysis of the legislation of China, Turkey, the USA, France, Holland (Netherlands) and Spain, providing for liability for the illegal circulation of narcotic drugs or psychotropic substances, allows us to draw the following conclusions:

1. The most severe punishment is imposed on individuals involved in the criminal sale and smuggling of drugs on a large scale, as well as on those leading such groups.

2. As a result of the rejuvenation of drug addiction in these countries, individuals are severely punished for involving minors in the drug business or using minors to commit drug-related crimes, as well as actions aimed at selling drugs to a minor.

3. In the countries mentioned, there is a clear trend towards tougher punishment for crimes related to narcotic drugs and psychotropic substances.

Secondly, drug addiction is a pressing problem for the entire world. This is evidenced by the increased attention of the entire world community, which is confirmed by the currently effective international legal norms for combating drug addiction, which are concentrated in three UN conventions: the Single Convention of 1961 with amendments, the Convention of 1971 and the Convention of 1988.

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НАРКОТИЗМ КАК СОЦИАЛЬНАЯ И УГОЛОВНО-ПРАВОВАЯ ПРОБЛЕМА И ЕГО КРАТКАЯ КРИМИНОЛОГИЧЕСКАЯ ХАРАКТЕРИСТИКА

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В социологической и правовой литературе под наркотизмом понимается негативное социальное явление, охватывающее все, что связано с наркотическими веществами, в том числе медицинское потребление наркотиков отдельными группами населения. Наиболее полное, по нашему мнению, определение наркотизма дал Э.Г. Гасанов: «наркотизм это негативное социальное явление, включающее социальный, правовой, криминологический, экономический, биологический и экологический аспекты, затрагивающие соответственно социальную, правовую, криминологическую, экономическую, биологическую и экологическую сферы, отличающееся высокой степенью общественной опасности, выражающееся в заболеваемости наркоманией, причинении вреда здоровью потребителей наркотических средств и совокупности противоправных деяний, связанных с наркотиками, либо совершаемых с целью добывания средств для последующего приобретения наркотиков или в состоянии наркотического опьянения, среди которых преступления, связанные с наркотиками, образуют самостоятельный вид преступности - наркотическую преступность, и организованности последней, превратившей наиболее опасную часть наркотической преступности в разновидность организованной преступности» [1; 101]. Но