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Research Article

Legal regulation of narcotic drugs as an object of legal relations: Administrative, criminal and civil aspects

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Abstract

Aim: The purpose of the article is to disclose the legal regulation of narcotic drugs as an object of legal relations (administrative, criminal and civil aspects).

Methods: The methodological basis of the study is a set of general scientific and special legal methods, the application of which allowed for a comprehensive consideration of the legal regime of narcotic drugs as an object of legal relations. The choice of methods is due to the interdisciplinary nature of the topic, which covers administrative, criminal and civil law.

The fundamental approach was the dialectical method, which allowed for the analysis of the legal regulation of the circulation of narcotic drugs in its development and relationship with the current challenges of public safety and health care. Thanks to the system-structural method, narcotic drugs were considered as a specific object with a special legal status, which determines the content of legal relations in various branches of law.

Results: Analysis of the research results allows us to highlight several debatable issues that require further scientific understanding. The first issue is the balance between control and accessibility. The legalization of the use of cannabis for medical purposes (2024) has sparked a lively debate about the adequacy of administrative safeguards against the leakage of these drugs into illegal circulation. A number of scientists insist that excessive bureaucracy (licenses, quotas, electronic systems) can limit patients' access to necessary treatment, while opponents point to the risks of increasing drug addiction. The second aspect is the effectiveness of Article 309 of the criminal code of Ukraine. There is an ongoing discussion in academic circles about the advisability of criminalizing small-scale drug possession for personal use. The experience of some European countries shows that transferring such acts exclusively to the plane of administrative liability allows law enforcement agencies to focus on combating drug dealers, not consumers. The third point of discussion is civil liability. In particular, the issue of compensation for damage caused to the state or third parties as a result of illegal drug trafficking remains open, since the existing confiscation mechanism does not always fully compensate for social losses.

Conclusion: It was established that narcotic drugs are a specific, multidisciplinary object of legal relations, the legal regime of which is determined not only by their physicochemical properties, but also by regulatory and legal recognition (inclusion in the relevant state lists). The main feature of these drugs in the legal field is their limited turnover, which determines the dominance of public-law methods of regulation over private-law ones.

Keywords: Narcotic drugs, Psychotropic substances, Precursors, Legal regulation, Object, Legal regulation, Civil disputes, Administrative disputes, Criminal disputes, Civil aspects

Introduction

The problem of legal regulation of the circulation of narcotic drugs, psychotropic substances and precursors is one of the most complex and multifaceted in modern legal science. This is due to the specific nature of these drugs: On the one hand, they are necessary elements of the health care system and scientific research, and on the other hand, they pose a serious threat to public safety and the health of the nation in the event of their illegal use.

At the current stage of Ukraine's development, the relevance of the study is enhanced by two key factors. First, the ongoing process of adapting national legislation to European Union standards, which requires harmonization of control mechanisms. Second, recent legislative changes,

in particular, the adoption of the Law of Ukraine No. 3528-IX on the regulation of the circulation of plants of the hemp genus (cannabis) for medical and industrial purposes, which has actually created a new paradigm of administrative and civil regulation in this area [1].

Narcotics are the object of legal relations simultaneously in several legal planes. In the administrative aspect, it is the object of strict state control and licensing; in the civil aspect, it is a thing limited in circulation; in the criminal aspect, it is the subject of a crime that determines the qualification of a socially dangerous act. Despite the significant number of developments, a comprehensive analysis of narcotic drugs as a multidisciplinary object of legal relations remains insufficiently covered [2].

Analysis of recent research and publications. The issue of combating illicit drug trafficking and their legal status [3-6]. However, most works focus on individual aspects (mainly criminal law or criminological), while an integrative approach that combines administrative procedures, the civil nature of objects and criminal liability requires additional study. The purpose of the article is to carry out a comprehensive theoretical and legal analysis of narcotic drugs as a specific object of legal relations, to reveal the content of their legal regime through the prism of administrative, civil and criminal legislation of Ukraine, as well as to identify contradictions in the current regulation.

Methods

The methodological basis of the study is a set of general scientific and special legal methods, the application of which allowed for a comprehensive consideration of the legal regime of narcotic drugs as an object of legal relations. The choice of methods is due to the interdisciplinary nature of the topic, which covers administrative, criminal and civil law.

The fundamental approach was the dialectical method, which allowed for the analysis of the legal regulation of the circulation of narcotic drugs in its development and relationship with the current challenges of public safety and health care. Thanks to the system-structural method, narcotic drugs were considered as a specific object with a special legal status, which determines the content of legal relations in various branches of law [7].

Thus, the research methodology is based on a combination of general scientific and special legal methods, which ensures the complexity and systematicity of the conclusions obtained and allows for the formulation of practical recommendations for improving Ukrainian legislation taking into account foreign experience.

Within the framework of the sectoral analysis, the following methods were applied: The formal-legal method became the main one in interpreting the norms of current legislation, in particular the law of Ukraine “on narcotic drugs, psychotropic substances and precursors”, regarding the definitions and classification of substances.

The civil approach allowed determining the place of narcotic drugs among the objects of civil rights as things restricted in civil circulation (in accordance with Article 178 of the civil code of Ukraine) [8].

The administrative-legal analysis was used to study the permit system, licensing and control functions of state bodies in the field of legal circulation.

The criminal-legal method was used to distinguish between legal and illegal handling of narcotic drugs, as well as to analyze the objective signs of the elements of crimes in this area.

The comparative law method was used to compare the provisions of national legislation with international standards (the single convention on narcotic drugs of 1961 and the convention on psychotropic substances of 1971). The statistical method and analysis of judicial practice formed the empirical basis of the work, which allowed us to confirm the theoretical conclusions with data on the state of offenses in the field of drug trafficking in Ukraine.

Results and Discussion

In legal theory, the object of legal relations is considered as a material or immaterial good, regarding which the subjects enter into a legal relationship. Narcotics, as specific things of the material world, have a special legal status, which determines their place in the system of legal coordinates [9].

The key theoretical feature of narcotics is their limited turnover. According to the provisions of civil law (Article 178 of the civil code of Ukraine), such objects may belong only to certain participants in the turnover or be in circulation only with a special permit. This creates a situation where

the legal regime of the object dominates over its physical properties: A substance becomes a "narcotic" only as a result of its inclusion in the regulatory list (Cabinet of Ministers of Ukraine (CMU) Resolution No. 770) [10].

Theoretical understanding of this object allows us to highlight its dualistic nature: Socio-medical value, where narcotic drugs are indispensable components of the treatment process (palliative care, anesthesia). In this context, they act as an object of civil and administrative legal relations, where the state ensures the right of citizens to health care.

Public danger in the event of leaving state control, these same substances are transformed into an object of criminal legal relations (subject of a crime), posing a threat to the gene pool of the nation and public order [11].

Legal theory considers this object through the prism of three branches: In civil law, narcotic drugs are an object of property rights with a special subject composition. In administrative law, they are an object of state administration, which requires licensing, quotas and constant monitoring. In criminal law, they act as an object of crime, where the weight and type of substance directly affect the qualification of the act.

World practice demonstrates different approaches to defining the legal regime of narcotics, which can be classified by the level of liberalization and control methods [12].

The "strict control" model (Singapore, Japan, China). In these countries, narcotics are considered mainly as an object of criminal law protection. Civil turnover is maximally narrowed to state medical institutions. The foreign experience of Singapore, for example, demonstrates zero tolerance for drug possession, where even a small amount of the substance automatically translates legal relations into the plane of serious criminal offenses [13].

The European model of "decriminalization and harm reduction" (Portugal, Netherlands). Portugal is a classic example of the transition from criminal to administrative regulation. Since 2001, possession of drugs for personal use (within a 10-day supply) is not considered a criminal offense. In this model, narcotics as an object of legal relations are shifted from police supervision to the supervision of health authorities and social commissions. This allows the state to focus resources on combating large-scale traffic, rather than consumers [14].

Poland has a legal system similar to Ukraine, but with a more developed experience in regulating medical cannabis (since 2017). The Polish model is interesting in that narcotics as an object of civil law can be sold through pharmacy chains on electronic prescriptions (RPW). The state clearly distinguishes between "technical hemp" and "medical hemp", establishing different levels of administrative control for farmers and pharmacists [15].

German reform of 2024 (CanG). The adoption of the cannabis act (CanG) in Germany introduced a new category of legal relations-"non-commercial collective cultivation". Here, the object (cannabis) can be in circulation within closed associations (cannabis clubs), which is a unique example of a combination of administrative supervision and public self-government [16] (Table 1).

Table 1: Narcotic drugs as an object of legal relations: Administrative, criminal and civil aspects.

Branch of law	The role of drugs as an object	The main legal mechanism
Civil law	Object of property rights (limited) and contractual obligations (supply of drugs)	Defining the boundaries of possession, use and disposal
Administrative law	Object of state control, licensing and technical regulation	Establishing the rules of circulation (quotation, certification, accounting)
criminal law	Subject of a crime (corpus delicti) or means of committing a crime	Qualification of actions (storage, sales, production) depending on the weight of the substance

In modern legal science, the study of narcotics as an object of legal relations is characterized by a multifaceted approach. Scientists consider this object not only as a physical substance, but as a complex legal category, the legal regime of which varies depending on the industry context.

Civilistic doctrine: An object with limited turnover. Representatives of the civilistic school base their views on the theory of objects of civil rights. In their works, narcotics are classified as things limited in civil turnover (according to Article 178 of the civil code of Ukraine) [17].

View of property: Scientists note that the right of ownership of such objects is "incomplete" or "special". The owner cannot exercise the right of disposal at his own discretion, since it is strictly regulated by the state.

Legal fiction: Theorists emphasize that the status of a "narcotic" is a legal fiction: A substance becomes an object of law only after its regulatory consolidation in official lists. Until the moment of inclusion in such a list, the compound may remain an object of general circulation (for example, in the chemical industry).

Administrativeists consider narcotics through the prism of state administration and control. Regime object: In the works of O. P. Svitlychny, the object of legal relations is considered through the category of "administrative-legal regime". Narcotics are the subject of a permit system, where the first place is not the right of the owner, but the obligation of the subject to comply with established procedures (licensing, quotas, registration) [18].

Public interest: Administrative scientists believe that in legal relations regarding this object, the public interest (protection of public health) prevails over the private one, which justifies the state's strict intervention in the sphere of circulation.

In the works of criminal law specialists, narcotic drugs are studied mainly as the subject of a crime.

Subject *vs*. object: Theorists draw a clear line: If the object of a crime is public relations (public health), then the narcotic drug is a material object that is the target of the attack [19].

Blanketness of the definition: Points to the "blanket nature" of this object in criminal law. This means that the criminal-legal assessment of the subject entirely depends on administrative legislation (Cabinet of Ministers of Ukraine (CMU) resolutions and ministry of health orders), which establish lists and quantities of substances.

Modern researchers (in particular, those studying the latest legislation on medical cannabis) put forward the theory of functional transformation of the object. According to this view, the status of a narcotic drug is not static: In a pharmacy it is a medicinal product (an object of medical law and commercial relations); at the customs border it is a controlled cargo (an object of customs law); in illegal circulation it is a thing withdrawn from circulation (an object of criminal justice) [20].

Summarizing the views of scientists, it can be stated that an integrative approach has been formed in modern science. Narcotics as an object of legal relations are characterized by: Accumulativeness, i.e. combining the features of a commodity (value) and a threat (danger). Normative dependence, where the legal fate of the object depends entirely on the will of the state, expressed in subordinate legislation. Subjective restrictions on relations with this object allow only "special subjects" (licensees or patients with a prescription) [21].

This theoretical basis allows us to assert that the legal regulation of this object should be dynamic, flexible to scientific progress (the emergence of new drugs), but at the same time remain within the framework of strict imperative prohibitions [22].

The study found that the legal regulation of narcotic drugs in Ukraine is complex and based on the principle of strict state control. Narcotics are recognized as a specific object of legal relations, the legal regime of which is differentiated depending on the sectoral aspect.

Administrative regulation is aimed at establishing clear procedures for legal circulation and preventing offenses.

The licensing system is a key element of licensing activities related to the cultivation, production and sale of controlled substances. An important step was the adoption of the resolution of the cabinet of ministers of Ukraine No. 1267 of November 5, 2024, which integrated the circulation of medical cannabis into the general system of state control [23].

Control and accounting is the implementation of an

electronic information accounting system that allows you to track each stage of the life cycle of the drug. Administrative liability (Article 44 of the code of administrative offenses) for possession of small amounts of narcotic drugs without the purpose of sale remains an important tool for decriminalizing minor offenses, shifting the emphasis to educational and punitive sanctions [24].

Criminal legislation acts as a means of the most severe response to illegal trafficking.

Differentiation of liability: The main criterion for distinguishing crimes is the purpose of sale. Article 307 of the criminal code of Ukraine provides for strict liability for distribution, while Article 309 of the criminal code of Ukraine focuses on illegal actions without the purpose of sale [25].

Quantitative indicators: Criminal liability directly depends on the size (weight) of the substance, determined by the relevant orders of the ministry of health. The study shows a trend towards strengthening sanctions for involving minors and committing crimes by organized groups.

In civil law, narcotic drugs are classified as objects restricted in civil circulation (Article 178 of the civil code of Ukraine). Only legal entities with an appropriate license or individuals who have purchased them under a medical prescription may be the subjects of ownership of these objects [26].

Transactions involving narcotic drugs committed outside the established procedure are null and void, and the results obtained from them are subject to confiscation as state revenue.

Analysis of the research results allows us to highlight several debatable issues that require further scientific understanding. The first issue is the balance between control and accessibility. The legalization of the use of cannabis for medical purposes (2024) has sparked a lively debate about the adequacy of administrative safeguards against the leakage of these drugs into illegal circulation. A number of scientists insist that excessive bureaucracy (licenses, quotas, electronic systems) can limit patients' access to necessary treatment, while opponents point to the risks of increasing drug addiction [27].

The second aspect is the effectiveness of Article 309 of the criminal code of Ukraine. There is an ongoing discussion in academic circles about the advisability of criminalizing small-scale drug possession for personal use. The experience of some European countries shows that transferring such acts exclusively to the plane of administrative liability allows law enforcement agencies to focus on combating drug dealers, not consumers [28].

The third point of discussion is civil liability. In particular, the issue of compensation for damage caused to the state or third parties as a result of illegal drug trafficking remains open, since the existing confiscation mechanism does not always fully compensate for social losses [29].

Conclusion

As a result of the study of theoretical and practical aspects of the legal regulation of narcotic drugs as an object of legal relations, the author formulated the following conclusions:

Legal nature of the object: It was established that narcotic drugs are a specific, multidisciplinary object of legal relations, the legal regime of which is determined not only by their physicochemical properties, but also by regulatory and legal recognition (inclusion in the relevant state lists). The main feature of these drugs in the legal field is their limited turnover, which determines the dominance of public-law methods of regulation over private-law ones.

Administrative-legal aspect: It is proven that administrative regulation is the foundation of the legal circulation of narcotic drugs. It is implemented through the institutions of licensing, quotas and state supervision. The current trend is the digitalization of control (in particular, the introduction of electronic registers and prescriptions), which allows ensuring transparency of the movement of controlled substances from the manufacturer to the patient. The adoption of legislation on medical cannabis in 2024 marked the transition from a repressive model to a "regulated access" model, where the priority is the human right to medical care.

Civil law aspect: It has been found that in civil circulation, narcotic drugs act as things for which a special procedure for acquiring ownership and committing transactions has been established. The subject composition of such relations is strictly limited. Any transaction committed outside the licensing conditions or without proper medical grounds is null and void ex lege, which entails the application of confiscation measures. Civil law liability in this area should

be strengthened by mechanisms for compensating for damage caused by a source of increased danger.

Criminal law aspect: Criminal law is the last resort ("ultima ratio") for protecting public relations from illegal drug trafficking. The analysis confirmed the need for a clear differentiation of responsibility: While maintaining strict sanctions for illegal sale (Article 307 of the criminal code of Ukraine), it is advisable to further study the issue of decriminalizing the storage of narcotic drugs in small quantities without the purpose of sale (Article 309 of the criminal code of Ukraine), shifting the emphasis to administrative measures of influence and medical rehabilitation.

International practice (in particular, the experience of Poland and Germany) shows that successful state policy is based on a balance between strict criminal prosecution of the drug trade and humanization of the attitude towards consumers. For Ukraine, the strategic direction of development is: Full harmonization of national lists of narcotic substances with international EU standards; simplification of administrative barriers for scientific and medical institutions while strengthening technical control; elimination of conflicts between industry standards relating to the definition of "large" and "especially large" quantities of narcotic drugs.

In summary, the legal regulation of narcotics should evolve from a strategy of "fighting the object" to a strategy of "risk management", where legal instruments of administrative, civil and criminal law act as a single system for ensuring law and order and protecting the health of the population.

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Conflict of Interest

Authors have no conflict of interest to declare.

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