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Research Article

Legal-linguistic understanding of the concept of illegal drug trafficking: Theoretical, administrative and criminal aspects

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Abstract

Aim: The article carries out a comprehensive legal and linguistic study of the concept of "illegal drug business" through the prism of theoretical and legal, administrative and legal, and criminal law approaches.

Methods: The methodological basis of the study is a complex of general scientific and special legal methods. The legal-linguistic method was used to establish the content and correlation of terms that characterize drug crime. Semantic analysis allowed us to determine the meaning of individual components of the concept of "illegal drug business" and establish their relationship. The formal-legal method was used to study the provisions of the criminal code of Ukraine, the code of Ukraine on administrative offenses, the law of Ukraine "On narcotic drugs, psychotropic substances and precursors" and other regulatory legal acts.

Results: It is substantiated that the term "illegal drug business", despite its widespread use in scientific literature, mass media, international documents and law enforcement practice, does not have a universal normative definition in the legislation of Ukraine. In this regard, there is a need to distinguish it from such related concepts as "illegal drug trafficking", "drug trafficking", "drug trade", "drug crime" and "illegal drug market".

Conclusion: The application of a legal-linguistic approach has made it possible to establish that the phrase "illegal drug business" is a complex terminological construct in which the economic component "business" is combined with the criminological and legal characteristic "illegal". Unlike the category "illegal drug trafficking", the concept of "drug business" focuses not on a single illegal operation, but on systemic activities related to the functioning of the illegal drug market, obtaining economic benefits, the distribution of roles, the organization of production, supply, sales and financial support of the relevant activity. International and European terminology has been studied, in particular the categories of illicit drug trafficking, illicit drug trade, drug market, drug trafficking networks. The feasibility of using a differentiated approach in Ukrainian legal doctrine is substantiated, according to which "illegal drug trafficking" is considered as a regulatory and legal category, while "illegal drug business" is considered as a complex doctrinal and criminological category that characterizes organized, systemic and economically motivated activities on the illegal drug market.

Keywords: Illegal drug business, Narcotics, Illegal drug trafficking, Drug trafficking, Drug trade, Administrative and legal regulation, Criminal liability, Drug crime, Legal linguistics, Illegal drug market

Introduction

The problem of combating the illicit trafficking of narcotic drugs, psychotropic substances, their analogues and precursors remains one of the most complex areas of state policy in the field of ensuring public safety, protecting public health and combating organized crime. The social danger of the relevant processes is due not only to the direct negative impact of narcotic drugs on human health, but also to the formation of stable illegal markets, transnational supply channels, organized criminal groups, corrupt practices and mechanisms for legalizing income obtained from illegal activities.

Modern processes of transformation of the drug market are characterized by its high adaptability. Traditional models of illicit production and sale of narcotic drugs are supplemented by the use of digital technologies, encrypted communications, online platforms, cryptocurrency payments, contactless methods of drug transfer and extensive logistics networks. In the conditions of a full-scale war in Ukraine, additional risk factors are population displacement, change of transport routes, use of territories close to combat zones, disruption of traditional supply channels and emergence of new cross-border schemes.

These trends actualize not only the issue of improving law enforcement activities, but also the problem of legal certainty of concepts used to describe the relevant phenomenon. In scientific works and public discourse, the concept of "drug business" is widely used. At the same time, Ukrainian legislation mainly operates with the categories of "drug trafficking", "illegal drug trafficking", "illegal production", "manufacture", "purchase", "storage", "transportation", "shipment" and "sale". That is why the question arises about the correlation of the doctrinal concept of "illegal drug business" with the normative system of concepts.

The terminological problem has direct practical significance. The unclear distinction of concepts can lead to the identification of phenomena of different legal nature: Separate illegal possession of a drug for personal use, its illegal sale, organized drug trafficking, the functioning of a supply network and transnational drug trafficking. At the same time, it is the systemic nature, economic motivation, organizational structure and focus on the functioning of the illegal market that allow us to speak of the drug business as an independent complex phenomenon.

Legal-linguistic research in this context allows us to combine the analysis of the semantics of terms with their normative content. Law functions through language, and therefore the quality of legal regulation largely depends on the accuracy of the terminological apparatus. As modern legal doctrine notes, legal terminology must ensure unambiguousness, systematicity, stability and compliance with the content of legal norms. This is of particular importance in criminal law, where the principle of legality requires a clear definition of the composition of a criminal offense.

The issue of narcotics is studied by representatives of criminal, administrative, criminological, international and medical areas of legal science. A significant body of scientific works is devoted to the criminal-legal characteristics of illicit drug trafficking, the qualification of relevant criminal offenses, the peculiarities of the activities of organized criminal groups and international cooperation.

Of great importance for understanding the global context are materials from the United Nations Office on Drugs and Crime (UNODC), the European Drug Agency (EUDA), Europol and other international institutions. In UNODC documents, the illicit drug market is considered as a complex socio-economic and criminal phenomenon associated with the production, supply, transit and distribution of narcotics [1,2].

The European approach also demonstrates a tendency to analyze not only individual criminal offenses, but the entire structure of the illicit drug market. EUDA reports pay special attention to the role of criminal networks, the digitalization of the drug market, new psychoactive substances, changing supply routes, and the interaction of drug crime with other forms of organized crime [3].

At the same time, it is the legal and linguistic aspect of the concept of "illegal drug business" that remains underdeveloped. In scientific works, the concept of drug business is often used as obvious and intuitively understandable, without proper analysis of its semantic, legal, and doctrinal components.

This necessitates a comprehensive study of the concept, taking into account three interrelated levels: Theoretical and legal, administrative and legal, and criminal and legal.

Methods

The legal-linguistic method in the study of the concept of "illegal drug business" is of particular importance, since the subject of analysis is not only a legal phenomenon, but also the term by which this phenomenon is designated in legal science, legislation, international documents and law enforcement practice. Law exists and is implemented primarily in linguistic form, therefore the accuracy of legal terminology directly affects the quality of legal regulation, uniformity of law enforcement and compliance with the principle of legal certainty.

Within the framework of this study, the legal-linguistic method is used as a comprehensive tool that combines semantic, lexical, grammatical, contextual, terminological and regulatory analysis. Its application allows us to establish not only the literal meaning of the phrase "illegal drug business", but also to determine what legal burden it may have, whether its content corresponds to the current system of legal concepts and how justified its use as a scientific or regulatory category is.

Initially, it is necessary to decompose the studied phrase into its structural components: “Illegal”+“narco”+“business”.

The adjective “illegal” performs a legally qualifying function. In legal language, it means the non-compliance of behavior, activity, decision or other phenomenon with the requirements of the law. Therefore, the use of the word “illegal” implies the presence of a certain normative criterion with which the corresponding behavior is compared. In the case under study, such a criterion is the legal regime of narcotic drugs, psychotropic substances, their analogues and precursors.

At the same time, the component “narco” is an abbreviated word-forming form, which in the modern Ukrainian language is used to form words related to narcotic drugs and phenomena that arise in connection with their production, distribution, consumption or illegal circulation. For example: “Drug crime”, “drug trafficking”, “drug den”, “drug trade”, “drug policy”, “drug addiction”.

The most difficult word for legal and linguistic analysis is “business”. In the general sense, it is associated with organized economic activity aimed at the production, sale of goods or services and profit. Therefore, transferring this word to the sphere of narcotics creates an additional semantic load: “Drug business” should not mean any illegal drug dealing, but an activity characterized by economic motivation, organization, systematicity and market orientation.

It is here that the fundamental difference between the concepts of “illegal drug trafficking” and “illegal drug business” arises.

For example, a person illegally acquired a narcotic for his own consumption. If there are appropriate legal grounds, his actions may constitute a criminal or administrative offense provided for by law. However, calling such behavior “drug business” without establishing the goal of making a profit, systematicity, and orientation towards the distribution of drugs would be terminologically incorrect.

Another example: A person systematically purchases narcotics, organizes their delivery, involves other persons in packaging and sales, uses electronic means of communication, receives payment from buyers, and distributes profits. In this case, the set of linguistic features of the term “business” much better corresponds to the actual nature of the activity. It is such an activity that can be characterized as illegal drug business, although the legal qualification of each specific action should be carried out exclusively on the basis of the relevant norms of the criminial code of Ukraine.

Results and Discussion

Legal language is a specialized system of concepts and terms with the help of which the state formulates regulatory provisions. Accordingly, any legal concept should be considered not only from the point of view of its commonly used meaning, but also in the context of its functioning in the legal system.

The phrase “illegal drug business” consists of two main components-”illegal” and “drug business”. The adjective “illegal” characterizes the activity as one that is carried out contrary to established legal norms. At the same time, the component “drug business” is a complex terminological formation formed by combining the abbreviated form of the word “narcotic” and the word “business”.

The word “business” in common language implies activities related to the production, exchange, sale of goods or services and making a profit. Transferring this concept to the field of drugs means that we are not talking about any illegal handling of a drug, but about activities that have certain features of economic organization.

This circumstance is of fundamental importance. A person who has illegally acquired a drug for personal consumption may, of course, violate the law, depending on the specific circumstances. However, automatically classifying such an act as a “drug business” is legally and criminologically incorrect. Drug business involves a different level of social organization.

The main features of illegal drug business include: Illegality of activity; subject-matter focus on drugs, psychotropic substances, their analogues or precursors; economic motivation; systematicity or repetition; profit-making orientation; orientation to the supply of relevant substances on the illegal market; the presence of organizational or logistical connections; use of production, supply, transportation and sales channels; potential transnationality; ability to adapt to state control measures.

Therefore, “illegal drug business” is a broader concept than a separate act of illegal sale, but at the same time narrower than the concept of "illegal drug trafficking", if the latter is to cover all forms of illegal drug dealing. The problem of terminological distinction is one of the key results of legal-linguistic analysis.

The concept of "illegal drug trafficking" is primarily of a normative nature. The law of Ukraine "on narcotic drugs, psychotropic substances and precursors" establishes the legal regime of the relevant substances and defines the principles of state control over their circulation [4]. The criminal code of Ukraine, in turn, establishes responsibility for specific forms of illegal handling of narcotic drugs and other controlled substances [5].

The concept of "drug trafficking" focuses on the sale of narcotic drugs. It is narrower than "illegal trafficking", since trafficking may include production, acquisition, storage, transportation, shipment and other actions.

"Drug trafficking" mainly characterizes the movement of narcotic drugs across territories, state borders or logistical routes. In the international context, the concept of trafficking covers a much wider range of actions, however, in practical discourse, drug trafficking is often associated with illegal transportation and organized supply channels.

"Drug crime" is a criminological category. It covers a set of criminal offenses related to narcotic drugs, as well as the characteristics of the persons who commit them, the causes, conditions and trends of the corresponding crime. In contrast, "illegal drug business" should be considered as a complex category that combines economic, organizational, criminological and legal components (Table 1).

Table 1: Socio-demographic variables of participants.

Concept	Main content	Nature of the category
Illegal drug trafficking	A set of illegal transactions with narcotics	Regulatory and legal
Drug trafficking	Illegal supply and sale of drugs	Criminological/legal
Drug trafficking	Organized illegal movement of drugs	Criminological/international legal
Drug crime	A set of criminal offenses in the field of drugs	Criminological
Illegal drug business	Systemic economically motivated activity on the illegal drug market	Complex doctrinal

In modern criminological doctrine, illicit drug trafficking is considered one of the most profitable segments of organized criminal activity. Its social danger is determined not only by the illegality of transactions with narcotic drugs, psychotropic substances, their analogues and precursors, but also by a complex of negative consequences for public health, public security, economic relations and the stability of state institutions. That is why combating the illegal distribution of drugs is the subject of criminal law policy in the vast majority of states, and the most dangerous forms of relevant activity entail the application of strict legal liability measures.

In the criminological sense, it is advisable to consider drug trafficking not as a single act of illegal handling of narcotic substances, but as a complex, systematically organized activity that has an economic motivation and is aimed at obtaining material benefits from the functioning of the illegal drug market. Its defining characteristics include the scale of illegal activity, the stability of criminal ties, a high level of conspiracy, the structure of the relevant groups and the significant profitability of illegal operations [6]. Therefore, the content of the concept of "drug business" goes beyond the characteristics of a separate criminal offense and covers a certain system of interconnected actions, subjects and organizational mechanisms.

At the same time, the scientific literature substantiates the approach according to which drug business is a component of a broader category of drug crime. The latter is characterized by heterogeneity and includes at least two interconnected blocks of criminally illegal behavior. The first covers acts directly related to the illegal production, manufacture, acquisition, storage, transportation, transfer, sale and other operations with narcotic drugs, psychotropic substances, their analogues or precursors. The second block is formed by general criminal offenses, the commission of which is caused by drug addiction, a person being under the influence of narcotic substances or the need to obtain funds for their purchase [7].

This approach has an important methodological significance, since it allows not to identify illegal drug business with the entire set of drug crime. If drug crime is a broader criminological category, then drug business characterizes primarily that segment of it in which narcotic drugs are the subject of systematic illegal economic activity.

A similar differentiation can be made by the nature of motivation and the method of implementing illegal intent. In particular, the scientific literature distinguishes, on the one hand, criminal offenses directly related to the organization of illegal production, storage, transportation and distribution of narcotic drugs, and on the other hand, general criminal offenses, through which offenders seek to obtain drugs, funds for their purchase or commit other illegal actions as a result of drug intoxication [8].

From the perspective of the legal and linguistic approach proposed in this article, the above differentiation allows us to draw an important conclusion: The concept of “drug business” should not be mechanically used as a synonym for any criminal offense related to drugs. Its content assumes the presence of additional characteristics-economic orientation, systematicity, organizational structure and orientation to meet demand on the illegal market [9].

A feature of the Ukrainian legal system is the lack of a legal definition of drug business as an independent type of criminal offense. The criminal code of Ukraine does not establish a separate element of the crime, which would consist exclusively in “carrying out drug dealing”. Instead, criminal law counteraction to the relevant phenomenon is carried out through a system of norms that establish liability for certain forms of illegal handling of narcotic drugs, psychotropic substances, their analogues and precursors [10].

This approach is legally justified, since criminal liability must be based on the features of a specific criminal offense clearly defined by the legislator. Therefore, “drug dealing” can act as a criminological characteristic of a complex activity, but cannot replace the legal qualification of a specific act [11].

Activities that, in the criminological sense, may form structural elements of illegal drug dealing include, in particular, the illegal production and manufacture of narcotic drugs, their illegal acquisition or storage, transportation, shipment, sale, illegal movement across the state border, as well as other drug-related criminal offenses [12].

In this aspect, it is advisable to distinguish between the criminal-legal qualification of a specific behavior and the criminological characteristics of the phenomenon. For example, establishing the fact of illegal sale of a drug provides grounds for applying the relevant norm of the criminal law if all the signs provided for by it are present. In contrast, a conclusion about the functioning of the drug business requires establishing a broader set of circumstances: The systematic nature of the activity, its economic orientation, the presence of supply and sales channels, the interconnectedness of participants, the distribution of functions, the nature of financial flows, etc. [13].

Thus, the criminological category of “drug business” has an interdisciplinary nature and cannot be reduced to the content of a single article of the special part of the criminal code of Ukraine.

The international drug control system is based on a number of universal international treaties. The key ones are the single convention on narcotic drugs of 1961, the convention on psychotropic substances of 1971, and the United Nations (UN) convention against illicit traffic in narcotic drugs and psychotropic substances of 1988 [14-16].

Of particular importance is the 1988 convention, which established international legal mechanisms to combat the illicit production, offering, sale, transportation, import, and export of narcotic drugs.

International terminology does not fully coincide with Ukrainian. UN documents use, in particular, the concepts of illicit traffic, illicit trafficking, drug trafficking, and illicit drug market. The concept of drug trafficking usually has a broader meaning than the simple physical movement of drugs. It covers activities related to the illicit production, supply, distribution, and movement of narcotic drugs.

The European approach is also characterized by a shift from a narrow understanding of the drug problem to an analysis of drug markets. EUDA materials focus not only on substances, but also on subjects, supply chains, financial flows, organized crime networks, and social consequences [17].

This approach is important for Ukrainian legal doctrine, as it allows us to consider the illicit drug trade as a complex system.

The European model of combating drugs is based on a combination of criminal law, administrative, social, medical, and preventive measures.

A feature of modern European policy is the concept of a comprehensive response to the drug problem. The European Union's (EU) drug strategy involves the simultaneous application of measures to reduce demand and counter illegal supply [18].

This approach is of fundamental importance for Ukraine. The traditional model, in which combating the drug trade is reduced mainly to criminal prosecution, is insufficient. Effective public policy should include: Prevention; treatment and rehabilitation; control of legal circulation; countering illicit supply; financial investigations; international cooperation; digital forensics; combating corruption; protection of youth and vulnerable groups.

The principle of proportionality of state intervention is also important. Legal regulation should simultaneously ensure the protection of public health and not create excessive barriers to the legitimate medical and scientific use of controlled substances.

Conclusion

The concept of "illegal drug business" is a complex legal-linguistic and criminological category that characterizes systematic economically motivated activity on the illegal market of narcotic drugs, psychotropic substances, their analogues and precursors.

The term "illegal drug business" is not identical to the concept of "illegal drug trafficking". The latter is mainly normative in nature and covers specific forms of illegal behavior, while drug business characterizes the systemic functioning of the illegal market.

The concept of "drug trafficking" should be considered as one of the key elements of the illegal drug business, and "drug trafficking" as a form of organized illegal movement of narcotic drugs, which may be a component of drug business activities.

Drug crime is a broader criminological category that covers a set of criminal offenses in the field of drugs, while illegal drug business characterizes primarily an organized and economically oriented segment of the relevant crime.

The administrative and legal mechanism of counteraction is preventive in nature and should ensure control over the legal circulation of narcotic drugs, licensing, accounting, storage, transportation, state supervision and interagency interaction.

The criminal law mechanism is based primarily on the provisions of Articles 305-320 of the criminal code of Ukraine. At the same time, the concept of "drug business" cannot directly replace the legal structures of criminal offenses.

Modern illegal drug business is characterized by digitalization, the use of online communications, new financial instruments, network organization and transnationality. This requires the adaptation of administrative and criminal law mechanisms to new ways of functioning of the illegal market.

International and European approaches demonstrate the feasibility of moving from an exclusively substantive and punitive approach to a comprehensive model that combines supply control, demand reduction, prevention, treatment, financial investigations, international cooperation and counteraction to organized crime.

The author's definition of illegal drug trafficking is proposed as a systematic, intentional, organizationally and economically motivated illegal activity of individuals and/or legally related persons, aimed at the functioning of the illegal market for narcotic drugs, psychotropic substances, their analogues and precursors through their illegal production, manufacture, acquisition, storage, transportation, shipment, movement across the state border, sale or other illegal circulation for the purpose of obtaining material benefit.

A promising direction for further research is the development of a holistic administrative and legal model of countering illegal drug trafficking, based on a combination of digital state control, interagency data exchange, financial monitoring, international cooperation and a risk-oriented approach.

Thus, the legal and linguistic understanding of the concept of "illegal drug trafficking" has not only theoretical, but also direct applied significance. The accuracy of terminology ensures the proper distinction between criminal and administrative legal categories, promotes legal certainty, and creates the prerequisites for the formation of effective state policy in the field of countering illicit drug trafficking.

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Conflict of Interest

Authors have no conflict of interest to declare.

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