

Research Article

Public-private legal relations in the system of ensuring state anti-drug policy: Dialectics of research and systemic approach, legal regulation and foreign experience

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Abstract

Aim: The article is devoted to a comprehensive study of public-private legal relations in the system of ensuring the state anti-drug policy of Ukraine.

Methods: The dialectical method allowed to reveal the development of public-private legal relations in the field of state anti-drug policy as a dynamic system that is transformed under the influence of social, economic, security and international legal factors. Thanks to this method, the relationship between the public interests of the state in ensuring public security and the private interests of business entities, health care institutions, public organizations and citizens was analyzed. The systemic method was used to study state anti-drug policy as a multi-level administrative and legal system, which includes state authorities, local governments, law enforcement agencies, the judiciary, medical institutions, the pharmaceutical sector, educational institutions, international organizations and civil society institutions.

Results: It is substantiated that the modern model of combating illicit trafficking in narcotic drugs, psychotropic substances and precursors can no longer be based solely on the activities of law enforcement agencies. The effectiveness of anti-drug policy largely depends on the proper interaction of public authorities, business entities, healthcare institutions, public organizations, educational institutions, international organizations and other civil society institutions.

Conclusion: As a result of the study, an author's definition of public-private legal relations in the field of state anti-drug policy was proposed, their principles, elements, subject composition, administrative-legal forms of interaction were determined, and proposals were formulated for the implementation of European standards of public administration.

Keywords: Public-private legal relations, State anti-drug policy, Administrative law, Public administration, Drugs, Civil society, Partnership, European Union (EU)

Introduction

Counteracting illicit trafficking in narcotic drugs, psychotropic substances and precursors is one of the priority areas of state policy in most democratic states, as the spread of drug addiction directly affects the state of national

security, public health, economic stability and law and order. According to estimates by the United Nations Office on Drugs and Crime (UNODC), the scale of illicit drug trafficking is growing every year, and criminal networks are actively using digital technologies, cryptocurrencies, international logistics channels and transnational financial schemes to conceal illegal activities [1]. At the same time, the European Union Drugs Agency (EUDA) notes the emergence of new synthetic psychoactive substances, the diversification of their distribution channels and the active use of digital platforms and social networks to distribute narcotic drugs, which significantly complicates traditional mechanisms of state control [2].

In the context of Ukraine's European integration, the adaptation of the national anti-drug policy to modern European Union (EU) standards, which are based on a comprehensive approach to addressing the drug problem, is of particular importance. The European drug strategy for 2021-2025 provides for a combination of law enforcement activities with measures of prevention, treatment, social rehabilitation, international cooperation, development of a monitoring system and intersectoral interaction [3]. This approach indicates a gradual transformation of the public administration model from exclusively administrative and coercive mechanisms to partnership forms of interaction between state bodies, local governments, business entities, healthcare institutions, public organizations, scientific

institutions and international institutions.

Ukraine is also reforming its state anti-drug policy in accordance with international obligations arising from the single convention on narcotic drugs of 1961, the convention on psychotropic substances of 1971, and the United Nations convention against illicit traffic in narcotic drugs and psychotropic substances of 1988 [4-6]. At the same time, the implementation of these international standards requires improving the administrative and legal mechanism for interaction between state authorities and private entities involved in the legal circulation of controlled substances, the provision of medical services, the implementation of preventive activities, the rehabilitation of addicted persons, and the information support of state policy.

This problem is particularly relevant in the context of the digital transformation of public administration. Modern information and communication technologies simultaneously create new opportunities for electronic administration, information exchange between competent authorities, digital control over the circulation of narcotic drugs and the implementation of preventive measures, but at the same time create new risks associated with the functioning of online marketplaces, the use of encrypted communication channels, cryptocurrencies and other digital tools in the illegal drug trade [2,7]. Under such conditions, ensuring effective state anti-drug policy can no longer be limited to the activities of law enforcement agencies alone, but requires the consolidation of the potential of the state, business and civil society.

An important feature of modern anti-drug policy is the gradual formation of a public administration model based on the principles of openness, mutual responsibility, coordination and partnership. In such a model, the state not only exercises regulatory and control influence, but also acts as a coordinator of the interaction of numerous entities that jointly ensure the implementation of state policy. That is why public-private legal relations that arise between public authorities and private law entities in the process of drug addiction prevention, control over the legal circulation of narcotic drugs, conducting medical and rehabilitation activities, scientific research, information activities and international cooperation are of particular importance.

Despite a significant number of scientific works devoted to the administrative and legal support of countering

the illegal circulation of narcotic drugs, the issues of a comprehensive study of public-private legal relations in the system of ensuring the state anti-drug policy remain insufficiently developed. In the scientific literature, the analysis of criminal law, criminological or administrative-delinquency aspects of countering drug crime prevails, while the mechanisms of interaction of the state with private medical institutions, pharmaceutical enterprises, public organizations, international institutions and other non-state entities are mostly studied in a fragmentary manner. The lack of a comprehensive administrative and legal approach to determining the nature, structure, principles, and mechanisms of functioning of such legal relations negatively affects the effectiveness of the implementation of state anti-drug policy.

In this regard, there is an objective need to form a holistic scientific concept of public-private legal relations in the system of ensuring state anti-drug policy, determine their place in the mechanism of public administration, reveal the features of administrative and legal regulation and generalize foreign experience for its further implementation into national legislation. The use of dialectical and systemic approaches makes it possible to study these legal relations as a complex multi-level system that is constantly developing under the influence of social, economic, legal, technological and international factors.

Methods

The research methodology is based on the integrated application of general scientific and special legal methods of cognition, which provided a comprehensive analysis of public-private legal relations in the system of ensuring state anti-drug policy. The methodological basis of the research was dialectical, systemic, structural-functional, comparative-legal, formal-legal, statistical methods, as well as content analysis of international and national regulatory legal acts and analysis of practical cases. Their integrated use made it possible to investigate the patterns of development of administrative-legal regulation of interaction between the state and the private sector in the field of countering illicit drug trafficking, to identify the features of the modern model of public administration and to formulate proposals for improving current legislation.

The empirical basis of the study was international

analytical materials from the United Nations Office on Drugs and Crime (UNODC), the European Union Drugs Agency (EUDA), Europol, the World Health Organization (WHO), the council of Europe, the European commission, as well as the provisions of the constitution of Ukraine, laws of Ukraine, international United Nations (UN) conventions, regulatory legal acts of the European Union, official statistical data of the national police of Ukraine, the office of the prosecutor general, the state customs service of Ukraine, materials of judicial practice and scientific publications of Ukrainian and foreign researchers.

The dialectical method was used to study the process of development of state anti-drug policy as a dynamic phenomenon that is constantly transforming under the influence of social, economic, technological and security factors. Its application allowed to reveal contradictions between the need to ensure effective state control over the circulation of narcotic drugs and the need to create favorable conditions for the activities of private medical institutions, pharmacy chains, pharmaceutical enterprises and public organizations involved in the implementation of anti-drug policy. The dialectical approach made it possible to trace the evolution of state policy from a predominantly repressive model of combating drug crime to a comprehensive model combining law enforcement, preventive, medical, social and information measures in accordance with the provisions of the European Union (EU) drugs strategy 2021-2025 [3].

The leading place in the study was taken by the systemic method, which allowed to consider state anti-drug policy as a holistic system of interconnected elements. These elements include the regulatory framework, state authorities, law enforcement agencies, the judiciary, healthcare institutions, the pharmaceutical sector, local governments, public organizations, international institutions and business entities that carry out activities in the field of legal drug trafficking. The conducted systemic analysis showed that the effectiveness of the state anti-drug policy is determined not only by the quality of legislation, but also by the level of interagency coordination, information exchange and cooperation between state and private entities.

The structural-functional method was used to determine the competence and functions of the main participants in public-private legal relations. In particular, it was established that the ministry of health of Ukraine forms state policy in the field of medical use of narcotic drugs, the national police

of Ukraine ensures counteraction to illicit drug trafficking, the state customs service exercises control over their movement across the customs border, while pharmacy chains, pharmaceutical enterprises and private medical institutions perform functions related to the legal circulation of controlled substances, treatment of patients and ensuring proper accounting of medicines. Public organizations and charitable foundations implement programs of prevention, rehabilitation and social adaptation of persons with drug addiction, which indicates the formation of a modern model of public-private partnership.

Results and Discussion

The concept of public-private legal relations and the system of subjects in the sphere of ensuring state anti-drug policy

The modern development of state anti-drug policy is characterized by a gradual transition from an exclusively state-centralized management model to a comprehensive system that involves active interaction between public authorities, the private sector, civil society institutions and international organizations. Such a transformation is due to the fact that the problem of illicit trafficking in narcotic drugs, psychotropic substances and precursors is not only criminal and legal, but also social, medical, economic and security in nature. Accordingly, the effectiveness of state anti-drug policy depends not only on the activities of law enforcement agencies, but also on the ability of the state to ensure coordination of actions of a wide range of entities involved in prevention, treatment, rehabilitation, control over the legal circulation of narcotic drugs and information support for the relevant processes [1,2].

In modern administrative-legal doctrine, public-private legal relations are considered as a specific type of social relations, within which the interaction of subjects of public law and subjects of private law occurs in order to implement socially significant tasks. Their peculiarity lies in the combination of the state's power and managerial influence with the independence of private participants who exercise their own rights and interests, but at the same time perform functions of public importance. Unlike classical administrative legal relations, which are characterized by the predominance of the method of power subordination, public-private legal relations are based on a combination of imperative regulation with mechanisms of cooperation, partnership, coordination and mutual responsibility.

In the field of ensuring state anti-drug policy, public-private legal relations acquire special importance, since countering drug threats requires the simultaneous use of various legal, organizational and social instruments. Thus, the state establishes rules for controlling the production, storage, transportation and use of narcotic drugs, determines the procedure for licensing the relevant activity, carries out supervision and control, and private entities ensure the practical implementation of a significant part of measures in the field of health care, pharmaceutical provision, social support and addiction prevention [4,8].

Taking into account the specifics of the subject of study, public-private legal relations in the system of ensuring state anti-drug policy can be defined as social relations regulated by administrative law that arise between public authorities and private entities regarding the implementation of state tasks to prevent the illegal circulation of narcotic drugs, ensure control over their legal use, organize medical care, prevent drug addiction, conduct rehabilitation measures and social integration of persons who have problems with drug use.

The main features of such legal relations are: First, their focus on achieving a publicly significant goal-ensuring public safety, protecting public health and reducing the negative consequences of the spread of drugs; secondly, the presence of a special subject composition, which includes both state authorities and private institutions, enterprises and organizations; thirdly, the administrative-legal nature of the regulation, which determines the boundaries of the competence of the participants, the procedure for their interaction, forms of control and legal liability [3].

An important characteristic of public-private legal relations in this area is their complexity. They cover not only the activities of law enforcement agencies to stop the illegal trafficking of drugs, but also a wide range of relations in the field of health care, social protection, education, science, digitalization and international cooperation. For example, relations between state authorities and pharmacy chains regarding control over the dispensing of medicines containing narcotic or psychotropic substances are simultaneously administrative, medical and economic in nature. At the same time, cooperation between the state and private medical institutions in the treatment of drug addiction combines the public interest in ensuring the health of the population and the private professional activities of

medical institutions.

The national police of Ukraine counteracts the illegal circulation of drugs, identifies channels of their distribution, stops the activities of organized criminal groups and carries out preventive measures. The state customs service of Ukraine ensures control over the movement of narcotic drugs and precursors across the customs border, and the security service of Ukraine participates in countering transnational channels of illicit drug trafficking that pose a threat to national security [7].

Local governments play an important role, since it is at the local level that a significant part of preventive, social and educational programs are implemented. Local governments can create appropriate support programs, involve public organizations and ensure coordination of the activities of local health, education and social protection institutions.

The second group consists of private entities whose activities are of direct importance for the implementation of the state anti-drug policy. These include pharmaceutical companies and pharmacy chains that manufacture, store and sell medicines containing controlled substances. Their activities are subject to special state regulation, but they are important participants in the system of ensuring the population's access to necessary medical products [8].

The private sector also includes non-state-owned medical institutions that carry out diagnostics, treatment and rehabilitation of people with drug addiction. They ensure the implementation of the medical component of anti-drug policy and supplement the capabilities of the state health care system.

A separate place is occupied by public organizations and charitable foundations that implement programs to prevent drug addiction, information campaigns, harm reduction measures, psychological support and social adaptation of people with addiction. The experience of the European Union countries shows that it is the involvement of the public sector that allows to increase the effectiveness of preventive measures and ensure better interaction with vulnerable groups of the population [6].

The system of subjects also includes scientific institutions and educational institutions that provide research, training of specialists, development of preventive programs and dissemination of scientifically based approaches to solving

the problem of drug addiction. In the context of digital transformation, the importance of technology companies is increasing, which can participate in the creation of information systems for monitoring, risk analysis, electronic accounting and data exchange between participants in anti-drug policy.

A separate group of entities is international organizations whose activities are aimed at forming global standards and coordinating international cooperation. These include the United Nations Office on Drugs and Crime (UNODC), the European Union Drugs Agency (EUDA), the World Health Organization (WHO) and Europol. These institutions provide for the collection and analysis of statistical data, the development of recommendations, the dissemination of best practices and the coordination of international measures in the field of countering drug threats [7].

Thus, public-private legal relations in the field of ensuring state anti-drug policy are a complex administrative and legal phenomenon, characterized by a combination of government regulation and partnership. Their effectiveness depends on a clear definition of the legal status of each subject, proper regulatory support for forms of cooperation, the development of digital control mechanisms and the integration of international experience. It is the formation

of a balanced system of interaction between the state, the private sector and civil society that is a necessary condition for building a modern, effective and people-centered model of state anti-drug policy [8].

Foreign experience of legal regulation of public-private legal relations in the system of ensuring state anti-drug policy: Comparative analysis

The experience of foreign countries shows that modern anti-drug policy is gradually moving away from an exclusively punitive model focused on criminal prosecution and moving towards a comprehensive system of public administration that combines law enforcement measures, medical care, social rehabilitation, prevention, digital control and broad participation of the private sector [9]. This approach corresponds to the provisions of international documents of UNODC, WHO and the European Union, which emphasize the need for an integrated, interagency and people-centered policy in the field of countering drug threats [10].

A comparative analysis of the experience of individual countries allows us to identify the most effective models of public-private interaction that can be used to improve the administrative and legal mechanism for ensuring the state anti-drug policy of Ukraine (Table 1).

Table 1: Foreign experience of public-private interaction in the sphere of ensuring state anti-narcotics policy.

Country	Features of legal regulation of anti-drug policy	The role of public actors	The role of the private sector and civil society	Possibility of using experience for Ukraine
Portugal	Since 2001, a model of decriminalization of drug consumption for personal use has been implemented with an emphasis on medical and social measures. The basis of the policy is prevention, treatment and social integration of people with addiction	The state coordinates policy through specialized bodies, in particular the commissions for the prevention of drug addiction, which assess the situation of each person and determine the necessary support measures	Non-governmental medical institutions, social services and public organizations participate in treatment, rehabilitation, prevention programs and harm reduction measures	It is advisable to develop a partnership between the state and public organizations and private medical institutions in the field of rehabilitation and prevention
Germany	Anti-drug policy is based on the principles of balance between the control of illicit trafficking and the provision of medical care. Considerable attention is paid to interagency coordination	Federal and state authorities coordinate the activities of the police, medical services, social institutions and educational institutions	Private medical centers, social organizations and charitable foundations are actively involved in the treatment and social adaptation of people with addiction	A model of coordination mechanisms between state bodies and non-state institutions can be used
USA	Combining the law enforcement model with public health. Electronic systems for monitoring the prescription of controlled drugs (Prescription Drug Monitoring Programs-PDMPs) play a significant role	Federal and state authorities carry out regulatory regulation, control, monitoring and counteraction to illicit drug trafficking	Private medical institutions, pharmacies and technology companies ensure the functioning of digital control systems and information exchange	The implementation of electronic monitoring of the circulation of narcotic drugs and digital interaction of subjects is relevant for Ukraine

Canada	The concept of harm reduction is being implemented, which involves combining drug control with public health measures	State authorities ensure regulatory regulation and funding of relevant programs	Civil organizations, medical institutions and social services implement programs for prevention, counseling, treatment and support for addicted people	Ukraine can use the experience of involving the public sector in prevention programs
European Union	An integrated model, enshrined in the European Union (EU) drugs strategy 2021-2025, which involves combining security, medical and social areas	European Union (EU) institutions and national authorities ensure coordination, exchange of information and the formation of common standards	Private organizations, medical institutions and public structures participate in the implementation of prevention and assistance programs	It is advisable to implement the principles of intersectoral interaction and evidence-based policy

Comparative analysis shows that the most effective models of state anti-drug policy are characterized not by a weakening of state control, but by a change in its content. The state gradually moves from the role of an exclusively controlling entity to the function of a coordinator of interaction between various participants in social relations. This approach allows combining the capabilities of state administration, the medical system, the private sector and civil society [11].

The most indicative is the experience of Portugal, where after the reform of the anti-drug policy, a transition was made from a criminal-repressive approach to a model based on prevention, treatment and social support. The peculiarity of this model is that the state does not remove itself from control, but changes the nature of its influence: Instead of the exclusive application of sanctions, an individualized approach to persons with drug addiction problems is provided. An important role in this system is played by private medical institutions and public organizations that ensure the practical implementation of assistance programs [12].

The German model demonstrates the effectiveness of decentralized management, within which federal authorities, states, municipalities, medical institutions and public organizations operate within a single strategy. The advantage of this approach is the ability to adapt measures to the specific social conditions of individual regions. For Ukraine, this experience is relevant in the context of strengthening the role of local governments in the implementation of preventive and social programs [13].

Of particular interest is the experience of the United States in digitalizing control over the legal circulation of narcotic drugs. Prescription Drug Monitoring Programs (PDMPs) systems allow for electronic control over the prescription

and dispensing of controlled drugs, identify atypical patterns of their use and ensure interaction between doctors, pharmacies, regulatory authorities and law enforcement agencies. For Ukraine, which is implementing a digital transformation of public administration, the introduction of such mechanisms can be an important direction for improving control over the circulation of narcotic drugs [14].

The Canadian model demonstrates the importance of civil society in the implementation of anti-drug policy. The concept of harm reduction implies that the state should not only counteract illicit drug trafficking, but also minimize the negative social and medical consequences of drug addiction. This approach involves the active participation of public organizations, volunteer structures and medical institutions in working with vulnerable groups of the population [15].

The experience of the European Union as a whole demonstrates the transition to an integrated model of anti-drug policy, which is based on three interrelated areas: Reducing the supply of drugs through law enforcement mechanisms; reducing demand through prevention and treatment; developing international cooperation and information exchange. It is this model that is enshrined in the European Union (EU) drugs strategy 2021-2025, which determines the need to involve state and non-state actors in the formation and implementation of policy [16].

Thus, foreign experience shows that an effective state anti-drug policy should be based on the following principles: Intersectoral interaction-coordinated activities of government bodies, medical institutions, business and public organizations; partnership management model-involving private entities in the implementation of socially significant tasks; digitalization of control-using

information systems for monitoring and analyzing risks; human-centered approach-combining security measures with medical care and social support; evidence-based state policy-making management decisions based on statistical data and scientific research [17].

For Ukraine, the most promising is the comprehensive borrowing of elements of the European model, namely: Creating mechanisms for public-private partnership, legislative consolidation of forms of interaction between the state and private entities, development of digital systems for controlling the circulation of narcotic drugs, and strengthening the role of public organizations in prevention and rehabilitation. Such an approach will allow the formation of a modern administrative and legal model of state anti-drug policy that will meet international standards and the needs of Ukrainian society [18].

Conclusion

The conducted study of public-private legal relations in the system of ensuring state anti-drug policy allowed to form the conclusion that the modern model of countering drug threats requires a transition from a narrow law enforcement approach to a comprehensive system of public administration, based on the interaction of state bodies, the private sector, civil society institutions and international organizations. The scale of the modern drug problem, the spread of transnational channels of illicit drug trafficking, the use of digital technologies by criminal groups and the growing need for medical and social support for people with addictions necessitate the formation of a multi-subject model of anti-drug policy.

As a result of the study, it was substantiated that public-private legal relations in the field of ensuring state anti-drug policy are an independent type of administrative and legal relations, which are characterized by a combination of the public interest of the state in ensuring the safety and health of the population with the private initiative of business entities, medical institutions, public organizations and other non-state actors. Their specificity lies in the fact that private entities, while maintaining their own organizational and property independence, are involved in the implementation of socially significant tasks that traditionally belonged to the sphere of responsibility of the state.

It has been established that the system of subjects of public-private legal relations in the field of anti-drug policy has

a complex multi-level structure. It includes legislative and executive bodies, law enforcement agencies, local governments, health care institutions, pharmaceutical enterprises, pharmacy chains, rehabilitation centers, public organizations, scientific institutions, technology companies and international institutions. An analysis of their activities shows that the effectiveness of anti-drug policy depends not only on the scope of the state's powers, but also on the level of coordination and interaction between all participants in the relevant system.

A comparative legal study of foreign experience has shown that the most effective are models in which the state acts not only as a controlling entity, but also as a coordinator of partnership interaction. The experience of Portugal demonstrates the effectiveness of combining state regulation with the involvement of medical and social institutions in the prevention and rehabilitation of persons with drug addiction. The German model confirms the importance of interagency coordination and participation of local institutions in the implementation of anti-drug programs.

It has been proven that the current system of legal regulation in Ukraine requires further improvement in terms of determining mechanisms for public-private interaction. The existing legislation regulates in detail the activities of state bodies in controlling the circulation of narcotic drugs, but does not sufficiently determine the forms of participation of private entities in the implementation of state anti-drug policy. In this regard, it is advisable to normatively consolidate the concept of public-private legal relations in this area, determine the legal status of their participants, forms of cooperation, coordination mechanisms and responsibility.

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Conflict of Interest

Authors have no conflict of interest to declare.

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