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Research Article

Theoretical analysis of the relationship between the concepts of combating and countering drug offenses: Administrative-legal and criminal-legal aspects

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Abstract

Aim: The purpose of the article is to reveal the relationship between the concepts of combating and countering drug crimes (administrative and criminal aspects).

Methods: The methodology of the article on the topic "Theoretical principles of the concepts of combating and countering drug crimes (administrative legal and criminal legal aspects)" is usually based on a combination of general scientific and special legal methods. Since the article is devoted to the delimitation and clarification of legal categories ("combat" and "counteraction"), the key emphasis is placed on logical-philosophical and normative analysis.

Results: Prevention and counteraction to crime are two sides of law enforcement influence, which is why they complement each other in their essence and content and, in this regard, have a single system of subjects and legal principles. After all, high-quality crime prevention significantly facilitates the process of countering it, as well as ensuring the inevitability of punishment for all those involved in committing socially dangerous acts.

Conclusion: It is proven that the concept of "countering drug crime" is a modern scientific category, which in terms of content significantly exceeds the term "fight". If the fight is focused on post-factum response (detection and punishment of already committed acts), then counteraction is a systemic strategy that combines preventive, regulatory, law enforcement and rehabilitation measures.

Keywords: Narcotic drugs, Psychotropic substances, Precursors, Legal regulation, Fight, Legal regulation, Administrative disputes, Criminal disputes, Counteraction, Theoretical analysis

Introduction

Drug crime remains one of the most serious threats to national security, the health of the nation and law and order in Ukraine. In the context of modern challenges caused by both internal socio-economic instability and globalization processes, the forms of drug distribution are becoming increasingly sophisticated. This requires not only improving the practical activities of law enforcement agencies, but also a deep theoretical rethinking of the conceptual apparatus used in legislation and legal science [1].

For a long time, the term "fight against drug crime" dominated domestic doctrine, which focused mainly on repressive, punitive measures. However, the modern legal paradigm requires a transition to a broader category-"counteraction", which includes not only criminal prosecution, but also administrative and legal measures, prevention and deterrence. The lack of a unified approach to understanding these concepts lead to conflicts in law enforcement practice and reduce the effectiveness of state anti-drug policy [2].

The issue of administrative and criminal liability for offenses in the field of drug trafficking was studied by such scientists [3-6].

However, the issue of distinguishing the concepts of "fight" and "counteraction" precisely in the aspect of the synergy of administrative and criminal law requires further detailing.

The effectiveness of the state response to drug crime directly depends on a clear differentiation of means of administrative influence (prevention) and criminal punishment (repression) within a single system of counteraction.

The purpose of the article is to theoretically substantiate the content of the concepts of "fight" and "counteraction" to drug crimes, identify their specifics in administrative-legal and criminal-legal aspects, as well as formulate proposals for improving the terminological unity of legislation.

Methods

The methodology of the article on the topic "Theoretical principles of the concepts of combating and countering drug crimes (administrative legal and criminal legal aspects)" is usually based on a combination of general scientific and special legal methods. Since the article is devoted to the delimitation and clarification of legal categories ("combat" and "counteraction"), the key emphasis is placed on logical-philosophical and normative analysis.

Here are the main methods that are usually used in such studies:

General scientific methods

Dialectical method: Allows you to consider the concepts of combating and countering in their development, interconnection and dynamics. It helps to analyze how approaches to drug crime have changed depending on socio-political conditions [7].

Method of analysis and synthesis: Used to decompose complex legal systems (criminal and administrative law) into separate elements in order to explore the specifics of each, and then combine them to create a holistic view of the counteraction system.

System-structural method: Helps determine the place of measures to combat drug crime in the general system of ensuring public safety and law and order.

Special-legal methods

Formal-legal (dogmatic) method: Is key for this topic. It is used to analyze current legislation (Criminal Code, Code of Administrative Offenses), interpret legal norms and clearly define the meaning of the terms "fight", "counteraction", "warning".

Comparative-legal method: Used to compare administrative-legal and criminal-legal means of influence, as well as to study international experience (for example, the compliance of Ukrainian legislation with UN conventions) [8].

Logical-semantic method: Since the article focuses on the "theoretical foundations of concepts", this method allows you to deepen the conceptual apparatus, distinguish synonymous series and highlight specific features of "counteraction" as a broader concept compared to "fight".

Empirical methods

Statistical method: Analysis of quantitative and qualitative indicators of drug crime in Ukraine to substantiate the need to improve the theoretical base.

Hermeneutics method: For a deep interpretation of the spirit of the law and the legal positions of the Supreme Court on the qualification of crimes in the field of drug trafficking.

Counteraction is a systemic, multi-level concept (includes prevention, deterrence, cessation), while "fight" is more often associated with repressive measures (direct investigation and punishment). The methods used allow us to justify the transition of Ukrainian law from purely forceful methods ("fight") to complex strategies of "counteraction" [9].

Results and Discussion

Modern criminological science offers diverse interpretations of the concept of crime prevention. One of the leading approaches considers "prevention" (or its equivalent "warning") as an extensive multi-level structure that encompasses state institutions and public associations. Their joint activities are aimed at exerting an anti-criminogenic influence on society to prevent offenses and neutralize the factors that cause them. This position is shared by Korniienko, Desyatnik, Didkivska, Leheza. Titarenko, Oleksiy, who define prevention not only as a system of practical measures, but also as a special form of social management aimed at minimizing criminal manifestations [10]. Krupytskyi holds a similar opinion. Shchedrin, characterizing prevention as a specific management, where the subject through legal mechanisms (in particular, coercion) stimulates the positive socialization of the object and limits its destructive connections [11].

Based on scientific research, it is advisable to distinguish two levels of understanding of this category:

Broad approach: This is a normatively regulated activity of authorized bodies, the purpose of which is to create a safe society and eliminate dangerous processes. It is implemented through a complex of preventive and educational methods aimed at identifying and neutralizing the determinants of crime, as well as forming a stable intolerance to them in society [12].

Narrow approach: This is the purposeful use of prevention tools by special subjects to completely eliminate the causes of crime in a certain territory and raise collective awareness of the harmfulness of such phenomena.

The term "counteraction" in scientific discourse is often used in parallel with such concepts as "struggle", "resistance" or "opposition" [13]. Special attention should be paid to the relationship between "counteraction" and "control". Etymological analysis shows that the term "control" (from the Latin contra-opposition) includes not only monitoring or checking, but also active prevention of undesirable phenomena. Thus, control can be defined as supervision carried out in order to detect, stop and prevent illegal actions [14].

Despite the presence of synonyms, the generalized understanding of counteraction is reduced to the conflict of two subjects, where one creates obstacles to the activities of the other. However, the definition of the general term does not remove the difficulties in interpreting "counteraction to crime".

In the scientific literature, several conceptual groups are distinguished regarding the definition of counteraction to crime:

Management approach: Leheza, Pisotska, Dubenko, Dakhno, and Sotskyi considers counteraction as any management activity that indirectly contributes to reducing the level of crime through the establishment of the rule of law [15]. Emphasize the systematic nature of this process, where state and non-state institutions interact to find effective ways to influence the causes of crime [16].

Comprehensive approach: Researchers identify key characteristics of counteraction [17]: It is an orderly branch of management, not a set of chaotic actions. It has a hierarchical structure (from overcoming general causes to eliminating the conditions of a specific crime). Combines general social and narrowly specialized criminological measures. It is based on the interaction of a wide range of subjects (from the police to individual citizens). The priority is early prevention-preventing the formation of criminogenic personality traits. It is a synthetic concept that includes prevention, prevention and cessation of crimes at different time stages.

Security approach: Interpret counteraction as a strategy for protecting legitimate interests by blocking the factors that generate crime [18]. Scientist adds that it is a historically formed system (political, legal, informational) aimed at eliminating the causes of organized crime and eliminating its consequences [19].

Kytsyuk offers a pragmatic definition: It is the activity of the state and society, covering the entire cycle-from the detection and investigation of crimes to the punishment of the guilty [20]. Enikeev agrees with this opinion, noting that the concept of "counteraction" is actually absorbed by the term "fight against crime". In his opinion, the term "fight" should not be considered obsolete, since it reflects the active protection of human rights and the interests of society [21]. Despite the discussions, the use of the term "fight" remains logical given its etymological proximity to "counteraction". Traditionally, the fight against crime is defined as an internal function of the state, implemented through a system of legal and organizational steps to stop offenses and ensure the inevitability of punishment [22].

It is proven that the concept of "counteraction" is much broader in meaning. If "fight" is traditionally associated with an active attack on already committed crimes, then "counteraction" is a multi-level system [23] (Table 1).

- **Fight:** Narrowly focused activity, focused on the detection, disclosure and investigation of crimes (force and procedural component).
- **Counteraction:** A strategic complex that includes prevention (administrative aspect), minimization of consequences and elimination of the causes of drugging society [24].

The study confirms that effective counteraction is impossible without administrative prejudice (in certain contexts) and prevention. Administrative law creates a

"protective barrier" that aims to prevent a person from committing a criminal offense through: Establishing rules for licensing pharmacies and warehouses; administrative supervision of persons with drug addiction. Prohibition of drug propaganda on the Internet.

Identified shortcomings and suggestions

The results indicate a certain gap between theoretical constructs and their legislative implementation [25].

Terminological inconsistency: In some laws, terms are used synonymously, which creates confusion when developing departmental instructions [26].

Disproportion of measures: The emphasis is still shifted towards criminal punishment ("combat"), while measures of administrative influence ("counteraction") often remain declarative.

The transition from the term "fight" to "counteraction" in scientific circulation and legislation is not a simple change of words. It is a change in state philosophy: From "punishing the criminal" to "managing risks and protecting the health of the nation."

Analysis of the views of foreign lawyers and criminologists allows us to assert that world legal thought has gone from a rigid repressive paradigm of "struggle" to a comprehensive strategy of "counteraction". In Western scientific literature, these approaches are often distinguished by the criterion of focus: On supply (supply reduction) or on demand (demand reduction) [27].

Table 1: Theoretical analysis of the relationship between the concepts of combating and countering drug offenses: Administrative-legal and criminal-legal aspects.

Aspect	Sphere of influence	The main goal is
Administrative and legal	Minor offenses, violations of drug trafficking rules, preventive supervision.	Prevention (preventing a misdemeanor from turning into a crime) and control.
Criminal and legal	Society-dangerous acts (sale, large-scale production, involvement of minors).	Repression (the inevitability of punishment) and the correction of convicts.

Repressive model and concept of "war on drugs"

For a long time, the "War on Drugs" approach dominated foreign doctrine, especially in the American school of law (Nixon, Reagan). Within the framework of this approach, the term "struggle" was perceived literally-as an uncompromising forceful offensive. Scientists who supported this line insisted on the priority of criminal law means: Maximum terms of imprisonment, expansion of police powers and a focus on the seizure of substances. However, modern researchers, such as Peter Reuter, criticize this approach, pointing out that a purely criminal-legal "fight" is not able to destroy the market, but only forces it to transform into more dangerous forms [28].

The European approach: The priority of "counteraction" and social control

In contrast to the American model, European scholars (in particular representatives of the German and Scandinavian schools) emphasize the term "counteraction" or "prevention". For example, the famous Norwegian criminologist Nils Christie considered the drug problem not only as a legal one, but also as a social one. In the European doctrine, "counteraction" is considered as a combination of administrative filters and criminal retribution [29].

Foreign experts highlight the following key aspects of counteraction

Administrative regulation: Scientists emphasize that the state should "counteract" through strict administrative supervision of precursors and pharmacy chains, which is much more effective than further investigation of crimes [30].

Decriminalization of consumption: The views of reformers such as Ethan Nadelmann are based on the fact that criminal law should be aimed exclusively at drug dealers ("combat"), while administrative and medical measures should be applied to consumers ("counteract") [31].

Integrated approach of the EMCDDA: The current position of scientists working with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is to implement a "harm reduction" strategy [32].

From the point of view of legal theory, this means shifting the emphasis from punishing the individual to minimizing the negative consequences for society. In this context,

"counteraction" is viewed as a multi-level process, where administrative law creates conditions for the impossibility of committing an offense, and criminal law acts as a means of last resort (ultima ratio) [33].

Thus, foreign experience demonstrates a gradual rejection of the term "fight" in favor of "counteraction." Western scholars agree that administrative and legal measures (control, licensing, prevention) are more humane and economically beneficial tools than the expansion of criminal repression [34].

Conclusion

It is proven that the concept of "countering drug crime" is a modern scientific category, which in terms of content significantly exceeds the term "fight". If the fight is focused on post-factum response (detection and punishment of already committed acts), then counteraction is a systemic strategy that combines preventive, regulatory, law enforcement and rehabilitation measures.

A clear division of functions between the branches of law in this system has been established:

The administrative and legal aspect plays the role of the "first echelon" of protection. Its content is to establish strict control over the legal circulation of drugs, prevent addictive behavior and bring to justice for offenses that have a low degree of social danger, but create grounds for criminalization.

The criminal and legal aspect is a form of extreme state response. It is aimed at isolating dangerous elements (suppliers, organizers of the drug trade) and implementing the principle of inevitability of punishment for serious and especially serious crimes.

The effectiveness of state policy depends not on strengthening the sanctions of a separate branch of law, but on their synergy. Administrative prohibitions should be logically coordinated with criminal law norms (avoiding duplication and "gaps" in the law), which will allow creating a continuous chain of control: from administrative supervision to criminal prosecution.

The results of the study indicate the need to: Consolidate at the legislative level a unified definition of "counteraction to drug crime"; strengthen administrative responsibility for the propaganda of narcotic drugs and violation of the rules of their precursor circulation as an effective measure of early prevention; reorient the activities of law enforcement agencies from quantitative indicators of "combat" to qualitative criteria of "counteraction" (reducing the availability of drugs on the market and reducing the level of drug addiction of the population).

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Conflict of Interest

Authors have no conflict of interest to declare.

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