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CRIMINAL LIABILITY FOR ILLEGAL TRAFFICKING OF POTENT OR POISONOUS SUBSTANCES IN THE LEGISLATION OF SOME FOREIGN COUNTRIES

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ABSTRACT

This article addresses the issue of criminal liability for illegal trafficking of potent or poisonous substances in the legislation of some foreign countries. It examines the results of a comparative analysis between the criminal legislation of certain foreign countries and national criminal law.

KEYWORDS

Potent substance, poisonous substance, crime, liability, incentive norm, minor, comparative analysis, foreign experience.

INTRODUCTION

It is necessary to create and continuously improve an effective system of criminal legislation to protect the interests of individuals, society, and the state, to strengthen the rule of law, and to ensure peace and security.

In improving criminal legislation, a thorough analysis of judicial and investigative practices, as well as the study

of best practices from foreign countries in this field, is of great importance.

In turn, a comparative legal analysis of foreign countries' criminal legislation allows for an assessment of which aspects of our national legislation fully align with generally accepted approaches, and which contradict existing trends in foreign countries.

During the study of Article 2511 of our country's Criminal Code, which provides for liability for the illegal circulation of potent or poisonous substances, criminal laws of 25 foreign countries were examined:

- 12 countries have established liability for the illegal trafficking of potent and poisonous substances (Article 234 of the Criminal Code of the Russian Federation[1], Article 321 of the Criminal Code of Ukraine[2], Articles 333 and 334 of the Criminal Code of the Republic of Belarus[3], Articles 405 and 406 of the Criminal Code of the Republic of Armenia[4], Article 240 of the Criminal Code of the Republic of Azerbaijan[5], Articles 206 and 2061 of the Criminal Code of the Republic of Tajikistan[6], Articles 336 and 337 of the Criminal Code of Turkmenistan[7], Articles 292 and 293 of the Criminal Code of the Kyrgyz Republic[8], Article 200 of the Criminal Code of Mongolia[9], Articles 185 and 188 of the Criminal Code of Hungary[10], Article 354 of the Criminal Code of the Republic of Bulgaria[11], Article 248 of the Criminal Code of the Republic of Latvia[12]);

- 4 countries have established liability only for the illegal trafficking of poisonous substances (Articles 301 and 303 of the Criminal Code of the Republic of Kazakhstan[13], Article 281 of the Criminal Code of the Republic of Albania[14], Article 224 of the Criminal Code of the Republic of Moldova[15] and Article 284 of the Criminal Code of India[16]);

- It was found that in 1 country, liability was established only for the illegal circulation of potent substances (Articles 261 and 270 of the Criminal Code of Georgia[17]).

At the same time, the Republic of Croatia[18], the Republic of Iraq[19], the Italian Republic[20], the Republic of Korea[21], Japan[22], the Kingdom of Norway[23], the Republic of Poland[24], and the

Republic of Slovenia[25] do not provide for liability for the crime under analysis.

Based on the results of a comparative legal analysis of the norms in our national criminal legislation and the criminal legislation of some foreign countries that establish liability for the illegal trafficking of potent or toxic substances, we deemed it necessary to highlight the following positive practices:

1. In Armenia, Georgia, Belarus, Kyrgyzstan, Kazakhstan, Turkmenistan, and Tajikistan, liability for violations of the rules regarding the illegal circulation and handling of potent or toxic substances is established in separate articles.

2. The criminal legislation of Ukraine (Article 321), Armenia (Article 405), and Azerbaijan (Article 240) includes incentive provisions in articles establishing liability for illegal handling of potent or toxic substances. Specifically, Article 321 of the Criminal Code of Ukraine[2] provides for exemption from criminal liability for voluntary surrender of potent or toxic drugs, indicating their source of acquisition, or assisting in the disclosure of crimes related to their illegal trafficking. Article 405 of the Criminal Code of Armenia[4] stipulates exemption for voluntary surrender of potent or toxic substances and active assistance in exposing crimes related to their illegal trafficking. Article 240 of the Criminal Code of Azerbaijan[5] establishes exemption from criminal liability for voluntary surrender of potent or toxic substances, or active participation in suppressing, exposing such crimes, or identifying property obtained through criminal means related to the illegal circulation of such substances.

3. In Armenia (Article 405 of the Criminal Code), liability is established for advertising potent or toxic substances.

It is known that the Law of the Republic of Uzbekistan dated October 5, 2024 No. ZRU-971 "On amendments and additions to the Criminal, Criminal Procedure Codes of the Republic of Uzbekistan and the Code of the Republic of Uzbekistan on Administrative Responsibility aimed at combating the illegal trafficking of narcotic drugs, their analogues or psychotropic substances, as well as potent and poisonous substances"[26] established criminal liability in parts 1 and 2 of Article 251-1 of the Criminal Code, and administrative liability in Article 56-2 of

However, establishing liability in a single article for acts (crime compositions) with different objective and subjective characteristics, firstly, does not correspond to the structural design of the articles in the Special Part of our country's Criminal Code, and secondly, such a structure of the article creates certain difficulties in understanding its content and its practical application.

Therefore, it is advisable to exclude Parts 1 and 2 of Article 251-1 of the Criminal Code of our country, which establishes liability for advertising or promotion of substances of strong influence, and to establish liability for such acts in a separate article.

4. In Hungary (Article 185-3-q "a" b of the Criminal Code), liability for the transfer of substances of strong action to a minor is established in the aggravating part of the crime.

O.A. Burkina, who studied this issue, notes that the consumption of potent substances is becoming increasingly widespread year after year among the population, especially among young children and youth.[27]

Indeed, young people are the future of the country and the continuation of the nation. Their upbringing as physically healthy and intellectually mature individuals will be of great importance for the future development

of the country. The transfer of strong substances to minors leads to an increase in the consumption of such substances among them, which ultimately negatively affects their physical and mental development. For this reason, the social danger of administering highly potent substances to minors is considered high.

In our opinion, in Article 251-1 of the Criminal Code of our country, it is advisable to define the actions of "transferring substances of strong influence to a minor" as an aggravating circumstance of this crime.

As a result of a comparative analysis of the criminal legislation of the aforementioned foreign countries, it is proposed to improve the norm of our national legislation, which establishes liability for the illegal circulation of highly effective or toxic substances:

1. To exclude part 6 of Article 251-1 of the Criminal Code, which establishes liability for violation of the rules for the production, acquisition, storage, accounting, transfer, transportation or shipment of highly active or toxic substances, and to establish liability for such acts in a separate article of the Criminal Code.
2. Introduction of a stimulating norm on exemption from punishment if the person who committed the acts provided for in part 3 of Article 251-1 of the Criminal Code voluntarily confesses to the authorities and delivers strong-acting or poisonous substances, puts an end to crimes related to the illegal circulation of such substances or actively participates in their disclosure.
3. To exclude Parts 1 and 2 of Article 251-1 of the Criminal Code, which establishes liability for advertising or promoting articles of strong influence, and to establish liability for such acts in a separate article of the Criminal Code.

Article 251-1 of the Criminal Code defines the act of "transferring substances of strong action to a minor" as an aggravating circumstance of this crime.

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