

COMBAT THE ILLEGAL DISTRIBUTION OF DRUGS AND PSYCHOTROPIC SUBSTANCES INTERNATIONAL CONTRACTUAL BASIS AND CHARACTERISTICS OF DETENTION OF THIS CATEGORY OF CRIMINALS

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2nd Stage of Basic Doctorate of the

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ABSTRACT

This article examines the international contractual basis of the fight against the illegal distribution of narcotic drugs and psychotropic substances and the features of arresting this category of criminals. In the article, the formation of the fight against the illegal distribution of narcotic drugs and psychotropic substances and the international agreements adopted in this direction are thoroughly studied. As a central element of the article, the features of seizure, entities and procedures of seizure strengthened in the international agreements on the fight against the illegal distribution of narcotic drugs and psychotropic substances. Because of the conducted research, the characteristics of the considered contracts, their advantages and disadvantages have been revealed. Based on the results of the analysis, some suggestions have been made.

Keywords: narcotics, psychotropic substances, illegal trade, transnational organized crime, extradition, convention, single convention, treaty, UN, Uzbekistan.

INTRODUCTION

Illegal trade and distribution of narcotic drugs and psychotropic substances, especially the combination of illegal trade of narcotic drugs and psychotropic substances and terrorist activities, threatens the entire international community of states. Thus, at the 62nd session of the Interpol General Assembly, held in Oranjestad, Aruba, from September 29 to October 5, 1993, all delegates unanimously emphasized the threat of an unprecedented increase in drug trafficking[1].

Until the end of the 19th century, the distribution and trade in narcotics was considered a more or less legal trade and was not considered dangerous, nor did it constitute an international problem. However, by the beginning of the 20th century, a sharp increase in the use of non-medical drugs led to some restrictive measures, including, demanded acceptance at the international level as well.

RESEARCH METHODS

In 1909, the Shanghai Opium Commission was established [2] and in 1912 drug addict the first multilateral agreement on the organization of the international system of control of substances - the Hague Convention was adopted [3]. In accordance with it, a number of states provide for the responsibility for the illegal production, distribution and possession of narcotic drugs documents have been received.

The Hague Convention of 1912 was universal in that it was open to non-participating countries to sign without restriction [4]. However, the First World War by the end, only 41 countries had

signed the convention and only 16 state ratified it. However, at the same time, the number of drug addicts is increasing.

RESULTS AND DISCUSSIONS

World War I led to a significant expansion of non-medical drug use. Drug smuggling activities began and became more and more widespread [5]. It is no coincidence that the Convention on the Production, Internal Trade and Use of Opium for Smoking, signed in Geneva on February 11, 1925, and the International Convention on Opium, signed in Geneva on February 19, 1925, mention the fight against drug smuggling as one of the main tasks[6]. Articles 24 and 25 of the Geneva Convention empowered the Central Opium Board, which was established at the same time, to take certain measures against countries that could become centers of drug trafficking. It should be noted that the 1925 Convention is not legally binding for most countries [7]. The ineffectiveness of such control is the result of the fight against the illegal distribution of drugs in a number of countries had a negative impact.

The 1931 international convention was also aimed at implementing the principle of restricting the production and trade in narcotic drugs [8]. The world need for drugs used for medical purposes has been determined. Calculations were made on the basis of data on the use of medical drugs in the most developed countries. The Convention slightly expanded and supplemented the general provisions of the 1925 Convention[9] .

The adoption of conventions and agreements strengthened the control over drug trafficking to a certain extent, but the internal forms and methods of the fight were still not perfect.

The 1936 Convention for the Suppression of Illicit Traffic in Narcotic Drugs attempted to require contracting parties to prosecute those who aided and abetted the illicit traffic in narcotic drugs. In particular, punishment is provided for conspiracy to intentionally participate in the illegal sale of narcotic drugs was. However, the Convention did not become universal: some countries, not wanting to be bound by the obligations of the Convention, not only did not ratify it, but also refused to sign it.

During the Second World War, the effectiveness of domestic drug control systems and international cooperation in a number of states of the United States of America was significantly reduced.

On October 3, 1946, the Economic and Social Council of the United Nations approved the draft Protocol to amend the existing international narcotic treaties and submitted it to the UN General Assembly for consideration [10]. On December 14, 1946, after passing the appropriate procedure at the UN, this Protocol, briefly called "Narcotics Protocol", entered into force. According to it, about 20 types of narcotic drugs were brought under international control.

Previous conventions did not provide international control over synthetic substances that could cause addiction.

On the initiative of the Commission on Narcotic Drugs, on November 19, 1948, during the work of the third session of the UN General Assembly, the Protocol on the extension of international control of narcotic drugs not included in the 1931 Convention was signed [11]. Its provisions required countries to notify the United Nations of any substance whose use could lead to abuse. Despite these measures, the production of drugs and the use of non-medical drugs continued to increase. In addition, it started to worry the public more and more.

From January 24 to March 25, 1961, the next conference on the development of a new international multilateral treaty on narcotic drugs was held in New York [12]. The need for a new convention was explained by the fact that some provisions of the previously accepted conventions are outdated; drug addiction has not only not disappeared, but has become a problem that requires special attention due to the constant increase in the number of drug abusers.

The 1961 conference adopted the Single Convention on Narcotic Drugs and a number of resolutions: providing technical assistance to interested countries in combating the illicit traffic in narcotic drugs; drug addiction treatment methods; simplification of the international control apparatus; cooperation of states with the international police organization [13]. The Convention also introduced the division of narcotic drugs into four groups according to the level of danger and, accordingly, provided for international and local control measures over the consumption and circulation of these drugs.

The 1961 Single Convention on Narcotic Drugs is an international treaty aimed at combating drug addiction through international coordination. The convention stipulates, "Possession, use, sale and distribution of drugs (import/export), production should be carried out only for medical and scientific purposes".

A mechanism for providing annual estimates of drug requirements, production, use and consumption, imports and exports, and stockpiles by the Parties provided for in the 1961 Convention; the existence of a specialized state institution that grows poppies for poppy cultivation is one of the main means of controlling the circulation of narcotic drugs by the world community.

The Single Convention of 1961 directs the participating states to use criminal measures if it is not possible to stop the illegal circulation of drugs. The "pillar" of the Single Convention of 1961 is Article 36. This article provides a list and conditions of punishment for crimes related to illegal drug trafficking [14]. In addition, "Nothing prevents the Parties from applying stricter control measures than those provided for in this Convention to protect the health and welfare of the population" (Article 39).

The Convention introduces two additional forms of intervention and control: the first, preventive, legal, scientific and medical related to the drug market, and the second, essentially repressive, related to illegal trade, drugs and narcotics. Prevention, of course, is aimed at preventing the illegal circulation of drugs through medical and scientific channels, maintaining legal stocks of drugs is to establish an international cooperation of law enforcement agencies to punish and deter drug traffickers.

The 1961 Single Convention sets out a number of provisions on extradition too includes. For example, in subparagraphs a) and paragraph b) of Article 36 "The serious crimes mentioned above shall be investigated in the territory in which the crime was committed or in the territory where the Party or the criminal was found in the following cases:

- if committed by citizens of this country or foreigners,
- if withholding is not permitted under the laws of the requested Party,
- if he is brought to criminal responsibility and this criminal has not yet been brought to criminal responsibility and the sentence in his case has not yet been issued.

Furthermore, Article 36(b) of the 1961 Single Convention provides:

i) Each of the crimes listed in clauses 1 and 2 a, II of this article shall be included as an extraditable crime in any extradition treaty between the Parties. The parties undertake to include such crimes as extraditable crimes in any extradition agreement concluded between them.

ii) if a Party making extradition conditional on the existence of a treaty receives a request for extradition from another Party that does not have an extradition treaty, it may, at its discretion, consider this Convention as a legal basis for extradition in relation to the crimes specified in paragraphs 1 and 2 a, II of this article possible Seizure is carried out subject to other conditions stipulated by the legislation of the requested Party;

iii) Parties that do not associate extradition with the existence of a treaty shall consider as crimes the crimes leading to extradition in accordance with the conditions provided for in the legislation of the requested Party, listed in paragraphs 1 and 2 a, II of this article.

iv) Notwithstanding the provisions of subparagraph b of this paragraph i, II and III, if extradition is permitted under the laws of the requested Party, if the competent authorities of this Party consider that the crime in question is not sufficiently serious, this Party has the right to refuse extradition.

Thus, it may be noted that the Single Convention of 1961 contains very detailed provisions on extradition.

Some provisions of this convention were modified by the 1972 protocol. The changes concerned the need to organize treatment and rehabilitation as an alternative to imprisonment for drug addicts.

The 1972 Protocol amending the 1961 Single Convention on Narcotic Drugs entered into force on 8 August 1975. This once again showed the need to strengthen efforts to prevent the illegal production, transportation and use of narcotic drugs. The Protocol also expanded the powers of the International Narcotics Control Board to monitor the supply and demand balance of medicinal products for medical and scientific purposes.

Drug and substance abuse is taking on new forms and dimensions [15]. In particular, the development of vehicles has helped the drug to appear in areas where it was almost unknown until recently. A serious social risk is associated with the "epidemic of abuse of psychotropic substances, which is not yet under international control." It was officially recognized at the 23rd session of the UN General Assembly in December 1968.

From September 13 to 31, 1969 and September 1970, the UN Commission on Narcotic Drugs held a meeting in Geneva, which recognized the need for international control of new special "psychotropic substances" whose non-medical use, is dangerous to human health. The Commission considered and approved in principle a draft of a new international agreement (Protocol) aimed at strengthening control over the use and trafficking of synthetic drugs.

With the adoption of the Convention on Psychotropic Substances of 1971, not only psychotropic substances, but also preparations containing them were brought under international control, which allows stopping their illegal circulation. In accordance with the provisions of the Convention, the following obligations are imposed on the participating states:

Restriction of production, export, import, distribution and storage of psychotropic substances, their use, as well as restriction of trade and possession of these substances for medical and scientific purposes;

Establishment and management of a special department for the control of psychotropic substances;

Compliance with special rules of international trade related to a special procedure for issuing permits for export-import operations and a strict control regime up to prohibition and restriction of export and import.

States are taking measures against the abuse of psychotropic substances and their illegal circulation, including:

Household measures - preventive and repressive;

Support in the fight against the illegal circulation of psychotropic substances;

Measures to ensure rapid implementation of international cooperation between relevant bodies;

Specific penal system subject to the constitutional limitations of the state.

The 1971 Convention on Psychotropic Substances is similar to the 1961 Convention. It defines an international system for the control of psychotropic substances, which are mainly produced by the pharmaceutical industry. This is a specific response to the trend of diversification of the drug market and the growth of drug users. The Convention specifies a list of controlled synthetic drugs (hallucinogenic, stimulant, hypnotic, sedative and irritant).

The 1971 Single Convention, like the 1961 Single Convention, contains a number of retention provisions. For example, sub-paragraph b) of paragraph 2 of Article 22 defines: "Crimes specified in paragraph 1 and sub-paragraph 2 of paragraph 2 and crimes for which the perpetrators may be apprehended, which do not link extradition to the existence of a contract or mutual agreement in the relations between any of the Parties if recognized as

It may be noted that the Uniform Convention of 1971 contains a complete list of withholdings. However, this extradition text is very difficult to understand and translate into national languages, so we believe that the authenticity of the translation cannot be achieved.

The 1988 convention was the response of the world community to the growth of illegal cultivation of raw materials, production and trade of narcotics. The Convention envisages new methods of comprehensive fight against illegal drug trafficking. For example, some of its provisions are aimed at combating money laundering and limiting the illegal trade of chemicals necessary for the production of drugs. The Convention also lays down rules for international cooperation in the investigation of drug-related crimes, the apprehension of criminals and the procedures for their extradition to the requesting state.

Special measures against illicit traffic in narcotic drugs and psychotropic substances are provided for in the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

1961 Single in addition to the criminal offenses listed in the convention, for the first time transfer of property obtained from the illicit circulation of narcotics, concealing the true nature and source of such property, possession or use of equipment, materials and such as possession of substances is implied.

The 1988 Convention focuses on the use of sanctions such as imprisonment, other forms of deprivation of liberty, confiscation and, in the first instance, fines, as well as measures such as rehabilitation or social reintegration of the offender. The second, in minor cases, is used as measures to which the participants of the Convention have the right to commit crimes. (could not be corrected).

In accordance with this Convention, the parties are also obliged to take the necessary measures to confiscate the illicitly used narcotic drugs and psychotropic substances and their proceeds (Article 5). However, to the 1961, 1971 and 1988 conventions according to "They do not have uniform rules for determining the amount of narcotic drugs and psychotropic substances", which significantly affects the development of a common approach within the framework of international cooperation in determining the severity of the committed offense or crime[16].

The 1988 Convention envisages a number of new forms of cooperation, such as the method of controlled delivery, according to which illegal or suspected consignments of narcotic drugs and psychotropic substances are taken into the territory of one or more countries, transported or imported into the illicit circulation of narcotic drugs and psychotropic substances, is allowed under the knowledge and control of competent authorities in order to identify related persons. Article 6 (Detention) of the 1988 Convention contains the most detailed provisions on detention. Each of the offenses to which Article 6 applies shall be deemed to be included as an extraditable offense in any extraditable treaty existing between the Parties. The parties undertake to include such crimes in the category of crimes that can be detained in any agreement concluded between them.

If a Party that has made extradition conditional on the existence of a treaty receives a request for extradition from another Party without an extradition treaty, it may consider the 1988 Convention as the legal basis for extradition in respect of any offense to which Article 6 applies. Parties that require detailed legislation to use the 1988 Convention as a legal basis for extradition will consider adopting the necessary legislation.

Parties that do not associate retention with the existence of a contract while they recognize the crimes to which Article 6 is applied as crimes subject to mutual arrest.

Withholding shall be subject to the conditions provided for in the laws of the Requested Party or in applicable treaties on withholding, including the grounds on which the Requested Party may refuse to withhold. Pursuant to Article 6, in the consideration of requests received, if its judicial or other competent authorities, their implementation would facilitate the prosecution or punishment of any person on the basis of race, religion, nationality or political opinion, or any person to whom the request relates for any of these reasons. the Requested Party may refuse to comply with such requests if it has serious grounds to believe that it will harm the Party.

For crimes to which Article 6 applies, the Parties shall endeavor to expedite the extradition process and to simplify the evidentiary requirements associated therewith.

Subject to its national law and the provisions of its extradition treaties, the Requested Party shall, upon the request of the Requested Party, upon the request of the Requested Party, when satisfied that the circumstances so warrant and of urgency, take into custody the person requested to be extradited and who is in its territory, or take other appropriate measures to ensure his presence during the extradition process, can take measures.

Without prejudice to the exercise of criminal jurisdiction established by the national law of the Party in whose territory the suspected criminal is located,

a) if he does not extradite him on the grounds specified in sub-paragraph "a" of paragraph 2 of Article 4, because he committed a crime in accordance with paragraph 1 of Article 3, for the

purpose of exposing the crime, unless there is a different agreement with the requesting Party; submits the case to its competent authorities ;

(b) if it does not extradite him in respect of such offense and has established jurisdiction over that offense in accordance with article 4, paragraph 2, subparagraph (b), unless the requesting Party makes another request to retain its legal jurisdiction, prosecute submits the case to its competent authorities.

If the extradition of the requested person to the execution of the sentence is refused because the requested person is a citizen of the requested Party, the requested Party shall, if its laws permit and in accordance with its provisions, upon application by the requested Party, consider the execution of the sentence or the remainder of the sentence issued in accordance with the laws of the requested Party, comes out.

The parties try to conclude bilateral and multilateral agreements in order to implement or increase the efficiency of the withholding. Parties who have been sentenced to imprisonment or other forms of deprivation of liberty for offenses applicable to their countries under article 6 may consider concluding bilateral or multilateral agreements of a specific or general nature for the extradition of persons to serve the remainder of their sentence in those countries. .

In our opinion, based on our analysis of more than 40 multilateral treaties in various areas of evidence, the 1988 Convention contains arguably the most detailed provisions on extradition.

As of March 2012, 178 countries are parties to the Single Convention on Narcotic Drugs of 1961, 173 countries to the 1971 Convention on Psychotropic Substances, and 163 countries to the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Uzbekistan participated in the first two conventions. Over time, the influence of international agreements to combat drug trafficking has increased [17].

It can be seen that the United Nations Convention against Transnational Organized Crime (Palermo, December 12, 2000) occupies one of the central places in the fight against international crime, in particular, in the field of illegal trafficking of narcotic drugs and psychotropic substances.

The 2000 Convention includes the following main areas of combating transnational organized crime:

First, taking legislative measures to criminalize intentional acts listed in the Convention by the state party. For example, legalization of proceeds from crime, corruption, etc. are among them. Secondly, inclusion of all crimes committed as part of organized criminal groups in the category of "serious crimes". All these crimes can be committed at sea. In particular, as mentioned above, the illegal circulation of drugs by sea is almost impossible without the involvement of corrupt elements in the customs, armed forces, etc. Of course, an organized criminal group can only carry out the transportation of drugs on ships. This group includes both ship's crew members, persons located in the countries from which the drugs are shipped, as well as persons receiving the drugs. Such criminal groups, as a rule, have a transnational character.

Thirdly, as a mechanism to combat the growth of transnational crime, it is possible to conditionally consider a system of reporting by the participating state to the UN Secretary General on the development of national legislation in the field of regulation.

Fourthly, organization of international cooperation on confiscation of proceeds of crime, property, equipment or other means of committing crime, arrest of offenders, provision of

mutual legal assistance, as well as any other not inconsistent with the domestic legislation of the requested participating state types of support are provided.

In addition, the Convention focuses on the creation of a system for the prevention of abuse of legal entities in order to prevent the use of tender procedures by organized criminal groups, subsidies and licenses for commercial activities, and the use of legal entities by state authorities. .

Based on these, it is proposed to create a state register of legal entities and individuals participating in the establishment, management and financing of legal entities. It is also possible to maintain a register of persons convicted of the crimes provided for in this Convention and deprived of the right to occupy management positions of legal entities.

The 2000 Convention contains a specific provision on withholding. Article 16 (Detention) of the 2000 Convention contains 17 provisions on detention. It is the most detailed of all multilateral industrial agreements.

In accordance with Article 16 of the 2000 Convention, if the requested person is located in the territory of a State Party, if the act for which extradition is requested is considered a criminal offense under the domestic law of both the requested State Party and the requested State Party, this Article applies to the crimes provided for in this Convention or organized crime. It is used in cases where the group and the person requested to be detained have participated in the commission of the crime specified in clauses 1 a or b of Article 3.

If a withholding request of while some relate to several separate serious crimes not covered by article 16, the requested State party may also apply article 16 to these latter crimes.

Each of the offenses to which Article 16 applies shall be deemed included as an extraditable offense in any extradition treaty existing between States Parties. Participating States undertake to include such crimes in the range of crimes that may be apprehended in any treaty concluded between them.

If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State without an extradition treaty, it may consider the 2000 Convention as the legal basis for extradition for any crime to which Article 6 applies.

States Parties requiring the existence of an extradition treaty:

- a) when depositing instruments of ratification, acceptance or approval of the 2000 Convention, or when acceding to it, notify the UN Secretary General that they will use it as a legal basis for cooperation with other States Parties to the 2000 Convention on extradition; and
- b) if they do not use the 2000 Convention as a legal basis for cooperation in extradition matters, seek to conclude extradition treaties with other States Parties to the 2000 Convention, as appropriate, for the purpose of applying Article 16.

States Parties that are not bound by an extradition treaty shall mutually recognize the offenses to which Article 16 applies as extraditable offences.

Seizure shall be subject to the conditions provided for in the domestic law of the requested State Party or in applicable extradition treaties, including, without limitation, minimum penalty requirements for extradition and the grounds on which the requested State Party may refuse extradition. is increased.

In respect of any offense to which Article 16 applies, States Parties shall, subject to their domestic laws, endeavor to expedite extradition procedures and to simplify the evidentiary requirements relating thereto.

Subject to its domestic law and the provisions of its extradition treaties, the requested State Party may, at the request of the requesting State Party, upon the request of the requested State Party, when it is satisfied that the conditions are absolutely necessary and urgent, detain or extradite the requested person in its territory may take other appropriate measures to ensure that

A State Party in whose territory a person is suspected of having committed a crime, if it does not extradite such a person in connection with the crime to which this Article applies because he is one of its citizens, at the request of the State Party requesting the detention, without undue delay, the case shall be brought to its competent authorities for the purpose of prosecution, must send. These authorities shall make their decisions and conduct their proceedings in the same manner as with respect to any other crime of a dangerous nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other to ensure the effectiveness of such prosecutions, particularly in matters of procedure and evidence.

In all cases in which a State Party is authorized to extradite or otherwise detain one of its nationals under its domestic law, only on the condition that the person in question be returned to that State to serve the sentence imposed because of proceedings or judicial proceedings for which extradition or extradition is requested. , and that the requested State Party has agreed to such procedure and such other conditions as they deem necessary, such conditional detention is sufficient to fulfill the obligation under Article 16, paragraph 10 of the 2000 Convention.

If the extradition requested for the purpose of execution of the sentence is refused because the person sought is a national of the requested State Party, the requested Party, if its domestic law so permits and is in accordance with the requirements of this law, may, upon application by the requested Party, consider the sentence entered in accordance with the domestic law of the requesting Member, or part of the sentence considers the issue of execution of the remaining part.

Nothing in the 2000 Convention shall be construed as an obligation to extradite in the following circumstances: If the requested State Party has substantial grounds to believe that the charge has been made, the request for extradition may criminalize any person on grounds of sex, race, religion, national origin, ethnic origin or political opinion. If it is made for the purpose of punishment or punishment, or if the satisfaction of the request may harm the position of this person for any of these reasons. At the same time, States Parties cannot refuse to comply with an extradition request because the crime involves fiscal matters. Before denying withholding, the requested State Party shall hold consultations to provide the requested State Party with an adequate opportunity to express its views and provide information relevant to the facts raised in its request.

Participating States shall endeavor to conclude bilateral and multilateral agreements or arrangements to implement or improve the effectiveness of extradition.

Thus, the analysis carried out shows that the 2000 Convention contains a very detailed list and grounds for withholding. However, the 2000 Convention does not impose an obligation on the

State to extradite any person. The state can refuse to withhold in the following cases. If the State has substantial grounds to believe that the request for extradition is made for the purpose of prosecuting or punishing any person on the basis of sex, race, religion, national origin, ethnic origin, or political opinion, or that granting the request would prejudice the status of that person for any of these reasons if they have.

CONCLUSION

In conclusion, we note that the 1961, 1971, 1988 and 2000 anti-narcotics conventions on extradition very there are detailed rules. All four conventions contain specific articles on withholding. The 1988 and 2000 conventions contain the most detailed provisions on extradition. All conventions encourage States Parties to try to conclude bilateral and multilateral agreements or arrangements to implement or improve the effectiveness of withholding.

A notable exception to the 1988 and 2000 Conventions is that a State Party may, in accordance with its domestic law, extradite or otherwise extradite one of its nationals only to serve a sentence imposed because of proceedings or judicial proceedings in which extradition or extradition is requested. This is allowed on the condition that the person is returned to this State. This innovation is a conditional extradition provision.

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