

JOURNAL OF FUNDAMENTAL STUDIES

ЖУРНАЛ ФУНДАМЕНТАЛЬНЫХ ИССЛЕДОВАНИЙ
ФУНДАМЕНТАЛ ТАДҚИҚОТЛАР ЖУРНАЛИ

Volume II | Issue 1 | January | 2024

ISSN: 2181-4031



Available online at www.imfaktor.com

ISSN: 2181-4031
DOI Journal 10.56017/2181-4031

ФУНДАМЕНТАЛ ТАДҚИҚОТЛАР ЖУРНАЛИ

II-ЖИЛД, I-СОН

ЖУРНАЛ ФУНДАМЕНТАЛЬНЫ ИССЛЕДОВАНИЙ

ТОМ- II, НОМЕР-1

JOURNAL OF FUNDAMENTAL STUDIES

VOLUME-II, ISSUE-1

ТОШКЕНТ – 2024

ФУНДАМЕНТАЛ ТАДҚИҚОТЛАР ЖУРНАЛИ

ЖУРНАЛ ФУНДАМЕНТАЛЬНЫХ ИССЛЕДОВАНИЙ | JOURNAL OF FUNDAMENTAL STUDIES

№ 1 (2024) DOI <http://dx.doi.org/10.56017/2181-4031-2024-1>

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Мазкур журнал 6 та халқаро маълумотлар базаларида индексланган бўлиб, жорий йил учун UIF 2023 = 7.5 “импакт-фактор” кўрсаткичига эга.

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Саҳифаловчи\Page Maker\Верстка: Абдурахмон Хасанов

Таҳририят манзили: Тошкент шаҳар, Учтепа тумани, “Ватан” МФЙ, Чилонзор 24-мавзеси, 2/27-уй. Почта индекси 100152. Веб-сайт: www.imfaktor.uz/com

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ФУНДАМЕНТАЛ ТАДҚИҚОТЛАР ЖУРНАЛИ

ЖУРНАЛ ФУНДАМЕНТАЛЬНЫХ ИССЛЕДОВАНИЙ | JOURNAL OF FUNDAMENTAL STUDIES

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COOPERATION BETWEEN STATES IN THE FIGHT AGAINST ILLEGAL DRUG TRAFFICKING

ANNOTATION

The problem of the spread of drug addiction, abuse of narcotic drugs and psychotropic substances is relevant in almost all countries of the world. Illegal drug trafficking has acquired a global scale in recent decades and has a very serious impact on the socio-psychological atmosphere in society, negatively affecting the economy, politics and law and order. The primary objective of international conventions in the field of control of narcotic drugs and psychotropic substances is to meet legitimate health needs while simultaneously preventing the inclusion of dangerous substances in illicit trafficking. The article examines the history of the formation and current state of international legal regulation of the legal circulation of narcotic drugs and psychotropic substances.

Key words: narcotic drugs, psychotropic substances, international legal regulation, UN Convention on Narcotic Drugs and Psychotropic Substances, system of international control over the circulation of narcotic drugs and psychotropic substances.

DAVLATLARNING GIYOHVANDLIK VOSITALARNI NOQONUNIY AYLANISHIGA QARSHI KURASHISHDA HAMKORLIGI

АННОТАЦИЯ

Giyohvandlik vositalar va psixotrop moddalarni noqonuniy aylanishi muammosi dunyoning deyarli barcha mamlakatlarida dolzarbdir. Giyohvand vositalarning noqonuniy aylanishi soʻnggi oʻn yilliklarda global miqyosga ega boʻlib, jamiyatdagi ijtimoiy-psixologik muhitga oʻta jiddiy taʼsir koʻrsatib, iqtisodiyot, siyosat va huquq-tartibotga salbiy taʼsir koʻrsatmoqda. Giyohvandlik vositalari va psixotrop moddalarni nazorat qilish sohasidagi xalqaro konventsionalarning asosiy maqsadi sogʻliqni saqlashning qonuniy ehtiyojlarini qondirish va bir vaqtning oʻzida xavfli moddalarning noqonuniy aylanishiga yoʻl qoʻymaslikdir. Maqolada giyohvandlik vositalari va psixotrop moddalarning qonuniy muomalasini xalqaro huquqiy tartibga solishning shakllanish tarixi va hozirgi holati koʻrib chiqilgan.

Kalit soʻzlar: giyohvandlik vositalari, psixotrop moddalar, xalqaro huquqiy tartibga solish, giyohvandlik vositalari va psixotrop moddalar toʻgʻrisidagi BMT konvensiyalari, giyohvandlik vositalari va psixotrop moddalarning muomalasi ustidan xalqaro nazorat tizimi.

СОТРУДНИЧЕСТВА ГОСУДАРСТВ В БОРЬБЕ С НЕЗАКОННЫМ ОБОРОТОМ НАРКОТИЧЕСКИХ СРЕДСТВ

АННОТАЦИЯ

Проблема распространения наркомании, злоупотребления наркотическими средствами и психотропными веществами является актуальной практически во всех странах мира. Незаконный оборот наркотических средств приобрел в последние десятилетия глобальный масштаб и самым серьезным образом сказывается на социально-психологической атмосфере в обществе, отрицательно влияет на экономику, политику и правопорядок. Первостепенной задачей международных конвенций в сфере контроля за оборотом наркотических средств и психотропных веществ является обеспечение законных потребностей здравоохранения при одновременном противодействии включению опасных веществ в незаконный оборот. В статье рассматривается история становления и современное состояние международно-правового регулирования легального оборота наркотических средств и психотропных веществ.

Ключевые слова: наркотические средства, психотропные вещества, международно-правовое регулирование, Конвенции ООН по наркотическим средствам и психотропным веществам, система международного контроля над оборотом наркотических средств и психотропных веществ.

Currently, there is not a single state that is not aware of the danger and harmful consequences of illicit drug trafficking for humanity.

In the United States of America, where drug addiction has long been a national disaster, increasingly alarming assessments of the current situation are being heard. Thus, one of the US federal judges, during his speech in New York in December 1989, expressed the opinion that “the war on drugs is reminiscent of a civil war, which has to be waged in one’s own rear - in every school and university, in a residential building, in the workplace and in families.

This is a “war” in which illegal business finds support from legal ones and where anyone who benefits from it can become a participant in illegal business” [1].

The problem of drug abuse and illicit trafficking has become particularly relevant for the Republic of Belarus. As noted in the State Program of Comprehensive Measures to Combat the Abuse of Narcotic Drugs and Psychotropic Substances and Their Illicit Trafficking for 1997–2000, during the period from 1991 to 1996 the number of drug-related crimes in Belarus tripled, the volume of seized drugs funds during this period increased sixfold, and the number of registered drug addicts increased threefold.

In addition, “there is a strong connection between drug trafficking and other related forms of organized crime. Criminal communities are being formed, and the receipt of large profits allows them to have a destabilizing influence on society by disrupting and corrupting legitimate trade and financial activities.”

A disjointed fight against drug trafficking is futile. Most states have realized the need to coordinate efforts. The first steps towards creating an international legal basis for such cooperation were taken back in 1909, with the creation of the Shanghai Opium Commission.

Currently, there are a number of international agreements of a universal nature in force aimed at combating illicit trafficking in narcotic drugs - the Single Convention on Narcotic Drugs of 1953, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (The Republic of Belarus is a party to the above agreements).

In addition, there are regional and bilateral agreements regulating cooperation between states in the fight against illicit drug trafficking. Thus, on July 12, 1996, an Agreement was concluded between the Government of the Republic of Belarus and the Government of the Republic of Lithuania on cooperation in the fight against violations of customs legislation, which provides for forms of cooperation in the field of combating illicit drug trafficking [2].

In addition, the Republic of Belarus is a party to a number of regional agreements on combating drug trafficking. These include the Agreement on interaction and cooperation of customs services in the fight against illicit trafficking in narcotic drugs and psychotropic substances of July 8, 1994 and the Agreement on cooperation of member states of the Commonwealth of Independent States in the fight against crime of November 25, 1998 [3].

However, the very fact of the existence of agreements on the fight against drug trafficking does not yet solve the problem of countering this evil. It is necessary for these agreements to work effectively. This, in turn, depends on many factors, the most important of which is a clear mechanism of international legal control over compliance with agreements in this area. In this regard, there is a need to study such a mechanism in order to determine its effectiveness, the place and role of its components.

Such control is a way of ensuring that states fulfill their obligations under international agreements. During control activities, the compliance of states' actions with their international obligations is established.

At the same time, international control over compliance with agreements is not limited to just ascertaining the fact of fulfillment or non-fulfillment of their obligations by states. In the process of its implementation, the causes of shortcomings are analyzed and specific recommendations are developed to eliminate them.

International legal control over compliance with agreements on cooperation between states in the fight against illicit drug trafficking is carried out mainly in two main areas. The first direction is to vest existing international organizations with special functions in order to combat illicit drug trafficking.

Thus, within the framework of the International Civil Aviation Organization (ICAO), work is being carried out to prevent the smuggling of drugs transported by air; The Universal Postal Union (UPU) is participating in the development of a system of measures aimed at suppressing the transfer of narcotic drugs in international mail; The Food and Agriculture Organization of the United Nations (FAO) is addressing the issue of converting drug crop plantations to conventional agriculture; The World Health Organization (WHO) pays great attention to the treatment and rehabilitation of drug addicts, etc [4].

To effectively implement the above functions, each organization creates its own control system. The second direction is the creation of special control bodies based on specific international agreements to combat drug trafficking.

Before the adoption of the Single Convention on Narcotic Drugs in 1961, international monitoring of compliance with agreements on combating illicit drug trafficking was carried out by four organizations:

- Commission on Narcotic Drugs, which exercised general control and developed a unified policy in this area;
- The Permanent Central Committee on Opium, which since 1965 was renamed the Permanent Central Committee on Narcotic Drugs;
- Control body on narcotic drugs (the last two bodies were involved in collecting statistical information on drugs, were in charge of issues of international trade in narcotic drugs and calculating their needs for states);
- The Committee of Experts on Noxious Drugs of the World Health Organization, which exercised international control over the distribution of narcotic drugs and dealt with the medical aspects of drug addiction [5].

Currently, a comprehensive system of international control over compliance with agreements on cooperation between states in the fight against illicit drug trafficking has emerged, which is designed to implement an integrated approach to solving this problem. An important place in it is occupied by the Commission on Narcotic Drugs (CND) and the International Narcotics Control Board (INCB), which belong to the second direction of international control.

The Commission on Narcotic Drugs was established in accordance with ECOSOC resolution 9 (I) of February 16, 1946. It consists of representatives of forty states elected by ECOSOC for a period of 4 years [6].

The main functions of the Commission are:

- monitoring the application of international treaties on the control of narcotic drugs and psychotropic substances;
- preparation of draft international treaties;
- organization of work to amend the lists attached to international treaties;
- implementation of instructions of the UN Economic and Social Council on drug control issues.

The International Narcotics Control Board was established in 1968 in accordance with the Single Convention on Narcotic Drugs of 1961 and was the successor to a number of international bodies, the first of which was created more than 60 years ago [7].

The Committee consists of 13 members elected by the UN Economic and Social Council for a period of 5 years. Three members of the committee must have medical, pharmacological or pharmaceutical experience and be selected from a list of candidates submitted by the World Health Organization.

All members of the International Narcotics Control Board serve in their personal capacity and do not represent their governments.

The main functions of INCB are:

- control over the fulfillment by states of obligations arising from international agreements on combating illicit drug trafficking;
- preventing the diversion of narcotic drugs into illicit trafficking;
- control over the legal circulation of narcotic drugs in the world to maintain a balance between the production and use of drugs for medical and scientific purposes;
- providing assistance to states in solving problems related to the control of narcotic drugs and the fight against their illicit trafficking [8].

In accordance with Article 20 of the Single Convention on Narcotic Drugs of 1961, States Parties provide the International Narcotics Control Board with statistical information on the following issues:

- production or manufacture of narcotic drugs;
- the use of narcotic drugs for the manufacture of other narcotic drugs, drugs included in Schedule III and substances not covered by the provisions of the Single Convention on Narcotic Drugs, as well as the use of poppy straw for the manufacture of narcotic drugs;
- drug consumption;
- import and export of narcotic drugs and poppy straw;
- seizure and disposal of narcotic drugs;
- warehouse stocks of narcotic drugs.

At the same time, according to paragraph 4 of the same article, state parties "are not required to report statistical information on special warehouse stocks, but provide separate information on narcotic drugs imported into a given country or territory or acquired in a given country or territory for special purposes, as well as quantities of narcotic drugs seized from special warehouses to meet the needs of the civilian population."

Information on the state of affairs in the field of combating illicit drug trafficking can be obtained by the International Narcotics Control Board not only from the statistical reports submitted to it. INCB holds periodic consultations and participates in special missions established jointly with interested governments.

In addition, the International Narcotics Control Board actively cooperates with the United Nations International Narcotics Control Program, the United Nations Economic and Social Council, the Narcotics Control Commission, as well as with such specialized organizations as the Universal Postal Union, the Food and Agriculture Organization, World Health Organization, International Civil Aviation Organization, etc.

The Committee also interacts with international organizations outside the UN system, especially with the International Criminal Police Organization (Interpol).

The source of information that INCB receives from international organizations is primarily their reports, for example, reports of the International Criminal Police Organization and the World Customs Organization on drug trafficking and seizures, reports and special studies of the World Health Organization on drug abuse, etc.

In addition, members of the International Narcotics Control Board have the authority to conduct investigations into certain categories of reports of drug trafficking. The results of such research activities, after study, analysis and synthesis, are included in the annual report of the Committee to the UN Economic and Social Council.

A major role in obtaining information from the INCB is played by visits by representatives of various states and local studies of issues within its competence. Messages on issues related to illicit drug trafficking published in specialized publications and the media do not go unnoticed by the Committee.

Based on the analysis of the information received, the International Narcotics Control Board identifies shortcomings in the international and national drug control systems and provides assistance in eliminating them. In this case, special attention is paid to studying the effectiveness of national legal systems and their ability to resist drug trafficking.

Thus, in particular, INCB analyzes the national legislation of various states regulating the legal circulation of narcotic drugs in order to identify shortcomings and make proposals and recommendations aimed at eliminating them. This area is one of the main ones in the activities of the International Narcotics Control Board, since omissions in organizing an effective system of legal drug trafficking by one state leads to their easier distribution in other countries.

Control is also exercised over precursors and chemicals used in the illegal manufacture of drugs. The main role in the fight against illicit drug trafficking is played by law enforcement agencies and special services of various states. In this regard, the International Narcotics Control Board does not ignore their activities.

In particular, priorities in the field of law enforcement activities in the fight against drug trafficking are analyzed and measures to adjust them are proposed. Thus, in recent years, INCB has strongly recommended that states focus their main law enforcement efforts on identifying and neutralizing the activities of drug traffickers at the highest level, as well as creating joint groups to combat transnational crime syndicates [9].

The criminal justice system of various states is also seriously assessed by the Committee. In this area of activity, INCB recommends measures that will enhance its effectiveness.

These measures, in particular, include the following:

- introduction of alternative punishment instead of imprisonment for persons convicted of possession of small quantities of narcotic drugs;
- expansion of mutual legal assistance of states in the investigation and prosecution of criminals;
- the creation in certain regions of the world of regional courts with the authority to conduct trials of the largest cases related to illicit drug trafficking, etc.

Particular emphasis in improving the criminal justice system is placed on aspects related to combating the legalization of proceeds from drug trafficking. In this regard, the International Narcotics Control Board, based on an analysis of the fight against this crime, proposes such unconventional measures as:

- simplification in some cases of the rules of evidence in order to increase the efficiency of the investigation of this category of cases;
- obliging persons guilty of committing crimes related to the legalization of criminal proceeds to prove the legality of the sources of origin of property subject to confiscation [10].

Of particular note is the INCB's attention to issues related to the extradition of persons involved in drug trafficking. In this regard, recognizing that the absence of extradition treaties concluded between states reduces the effectiveness of the fight against drug traffickers, the Committee recommends using directly the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 as a legal basis for the extradition of criminals.

If States fail to comply with their obligations in the field of combating drug trafficking, INCB “has the right to request an explanation from the government of the country or territory in question” and also “to recommend that Parties suspend the importation of narcotic drugs, the exportation of narcotic drugs, or both, into that country or territory or from a given country or territory, either for a specified period or until the Committee considers the situation in that country or territory to be satisfactory.”

In its activities, the International Narcotics Control Board faces certain difficulties, the main ones being:

- lack of data on drug control issues for individual countries;
- lack of data on certain problems in the fight against drug trafficking;
- the absence of a single unified system of indicators on various aspects of state activities related to the problems of suppressing illicit drug trafficking, and therefore these indicators only approximately reflect the state of affairs and do not allow for a qualitative comparison of relevant indicators between different countries.

Thus, there is a certain system of monitoring compliance by participating states with agreements on combating illicit drug trafficking. The International Narcotics Control Board plays an important role in this system. Its activities provide significant assistance to states in countering drug trafficking.

In this regard, the difficulties arising in its activities must be overcome through the joint efforts of all states. First of all, this concerns eliminating shortcomings in the mechanism for providing information of interest to INCB. This information must meet the requirements of the Committee and be grouped in the following areas:

- number of states that have acceded to international drug control treaties;
- quantity of drugs seized;
- data on illicit trafficking of various types of drugs in specific countries and regions;
- number of drug abusers;
- data on programs in the field of treatment and rehabilitation of drug addicts;
- information on national drug control mechanisms, etc.

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