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## COMBATING DRUG CRIME AS A COMPLEX SYSTEM OF LEGAL REACTION OF LAW ENFORCEMENT AGENCIES TO CRIMINAL PHENOMENA

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**Ступник Я.В., Марценишин Ю.І., Гецко М.М., Мацола А.А. Протидія наркозлочинності як комплексна система правової реакції правоохоронних органів на злочинні явища.**

У статті проведено кримінологічний аналіз основних елементів механізму запобігання наркозлочинності як комплексної системи правової реакції правоохоронних органів на злочинні явища, що характеризується цілісним комплексом взаємопов'язаних елементів та на цій основі сформульовано досліджуване поняття та показано відмінності між найближчими суміжними категоріями.

Визначено, що поняття механізм протидії злочинності у сфері незаконного обігу наркотиків як категорія має подвійне значення. Складність вибору підходу до визначення складових системних елементів механізму зумовлює і складність самого досліджуваного поняття. Ви-

вчення механізму як системи з усіма його взаємозв'язками допомогло повною мірою розкрити сенс цього поняття. Що стосується такого соціального явища, як протидія наркозлочинності, то поняття «механізм» необхідно використовувати переважно в практичному аспекті, маючи на увазі досягнення певних результатів кримінологічного впливу від діяльності правоохоронних органів. При цьому поняття «механізм запобігання злочинності» дійсно пов'язане з поняттям «профілактика злочинності».

Механізм запобігання наркозлочинності в його розумінні розглядається як системна і комплексна конструкція, яка може трактуватися в рамках різних підходів. Ці підходи, що дозволяють використовувати дослідницький потенціал інших наук (переважно психології, кібернетики, соціології, різних галузей правових наук, що вивчають різні аспекти управління), спрямовані на розкриття окремих, часом дуже важли-

вих, сторін діяльності з протидії злочинності і її механізмів.

За результатами проведеного дослідження зроблено висновок, що механізм протидії наркозлочинності розглядається як таке системне утворення (всі сукупності як єдине ціле) норм, принципів, інститутів (державно-правових і соціально-політичних), форм, методів і засобів ( організаційні, правові, економічні, соціально-психологічні), зв'язки і відносини, за допомогою яких здійснюється кримінологічний вплив правоохоронних органів на конкретні об'єкти для досягнення визначених цілей. При цьому вузькому (буквальному) розумінні цей механізм – це сукупність форм, методів і засобів, що використовуються окремими суб'єктами для здійснення широкої діяльності у сфері протидії наркозлочинності. Визначено, що кримінологічною доктриною і практикою охорони правопорядку підтверджено, що динаміку й структуру сучасної наркозлочинності визначають не лише традиційні, давно вивчені фахівцями причини та умови цього негативного соціального феномену, але й специфічні криміногенні чинники, зумовлені різноманітними кризовими явищами й процесами, породжені новими складними соціально-економічними та внутрішньополітичними реаліями, в яких опинилось українське суспільство.

**Ключові слова:** наркозлочинність, правоохоронні органи, механізм протидії наркозлочинності, діяльність, функціонування, ефективність.

**Stupnyk Ya.V., Martsenyshyn Iu.I., Hetsko M.M., Matsola A.A., Combating drug crime as a complex system of legal reaction of law enforcement agencies to criminal phenomena.**

The article carries out a criminological analysis of the main elements of the drug crime prevention mechanism as a complex system of legal response of law enforcement agencies to criminal phenomena, characterized by an integral complex of interrelated elements, and on this basis the researched concept is formulated and the differences between the closest adjacent categories are shown.

It was determined that the concept of the mechanism of combating crime in the field of illegal drug trafficking as a category has a double meaning. The complexity of choosing an approach to determining the constituent system elements of the mechanism also determines the complexity of the studied concept itself. The study of the mechanism as a system with all its interrelationships helped to fully reveal the meaning of this concept. As for such a social phenomenon as countering drug crime, the concept of «mechanism» must be

used mainly in a practical aspect, bearing in mind the achievement of certain results of criminological influence from the activities of law enforcement agencies. At the same time, the concept of «crime prevention mechanism» is really related to the concept of «crime prevention».

The mechanism of drug crime prevention in his understanding is considered as a systemic and complex construction that can be interpreted within the framework of different approaches. These approaches, which make it possible to use the research potential of other sciences (mainly psychology, cybernetics, sociology, various branches of legal sciences that study various aspects of management), are aimed at revealing certain, sometimes very important, aspects of crime prevention and its mechanisms.

Based on the results of the conducted research, it was concluded that the mechanism of combating drug crime is considered as such a system formation (all aggregates as a single entity) of norms, principles, institutions (state-legal and socio-political), forms, methods and means (organizational, legal, economic, socio-psychological), connections and relations, with the help of which the criminological influence of law enforcement agencies on specific objects is carried out in order to achieve certain goals. In this narrow (literal) understanding, this mechanism is a set of forms, methods and means used by individual subjects to carry out broad activities in the field of combating drug crime. It was determined that the criminological doctrine and practice of law enforcement confirmed that the dynamics and structure of modern drug crime are determined not only by the traditional causes and conditions of this negative social phenomenon, long studied by specialists, but also by specific criminogenic factors caused by various crisis phenomena and processes, generated by new complex social – economic and domestic political realities in which Ukrainian society found itself.

**Key words:** drug crime, law enforcement agencies, mechanism for drug related crime prevention, activity, functioning, and efficiency.

**Problem setting.** Under the process of developing constitutional state, the problem of enhancing the mechanism of administration in all spheres of public life becomes an important and urgent task. There is an urgent need in further development of democratic backgrounds for life-sustaining activity, preliminarily based on improvement of legislation, keeping law and order, increasing discipline and course of law. Therefore, the notion “mechanism” is widely used as a legal category in the law-related and specialized literature.

**Analysis of recent researches and publications.** Some aspects of the studied problem have been the subject for studies by native and foreign scholars as Y.M. Antonjan, O.M. Bandurka, V.I. Borysov, I.H. Bohatyrvov, I.M. Danshyn, O.M. Dzhuzha, A.I. Dolhova, P.L. Fris, V.V. Holina, M.S. Hrupp, O.I. Gurov, N.O. Gutorova, O.H. Kalman, I.I. Karpets, V.V. Kovalenko, O.H. Kolba, Y.Y. Kondratyev, M.V. Korniyenko, O.M. Kostenko, V.M. Kudryavtsev, O.M. Lytvak, O.M. Lytvynov, V.M. Luneyev, A.O. Martynenko, M.I. Melnyk, V.A. Myslyvyj, A.A. Muzyka, D.Y. Nykyforchuk, S.S. Ovchynskyj, A.V. Savchenko, S.V. Slinko, V.A. Tymoshenko, V.M. Trubnikov, M.H. Verbenskyj, O.N. Yarmysh, H.P. Yarmaki, V.P. Yemelyanov, V.I. Zhenuntij, A.P. Zakalyuk and others.

**The purpose of the article.** Considering the importance of the mentioned problem in solving the tasks of crime-related crimes prevention, the analysis of the sense of this mechanism, its use and its content are urgent and crucial for criminological science. The paper is dedicated to solving this task. Its research novelty consists in formulation of the notion and defining structural composition of the drug-related crime prevention mechanism. This notion expresses specifically the requirements of dialectics and systemic analysis in relation to the phenomena of social reality. According to this, the notion provides a clear vision of the whole reality, enabling to conduct its analysis within the framework of existing notions of criminology, observe it forms of reflection in daily criminological and law enforcement practice.

**Presenting main material.** O.M. Lytvynov justifiably argues that the mechanism for crimes prevention is a rather new category in the domestic criminology and yet it has not been studied very thoroughly. Some research attempts undertaken before, did not have a conceptual approach, were divided and unsystematic [1, p. 84-85].

It is worth mentioning, that this problem was in the focus of attention of scholars in the aspect of managing the process of crime prevention. Thus, A.E. Zhalynsky claimed, that to manage the process and improve it methods, the sources of the process have to be understood, as well as social phenomena causing and supporting them, tendencies of development etc. This can be reached by means of analyzing the mechanism of crime prevention and its consistent patterns [2, p. 47].

G.A. Avanesov considered that it is due to the mechanism that the crime prevention becomes a controlled process. The last comes from the organizational structure of pre crime, which reflects this system as a whole and it's certain elements in particular. It also embodies a certain sustainability of links between subjects of prevention (within

the frames of the system of these subjects) and "encircles" them on certain objects (system of objects). At this, unavoidable question arises about the sense of prevention (tools, measures, types and forms) and the organizational means for provision of preventive activity [3, p. 365].

At studying this question, we have to mention that all along the life activity of the state the need arises in conscious building and modernization of mechanisms for management. This process has both objective and subjective features. In other words, the managerial mechanism's construction is always a result of reflection of objectively predefined laws. The breach of this methodological provision may cause that the real process will develop not according to a conscious mechanism, but along an accidental one. A.P. Zakalyuk argues that «... the problem of managing activity aimed at crime prevention, has to be shown in a new systemic way, with defining it through the prism of diversity of its objectives, functions, principles, methods, mechanism of the whole managerial process itself, as well as measures of its implementation» [4, p. 377].

The analysis of scholarly works referring to the notion of "mechanism" proves, that its unbiased study, including theoretical analysis and practical use, is impossible without the use of systemic approach. We have to mention the double meaning of this category. The difficulties in choosing the approach for studying of the components of the mechanism is also causing the complexity of the studied notion. Therefore, the study of the mechanism as a system with all its elements and interrelations will help to find out its meaning to the entire extent. Concerning such social phenomenon as crime prevention, the notion of «mechanism» has to be used predominantly in practical aspect, with having in mind the need of reaching certain results of criminological influence. At this, the notion of «crime prevention mechanism» will really come from the notion of «crime prevention». In such case, we can talk about the efficiency of the mechanism only after the all its possible forms of existence and use in real criminological practice have been estimated and in the case of its correspondence to existing legislative standards.

Due to its rich content and complexity, the notion of «mechanism» is aimed in all cases to show the systemic and dynamic, functional and structural sector of social reality, architectonics of criminological influence and this important issue should not be left out. For studying the sense of the drug related crime prevention mechanism, defining it and learning its structure, the analogy method of study is advisable for use. It allows reaching the new level of generalization basing on the given knowledge, expressing new ideas and developing new science provisions. With this

in mind, the study of the mechanism should be conducted by means of analyzing the elements of the studied complex of components.

«The mechanism of legal regulation» is undoubtedly the first one. This notion is widely used in law science in different meanings and interpretations. Here is what G.A. Avanesov underlines regarding the legal regulation of crime prevention: «...this mechanism consists of the three main components: legal norms, legal relations, acts of law implementation... The legal norms are in the center of this mechanism serving as a model of legal behavior and setting the punishment for illegal one. The mechanism of legal regulation in the sphere of prevention is not a specific or independent mechanism, but is a reflection of the mechanism of legal regulation in the whole in a certain specific branch of public relations or a specific object. Therefore (due to this specificity), the mechanism of preventive legal regulation reveals in the local structure.

In relation to this we are speaking on the peculiarities of legal regulation in the sphere of prevention, on a specific aspect of legal regulation». There is also an opinion, that the «mechanism» is an interaction of certain elements, subjects and objects of any activity [5, p. 76].

According to this thought, the mechanism (implicitly expressed) is referred to any kind of activity. For instance, the mechanism of management refers to the sphere of managerial relation, and the mechanism in crime prevention – to the relation among respective subjects.

The mechanism for drug related crime prevention is a systemic and complex unity in its semantic meaning, so different approached may be used for interpreting it. These approaches, which allow to use the research potential of other sciences (predominantly psychology, cybernetics, sociology, different branches of law science, studying different aspects of management), are aimed to reveal certain, sometimes very important, sides of activity on crime prevention and its mechanisms.

At this, the work of any mechanism, including the one in the sphere of drug related crime prevention, is always based on interaction of elements from different systems. However the approach of uniting them in a mechanic way does not allow to show it as a functioning system, define important structural and integrative links in it. Thus, only the systemic approach will help to show the mechanism in such a way that the theoretical provisions could be used in practice in the most effective way.

The mechanism for drug related crime prevention should be developed in accordance to existing objective laws, which characterize emerging social relations. This is an evident

statement does not requiring to be proved. In a real criminological practice the subjects dealing with crime prevention rely not on the objective laws, but on legal norms (activity principles), out coming from the objective laws and the criminological influence are being implemented on their base. So, legal merits (norms, law-using acts, practice) causing different forms of criminological influence on drug related crimes are also considered as an integral part of the mechanism.

Functional designation of the drug related crime prevention mechanism lies in the fact, that it helps to implement the organizing potential of the law enforcement system as a social phenomena, turns it into a dynamic condition. This means that certain activity has to be done within the frames of the mechanism according to existing rules with the use of certain methods of influence relating to other social phenomena, i.e. the crime. The mentioned above means that tools and methods of criminological influence have to be considered as the elements of the drug related crime prevention mechanism.

The mechanism for drug related crime prevention is formed and implemented within the frames of certain system. Thus, the general system of preventing crimes works as an environment and ground for implementing the organizing potential of the drug related crime prevention mechanism. Its organizational structure constitutes of complex of objectives, tasks, subjects, objects, levels, forms and principles of crime prevention [6, p. 22–24].

The integrative links, which are now considered as universal tools for optimizing its functioning, serve as a cohesive base for all above-mentioned elements of the mechanism.

Finally, the improvement is considered as the last feature of the drug related crime preventive mechanism. It has a continuous quality in this system, because the need in improvement of management exists everywhere and every time where the management is used. However, the continuity of this process does not cause the uniformity of its functioning. There are certain ways and directions for improving the drug related crime prevention mechanism at each period of time. They depend both on changes in the system itself and on the level of societal development, science and techniques development, outcomes of the best managerial practice.

The drug related crime prevention is referred to as the so-called 'constantly developing systems', requiring real ongoing enhancement of activities according to changeable external conditions and new emerging requirements.

At the same time, we must admit that development and improvement of the drug related crime preventive mechanism is a complex, multi

aspect and cyclical process. It can be implemented only due to focused and everyday work both of certain employees and of all social groups at all levels of the crime preventing system.

Therefore, assessing the crime prevention mechanism as a whole, we can admit that it is a multilevel hierarchy system. Each level of the system has its own set of elements. They can be revealed in the attempt of considering crime prevention within such sectors, where the auxiliary social processes occur and certain forms of criminological influence with certain tools, methods and ways.

In addition, we have to keep in mind, that the drug related crime preventive mechanism functions both vertically and horizontally. That is, a complex networking and interrelation of tools, methods and ways of criminological influence occurs.

So, we consider the drug related crime prevention mechanism as such a systemic buildup (all the set considered as a unit) of norms, principles, institutes, (state-legal and socio-political), forms, methods and tools (organizational, legal, economic, socio-psychological), links and relations, by means of which the criminological influence on specific objects is conducted for reaching defined goals.

In a narrow (literal) sense, this mechanism is as a set of forms, methods and tools used by certain subjects for conducting broad activity in the sphere of drug related crime prevention.

It should be underlined once again, that the mechanism for drug related crime prevention contains the sets of tools at different levels, with specific characteristics, correlations etc.

Finally, the practice shows that the mechanism of criminological influence at any sphere and at any sector will stay lifeless without the role of subjective human factor, as any well set and organized mechanism will be unable to function without qualified executives.

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