

**MINISTRY OF INTERNAL AFFAIRS
OF THE REPUBLIC OF KAZAKHSTAN**

Karaganda academy of the MIA RK named by B. Beysenov

B. A. Amanzholova

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**COUNTERACTION
AGAINST DRUG CRIMINALITY**

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The monograph deals with theoretical and applied questions of counteraction of narcotic crime from the point of view of criminology. It is intended for students and students of higher educational institutions, teachers, scientific and practical workers, as well as for postgraduates and doctoral students.

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INTRODUCTION

Counteraction to criminal acts related to the illicit traffic of narcotic drugs and psychotropic substances is now acquiring a global meaning. The scale of the drug business and the rate of growth in drug addiction today are such that it is extremely important to understand the real social danger of these phenomena and to take extremely harsh and decisive measures to counter the illegal distribution and non-medical use of narcotic drugs and psychotropic substances.

The Criminal Code of the Republic of Kazakhstan in 1997 was generally recognized as an effective tool for protecting the rights and legitimate interests of the individual, society and the state. Many of the provisions of the criminal law on liability for crimes related to narcotic drugs and psychotropic substances have been subjected to legislative adjustments, the level of technical perfection of their content and form has been significantly increased.

A qualitatively new stage in countering the drug business with the help of various technical means and methods is connected with the adoption of the new Criminal Code of the Republic of Kazakhstan on July 3, 2014. Combating illicit trafficking of narcotic drugs and psychotropic substances is an important factor in stopping their spread and illegal consumption.

In general, the norms on criminal encroachments in the sphere of illicit trafficking of narcotic drugs and psychotropic substances have not undergone significant changes. Among the innovations of the current criminal legislation of the modern Kazakhstan there are:

- introduction in the Criminal Code of a two-tier system of criminally punishable acts, including criminal offenses and crimes (demarcated according to the degree of public danger and punishability);
- differentiation of responsibility for the illegal handling of narcotic drugs, psychotropic substances, their analogs, precursors without the purpose of marketing and illegal production, processing, acquisition, storage, transportation for the purpose of marketing, transfer or sale of narcotic drugs, psychotropic substances and their analogues;
- expansion of the subject of criminal acts, they may not only be narcotic drugs and psychotropic substances, but also their analogues, as well as precursors;
- provision as a subject of a qualifying feature committing acts by a criminal group.

Apparently, the current directions of criminal policy have defined a new approach to the design of criminal law provisions that provide for liability for illeg-

al actions with narcotic drugs. At the same time, innovations characterize not only the improvement of the content of the signs of criminal acts, but also the used techniques of legislative technology. In the criminal law, attempts have been made to work out new ways to deal with organized criminal activities, including its transnational manifestations.

Analysis of the literature on combating illicit trafficking of narcotic drugs or psychotropic substances indicates that many issues are explored in isolation, without taking into account the provisions of the legal norms of other branches of law and without a comprehensive analysis of a specific category of cases.

The material collected during the period of production practice also showed that the signs forming the objective side of the crimes connected with the illegal trafficking of narcotic drugs and psychotropic substances are of a debating nature, they are not universal for use in the science of criminal law and judicial practice.

The circumstances noted necessitate a deeper study of all aspects of such a multifactorial social phenomenon as the illegal traffic of narcotic drugs and psychotropic substances and counteraction to it.

The need for a theoretical analysis is also evidenced by the fact that the Republic of Kazakhstan, as a sovereign state, is a member of the United Nations and as a consequence must gradually assume certain obligations to unify national legislation in accordance with the requirements contained in the proposed UN treaties (in particular, the Single Convention «On narcotic drugs» of 1961, the UN Convention «On psychotropic substances» of 1971, the UN Convention «On the fight against the illicit traffic of narcotic drugs and psychotropic substances» in 1988).

In the special literature great attention is paid to the consideration of problems related to the problems of qualification of crimes related to narcotic drugs.

Various aspects of the theoretical problems of criminal liability for illegal actions in relation to narcotic drugs were investigated by Soviet and modern (Russian and Kazakh) scientists: Kairzhanov E. I., Karpets I. I., Musyka A. A., Isayeva N., Karikbolov B., Abdirov N. M., Mami K. A., Sarsekov B. S., Koibagarov T., Kadyrov M. M., Fetkulov G. Kh., Anisimov L. N., Dragan G. N., Gasanov E. G., Isimov S. A., Orlova N., Fedosenko V. V., Omarov M., Omarova Z. N., etc. Without detracting from the significance of these authors works, it should be noted that the aspects of the problem of combating drug offenses that they considered were based on the provisions of the 1997 Criminal Code of the Republic of Kazakhstan.

The purpose of this monographic study was a comprehensive study of the theoretical problems of the criminal legal struggle against illicit trafficking of narcotic drugs and psychotropic substances, and the development of recommen-

dations based on this, aimed at improving the current legislation and practice of its application.

Over the past few years, the policy of our state has shifted to a combination of targeted work on drug control with the participation of universal international organizations on a bilateral and multilateral basis. The study of international experience convinces us that the created management system should be aimed not at the unachievable eradication of these phenomena but at their stabilization and retention in parameters that minimize the negative impact on the state of national security and the gene pool of the nation.

Our analysis of the investigative and judicial practice showed that certain explanations on the issues of the drug crimes qualification do not correspond to the current criminal legislation, after the adoption of the latest amendments to the criminal law, no changes were made in the normative order. In this regard, we believe that these explanations of the Supreme Court should be taken critically, while determining the characteristics of the crime in question should be guided by the norms of the Criminal Code.

Chapter 1 HISTORY OF THE LEGISLATION DEVELOPMENT RELATED TO ILLICIT DRUG TRAFFICKING

1.1 ADOPTION OF THE FIRST ANTI-DRUG LAWS AND THE FIGHT AGAINST ILLICIT DRUG TRAFFICKING AFTER THE 1917 REVOLUTION

The consideration of any phenomenon without sufficient study of the accumulated experience, without knowledge of its history will not have a scientific justification. The historical characteristic of the change in the socio-historical, social and political life of any state at all times never begins with a «zero».

Any changes in life take place on the previously laid foundation, taking into account the formed way of life, customs and traditions. Knowing the past, it is easier to navigate in the present, in the events taking place, to see the prospect for the future.

The threads of the past are objectively drawn into the future, no matter how subtle they are, they help to more confidently assess the environment, the conditions and the area in which changes occur. In this connection, the history of drug addiction and illicit drug trafficking makes it possible to understand this problem in a multidimensional plane and to make an objective presentation of it¹.

It is impossible to improve measures of combatting illicit drug trafficking without knowledge of the history of the theory of the question, organizational and legal bases for the activities of the bodies and institutions that implement it.

Throughout the known history of mankind, drug consumption and other forms of trafficking constituted an integral part of social relations and were regulated normatively, though not always regarded as crimes. In surviving ancient law artefacts, there are numerous norms that establish bans on the use of narcotic drugs or otherwise regulate activities related to trafficking in narcotic drugs.

For example, the laws of Manu (II century BC — II century AD) contain special rules for the class consumption of the so-called catfish: «Who has a three-year supply of food sufficient to support the family, he is worthy of drinking soma». During the reign of Tamerlane (1336—1405) both drug users and traffickers were subjected to severe penalties².

Entire nations, affected by drug addiction, disappeared, and the sphere of narcotism spread, on the contrary, from the century to the century, expanded territorially. The first attempt to stop the spread of drugs was made at the beginning of this century. In 1909, 13 states met in Shanghai at the request of the United States, which had long been confronted with the problem of drug imports. How-

ever, the Convention adopted on the results of this meeting had a predominantly declarative value. In 1912, the Convention was first adopted in The Hague, which provided for the limitation of opium production and the prohibition of its use for non-medical purposes³.

The First World War, due to the massive use of heroin and morphine for the treatment of the wounded, caused a significant increase in the number of drug addicts in Europe.

Narcotic drugs, as substances that alter the state of man, were known among the ancient Greeks, and the ancient Romans.

The emergence of Islam in Arabia at the beginning of the seventh century, which banned the use of alcohol, but did not impose a ban on smoking opium, played a role in its spread history.

Adoption of Islam affected the peoples inhabiting the territory of modern Kazakhstan, it imposed an impress on the socio-economic, political and cultural life. The borders of not only Islam, but also opium were expanding. Distribution and use did not bypass the Turkic tribes that lived at different times in the territory of present-day Kazakhstan.

An important role in the distribution of drugs was played by the Great Silk Road, passing through the cities of Taraz, Otrar, Sygnak and Kiyalyk. Through them was the main flow of goods from Central Asia, the Middle East to China and back.

In the Kazakh state, there was no liability for the turnover of narcotic drugs, at least the written sources that have survived to this day do not contain rules on responsibility for the turnover of narcotic drugs.

With the accession of the Kazakh Khanate to Russia, this situation had not changed much. Faced with the problem of drug consumption, the tsarist government did not rush to issue decrees on the prohibition of opium and hashish.

The use of narcotic drugs has not historically been subjected to any prohibition, but was considered quite permissible. Narcotic drugs had a role as an auxiliary tool organically included in customs, rituals, the general order of existence of a particular people, on the other hand they were used mainly for medical purposes, where their consumption was strictly recommendatory.

Back in the 19th century, Kazakhstan was the link between the smuggling of opium from the Turkestan Territory to tsarist Russia.

Drug addiction and drug business were alien to most of the population of Kazakhstan for many centuries. The absence of a sharpness of this problem for the nation affected the domestic legislation, which was limited until the beginning of the 20th century by separate norms of anti-drug orientation. However, on June 7, 1915, Nikolay II had to approve the Law «On measures to combat opioid use», which operated only in the Amur gubernia and the Trans-Baikal region of Irkutsk

province. The adoption of this law was caused by two main circumstances. First, the colonization of the Russian Empire of Central Asia (Turkestan) in the XIX century. and, secondly, intensive migration of Chinese and Koreans to the Far East after Russia's defeat in the war with Japan in 1904—1905⁴.

These factors led to a rapid spread of opium and hashish consumption throughout the Asian part of our country at that time. If representatives of the Asian peoples were traditionally involved in the drug trade in the Turkmen region, tens of thousands of migrants from China and Korea «imported» this problem to the Far East.

Both revolutions of 1917, the Civil War and intervention exacerbated the migration factor in the development of the drug situation in virtually the entire territory of Russia. From the side of Western interventionists, so-called heavy drugs—cocaine, morphine, heroin, and from Asia — opium and hashish, entered Russia. The urban population of the disintegrated empire, including intellectuals deprived of earnings and part of the «expropriated expropriators», were forced to become involved in the sphere of narcotic drugs.

In order to limit the spread of the drug business, in the summer of 1918 the SNK of the RSFSR was forced to start developing anti-drug legislation. Since then, the number of criminal law norms establishing liability for illicit drug trafficking has almost constantly increased. This process was a reflection of the growing social interest in ensuring the safety of public health from the threat of narcotization.

Kazakhstan also did not escape the danger of narcotics spread after the overthrow of tsarism and the approval of Soviet power.

At the beginning of its existence, Soviet power was confronted with the problem of drug addiction in the country. The surge in drug trafficking and related crime was a direct consequence of social antagonisms, especially markedly manifested in the post-revolutionary period.

The Criminal Code of the RSFSR of 1922, in which all the norms of Soviet criminal law were formulated and brought into the system, did not contain a special article providing for criminal liability for crimes related to narcotic drugs. A general rule was applied (Article 215 of the Criminal Code of the RSFSR), establishing criminal liability for the preparation, storage, sale of poisonous and potent substances⁵.

This gap was partially eliminated by the Decree of the All-Russian Central Executive Committee and the Council of People's Commissars of the USSR of December 22, 1924, which included paragraph «d» in art. 140 of the Criminal Code, which provided for criminal liability «for the manufacture and storage for the purpose of selling and selling itself of cocaine, opium, morphine, ether and other intoxicating substances without proper authorization» in the form of pu-

nishment — imprisonment for up to three years with confiscation of property part or without such and with the prohibition of residence in Moscow, Leningrad, in the border zone and port cities for a period not exceeding three years. Part two of the same article provided the responsibility for «the same crime committed in the form of earning, as well as the maintenance of brothels, in which the sale and consumption of cocaine, opium, morphine and other intoxicating agents take place». Such a crime was punishable by imprisonment for not less than three years, with strict isolation, confiscation of all property, loss of rights, and prohibition of residence on the serving of punishment in the border line for up to three years. Meanwhile, this norm had drawbacks: the norm did not apply to transportation, transfer of narcotic drugs, as well as to manufacturing, storing narcotic drugs without the purpose of selling, qualifying signs were not fixed.

Thus, in the Criminal Code of the RSFSR in 1926 was included art. 104, which provides the responsibility for manufacturing and storage for marketing purposes, as well as the sale itself of cocaine, opium, morphine, ether and other intoxicating substances without proper authorization⁶. October 18, 1934, Resolution of the CEC and SNK of the USSR «On the prohibition of the cultivation of opium poppy and Indian hemp» was adopted.

The original version of the Criminal Code of the RSFSR of 1960 contained three articles on liability for drug-related offenses: 224, 225 and 226. Article 224 «Production or marketing of poisonous or narcotic substances» consisted of two parts. Part one was responsible for «manufacturing, marketing, and also storage for the purpose of selling or acquiring drugs for the same purpose without special permission», part two — for the same actions, the subject of which were other potent or poisonous substances, not related to the narcotic, and part of the third — for «violation of the established rules for the production, storage, release, accounting, transportation, forwarding of narcotic and other potent and poisonous substances». Articles 225 and 226 of the RSFSR Criminal Code of 1960 each contained one part. Article 225, entitled «Sowing opium poppy or Indian hemp without permission», and art. 226 «Maintenance of brothels and pandering» — for «the maintenance of brothels of debauchery, pandering for mercenary purposes, as well as the maintenance of brothels for drug consumption or the maintenance of gambling dens». The most significant difference between the above-mentioned norms of the 1926 Criminal Code of the RSFSR and the 1960 Criminal Code of the RSFSR was the change in the subject of the crimes mentioned in Art. 104 of the Criminal Code of the RSFSR in 1926 and Art. 224 and 225 of the Criminal Code of the RSFSR in 1960. The subject of the first was cocaine, opium, morphine, ether and other intoxicating substances, and the latter — respectively narcotic drugs and drugs.

It should be noted that the first Soviet criminal law provided, on the one hand, a fairly severe liability for the sale of drugs, illegal drug operations in the form of marketing and keeping brothels, and on the other — was socially justified. Repression was directed not at consumers, but at the most dangerous criminals — traffickers and security holders. According to Art. 136 of the 1922 Criminal Code of the RSFSR, providing for punishment for «violation of the provisions regulating the implementation of the state monopoly», the people who were brought to criminal responsibility for the unauthorized sowing of opium poppy and sowing it more than the allowed norm. Later, by the Decree of the CEC and SNK of the USSR of October 27, 1934 and the Resolution of the Central Executive Committee and the Council of People's Commissars of the RSFSR of December 1, 1934, the cultivation of opium poppy and Indian hemp on the territory of the USSR was prohibited without special permission. The violation entailed criminal liability⁷.

Purposeful criminal legal struggle against drug trafficking was further developed in the criminal law norms included in the Criminal Code of the RSFSR in 1926, as well as in a number of policy documents aimed at preventing the spread of drug addiction and streamlining the collection and distribution of narcotic drugs. Article 104 of the Criminal Code of the RSFSR provided the responsibility for the manufacture and storage for the sale and the sale itself of cocaine, opium, morphine, ether and other intoxicating substances without proper authorization in the form of deprivation of liberty or correctional labor for up to one year. These actions in the form of selling were punishable by imprisonment with strict isolation for a period of up to three years. In this rule, the continuity of the disposition remained, but in comparison with Art. 140-d of CC RSFSR of 1922 the punishment has been considerably reduced. Perhaps, this was explained by the decline in the narcotization of the population, certain successes in the fight against the drug business in the country or general tendencies in the humanization of criminal policy that had appeared at that time.

Along with these articles in criminal legislation, the CEC and the Council of People's Commissars of the USSR of 23 May 1928 «On measures to regulate the traffic in narcotic substances» prohibited the free circulation within the country of cocaine (and its salts), hashish, opium, morphine, heroin, pantopone, dionine (and its salts). The rule, according to which the quantity of narcotic drugs for medical purposes was to be determined annually by the People's Commissariats of Health of the Union Republics, was introduced. The list of manufacturing enterprises and the procedure for trade in narcotic drugs were established by the legislation of the Union republics.

In the 20s to 30s, the internal affairs agencies acquired certain experience in the prevention and suppression of drug offenses, which was, to a large extent,

facilitated by the regulation of the anti-drug legislation. The adoption of the Resolution of the Central Executive Committee and the Council of People's Commissars of the USSR from October 27, 1934, in addition to the Resolution of the CEC and the Council of People's Commissars dated May 23, 1928, may be considered as the beginning of the second stage of legislative measures regulating the fight against the spread of drug addiction. By this Resolution, the sowing of opium poppy and Indian hemp was prohibited on the territory of the USSR, except for state crops, whose crops were used for medicine and scientific research⁷.

On January 29, 1936, the USSR joined the International Convention on Narcotic Drugs of 1925, which defined the main rules for the importation, exportation, sale, distribution and use of narcotic drugs, based on the scientific and medical needs of a particular country. By that time, domestic legislation already contained the relevant legal norms, so it did not need to be corrected and no changes were made in the anti-drug legislation during the next two decades. However, despite the increased attention of the authorities and Soviet society to the problem of drug addiction, in the early years of Soviet power, it was not possible to reduce the consumption and distribution of drugs, although it was possible to keep it reasonably when illegal drug use did not have the nature of drug epidemics and did not pose a serious threat to security of the country as a whole.

The Decree of July 15, 1974 significantly amended Art. 225 of the Criminal Code of the RSFSR in 1960. Part one was responsible for «sowing or growing opium poppy, Indian, southern Manchurian or southern Chui hemp or other cultivated crops containing narcotic substances», and part two — «for the same actions committed repeatedly or a person who has previously committed one of the crimes provided for in Parts One or Two of Art. 224, Art. Art. 224-1, 224-2, and 226-1 of this Code»⁸.

In addition, the Decree of July 15, 1974 introduced a number of changes and additions to the General Part of the Criminal Code of the RSFSR in 1960. In particular, on the basis of Part 2 of Art. 7-1, theft of narcotic substances for the purpose of marketing and theft with aggravating circumstances was classified as serious crime; in accordance with Part 2 of Art. 10 criminal responsibility for theft of narcotic substances was established from the age of fourteen; according to paragraph 3 of Art. 53-1 it was prohibited to apply conditional early release from punishment and replace punishment with a softer one to a person convicted of illegal manufacture, acquisition, storage, transportation or shipment for the purpose of selling or selling narcotic substances under aggravating circumstances or for theft of narcotic substances under aggravating circumstances.

These changes and additions to the RSFSR Criminal Code of 1960 were due to the accession of the USSR to the Single Convention on Narcotic Drugs of 1961, which was ratified by the Decree of the Presidium of the USSR Supreme

Council on December 14, 1963 «On ratification of the Single convention on narcotic drugs».

In Art. 224, 224-1, 224-2 and 226-1 of the Criminal Code of the RSFSR in 1960, the word «substances» with the attribute «narcotic» was replaced by the word «means» with the same attribute.

In 1959—1961, republican criminal codes were adopted. On July 22, 1959, the Supreme Council of the Kazakh SSR adopted the Criminal Code of the Kazakh SSR, which entered into force on January 1, 1960.

In Chapter IX «Crimes against public safety and public health», the responsibility for the illegal manufacture, acquisition, storage, transportation, transfer or sale of narcotic drugs was established.

Article 214 of the Criminal Code of the KazSSR provided the liability for the illegal manufacture, acquisition, storage, transportation, transfer or sale of narcotic substances. Instead of the term «intoxicating substances», the term «narcotic substances» was introduced into the criminal law. Such actions as the acquisition, possession of narcotic substances without the purpose of sale were criminalized.

The path of the legislator in the improvement of Article 214 of the Criminal Code of the KazSSR had its shortcomings, the elimination of which due time would contribute to increasing the efficiency of the criminal legal struggle against narcotic drugs.

Article 214 of the Criminal Code of the KazSSR established criminal liability for two actions different in content: the manufacture or acquisition of narcotic substances for the purpose of sale and the commission of these actions without any purpose. The same punishment was applied for a crime committed for the purpose, and for a crime that is committed without any purpose. This does not take into account the degree of public danger of the crime being analyzed⁹.

Subsequently, the decrees of the Supreme Council Presidium of the Kazakh SSR in 1969, 1973, 1975, 1987 significantly changed and supplemented the criminal legislation on combating illicit trafficking narcotic drugs. For example, Article 213-3 provided the liability for the illegal acquisition or possession of narcotic drugs without the purpose of marketing in small amounts, if these actions were repeated repeatedly within a year after the imposition of an administrative penalty for the same violations. That is, even then there was an institution of administrative prejudice, which consists in establishing criminal liability for the repeated commission of an administrative offense during the year. Meanwhile, it is worth noting that the term «narcotic substances» has been replaced by «narcotic drugs».

Changes in the life of Kazakhstan's society, the emergence of the sovereignty of the republic, new social relations required timely correction in the sphere of

the criminal legal struggle against narcotics, the adoption of adequate time for legislation.

An important role in the development of domestic criminal legislation was played by the Model Criminal Code for the Member States of the Commonwealth of Independent States, adopted by the Resolution of the Interparliamentary Assembly of the CIS Member States on February 17, 1996^{10; 11}.

This legislative recommendation consists of the General and Special Parts. The special part consists of sections, which, in turn, are divided into chapters. In particular, section 8 is called «Crimes against public safety and public health» and allocates chapter 23 «Crimes against public safety» and chapter 24 «Crimes against public health». The rule on criminal liability for illicit trafficking in narcotic drugs (art. 199 of the Model Criminal Code) is located in Chapter 24 «Crimes against public health».

The basic structure establishes responsibility for the illegal manufacture, processing, acquisition, storage, transportation or forwarding for the purpose of sale, as well as illegal sale of narcotic drugs.

In Kazakhstan, a legislative and other regulatory framework for counteracting illicit trafficking of narcotic drugs or psychotropic substances has been created, which is of great preventive importance. Kazakhstan joined the international system to combat illicit drug trafficking by ratifying all the main UN conventions in this field: Single Convention on Narcotic Drugs of 1961, Convention on Psychotropic Substances of 1971, the UN Convention against Illicit Traffic of Narcotic Drugs and Psychotropic Substances of 1988.

The Head of State and the Government of Kazakhstan have taken a number of consistent steps since the late 1990s towards organizing an effective fight against drugs.

On 10 July 1998, the Law of the Republic of Kazakhstan «On narcotic drugs, psychotropic substances, precursors and measures to counteract their illicit trafficking and abuse» was adopted.

This law regulates the legal basis of the state policy in the sphere of narcotic drugs, psychotropic substances and precursors trafficking and establishes measures to counter their illegal circulation for the purpose of providing narcological assistance and protecting citizens' health, public and state security.

The Government approved the list of narcotic drugs, psychotropic substances and precursors subject to control in the Republic of Kazakhstan, first compiled in full compliance with the requirements of the UN international conventions of 1961, 1971, and 1988.

Further development of the criminal legislation against the narcotics is connected with the adoption of the Law of the Republic of Kazakhstan «On amend-

ments and additions to certain legislative acts of the Republic of Kazakhstan on combating crime» of May 5, 2000.

According to the Law of the Republic of Kazakhstan dated May 31, 2002, the list of narcotic drugs, psychotropic substances and precursors which are subject to control in the Republic of Kazakhstan is approved by the Law of the Republic of Kazakhstan «On narcotic drugs, psychotropic substances, precursors and measures to counter their illegal circulation and abuse», and not as previously by the Government decree.

Changes and amendments to the CC RK were introduced by the laws of the Republic of Kazakhstan dated May 5, 2000; May 31, 2002; June 27, 2008; November 9 and January 18, 2011.

The introduced innovations correspond to the tasks of criminal policy in effective restraining and regulating influence on the drug situation in the country, eliminate some contradictions in the legislation, contribute to the more accurate application and enforcement of the law in practice.

The RK Law of January 18, 2011 «On amendments and additions to certain legislative acts of the Republic of Kazakhstan on further humanization of criminal law and strengthening the guarantees of legality in the criminal process», excluded Part One of Article 296 of the Criminal Code. Thus, the criminal liability for the illegal acquisition, transportation, storage without the purpose of selling narcotic drugs or psychotropic substances on a large scale was excluded from the domestic legislation.

These changes and additions are consistent with the objectives of criminal policy in effectively restraining and regulating influence on the drug situation in the country, eliminate some contradictions in the legislation, contribute to more accurate application and enforcement of the law in practice.

And, finally, the elaborated Strategy for combating drug addiction and drug business for 2001—2005, approved by the decree of the Head of State on May 16, 2000, has great historical significance in Kazakhstani society. In this document of conceptual nature, the state policy of the country in the sphere of establishing effective state control over drug trafficking, countering their illegal trafficking and abuse of them, was embodied in concrete terms.

The main support elements of the anti-drug system were created, directly reflected in the Strategy:

- Republican Center for medical and social problems of drug addiction in Pavlodar, with a specialized department and a clinic based on it;
- Dog training centers in the Customs Control Agency and the Ministry of Internal Affairs of the Republic of Kazakhstan;

- Training center for the specialists training of anti-drug units of law enforcement bodies attached to the Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan.

- The National information and analytical center on drugs under the General Prosecutor's Office is functioning, which concentrates all statistical information related to drugs.

By the Decree of the Republic of Kazakhstan President dated November 29, 2005, the Strategy for combating drug addiction and drug business in the Republic of Kazakhstan for 2006—2014 was approved.

The purpose of this Strategy is to improve the system of state and public counteraction to drug addiction and drug trafficking in the Republic of Kazakhstan.

In the interests of uniting the efforts of all state bodies in the implementation of the anti-drug policy in Kazakhstan, a special body was created in accordance with the decision of the National Security Council. Today it is the Committee for combating drug addiction and illicit drugs of the Ministry of Internal Affairs, which is entrusted with the solution of a wide range of tasks in this area. It is the body that forms the national policy in the field of drugs.

Kazakhstan succeeded in making significant progress in the further development of international cooperation in the anti-drug field. Intergovernmental and interdepartmental (between countries) agreements have been concluded.

Kazakhstan was twice elected as a member of the UN Commission on narcotic drugs (2000—2003 and 2006—2008).

A principally new stage in the development of domestic criminal legislation is connected with the adoption on July 3, 2014 of the new Criminal Code of the Republic of Kazakhstan. In general, the norms on criminal encroachments have not undergone significant changes.

The basic new point of the new Kazakhstan criminal law is the introduction in the Criminal Code of a two-tier system of criminal acts, including criminal offenses and crimes. Among the criteria for differentiation of criminal offenses are the degree of public danger and punishability.

Chapter 11 of the Criminal Code of the Republic of Kazakhstan «Criminal offenses against public health and morality» includes the following compositions:

- Article 296. Illegal treatment of narcotic drugs, psychotropic substances, their analogs, precursors without the purpose of marketing;

- Article 297. Illegal manufacture, processing, acquisition, storage, transportation for the purpose of sale, transfer or sale of narcotic drugs, psychotropic substances, their analogues;

- Article 298. Theft or extortion of narcotic drugs, psychotropic substances, their analogues;
- Article 299. Declination to consumption of narcotic drugs, psychotropic substances, their analogues;
- Article 300. Illegal cultivation of plants forbidden to cultivation containing narcotic substances;
- Article 301. Illicit trafficking of toxic substances, as well as substances, instruments or equipment used for the manufacture of narcotic drugs, psychotropic or poisonous substances processing;
- Article 302. Organization or maintenance of brothels for the consumption of narcotic drugs, psychotropic substances, their analogues and provision of premises for the same purposes;
- Article 303. Violation of the rules for the treatment of narcotic drugs, psychotropic or poisonous substances.

Among the legislative novels of the Criminal Code should also be noted the expansion of the criminal acts subject — analogues of narcotic drugs and psychotropic substances, as well as precursors; Provision as a subject of a qualifying sign of the commission of acts by a criminal group.

A short excursion into the history of domestic criminal law shows that modern directions of criminal policy have determined a new approach to the construction of criminal law provisions that provide the responsibility for illegal actions with narcotic drugs and psychotropic substances.

1.2 CONCEPT AND TYPES OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

The concept of narcotic drugs and psychotropic substances in the light of international conventions and the Law of the Republic of Kazakhstan «On narcotic drugs, psychotropic substances, their analogues and precursors, and measures to counteract their illicit trafficking and their abuse»:

1. Narcotic drugs of plant (natural) origin.
2. Narcotic drugs of synthetic origin.
3. General characteristics and types of psychotropic substances.
4. Concept, types and general characteristics of potent and toxic substances.

Narcotic drugs and psychotropic substances fall into the sphere of illegal circulation as a result of their illegal production or leakage from the sphere of industrial production at a certain stage of their passage through legal channels. In the future, their illegal trafficking can be carried out within the framework of one country or it takes on a transnational character.

The name «drugs» comes from the Greek «narkotikos» — leading to stupor, deafening¹¹. Taking into account physical, pharmacological, legal and other signs of narcotic drugs, it is necessary to consider a group of substances of different origin, capable of affecting the central nervous system (CNS) leading to a state of special drug intoxication, addiction and drug dependence, the list of which is fixed in special regulatory acts.

Drugs include drugs and substances, narcotic plants or parts of such plants that are included by the Standing Committee on Drug Control in the list of narcotic drugs.

Narcotic drugs and psychotropic substances have two characteristics. The first sign is medical (biological, pharmacological). Its essence lies in the pharmacological properties of these substances, the mechanism, the effect of their effect on the human body. From the medical point of view narcotic drugs are recognized as stupefying drugs. However, not only narcotics and psychotropic substances possess this influence, but also a number of others: ethyl alcohol, nicotine, etc., addiction to tobacco and a number of other substance abuse. Therefore, it is necessary to address to the legal sign.

From a legal point of view, narcotic drugs and psychotropic substances are those intoxicating substances that are recognized as such by official bodies and taken under their control.

Since the crimes related to drug trafficking are of an international character, the concept and list of narcotic drugs is determined, first of all, in the documents of international law. At the moment, our Republic has signed and ratified: the Single Convention on narcotic drugs of 1961, as amended by the 1972 Protocol on amendments to the Single Convention on narcotic drugs; The Convention on psychotropic substances of 1971; The UN Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988.

The Single Convention of 1961 contains Lists I-IV, which include a list of narcotic drugs, including drugs under international control. Convention of 1971 — Lists I-IV, including a list of psychotropic substances. Finally, the 1988 Convention contains Tables I and II, often used in the manufacture of narcotic drugs and psychotropic substances and therefore in need of international control.

However, state sovereignty presupposes that international obligations are fulfilled by adopting the norm of national legislation. In this regard, the legal sign of narcotic drugs and psychotropic substances has its expression in national legislation. In Kazakhstan, the right to recognize a substance as a narcotic or psychotropic substance was provided by the Parliament of the Republic of Kazakhstan by establishing lists (lists) of narcotic drugs, psychotropic substances and their precursors subject to control on the territory of Kazakhstan.

At the moment, the list of narcotic drugs, psychotropic substances and precursors subject to control in the Republic of Kazakhstan is fixed in Annex 1 of the Law of the Republic of Kazakhstan of July 10, 1998 «On narcotic drugs, psychotropic substances, precursors and measures to counter their illegal trafficking and abuse» (with changes of December 29, 2014)

The list of narcotic drugs, psychotropic substances and precursors subject to control in the Republic of Kazakhstan consists of four tables and a list. In Tables I, II and III, the names of the substances and substances correspond to international unregistered names recommended by the World Health Organization, names and descriptions specified in the Single Convention on narcotic drugs of 1961, the Convention on psychotropic substances of 1971, and other unregistered names.

Table I includes narcotic drugs and psychotropic substances, the use of which is prohibited for medical purposes.

Table II includes narcotic drugs and psychotropic substances used for medical purposes and under strict control.

Table III includes narcotic drugs and psychotropic substances used for medical purposes and controlled.

Table IV includes precursors that are under control.

To the list of substances containing narcotic drugs, psychotropic substances and precursors subject to control in the Republic of Kazakhstan and authorized for veterinary use, medicinal products are included that can be used as diagnostic, therapeutic and preventive agents in the presence of an appropriate license.

Drugs or psychotropic substances also include their preparations, the names of which are not included in the List.

Although certain types of narcotic drugs and psychotropic substances have different properties, mechanisms and duration of impact, they are all equivalent in terms of law, and illegal actions entail criminal or administrative liability. Therefore, it is necessary to identify the characteristic features that serve as criteria for the allocation of the entire mass of drugs and chemicals, the actions which entail criminal or administrative responsibility.

Narcotic drugs of natural origin

Drugs derived from hemp plants

Hemp (*Cannabis L.*) is a narcotic plant that grows on the territory of the Russian Federation. Drug-active substance contained in hemp is tetrahydrocannabinol (THC)¹².

the following drugs are obtained from cannabis:

- marijuana;
- hashish;

- hashish oil.

Any drugs obtained from cannabis, can eventually be attributed to one of these species.

Marijuana. Marijuana is a prepared mixture of dried or not dried tops with leaves and stems remnants, any hemp varieties without a central stem. The term «cannabis» means «the tops of a cannabis plant with flowers or fruits (except for seeds and leaves, if they are not accompanied by apexes) from which the resin has not been extracted, whatever name they have been labeled». Thus, the concept of «marijuana» is somewhat more widely than cannabis.

The color of marijuana, depending on the degree of drying, collection time, etc. varies from light green to brown.

Hashish. Hashish is a specially prepared mixture of separated resin, cannabis plant pollen or a mixture prepared by processing (crushing, pressing, etc.) of the tops of a cannabis plant with different fillers, regardless of which form has been given to the mixture — tablets, pills, compressed tiles, pastes, etc.

Cannabis resin means a separated resin, crude or purified, derived from a cannabis plant. Thus, the term «hashish» is broader than «cannabis resin».

The color of hashish, depending on the conditions of production, is from light green to dark brown (almost black).

Hashish oil. Hashish oil is a narcotic drug obtained from parts of plants of all kinds and varieties of cannabis by extraction (extraction) with various solvents or fats (can occur as a solution or a viscous mass); extracts and tinctures of cannabis.

Cannabis oil is cannabis concentrate obtained by extracting cannabis or cannabis resin and usually containing vegetable oil.

Drugs derived from a poppy plant

From the various types of poppy plants, the following types of narcotic drugs can be obtained:

- Opium;
- Poppy straw;
- Concentrate from poppy straw;
- Extract of poppy straw (extraction opium);
- Acetylated opium;
- Coagulated milky juice of various kinds of poppy that is not a sleeping pill, but containing poppy alkaloids, which is a narcotic drug.

Opium. Opium is a curdled milky juice of opium or oilseed poppy. The species *Papaver Somniferum* L. means poppy sediment, whose subspecies are poppy and poppy oil.

Poppy straw. Poppy straw is all parts (whole or shredded, both dried and not dried, except for mature seeds) of any sort of poppy harvested in any way containing narcotic-active alkaloids of opium.

Concentrate of poppy straw. Concentrate from poppy straw is the material obtained when poppy straw is subjected to the process of concentration of alkaloids contained in poppy straw.

Extract of poppy straw (extraction opium). Extract of poppy straw is a means obtained from poppy straw by any method, by extraction (extraction) of narcotically active alkaloids by water or organic solvents; may occur as a liquid, gummy or solid state. Extraction opium, as a rule, is liquid or lumps of brown color. Extraction opium, obtained by extraction with water, has a characteristic smell of dried fruits.

Acetylated opium. Acetylated opium is a product obtained by acetylation of opium or extraction opium and containing in addition to alkaloid opium monoacetylmorphine, diacetylmorphine, acetylcodein, or their mixture. Acetylated opium is most often a liquid that has a color from yellow to dark brown and has a smell of acetic acid or dried fruit.

Drugs of synthetic and semisynthetic production

Heroin is a derivative of morphine. Appearance: powder of various colors from white to brown. Slang name: «hero».

Cocaine is a white powder, white, cream or beige paste. It is obtained from the leaves of a coca plant that grows in South America, Africa. Slang name: «coca», «coke», «marafet».

Now in the world there is a new narcotic drug «black» cocaine, which in illegal circulation is supplied under the guise of metal shavings, coloring powder for printing presses, raw materials, etc.

Hallucinogens

Inhomogeneous in origin and chemical composition a group of psychedelic drugs that change consciousness — sensations, thoughts, emotions and perception.

- *LSD* («acid», «brand», «blotter», «red dragon») is a synthetic drug, a derivative of lysergic acid contained in ergot. It is colorless, odorless powder or clear liquid without odor, color and taste. The liquid is impregnated with paper or cloth painted with bright patterns. A piece of it is put under the tongue, the action renders in 30—60 minutes and lasts up to 12 hours. It has a huge hallucinogenic effect in small concentrations — 30 g. LSD is enough for 300,000 people.

- *Psilocin and psilocybin* («mushrooms», «toadstools») — are narcotic substances with a hallucinogenic effect. They are contained in toadstools. For the

onset of the narcotic effect, it is sufficient to take 2 grams of dried mushrooms. The main danger of this drug is its availability.

Amphetamines

These are drugs that have a psychostimulating, «exciting» effect. This group includes synthetic substances containing amphetamine compounds. In most cases, they are administered intravenously. These drugs are obtained from medications containing ephedrine (solutane, ethedrine hydrochloride). In nature, ephedrine is found in the plant «ephedra». The action of the drug lasts for 2—12 hours (depending on the type of substance). Psychic and physical dependence is formed. Continuous use requires a constant increase in the dose of the drug. Hot-tempered, angry, aggressive state escalates. Over time, there is unreasonable anxiety and suspicion. Suicide attempts are possible.

The substances of the amphetamines group were distributed. They are manufactured and supplied to the Kazakhstan market from Western Europe and Russia. The common name is Ecstasy. Appearance: tablets of various colors with the extruded drawings of birds, animals, symbolism. Way of use: orally (through the mouth).

Amphetamine addiction has the character of «drunken» or «sessional» — periods of drug use are replaced by «cold» periods, the duration of which decreases over time.

- *Ephedrone* («gunpowder», «talker», «jab») is a ready-to-use solution obtained as a result of a chemical reaction. It has a pink or transparent color and a characteristic smell of violets.

- *Pervitin* («screw», «bolt», «brew») is a ready-to-use solution obtained as a result of a complex chemical reaction. It is oily liquid, which has a yellow or transparent color and a characteristic smell of apples. It is used by consumers as a substitute for heroin addiction, which is absolutely ineffective and even more disastrous.

- *Ephedrine* — is white crystals obtained from the plant ephedra. It is used for medicinal purposes, and it is also used for the preparation of ephedron and perventine more often by manipulation with medicinal preparations. It is ready-to-use crystals yellowish in color. They are inhaled or smoked.

Psychotropic substances — (from the Greek psyche soul and tropos — turn, direction) are synthetic or natural substances that have a stimulating or depressive effect on the central nervous system of a person, which leads to a change in his psychological state. They can bring both positive and negative feedback, are widely used in medicine for the treatment of mental illness.

There are different kinds of psychotropic substances, some of them excite the nervous system of a person, while others have the opposite effect and inhibit its activity (neuro-pressants).

Exciting psychotropic drugs include: caffeine, nicotine, amphetamine, cocaine and others.

Psychotropic substances that depress the activity of the human nervous system activity, are also called neurodegressants, they include: alcohol, barbiturates and tranquilizers.

Sleeping and soothing controlled substances are barbiturates, as derivatives of barbituric acid. They are included in the lists of potent substances (phenobarbital, barbital, hexobarbital, etc.) or in the lists of psychotropic substances (nembutal, barbamy) and refer to substances of hypnotic effect; benzodiazepine is a psychotropic substance of soothing effect; methaqualone is a psychotropic substance of hypnotic and sedative action, which is used as an additive to heroin.

Highly toxic substances

The list of potent poisonous substances for which a licensing and licensing system has been established is approved by a resolution of the Cabinet of Ministers of the Republic of Kazakhstan.

The internal affairs bodies monitor the implementation of the rules for the acquisition, transportation and storage of strong poisonous substances, issue licenses (permits) for their acquisition, storage, transportation, as well as the functioning of marketing organizations and laboratories that conduct poison analyzes.

The effect of harmful chemicals on the human body is due to their physico-chemical properties. The group of chemically dangerous and harmful production factors by the nature of the impact on the human body are divided into the following subgroups:

1. Most toxic substances are most industrial harmful substances. Among them are aromatic hydrocarbons, and their amido and nitro derivatives (benzene, toluene, xylene, nitrobenzene, aniline, etc.). High toxicity is played by mercury-organic compounds, organophosphorus compounds, carbon tetrachloride, dichloroethane.

2. The acids, alkalis, as well as chlorofluorosulfur- and nitrogen-containing compounds (phosgene, ammonia, oxides of sulfur and nitrogen, hydrogen sulphide) have an irritating effect. All these substances are united by the fact that when they come into contact with biological tissues, they cause an inflammatory reaction, with respiratory organs, skin and mucous membranes of the eyes primarily affected.

3. Sensitizing substances include substances that, after a relatively short time on the body, cause it to be highly sensitive to this substance. At the subsequent

even short-term contact with this substance, the person develops violent reactions, most often leading to skin changes, asthmatic phenomena, blood diseases. Such substances are some mercury compounds, platinum, aldehydes (formaldehyde).

4. Carcinogenic (blastomogenic) substances, getting into the human body, cause the development of malignant tumors. At present, there is evidence of a carcinogenic hazard to humans of a relatively small group of chemical compounds found in production conditions. These include, first of all, polycyclic aromatic hydrocarbons (PAHs), which can be part of crude oil, but are mainly formed during thermal (above 350) processing of fossil fuels (coal, wood, oil, shale) or incomplete combustion¹³.

These types of narcotic drugs and psychotropic substances are among the most common, known and to some extent studied in science and law enforcement practice types of drugs. However, it is necessary to emphasize that many other types of drugs are included in these groups of drugs.

Among narcotic drugs and psychotropic substances, whose turnover is prohibited in the Republic of Kazakhstan, there may be exceptions in cases of the use of narcotic drugs, psychotropic substances in operational search activities, the use of narcotic drugs and psychotropic substances in expert and forensic activities, the use of narcotic drugs, psychotropic substances in scientific and educational purposes.

Thus, the subject of the crime in question are things of the material world, namely narcotic drugs or psychotropic substances. In the absence of the crime subject — a real narcotic drug possessing a certain type, volume, weight, — the crime is absent.

In the current legislation, the minimum amount of narcotic that determines the presence of the crime subject is known to have not been established, and in law enforcement practice the opinion prevails that the quantity of narcotic substance does not matter at all for the qualification of the deed. Of course, one cannot agree unconditionally with this. The microscopic amount of a drug that is not capable of having a harmful effect on the human body cannot be the subject of a drug offense. There must be some real presence of a certain drug. It should be borne in mind that often a harmful effect on the body is taking even a relatively small amount of some drugs (heroin, cocaine, morphine, promedol, omnopon, etc.).

The question of a narcotic drug amount is decided in each specific case on the basis of its actual quantity (volume, weight), as well as the properties of various types of narcotic drugs in terms of their effect on the human body. The degree of activity of a narcotic drug is established by means of expertise.

The objective side of the crimes in question, as a rule, is characterized by the performance of active actions. Only violation of the established rules for the production, acquisition, storage, registration, release, transportation or shipment of narcotic drugs, psychotropic, potent and poisonous substances can be expressed in the form of criminal action or inaction.

The legislative structure of the formulations of these crimes is such that in most cases they are so-called formal compositions. For the recognition of these unlawful acts, it is sufficient to establish the fact of the person committing the act prescribed by law. The consequences (and they can be the most serious) lie outside the composition and affect only the individualization of responsibility.

As a rule, it is not a compulsory sign of the objective side of the crimes in question and the manner in which they are committed. For example, for a legal assessment of an act, it does not matter how a drug, psychotropic, potent or poisonous substance is made. However, in cases of theft of narcotic drugs and psychotropic substances, the method of committing a crime can significantly affect the degree of public danger of the deed. To characterize the objective side of these compositions, the special conditions of the place, time and circumstances of the commission of the crime do not matter.

The peculiarity of the objective side of the crimes under consideration is the blanketness of its characteristics¹⁴. This means that in order to clarify their meaning, it is necessary to turn to the normative acts regulating the treatment of drugs, the norms of international law, acts of government. In particular, it is about legal norms regulating the order of cultivation of narcotic plants and the manufacture of narcotic drugs, their release and acquisition, storage and accounting, control over the trade in narcotic drugs, the import and export of drugs, etc.

The subjects of analyzed crimes can be citizens of Kazakhstan, foreign citizens and stateless persons who have reached the age of 16. For theft or extortion of narcotic drugs or psychotropic substances, responsibility can occur after reaching the age of 14 years.

Due to the fact that people who use drugs themselves (other intoxicants), including those who already have a diagnosis of «drug addiction» or «substance abuse», often take part in the crimes under consideration, it is necessary to remember the need for a forensic psychiatric examination. As a rule, drug addicts are recognized as sane in respect of their socially dangerous acts. This is explained by the fact that a person who consciously uses drugs, even after being dependent on them, gives an account of his actions when he leads himself into a state of drug intoxication. Most drug addicts, however, have less control over their actions, the ability to direct their actions (especially during the period of drug starvation, the so-called «breaking», when they experience unbearable suffering). But since the subject guilty brought himself into such a state, he must

bear responsibility for what he did. However, in cases where the systematic use of drugs has reached such a significant degree that there have been persistent changes in the psyche and the person has lost the opportunity to manage his actions, the examination may find him insane. This also applies to situations involving the use of psychotropic and potent substances.

In the composition of crimes, the subject of which are drugs, the subject of a criminal act, as a rule, is endowed with common signs. Signs of a special subject are seen in the composition, where it is an aggravating circumstance, such as committing theft or extortion of narcotic drugs or psychotropic substances by a person using his official position.

From the subjective side, almost all crimes under consideration are characterized by guilt in the form of direct intent. Only a violation of the established rules for the production and trafficking of narcotic drugs, psychotropic, potent and poisonous substances is possible both with intent (direct or indirect) and through negligence (frivolity or negligence).

The motives and objectives of the criminal acts to be analyzed are, as a rule, not relevant for the qualification of meaning. They are taken into account only when imposing punishment. However, some of the compositions of the group under consideration include the goal as a constructive sign of their subjective side., The purpose of marketing in the formulations, for example, has qualifying value.

Over the past decade, the abuse of drugs and psychotropic substances and their illicit trafficking in the country have become widespread, and increasingly affect the state of the economy, the rule of law, the socio-psychological atmosphere in society, the health and the gene pool of the people. The total number of people involved in drug abuse under supervision in health care institutions has increased 5.4 times since 1991 and reached 33,000 people. At the same time, the incidence of drug addiction increased 19 times. Of particular concern is the proliferation of non-medical drug use among minors and young people, as well as women. Almost two thirds of drug users are people under the age of 30.

The drug-related crime continues to grow at a high rate. Since 1991, against the background of a decrease in total crime by 19.8 %, the absolute number of crimes related to drugs has increased 4.3 times. The share of these crimes increased by 5.3 times and amounted to 15.28 % in 1999. At the same time, the role of youth and women in this process becomes dominant. In addition, the state of crime in the country continues to be strongly affected by drug addiction. Abuse of drugs increasingly provokes the commission of selfish and selfishly violent crimes. In some regions up to 60 % of thefts are committed on the basis of the narcotic drugs and psychotropic substances abuse. The consequence of

drug abuse was also the HIV/AIDS epidemic, which in the second half of the 1990s covered certain regions of the country¹⁵.

In the country, intensive restructuring of the illegal drug market continues. Increasingly, highly concentrated, «hard», most dangerous and costly opium, heroin, cocaine, synthetic drugs of contraband origin are being withdrawn from the illicit circulation, and they have considerably superseded the traditional drugs of the cannabis group in the republic.

The republic turns into an expansion object of the international drug business, into which domestic drug dealers and their organized criminal groups are drawn. Stable channels of drug smuggling into the country and their further distribution, both on its territory and outside are formed. Kazakhstan has become a stable «transit corridor» for drug delivery from countries of South-West, South-East Asia and other countries to Russia, Eastern and Western Europe. As the President of the Republic of Kazakhstan, N. Nazarbayev, noted at the meeting with the Secretary General of the Organization for Security and Cooperation in Europe, J. Kubis, at the headquarters of this international organization in Vienna on February 24, 2000, the expansion of the territories of the Central Asian countries by the international drug business is taking place. And this is a direct threat to the national security of our states and regional security in general. At the same time, there is a clear pattern: a sharp increase in international terrorism in the region contributes to an increase in the transit of drugs through this territory to Europe.

The threat of mass «laundering» of the monetary incomes of the domestic and international drug business grows through the use of the republic's economy for this.

The analysis of the situation, as a result, requires an entirely new approach that takes into account the current realities and capabilities of the state, based on the implementation of a set of interrelated, adequate measures based on a unified state policy and strategy in the field of combating drug addiction and drug trafficking that can prevent the emergence of new threats and challenges.

Chapter 2 COUNTERACTION AGAINST DRUG CRIMINALITY: CRIMINALLY-LEGAL AND CRIMINOLOGICAL PARADIGMS

2.1 PROBLEMS OF CRIMINAL LEGISLATION APPLICATION IN THE SPHERE OF ILLEGAL CIRCULATION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

The family object of criminal offenses against public health and morality are social relations that ensure public health and public morality.

In a number of crimes, there is an object of assault, for example, narcotic drugs (art. 296, 297 CC), tools for the manufacture of narcotic drugs (art. 303 CC), a stash, which may be recognized as residential or non-residential premises systematically provided for the consumption of narcotic drugs or psychotropic substances (Article 303 of the Criminal Code).

On the objective side, most crimes against public health and morality are usually carried out by means of action: for example, the illegal manufacture, acquisition, storage, transportation, transfer or sale of narcotic drugs, theft or extortion of narcotic drugs or psychotropic substances, illicit cultivation of plants banned for cultivation, containing narcotic substances.

On the structure of the composition, most crimes against public health and public morality are formal. For example, the organization and maintenance of a brothel for the consumption of narcotic drugs or psychotropic substances (Article 303 of the Criminal Code).

The smaller part of the crimes forms the material composition. For example, the decline in the consumption of narcotic drugs, psychotropic substances, their analogues (Part 4, Article 299 of the Criminal Code).

On the subjective side, the bulk of this group of crimes is committed deliberately. For example, the decline in consumption of narcotic drugs or psychotropic substances (Article 299 of the Criminal Code).

The subjects of the category of crimes under consideration are physical persons who are 16 years old. Only an act provided for in Article 298 of the CC of the RK (theft or extortion of narcotic drugs or psychotropic substances) entails responsibility from the age of 14. Individual crimes can only be committed by a special subject, for example, Article 303 of the Criminal Code of the Republic of Kazakhstan (Violation of the rules for handling narcotic drugs, psychotropic or poisonous substances).

The crimes against public health have their own specifics, which is determined, above all, by the peculiarity of their subject matter. It is the narcotic drugs and psychotropic substances that are the subject of these crimes that constitute the common core that unites all the crimes of this group.

Under the drugs one means synthetic substances and substances of natural origin, which have a numbing effect on the psyche and further destroys the human body.

The list of narcotic drugs whose use is prohibited for medical purposes is indicated in the List of narcotic drugs, psychotropic substances and precursors subject to control in the Republic of Kazakhstan, which came into force on August 8, 2002 (Appendix 1 to the Law of the Republic of Kazakhstan «On narcotic drugs, psychotropic substances, precursors and measures to combat their illicit trafficking and abuse. «It includes 72 items: allylprodin, alfetadol, alpha-methylfentanil, alpha-methylthiopentanyl, alfprodin, acetorhin, acetylated opium, betacetylmadol, hashish (anasha, cannabis resin), heroin (diacetylmorphine), propyram, rolleryclidine, thiophentanil, etc.

Psychotropic substances include natural or synthetic substances that exert a stimulating or depressive effect on the central nervous system of a person included in the above list.

Psychotropic substances include: dexamphetamine, meklokvalon, ritalin, as well as salts of all narcotic drugs and psychotropic substances. There are 38 items in total

Poisonous substances are those substances that, when exposed to a living organism, are able to cause a sharp disruption of a person's normal life (severe poisoning, death). These include: aldrin, dieldrin, sarin, novarsenol, phenol, cyclone, ergotamine, etc. In total there are 62 items.

The list of precursors (substances) of chemical and vegetable origin, often used in the illicit manufacture of narcotic drugs or psychotropic substances, is strictly controlled by the state bodies of the Republic of Kazakhstan. These include: safrole, ephedrine, acetone, toluene, ethyl ether, etc. In total there are 23 species.

Instruments and equipment include technical equipment, as well as various technical devices that can be used to manufacture or process narcotic drugs, psychotropic or toxic substances.

Criminal responsibility for part 3 of Article 266 of the Criminal Code comes when the perpetrator has a large amount of narcotic drugs or psychotropic substances found. A large size is established taking into account the conclusion of the examination. The sizes of narcotic drugs and psychotropic substances are defined in the Consolidated table on the attribution of narcotic drugs, psychotropic substances, their analogues and precursors to small, large and particularly

large amounts found in illicit trafficking, attached to the Law of the Republic of Kazakhstan «On narcotic drugs, psychotropic substances, their analogues, precursors and measures to counter their illicit trafficking and abuse of them. « The small, large and particularly large sizes of analogues of narcotic drugs and psychotropic substances correspond to the small, large and particularly large amounts of narcotic drugs and psychotropic substances, whose analogues they are.

The crimes envisaged in articles 266—298 of the Criminal Code of the Republic of Kazakhstan are considered to be completed from the moment of the active actions specified in the composition (manufacture, acquisition, storage, transportation, transfer, sale, theft or extortion, etc.).

Illegal acquisition of narcotic drugs or psychotropic substances must be considered purchase, receipt in exchange for other goods and things, in payment of a debt, loan or gift, appropriation of the found, collection of wild narcotic plants or their parts, remnants of unprotected crops of such plants after completion of their harvesting and the like. It does not matter, the person who received the narcotic drugs or psychotropic substances, purchased them for personal consumption or for transfer to another person in the future. The illegal acquisition of narcotic drugs or psychotropic substances can be both paid and unpaid. In the forensic investigation, the acquisition of narcotic drugs or psychotropic substances is most often paid for.

The only basis for the legal acquisition of narcotic drugs or psychotropic substances is their purchase in a medical or pharmaceutical institution on the basis of a properly prescribed individual prescription for a particular patient. At the same time, the prescription form is a strict reporting document, with the signature of the attending physician and the seal of the medical institution.

Acquisition of narcotic drugs or psychotropic substances should be considered completed after the transfer of these substances to the possession of the guilty person. At the same time, as N. Kuznetsova rightly observes, it does not matter whether the narcotic drug or psychotropic substance passes into temporary or permanent possession of the subject. No less dangerous and no less common than the acquisition of drugs, is their storage. The peculiarity of the possession of narcotic drugs is the continuing nature of the crime.

When delimiting the illegal carriage of narcotic drugs or psychotropic drugs that a person has while following him on transport, from their illegal storage, one must proceed from the intent of the guilty. At the same time, it is necessary to take into account the amount of narcotic drugs or psychotropic substances found, the purpose of the trip, the type of transport used and other circumstances of the case, to conclude whether the intent of the perpetrator was aimed at their illegal transportation or storage.

Illegal transportation of narcotic drugs or psychotropic substances consists in their movement from one place to another by any mode of transport — ground, underground, water, air, regardless of the mode of transportation and the place of storage of illegally transferred funds or substances.

Transportation of narcotic drugs or psychotropic substances should be distinguished from carrying. The transfer of narcotic drugs or psychotropic substances is considered as a form of their storage. Transportation should not be confused with shipment, since in this case the direct movement of narcotic drugs or psychotropic substances is carried out without the participation of the guilty person.

It should also be pointed out that note 1 of Article 296 of the Criminal Code contains a special type of exemption from criminal liability.

Exemption from criminal liability on the grounds indicated in the note to Article 296 of the Criminal Code is possible only if there are simultaneously two conditions: the voluntary surrender of narcotic drugs or psychotropic substances or the voluntary treatment in a medical institution for the provision of medical assistance in connection with the consumption of narcotic drugs or psychotropic substances for non-medical purposes and his active assistance in the disclosure of crimes related to the illicit traffic of narcotic drugs or psychotropic substances.

The essence of theft in accordance with art. 298 of the Criminal Code of the Republic of Kazakhstan is that as a result of such an attack, the owner or other owner loses the opportunity to use and dispose the property at his discretion, and the perpetrator gets the opportunity to use someone else's property for personal gain.

Extortion on its objective and subjective grounds closely adjoins theft, although it is not recognized as such. Specificity of the socially dangerous orientation of extortion is that it encroaches not only on property, but also on other property relations that act as independent forms of property interests (obligations, inheritance, housing, etc.).

Objective signs of extortion are composed of two independent actions — the presentation of a property claim and a statement of threat to cause certain harm. The subject of extortion, in addition to someone else's property, may be the right to property and the commission of other actions of a property nature.

Extortion of narcotic drugs or psychotropic substances is a requirement to transfer such funds or substances or the right to them or to perform other actions of a property nature under the threat of violence or destruction or damage to property, as well as under the threat of dissemination of information that dishonors the victim or his relatives or others, information that can cause significant harm to the rights or legitimate interests of the victim or his relatives.

If part 1 of article 298 of the Criminal Code of the Republic of Kazakhstan (theft or extortion of narcotic drugs or psychotropic substances) establishes re-

sponsibility for the «simple» composition of this crime, then part 2 of article 298 of the Criminal Code of the Republic of Kazakhstan provides the responsibility for the same actions committed with qualifying signs:

- 1) by a group of persons by prior agreement;
- 2) repeatedly;
- 3) by a person using his official position;
- 4) with the use of violence, not dangerous for life or health, or with the threat of such violence.

Part 3 of Article 298 of the Criminal Code of the Republic of Kazakhstan establishes criminal liability for the foreseen part 1 or part 2 of this article, committed in the presence of particularly qualifying signs:

- 1) by a criminal group;
- 2) in relation to narcotic drugs, psychotropic substances, their analogues in large amounts;
- 3) with the use of violence dangerous to life or health, or the threat of such violence.

Violence should be considered dangerous for life if the method of its application created a real danger of death, even if it did not even cause real serious harm to health (for example, different kinds of strangulation, etc.). Murder and specially qualified types of causing serious harm to health as a result of theft or extortion of narcotic drugs or psychotropic substances require additional qualification under the relevant articles of the Criminal Code of the Republic of Kazakhstan.

Part 2 and 3 of Article 299 of the Criminal Code of the Republic of Kazakhstan (Declination to the use of narcotic drugs or psychotropic substances) provides the qualified composition of this crime. The qualified composition of this crime presupposes a stricter responsibility for inducing the use of narcotic drugs or psychotropic substances, committed:

- 1) by a group of persons by prior agreement;
- 2) repeatedly;

And:

- 1) against a person known to be a minor or two or more persons;
- 2) with the use of violence or the threat of its use;
- 3) by a criminal group.

The objective side of the crime is in the tendency to consume drugs or psychotropic substances. Under the inclination to consume narcotic drugs (psychotropic substances) it is necessary to understand any deliberate actions (proposals, advice, persuasion, misleading, threats, etc.) aimed at stimulating the desire of others to consume them, as well as mental and physical violence for the purpose of taking narcotic drugs (psychotropic substances) by the person affected. A crime is considered to have ended regardless of whether the perpetrator suc-

ceeded in achieving the desired result or not, that is, from the moment of the actual commission of actions aimed at the initiation of the said desire. The fact of the former consumption of narcotic drugs or psychotropic substances by the inclined person for the qualification of the deed does not matter.

The subject of the crime can be any person who has reached the age of 16 (with the declination of a minor, a special subject is a person who has reached the age of 18). If a minor is inclined to the use of narcotic drugs or psychotropic drugs for a minor, his actions cannot be qualified in accordance with Part 2 of Art. 299 of the Criminal Code. In this case, responsibility comes without considering this qualifying characteristic.

Part 4, article 299 of the Criminal Code of the Republic of Kazakhstan provides the responsibility for inducing the use of narcotic drugs or psychotropic substances if this entailed, by negligence, the death of a person or other grave consequences. The death of a person must come as a result of the consumption of drugs or psychotropic substances by the inclined to this person.

Other serious consequences include suicide or mental illness of the victim, drug addiction, etc.

The objective side of the offense under article 300 of the Criminal Code of the Republic of Kazakhstan is expressed in: a) sowing of plants forbidden to cultivation containing narcotic substances; b) cultivating of such plants; c) cultivating varieties of hemp, poppy or other plants containing narcotic substances.

Under sowing, forbidden to cultivate plants containing narcotic substances, it is necessary to understand the sowing or planting of seedlings listed in the List of plants without proper authorization on any land plots.

Growing narcotic plants, forbidden for cultivation, is the care of crops and shoots in order to bring them to the stage of maturation.

Cultivation is considered to be carried out without proper authorization and control of breeding of narcotic plants, i. e., actions aimed at breeding new varieties of them, as well as improving the process of their cultivation.

A crime is recognized as completed if there is a fact of planting, cultivation or cultivation of said plants and crops without the permission of the authorized bodies, irrespective of the subsequent emergence or growth of plants and crops. At the same time, the place of sowing, the size of the sown area and the fate of crops do not matter.

The subject of a crime under article 301 of the Criminal Code of the Republic of Kazakhstan «Illegal traffic of poisonous substances, tools or equipment used for the manufacture or processing of narcotic drugs, psychotropic or poisonous substances are the poisonous substances that are not narcotic drugs or psychotropic substances. Poisonous substances are drugs that are capable of ingesting,

subcutaneously or intramuscularly when they are ingested, causing severe poisoning or death of a person¹⁶.

Tools or equipment used for the manufacture or processing of narcotic drugs or psychotropic substances include technical equipment (flasks, vessels, hoses, pipes, burners), as well as technical devices that can be used to manufacture or process drugs or psychotropic substances.

The objective side of the crime consists in the illegal manufacture, processing, acquisition, storage, transportation or transfer with the purpose of selling substances, tools or equipment used for the manufacture of narcotic drugs or psychotropic substances, as well as the illegal sale of these substances.

By manufacture is understood any action resulting in the production of finished substances, tools or equipment used for the manufacture of narcotic drugs or psychotropic substances.

Illegal processing means alteration or refining (purification from extraneous impurities) without the appropriate authorization of the same type of narcotic or psychotropic substance in order to increase its concentration.

Under the acquisition of these substances, tools or equipment is understood the obtaining them in permanent or temporary possession by any means (purchase, exchange and the like).

Article 302. Organization or maintenance of brothels for the consumption of narcotic drugs, psychotropic substances, their analogues and provision of premises for the same purposes.

Under the organization of a brothel, one should understand the actions aimed at creating it (finding, hiring, accommodating equipment and its equipment, etc.), and in the presence of premises, attracting persons who wish to use it for the consumption of narcotic drugs or psychotropic substances.

The obtaining of the brothel means a system of actions aimed at ensuring its functioning (its material provision, protection, repair, servicing of the clientele, obtaining funds and substances for consumption, etc.).

If the organization and maintenance of the brothel involve illegal trafficking of narcotic drugs or psychotropic substances or with a tendency to consume them, these actions should be qualified according to the aggregate of the relevant part of Article 302 and other articles of the Criminal Code of the Republic of Kazakhstan providing the responsibility for their commission.

A crime is considered to be over from the moment of organizing or keeping a brothel for the consumption of narcotic drugs or psychotropic substances.

The subject of the considered crime can be any sane person who has reached the age of 16.

Part 2 of Article 303 of the Criminal Code of the Republic of Kazakhstan (Organization or maintenance of brothels for the consumption of narcotic drugs

or psychotropic substances) establishes criminal liability for acts committed with qualifying signs:

- 1) by a person using his official position;
- 2) repeatedly;
- 3) by a criminal group.

A mandatory feature of this crime is the goal — the use of drugs or psychotropic substances.

Part 2, Article 303 of the Criminal Code of the Republic of Kazakhstan (Violation of the rules for the treatment of narcotic drugs, psychotropic or poisonous substances) establishes criminal liability for the acts provided in Part 1 of this article, which entailed theft of narcotic drugs, psychotropic or poisonous substances or other significant harm.

By other significant harm can be recognized such consequences of violation of the specified rules, as people's diseases, pollution of the environment, poisoning of wildlife, etc. The onset of specific consequences is a mandatory feature of the offense under Part 2, Article 303 of the Criminal Code of the Republic of Kazakhstan.

The geopolitical position of Russia and Kazakhstan is a trans-shipment base between Europe and Asia. Transparency of borders with the former Soviet republics makes it possible to build new, relatively safe ways of transporting drugs. The presence of a huge raw material base for obtaining drugs of vegetable, natural origin without investing in production of significant funds creates the conditions for the drug dealers to obtain huge profits. The ramified system of research institutes, laboratories, a well-developed chemical and medical industry, which has modern equipment and well trained and trained personnel, makes it possible to obtain cheap synthetic drugs¹⁷.

In Kazakhstan, about 2 million people regularly used drugs in 1998. The incidence of drug addiction from 2001 to 2014 increased in 4 times.

From year to year, the number of underage drug users increases. The use of narcotic drugs covers groups of the population with relatively better socio-demographic indicators.

The increase in crime associated with illegal trafficking of narcotic drugs and psychotropic substances is noted in those areas where this problem did not exist before.

The criminality associated with narcotic drugs and psychotropic substances has increased six-fold over the past five years.

Drug addiction and related crime affect the economy, politics and the rule of law. Drug addiction is closely related to violent crime: murders, injuries, hooliganism. About 80 % of hooliganism in a public place is committed in a state of narcotic or alcoholic intoxication¹⁸.

In connection with the increase in the number of drug users (including drug addicts) and drug addicts, the number of people seeking to cash in on the drug business is also growing. It becomes more organized, acquires interregional and interethnic character.

In some regions up to 60 % of property crimes are committed on the basis of drug addiction. The epidemic of drug use and the associated HIV infection is spreading widely in Kazakhstan, of the 4,399 new cases, 90 % are drug addicts. Drug addiction is closely related to prostitution. Prostitutes-drug addicts are often the carriers of HIV infections.

Drug addiction is closely linked to organized crime. The organized drug business is the embodiment of self-interest and violence.

The number of organized groups for six years has grown 10 times and in 2014 reached, according to the Ministry of Internal Affairs, about 8,000 groups. Organized drug crime is closely related to the illicit cultivation of narcotic plants, which are the main sources of marijuana, hashish, opium, and ephedra in Kazakhstan. Trafficking and drug smuggling are usually handled by homogeneous, well-organized, interstate criminal associations. Analysis of the situation in Kazakhstan and the Urals suggests that there is no reason to hope for early success in the field of combating drug crime.

Crimes related to the illicit traffic of narcotic drugs and psychotropic substances relate to crimes against public security and public order, which are their patrimonial object. The specific object of these crimes is the health of the population. At the same time, the considered may to some extent affect other objects, cause damage to other social relations. These relations are additional type objects of the crimes under consideration.

Common to the group of crimes under consideration is only their inherent object of assault — narcotic drugs and psychotropic substances. The analysis of the crime subject led to the conclusion that the simple listing of narcotic drugs and psychotropic substances in special lists for the legal qualification of the acts connected with it is not enough, since it is necessary to take into account their number, which together with other legal features affects the type and measure of legal responsibility. Therefore, the Summary Table of the quantities of narcotic drugs and psychotropic substances classified as small, large and particularly large should be approved by the State Commission of the Republic of Kazakhstan for Drug Control, needs the revision in the direction of reducing the quantities of narcotic drugs and psychotropic substances attributable to small, large and especially large. In Kazakhstan, the size of narcotic drugs and psychotropic substances from which criminal responsibility is much higher than in Russia and they need to be reduced.

The plant «ephedra horsetail» contains a more dangerous drug than the drugs of the poppy and hemp group, but it is not included in the list of narcotic drugs, psychotropic substances and their precursors which are subject to control in the republic. In this regard, it is proposed to include the ephedra horsetail in this list¹⁹.

In practice, the definition of the manufacture of narcotic drugs or psychotropic substances causes considerable difficulties. The interpretation of this concept, which is given in the decision of the Plenum of the Supreme Court of the Republic of Kazakhstan on 27 May 1998 «On judicial practice in cases involving crimes with narcotic drugs, psychotropic, potent and poisonous substances» does not correspond to its interpretation in the RK Law of January 8 1998 «On narcotic drugs and psychotropic substances». Therefore, the Plenum incorrectly directed the courts to establish the moment of the end of the crime, which was expressed in the illicit manufacture of narcotic drugs and psychotropic substances. In his opinion, this crime is over from the beginning of the commission of actions aimed at obtaining the means and substances ready for use and consumption. According to the same legislative interpretation of the manufacturing concept, a crime must be considered completed at the time of obtaining ready-made narcotic drugs, psychotropic substances or medicines containing them.

Article 260. Theft or extortion of narcotic drugs or psychotropic substances

The public danger of this crime manifests itself not so much in causing damage to property relations as in the threat of harm to the population health.

The object of this crime is the health of the population. As an additional object for the theft or extortion of narcotic drugs or psychotropic substances, property relations, life and health, honor and dignity of the victim, as well as his relatives and friends, can act.

The subject of the crime is narcotic drugs and psychotropic substances, the concept of which was examined in the first question.

The objective side of Part 1 of Art. 260 of the Criminal Code is characterized by the following active actions:

- a) theft of narcotic drugs or psychotropic substances;
- b) extortion of narcotic drugs or psychotropic substances.

Theft of narcotic drugs also forms a collection of drug-containing plants from protected. Theft of narcotic drugs or psychotropic substances is considered to be over, if the guilty person has seized these funds or substances and he has a real opportunity to dispose his own discretion or use them, that is, this crime relates to material elements. The exception consists of robbery, which is considered completed at the time of attack and according to the design is a formal composition of crime.

Proceeding from the dispositions of Part 1 of Art. 181 CC RK, the concept of the objective side of extortion of drugs, the foregoing Art. 260 of the Criminal

Code should be given. Extortion of drugs is included in the requirement to transfer drugs or the right to them or commit other acts against them under the threat of violence or to destroy or damage someone's property, as well as under the threat of spreading information that is disgracing the victim or his relatives. Responsibility for the crime occurs in the case of narcotic drugs and psychotropic substances extortion from citizens, regardless of whether they are lawfully or illegally owned. Extortion of narcotic drugs or psychotropic substances should be considered a completed crime from the moment of presentation of the demand for transfer.

Recently, smuggling has become increasingly widespread throughout the criminal environment.

Its roots stretch from ancient times. This phenomenon was born in the XIV century, when commodity-money relations began to be formed.

In most countries of the world, smuggling is recognized as one of the most dangerous types of criminal activity. Like crime in general, smuggling, obviously, will exist as long as there are state borders. Even in such highly developed countries as the United States, Germany, Britain, France, there is smuggling²⁰. In these countries, there is no task of completely eradicating this crime. It is only about reducing its size to the controlled limits.

The reasons for the growth of smuggling are: unreasonably high rates of certain types of taxes and duties; low level of tax and customs control; corruption of law enforcement and supervisory bodies; discrepancy between the level of tax and customs rates, as well as the economic situation, low level of citizens' well-being, when low-income people, driven by hopelessness, are consciously involved in illegal business²¹. The public danger of this crime lies in the fact that the uncontrolled turnover of objects or objects withdrawn from circulation, whose circulation is limited, is fraught with a high degree of danger of causing harm to people, the environment, the interests of society and the state.

The object of this crime is public safety in the sphere of regulation of customs, regulations with respect to objects withdrawn from circulation or whose circulation is limited; an additional object — the health of people, the order of management.

In accordance with the decision of the Plenum of the Supreme Court of the Republic of Kazakhstan «On the practice of application of the legislation on criminal liability for smuggling» on 18 June 1997, the crime subject is narcotic drugs, psychotropic, strong, poisonous, radioactive or explosive substances, weapons, military equipment, devices, firearms and ammunition, nuclear, chemical, biological and other types of weapons of mass destruction, materials and equipment that can be used to create weapons of mass destruction. In other

words, items withdrawn from civil circulation, or turnover of which is restricted by special rules.

The objective side of the crime is expressed in the commission of such an act as the illegal movement across the customs border of items withdrawn from circulation or whose circulation is restricted under the following circumstances: 1) in addition to or with concealment from customs control; 2) with fraudulent use of documents or means of customs identification; 3) coupled with non-declarations or unreliable declarations of transportable items²².

The composition of this crime is formal. The crime is considered to be over:

- at import and export, carried out legally, — from the moment of direct border crossing;

- when imported, carried out under the guise of legal movement, — from the moment of completion of customs clearance, and in respect of items for which special rules have been established — since the end of the border control procedure;

- when exported under the guise of legal movement, — from the moment of completion of customs clearance²³.

Criminal responsibility for the above actions occurs regardless of the size and number of smuggling things.

Illegal transfer of goods or other valuables and items can be made both by importing them into the customs territory and exporting them from this territory.

Under import and export, it is necessary to understand the movement of smuggling items by any means (transportation or forwarding by any means of transport, including by air, mailing, carrying in hands, in pockets of clothes, in the form of hand luggage, etc.).

Illicit travel is carried out both at checkpoints and other places defined by legislation for crossing the border (under the guise of legal movement) and outside these places (illegally).

The movement of narcotic drugs, psychotropic, poisonous, powerful, poisonous, radioactive or explosive substances, weapons, military equipment, explosive devices, firearms and ammunition, nuclear, chemical, biological and other types of weapons of mass destruction, materials and equipment that can be used for the creation of weapons of mass destruction, forms the offense set forth in Article 250 of the Criminal Code and entails responsibility regardless of the size and quantity of contraband items.

Movement, as an obligatory sign of smuggling, can be fraught with fraudulent use of documents or means of customs identification, non-declarations or unreliable declarations of goods seized or restricted for movement across the customs border in respect of which special rules for movement across the customs border have been established.

The fraudulent use of documents or means of customs identification is the presentation to the customs control as grounds or conditions for the movement specified in art. 250 of CC of deliberately falsified documents, invalid documents, documents received illegally, as well as containing inaccurate information about the items being moved. The use of means of customs identification means the use of seals, digital, alphabetic or other marking, identification marks, photographs, etc.

2.2 CONCEPT, CONDITION AND DYNAMICS OF CRIMES IN THE SPHERE OF ILLICIT TRAFFICKING OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Criminality of drugs trafficking is a set of crimes that infringe on the established order of trafficking of narcotic drugs, psychotropic substances and their precursors.

The annual income of drug dealers from illicit drug trafficking exceeds 800 billion dollars. Out of six billion of the world's population, more than 200 million people consume various narcotic drugs and psychotropic substances. Among these, 140 million smoke marijuana, 13 million use cocaine, 8 million heroin, and 30 million people abuse amphetamine-type stimulants.

According to experts, the volume of only one drug trafficking through Kazakhstan is now up to 150 tons per year. If according to the USSR Ministry of Internal Affairs, in the 90s of the last century there were about 50,000 drug addicts throughout the Soviet Union, today more than 50,000 drug users are officially registered in medical records only in Kazakhstan. Informal statistics believe that in fact, the number of drug addicts and drug-related people in Kazakhstan is 450,000 people²⁴.

Drug addiction, as a phenomenon of individual consumption of drugs, has now in fact become a «visiting card» that determines the behavior of huge social groups, called «risk groups». Addiction, posing a real threat to humanity, requires immediate intervention in the drug situation that has developed in the country. In this regard, it should be noted that Art. 29 of the Constitution of the Republic of Kazakhstan guarantees the protection of the health of the Republic of Kazakhstan citizens. Among the socially dangerous phenomena that encroach on the health of citizens is the non-medical use of narcotic drugs.

Currently, the problem of preventing declension to use narcotic drugs is one of the first-order social problems. Initiation of advanced scientific developments in this field is facilitated by the prevailing circumstances of our time. First and foremost, this is a significant deterioration of the situation related to drug trafficking and abuse, which is currently developing in Kazakhstan under the influ-

ence of a complex of socio-economic, political, legal, information-psychological, natural-geographical, medical and demographic factors that have a long period of accumulation and sale of negative components.

An important impulse, which undoubtedly gave a powerful impetus to the emergence of a broad scientific interest in the problems of combating drug addiction and drug trafficking, was the political recognition of their acuity, which for the first time found official substantive reflection in the development strategy «Kazakhstan — 2030» and the Decree of the President of the Republic of Kazakhstan «Strategy to combat with drug addiction and drug trafficking in the Republic of Kazakhstan for 2006—2014» in the rank of a special priority for the government. These circumstances, in fact, have become a real catalyst that can provide the necessary conditions for large-scale, deep and relatively long-term scientific research based on reasonable, long-term planning

United Nations case studies showed that 1/5 of the country's population aged 15—49 years at least once tried drugs. From time to time, they are consumed by 4.5 % of the polled Kazakhstani, and 2.1 % do it systematically. The generalized portrait of the Kazakh drug addict is: a man, unemployed, 27 years old. «The average Kazakh drug addict has come to a decision to» prick and forget «most often already in adulthood, and not out of curiosity, but rather from despair. In recent years, there has been a tendency to «rejuvenate» the disease. There is the reduction of the lower age limit of narcotization up to 12—15 years. Absolute leaders here are the Karaganda region, in particular the cities of Karaganda and Temirtau. In Temirtau, for example, even seven-year-old heroin addicts are on medical records.

If in the early 1990s, 3—4 regions with the total number of officially registered consumers of about 10,000 people were hit by the most active drug use in Kazakhstan, there are now more than 10 such regions with more than 35,000 such consumers (this is official data, experts recommend these figures multiplied by 8).

The drug-related crime continues to grow at a high rate. Since 1991, the absolute number of crimes related to drugs has increased 4.4 times. The statistics record the significance of the increase in the total weight of detected and seized from illicit trafficking of drugs and raw materials for their manufacture.

Abuse of drugs is increasingly provoking the commission of selfish, self-serving violent crimes. In some regions of the republic up to 20 % of thefts are committed on the basis of the abuse of narcotic drugs and psychotropic substances.

The republic is becoming an object of expansion of international business, into which domestic drug dealers and their organized groups are drawn. Kazakhstan is turning into a stable «transit corridor» of drug delivery from coun-

tries of South-West, South-East Asia and others to Russia, to Eastern and Western Europe.

Already in 1992, right after the collapse of the Soviet Union, in Western Europe reasonable concerns about the «drug threat from the south» arose. The weakening of the boundaries of the ex-SSSR, which for many years was a natural buffer on the trans-Eurasian routes of Afghan raw opium, quickly corrected these routes. The former Soviet republics of Central Asia, which in those years were mainly engaged in self-determination, became very convenient and relatively safe for drug couriers through the transfer of Afghan potions to Russia and Europe. And the war in Tajikistan, one of the main reasons for which was the drug expansion, for a long time buried the hopes of restoring the old barriers on the way of Afghan opium.

Factors for the spread of illicit drug trafficking are largely related to the substantial material existed benefits. Drug trafficking brings more profit to criminal structures than any other sphere of criminal activity. The United Nations estimates that in the USA the revenues of the illicit drug trade industry range is between \$ 300—500 billion per year, mainly from both consuming countries and countries through which transit is carried out. Hence — there is the merging of the drug mafia with government structures and shameful silence about the real picture of the distribution of drugs and the actions associated with this grouping.

The availability of drugs, which is expressed in the prevalence of the sources of their sale and the possibility of their almost unimpeded acquisition, relative cheapness, is today one of the main reasons for the spread of drug addiction and drug trafficking in the Republic of Kazakhstan. Among the causes of drug abuse, life dissatisfaction and the associated desire to escape from reality, the desire to experience a sense of euphoria, as well as curiosity, which in different proportions are characteristic of different social, age groups of the population, stands out.

The aftermath of drug abuse was the HIV / AIDS epidemic, which, in the second half of the 1990s, overwhelmed some regions of the country. 70 % of the cases are drug addicts.

The system of drug trafficking causes in the republic forms a set of moral-psychological and intellectual-volitional flaws in certain social groups of the population about the harm of non-medical drug use and the content of legal responsibility for illegal treatment.

In this regard, it is important to adequately assess the depth, scale and trends of ongoing processes, the errors of the efforts undertaken. All this requires the development of a system of balanced measures, they should be most effective and least costly, scientifically based, taking into account the opportunities and needs of modern development of the state and society.

In Kazakhstan there is not only the spread of drug addiction as a national disaster, but also its widespread antisocial manifestation.

Unfortunately, at least 90 % of those who are being criminally or administratively liable for illegal actions with drugs are those who act without the intention of selling them for the purpose of their own consumption. Thus, the prevailing part of socially dangerous persons engaged in the illegal distribution of drugs, and therefore subject to the primary attention from the criminal law, it is possible to avoid repressive measures and control by the state²⁵.

In general, the narcotic situation in the Republic of Kazakhstan is characterized by:

- reduction in the number of crimes related to the illicit trafficking of narcotic drugs, psychotropic substances and precursors, including those committed without the purpose of marketing;

- reduction of the number of crimes related to the sale of narcotic drugs, psychotropic substances and precursors;

- increase in the volume of seized narcotic drugs, psychotropic substances and precursors;

- decrease in the number of detected facts of smuggling and the volume of seized drugs that have arrived in this way;

- reducing the number of people who abuse drugs, psychotropic substances and precursors²⁶.

The largest number of drug crimes in 2014 was registered in Karaganda (1 223), East Kazakhstan (865) and Kostanay (734) region, as well as in Almaty (769) and South-East transport region (632). Small growth rates of their number are observed in North Kazakhstan (2.6 %) and special facilities (6.3 %).

The share of registered crimes related to illicit drug trafficking in the total number of registered crimes was 6.67 %. Thus, among all the recorded crimes, every 14th is a drug offense.

In the structure of narcotic crime, the crimes stipulated by Article 297 of the Criminal Code of the Republic of Kazakhstan «Illegal manufacture, processing, acquisition, storage, transportation for the purpose of sale, transfer or sale of narcotic drugs, psychotropic substances, their analogues» prevail.

The volume of seized narcotic drugs or psychotropic substances is increasing every year. The activation of the law enforcement bodies activity of the Republic on the withdrawal of illegal drugs is noted.

In general, the total weight withdrawn from illicit drug trafficking in recent years has increased by 2.3 % (from 27.7 tons to 28.4 tons), of which 82.3 % falls to the share of the Ministry of Internal Affairs, the National Security Committee — 15.6 %, the Committee of Customs Control — 2.1 %.

In the structure withdrawn from illicit drug trafficking, the largest percentage falls on the cannabis group — 96 %, hashish — 1.5 %, heroin — 1.4 %, opium — 1.1 %.

The largest share among drug offenses continues to be maintained for crimes related to the illegal manufacture, acquisition, storage, transportation, transfer of narcotic drugs or psychotropic substances committed without the purpose of marketing²⁷.

Despite the positive development in the dynamics of drug trafficking, the problem of combating illicit drug trafficking remains acute.

In particular, the high latency of crimes related to drug trafficking committed without a sales target remains; the execution of the existing decisions on criminal and administrative cases in terms of the collection of fines and confiscation of property, as well as the principle of the inevitability of punishment for committing offenses related to illicit drug trafficking in small amounts is not ensured.

Analysis of statistical data shows that after some stabilization of drug crime in the country, which has been taking shape in recent years, since 2010 the tendency of decreasing the number of registered drug crimes has been traced.

The criminological characterization of drug addiction testifies that the international character of the criminal groups activities specializing in smuggling and clandestine drug trafficking requires the expansion and deepening of international cooperation in combating organized crime, which is drug addiction, as well as the eradication of social diseases that generate demand for narcotic drugs.

The fight against drug addiction in our country is an integral part of the fight against crime and the protection of public order. Therefore, it is under constant attention of not only law enforcement bodies, medical institutions, public groups, but also legislative bodies.

The analysis of criminological, criminalistic, legal and special literature on the line of operative-investigative activity of law enforcement bodies showed that drug addiction today is the most dangerous because the main medium for its spread is youth. The age over 70 % of those who use drugs is 13—30 years. Age of study: up to 16 years of age make up 0.2 %; 16—19 years old — 4.3 %; 20—24 years — 27.4 %; 25—29 years old — 33.3 %; 30—34 years — 21 %; 35—39 years old — 8.6 %; 40—44 years — 2.45 %; 45 years and above — only 2.9 %. At the same time among drug addicts with primary education — 2.7 %, with an average — 66.6 %; incomplete higher education — 9.3 % and higher 7.8 %. Thus, the overwhelming majority of drug addicts — 83.7 % have secondary and higher education. 77.1 % of drug addicts are attached to narcotics under the influence of others²⁸.

As the analysis of practice shows, each drug user involves 5—10 more people.

It should be noted that people who abuse alcohol are familiar with narcotic drugs in recent years. According to the study drug addicts, at first they used drugs as a hypnotic, sedative, then added to alcoholic beverages to remove the state of the 'hangover'. Ultimately, with an increase in the dose of consumption, a painful attraction to the above narcotic-containing medicines occurs.

Currently, the offensive activity of specialized units and drug prevention groups in the country is low because of the lack of availability of official vehicles, special equipment, express analyzers; special dog breeding service, the unified system of preventive registration and monitoring of persons who consume narcotic drugs without the permission of a doctor lag behind. The ineffectiveness of this account, which is conducted not only in the internal affairs agencies but also by the narcological institutions of public health services, is indicated by the facts of the untimely delivery of the persons concerned to the account in the organization of operational search activities to combat drug addiction, the features that are conditioned by the addict personality and they are not always fully taken into account (a tendency to fantasize, lie, dullness of such qualities as discipline, endurance, pronounced disinformation and double-dealing, and so on).

It should be noted that the development of the youth problem of drug addiction, as a dynamic process, has become a characteristic social problem of Kazakhstan. As a multifaceted and complex problem, characterized by a large number of factors in a changing operational environment, drug addiction today requires a broad, integrated approach using scientific methods. In order to identify and eliminate the causes and conditions that contribute to the spread of drug abuse in a country where there is growth in dynamics, it is necessary to use a systematic method of analyzing the operational situation.

Among international experts, there is an ambiguous approach to solve this problem, as various measures are proposed as ways to combat the drug business, up to a radical tightening of the criminal legislation, that is, it is proposed to rely on punitive measures. Other measures, in the opinion of experts advocating positive prevention, for all the importance and necessity of combating crime, should be social measures. It is necessary to reduce not only the supply of drugs, but also demand. It is necessary to achieve that the social climate in society changes, it is undeniable that drug addiction is also a sign of social unhappiness.

The danger of drugs dependence, as a phenomenon, is also that the list of narcotic substances is constantly changing, creating new boundaries, the overcoming of which requires a serious analysis of the situation, methodical preparation and development of practical skills of rendering timely assistance, both in treatment and preventive orientation of the activities of practical doctors.

In this regard, the fight against the drug business and drug addiction takes on a new direction, which is related both to the widespread use of so-called «synthetic drugs» and traditional ones, such as national types of drugs, primarily hemp and all its derivatives²⁹.

Despite the fact that in our country systematically taken and implemented targeted measures to combat drug abuse, problems related to drug addiction and drug trafficking still persist. The volume of illicit drug trafficking in Kazakhstan is growing, endangering not only the health of the population, but also destabilizing the economic, political and social situation, the process of economic reforms carried out by the state.

In addition, Kazakhstan is attractive for the transit of drugs, primarily due to the liberal system of crossing the State Border by citizens of the Commonwealth of Independent States, weak technical equipment of checkpoints, and a branched network of transport highways.

Despite the implementation of all planned activities within the framework of the implementation of the Action Plan of the Program for Combating Drug Addiction and Drug Business in the Republic of Kazakhstan for 2009—2011, approved by the Resolution of the Government of the Republic of Kazakhstan dated May 27, 2009 No. 784, in part did not contribute to the formation of an integrated system for countering drug addiction and drug trafficking in country.

Firstly, this is due to the fact that drug addiction continues to actively spread in the international arena. The second reason for the lack of effectiveness of the implemented program was that it did not provide a set of measures to consolidate the efforts of state and public institutions aimed at combating drug addiction and drug trafficking³⁰.

At the same time, it is also necessary to emphasize the attention of state authorities regarding the age threshold of drug addicts, since it is teenage and youth drug addiction that is most dangerous and subsequently has disastrous consequences. Teenage and youth drug addiction, as a result, leads to a drop in the birth rate and the birth of children who are disabled, which are often not necessary for parents — drug addicts, as well as for high mortality among young people. The share of drug addicts aged 14 to 30 years from the total number of people abusing drugs and psychotropic substances is 49.2 %, namely 23 036 people, of which 20 423 fall at the age of 18 to 30 years. Consequently, the topic of drug addiction in society remains relevant, should be constantly raised and find its due decision at the state level.

The above confirms the need to develop an industry program to combat drug addiction and drug trafficking, taking into account the shortcomings of previous programs. In accordance with this, the Sectoral Program for combating drug ad-

dition and drug business in the Republic of Kazakhstan for 2012—2016 (hereinafter — the Program) was developed.

The program meets the main provisions of the Decree No. 922 of the President of the Republic of Kazakhstan on 1 February 2010 «On the Strategic Development Plan of the Republic of Kazakhstan until 2020», in which the fight against drug trafficking and drug addiction is identified as one of the priority objectives of the development plan of the Republic of Kazakhstan, which are components of medium-term prospects, where special attention will be paid to cooperation in the field of combating international terrorism, religious extremism, international drug trafficking and illegal migration. An important priority in the sphere of ensuring security in the medium term will be to participate in solving a range of problems related to Afghanistan, including suppressing drug trafficking, and reducing drug addiction by 15 % by 2015.

The beneficiaries of the Program are:

- 1) population, including youth, children and adolescents;
- 2) specialists working in the field of demand reduction for drugs;
- 3) law enforcement officers involved in the suppression of illicit drug trafficking;
- 4) social block specialists.

The UN International Committee on Drug Control has released the data on the scale of world drug addiction, according to which the number of drug users in the world in 2009 reached, according to various estimates, from 172 million to 250 million people³¹.

Most of the addicts are men, despite the fact that in some countries there is an increase in drug addiction among women.

In Asian countries — 90 % of drug addicts number are men; in the CIS countries — 80 % (in the Russian Federation — 84 %); in Latin America, an average of 70 to 80 % (in Bolivia — 83 %, Colombia — 80 %, Chile — 73 %); Great Britain and Germany — 63 % each; the USA — 56 %, which undoubtedly affects the gene pool of the nation, if we remember the existing gender disproportions: in developed countries, for every woman aged 60 and over, there are 72 men of the same age, in the less developed countries — 88. In the age group of 80 years old and over in developed countries, there are 46 men for 100 women, and 73 for the least developed countries³².

According to international analysts, the scale of the annual turnover of world markets of banned opiates is comparable to the gross income of some developed countries and is 65 billion US dollars.

The United Nations Office on Drugs and Crime (UNODC) estimates that in 2008, about 21 million people aged 15 to 64 years were injecting drug users.

Sources of supply for this giant underground business are currently concentrated in three regions: Afghanistan, Southeast Asia (Myanmar) and Latin America (Mexico, Columbia)³³.

Separately in this group is Afghanistan, which supplies 85 % of the world's heroin and morphine, which is almost a monopoly in this area. In 2008, this country processed about 2.7 thousand tons and received 380 tons of heroin.

In 2010 (2009 — 6,900 tons, 2010 — 3,600 tons), while the production of opium reduced by 48 %, there was a sharp increase in its cost by 164 % per 1 kg. Against this background, income from the sale of cultivated opium poppy increased by 38 %, amounting to \$ 4,900 per hectare (the cost of wheat in Afghanistan, collected from one hectare — 770 US dollars). This trend, presumably, will lead to an increase in the production of opium in Afghanistan and the drug trafficking of Afghan heroin.

According to UN experts, the annual volume of transit through the so-called «Northern route», running through the territories of Central Asian states, is about 50 tons of Afghan heroin, most of which is supplied to the Russian market (about 2 million drug users)³⁴.

It is necessary to pay attention to the appearance on the market of cocaine seized in 2010, from psychotropic substances — mainly synthetic psychotropic substances of illicit manufacture, such as amphetamine, methamphetamine, MDMA, barbiturates and benzodiazepines.

However, there has also been an increase in the use of narcotic drugs (deamorphin), manufactured from medicines not subject to control.

Drugs containing the «codeine» narcotic in their composition have become widespread in recent years both in Kazakhstan and in the CIS republics as a whole.

These medicines are in free implementation and have not been included in the list of narcotics or psychotropic substances. All attempts by law enforcement agencies to take the implementation of codeine-containing medicines under special control did not result from the lack of restrictive measures in the legislation regulating legal relations in this area. The necessary measures were taken only in November 2011.

In addition, the evidence of the developing so-called «pharmacy» drug addiction in the territory of Kazakhstan may be an increase in the sales of other medicines, to some extent used in the manufacture of deamorphin.

A significant amount of information has been generated in the system of law enforcement bodies regarding the problem of drug addiction, drug trafficking, persons involved in drug trafficking, processed by automated databases, which often operate in isolation [35]. At the same time, for today there is a need for a

comprehensive use of these data for analysis and forecasting the emerging criminal situation and drug distribution and their analogues.

In this regard, the issue of anti-drug propaganda aimed at creating a negative attitude towards drug use and requiring strengthening is getting more relevant, and it is also necessary to improve and strengthen the legislative framework that regulates activities in the field of combating drug trafficking and preventing drug abuse.

The drug expansion of our state is conditioned by the geographical position and the presence of common borders with the Russian Federation and the People's Republic of China, whose population can be considered as drug dealers, as potential large drug markets.

These reasons determine the current situation in Kazakhstan, which is characterized by the persistence of negative trends in illicit trafficking and illegal consumption of narcotic drugs and psychotropic substances, which poses a serious threat to the health of the population, the country's economy, the rule of law and, in general, the national security of the country.

The spread of illicit trafficking and illicit drug use is due to a number of inter-related factors.

One of these factors is the high profitability of operations related to illicit drug trafficking, which contributes to the steady volume of the illicit drug supply market. According to expert data obtained as a result of monitoring, the profitability of illegal drug operations in Kazakhstan is 500 percent or more and remains stable over the past few years.

According to law enforcement agencies, heroin, which is in illegal circulation, is of Afghan origin and is smuggled out.

In the conditions of the Customs Union functioning and the formation of the Single economic space, the actions of criminal drug groups with transnational connections, especially in the border regions, are a very concrete threat.

Another external factor in the development of the drug situation in Kazakhstan is the expansion of the smuggling of various synthetic drugs from European countries.

At the same time, the analysis of statistical data submitted by the Committee on Legal Statistics and Special Records at the General Prosecutor's Office (hereinafter — KLSSR of the RK General Prosecutor's Office) indicates that the state drug policy implemented for several years gives its positive results. In the analyzed period from 2009 to 2011, there is a relative tendency of stabilization of the drug situation in the country.

For 12 months of 2014, 4 360 crimes and 5,161 offenses related to illicit trafficking of narcotic drugs, psychotropic substances and precursors were detected. 33 tons of 998 kg of various types of drugs were seized, including 306.7 kg of

heroin. 38 crimes of narcotics smuggling were detected, 23 special measures were conducted using the method of «controlled delivery», of which 3 were external (together with the State Drug Control Service of the Republic of Kyrgyzstan).

In general, the drug situation in the Republic of Kazakhstan is characterized by the following:

1) reducing the number of people who abuse drugs, psychotropic substances and precursors.

There is a steady decline in the consumption of narcotic drugs, psychotropic substances and precursors. In 2013, the decrease in the number of consumers of narcotic drugs and psychotropic substances amounted to 7.9 % compared to 2012 (from 54 081 to 49 795), including dependence on 8.4 % (from 35 496 to 32 485).

2) reduction of the number of crimes related to the illicit trafficking of narcotic drugs, psychotropic substances and precursors, including those committed without the purpose of marketing.

3) reduction of the number of crimes related to the sale or sale of narcotic drugs, psychotropic substances and precursors [36].

At the same time, the level of drug crime (growth or decrease) directly depends on the effectiveness of law enforcement agencies.

The largest number of drug crimes was registered in Kostanay (421), Karaganda (396), East Kazakhstan (330) region, and also in Almaty (491).

It should be noted that the crimes envisaged in the Criminal Code of the Republic of Kazakhstan «Illegal manufacture, acquisition, storage, transportation, transfer or sale of narcotic drugs or psychotropic substances» (hereinafter — CC RK) prevail in the structure of drug crime.

4) increase in the volume of seized narcotic drugs, psychotropic substances and precursors.

Reduction of drug smuggling volume, in particular heroin, through the country is due to the strengthening of the southern borders in the framework of the previous programs implementation, as well as tougher national anti-drug legislation, which is currently more stringent in the CIS space.

One of the serious problems of modern society, which have a significant impact on the formation of a way of life, as a separate entity and society as a whole, is the emergence of drug dependence, which is now quite widespread among some groups of the population and especially among young people.

Simultaneously with the growth of drug pathology, it is necessary to note the growth of the HIV-infected contingent, drug addicts diagnosed with hepatitis and tuberculosis, which makes it necessary to seek new approaches to an objective assessment of the situation. In a number of regions of the country with a low

social standard of living, there is a concentrated HIV epidemic among risk groups, for example, among female sex workers, injecting drug users, homosexuals.

As practice shows, to reduce to a minimum the latent component of drug addiction is possible with a well-organized system of narcological registration. In this regard, an important step in this direction should be the improvement of the information and accounting and monitoring system that reflects the real picture of the drug situation in the republic.

So, it is necessary to develop inter-agency cooperation and international cooperation in the field of drug abuse prevention and combating drug trafficking.

2.3 CAUSES AND CONDITIONS CONDUCTIVE TO THE COMMISSION OF CRIMES IN THE SPHERE OF DRUG BUSINESS

The causes study of the crimes related to illicit drug trafficking is important not only for a deep knowledge of the objective origins of the relevant criminal phenomenon, but also for developing preventive measures to counteract the group of unlawful acts considered. Under the causes of crime are understood those negative social phenomena that generate and reproduce criminality and crimes as their natural consequence. We can distinguish the following factors in the development of illicit drug trafficking in the country: socio-economic, cultural, family-pedagogical, industrial, leisure, law enforcement, geographic and others.

Socio-economic factors are combined by a number of theories.

Theory of depression. In practice, there is an opinion that the growth of drug abuse is naturally associated with the economic situation inside the country: during the economic decline, the number of addicts increases dramatically, and during economic growth — decreases. There is no doubt that economic instability has a significant impact on the growth and spread of drug addiction. However, it should be noted that in some countries (for example, Armenia and Moldova), the economic situation is at the same level, but there is no surge in drug addiction, which serves as a basis for not recognizing this theory as a fundamental and explaining determinant of the spread of drug addiction.

In contrast to the theory of depression, the theory of expansion is that according to which the rapid growth of drug trafficking and abuse of the latter occurs in parallel with the strengthening of the economy, and the reduction in the number of drug crimes and drug abuse is associated with a slowdown in economic growth. Practice refutes the provisions of this theory, since recently, along with a significant decline in industry and agro-economics, there has been a sharp surge in the number of crimes related to illicit drug trafficking [37].

According to the theory of a stable economy, rapid economic growth or a decline in society contributes to a toughening of the crime situation in the field of drug crime, while the situation of stability in the sphere of economy serves to reduce the number of these crimes. However, a number of welfare countries from the point of view of the economies (for example, Denmark, Canada) are also struck by drug crime.

Considering the culturological factors of the spread and abuse of drugs, in contemporary society, along with the degree of development of the society, its spiritual richness, material well-being, the communicative channels of information such as books, newspapers, tele-, broadcasting, the global Internet information system should be noted. Often it is from these that the population draws knowledge, sometimes highly distorted, about drugs, the ways and consequences of their use, the skills of the drug business.

The most important factors determining the level of illicit drug trafficking development among young people are family-pedagogical. The moral and psychological situation in the family, the cultural, educational and professional level of parents, the range of their interests, the specifics of the organization of family leisure — this is an incomplete list of factors affecting the formation of the child's personality and, as a consequence, his attitude to drug addiction. Influence of parents on drugs, family scandals, cruel treatment, incomplete family education, involvement of children in begging, vagrancy, prostitution have an extremely negative impact on the child [38].

Along with this, it is necessary to note the importance for the formation of the personality of pedagogical miscalculations in education in preschool institutions, schools, secondary specialized educational institutions and universities. Typical for pedagogically neglected children are causeless absences, profanity, seclusion, aggression towards peers and teachers, escape from home.

The involvement of personality into drugs is greatly influenced by leisure factors. Improper organization of leisure, aimless pastime, visits to nightclubs and discos, unemployment in the educational or production process, as a rule, lead to acquaintance with drugs and further involvement in them. This is also facilitated by the recent trend towards a reduction in leisure facilities (sports sections, interest clubs, playgrounds, military patriotic associations) or the transfer of their work on a commercial basis [39].

At present, there is a significant social stratification in our society. Along with this, the equality of access to the values of society is constitutionally enshrined. A significant part of the population, not being able to achieve the desired success, is increasingly turning to drugs from despair and is gradually drawn into crime related to illicit drug trafficking.

Law enforcement factors. One of the main factors contributing to drug criminality in this category is legal nihilism with respect to law enforcement bodies, which is characteristic of a large part of the population.

The above factors of illicit drug trafficking and abuse are closely interrelated, and only their comprehensive study will allow developing effective measures aimed at countering drug crime.

One of the main tasks in the system of preventive measures in relation to the illicit manufacture and circulation of drugs is the study of conditions conducive to the implementation of illegal trafficking. To a certain extent, objective conditions do not depend on the will and consciousness of the subject circumstances in which people commit their actions.

A concrete study of the influence of these and other contradictions on objective conditions conducive to the illicit manufacture and circulation of drugs, and in turn, in general, on the behavior of subjects, suggests a more detailed analysis of individual areas of life. What are the areas of public relations for people who are objective conditions of the phenomenon being studied on the territory of the Republic of Kazakhstan? These public relations of persons who are conditions, in our opinion, can be divided into macro and micro conditions depending on the scale of the relationship.

Macro terms include: relations in the sphere of economy, in the field of demographic and geopolitical processes occurring in the society.

Micro-conditions include: social relations in the sphere of family and life, organizational and information relations, as well as in the field of law enforcement relations.

An empirical study of various interactions (causes and conditions) allows us to talk about a variety of factors that somehow affect narcotism. All of these factors also affect the processes in the illicit manufacture and circulation of drugs on the territory of the Republic. Exhaustively, to present the full number of factors contributing to or generating these processes around drugs, is currently possible. Since there is a historical and scientific-practical experience in the development of «narcotic» independent Kazakhstan, and in parallel with it, the characterization of criminological relationships.

The following factors influence the events in the illicit manufacture and circulation of drugs (found in the majority of researchers in this field):

- 1) Long term crisis in the country in certain areas of the life of a person (person).
- 2) Dissatisfaction with life, desire to forget.
- 3) Social tensions between different groups and segments of the population (latent character).
- 4) Unsuccessful family, lack of education of the person.

- 5) Desire to experience a feeling of euphoria (buzz), «alienation».
- 6) «Artificial» removal of a significant part of the population from the means of labor and consumption.
- 7) Smuggling of drugs.
- 8) State as the largest producer of cannabis in Central Asia.
- 9) Addiction to drugs as a result of their admission to the doctor's prescription.
- 10) Unemployment.
- 11) Easy acquisition of drugs and the prevalence (fame) of sources of sale.
- 12) Loss of loved ones (relatives, friends and ...).
- 13) Negative microenvironment.
- 14) Fall of the prestige of honest work and, in general, public service.
- 15) Lack of leisure facilities.
- 16) Activities of the drug business forces in the distribution of drugs.
- 17) Chronic pain in the body.
- 18) Established tradition of drug use. The geopolitical location of Kazakhstan as a transit territory for drugs to Europe, America and other states.
- 19) Increase in the share of social unemployment of the population.
- 20) Decreased living standards of the population.
- 21) Education of the drug subculture, sects cultivating the refusal of any participation in public life.
- 22) Lack of will or weakness of a person.
- 23) Unwillingness to stop the treatment of drugs.
- 24) Disorientation in the socio-moral patterns of behavior, circulation.
- 25) Lack of comprehensive work with potential reagents.
- 26) Large number of people who abuse drugs.
- 27) Negative condition of preventive work with people.
- 28) Process of property stratification.
- 29) Rampant crime and the level of the most dangerous forms that generate the disbelief of most citizens in the ability of the state to take it under their control.
- 30) Imperfection of legislation.
- 31) Huge territory of narcotic plants growth.
- 32) Lack of understanding of the negative consequences of consumption and illicit drug use.
- 33) Legal illiteracy of the population.
- 34) Significant financial benefits from the sale of drugs.
- 35) Availability of manufacture and circulation of drugs.
- 36) Constant demand for drugs.
- 37) Technical equipment of bodies working on this «field».

38) Contradictions or «competition» between law enforcement agencies.

39) Lack of professionalism of law enforcement officers in combating illicit drug trafficking.

40) Insufficient staffing in law enforcement services.

41) Legalization of the income of almost any, including criminal, entrepreneurship.

42) Establishment of connections and interaction of organized crime forms

43) Latency of illicit manufacturing and circulation of drugs.

After finding out the factors that contribute to or generate illegal drug manufacture and circulation, it seems necessary to classify only the conditions conducive to the origin of the crime, and to isolate (for the narrowness of the subject of the study) the causes of the crime. In our opinion (and it is based on the generally accepted division of conditions), the classification should be based on three groups of conditions conducive to the illicit manufacture and circulation of drugs: physical (technical), organizational and psychological conditions.

Motive for a significant part of crimes in the drug business is self-interest. The desire to obtain material assets at all costs is often revealed in persons who commit crimes in the sphere of drug trafficking. All this testifies to the unsatisfactory early prevention of violations in our country. Typical for individuals who commit the above crimes, personality traits are formed in an environment that adversely affects the moral formation of the individual. This refers to families (unsuccessful), household microenvironment (household environment) [40].

Persons who did not have a normal family upbringing in childhood and adolescence often remain without proper attention of pedagogical collectives at school. Instead of intensifying educational work with such adolescents, persistently fight against all sorts of antisocial manifestations on their part, the pedagogical collectives of schools often formally perform their educational functions unskilledly [41]. After the collapse of the USSR, the number of preschool institutions declined tenfold. Bad education as a reason for law violations by adolescents was mentioned by adolescents themselves.

The shortcomings of the cultural and educational nature that contribute to the commission of crimes against public morality include the absence or not meeting the requirements of today's work on the sexual education of the younger generation.

Sex education, being a part of education, is aimed at forming correct views on the relationship between the sexes, inculcating rules and behaviors with people of the opposite sex, based on respect for the dignity of their personality, as well as preparing for the performance of family responsibilities in the future.

The formation of an antisocial attitude of the guilty person is promoted by such circumstance as alcoholism and drug addiction of parents. Children of par-

ents-addicts (especially mothers during pregnancy) often have mental disabilities, strong tendency to alcoholization and drug addiction.

The connection between many types of crime, alcoholism and drug addiction has been established for a long time. Alcoholism and drug addiction are the cause of many crimes. In a state of alcoholic or narcotic intoxication 75—80 % of murders are committed. The overwhelming majority (about 72.1%) of those convicted at the time of the rape were drunk or under the influence of drugs, more than half of the subjects abused alcohol or were recognized as drug addicts.

Up to 90 % of crimes in the sphere of drug trafficking are committed on the basis of family, personal-domestic, public relations conflict or in the conduct of free time. Therefore, an important area of prevention are measures to improve the living environment, measures of educational influence at the place of study, work and residence, and early prevention measures by law enforcement agencies and public associations and organizations. It is very important at the same time to take into account unsuccessful families, to assist such families in the upbringing of children, in the placement of parents, to monitor the process of raising children in such families in order to prevent the possibility of negative influence of adults on children.

Today, among the many problems facing the Kazakhstan community, one of the first places is the growing problem is drug trafficking and drug addiction growth as a global threat to the health of the country's population and national security in general.

As part of the control over the legal turnover of drugs and within the framework of the program for combating drug addiction and drug trafficking for 2009—2011, the Committee on combating drug trafficking and drug control of the Ministry of Internal Affairs of the Republic of Kazakhstan (hereinafter CCD of the Ministry of Internal Affairs of the Republic of Kazakhstan) carried out certain work related to the introduction of changes and additions in a number of regulatory legal acts regulating the exercise of state control over the turnover of narcotic drugs, psychotropic substances and precursors in the Republic of Kazakhstan, including those relating to:

1) provisions on the procedure for import / export / transit of narcotic drugs, psychotropic substances and precursors within the framework of the Customs Union;

2) control over synthetic cannabinoids included in the List of controlled substances;

3) the issue of punishment toughening for violation of the rules for the treatment of narcotic drugs, psychotropic substances and precursors without the purpose of their sale.

In the framework of non-tariff regulation in the EurAsEC Customs Union, work is underway to approve at the national level a single list of narcotic drugs, psychotropic substances and precursors subject to control in the territory of the Customs Union. In accordance with Articles 13, 14, 15 of the Law of the Republic of Kazakhstan on February 6, 2011 No. 377-IV «On state control and supervision in the Republic of Kazakhstan», the Committee on Combating Drug Business of the Ministry of Internal Affairs in conjunction with the Ministry of Economic Development and Trade of the Republic of Kazakhstan and the Committee on legal statistics and special accounts of the General Prosecutor's Office of the Republic of Kazakhstan developed joint orders:

- 1) on the criteria for assessing the degree of risk of private business subjects engaged in the sale of narcotic drugs, psychotropic substances and precursors;
- 2) on the forms of the checklist of the private entrepreneurship subjects, which carry out activities in the sphere of narcotic drugs, psychotropic substances and precursors trafficking;
- 3) on the issues of inspections of the private entrepreneurship subjects, which carry out activities in the sphere of trafficking of narcotic drugs, psychotropic substances and precursors.

According to the implementation of point 6 of the Action Plan for the Improvement of the Permitting System in the Republic of Kazakhstan for 2009—2011, approved by the Government of the Republic of Kazakhstan on October 27, 2008 No. 1100, the Ministry of Communication and Information of the Ministry of Communications and Information, since August 2009, there is the pilot phase of commissioning information system — state database «E-licensing». At present, the issuance of a state license for activities related to the traffic of narcotic drugs, psychotropic substances and precursors is carried out in electronic format.

This framework is designed to simplify the procedure for issuing licensing and authorization documents, to reduce the document flow, to ensure accessibility and the possibility of information exchange between licensing authorities, interested government agencies and private business entities.

Despite the measures taken to counter drug addiction and illicit drug trafficking, drug trafficking is one of the urgent problems.

Even a complete closure of the channels of drug trafficking of Afghan heroin in the presence of a consumer environment will not ensure the elimination of drug addiction, but will only lead to the creation of new forms and channels of supply of other drug types. Receiving huge profits by international drug syndicates and organized criminal groups from using the territory of Kazakhstan as a transit corridor for drug trafficking creates prerequisites and conditions for in-

volving more and more of our citizens in the consumption and distribution of drugs.

This contributes to an increase in the number of registered drug-related offenses related to sales.

The number of crimes envisaged in part two of the «Illegal acquisition, transportation or storage for the purpose of marketing, manufacturing, processing, forwarding or marketing of narcotic drugs and psychotropic substances» of Article 259 «Illegal manufacture, processing, acquisition, storage, transportation, transfer or sale of narcotic drugs, psychotropic substances», increased by 30.7 %.

Since 2009, there has been a decrease in the number of registered crimes provided in part four «Illegal acquisition, transportation or storage for the purpose of marketing, manufacturing, processing, transferring or marketing of narcotic drugs or psychotropic substances committed by an organized group or criminal community» and «Illegal manufacturing, processing, acquisition, storage, transportation, forwarding or sale of narcotic drugs, psychotropic substances» of the Criminal Code of the Republic of Kazakhstan, and identified by law enforcement agencies of the country — 82.2 %, but in respect of subparagraph «a» of part four of this article (drug offenses committed by an organized group or criminal community) in 2009 there was an increase in 100 % (from 50 to 100 crimes, of which the Interior Ministry accounts for 67).

The issues of developing systemic measures to block the channels of drug transit through Kazakhstan were repeatedly considered at government meetings during 2010. The implementation of the made decisions allowed to identify a greater number of crimes related to drug smuggling. At the same time, emphasis was placed on the priority of the implementation of measures to prevent drug smuggling by units of the Border Service of the National Security Committee and customs authorities directly monitoring the State Border.

Thus, the situation related to non-medical consumption of codeine-containing medicines on the territory of the country requires in-depth study and possible adoption of additional measures to identify and prevent crimes related to their illicit trafficking.

Failure to take proper control measures within the legal circulation of narcotic drugs may allow the development of a new direction related to the manufacture of drugs from medicines and, as a consequence, a sharp deterioration in the drug situation due to a reduction in the price of narcotic drugs.

The foregoing demonstrates the need to strengthen interaction between state and other bodies in identifying and suppressing the facts of illicit drug trafficking, as well as developing international cooperation in the exchange of information on the drug situation and new types of narcotic drugs.

2.4 PERSONALITY OF THE CRIMINAL — THE CARRIER OF THE REASONS FOR COMMITTING DRUG CRIMES

Successful crime prevention is possible only if attention is focused on the identity of the offender, since it is the personality that is the bearer of the reasons for their perpetration. Personality is the main and most important link in the entire mechanism of criminal behavior. Those features that generate such behavior must be a direct object of preventive action [42].

However, the task of characterizing a person in drugs will have a bias (predominantly) in the study of the identity of not the criminal already, but the personality of the person involved in the drug trafficking and the person who is in some physical and mental dependence on drugs.

Next, we will focus on the crime-victimological «portrait» of a person abusing drugs (addict) [43].

What is the public danger of the addict's personality?

Firstly: a number of actions with narcotic drugs and psychotropic substances, as well as precursors, are prohibited by law and as a result the addict often becomes the subject of many offenses or crimes.

Secondly: a drug addict who consumes drugs, as a rule, involves many people, especially juveniles, who are more easily inclined to commit unlawful acts with drugs.

Thirdly: while in abstinence, a drug addict can commit any crime (theft ...) just to get a drug.

The person's personality in general, and the addict in particular, is multifaceted. It is associated with a vast number of factors that are determined and defined from different sides: social, psychological, biological and others. The very problem of drug addiction in the criminal legal sense simultaneously, as already noted, is also a «social problem». In criminological terms, drug abuse acts as a background phenomenon, which means that a drug addict does not always have to be a criminal in relation to a criminal law, although he uses a drug that is illegal.

Subject consideration of the personality characteristics content of the addict allows you to get a better idea of the subject of antisocial, and often unlawful behavior, as well as about some of the physiological, mental and chemical processes taking place in his body, and the consequences that occur both in the person himself and in its external appearance.

At the early stage of consumption of narcotic drugs and psychotropic substances, the identity of the addict is slightly different from those around him. But later, at a later stage of addiction to drugs, a distinctive conglomerate of characteristic features that distinguishes a person drugged with drugs from a common

mass of people and objectively indicating a certain degree of its degradation and the type of drug consumed is increasingly being acquired.

Drug consumption is very significant, defining personality trait, which influences the determination of its actions, including illegal ones. This involves the formation of motives, both criminal behavior, and familiarity with drugs. Thus, V. M. Aliyev notes that the commission of crimes by drug addicts is connected not only and not so much with the insufficient general educational, cultural and professional level, but with deformations in the moral and psychological spheres associated with the disorder of mental activity under the influence of drugs.

Being a chronic drug addict with a long record of drug use, he, along with common characteristics, has a certain personality. Interesting in this sense are the statements of Professor K. Sh. Kurmanov, who called those involved in drug trafficking — proselytes — are hot addicts of drugs, because their dependence on drugs leaves them no choice.

So, the age, like no other indicator, determines a person's interests, his thoughts, behavior and actions, health and prospects for his further life, etc.

A special group consists of minors engaged in illicit drug trafficking. In this regard, the following data are of interest, where it is noted:

the age interval from 13 to 17 years is considered the beginning of drug use (a total of 87.1 % of the interviewed adolescents);

among the interviewed underage drug users at the time of the survey, 31.6 % did not work and did not study, 16.2 % were engaged in private business, commerce, and 6.9 % had regular work.

Of course, this situation is a consequence of the social unemployment of adolescents.

Explanatory work in educational institutions is also at an insufficiently high level. So, only 9.2 % of the surveyed consumers noted that teachers explained the dangers of drugs for their health [44].

The sources of drug acquisition are: 1) friends — the bulk of adolescents (32.3 %) acquired drugs from friends; 2) acquaintances — from 12.3 % about shared acquaintances; 3) resellers — 23.1 % bought from well-known dealers. Of particular concern is the fact that more than one in ten (11.5 %) of their first dose of the drug took in the walls of the school [45].

In this regard, it seems that it is necessary to develop and implement anti-drug programs in the juvenile environment. After all, with the aforementioned facts, it can be seen with the naked eye that the formation of the addict's personality occurs under the «influence» of a minor age, where the adolescent is not sufficiently managing his actions.

The next largest in age group is the age group from 18 to 24 years. For the criterion, let us take the data obtained from the analysis of the acts provided for

in Article 296 of the Criminal Code of the Republic of Kazakhstan. According to our data, it is this article that accounts for more than 93 % of criminal cases initiated.

At the time of the crime committing, 28 % of convicts were in this age range. 33 % of the convicts are between the ages of 24 and 29. Those who committed crimes between the ages of 30 and 34 accounted for 24 % and 12 % for between 35 and 50 years.

And it should also be borne in mind that any «numbers» are, of course, conditional, given the latency of this type of crime. In our opinion, the objective reason for the high latency of illicit drug use is the mutual disinterest of the subjects of such crimes in divulging the facts of their commission. The victim, because she\he is a consumer, is at the same time a criminal; in addition, the criminal and the victim (as they are united in one person) have a common interest not to be disclosed. The willingness of the victim to cooperate with the police in the fight against drug crime, which exists in principle in other crimes, is mostly absent.

The concept of «personality» necessarily includes a person's attitude to socially useful work. This is one of the main indicators of human life, its role function. They did not work or study more than 2/3 of the total amount of reagents at an early stage of drug addiction. At a later stage of drug addiction, when the psychic and physical dependence of the organism on consumed drugs increases, these people lose interest and the very need for labor activity, since everything is aimed at overcoming the «breaking» and on where to get the drug to take off growing pain.

During this period of time, selfishness and self-love prevail in their character, superseding all other feelings. As a result, a certain spiritual vacuum begins to form around the addict, and they are doomed to loneliness or communication with oneself like that.

The next criterion by which you can differentiate the personality of a drug addict is the level of education at the time of the emergence of antisocial behavior. Attention is paid to the data obtained by G. Kh. Fetkulov in the course of his research. Persons convicted of illegal drug dealing do not have a high level of education: at the time of the crime, primary education (grades 1—4) had 0.3 %; incomplete secondary (5—9 cells) — 15.4 %; secondary (school, gymnasium) — 35.8 %; secondary special (SPTU, GPTU) — 28 %; technical secondary (technical school, lyceum) — 12.9 %; incomplete higher education — 4.3 %; higher education — 2.1 %. 1.07 % of the respondents had no education.

According to our data, the level of education of these people is even lower, in percentage terms, most of the reagents are at the level of their secondary education — more than half of all persons.

The picture of social representation of persons who committed crimes related to drugs is characterized by the following indicators: workers — 11.3 %, employees — 0.2 %, students — 1.6 %, unemployed — 79.4 %, women — 12.6 %, minors — 2.8 %.

The dominant weight is on the non-working side. It is also alarming that the «second place» on the side of women, and it is easy to assume that in the future, if the boom in women's drugs is not brought down, this will lead to the consequences of the demographic (and all the ensuing) character. An interesting fact is that among them there are state employees, and although only 0.2 %.

There are also peculiarities in the marital status of persons involved in illicit trafficking. The family is a special collective, in which the personality and its interests, ideals and ideology are formed. Due to special processes in the body of the addict, he is not able to create a family. According to physiologists, drugs cause precancerous lung processes, impotence, brain atrophy, lead to mental illness: chronic headaches, abdominal pain, joint pain, muscle pain, sleep disturbance and lack of appetite. Beginners drug addicts, if they were married, inevitably draw into the process of familiarizing their spouses with drugs, and other people close to them, often children.

A significant part of underage consumers lived in so-called unsuccessful families. So, almost every fourth consumer lived in a family where one or another member of the family abused alcohol. Consumption by adult family members of drugs was noted by 5.4 % of their underage consumers. Conflict relationships in the family were formed in 36.4 % of underage drug users. In 19.2 % of underage drug users, one of the members of the family was previously convicted. In the process of regular consumption of drugs, drug addicts prefer freedom, independence, that is, unwillingness to burden themselves with marriage ties and additional material costs. This «freedom» is characteristic for half of the number of persons studied.

The personality of the addict has its own psychological characteristics. The addict leads a special way of life inherent only in this category of people. A novice addict does not consider his behavior as antisocial. Justifying their behavior and actions, many of them believe that nothing terrible happens in their lives, and they themselves do not pose a threat to society. When a stable dependence is established, their opinion changes. During the period of abstinence, or «breaking», they become more frank.

With «tolerance» other character traits are formed, the social orientation of behavior. Not hoping for recovery, considering themselves doomed, they hide from society. Although it should be noted that at this moment, even if a person tried to return to normal life, the society by his reaction to him (the drug addict) would not allow him to take the path of denarcotization.

In this regard, in 1938 F. Tannenbaum convincingly proved that an incorrect reaction of society to crimes is one of the most significant criminal factors. In the work it is noted that negative assessments have two sides: they keep from antisocial actions, but if their use is unskillful (F. Tannenbaum calls this process an excessive dramatization of evil) they can initiate the criminalization of the person. The pasting of negative labels often leads to the fact that this label becomes a compass in the life of a young person. This means that when a person is at an early stage of the narcotization process, it can and must be restored by all available means to a full life and development within the social society, or else this person will remain a drug addict forever.

As a result of the hidden lifestyle, these individuals are increasingly exacerbating their situation, losing their habits and traditions. Initially, this gap with society is not so noticeable and close relatives do not feel any special changes in their behavior and health. In turn, drug addicts are not in a hurry to part with services and communication with society, to break all social threads that connect them with close people. They are interested in maintaining communication. However, even here, in their behavior, there are already some peculiarities: elements of lies, secrecy, bitterness, envy of physically healthy people predominates. And, subsequently, in order not to feel the impending loneliness and somehow to soften the fear and despair rolling on them, drug addicts try to compensate for the gradually losing social and useful ties by uniting themselves into groups like themselves.

Ways of forming groups of drug addicts are the following: the way and type of drugs they use (heroin, etc.), by age, and so on. Professor A. A. Gabiany adheres to a clear position and also identifies a «territorial feature».

Within the structure of the group, the distribution of roles among its members is predominant: one is the relationship with drug suppliers, the other is engaged in the extraction of raw materials and the production of surrogate drugs, others provide the opportunity for consumption in certain places and create an appropriate environment for the reception of dope, and taking into account the drugs consumed by the members of the group, the fourth — they test the type of drug previously unknown to drug addicts, the fifth simply consume drugs, the sixth — they get money to buy drugs, and by the commission of crimes. All of them are united and guided by the activities of the group leader (leader), which implants his will in the group, and more often the will of the drug mafia or its individual leaders with the help of physically developed, but with low intelligence assistants, is dealt with those who do not obey and the like. The structure of the pro-drug group may be different, depending on a number of circumstances. Practice shows that single addicts are rare.

In the group of drug addicts there is a mutual guarantee, the views on moral values change dramatically, the appearance and social attitude of its members change. These changes in the psyche occur in close relationship with the type of drug consumed. It is well known that those who use drugs from the cannabis group are more guaranteed for a relatively long period of life and a slower rate of degradation of group members than drug addicts from the opiate group.

In some groups of drug addicts, there are distinctive features where members of a group cannot physiologically combine the use of drugs with alcohol. This, in the first place, is associated with a whole complex of perception by the body of absolutely different in molecular structure particles of alcohol and other narcotic drugs or psychotropic substances. There are also serious changes in the psyche of chronic addicts: their intellect is reduced, memory loss, there is a feeling of unreasonable anxiety, fear, increased irritability, anger and aggression. Unbalance and a grim state become commonplace for a drug addict. In communication with each other, these changes in the psyche are exacerbated: suddenly there are causeless and fleeting conflicts that grow into physical violence.

Non-medical consumption of narcotic drugs or psychotropic substances by drug addicts, as a rule, is carried out secretly from people in special places (dens), adapted for these purposes.

The time of getting used to drugs is very diverse: depending on the person himself, health, age characteristics and the impact of the drug being consumed.

Leading a hidden lifestyle from the people around them, drug addicts are very suspicious to people who are trying to infiltrate their environment, including drug addicts, whom they do not know well enough. Without a preliminary check, the «recommendations» of people they know, they will not allow strangers to come to see you.

When consuming drugs, drug addicts observe a certain kind of ritual: smoking occurs with a cigarette in a circle or hookah, making deep puffs of drug-containing smoke, and when injected, injections are initially carried out in a place hidden from view. Subsequently, when the drug penetrates the flesh and consciousness is thoroughly undermined, and the veins are burned, they are no longer shy of anyone and are pricked into any part of the body.

The will, as an essential element of the psyche, in the addict is crushed and undergoes significant changes. Such volitional qualities as decisiveness, perseverance, endurance and suggestibility are modified and acquire a different content. So, determination manifests itself in a certain direction — just to take a dose of dope. And to decide to refuse to take drugs, many of them do not have the strength, courage, hardness of character. Significant influence has a feeling of fear of retribution for the deed, hopelessness before the disease — drug addic-

tion, which is overcome by the unit. Hence there is indecisiveness and depression of the psyche.

Persistence in the social sense: this quality is lost and mutated. Instead of exposure, signs of expansiveness are acquired. With euphoria, a drug addict behaves wisely, exactly, but when the drug stops, it turns: becomes restless, nervous and aggressive.

Anticipation, as a strong-willed element, in drug addicts is manifested one-sidedly. It is difficult for them to inspire a determination to perform a socially useful act and it is easier to persuade the use of an unknown force of dope, although this threatens with very dangerous consequences: severe poisoning or death.

The social orientation of the addict's personality is characterized by a pronounced attitude towards himself. Such features: modesty, exacting to oneself — dissolve in a dose of a drug. The main defect in this and subsequent periods is narcissism.

Let's try to express the characteristic features of the addict in the process of its formation. After a prolonged use of drugs, a sharp depletion of the organism of drug addicts begins, and a susceptibility to various kinds of diseases appears. Their body is prematurely decrepit, there is a baldness of the head, trembling of fingers, an earthy complexion (or yellow, depending on the type of drug consumed) and much more. External signs of intelligence fade, there are clear signs of idiocy, detachment and indifference to the benefits and needs. Appearance of them becomes sloppy, from the former mods turn into descended people. They do not hesitate to consume various kinds of drugs.

In connection with the proper organization of prevention among young people, it is advisable to consider the risk group with which it is necessary to work in detail:

- Persons who have served a sentence of imprisonment;
- Persons who have been subject to administrative penalties for illegal actions with drugs, as well as those who have been treated for drug addiction;
- A large group of people who are accustomed to drugs is a group of young people studying in general schools, vocational schools and students;
- Relatives in contact with drug addicts, psychological infection;
- Females (usually under-age) [46].

What is the mechanism of becoming a drug addict?

The most acceptable, in our opinion, looks like the following typology of persons, depending on the motives for acceding to them (drugs):

1. Persons involved in non-medical drug use for personal and interpersonal reasons: the emergence of interest, the desire to experience «new sensations», including through the influence of communication with persons who use drugs

«for a company», fashion. This group is 34 %. This should also include a factor such as curiosity, which is inherent in children and adolescents, the proportion of which begins to dominate among drug users. Curiosity pushes into the embrace of drugs dope more than half (52.3 %) of reagents;

2. Persons involved in non-medical use of drugs due to the influence of socio-motivational reasons, such as hopelessness, disappointment in life, stress — 20 % of individuals.

3. Individuals who are involved in non-medical drug use, mainly due to «social isolation», from idleness, lack of enthusiasm and interests, social neglect.

It should also be noted that these are only internal factors of people who are involved in drugs. External factors, in our opinion, can serve: the general availability of drugs; on the territorial basis (proximity to the growing places of narcotic crops) and others.

Having become addicted to drug use, drug addicts commit (naturally) crimes in a state of drug intoxication, in particular from 2011 to the present, more than 650 crimes have been committed in this state, over 570 crimes have been committed in the state of drug abuse.

The incomplete list reflects the process of people entering the path of narcotization not only as a person, but also as the society in which they live. However, to fully embrace the process of becoming a drug addict, it is impossible to do without clarifying the causal complex of narcotism or the totality of external or internal circumstances that affect the phenomena under investigation.

Many of the above circumstances prevent the cessation of drug abuse. Here one can include weak-willedness, unwillingness to stop, negative surroundings.

It is dependency, as an inner core in a person, already a condition for either compulsory treatment of a person or for receiving a drug. The reaction of society will be that «litmus test», where the social side of a person will be reflected.

The problem of drug addiction in the country is under constant control of the country's leadership. And this is understandable, because this socially dangerous phenomenon has a negative impact not only on the well-being of Kazakhstan's society, but also detrimental to the health of citizens of the country, who became drug addicts by chance. «Drugs are a special and pernicious environment, and the big question is how much the principles of humanism are applicable here. On one side of the scale is the life of a person who imports them and distributes them, and on the other — the lives of drug users ruined with his «help», Nursultan Nazarbayev, the Nation's Leader, said in his «Strategy of Kazakhstan — 2030».

Since January 1, 2015, there is a new criminal code in our country. This law tightened the responsibility and punishment for the illegal traffic of narcotic drugs and psychotropic substances. And this is objective, since at present in

many countries of the world there is a practice of toughening criminal measures in the fight against drug crime.

For example, Belgium, Britain, Greece, Ireland, Canada, France and other countries have established life imprisonment for crimes of this kind. In addition, the death penalty for drug trafficking is provided by the national laws of Iran, China, Singapore, the United States, Thailand and other countries. So, for example, in Malaysia since 1975, there is a law providing execution by hanging for smuggling and possession of drugs. And since 1983, in connection with the aggravation of the situation and the growth of drug trafficking, the scope of the law has been expanded. As a result, for storage of more than 15 grams of heroin or 200 grams of marijuana, as well as for the importation of potent narcotic substances, an exceptional penalty is imposed — the death penalty regardless of the nationality of the offender. In China, if a person is caught with more than 50 g of heroin, then he is entitled to the death penalty. Pardon can be expected for pregnant and nursing mothers with infants younger than 6 months and children under 14 years of age.

As for our country, in order to combat drug addiction, laws «On narcotic drugs, psychotropic substances, precursors and measures to combat their illicit trafficking and abuse of them», and «On the medical and social rehabilitation of people with drug addiction» were additionally adopted. Taking into account the importance and harmful consequences of the widespread social phenomenon, the government has developed a «Strategy for combating drug addiction and drug business in the Republic of Kazakhstan for 2006—2014». This program document corresponds to the main provisions of the decree of the President of Kazakhstan «On further measures for the implementation of the Development Strategy of Kazakhstan until 2030», in which the counteraction to drug addiction and drug trafficking is defined as one of the main activities of state bodies and public institutions. The whole period of the strategy implementation is divided into three stages: the 1st stage covers 2006—2008, the second stage — 2009—2011, the 3rd stage — 2012—2014.

But, despite the fact that targeted measures to combat drug abuse are systematically adopted and implemented in the country, the situation remains rather tense. The volume of illicit drug trafficking in Kazakhstan is still quite large, endangering not only the health of the population, but also destabilizing the economic, political and social situation, the process of economic reforms carried out by the state. So, only in 2011, law enforcement agencies detected 4 360 crimes and 5,161 offenses related to illicit trafficking of narcotic drugs, psychotropic substances and precursors. 33 tons of 998 kilograms of various types of drugs, including 306.7 kilograms of heroin were seized.

At the same time, the share of registered crimes related to illicit trafficking of narcotics, psychotropic substances and precursors in the total number of recorded common crimes is observed throughout the country as a whole. Thus, the share of drug crimes in 2009 was 5.1 percent, in 2010 — 4.9 percent, in 2011 — 2.1 percent. It is obvious that the level of drug-related crime in the country directly depends on the effectiveness of law enforcement agencies. According to statistics, the bulk of registered drug crimes in 2011 falls on the internal affairs agencies — 93.25 percent.

The sad statistics were headed by Almaty (491). The number of registered drug offenses from the southern capital is slightly behind Kostanay (421), Karaganda (396) and East Kazakhstan (330) regions.

At the same time, there is an annual change in the statistics of crimes committed on the grounds of drug use, both in the direction of decrease and in the opposite direction, which indicates the existing shortcomings in the systemic work of law enforcement agencies.

In this regard, the need for a program to combat drug addiction and drug trafficking, taking into account the shortcomings of previous programs, has actualized the need to develop and adopt a new document — an industry program to combat drug addiction and drug trafficking in the Republic of Kazakhstan for 2012—2016, whose goal is to improve the state and public system counteraction to drug addiction and illegal drug trafficking in the country. In addition, the program plans to introduce additional measures of «social» responsibility and strengthen measures to prevent crimes related to the illicit trafficking of drugs and their precursors, including the sale of drugs in correctional facilities, as well as in institutions or places used for training, sports, cultural, entertainment and other public events. The program will be implemented in two phases: the first will cover 2012—2014, and the second — 2015—2016, respectively. The implementation of the program itself requires financing in the amount of 6 billion 167 million 246.8 thousand tenge, including 5 billion 303 million 231 thousand tenge from the republican budget.

It is expected that one of the main results of this sectoral program to combat drug addiction and drug trafficking in the Republic of Kazakhstan for 2012—2016 will be the build-up of «human capital», which will enable us to realize the basic idea set out in the strategic plan for the development of the Republic of Kazakhstan for the period until 2020. Recalling that, according to the program document in a rapidly changing world, strategic advantages will be for those states that can effectively develop and effectively use the innovative development potential, the main carrier of which is the youth. It is necessary to protect the younger generation from this socially dangerous phenomenon. In this regard, it is obvious that a healthy generation is an important condition for the country's

progress and development. But effective counteraction to the spread of drug addiction requires not only effective law enforcement actions, but also active participation of the public and the media. Only by coordinating all efforts, it is possible to achieve success in combating the spread of drug addiction and carry out tasks aimed at preventing, controlling and further reducing the growth of illegal drug distribution in our republic.

Chapter 3 PREVENTION OF CRIMES IN THE DRUG BUSINESS

3.1 THE NOTION OF CRIME PREVENTION IN THE SPHERE OF DRUG BUSINESS AND PUBLIC MORALITY IN KAZAKHSTAN

In the special legal literature, in various normative acts such terms as «warning», «prevention», «suppression» and others are often encountered in relation to offenses and other antisocial, negative phenomena.

In special studies, the concepts of «prevention» are defined as measures or a combination of measures of state and public bodies and organizations aimed at eliminating or neutralizing the causes and conditions of crimes.

Prevention of crimes in the sphere of drug business includes:

a) nation-wide measures of social, ideological, cultural and educational order, legislative and legal plan, combining persuasion and coercion in the fight against crime;

b) activities of state bodies and public associations to identify the causes and conditions of committing crimes in the sphere of drug business and take measures to eliminate them, to disclose, investigate and prosecute cases of crimes, punish criminals, to correct them, to supervise the legality of the behavior of persons released from places of deprivation of liberty, as well as the education of persons sentenced by the courts to penalties, or unsustainable people who have not yet committed a crime, but who behave antisocially or immorally;

c) implementation of other measures, caused by a specific situation.

The prevention of crimes in the sphere of drug trafficking is classified according to the time (period) of its implementation: early, immediate prevention, or prophylaxis in the proper sense of the word and prevention of relapse.

Early prevention should prevent misdemeanors, not crimes, to fight offenses that are contrary to the legal social and moral norms of behavior in society.

Direct prevention consists in revealing and eliminating the causes and conditions that generate crime, and preventing relapse in identifying and eliminating the causes and conditions of repeated crimes.

The most common classification is by level. It is believed that the main criterion here is not so much the nature of the prevention measures, their types and forms of application as their level: at the level of society as a whole (the highest level), at the level of social groups and collectives (middle level) and at the individual level level).

The prevention of crimes in the sphere of drug business by content (measures, methods) can be general social and special-criminological.

The general social means a certain system of economic, political, ideological, organizational and legal measures that must create conditions that exclude the possibility of the existence of criminal manifestations.

A general social warning can be defined as a kind of social management, a set of organizational, legal and educational measures aimed at identifying, eliminating or neutralizing the causes and conditions of crimes in the sphere of drug trafficking, the formation of lawful behavior of citizens, resocialization of violators of social norms.

The special-criminological warning, in the opinion of the majority of scientists, covers activities directly aimed at eliminating or neutralizing the causes and conditions for the commission of crimes in order to eliminate specific criminogenic factors.

Currently, two types of prevention are accepted: general and individual.

General prevention includes measures:

- to identify and study the causes of crime in the drug business;
- to identify and eliminate the causes of the commission of certain types of crimes, the conditions that facilitate them;
- to eliminate objective circumstances that make possible the commission of crimes in the sphere of drug business.

Thus, general preventive measures are: socio-cultural, ideological, organizational, legal, etc.

Socio-cultural and ideological measures of general prevention are important for ensuring a healthy moral climate in an environment that directly surrounds the person (family, school, collective, household environment).

Legal education of the entire population of the country, being a part of moral and cultural education, is directly related to the prevention of crimes in the sphere of drug trafficking.

The goal of individual prevention is the elimination of specific causes of crime and the eradication of antisocial views among people whose improper way of life can lead to the commission of crimes in the sphere of drug trafficking.

Specific group prevention is the activity of public organizations aimed at preventing crimes from a certain category of people united by some common, for them specific features or properties, in order to eliminate antisocial views, beliefs, inclinations, and to improve and approve positive qualities and properties of personality.

Classification of crime types prevention in the sphere of drug business can be carried out according to the following criteria:

- a) on the nature and degree of danger of crimes in the drug business;

b) on the objects of preventive treatment (people: a specific person, a group of people, criminal circumstances: for example, the homelessness of a minor, the state of hunger, unemployment, etc.);

c) on the subject of prevention (law enforcement agencies, various public organizations and associations, specific people, for example, a teacher at a school or university, head of a family, mother, senior family member, friends, leader, etc.);

d) on the time or period of the prevention (early, immediate and relapse);

e) on the nature and content of the warning measures themselves. The system of measures can be the most diverse in form and different in strength of impact. But the most stable and revealing are organizational, pedagogical, psychological and administrative-legal.

The strategy of combating drug addiction and drug trafficking in the Republic of Kazakhstan for 2006—2014 was developed in the interests of further development of Kazakhstan society, ensuring the guarantees of rights, freedoms and legitimate interests of citizens of the Republic of Kazakhstan.

The strategy meets the main provisions of Decree No. 735 of the President of the Republic of Kazakhstan on December 4, 2001 «On further measures for implementing the development strategy of Kazakhstan until 2030», in which the counteraction to drug addiction and drug trafficking is defined as one of the main activities of state bodies and public institutions. It takes into account the provisions of the Bishkek Declaration proclaimed on August 25, 1999 by the heads of state of the Shanghai Cooperation Organization, the Treaty on joint action to combat terrorism, political and religious extremism, transnational organized crime and other threats to stability of the parties, signed on April 21, 2000 in the city Tashkent by the heads of the states-participants of the Central Asian Economic Community, as well as other normative legal acts in this field.

The strategy is based on an assessment of the situation and perspectives of the activities of state bodies in the Address of Kazakhstan's President on the road to accelerated economic, social and political modernization on February 18, 2005, in which the fight against drug addiction and drug trafficking is one of the state priorities.

Legislative base of the Strategy is formed by the provisions of the Republic of Kazakhstan Law on July 10, 1998 «On narcotic drugs, psychotropic substances, precursors and measures to counter their illegal circulation and abuse of them».

The Strategy outlines the results achieved in the implementation of the previous Strategy on combating drug addiction and drug business in the Republic of Kazakhstan for 2001—2005, approved by Decree No. 394 of the President of the

Republic of Kazakhstan on 16 May, 2000 and adopted in pursuance of its programs for 2000—2001, 2002—2003 and 2004—2005.

To date, among the topical issues facing the Kazakh society and demanding an early solution, one of the first issues is the problem of the growth of drug addiction and drug trafficking as a global threat to the health of the country's population and national security in general.

Analysis of the development of the drug situation in Kazakhstan over the past 10 years shows that in the country it is characterized by a significant exacerbation, which has a stable negative dynamics.

Currently, the Central Asian region is constantly exposed to the expansion of drugs of various types and forms of origin. The main reasons for this were:

1) the immediate proximity to the states-sources of the drug threat, a geographical location and expanding transit possibilities convenient for the smuggling of narcotic drugs to Europe;

2) the large extent of the borders, the incompleteness of demarcation works on the border areas with the countries of the post-Soviet space and, in this connection, their insufficient protection from the penetration of drugs from outside;

3) the continued growth in the production of narcotic drugs in Afghanistan, the relocation and creation of drug laboratories in the northern provinces of the country directly bordering the Commonwealth of Independent States (CIS);

4) the increase in the smuggling of synthetic drugs from Europe.

Due to its geographic location, the republic has practically found itself at the center of the world markets of illegal production and sale of drugs, which objectively contributes to the involvement of our country in the sphere of interests of international criminal organizations and groups related to the drug business. In 2004, as a result of multi-step operational activities, more than 9 times more drugs were seized than in 2003 (1,769,020 kg versus 192,518 kg), and during the period from January to September 2005 more than 21,635 kg of drugs were seized.

The passage through the territory of Kazakhstan of drug traffic has a significant impact on the growth of the number of drug dependent citizens of the republic. Due to the fact that organized criminal groups are trying to take control of the drug business, it is necessary to forecast a further increase in the volume of drug imports to Kazakhstan, their transit traffic, and the creation of large transshipment points. In this regard, the likelihood of an increase in the number of citizens of the country involved in criminal activities increases.

This is indicated by an increase in the number of drug crimes registered in Kazakhstan from 9,000 in 2003 to 11,000 in 2004 and 7,000 in 9 months of 2005.

To expand the scale of the drug business, organized criminal groups seek to establish links with government officials, try to influence the overall situation in the border areas, turn them into a transshipment base for drug smuggling. The unstable socio-political situation in the neighboring states of Central Asia creates prerequisites for the merging of government officials with the leaders of organized criminal drug groups. There is a serious danger in itself and the possibility of forming a drug lobby, which will exert sufficient pressure on various circles of society.

Getting of huge profits by international drug syndicates and organized criminal groups from the use of the territory of Kazakhstan as a transit corridor for drug trafficking creates conditions for involving more and more of our citizens in drug use. However, the facts of «laundering» of proceeds from drug trafficking are practically not being revealed.

In recent years, there has been an increase in the number of people using drugs in the republic (47,903 in 2004, 51,633 in six months of 2005), as well as the number of drug sales cases (2004 — 4,435 facts, 6 months 2005 — 2334 facts).

For Kazakhstan in the short and medium term, the problem of drug trafficking and the growth of drug addiction can seriously affect the following important areas of society.

In the social sphere, this is a threat to the preservation of a healthy gene pool of the nation.

According to the data of the Legal Statistics and Special Accounts Committee of the General Prosecutor's Office (as on June 30, 2005), there are 51633 persons who abuse narcotic drugs and psychotropic substances, accounting for 8.6 % more than in the same period in 2004, including 4866 women (4.1 % more), 3,942 juveniles (218.2 % more), including up to 14 years inclusive — 771 (294.1 % more). The growing number of drug addicts among women and minors is of particular concern.

According to expert estimates, every eleventh resident of our country gets into the zone of narcotic risk.

In the political sphere, it is a danger that the drug mafia is not interested in regional and national stability. Profits received from drugs are used to support forces seeking to influence the states of the Central Asian region. The drug problem is closely connected with the financing of international terrorism and religious extremism.

In the economic sphere, this is aggravation of economic problems in the transition period, creating conditions for the development of the drug business and the growth of drug addiction. Among the factors contributing to the worsening of the drug situation in the countries of Central Asia, one should mention the persis-

tence of a high level of population poverty, unemployment and the development of shadow economic activity.

Today, an intensive structural reorganization of the drug market is underway in Kazakhstan, an active process of replacing traditional drugs of vegetable origin (marijuana, hashish, etc.) with «heavy» (primarily heroin). The consumption of highly active, expensive and most dangerous to health synthetic drugs and psychotropic substances (LSD, ecstasy, amphetamines) is increased.

The seriousness of the emerging situation and its significance is confirmed by the results of sociological surveys conducted under the auspices of the Kazakhstan Institute for Strategic Studies under the President of the Republic of Kazakhstan in all regions of Kazakhstan, Astana and Almaty, in which 12,000 people over 18 years of age participated. The overwhelming majority of respondents consider the threat of the spread of drug addiction and drug trafficking one of the most serious. In particular, 30.3 % of respondents said that the spread of drugs today is the most acute problem for Kazakhstan.

According to the Committee of the Penitentiary System of the Ministry of Justice, in 2003, 15561 (registered in 14375) convicted prisoners were registered in correctional institutions, of whom 8,871 were drug addicts. As on April 1, 2005, in correctional institutions there were 4,094 drug addicts, including 2,560 with compulsory treatment, 1,534 with treatment withdrawn by court order, 425 women, and 7 minors. For the same period of 2004, there were 4,364 drug addicts, including 2,637 with compulsory treatment, 1,727 with treatment withdrawn by court decision, 557 women, and 17 minors.

Treatment and rehabilitation of patients with narcological disorders, the implementation of targeted republican and regional programs aimed at reducing the demand for drugs, the development and implementation of modern methods of drug treatment, as well as identifying the most affected regions are implemented by the republican health organizations, including the Republican Scientific and Practical Center «Center of Medical and Social Problems of Drug Addiction» (hereinafter — RSPC MSPN), the state institution «Republican Scientific Research Institute» — an active center for psychiatry, psychotherapy and narcology, as well as narcological services of local health authorities.

The primary incidence of drug addiction in the six months of 2005 was 323 cases per 100,000 people (in 2004 — 318). High rates of primary morbidity were registered in Pavlodar (828), Atyrau (735), East Kazakhstan (526), Akmola (492) and Karaganda (373) regions.

The problem of the HIV / AIDS spread among drug addicts is of particular concern. According to the Republican Center for AIDS prevention and control, as on July 1, 2005, 5090 HIV-positive people were officially registered in Ka-

zakhstan, of which 63.4 % are injecting drug users. At the same time, sexual transmission of HIV is 25.5 %.

The problems of combating drug addiction and drug trafficking have a clearly expressed international character, therefore they cannot be solved only at the state level.

Kazakhstan has made significant progress in the further development of international cooperation in anti-drug activities. A number of intergovernmental and interdepartmental agreements and treaties have been concluded. Our traditional partners in this field, besides the CIS countries, are the USA, Canada, the countries of the European Union.

An analysis of the results of the previous Strategy and the program documents adopted in its implementation show that all planned activities have been fully implemented. In Kazakhstan, a unified and balanced state policy in the sphere of drug trafficking has been formed and is being implemented, and state and social control over the development of the drug situation in the country has been established. It was possible to achieve its stabilization and limit the negative impact on the internal and external security of Kazakhstan, the health and well-being of the people.

At the same time, the severity of the problem does not subside, which is facilitated by a number of interrelated factors, one of which is the increased traffic through our country of drugs, mainly of Afghan origin. More and more urgent is the implementation of a set of law enforcement measures to create anti-drug belts in the regions bordering Afghanistan.

At the same time, the measures taken by the authorized state bodies for comprehensive counteraction to the drug business are not fully adequate to the current situation, the problem of prevention, treatment and subsequent rehabilitation of drug addicts is being addressed at an insufficient level. Proceeding from this, and in order to promptly respond to the situation and take the necessary measures for primary prevention of drug addiction, special attention should be paid to the development and improvement of the legal status of the Committee on combating drug trafficking and drug control of the Ministry of Internal Affairs of the Republic of Kazakhstan, as an authorized body to counter drug addiction and drug trafficking in the Republic of Kazakhstan.

The urgency of the problem makes it necessary to develop and implement the most advanced forms and methods of work in this direction.

Key actions to achieve the goal and address priority issues.

Taking into account world experience and peculiarities of the situation in the region, the struggle against drug addiction and drug business in Kazakhstan for 2006—2014 should be carried out according to the following main directions:

- 1) primary prevention of drug addiction;

- 2) treatment and social rehabilitation of drug abusers;
- 3) suppression of illicit traffic of narcotic drugs, psychotropic substances and precursors;
- 4) ensuring effective control over the circulation of narcotic drugs, psychotropic substances and precursors, established by the state.

In order to ensure the progressive development of the process of combating drug addiction and drug trafficking, the implementation period of the Strategy is divided into three stages: the first stage covers the period 2006—2008; 2nd stage — 2009—2011; the 3d stage is 2012—2014. Accordingly, the Strategy will be implemented in stages through the development and implementation on its basis of regional and sectoral programs to combat drug addiction and drug trafficking.

At the same time, the goal of the first stage is to create conditions for stopping the growth of drug abuse and illicit trafficking, the consistent reduction in the distribution of drugs to the level of minimal danger to society, namely, the implementation of activities:

- 1) scientific information direction, providing the development of modern technologies for prevention, diagnosis, treatment, rehabilitation, resocialization of addicts from psychoactive substances (hereinafter — surfactants);
- 2) legal and regulatory framework that provides the development of a regulatory legal work regulating anti-drug activities in the social sphere;
- 3) organizational direction, providing for aligning the structure, technology, staffing and material and technical base of narcological treatment and prophylactic institutions in accordance with the legally approved standards of modern narcological care;
- 4) providing the development and approval of new qualification and educational standards for pre-diploma and postgraduate training of specialists in the fields of narcology, psychotherapy, clinical and counseling psychology, social work in the system of narcological, psychotherapeutic, medical and social assistance, the development of special programs for training scientific and pedagogical personnel in the above specialties;
- 5) primary preventive direction: the development of special computer programs for automated psychological testing with the definition of the risk degree of involvement in chemical and psychological dependence in each tested, with the issuance of the best recommendations for reducing these risks; the creation of a school and family anti-drug video library, a school anti-drug library on paper and magnetic media, the preparation of manuals «Self-Teacher of an Effective Family» and «Self-Teacher of an Effective Parent»; organization and equipping the scientific and experimental laboratory of psychological and pedagogical prevention, rehabilitation and social rehabilitation at RSPC MSPP;

6) secondary preventive direction in the development of clinical protocols (standards) for diagnosis, treatment, rehabilitation of surfactants, as well as a variety of drug treatment programs and a range of drug services;

7) tertiary preventive direction in the development of programs aimed at the medical and social rehabilitation of persons diagnosed with «drug addiction» and the corresponding range of services;

8) development of joint plans and other forms of interaction with the main subjects of anti-drug activities in the Republic of Kazakhstan, including religious denominations, youth and non-governmental organizations;

9) in the field of international cooperation for the organization of an educational and resource center for the countries of Central Asia and the holding of international conferences on narcology and psychotherapy on the basis of the RSPC MSPP;

10) to create interdepartmental automated systems for the exchange of operational, statistical, accounting and other information with a view to further integration with similar systems of the CIS member states;

11) to strengthen border control along the entire perimeter of the state border.

The second stage presupposes the blocking and reverse development of socially dangerous trends in the growth of the spread of dependence on surfactants among the population of the Republic of Kazakhstan, that is, the implementation of measures:

1) the scientific and information direction on the large-scale introduction of innovative anti-drug technologies in the healthcare and social sphere of the Republic of Kazakhstan, the constant effectiveness monitoring of the modernized system of narcological assistance to the population of the Republic of Kazakhstan;

2) the regulatory and legal direction for approving and implementing the updated legislative and other normative legal framework regulating the anti-drug activities of health and social institutions;

3) organizational direction for the reform of psychotherapeutic, medico-psychological, consultative-psychological, socio-psychological assistance to the population of the Republic of Kazakhstan, monitoring the effectiveness of the above-mentioned specialized care systems (preventive anti-drug aspect);

4) aimed at improving the qualification and wide-scale training of specialists in the healthcare and social sphere on the profile of modern anti-drug technologies, training scientific and pedagogical personnel in special programs and in the best foreign educational institutions and clinics, holding special educational cycles on anti-drug topics for teachers, school psychologists, social educators, social workers and specialists in social work in the system of upbringing and education;

5) secondary preventive direction for the large-scale introduction of innovative technologies for prevention, diagnosis, treatment, rehabilitation and re-socialization in the healthcare and social sphere of the Republic of Kazakhstan, for the full coverage of a contingent of drug addicts with effective programs of medical and social rehabilitation;

6) tertiary preventive direction for the large-scale introduction of the developed programs of tertiary prevention (harm reduction) in the system of narcological assistance of the Republic of Kazakhstan with the coverage of these programs by at least 80 % of the actually existing injecting drug users and the achievement of the transfer of a fifth of them into the framework of comprehensive treatment and rehabilitation programs;

7) coordination direction for the implementation of joint anti-drug activities by the main agents of the social sphere;

8) in the field of intensification of international cooperation and work on the establishment of a regional Resource Scientific Information Center in the Central Asian region, the implementation of international anti-drug projects in the Republic of Kazakhstan, the expansion of Kazakhstan's participation in the work of the United Nations Commission on Narcotic Drugs and its subsidiary bodies development of UN decisions in the field of combating drugs taking into account the interests of Kazakhstan and the regions of Central Asia.

At the third stage it is supposed to further improve the formed full-scale system of effective state and public counteraction to drug addiction and illicit drug trafficking in the Republic of Kazakhstan, which provides for the implementation of the activities:

1) scientific and information direction to strengthen the scientific and information support of anti-drug activities, improvement of the system of constant monitoring and its effectiveness in the social sphere;

2) the regulatory legal direction to control the strict implementation of the legislation of the Republic of Kazakhstan in the field of providing narcological assistance to the population;

3) organizational direction for the further improvement of the structure, technology, personnel support of therapeutic and preventive institutions of narcological profile and other anti-drug organizations operating in the social sphere of the Republic of Kazakhstan, a system for monitoring the effectiveness of these organizations;

4) aimed at improving the qualification, further improving the graduate and postgraduate training of specialists in the narcological profile for the health and social sectors, the large-scale implementation of innovative educational programs;

5) primary preventive direction to increase the effectiveness of appropriate diagnostic and primary prevention programs, the psychological resistance of the population to involvement in major social epidemics (drug addiction with concomitant HIV / AIDS, crime, terrorism, religious extremism);

6) secondary preventive direction for the further improvement of programs of medical and social rehabilitation dependent on surfactants with achievement of 35—40 % effectiveness (remission rate within a year after completion of the program of medical and social rehabilitation);

7) tertiary preventive approach for the full coverage and reduction of the total number of injecting drug users by involving them in programs of medical and social rehabilitation, effectively blocking the spread of HIV / AIDS among drug addicts;

8) coordination direction to improve the quality of joint planning and coordination of multisectoral cooperation in the field of social anti-drug activities;

9) in the field of international cooperation to increase anti-drug activity.

The socio-cultural factors of the Kazakhstan's society narcotization (the destruction of moral and ethical norms and behavioral values, the massive influence of Western culture, the deformation of family relations, the changing social behavior of young people) actualize the need for the formation of public immunity to drugs as the foundation of the nation's health.

The formation of social anti-drug immunity should first of all be directed to state social policy and work among young people in the system of secondary and higher education. At the same time, the main directing force in this sphere should be the activities of not only central, local executive authorities, but also institutions of civil society.

An integral part of state anti-drug activities should be the promotion of a healthy lifestyle, a life without drugs, especially among children, youth and women.

In this regard, the most common preventive measures can be considered the study of the reasons and conditions that contribute to the growth of the number of people who use drugs in certain regions of the country, the development and implementation of programs that stimulate the desire for a healthy lifestyle. In the public mind, more and more places should be occupied by the idea that human health is a value for himself and for society as a whole. It can be considered an important psychological prerequisite for working with people who use drugs, as changing attitudes to one's health facilitates the implementation of other preventive and curative programs.

For this, first of all, it is necessary to create a multistage educational program on the prevention of drug abuse among children, adolescents and youth.

This task assumes the existence of two main components: it is necessary to establish the process of training and retraining of employees of educational institutions on the prevention of surfactant abuse, organize the publication of special literature and manuals on which teachers could engage in preventive work.

Much attention should be paid to informing the public about the dangers of drugs. The main source of necessary knowledge for the broad sectors of society is the media, which increases its responsibility in this matter. On the other hand, the work should be done to prevent the advertising of narcotic drugs in the media, to spread false ideas about drugs as a means of relaxation, pleasure, prestige, and the attribute of the so-called «easy» lifestyle.

Besides, directly anti-drug propaganda should be present in the mass media carrying out the state order, including the placement of anti-drug advertising and the preparation of systematic socio-political, analytical and artistic publications in print and electronic media, as well as the organization and conduct of regular television anti-drug programs.

Since the growth of patriotic attitudes in the youth environment is an important factor in strengthening the anti-drug public position, it is necessary to continue the activities for the formation of the all-Kazakhstan movement of schoolchildren and students «Addiction is a threat to the future of Kazakhstan», based on full-scale cultural and educational work and active anti-drug propaganda among schoolchildren, students, their parents.

Particular attention should be paid to the organization of leisure of minor children and adolescents on the basis of socially valuable interests and inclinations. To do this, it is necessary to expand the network of sports sections, creative circles of interests, courtyards everywhere, provide the organization of children's leisure discussions, discos, poster competitions and drawings, quizzes and other anti-drug activities.

Along with this, based on the Concept of gender policy in the Republic of Kazakhstan, approved by the Decree of the Government of the Republic of Kazakhstan on November 27, 2003 No. 1190, and also in accordance with the National plan of action for the advancement of women situation in the Republic of Kazakhstan, approved by the Resolution of the Government of the Republic of Kazakhstan on July 19, 1999 N 999, it is necessary to carry out a full-scale agitational policy aimed at the sustainable rejection of drugs by women, especially of fertile age, with the involvement of the centers of a healthy way of life, family planning and other agents of social sphere into this work.

In addition, the society itself must form the immunity to drugs. The state needs to create all the necessary conditions for the development and encouragement of the initiative of civil society institutions, various socio-political and non-governmental organizations, individual citizens in the fight against the spread of

drug addiction and drug trafficking. It is necessary to involve non-governmental organizations more actively in the preventive work through the placement of a state social order, to support those who are functioning and to actively promote the formation of new public organizations whose activities are aimed at the primary prevention of dependence on surfactants, and carry out scientific, analytical and research work in this field.

It is necessary to organize closer cooperation with religious confessions on the formation of a sustainable rejection to drugs by believers and their loved ones.

One of the main activities of the state and public organizations should also be to overcome negative attitudes towards people who suffer from drug addiction.

The complex of these measures will make it possible to form public immunity to drugs and to reduce the influence of sociocultural factors in the narcotization of society.

According to independent experts, up to four people die every day from an overdose in Kazakhstan. For 12 years, the total number of people suffering from drug addiction has increased 10-fold in the country, including 17 times among adolescents. Therefore, this part of the Strategy provides the implementation of a program of fundamental and applied research in the field of studying the main mechanisms of spreading modern social epidemics (drug dependence with associated HIV / AIDS, psychological dependence with involvement in criminal, religious extremism, terrorist organizations); conducting research related to the development of technologies for the formation of the psychological resilience of the population to involvement in the social epidemics outlined above and ensuring effective blocking of their distribution on the territory of the Republic of Kazakhstan; the organization of the regional Resource Research and Information Center on Dependence on Surfactants of the United Nations Office on Drugs and Crime (UNODC) in Central Asia and Kazakhstan on the basis of the RSPC ICPF with the aim of developing and disseminating the most effective prevention and diagnostic technologies in Central Asian countries, treatment and rehabilitation of surfactants dependent on surfactants; the organization of dissertational councils at RSPC MSPN in the specialties «narcology», «clinical psychology» and «social psychology».

In order to fulfill these tasks, it will be necessary to continue further improving of the legislation of the Republic of Kazakhstan in the field of providing mental health and psychological resistance to drugs of the country, the development of a system of psychotherapeutic, consultative, psychological and socio-psychological assistance in the republic.

To bring the structures, technologies, staffing and material and technical base of the narcological treatment and preventive institutions of the Republic of Ka-

zakhstan into strict compliance with the legally approved standards for the organization of modern narcological care, as well as the structure of technology, staffing of institutions (departments, offices) of the psychotherapeutic, counseling and psychological, socio-psychological assistance to the population of the Republic of Kazakhstan, directly providing the formation of psychological stability of the population to involvement in modern social epidemics, in accordance with the approved professional standards on these specifications.

To develop and approve new qualification requirements for the training of specialists in the fields of narcology, psychotherapy, clinical and counseling psychology, social work in the system of narcological, psychotherapeutic and medico-psychological care, as well as programs for their continuing education. To develop a special system for training scientific and pedagogical personnel and to conduct large-scale training of specialists in the field of health and social sphere on the profile of modern anti-drug technologies. To conduct training of prospective specialists in the best foreign specialized educational institutions and clinics; to distribute in the specialized educational institutions of the Republic of Kazakhstan video materials intended for distance learning of social educators, school psychologists, valeologists, employees of centers for healthy lifestyles; to develop and conduct special educational cycles on anti-drug topics for teachers, school psychologists, social educators, social workers and social workers in the system of education.

In the course of implementation of the strategy, full coverage of the population of the Republic of Kazakhstan will be provided with effective primary prevention programs that ensure the formation of the psychological resilience of citizens to involvement in modern social epidemics (drug addiction with concomitant HIV / AIDS, crime, terrorism, religious extremism), high-risk groups, including number of minors and women, special primary prevention programs that ensure the development of psychological resistance to mentioned in the epidemic problems; to develop and disseminate in all educational institutions of the Republic of Kazakhstan special computer programs for automated psychological testing with the definition of the degree of risk of involvement in chemical and psychological dependence for each tested person, with the best recommendations for reducing these risks, as well as two informational preventive tools: «Self-teacher of an effective family», «Self-teacher of an effective parent»; to provide all educational institutions of the Republic of Kazakhstan with a school anti-drug video library and a library developed in scientific laboratories of the RSPC ICPP; to provide free access for all those who need a family anti-drug library, developed by the staff of the Center; organize and equip the scientific and experimental laboratory of psychological and pedagogical prevention, rehabilitation

and social rehabilitation at RSPC MSPN, whose branches should operate in all regions of the Republic of Kazakhstan.

For secondary prevention, it is necessary to develop and implement clinical standards for diagnosis, treatment, rehabilitation of surfactants dependent on advanced domestic and foreign technologies, as well as a wide range of narcological care programs with different access thresholds; to organize various modes of providing specialized narcological care (outreach, outpatient, semi-stationary, stationary, specialized inpatient, anti-relapse); fully encompass a contingent of surfactants dependent on various methods and types of medical and social rehabilitation that provide long-term and high-quality remission and release from drug dependence in patients (up to 25—30 %).

For tertiary prevention, it is necessary to develop and implement various programs of tertiary prevention (harm reduction) with the maximum possible range of services (including diagnosis and treatment of comorbid pathology) in the system of narcological assistance of the Republic of Kazakhstan; to include at least 80 % of actual injecting drug users with programs of tertiary prevention, it is mandatory to include in these programs a component of motivational counseling and psychotherapy, with a 20 % transfer from the total number of drug users covered by tertiary prevention programs to full-fledged treatment and rehabilitation programs annually; conduct regular surveillance among injecting drug users to monitor the dynamics of the spread of HIV / AIDS and the effectiveness of the primary prevention function of harm reduction programs for this epidemic.

In order to coordinate the treatment and rehabilitation, it is necessary to consolidate the resources of the social sphere (logistical, organizational, personnel, information, etc.) to solve the problem of spreading dependence on surfactants; to develop joint plans for the anti-drug activities of mental health services and psychological care (narcological, psychiatric, psychotherapeutic, medical and psychological), as well as medical services that directly and indirectly relate to this problem (narcological, centers of healthy lifestyles, AIDS centers, infectious, skin-ventierological, therapeutic, etc.); to develop joint plans with the main agents of the anti-drug activities of the social sphere (profile institutions of public health, education, media, non-governmental and international organizations, foundations, etc.).

During the implementation of the Strategy, it is necessary to establish international cooperation in the field of treatment and rehabilitation of drug addiction, providing the establishment on the basis of the RSPC of the ISPN of an international educational center for the training of specialists in the social sphere in the countries of Central Asia, the regional Resource Research and Information Center on dependence on surfactants for strengthening system of narcological assistance to the population of the Central Asian countries (within the framework of

the UNODC approved strategy); to ensure the active participation of the republican narcological institutions and national coordinators in the implementation of existing and planned international anti-drug projects, the holding of international conferences on narcology and psychotherapy.

The main attention of law enforcement and other state bodies involved in countering the spread of drug addiction and drug trafficking will be focused on the full restriction for the population of the availability of narcotic drugs and psychotropic substances. In this regard, the main positions of the Strategy in this area will be related to the prevention of illegal drugs import into the country, the effective seizure of drugs from illegal trafficking, the prevention of diversion of narcotic drugs, psychotropic substances and precursors from legal trafficking to illegal.

The central problems attracting special attention of the state in the sphere of combating drug trafficking are the continued growth of smuggling and transit of the most dangerous types of opiates (heroin, opium) and synthetic drugs.

Taking into account the contraband component in the drug market of the republic, special attention should be paid to expanding and deepening cooperation with law enforcement and special bodies of foreign, especially bordering countries. To this end, it is necessary to continue improving and harmonizing the norms that create the legal framework for broad international cooperation in combating the drug business, in particular, in carrying out joint special operations and activities using the «controlled delivery» method, implementing measures against the legalization of criminal proceeds and other measures. It is necessary to strengthen the role of international cooperation in the organization of training and professional development on the basis of educational institutions of different countries. Meetings of law enforcement and special bodies with the aim of exchanging information, experience and methods of combating illicit drug trafficking should be expanded and made regular thereafter.

Bilateral and multilateral treaties and agreements in the field of combating illicit drug trafficking and abuse, to which the Republic of Kazakhstan is a party, will be transferred into practice. In this regard, priority will be given to the implementation of agreements adopted within the framework of such integration entities as the Shanghai Cooperation Organization, the Central Asian Cooperation Organization and the CIS, as well as the development and signing of new agreements on cooperation in this area with international organizations, foreign countries and their competent authorities.

At the national level, it is necessary to continue the organizational, personnel and technical strengthening of customs posts, separate checkpoints of the Border Service of the National Security Committee and the posts «Rubezh-Narcotics» of

law enforcement agencies and cynological services in law enforcement and special bodies of the republic fighting against drug trafficking.

An important condition for the effective work of the anti-narcotics divisions is also the continuation of the organizational and methodological and personnel strengthening of the central office units that should coordinate the activities of their structural units in the field, analyze and summarize the results of their activities, implement methodological guidance and take measures to improve it, and also participate in the disclosure and investigation of the most complex crimes related to drugs, the committed organization criminal groups or criminal communities.

It is necessary to improve the forms and methods of combating the laundering of money received from the drug business, along with ensuring an effective financial regulation regime that does not allow the entry of illegal money into the national financial system. In this regard, the mechanism of interaction with state bodies, whose competence includes the identification and suppression of crimes of this category, will be worked out.

The implementation of measures to overcome illicit drug trafficking and abuse at the local level will be coordinated and controlled by the regional commissions for combating drug addiction and drug trafficking created under the akims of regions, cities of republican importance, Astana and Almaty.

Taking into account the emerging drug situation in the country and in order to prevent the spread of non-medical use of drugs and technologies for their preparation, unconditional compliance with legislative norms and control and technological requirements regulating the production, storage, transportation and rational medical use of medicines and preparations containing narcotic drugs and psychotropic substances, as well as their application for research purposes is of great importance.

To do this, it is necessary to establish strict control over the circulation of narcotic drugs, psychotropic substances and precursors, taking measures to significantly reduce their flow from legal to illegal traffic.

It is necessary to review and ensure proper conditions for storage, sale and destruction of narcotic drugs, psychotropic substances and precursors withdrawn from illicit traffic in the interests of ensuring the greatest economic benefit of the state and preventing their «secondary», i. e. subsequent, illicit trafficking. It is necessary to make appropriate changes to the current legislation regulating the storage of narcotic drugs as physical evidence, and to improve educational and preventive work with the personnel of units and departments directly involved in the fight against illicit drug trafficking.

The most important issue remains the establishment of effective state control over the manufacture and use of precursors.

It is necessary to ensure the improvement and enhancement of the effectiveness of the system for monitoring the production, storage, distribution and use of narcotic drugs, psychotropic substances and precursors in manufacturing, pharmacy, medical, scientific and other institutions, as well as the procurement and sale of narcotic drugs and precursors. In this regard, a set of additional measures will be adopted to ensure state control over licensed activities related to trafficking of narcotic drugs, psychotropic substances and precursors, and to better coordinate the activities of the authorized bodies.

Specific measures will be aimed at improving the technical control base, in particular with regard to determining the list status of substances, applying emergency or simplified procedures for determining their scheduling status on the basis of structurally similar groups (analogues), and monitoring for prosecution in a criminal order by the principle of the similarity of the chemical structure and the known or suspected pharmacological action.

Closer contacts should be established with the UN International Council on Drug Control through mutual information on national regulatory legal acts adopted to control the export-import and transit of narcotic drugs, psychotropic substances and precursors.

Based on the analysis of the state of affairs in the chemical industry, an effective system for monitoring the production of precursors, their implementation, export, import with the extensive use of pre-notification of the export of stakeholders at the national and international levels should be established. In accordance with Article 13 of the United Nations Convention «Against illicit traffic in narcotic drugs and psychotropic substances» on 1988, it is necessary to monitor the trade in laboratory equipment and take measures to prevent the illicit manufacture, import, export, trafficking, distribution and diversion of precursors from legal traffic in illegal.

3.2 FIGHT AGAINST CRIME IN THE SPHERE OF DRUG TRAFFICKING IN FOREIGN LEGISLATION

The world has stepped into the 21st century. The rapid processes of globalization that have covered various areas of human life are generally positive and provide unprecedented opportunities for mankind. But, unfortunately, the changes taking place have a shady side, allowing such problems of the modern world as organized crime, international terrorism, drug business to acquire transnational character, turning them into «problems without passports».

The spread of drugs around the world has many aspects: political, economic, social, legal, medical, moral. Drugs are a social disease of modern society, and for the treatment of this disease it is necessary to have an accurate diagnosis, an

understanding of the complexity of this phenomenon and the difficulties of combating it.

The speeches leitmotif of many heads of state and government at the special session of the UN General Assembly in June 1998 devoted to the fight against the spread of drugs was the deep alarm that the spread of drugs on the globe is proceeding at an increasing rate and is becoming a global threat comparable to the ecological one. Many countries with economies in transition find themselves in a particularly difficult situation.

The transnationalization of the drug business, its offensive strategy on the eve of the two millennia is largely due to the fact that to the traditional causes that engender this evil (poverty, political hopelessness, social disorder, alienation of millions of people), in the 90s, new factors accompanying the globalization of financial, banking, trade, technological, information and other areas of human activity. These factors, on the one hand, affect the way of life of a person, and on the other — open new opportunities for dealers of drug business. And these new opportunities are reflected both in the structure and methods of drug production, as well as in methods of delivery, trade, and consumption.

According to approximate estimates, to date, over 200 million people worldwide use drugs of various types. Including about 140 million people smoking marijuana — the most common drug, 13 million people use cocaine, 8 million heroin, and 30 million people abuse amphetamine-type stimulants.

The number of drug users is increasing every year, mainly due to the drug abuse of the most vulnerable part of the population — young people. In some countries, the number of schoolchildren and adult young people who, by their own admission, tried to consume marijuana is 37 %.

Along with this, there has been a tendency to expand the activities of international criminal groups. Due to its international character and market basis, the drug business is quicker than the legal business to respond these changes, using globalization to expand the drug network and expand in all directions.

In the asset of the drug dealers all the advantages of the shadow economy are the duty-free, uncontrolled, concentration of huge capitals, the network international structure of the corporate type organization that encompasses the main links in the narcotics industry and connects all participants in the illicit trafficking of drugs into a single global network — producing, consuming and providing transit of the country's drug loads. A specific product — a drug due to a ban has the highest prices, determined not by production costs, but by demand in the drug market of a dependent consumer and the distance from it to the place of production.

The drug industry is fairly stable due to constant demand and brings considerable profits due to the lack of any serious competition between organizations

engaged in this type of criminal business. The turnover of the world drug industry is estimated by UN experts about 400 billion dollars a year, which is about 8 % of the turnover of all international trade. The UN report on the world drug situation in 1997 notes that the world drug trafficking turnover in some years exceeds the turnover of the world car market or world market of ferrous metals. Only Columbian cartels, represented by more than 500 companies, in the late 90s of the XX century, extracted from the drug trade in the US 20 billion dollars of annual profits. For comparison, we note that the total national budgets of Columbia, Bolivia and Peru were at that time only about 9 billion US dollars annually.

Operations with drugs bring from 300 to 2 000 % of profits, which makes them attractive for transnational criminal organizations, and for certain groups of criminals, whose goal is to maximize profits in a short time. At the same time, the drug industry is steadily improving, increasing technical and financial potential, adapting the latest achievements of scientific and technical progress to its needs.

Transnational drug syndicates in criminal activity use the most modern weapons and ammunition, electronic equipment systems, the latest methods of ensuring their own security. Part of the profit received from the drug trade, drug dealers are sent for the purchase of communication equipment, encryption devices, radio using high-speed frequency measurement, receivers for detecting radar. According to experts, the drug business annually invests about \$ 125 million in the purchase of a new «signal intelligence technology». Drug cartels have a perfectly armed guard, at the disposal of which is the most advanced weapon, up to portable missile-antiaircraft complexes. And on September 8, 2000, on the world information channels, there was a message about the discovery in Colombia in the working suburb of Fakatativ (18 km from Bogota) shipyard with a practically assembled thirty-meter submarine, where drug dealers were going to export their products. The development of the drug business is closely related to the development of the arms trade. Every year, drug addicts from all regions of the world are seized about 100 thousand firearms; more than 500 secret runways and sites are revealed, about the same number of aircraft used by drug dealing, is lost during the flight or is confiscated. Despite this, about 300 sorties are carried out daily with illegal drug loads.

The transnational scope of criminal activity allows criminals to use channels of fast and relatively reliable audio and video contacts.

So, the cases of using the global information network Internet for the conclusion of non-contact transactions are most widespread. According to Reuters, drug dealers and their clients are increasingly making deals in «private-room» (closed rooms) of chat channels, protected from outside view by software and hardware.

It is almost impossible to track such transactions. Internet pharmacies give out over-the-counter psychoactive drugs. And, finally, Dutch and Canadian companies through the Internet sell cannabis seeds, herbal ecstasy, ephedrine all over the world.

The use of powerful computer equipment connected to the international banking electronic network facilitates the internationalization of the legalization process of criminal proceeds. Increasingly, drug dealers «launder money» through Internet banks.

As the international drug market covers all regions of the world and virtually every nation, money laundering resulting from drug trafficking has also become transnational in nature. Only within the Russian Federation from 2 to 7 billion dollars of drug money is «laundered», these funds are then virtually free to move abroad. According to Singapore officials, from 1989 to 1992, drug dealers conducted through Singapore about \$ 100 million that were sent through an underground bank in Bahrain and further to the accounts of the World Bank. In 1996, Singapore seized the funds of organizations of drug traffickers in the amount equivalent to 20 million US dollars. The estimate of money laundering in Australia is about \$ 3.5 billion annually. Here, for example, a network was laundered for laundering more than \$ 20 million of proceeds from the sale of heroin in New York and more than \$ 40 million were confiscated from the funds of a criminal syndicate selling cannabis in Australia but located in Hong Kong.

In this light, the estimate becomes realistic, according to which the revenues received as a result of the drug business are legalized (laundered) in the amount of 300—800 billion US dollars every year.

If it were possible to block the main channels of money laundering, the drug business would in no small measure lose its attractiveness. Fabulous incomes from drug trafficking, estimated in billions of dollars, cannot be stored «in stockings». However, channels cannot be blocked, because there are many methods of laundering drug dollars, and too powerful forces profit from these operations.

Illicit drug trafficking actively stimulates corruption, with the help of which drug cartels and other criminal groups involved in the drug business are striving to secure their business and escape responsibility. Part of the profit is spent on bribery and obtaining the necessary information. The collection of information about corrupt officials in law enforcement agencies and government bodies, data on the market situation, and the prices of drugs is carried out. For example, one of the not-so-large Mexican cartels — Tijuana — spends \$ 1 million a week on bribes to Mexican judges, prosecutors, police, army, customs. The Attorney General of Mexico admitted that 90 % of judges and prosecutors in Tijuana were «bought» by the cartel.

One of the most important global trends in the development of the drug business is also its industrialization. Illegal production of narcotic drugs acquires the character of a well-established industry. Depending on the technological complexity of the organization of illegal production, clandestine drug laboratories can be conditionally subdivided into artisanal laboratories, which, as a rule, have low productivity and production without complex chemical reactions, and industrial ones, characterized by high productivity and used for the production of synthetic drugs through complex chemical synthesis.

Strict economic sanctions have been imposed on countries that produce drugs extensively. However, the number of drug laboratories on the territories is declining very slowly.

In the last years of the 20th century, there was a tendency to concentrate production of narcotic drugs, increase the capacity for the production of drugs. This is evidenced by the numerous facts of detection of giant laboratories for the production of cocaine. So, according to data published by the Columbian anti-drug police, in 1996 in Central Columbia, an underground laboratory complex was discovered and destroyed, protected by a large armed formation. It had several runways, was equipped with a modern warning system and was distinguished by a high level of organization of the production process. The annual maximum capacity of this laboratory could be about 350 tons of cocaine.

The mobility of drug producers is increasing. The facts of drug production in mobile laboratories located in vans and trucks are revealed. Such laboratories rarely come to the attention of law enforcement agencies and, continuously producing drugs along the way, they deliver the finished product to their destination. The capacity of one of these laboratories, identified on the territory of Columbia, was 70 kg of cocaine per day.

Also one of the most important trends in the development of the drug business in the 90s of the twentieth century is an increase in the share of synthetics. This is due to the fact that synthetic drugs have a number of advantages over narcotic drugs from plant raw materials. In the production of synthetics, not only a key precursor can be used, but also its substitutes, with which it is possible to obtain not one but several end products. In addition, the diversity of synthetics and the ability to quickly synthesize new analogues allow manufacturers to respond quickly to the drug market. Changing the source products, chemists get new types of synthetics that are not included in the current national lists of banned and controlled drugs. The complexity and duration of the procedure for the inclusion of new narcotic drugs, psychotropic or strong substances in official lists also matters. And the variety of chemical substances used for the production of drugs, the interchangeability of the original components, ensure the availability and relative low costs of synthetic production. As their initial components,

their uncontrolled analogs can be used, which reduces the level of risk. For example, drug dealers in the Netherlands invest in production of one dose (pills, tablets) of ecstasy 7—9 cents, and sell it in bulk for 8—15 dollars. There is also the possibility to change the degree of drug synergism and to simulate the nature of its impact on the consumer. Modern synthetics-analogues by force of influence on the consumer are usually hundreds or even thousands of times superior to their predecessors.

The process of production of synthetics does not have a rigid binding to the sources of raw materials, their transportation and marketing. As a result, there is a decentralization of the turnover of synthetics. In addition, the number of intermediate links in the producer-consumer chain is significantly reduced, which reduces the level of risk and costs. Synthetic drugs are much more difficult to detect at all stages of their illicit trafficking, including the stages of creation, transportation and trade.

In recent years, new types of synthetic drugs have appeared. The latest scientific achievements are used in their production. Significant financial resources are invested in financing independent research in order to search for new drugs and improved technologies for their production. Artisanal and inefficient manufacturing are superseded by high-tech compact laboratories and large industrial drug enterprises, which are serviced by qualified specialists.

The international scale of drug trafficking and the involvement of an increasing number of states in the global network of routes for their illegal transportation virtually destroyed the decades-long division of the world's countries into «consuming» (developed capitalist countries) and «producing», mainly developing countries.

In the 90s of the twentieth century, the drug business was developed even in countries where previously illegal drug trafficking and abuse had not previously occurred. UN experts connect the reasons for the development of transnational criminal organizations, including those whose main activity is the drug business, with the appearance of appropriate opportunities at the global level, which is due to long-term development trends in world politics and the economy. As a result of increasing interdependence of states, simplifying international travel and communications, increasing the transparency of national borders and the formation of global financial networks, world markets for both legal and illegal products have emerged. The development and scope of organized drug trafficking can be considered largely a reflection of the opportunities that have emerged as a result of the restructuring of international relations and the changes that have occurred in the states themselves. Thus, transnational drug business can be both a cause and a consequence of important changes in global politics and economy.

Among the main reasons and factors for the development of the drug business are the following:

Weakness of governments, inability of the state to exercise effective control over the territory under their jurisdiction (for example, in Bolivia, Columbia, Peru).

The state's policy of connivance with the drug business or the policy of «tacit reconciliation» in connection with the income it brings to society, or because of fear of countermeasures by criminals. For example, in Pakistan, the authorities almost did not interfere with the production of opium, its transportation, in fact condoning drug dealers.

A powerful factor in the development of the drug business is political and economic instability. This is due to the use of significant financial resources from the production and sale of drugs to achieve political goals. This is confirmed by cases when the finances received from drug smuggling go to purchase weapons to unleash and maintain ethnic conflicts. At the same time, the relationships of organized crime with terrorist and extremist groups are expanding.

Weakening and dysfunctions of social institutions, excessively high rates of socio-economic and political transformation in connection with the transition of post-socialist countries to the market system of management. Absence or imperfection of the legislation or control over its implementation in combination with a sharp aggravation of socio-economic problems is, under these conditions, an enabling environment for the development of the drug business. In such cases, the most active people with limited financial and economic resources are actively involved in the drug business.

Corruption of governments whose members receive huge profits from illegal activities and therefore do not take any measures to reduce or contain it. The difference between corrupt and conspired with the criminals of the government is only the degree of direct involvement of its members in the drug business. In a number of countries, using corrupt politicians, accomplices in law enforcement agencies, the army, customs, drug mafia has achieved unlimited influence. In particular, in Bolivia in the 80-es. the so-called «drug-cartis» was probably the most vivid example of a direct connection between the government and a criminal organization engaged in drug trafficking. Experts argue that it was impossible to draw a line between the military Bolivian government and drug suppliers. At the same time, the sovereignty of the state in the territory of which such criminal groups arise, provides them with reliable protection against attempts of other countries to stop illegal activities, liquidate the central links and branches of criminal structures.

Increasing demand for illicit goods. Thus, the appearance of Columbian cocaine smuggling organizations in the early 1980s is partly due to the extremely

high rate of profitability of the drug business, the ease of overcoming border barriers for imports into the United States.

The persistence of inequalities between industrialized and developing countries, the disadvantaged position of the latter in the international trading system, hamper their normal economic progress and the realization of the opportunities provided by legitimate commercial activities. An attractive alternative to poverty is the choice of illegal ways of doing business. In particular, the weakness and instability of agricultural markets (in Bolivia, Peru and a number of other countries) made cultivation of coca and opium a very profitable occupation for local peasants. Liberalization of foreign trade activity.

Economic crises that stimulate the search for an improvement in the financial situation through participation in illegal business. Entrepreneurs use there the accumulated knowledge and experience of traditional productions. In times of crisis, participation in the drug business makes it possible to temporarily alleviate the employment problem of a large part of the population. In these conditions, the activity of illegal formations is beginning to be perceived positively. For example, the emergence of the Columbian cartel as one of the main cocaine centers is due to the reduction of its role as a major producer of textiles. Traffickers provided alternative employment for the workforce, thereby winning the sympathy of the local population. Such loyalty is of significant importance for criminals, since it hampers the work of counterintelligence services and counteracts the effectiveness of law enforcement operations.

Besides, the researchers call the following events, which led to changes in the organization and activities of the drug manufacturing industry, as well as rapid growth in production in the last two decades of the twentieth century:

sharp increase in the demand for cocaine in the United States in the 1980s, this led to increased efforts by Colombian drug producers to eliminate their main competitors, expand the processing capacity of raw materials, improve drug delivery routes and neutralize the measures taken by the Colombian authorities to enforce laws concerning illegal drug business;

invasion of Soviet troops in Afghanistan in 1979 and the ensuing long conflict that contributed to the growth of opium production, which in turn provided a source of funds for war against the USSR. There is a version about the development of the CIA special program code-named «White Jihad» during the Soviet-Afghan conflict, the essence of which was to use Afghanistan as a base for making raw opium and transferring it to the republics of the USSR. In addition, the military conflict allowed drug dealers, enlisting the support of the Mujahideen of Iran and Pakistan, to use these countries as transit routes;

Islamic Revolution in Iran, when the assistance of the Iranian government to the fundamentalists in the Bekaa Valley undermined the anti-drug operations in

Lebanon and the region as a whole and enabled Iran to become an important element in the heroin distribution system;

implementation of tough anti-drug measures in Colombia and Mexico in the mid-1980s led to changes in the geography of drug production and sales, production spread to Brazil, Venezuela, Ecuador, important transit points were Suriname, Haiti and Paraguay;

collapse in 1988, the regime of Ne Win in Myanmar (Burma). Myanmar has long been a major opium producer, but the Ne Win government has periodically carried out punitive operations against opium producers and traders. In the context of political instability that emerged after the fall of the Ne Win government, the intensity of the fight against drug trafficking weakened, and as a result, by the early 1990s, Myanmar had become the world's largest producer of opium;

combination of intensive measures in Colombia that followed the assassination of presidential candidate Carlos Galana in August 1989 and the US intervention in Panama in December 1989 led to certain shifts in the drug industry in Latin America: Panama ceased to exist as a major center for drug trafficking, cocaine production was reduced in Colombia, and its production in Peru has increased, and drug operations have expanded in Argentina, Chile and other countries of South America; there was a relative weakening of the Medellin drug cartel and the intensification of its competitor, the Cali cartel;

apparent saturation of the cocaine market in the United States in the early 1990s, which resulted in the desire of drug dealers to diversify the «product» and markets. Latin American traders began to develop and expand markets in Europe, Japan and the Middle East. The Cali cartel, for example, began recruiting couriers in Poland to smuggle cocaine across the Polish-German border; the law enforcement agencies of the Czech Republic and Poland discovered an underground network of organizations that covered Poland, the Czech Republic and the Netherlands, the center of this network was the Czech-Colombian company for the import of agricultural products;

incessant experiments on the creation of new psychotropic substances, such as «snow». These drugs can be manufactured anywhere in the presence of appropriate chemicals;

internationalization of the drug trade. Thus, some countries are not drug producers and do not face acute problems with their abuse, but are deeply involved in the drug trafficking process because of their geographical location. For example, Uzbekistan and Azerbaijan have become important in the drug trade in Central Asia, Guyana and Trinidad and Tobago have become important transshipment points for drug trafficking from Colombia to the United States, and Nigeria for the flow of heroin from South-East and South-West Asia.

The rapid growth and international expansion of the drug business, which is entangling its own networks of more and more countries, were the most important, but not the determining factor in the evolution of the drug situation in the modern world. Increasingly important is the active counteraction to this evil at the international and national level, carried out on the basis of numerous programs, such as the United Nations International Drug Control Program, the European Action Plan against Drugs (1995—1999), the Subregional Drug Control Program in South-East Asia, the Inter-American drug strategy, anti-drug and certification policies conducted by the United States and many others. An important role was played by the softening of the political contradictions with the end of the cold war period, and cooperation of states in the sphere of combating drug trafficking became practically more feasible. For example, until recently, cooperation programs in which Egypt, Israel, Jordan and the Palestinian Authority participated simultaneously (meanwhile, such a program was introduced in February 1999) or the cooperation of India and Pakistan in combating illicit drug trafficking (this cooperation under the auspices The Office for Drug Control and Crime Prevention of the United Nations began in the late 1990s) seemed to be unreal.

In 1998, the UN General Assembly held a special session on drug problems, which set goals — to halve the use of drugs and significantly reduce their illicit production by 2008. At that time, these goals could seem unattainable, but the experience of the last two years shows that the search for effective control over the drug business still yields positive results.

The report on the world drug situation in 2000, the work of the United Nations Office for Drug Control and Crime Prevention in Vienna, marks the most significant progress in the downward trend in the production of the two main problem drugs in the world, cocaine and heroin.

The report states that due to the serious approach from the most of the countries that are the main producers of coca and opium poppy, these plants are now cultivated less in volume than ever in these countries. Pino Alarchi, executive director of UBNPP, cited the following facts, which show the positive changes that have taken place at the front of the fight against the drug business:

In 2000, the production of opium poppy practically ceased in Pakistan, in addition, after the execution of the fifteen-year program, all products were destroyed.

In Bolivia, during years, according to the «Basic Plan», put into effect in 1997, the area of illicit coca cultivation decreased by 78 %.

The production of coca in Peru, which increased dramatically in the 1980s, has also been declining rapidly since 1992, with a 50 per cent drop in cocaine supplies to the world market.

During 18 months following the agreement reached between the UBNPP and the President of Laos, cultivation of opium in Laos, which is one of the world's top three producers, was cut by 30 %.

In the 1990s, cultivation of opium poppy in Vietnam decreased by 90 %.

The production of opium poppy in Thailand has been reduced under the strict guidance of the King of the country, supported by local social institutions and the international community, in particular the United Nations International Drug Control Program and the Office for Drug Control and Crime Prevention.

The areas occupied by opium poppy cultivation have reached the lowest level since 1988, i. e. in 1999, opium poppy cultivation occupied areas that were 17 % smaller than in 1990. Coca cultivated areas also reached their lowest level since 1987, and in 1999 coca crops accounted for 14 % less acreage than in 1990.

The share of illegal drug production in the economy of the main drug producing countries declined. Even in countries where the level of production of narcotic substances is still high, the share of drug production in GDP is falling: in Colombia, it fell by 2.5 %, after rising by 7 % since the mid-1980s.

By the end of the last decade, drug use in developed countries had stabilized or decreased; compared to the previous decade, cocaine consumption in North America fell, heroin abuse in Western Europe stabilized.

In the new Criminal Code of France in 1992, crimes against public health are not separated into a separate chapter. The offenses included in this type of assault are included in Book 2 (Crimes and Offenses Against Human), Section 2 (On Infringements on the Human Person), Chapter 2 (On Infringements on Physical or Mental Integrity of the Person) and Chapter 3 On facing danger). Common to these crimes is that they are aimed at infringing the anatomical integrity of organs and tissues or their physiological functions, as well as on the introduction into the mental and neurotic state.

Crimes in the field of drug trafficking also apply to this type of criminal acts. Illegal production of narcotic drugs — art. 222-35 — is punished with twenty years of imprisonment and a fine of 50 million francs. Illegal transportation, storage, offering, transfer, acquisition or use of narcotic drugs — articles 222-37 — is punishable by ten years' imprisonment and a fine of 50 million francs.

The German Criminal Code, in its latest edition, is a modern legal document, although it draws its main institutions precisely in the Criminal Code of 1871. The criminal code of 1871 was based on the philosophy of Kant and Hegel, it reflected the idea of the classical school of criminal law with its theory of psychological guilt and free will, with objective grounds of criminal liability for causing harm to the legal good, with the concept of punishment as retribution for evil.

The law of 15 July 1992 on combating illegal drug trafficking and other forms of organized crime in such acts as an especially serious case of theft committed by a gang (p. 244), theft of narcotic drugs (p.298) increased the responsibility for committing mercenary crimes by a gang.

The criminal law of modern foreign countries, along with the notion of punishment, also knows the notion of a security measure. Unlike punishment, the security measure does not pursue the objectives of retribution or intimidation, but aims at eliminating the «dangerous state» of the person who committed or did not commit, but who can perform a socially dangerous act.

The preventive goal pursued by a security measure is achieved either through neutralization or through the resocialization of the individual. When applying this or that security measure, any of these trends prevail. The application of the security measure is not limited to a specific deadline, such as the use of punishment. This allows to change the period of application of the security measure in the direction of its reduction or increase taking into account the set maximum in accordance with the development of the «dangerous state» of the individual.

In 1908, England adopted a law on the prevention of crime. It introduced the term «habitual criminal» into English law, and also regulated the application of security measures to such persons.

One of the security measures types applied to alcoholics and drug addicts is the maintenance in a special institution for alcoholics and drug addicts. The court has the right to send a person for up to three years to a special institution for alcoholics and drug addicts if: a) a person has been convicted of a crime prosecuted on indictment; b) the court recognizes that the crime was committed under the influence of intoxication and the criminal himself or the jury consider that he is «a habitual drunkard or a drug addict». Under the regime, such an institution is not much different from imprisonment. That is why imprisonment can be replaced by the content in the institution for alcoholics and drug addicts.

In the USA, security measures, which in their essence are very close to measures of criminal punishment, have been widely developed.

Such measures include:

- measures aimed at isolating certain categories of persons from society. The basis for such isolation is the «dangerous state» of the person:

- preventive isolation from society of «defective offenders», which include: persons with mental and psychic defects who have a «propensity to commit crimes» — in a special institution for an indefinite period («until the cure of defects»);

- compulsory isolation and treatment of criminals-drug addicts or alcoholics (Law of October 8, 1966 on the social rehabilitation of drug addicts).

French criminal law also knows the notion of a security measure. The draft CC of France in 1934 proposed a carefully developed system of security measures that would be applied in parallel with the penal system. This was not perceived by French criminal law and at the time of the adoption of the new 1992 Criminal Code, there was no system of security measures. One can only talk about certain types of such measures:

- security measures officially recognized and applied as such (measures of an educational nature applied to minors who have committed socially dangerous acts);

- measures of a medical nature applied to persons deemed insane by virtue of a mental illness, to «dangerous» alcoholics.

The list of remedial measures and safety is defined in paragraph 61 of the Criminal Code of Germany and is exhaustive. They are: 1) placement in a psychiatric hospital; 2) placement in a medical institution for alcoholics and drug addicts; 3) preventive conclusion; 4) establishment of supervision, etc. For placement in a medical institution for alcoholics and drug addicts (p. 64), the following conditions must be met: a) a tendency to excessive consumption of alcoholic beverages or other intoxicating agents; b) conviction for a wrongful act (crime or misdemeanor) committed by him in such a state or as a result of this inclination, or the absence of conviction only because the person was in a state of insanity that is proved or not excluded; c) there is a danger that, due to this tendency, a person is able to commit serious illegal acts in the future.

Thus, despite the ever expanding expansion of the drug business, many years' experience in many countries of the world to find ways to effectively control it now allows us to see positive results. And, perhaps, in the future, the international community will be able to consolidate the first successes in the fight against illicit drug trafficking and deepen the positive trends that can be traced at the turn of the century.

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