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International cooperation in combating drug trafficking in the post-Soviet space

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Abstract

The article is devoted to regional cooperation in combating drug addiction, the creation of a single legal space, the work of parliamentarians in the development of Eurasian integration, improvement of the legal system and legal regulation and the development of a common Strategy to combat transnational drug crime.

Key words: unification, harmonization, drug trafficking, cooperation, inter-parliamentary Assembly.

In the modern world, drug addiction as an antisocial social phenomenon is becoming more and more significant, becoming a serious factor that negatively affects the development of society and the state. Thus, drug trafficking poses a real threat not only to the health of the population, but also to the national security of the States members of the Commonwealth of Independent States (hereinafter CIS or Commonwealth countries). The fight against this problem can be carried out only by joint efforts of the Commonwealth countries. It is impossible for any state alone to resist drug addiction and drug trafficking, no matter what opportunities it has. Drug crime knows no boundaries, no pity, compassion, every year hundreds of thousands of people die from drug use in the post-Soviet space.

Therefore, in the context of globalization and regionalization, there is an intensive process of Eurasian integration, which is reflected in various forms and manifestations. It is the Eurasian idea that is the engine of progress in the improvement of national legislation. Having a common cultural and historical heritage of the former Soviet Union, they continue close cooperation in the development of the legal system and legal regulation of the economic, political and social spheres, including in the fight against drug trafficking.

Since the collapse of the Soviet Union and independence in 1991, each member state of the Commonwealth of Independent States has taken all necessary measures to control the external borders in order to prevent the illegal entry of drugs into the country, especially heroin produced in Afghanistan. Therefore, for a successful and effective fight against drug trafficking, it is necessary to unite the efforts of law enforcement agencies of the CIS countries, and this requires the unification and harmonization of their national legislation in the field of combating drug circulation.

The legal basis for international cooperation in combating drug trafficking form a universal UN conventions: single Convention on narcotic drugs of 1961 as amended in accordance with the 1972 Protocol amending the Single Convention on narcotic drugs 1961, Convention on psychotropic substances of 1971 and the Convention of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988 and other international legal acts, member of which are the countries of the Commonwealth. The implementation of the main provisions of these international conventions served the formation and further development of the national legislation of the CIS member States in the fight against drug circulation, which was, first of all, of great preventive importance. For example, the Republic of Kazakhstan, being a full member of the UN, later joined all three conventions [1].

Studying the criminal legislation of Russia and other CIS member States in the field of drug circulation, Russian scientist Babkin L. M. rightly noted that "it is necessary to bring the norms of the current criminal legislation in line with the generally recognized norms of international law and the norms of the conventions to which States have joined, that is, not only

the editorial revision of the existing norms, but also their change on the basis of scientific analysis, taking into account the principles of national legislation, the implementation in criminal laws of those provisions that are absent in the legislation of the Republic. It is necessary to overcome the inconsistency of the norms of national criminal laws, their main institutions through systemic harmonization" [2]. That is, in the creation and adoption of model legislation and recommendations that would be taken into account by the parliamentarians of the Commonwealth countries in the discussion of national bills.

In order to implement a unified legal policy against the abuse of narcotic drugs and psychotropic substances and in accordance with the United Nations international drug control Programme, the International centre in Vienna has issued a number of reference documents, which are model regulations proposed to States for use in law-making.

Within the framework of international cooperation in the fight against drug trafficking, there is no better form of regional cooperation as the CIS in the history of the post-Soviet space. Since the formation of the CIS, a lot of work has been done to unify and harmonize national legislation. The inter — parliamentary Assembly of the CIS member States (hereinafter IPA — CIS) plays a significant role in this, which in its activities attaches the greatest importance to issues related to the harmonization and approximation of the legislation of the Commonwealth States. This work is embodied in the model legislative acts and recommendations adopted by the inter-parliamentary Assembly, which take into account the experience of the parliaments of the Commonwealth countries and international parliamentary organizations. Model legislative acts and recommendations adopted by the CIS IPA (about 300 documents have been adopted to date), although not mandatory, form the basis of national laws, ensuring the harmonization and in some cases, unification of the legislation of the CIS States.

Model laws adopted by the CIS IPA are international, primarily European, legal standards adapted to the conditions of the Commonwealth. Using them, the CIS States not only mutually harmonize national legislation, but also bring it in line with international and European standards. This once again proves the artificiality of the opposition of the Eurasian and European vectors of development. In fact, cooperation within the CIS strengthens the European orientation of the Commonwealth States [3]. Globalization is taking place in the world, and therefore integration between the "West" and the "East", and the dominant position remains for the European model of cooperation.

In the modern period, model law-making becomes an important tool for the creation of a single legal space of the CIS, contributes to the convergence of national legislation. For example, on May 17, 1996 the Council of heads of state of the Commonwealth, in accordance with article 4 of the Charter of the CIS, in the interests of efficiency of joint actions in the fight against crime, approved the "Interstate program of joint measures to combat organized crime and other dangerous crimes on the territory of the States — participants CIS for the period till 2000" [4]. Paragraph 1.2.1 of the programme instructed the inter-parliamentary Assembly of the CIS member States to draft model legislative acts on combating organized crime and other types of dangerous crimes and to recommend that national parliaments take them into account when drafting national laws.

In turn, the Resolution of the inter-parliamentary Assembly of the CIS member States No. 8-6 of November 2, 1996 "On the program of model law-making in the Commonwealth of Independent States for 1996-1998" approved the "Long-term plan of activities of Inter-parliamentary Assembly for development of model acts and recommendations for 1996-1998" [5].

According to the inter-State program of IPA CIS in November 1996 adopted a Model law "On combating illicit circulation of narcotic drugs and psychotropic substances" with a recommendation to national parliaments to take it into account in the preparation of draft national laws. This document was developed on the basis of the recommendations of the model regulations proposed to States under the United Nations Programme on international drug control [6;p. 8-11]. Based on this, it was proposed to strengthen the legal aspect and urgently

create a Set of laws of the Commonwealth — a normative document that presupposes the presence of a set of detailed and detailed legal measures that clearly regulate the fight against drug circulation in the CIS States on the principles of Federal or Confederate territorial formation. Such a Set of laws will undoubtedly be a key element of the programme of joint action, requiring the most serious consideration and urgent elaboration.

The CIS Executive Committee, as a permanent Executive, administrative and coordinating body of the Commonwealth and the Council of permanent Plenipotentiaries of the Commonwealth member States to the statutory and other bodies of the Commonwealth, is carrying out important work in this direction. For example, on 7 October 2002 in Chisinau, the Council of CIS heads of state decided to approve the Concept of cooperation of CIS member States in combating illicit trafficking in narcotic drugs, psychotropic substances and precursors [7]. It was also stressed that the basis of cooperation of the CIS States in the anti-drug sphere is the Program of cooperation of the CIS member States to combat illicit circulation of narcotic drugs, psychotropic substances and their precursors for 2005-2007, approved by the Council of heads of state of the CIS on September 16, 2004 [8].

In this regard, in 2004, members of the Council of IPA CIS after the next Kiev meeting in the framework of the coordination meeting of heads of CIS law enforcement agencies, leading the fight against crime, initiated the creation on the basis of the Standing Commission of IPA CIS on defense and security of the joint Commission on harmonization of legislation in the field of combating terrorism, crime and drug circulation in the CIS. It includes parliamentarians, representatives of the CIS sectoral cooperation bodies in the field of security and a number of law enforcement agencies of the CIS countries, international specialized organizations, whose cooperation has acquired a permanent and stable basis. Such cooperation serves to strengthen the atmosphere of trust, mutual understanding, orients the legal systems of the CIS countries to adapt them in accordance with international legal standards of the UN, the Council of Europe and the European Union. Implementation of the instructions on harmonization of legislation provided by the programs of cooperation of the CIS countries in the field of security, approved by the Council of heads of state, has become a priority in the activities of the joint Commission [9].

As a result, in 2006 the Assembly adopted the model law "On narcotic drugs, psychotropic substances and their precursors" and Recommendations on harmonization of the legislation of the CIS States in the field of combating drug circulation. These acts significantly strengthen the block of model legislation against drug abuse. They received a high rating during the discussion of the Report of the International Committee on drug control at the UN in 2007. On 3rd December 2009, the Assembly adopted the draft Recommendations on the harmonization of the legislation of the CIS member States with regard to a unified approach to determining the minimum size of narcotic drugs and psychotropic substances for the illegal traffic of which criminal liability is provided, as well as large and especially large amounts of narcotic drugs and psychotropic substances, for the purposes of criminal legislation, which is provided for by the Programme of cooperation of States – CIS participants in the fight against illicit circulation of narcotic drugs, psychotropic substances and their precursors for 2008 - 2010 [10].

In order to coordinate the efforts of the competent authorities in combating transnational drug crime, the Central Asian Regional Information Coordination Centre for combating illicit circulation of narcotic drugs, psychotropic substances and their precursors (hereinafter the CARICC) was established by the efforts of seven Commonwealth countries. Measures have been taken to place the CARICC and its personnel on the territory of Kazakhstan. The government resolution of September 11, 2009 № 1358 approved and on September 16, 2009 signed an Agreement on the conditions of stay of the CARICC in Almaty. The center should provide significant assistance to the countries of the region in combating drug trafficking, including the unification of the legislation of the participating countries, and raise this activity to a qualitatively new level.

It should be agreed that at present there is a need to develop a new doctrine for the development of security of the CIS, which would provide for effective methods of consolidation of the legislative, customs and border area of the Commonwealth, primarily mechanisms for harmonizing the processes of multi-level integration of the anti-drug security system [11]. It should be remembered that the drug threat comes primarily from Afghanistan, so it is necessary to develop a common Strategy to combat transnational international drug crime. Only thanks to the international Strategy of the Commonwealth States can conduct a single anti-drug policy within the country to harmonize the legal regulation of relations in the field of combating drug trafficking, and therefore to seek common ground of national legislation.

1. Law of the Republic of Kazakhstan dated 29.06.1998 "On accession of Kazakhstan to the UN Convention against illicit traffic in narcotic drugs" // Kazakhstanskaya Pravda. – 1998. – July 1. Law of the Republic of Kazakhstan dated 29.06.1998 "On accession of Kazakhstan to the Convention on psycho-tropic substances" // Kazakhstanskaya Pravda. – 1998. – July 1. Law of the Republic of Kazakhstan dated 01.07.1998 "On accession of Kazakhstan to the Single Convention on narcotic drugs of 1961" // Kazakhstanskaya Pravda. – 1998. – July 4.
2. Babkin L. M. Responsibility for crimes in the sphere of illicit trafficking in narcotic drugs and psychotropic substances under the legislation of Russia and other member States of the Commonwealth of Independent States: criminal law analysis [Electronic resource]. URL: <http://www.dissercat.com/content/otvetstvennost-zaprestupleniya-v-sfere-nezakonnogo-oborota-narkoticheskikh-sredstv-i-psikho>
3. Mikhail Iosifovich Krotov, Secretary General – head of the CIS IPA Council Secretariat – problems, experience, prospects [Electronic resource]. URL: <http://e-cis.info/page.php?id=19080>
4. Information Bulletin of the CIS Council of heads of state and the CIS Council of heads of government "Commonwealth". - 1996. — № 3; "Ros-siyskaya Gazeta" ("Departmental Appendix"). June 22, 1996.
5. "Model law programme in the Commonwealth of Independent States for 1996-1998". - St. Petersburg, 1997.
6. Andreeva L. A. Criminal-legal counteraction to illicit trafficking of narcotic drugs and psychotropic substances: Series "Modern standards in criminal law and criminal procedure" / Scientific. editor prof. B. V. Volzhenkin. - SPb., 1998. - 44C.
7. Concept of further development of the Commonwealth of Independent States [Electronic resource]. URL: <http://cis.minsk.by/page.php?id=18763>
8. Globalization and the fight against drug trafficking and drug addiction [Electronic resource]. URL: <http://www.m-economy.ru/art.php?nArtId=943>
9. Decision about the Concept of cooperation of the CIS member States in combating illicit trafficking in narcotic drugs, psychotropic substances and pre-cursors [Electronic resource]. URL: <http://cis.minsk.by/page.php?id=598>
10. Joint Commission on harmonization of legislation in the field of combat-ing terrorism, crime and drug trafficking in the CIS [Electronic resource]. URL: <http://www.iacis.ru/html/?id=204>
11. Baturin E. Formation of anti-drug policy of the CIS member States inXXI. B. [Electronic resource]. URL: <http://www.isras.ru/files/File/Vlast/2011/01/Baturin.pdf>