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### Milestones of international cooperation in preventing and countering illicit drug trafficking

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**Abstract.** Drug trafficking is considered by contemporary academics to be one of the most widespread forms of organized transnational crime. The unstable regional political situation, corruption, armed conflicts, poverty, and other factors are recognized as contributing to the expansion of this phenomenon. The United Nations has aimed to channel state cooperation in eradicating the drug scourge. Among the most effective tools in this regard are the creation of the United Nations Office on Drugs and Crime and the adoption on 15 November 2000 of the United Nations Convention against Transnational Organized Crime. In this article, we aim to analyze the forms of inter-state cooperation in the prevention and combating of illicit drug trafficking and their impact on the phenomenon under investigation; also, we will analyze the legal nature of drug trafficking as an act that infringes on the interests of the modern international community.

**Keywords:** international cooperation, transnational organized crime, international crime, illicit drug trafficking, Republic of Moldova.

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#### Introduction

The drug scourge is one of the most complex, profound, and tragic phenomena of the contemporary world. Billions of dollars are spent each year for antisocial purposes, lining the pockets of drug traffickers and criminal gangs who defy authorities and laws. Millions of people fall prey to drugs each year, and an ever-

increasing proportion of them are completely lost to society. There is a constant increase in the number of appeals, meetings, and conferences set out to identify the most appropriate methods to put an end to the abomination of drugs. As the situation worsens, it becomes even more widely known in all its aspects. [1, p. 5]

Towards the end of the last century,

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it became clear that international action was needed to stem the flow of drugs. In 1906, the first step was taken in China: a decree banned the cultivation of poppies for opium, and two years later, smoking opium was also prohibited. In 1909, thirteen powers with interests in the Far East convened in Shanghai the Opium Commission, which adopted nine non-binding resolutions. In 1912, the International Opium Convention was signed at The Hague (entered into force in 1915); international cooperation for the control of narcotic drugs became a matter of international law. [1, p. 13] Under the auspices of the UN, several conventions were adopted for this purpose: Single Convention on Narcotic Drugs, 1953; Convention on Psychotropic Substances, 1971; United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

### **Research methods**

Analysis (deductive, inductive, generalization, and specification) and synthesis of the phenomenon under study are the scientific research methods to be used for the subject of international cooperation in preventing and combating illicit drug trafficking. Historical analysis, including prospective analysis, will allow us to detect the qualitative evolution of forms of cooperation for combating illicit drug trafficking, subsequently formulating best practices in the field. Similarly, the use of systemic analysis is recommended as an effective tool for researching complex concepts, such as the subject of this study.

### **Discussion**

The UN Office on Drugs and Crime publishes the annual World Drug Report, which identifies phenomena and formulates trends in the field that are subsequently used as the basis for future actions in preventing and combating illicit drug trafficking. The contents of the World Drug Report 2022 [2] show the following:

- Cocaine manufacturing reached a record high in 2020. Trafficking of cocaine likely continued to increase in 2020 despite the pandemic as global cocaine seizures (unadjusted for purity) increased to a new record high of 1,424 tons. Trafficking by sea, mainly in shipping containers, is growing, accounting for nearly 90 percent of cocaine seized globally in 2021. Seizure data suggest that trafficking is expanding to other regions outside the two main markets, North America and Europe, with increased levels of trafficking to Africa and Asia. Multiple indicators point to an overall increase in cocaine use over the past decade and early indications suggest that use is rising again in 2021 after a decline during the pandemic.

- The large majority of people who use drugs continue to be men, but women make up more than 40 percent of people who use ATS and who engage in non-medical use of pharmaceutical stimulants, pharmaceutical opioids, sedatives, and tranquilizers. Women who use drugs tend to progress to drug use disorders faster than men. The gender treatment gap remains a global problem and is particularly acute for women who use ATS. Almost one of every two past-year ATS users is a woman, but only one in five people in treatment for ATS disorders is a woman. Cannabis, the most used drug worldwide, is also used more by men than by women, but the gender gap is

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narrowing, notably in North America, where the level of use is particularly high.

- The majority of people being treated for drug use disorders in Africa and Latin America are under the age of 35. Young people aged 15–16 have a global annual prevalence of cannabis use of 5.8 percent, compared with 4.1 percent of the population aged 15–64. Young people typically report a higher level of drug use than adults, and in many countries, drug use levels among young people are higher today than in past generations.

Several factors push people to cultivate illicit crops. Often, this activity helps landowners sustain themselves in the short term. Alternative development contributes to reducing vulnerability, which drives people to grow prohibited crops, and ultimately allows such activities to be eliminated. Such an approach can be identified in countries that are major producers of coca, opium, and cannabis - countries in South America, Central America, the Caribbean, Asia, and Africa. Alternative methods of generating income, with important components including marketing of products, long-term financial and political support, land management practices, and environmental protection are at the core of such development. This thesis also applies to Afghanistan, but the eradication of the heroin-based economy can only be achieved through a profound reform of agriculture through industrialization. [3, p. 74-75]

Efficient prevention of drug trafficking, as a major transnational phenomenon, is indispensably conditioned by the principle of international cooperation, based on the exchange of information between the world's states, information on crimes and the national

specificity of criminalization, issues regarding preventive measures, etc. [4, p. 123]

In this context, a number of international mechanisms have been set up in the international system, and several international instruments have been drawn up to enable full international cooperation between states to prevent and suppress drug trafficking.

At the universal level, the United Nations Office on Drugs and Crime (UNODC) is the institution responsible for regulating the prevention of and fight against drug trafficking. In the context of the present research, it is important to reiterate the annual reports on drugs presented annually by UNODC. These reports contain the latest data on drug consumption, production, and trafficking, which allows trends to be determined and future scenarios to be projected on the world drug market.

Another structure with universal impact is the International Criminal Police Organization (INTERPOL), which is currently carrying out several initiatives and projects aimed at combating drug trafficking. These include the FORTALEZA Project in Latin America and the Caribbean; the MILLENIUM Project, initially designed to channel interstate cooperation for combating drug trafficking in Eurasia, but now expanding to Western Balkans and Nigeria; the I-CAN initiative carried out by INTERPOL against the 'Ndrangheta group, etc.

Given the complexity of the illicit drug trafficking phenomenon, which, over the years, has become a particular form of transnational organized crime, it is entirely natural for some countries to take the initiative to expand international criminal

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jurisdiction over such an illicit act.

On 21 August 1989, the United Nations General Assembly registered a request for the inclusion of an additional item on the agenda of the forty-fourth session of the General Assembly: international criminal responsibility of individuals and entities engaged in the illicit trafficking of narcotic drugs across national frontiers and other transnational criminal activities: establishment of an international criminal court with jurisdiction over such crimes [5]. The letter was addressed to the UN Secretary-General and was signed by the Permanent Representative of Trinidad and Tobago to the United Nations. In the explanatory statement, annexed to the letter, the state representative considers that the assertion that the conviction of crimes for which there is no court yet is regarded as a mockery of justice and the promotion of crime "is not lacking grounds". It has been proven that national criminal legislation and national legal institutions are not able to prevent the activities of international criminals, including those engaged in drug trafficking. It must also be admitted that, in the absence of an impartial court with internationally recognized investigative mechanisms, the rights of individuals may be violated and/or endangered. The establishment of an international criminal court with jurisdiction to prosecute and punish individuals and entities engaged, among other things, in drug trafficking across national borders, would contribute to strengthening the legal process for the prosecution and punishment of these offenders and would also make a significant contribution to the progressive development and codification of international law.

The UN General Assembly asked the International Law Commission to establish an "international criminal court or another international criminal trial mechanism with jurisdiction over persons alleged to have committed crimes ... including persons engaged in illicit trafficking in narcotic drugs across national frontiers". The International Law Commission included crimes involving illicit traffic in narcotic drugs and psychotropic substances "with an international dimension" into the list of treaty crimes in its proposal for an international criminal court. [6, p. 106]

However, in 1998, when the final wording of the Rome statute was negotiated and agreed upon, drug trafficking no longer featured in the list of crimes under the Court's jurisdiction. Since then, the crime has not only been excluded from the venerable list of 'core crimes', it has been relegated to a different discipline altogether. This demotion to a so-called 'treaty crime', and ultimately the banishment to the discipline of transnational criminal law, is to be understood against the background of certain hidden biases of the core crimes. [7, p. 770]

In the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court signed in Rome on 17 July 1998 [8], the participants recognized that international illicit drug trafficking is a very serious crime, sometimes destabilizing the political, social and economic order in States and being deeply alarmed at the persistence of these scourges, which pose serious threats to international peace and security, regretted that no generally accepted definition of the crimes of terrorism and drug crimes could

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be agreed upon for the inclusion, within the jurisdiction of the Court. At the same time, with reference to the above, a possible revision of the Statute of the Court under the review mechanism provided for in Article 123 of the Rome Statute was not excluded at that time.

It is necessary to mention in this chapter the fact that the Rome Statute has already been amended, namely the crime of aggression was defined at the first Review Conference of the Statute of the International Criminal Court (31 May - 11 June 2010 Kampala, Uganda). On 15 December 2017, the Assembly of States Parties adopted by consensus a resolution activating the Court's jurisdiction over the crime of aggression as of 17 July 2018. [9, p. 70]

As regards the reaction of academics to the initiative of the international criminal jurisdiction to deal with certain types of economic crime, [6, p. 106] it is worth mentioning an absolutely justified opposition, in our opinion, of the most notorious specialists in the field of international criminal law.

### **Results**

If we limit international crimes to violations of international law, which undermine the foundations of international society and cause serious harm, and cause dangerous violations of the human civilization of the principles and norms of international law, which are of fundamental importance for ensuring peace, human protection and the vital interests of the international society in general, as the Russian author Kostenko N. suggests [10, p. 120], we run the risk of admitting that many wrongful acts, following an extensive interpretation, will

automatically fall into the category of international crimes.

At the same time, in the opinion of the author A. Cassese, crimes such as drug trafficking, illicit arms trading, the smuggling of nuclear and other lethal material, money laundering, women and human trafficking, or even the crime of racial segregation (apartheid) are criminalized on the basis of international conventions and not international customary law, while they are commonly committed by individuals or criminal organizations and not by States. [11, p. 11]

If one refers to widespread ratification as indicative of custom, one could point to the 190 states parties to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. Indeed, there have been calls to recognize drug trafficking crimes as customary international law from as early as the 1970s.<sup>20</sup> Similar ambiguities emerge for Cassese's other qualifier, namely that treaty crime are usually committed against states: 'They do not involve states as such or, if they involve state agents, these agents typically act for private gain'. But most of the accepted core crimes can, at least in part, be described as having been committed for private gain, whether this is for political or economic power. And, it does not require a significant stretch of the imagination to view cases involving 'warlords' and 'rebel leaders' at the ICC as crimes committed against the state. [7, p. 772]

Certainly, in regard to recognizing drug trafficking as an international crime, there are relevant questions that arise: whether and how evidence could be obtained; whether cooperation among states and enforcement agencies would be a

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problem; whether individual criminal accountability really would deter continued trafficking; whether there would be sufficient resources; which countries to focus on; not to forget the question whether criminalization of drug use is the correct policy. However, these are questions that by and large apply to all current core crimes and any future additions. Ultimately, rather than being seen as a blip in the progress narrative, it should be taken seriously that the crime which was deemed important enough to revive a legal and political process committed to an international criminal court, was, in less than a decade of negotiations, excluded from the list of international crimes altogether. [7, p. 783].

### **Case study**

Today we are witnessing the qualitative and quantitative expansion of transnational crime. Factors that condition this expansion in most cases cannot be examined in isolation, but in their entirety: poverty, migrant flows, imperfect legislation, regional crises conditioned by political instability, the transition from the planned economy to the market economy, etc. forms the objective reality of a globalized world where the criminal phenomenon becomes organized and internationalized, presenting a threat to the entire international society. In this context, the situation of states that have recently appeared on the political map of the world, such as the Republic of Moldova, appears to be particularly vulnerable.

The Republic of Moldova, in the context of the illegal circulation of drugs in the European space, is not the country of origin, but one of transit from the western states to the Russian Federation. [12, p. 75]

As an effective mechanism to combat illicit drug trafficking, we can mention The European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) which was launched in 2005. The legal basis for EUBAM is the Memorandum of Understanding signed by the European Commission and the Governments of Moldova and Ukraine on 7 October 2005. The current Mission's mandate is valid until 30 November 2023. EUBAM promotes border control, customs, and trade norms and practices that meet European Union standards, and serve the needs of its two partner countries. EUBAM Task Force Drugs seeks to engage Mission's partner services with other drug enforcement authorities in the region and to engender an intelligence-led approach to fighting drug smuggling. This has resulted in improvements in profiling and exchange of information as well as investigations which contribute to the sustainability of the partner's operational ability to uphold such action in the future. [13]

As regards the normative framework of the Republic of Moldova in the field of combating illicit drug trafficking, it is necessary to indicate that Chapter VIII of the Special Part of the Criminal Code of the Republic of Moldova, in line with international standards, provides for several penalties capable of covering the multiple forms of criminal activity involving drug trafficking. Thereby, it has a twofold objective of protecting social relations in the field of public health, which are conditioned by the legal circulation of drugs, and preventing the commission of such offenses [14, p. 10].

### **Conclusions**

Despite the attempts of many

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academics to recognize the nature of the international crime, including international illicit drug trafficking, we consider that this illicit act is still considered to be an absolutely transnational crime because it does not have the characteristics of international crime. The theoretical conceptualization, however, must not lose sight of the imperative importance of the cooperation of states in order to eradicate

illicit drug trafficking. International cooperation to fight illicit drug trafficking is currently presented as a serious threat to the stability and security of states. It needs to be strengthened by substantially and geographically expanding the programs launched under the auspices of universal and regional organizations and by transposing the standards of the UN conventions into national legal systems.

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#### **Есірткінің заңсыз айналымының алдын алу және оған қарсы күрес саласындағы халықаралық ынтымақтастықтың негізгі кезеңдері**

**Андатпа.** Есірткінің заңсыз айналымын қазіргі ғалымдар ұйымдасқан трансұлттық қылмыстың кең таралған түрлерінің бірі ретінде қарастырады. Бұл құбылыстың таралуына ықпал ететін жағдайлар тұрақсыз аймақтық саяси жағдай, сыбайлас жемқорлық, қарулы қақтығыстар, кедейлік және басқа факторлар деп танылды. Біріккен Ұлттар Ұйымы есірткі апатын жоюда мемлекеттік ынтымақтастықты бағыттауға тырысты. Осыған байланысты ең тиімді құралдардың қатарына Біріккен Ұлттар Ұйымының есірткі және қылмыс жөніндегі басқармасын құру және 2000 жылдың 15 қарашасында Біріккен Ұлттар Ұйымының Трансұлттық ұйымдасқан қылмысқа қарсы Конвенциясын қабылдау жатады. Бұл мақалада біз есірткінің заңсыз айналымының алдын алу және оған қарсы күрес саласындағы мемлекетаралық ынтымақтастықтың нысандарын және олардың зерттелетін құбылысқа әсерін талдауға, сондай-ақ есірткінің заңсыз айналымының құқықтық сипатын қазіргі халықаралық қоғамдастықтың мүдделеріне қол сұғатын әрекет ретінде талдауға тырысамыз.

**Түйін сөздер:** халықаралық ынтымақтастық, трансұлттық ұйымдасқан қылмыс, халықаралық қылмыс, есірткінің заңсыз айналымы, Молдова Республикасы



**Основные этапы международного сотрудничества в области предупреждения  
незаконного оборота наркотиков и борьбы с ним**

**Аннотация.** Незаконный оборот наркотиков рассматривается современными учеными как одна из самых распространенных форм организованной транснациональной преступности. Обстоятельствами, способствующими распространению этого явления признаны нестабильная региональная политическая ситуация, коррупция, вооруженные конфликты, бедность и другие факторы. Организация Объединенных Наций присоединилась к сотрудничеству государств в искоренении наркотического бедствия. К числу наиболее эффективных инструментов в этом отношении относятся создание Управления Организации Объединенных Наций по наркотикам и преступности и принятие 15 ноября 2000 года Конвенции Организации Объединенных Наций против транснациональной организованной преступности. В данной статье мы стремимся проанализировать формы межгосударственного сотрудничества в сфере предупреждения и борьбы с незаконным оборотом наркотиков и их влияние на исследуемое явление, а также рассмотреть правовую природу незаконного оборота наркотиков в качестве деяния, ущемляющего интересы современного международного сообщества.

**Ключевые слова:** международное сотрудничество, транснациональная организованная преступность, международное преступление, незаконный оборот наркотиков, Республика Молдова.

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