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CRIMINAL CHALLENGES IN COMBATING ILLEGAL DRUG TRAFFICKING

Ганна Бідняк. КРИМІНАЛІСТИЧНІ ВИКЛИКИ ПРОТИДІЇ НЕЗАКОННОМУ ОБІГУ НАРКОТИКІВ

У статті досліджуються криміналістичні та процесуальні виклики, що виникають у діяльності правоохоронних органів під час протидії незаконному обігу наркотичних засобів в умовах воєнного стану. Особлива увага приділяється аналізу законодавчих новацій, внесених Законом України №2201-IX від 14 квітня 2022 року, які передбачають спрощений порядок проведення слідчих (розшукових) дій, зокрема обшуків і вилучення речових доказів. У роботі розглянуто переваги й ризики застосування статті 615 КПК України, яка дозволяє проведення обшуку без ухвали слідчого судді та без участі понятих за умови обов'язкової відеофіксації.

На основі аналізу судової практики та статистичних даних Національної поліції й Центру громадського здоров'я України висвітлюються проблеми забезпечення належної фіксації, транспортування, зберігання та експертного дослідження вилучених наркотичних речовин. Наведені приклади конкретних кримінальних проваджень демонструють, як порушення процесуальних вимог призводить до втрати доказової сили та унеможлиблює притягнення винних осіб до кримінальної відповідальності.

Робота підкреслює необхідність дотримання балансу між оперативністю правоохоронної діяльності та захистом прав людини. Запропоновано низку напрямів удосконалення криміналістичного забезпечення, зокрема посилення прокурорського нагляду, вдосконалення технічної бази для відеофіксації та оптимізацію експертних процедур. У результаті зроблено висновок, що навіть у надзвичайних умовах воєнного стану дотримання процесуальних стандартів є запорукою ефективної протидії наркозлочинності.

Ключові слова: воєнний стан; незаконний обіг наркотиків; криміналістичні виклики; обшук; речові докази; відеофіксація; експертиза.

Relevance of the study. The problem of combating illegal drug trafficking remains one of the key threats to Ukraine's national security, which is exacerbated by the state of martial law. Military actions, destabilization of social relations, and weakening of state control create favorable conditions for the intensification of organized criminal groups. The drug trade tends to adapt quickly to crisis situations, taking advantage of logistical problems, reduced law enforcement oversight, and the socio-economic difficulties of the population. According to the National Police, in 2022 alone, more than 19,000 criminal offenses related to illegal drug trafficking were registered in Ukraine, and in 2023, this figure rose to 21,000, indicating a steady trend toward an increase in drug-related crime.

The introduction of martial law led to the adoption of legislative changes regulating the special procedure for conducting investigative (search) activities, in particular searches and seizures of narcotic substances. Law of Ukraine No. 2201-IX of April 14, 2022, supplemented the Criminal Procedure Code with Section IX-1, which provides for mechanisms for accelerated response by law enforcement agencies in emergency situations. However, the application of these rules raises a number of criminalistic and procedural challenges, as simplifying procedures also increases the risk of human rights violations and the loss of evidentiary value of the materials obtained [7].

In these circumstances, the key task is not only the efficiency of law enforcement actions, but also ensuring procedural integrity and the evidentiary significance of the results. The

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issues of the correctness of conducting a search, recording its progress and results, proper storage and expert examination of seized substances are of particular importance. It is the quality of these procedural actions that determines the possibility of further bringing the guilty persons to criminal responsibility and the effectiveness of the overall strategy to combat drug crime in conditions of martial law.

Resent publications review. The fight against drug trafficking, their use in medical practice, their impact on the body and treatment of drug addiction have been covered in scientific works by the following scientists: H. Vedornikova, R. Dugashev, A. Gabiani, I. Evstigneev, B. Lakin, A. Lukyanenko, N. Molchanov, L. Nikolaeva, I. M. Pyatnytska, E. Rasyuk, O. Striltsiv, V. Sorokin, V. Timofeeva, E. Chekushev, V. Cherney, M. Khomenker, A. Maysky, V. Chistyakov and others. However, in the current circumstances, certain provisions require clarification.

The article's objective. The purpose of this article is to provide a comprehensive analysis of the criminalistic and procedural challenges that arise during searches and seizures of narcotic drugs during the period of martial law in Ukraine.

Discussion. The introduction of martial law in Ukraine in 2022 significantly changed the conditions for the law enforcement system. Military actions, security threats and weakened state control have created a favourable environment for the expansion of illegal drug trafficking. Organised criminal groups are trying to take advantage of the chaos and uncertainty of the situation to establish new distribution channels. At the same time, increased pressure on society is fuelling demand for psychoactive substances.

According to official data from the National Police of Ukraine, in 2022 alone, more than 19,000 criminal offences related to illegal drug trafficking were recorded. This figure demonstrates not only the scale of the problem, but also the high adaptability of criminals to new realities. It should be noted that the actual level of drug-related crime may be even higher, as not all cases are detected or brought to court. This trend confirms the relevance of increased attention to this area during martial law [1, p. 664].

Current statistics also highlight the scale of the problem. According to the National Public Health Centre's 2024 report, the number of cases related to psychoactive substance use has increased in Ukraine. This puts additional strain on law enforcement agencies, which are forced to conduct hundreds of searches and seizures. For example, a single large-scale special operation by the National Police of Ukraine in 2023 involved more than 200 searches across the country.

For example, in January 2025, two individuals were detained in Kharkiv who were involved in drug trafficking and, at the same time, were collecting data on military facilities. This example shows that drug crime in wartime is closely intertwined with other threats, including military and terrorist ones. Thus, every drug seizure can have not only criminal law implications, but also security implications for the state.

The intensification of drug trafficking in frontline and temporarily occupied territories poses a particular threat. In these regions, law enforcement control is reduced, and logistics routes are often used to transport drugs under the cover of humanitarian cargo or military shipments. Smuggling drugs from abroad is becoming more difficult, but internal distribution channels remain highly effective. It is here that criminal business combines with military risks.

Criminal groups use modern technologies to organise sales. Under martial law, there has been a rapid increase in the number of online platforms and closed channels in messengers where drugs are ordered. Payments are made in cryptocurrencies or through anonymous services, which makes it much more difficult to identify supply chains. This digitalisation of drug trafficking requires law enforcement agencies to use new methods of cyber control and cooperate with international structures [3, p. 338].

At the same time, it should be noted that the socio-economic situation in the country unfortunately contributes to the expansion of the drug market. The war has led to psychological instability, mass migration and an increase in stress disorders among the population. In such conditions, citizens are more likely to turn to psychoactive substances as a way of escaping reality. This creates new challenges for law enforcement agencies and requires a comprehensive state policy not only in the field of criminal prosecution, but also in the field of prevention.

Law enforcement agencies are forced to work under a double burden: ensuring national security and combating organised crime. On the one hand, a rapid response to drug trafficking is necessary, and on the other, strict adherence to procedural rules is required, even under time constraints. Any violation of the law during a search or seizure may result in evidence being deemed inadmissible. This creates an additional risk of criminals evading punishment [12, p. 208].

Searches and seizures of narcotic drugs remain a key element in combating drug-related

crime. It is these procedural actions that form the basis of the evidence base for criminal prosecution. In conditions of martial law, particular attention is paid to the speed and correctness of their conduct. The success of further court proceedings depends on the quality of preparation and organisation of the search.

The existing problems force law enforcement agencies to constantly improve their forensic methods. During martial law, the importance of digital recording of actions, the use of modern technical means and interaction with expert institutions increases. Only a comprehensive combination of legal, organisational and technological mechanisms can effectively counteract drug trafficking in a crisis situation. A delay or mistake at any stage can have serious consequences for the entire system of combating organised crime [4, p. 141].

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It should be noted that the introduction of martial law necessitated the adaptation of criminal proceedings to extraordinary conditions. Law of Ukraine No. 2201-IX of 14 April 2022 supplemented the CPC of Ukraine with Section IX-1, which establishes a 'special regime' for pre-trial investigation. One of the key innovations was the provision of Article 615 of the CPC, which allows searches to be conducted on the basis of a decision by the prosecutor or the head of the investigating authority in cases where it is impossible to apply to the investigating judge. This change is aimed at ensuring the efficiency of law enforcement agencies in crisis situations.

At the same time, the legislator emphasised the need for enhanced documentation of every action taken by law enforcement officers. The prosecutor's decision must be detailed, containing a description of the factual grounds and an explanation of why it was impossible to apply to the investigating judge. In the future, it is this argumentation that will be subject to review in court, ensuring a balance between speed of response and protection of human rights. This avoids the risk of evidence being deemed inadmissible [8, p. 45].

A separate novelty is the provision on the possibility of conducting searches without the participation of witnesses. The law expressly provides for this possibility in cases of danger or technical impossibility of involving third parties. In this case, the only guarantee of compliance with the law is complete and continuous video recording of the course and results of the search. Thus, the video recording becomes the main evidence of the correctness of the procedural actions taken.

The legislation has also changed the time limits for conducting searches. While in peacetime Article 223 of the CPC restricted searches at night, this restriction has been lifted under martial law. This allows searches to be conducted around the clock, which significantly increases the effectiveness of the fight against drug crime. Such flexibility makes it possible to block the activities of drug dealers at any time of the day or night [11, p. 261].

However, the application of Article 615 of the CPC is not absolute and requires compliance with certain conditions. The legislator indicates that its use is possible only if there are objective obstacles to going to court. These include communication problems, restrictions on access to electronic document management systems, or danger to the life and health of participants in the proceedings. This is confirmed by judicial practice, which clarifies the limits of application of this provision.

The Supreme Court of Ukraine has repeatedly emphasised that the application of a special pre-trial investigation regime should be exceptional. During scientific and practical conferences and in court decisions, it is emphasised that the prosecutor is obliged to prove the existence of real obstacles to applying to the investigating judge. Otherwise, the actions taken may be deemed unlawful. This approach helps to prevent abuse by law enforcement officials [2, p. 331].

Despite the existence of a special regime, Article 234 of the CPC of Ukraine remains the key provision defining the grounds for a search. It provides for the possibility of conducting a search for the purpose of finding the instruments of a crime, objects of an offence or property obtained by criminal means. Thus, special military rules do not replace, but only supplement the general procedure, preserving its basic structure. This ensures the legal stability of the process.

The consistency of Articles 615 and 234 of the CPC demonstrates the legislator's desire to ensure a balance between the operational needs of the state and the observance of citizens' rights. On the one hand, the powers granted to law enforcement agencies allow them to act quickly in emergency situations. On the other hand, procedural safeguards are established to ensure that such decisions are reviewed for validity. It is this combination that makes it possible

to effectively combat drug-related crime even in wartime [6, p. 229].

The procedural speed and the possibility of conducting a search without an investigating judge or witnesses undoubtedly increase the effectiveness of law enforcement response in critical situations. However, these very factors create risks of human rights violations and raise doubts about the legality of the evidence obtained. For example, in cases where a search is conducted without proper video recording, the defence may challenge any results of the seizure. Thus, the balance between efficiency and legality becomes a key issue.

Ensuring video recording in conditions of military action is an extremely difficult task. In frontline areas, there are often power outages, which make it impossible to use electronic devices. An additional factor is the shortage of technical equipment in small investigative units, where there are not enough cameras or storage devices. As a result, recordings may be fragmentary or completely absent, creating gaps in the evidence base [10, p. 132].

An example of this is the situation in Donetsk Oblast in 2023, when a police unit was unable to provide complete video recording of a search due to a lack of electricity. Subsequently, the suspects' lawyers challenged the admissibility of the evidence, citing the lack of continuous recording. The court found such evidence to be questionable, which significantly complicated the criminal proceedings. This case demonstrated the vulnerability of the new procedure in wartime conditions.

No less difficult is the issue of preserving material evidence after seizure. Narcotic substances are sensitive to external factors: changes in temperature or humidity can cause them to lose their original properties. If the substance was stored without proper packaging or labelling, the expert opinion may be invalid. In such cases, the evidence loses its validity in court.

There are specific examples where violations of storage rules have been grounds for acquittals. In several cases heard by the courts in 2021–2022, it was found that the seized drugs were stored without labelling or a description of the condition of the packaging. The defence proved that there were no guarantees of the authenticity of the evidence. The court found such materials to be inadmissible, and the suspects avoided criminal liability.

An additional aspect is the role of expert institutions. After seizure, substances are sent to the expert laboratories of the Ministry of Internal Affairs, where their composition and quantity are determined. For example, it is the expert examination that determines whether the substance is narcotic or psychotropic, or whether its mass exceeds the permissible limits. Without this, it is impossible to determine either the classification of the criminal offence or the severity of the punishment [5, p. 21].

In practice, there have been cases where expert examinations have been delayed due to laboratory overload. This has led to delays in court proceedings and created a risk to the suspects' right to a reasonable time frame. For example, in the Kyiv region in 2022, due to the overload of expert centres, the results of the examination were only available four months after the seizure. This delay called into question the effectiveness of the investigation.

The issue of control over the preservation of material evidence also remains important. In some police departments, there have been cases of seized drugs disappearing, which not only undermined public confidence but also made it impossible to bring those responsible to justice. For example, in 2020, criminal proceedings were opened in the Dnipropetrovsk region due to the disappearance of material evidence from a storage facility. This highlighted the need for strict prosecutorial control [9, p. 117].

Case law confirms that any deviation from procedural rules may render evidence inadmissible. The Supreme Court has repeatedly emphasised in its summaries that even in wartime, investigators are not exempt from the obligation to comply with basic rules of evidence. In particular, in 2023, the Supreme Court overturned a verdict because the evidence was obtained without a proper prosecutor's order and in violation of the rules of recording. This demonstrates the consistency of judicial standards even in extraordinary circumstances.

Prosecutorial oversight plays an important role in maintaining balance. Even when a search is conducted without an investigating judge, the prosecutor must ensure proper justification and control. Further verification of the legality of the search in court serves as an additional safeguard against abuse. This allows for both a quick response and respect for human rights.

In view of the above, it can be argued that the main challenge of modern practice is to combine efficiency with procedural integrity. A successful investigation depends not only on the speed of law enforcement actions, but also on the quality of the evidence they collect. Any mistake in recording or storage can nullify the efforts of the entire unit. That is why examples from judicial practice and statistics confirm the need for systematic improvement of forensic support.

Conclusions. To summarise, it can be stated that combating the illegal circulation of

narcotic drugs in conditions of martial law is accompanied by a number of specific forensic challenges. The legislative innovations introduced, in particular the application of Article 615 of the Criminal Procedure Code of Ukraine, have ensured the necessary efficiency in the activities of law enforcement agencies, but at the same time have created risks of violating procedural guarantees. Practice shows that even in crisis conditions, failure to comply with the requirements for recording, storing and expert examination of material evidence may lead to its inadmissibility in court and the avoidance of responsibility by offenders.

The issue of proper video recording of searches is particularly relevant, as it is often the only procedural guarantee of the legality of the investigator's actions. However, technical limitations, power outages and a lack of equipment in frontline areas make it difficult to fulfil this obligation. Similar problems arise during the transportation and storage of seized drugs, as any deviation from the established rules may call into question the authenticity of the evidence. This requires strengthening prosecutorial control and improving the technical base of law enforcement agencies.

At the same time, combating drug-related crime in wartime goes beyond mere criminal prosecution and takes on strategic importance for national security. The drug trade is increasingly linked to other types of crime, including espionage and terrorism, which poses additional threats to the state. In these circumstances, interagency coordination, the development of cyber control and international cooperation are of particular importance.

It should also be borne in mind that the socio-economic situation and its military consequences – psychological instability, migration and an increase in stress disorders – unfortunately create favourable conditions for the expansion of the drug market and increase the population's use of psychoactive substances, which requires a comprehensive state policy focused on both criminal prosecution and prevention.

Thus, effective counteraction to illicit drug trafficking during martial law is only possible with a balanced combination of prompt action and strict adherence to procedural standards. Systemic improvement of forensic support, modernisation of technical equipment, improvement of staff training and strengthening of prosecutorial oversight should become key areas of further state policy in this field.

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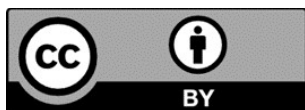
ABSTRACT

The article examines the criminalistic and procedural challenges that arise in the activities of law enforcement agencies in combating the illegal trafficking of narcotic drugs under martial law. Particular attention is paid to the analysis of legislative innovations introduced by Law of Ukraine No. 2201-IX of April 14, 2022, which provide for a simplified procedure for conducting investigative (search) actions, in particular searches and seizure of material evidence. The paper examines the advantages and risks of applying Article 615 of the Criminal Procedure Code of Ukraine, which allows searches to be conducted without a ruling by an investigating judge and without the participation of witnesses, provided that video recording is mandatory.

Based on an analysis of court practice and statistical data from the National Police and the Public Health Center of Ukraine, the problems of ensuring proper recording, transportation, storage, and expert examination of seized narcotic substances are highlighted. The examples of specific criminal proceedings demonstrate how violations of procedural requirements lead to the loss of evidentiary value and make it impossible to bring the guilty parties to criminal responsibility.

The work emphasizes the need to maintain a balance between the efficiency of law enforcement and the protection of human rights. A number of areas for improvement in forensic support are proposed, including strengthening prosecutorial oversight, improving the technical base for video recording, and optimizing expert procedures. As a result, it is concluded that even in the extraordinary conditions of martial law, compliance with procedural standards is a guarantee of effective counteraction to drug-related crime.

Key words: martial law; illegal drug trafficking; forensic challenges; search; material evidence; video recording; examination.



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