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Responsibility for the smuggling of doping substances in sport: an analysis of the violation of customs control

Відповідальність за контрабанду допінгових речовин у спорті: аналіз порушення митного контролю

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Abstract

The study aims to determine the liability for violations of customs control in the area of doping substance smuggling. In most countries, smuggling is defined by criminal, administrative, and customs legislation. This type of illegal activity causes significant damage to the state's economy, disrupts public order in international trade, and undermines state sovereignty. Despite the international legal nature of smuggling, there is still no multilateral agreement to combat this type of crime. Modern smuggling is characterized by a high level of organization, technical equipment, and international connections. Therefore, effective combating of this violation of public order becomes possible only with close cooperation between countries. Due to the increasing instances of doping use in sports and its cross-border spread, customs control becomes a key element in

Анотація

Дослідження спрямоване на визначення відповідальності за порушення митного контролю в сфері контрабанди допінгових речовин. У більшості країн світу контрабанда визначена кримінальним, адміністративним та митним законодавством. Цей вид протиправної діяльності завдає значних збитків економіці держави, порушує правопорядок в сфері міжнародної торгівлі та підриває державний суверенітет. Незважаючи на міжнародно-правовий характер контрабанди, досі не існує багатосторонньої угоди щодо боротьби з цим видом злочину. Сучасна контрабанда відзначається високим рівнем організації, технічного оснащення та міжнародних зв'язків. Тому, ефективна боротьба з цим порушенням правопорядку стає можливою лише за умови тісної співпраці між

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ensuring public safety. Given the above, examining the legal aspects related to the smuggling of doping substances across customs borders, considering international experience, is relevant and necessary. The aim of the study is to analyze the peculiarities of liability for violations of customs control in the area of doping substance smuggling. The research methodology includes methods such as document and information analysis, logical method, modeling method, comparison method, and systemic method. As a result of the study, the liability of individuals and legal entities involved in doping substance smuggling under national and international law is analyzed. In particular, the interaction between customs control bodies, law enforcement agencies, and sports organizations in detecting and combating doping smuggling is examined. The study highlights the possibility of improving legislation and increasing the effectiveness of customs control to prevent the spread of doping in sports. The importance of international cooperation and information exchange between countries to effectively counter this negative phenomenon is noted.

Keywords: sport, doping, smuggling of doping substances, responsibility for violation of customs.

країнами. У зв'язку зі зростанням випадків використання допінгу в спорті та його транскордонним поширенням, митний контроль стає ключовим елементом забезпечення безпеки суспільства. З огляду на вищевикладене, розгляд правових аспектів, пов'язаних з контрабандою допінгових речовин через митний кордон, враховуючи міжнародний досвід є актуальним та необхідним. Метою дослідження є аналіз особливостей відповідальності за порушення митного контролю у сфері контрабанди допінгових речовин. Методологію дослідження включають такі методи, як: метод аналізу документів та інформації, логічний метод, метод моделювання, метод порівняння та системний метод. У результаті дослідження проаналізовано відповідальність фізичних та юридичних осіб, які здійснюють контрабанду допінгових речовин за національним та міжнародним законодавством. Зокрема, розглянуто взаємодію між органами митного контролю, правоохоронними органами та спортивними організаціями у виявленні та протидії контрабанді допінгу. Дослідження висвітлює можливість удосконалення законодавства та підвищення ефективності митного контролю для запобігання поширенню допінгу в спорті. Відзначається важливість міжнародного співробітництва та обміну інформацією між країнами з метою ефективного протидії цьому негативному явищу.

Ключові слова: спорт, допінг, контрабанда допінгових речовин, відповідальність за порушення митних правил.

Introduction

The problem of doping in sports is one of the main topics that is constantly discussed. Although doping can help athletes improve their performance by strengthening muscles, reducing fatigue, and relieving pain, its use carries significant health risks. This can lead to serious consequences, including disability or even death. Many drugs are banned in sports because of their negative effects on the health of athletes.

Every year, the World Anti-Doping Agency (WADA) publishes an updated list of prohibited substances, which are divided into several categories. These include stimulants, which improve concentration and reduce fatigue but can harm the heart; steroids that help increase muscle mass and strength but are dangerous to organs such as the liver and heart; hormones that are dangerous for health when used uncontrollably; diuretics, which mask the use of other prohibited substances and can cause dehydration; drugs that help relieve pain but can cause injuries; and cannabinoids (except cannabidiol), which can impair coordination and concentration (WADA, 2024). Therefore, the issue of transporting doping substances across the customs border is particularly relevant.

Violations of customs control in the field of smuggling of doping substances are a serious challenge for sports ethics and global health. Doping substances can not only cause unfair advantages in sports but also seriously undermine the health of athletes and violate the principles of fair competition. Customs control plays a key role in preventing the spread and use of banned substances in sports. Responsibility for violation

of customs control in this context requires careful consideration and effective measures. Strict customs procedures and international standards are important elements in detecting and preventing the smuggling of doping substances. In addition, it is important to establish responsibility for those who violate customs regulations and introduce dangerous substances into the sports environment.

The responsibility of offenders and the fight against violations of customs control in the field of smuggling of doping substances requires a comprehensive approach and effective cooperation between countries. Ensuring integrity and safety in world sports requires the creation and observance of international norms that regulate customs procedures and control the movement of doping substances.

In this study, we will focus on examining the problematic issues and consequences of violations of customs control in the field of smuggling of doping substances, as well as the importance of the implementation and observance of international standards to ensure integrity and safety in sports.

The object of the study is responsibility for violation of customs control in the field of smuggling of doping substances.

The subject of the study is the relationship that arises, changes, and ends during prosecution for violation of customs control in the field of smuggling of doping substances.

The task of the research is:

- Study of the peculiarities of smuggling of doping substances in sport;
- Consideration of specifics of responsibility for violation of customs control in the field of smuggling;
- Analysis of problematic issues of prosecution for violation of customs rules in the field of customs control of smuggling of doping substances.

Legal Framework of the article consists of the following:

International Conventions and Agreements:

The UNESCO International Convention against Doping in Sport (2005) sets out measures to combat doping, including provisions on trafficking and smuggling of doping substances. It obliges signatory countries to adopt appropriate measures to prevent and punish doping-related activities.

The World Anti-Doping Code (WADC), administered by the World Anti-Doping Agency (WADA), establishes international standards for anti-doping policies, including trafficking and possession of prohibited substances.

National Legislation:

Countries implement their own anti-doping laws in line with international commitments. For example, the Controlled Substances Act in the United States classifies many doping substances as controlled substances, making their trafficking a federal crime.

The Anabolic Steroid Control Act (1990, amended in 2004) in the U.S. specifically addresses anabolic steroids, enhancing penalties for smuggling and illegal distribution.

European Union member states have harmonized legislation under the EU Anti-Doping Policy, requiring member countries to implement laws and regulations consistent with WADA standards.

Customs and Border Protection Regulations:

Customs authorities play a critical role in intercepting smuggled doping substances. National customs agencies collaborate with international bodies to monitor and control the flow of prohibited substances across borders.

Laws often empower customs officials to search, seize, and detain substances suspected of being used for doping.

Consequences of smuggling doping substances:

Criminal Penalties:

Imprisonment: Convictions for smuggling doping substances can result in significant prison sentences. The length of imprisonment varies by jurisdiction and the nature of the offense. For example, in the U.S., trafficking anabolic steroids can result in up to 10 years in prison.

Fines: Offenders may face substantial fines. Penalties can range from thousands to millions of dollars, depending on the scale of smuggling operations and the jurisdiction.

Administrative Sanctions:

Suspension and Bans: Athletes and support personnel found guilty of smuggling doping substances can face long-term suspensions or lifetime bans from sports.

Revocation of Licenses: Professionals such as coaches, trainers, or medical personnel may lose their professional licenses and accreditation.

Civil Penalties:

Asset Forfeiture: Authorities may seize assets connected to the smuggling operation, including money, property, and vehicles used in the transport of doping substances.

Damages and Compensation: Civil lawsuits may be filed against individuals or organizations involved in smuggling, seeking damages for harm caused by the illegal distribution of doping substances.

Reputational Damage:

Public Disclosure: Convictions and sanctions are often publicly disclosed, leading to significant reputational harm for individuals and organizations involved.

Loss of Sponsorships: Athletes and teams may lose sponsorship deals and endorsements, impacting their financial standing and career prospects.

Impact on Sports Organizations:

Institutional Penalties: Sports clubs, teams, or organizations involved in or complicit with smuggling operations may face sanctions, including fines, exclusion from competitions, and loss of privileges.

Policy Reforms: Incidents of smuggling often lead to stricter regulations and enhanced anti-doping measures within sports organizations.

Enforcement and Cooperation

International Cooperation:

Law enforcement agencies across countries cooperate through organizations like INTERPOL and Europol to combat the smuggling of doping substances.

Joint operations and intelligence sharing are crucial in dismantling international smuggling networks.

Education and Prevention:

Many countries invest in educational programs aimed at athletes, coaches, and the public to raise awareness about the legal and health risks associated with doping.

Preventive measures include rigorous testing protocols and promoting a culture of clean sport.

Technological Measures:

Advanced Detection: Technologies such as mass spectrometry and bioinformatics are employed to detect smuggled substances more effectively.

Data Analytics: Big data and machine learning are increasingly used to identify patterns and predict smuggling activities, allowing for preemptive actions.

Overall, the legal framework surrounding the smuggling of doping substances is comprehensive and multifaceted, involving international treaties, national laws, and cooperative enforcement strategies. The consequences for smuggling are severe, reflecting the global commitment to maintaining the integrity of sports and protecting the health of athletes.

The article consists of the several sections:

Theoretical Framework or Literature Review

This section reviews the existing literature on doping in sports, including the health risks associated with doping substances and the rationale behind their prohibition. It discusses the categories of prohibited substances as outlined by the World Anti-Doping Agency (WADA), such as stimulants, steroids, hormones, diuretics, pain relievers, and cannabinoids, and the specific health risks they pose. The section also explores the ethical implications of doping, its impact on fair competition, and the role of customs control in preventing the smuggling and spread of these substances in the sports environment.

Methodology

This section outlines the research methods used to investigate the issues related to the smuggling of doping substances and the enforcement of customs control. It describes the data collection process, which includes the analysis of legal documents, international standards, and case studies of customs violations. The methodology involves a combination of empirical research and comparative analysis to examine the responsibility and prosecution for violations of customs control in different countries. It also discusses the criteria for evaluating the effectiveness of customs procedures and international cooperation in combating the smuggling of doping substances.

Results and Discussion

This section presents the findings of the study, detailing the problematic issues and consequences of violations of customs control in the smuggling of doping substances. It analyzes specific cases of smuggling, the methods used to circumvent customs controls, and the challenges faced by authorities in detecting and preventing these activities. The discussion includes an evaluation of the current legal frameworks and the effectiveness of international standards in regulating customs procedures. It highlights the importance of establishing clear responsibilities and stringent measures to combat smuggling, as well as the need for effective international cooperation to ensure the integrity and safety of global sports.

Conclusion

The final section summarizes the key findings of the study and their implications for the fight against the smuggling of doping substances. It emphasizes the necessity of robust customs control and the enforcement of international standards to prevent the spread of banned substances in sports. The conclusion calls for a comprehensive approach to tackling these issues, including stricter penalties for violators, enhanced international collaboration, and continuous updates to legal and regulatory frameworks. It also underscores the critical role of maintaining the principles of fair competition and protecting the health of athletes in the global sports arena.

Theoretical Framework or Literature Review

In general, there are several legal and criminological theories related to smuggling and liability.

Legal Theories

Deterrence Theory:

Principle: This theory posits that stringent legal penalties and the likelihood of being caught deter individuals from engaging in illegal activities, such as smuggling doping substances.

Application: Enhancing the severity of penalties for smuggling and increasing customs inspections can reduce the incidence of these crimes.

Strict Liability:

Principle: Under strict liability, individuals can be held accountable for smuggling doping substances regardless of intent or knowledge.

Application: This legal approach ensures that anyone involved in the transportation, distribution, or possession of banned substances is liable, emphasizing the importance of compliance with customs regulations.

International Law and Cooperation:

Principle: International treaties and agreements, such as the UNESCO International Convention against Doping in Sport, establish a cooperative legal framework to combat the global issue of smuggling doping substances.

Application: Countries are obliged to harmonize their laws with international standards, facilitating cross-border cooperation in enforcing anti-smuggling measures.

Criminological Theories

Routine Activity Theory:

Principle: This theory suggests that crime occurs when there is a convergence of motivated offenders, suitable targets, and a lack of capable guardianship.

Application: Strengthening customs controls and surveillance reduces the opportunities for smuggling doping substances by increasing the guardianship component.

Strain Theory:

Principle: This theory posits that individuals may turn to crime, such as smuggling, when they experience strain or pressure, particularly due to the high demands and competitive nature of sports.

Application: Addressing the underlying pressures on athletes and providing support systems can reduce the motivation to engage in doping and smuggling.

Social Learning Theory:

Principle: According to this theory, individuals learn criminal behavior, including smuggling, through their associations with others who engage in such activities.

Application: Implementing educational programs that promote ethical behavior and the consequences of smuggling can counteract the influence of peers who may endorse such illegal activities.

These theories provide a comprehensive understanding of the legal and criminological aspects of smuggling doping substances, highlighting the importance of effective legal frameworks and enforcement, as well as addressing the social and psychological factors that contribute to this illegal activity.

It is within the framework of the above theories that scientists, whose work is analyzed in this article, conduct their research. They are: Androschuk, Babikov, Barkhan, Demchuk, Dykiy, Izmailova, Shcherbak, Kekish, Tymoshenko, Fedchenko, Kravchenko, Kutuev, Bukalerova, Houlihan, García, Donati, Thevis, Geyer, Thomas, and Schänzer.

Androschuk (2020) analyzed the issue of the spread of the trend of counterfeiting drugs. In particular, the activity of Europol and the fact that there is an "alarming trend" of illegal importation of contraband drugs into the EU market, as well as the growth of circulation in the EU of oncological drugs stolen from hospitals, were noted. Asia is identified as the main source of both medical drugs and doping agents. Wholesalers deviate from the legal supply chain and resell products to criminal groups. Counterfeit medicines are manufactured and packaged illegally in underground laboratories, often in the EU. Thus, arrests were made in Belgium, Cyprus, Finland, France, Greece, Hungary, Italy, Portugal, Slovakia, Spain, Ukraine and Great Britain. This circumstance also has the consequence that in these countries doping substances are also manufactured for further smuggling.

The moment of the end of criminal offenses related to the illegal movement of objects across the customs border of Ukraine became the object of research by Babikov (2022). The author drew attention to the fact that taking into account the content of Article 201 of the Criminal Code and judicial practice, in particular the practice of the Court of Cassation of the Supreme Court, as well as taking into account the views expressed in criminal law science, it can be concluded that the moment of completion of smuggling depends significantly on the place, direction, the form and method of moving the objects of this criminal offense. The key question is: is the object of contraband imported into the territory of Ukraine or, on the contrary, exported from the territory of Ukraine? At the same time, the author notes that despite a large number of supporters of this approach, one should doubt the position according to which the moment of the end of smuggling is determined by the actual movement of objects across the customs border of Ukraine since this position does not correspond to the "spirit" of criminal legislation and the priorities of the state's criminal law policy in the field of combating shady "import-export" schemes of circulation of certain items. Based on the analysis of the positions expressed in the legal literature regarding the correct determination of the moment of the end of smuggling for criminal legal qualification, the author believes that it is appropriate to support the thesis that the transfer of the moment of the end of smuggling to an earlier stage than the actual crossing of the customs border is possible only after making changes to Article 201 of the Criminal Code. We agree with this thesis and believe that the issue of the moment of committing smuggling should be additionally regulated.

Ways of committing smuggling under martial law conditions are studied in the work of Barkhan (2022). It is noted that the methods of committing smuggling, which are determined by the functional and deterministic content of illegal activities regarding the movement of goods outside customs control or with evasion from customs control, have their differences depending on the type of transport used to transport contraband objects. The temporary introduction of a legal regime of martial law in Ukraine in the context of the escalation of the armed aggression of the Russian Federation led to the emergence of a new way of evading customs control of smuggling, in particular by transporting goods across the customs border of Ukraine under the guise of humanitarian aid. In this regard, the selection of modern methods of committing smuggling under martial law conditions will contribute to more effective detection of this activity, as well as contribute to the improvement of the system of countermeasures against violations of customs rules in general. We agree with the author's position that the issue of transporting, for example, doping substances outside customs control depends on several circumstances, including the type of transport.

Demchuk (2019) considered the topic of improving the activities of customs authorities in the field of combating smuggling. In particular, according to the author's opinion, with which we agree, a comprehensive approach is necessary. Improving the work of customs authorities in carrying out customs control to combat smuggling is possible if the development of international cooperation, progress in the field of information technologies, and active interaction between agencies from other spheres of law enforcement are taken into account. In addition, the automation and digitization of processes play a significant role to avoid corruption risks.

The state policy of preventing and countering economic crime in the system of guaranteeing the economic security of Ukraine was considered by Dykiy (2023). Economic crime has a significant impact on the system of economic security of the state, as it is a destructive factor that disrupts the system of economic

relations at various levels, both internal and external. Economic crime is an interdisciplinary category, as it occupies an important place in the object-subject field of economic, sociological, political, legal, and public administration sciences. Identification of the consequences of economic crime is essential for the development of state policy in the field of prevention and countermeasures against this phenomenon, which is a key tool for guaranteeing the economic security of the state. This approach will allow us to fully reveal the scientific problem of economic crime and to develop new strategies for effective prevention and countermeasures against this phenomenon.

The following authors paid attention to the issues of combating economic crimes and the importance of legalizing the shadow economy in Ukraine: Kolomoiets, Tsybulnyk, Moroz, Prymachenko, and Khashev (2021). The authors concluded, that the availability of a considerable variety of types and forms of the shadow financial transactions implementation requires the implementation of a measures complex, aimed at timely identification and prevention, development of methodological instruments for assessment of the effects from the existence of the shadow sector in the national economy.

Izmailova and Shcherbak (2005) deal with the issue of doping and combating it. Kekish (2019) investigated the foreign experience of using customs control in combating the smuggling of goods. The relevance of the problem of smuggling of goods as a dangerous social phenomenon was considered and the essence of this phenomenon was analyzed within the framework of the customs legislation of Ukraine. The monitoring of the control activities of fiscal authorities for the detection of customs offenses and the prevention of smuggling of goods was carried out. Features of customs control in Ukraine and abroad are highlighted. Various types of customs control are specified, and attention is paid to customs post-audit in the activities of fiscal bodies. The procedures for carrying out customs post-audit in such countries as Korea, Ireland, France, Bulgaria, and others are described in detail. It has been established that in global practice, almost the entire process of customs clearance and customs control is based on the use of a risk management system. It is emphasized that to reduce smuggling phenomena and effectively support international trade, customs authorities should take measures to increase the efficiency and effectiveness of control and inspection work. Directions for improving customs control are proposed, including the establishment of cross-border cooperation with the customs services of foreign countries, the use of modern technical means of control, the latest methods in the training and activities of canine teams, as well as the improvement of the customs control mechanism taking into account foreign customs post-audit practices and other aspects.

What is more, Tymoshenko (2021) analyzed modern smuggling schemes. The author noted that in modern conditions there are gaps in the legislation, which create the problem of the lack of effective tools for countering violations of customs rules. For example, the legislation does not establish mandatory sealing of vehicles and 80% of goods moving on the territory of Ukraine are not provided by the importer. As a result, there is an opportunity to simply replace or "drown" the cargo. Fedchenko and Kravchenko (2021) investigated the application of legislation on smuggling and customs violations.

Moreover, Kutuev, Bukalerova, and Ulezko (2018) considered the issue of responsibility for the use of doping in sports, as well as the transportation of doping substances. In particular, the article focuses on the modeling of criminal liability for the organization, distribution, and use of substances and (or) methods prohibited in sports. The article substantiates and discloses the need to establish criminal liability for the use of substances and (or) methods prohibited in sports for various categories of subjects, such as professional athletes, non-professional athletes, officials, medical personnel who organize the use of substances prohibited in sports and (or) methods, trainers and other persons. Also considered is the process of distribution of drugs prohibited in sports, which may involve other persons related to professional sports, such as former professional athletes, directors, and managers of sports teams, and other persons with direct connections and contacts in the world of professional sports.

Research by Houlihan, and García (2012) examined the application of legislation to control the manufacture, movement, importation, distribution, and supply of performance-enhancing drugs in sport. Application of legislation to control the production, movement, importation, distribution, and supply of drugs that increase performance in sports.

Finally, Donati (2007) examined the world circulation of doping. The work reveals the difficulties facing the anti-doping movement, including the lack of national laws in many countries and the failure to ensure compliance with existing laws in others. In addition, there is a lack of reliable information for accurately

highlighting the problem and developing effective solutions. According to the World Anti-Doping Agency (WADA), this study is the only attempt to quantify the scale of the problem and identify international trends, bringing together in one report information on the latest developments in the world of international doping trade.

In Thevis, Geyer, Thomas, Wilhelm, and Schänzer (2011), the main conclusions are that detecting the use of unauthorized drugs by cheating athletes is a challenge for doping control laboratories, as it is accompanied by additional difficulties associated with the identification of unknown and uncharacterized compounds and their metabolites, in contrast to known and studied therapeutic agents. The same applies to the detection and consideration of doping substances from conventional medicines.

Methodology

The use of the method of document and information analysis contributed to the verification of documentation thanks to the logical analysis of documents that, for example, accompany the cargo to identify irregularities and inconsistencies, as well as the information summary of data on senders, recipients, transport routes and other data to identify logical deviations.

With the help of a logical method, the question of the behavior profiles of offenders in the field of smuggling of doping substances was investigated. In particular, the logical analysis of transportation histories and reports positively affects the detection of patterns that may indicate abnormal activity, and the logical comparison of current data with similar situations in the past helps to identify similar scenarios.

The modeling method, based on the replacement of a specific object of research with another, similar to it, was used to analyze and forecast possible risks in the field of smuggling of doping substances.

The comparison method is an important tool in the analysis and detection of violations of customs control in the field of smuggling of doping substances. This method involved the comparison of various aspects that help identify anomalies or unusual situations. In particular, with the help of this method, it was possible to compare the regulation of smuggling of doping substances under Ukrainian legislation and under foreign legislation, as well as a comparison of tools for detecting and combating this type of smuggling was carried out. Concerning responsibility, both the procedures for bringing to responsibility and the provisions of sanctions of the articles are compared.

The systematic method in the context of responsibility for violation of customs control in the field of smuggling of doping substances involves a comprehensive approach to the analysis and solution of the problem. It is based on the idea of a system as a whole, where each element interacts with others to achieve a common goal. The systemic approach made it possible to consider the problem of smuggling of doping substances in the context of a large system, where all elements and factors interact to achieve a common goal — effective control and prevention of customs control violations.

Results and Discussion

Limitations of the Study

Lack of Empirical Data

One of the primary limitations of this study is the absence of empirical data. While the theoretical and legal frameworks are well-examined, the study does not include quantitative data or case studies that could provide a more concrete understanding of the scope and impact of smuggling doping substances. This limits the ability to measure the effectiveness of current policies and to propose data-driven improvements.

Influence of Unconsidered Factors

The study may not fully account for several external factors that can influence the smuggling of doping substances. These include:

Technological Advancements:

Rapid advancements in smuggling techniques and technology could outpace the existing detection methods, making current anti-smuggling measures less effective.

Economic Factors:

Economic incentives and pressures can drive individuals and organizations to engage in smuggling, which the study does not deeply explore.

Political Climate:

Changes in political climates and government priorities can affect the enforcement of anti-doping laws and international cooperation.

Variability in International Cooperation

While international cooperation is emphasized, the study does not delve into the variability and complexities of such cooperation. Differences in legal standards, enforcement capabilities, and political will among countries can significantly impact the effectiveness of anti-smuggling efforts. These nuances are not fully explored, which could lead to an oversimplified understanding of international dynamics.

Focus on Legal and Administrative Frameworks

The study predominantly focuses on legal and administrative frameworks, potentially overlooking the sociocultural and psychological factors that contribute to smuggling. Understanding the motivations and social networks of those involved in smuggling doping substances could provide a more holistic approach to tackling the issue.

Generalization of Findings

The findings and conclusions drawn from the study may not be universally applicable. The study's focus on specific regions, such as Europe and Ukraine, means that its conclusions might not be relevant in different geographical or cultural contexts where smuggling dynamics and enforcement mechanisms vary.

Limited Scope on Organizational Responsibility

The study touches upon the role of customs and anti-doping organizations but does not extensively analyze the operational challenges and resource constraints these organizations face. A deeper examination of these aspects could provide insights into improving organizational effectiveness in combating smuggling.

By addressing these limitations, future research can build on this study's findings to develop a more comprehensive and empirically grounded understanding of the smuggling of doping substances and the effectiveness of anti-doping policies and enforcement mechanisms.

According to the first task regarding the study of the peculiarities of the smuggling of doping substances in sport, the following was established

Results

Combating the spread of doping substances in sports is somewhat complicated due to the special status of sports as an autonomous legal order (Kharytonov et al., 2021). Despite this the international fight against doping in sports became truly effective after the adoption in 2005 of the UNESCO International Convention on the Fight against Doping in Sports. This enactment provided the necessary international legal basis for anti-doping activities, which was effectively lacking before. Until now, all regulatory acts regulating the fight against doping, due to the non-governmental nature of publishers, had a significant drawback - they were not universally binding for all participants in world sports. They could be ignored by interested parties at will. Only after recognizing the universally binding norms of the UNESCO Convention, the Anti-Doping Code and other anti-doping norms by the UNESCO member states, the high effectiveness of these norms was achieved. Now it can be reasonably asserted that the responsibility for the use of doping in sports is

fully supported by the coercive power of all states that have ratified the UNESCO Convention and made it an integral part of their national legislation (currently, the UNESCO Convention has been ratified by more than 170 countries of the world) (UNESCO, 2005).

Therefore, the fight against doping is based on effective policies, resources, and means aimed at identifying and solving various problems and challenges related to doping. Anti-Doping in Sport legislation is designed to provide an understanding of the main measures defined by the International Convention against Doping in Sport and to support States Parties in implementing its provisions to strengthen their capacity and skills. The document defines the role of each governing body and each key stakeholder of the Convention, indicating their interrelationships. Chapter V (Partnership and Cooperation) emphasizes the importance of cooperation with sports bodies and other international and national parties to strengthen compliance with the provisions of the Convention (UNESCO, 2022). Despite the growing popularity of new psychoactive substances and the increase in online drug trade, traditional smuggling methods and conventional drugs continue to dominate the Finnish drug market. Cannabis and amphetamines are common, and cocaine use is on the rise. Sweden has increased its role as an intermediary country in the drug trade to Finland. For example, drugs are most often imported into Finland from the Baltic countries and Western Europe via Sweden, using the northern land route, air and sea transport. In addition, mail and express courier shipments are often used for drug trafficking on the Darknet. A new phenomenon is the smuggling of large consignments of cocaine in sea containers from South America, possibly for transit. Finland has become a transit point for drugs moving both to Russia and Europe and from other Nordic countries, especially Norway. In addition, Finland is used as a transit country for precursors and unclassified precursors smuggled from Asia to Europe and used in drug production (Tulli Tul Customs, 2019).

At the same time, international law enforcement agencies are actively fighting to detect smuggling of doping substances. For example, Europol was responsible for the coordination of the third Operation Shield, a global initiative aimed at combating the illegal circulation of counterfeit drugs and substandard doping substances. The operation was led by France, Greece, Italy, and Spain, involving police and customs from 28 countries (19 EU members and 9 other countries). The work of the customs authorities was coordinated by the European Anti-Fraud Office (OLAF), and financial support was provided by the European Union Intellectual Property Office (EUIPO). The operation was also supported by FRONTEX, the World Anti-Doping Agency (WADA), the World Customs Organization (WCO), and national medical agencies. Planned for the period from April to October 2022, the operation was aimed at uncovering and stopping the trade in counterfeit drugs and illegal doping substances that are used off-label. (EUROPOL, 2022; Notes Deseguret, 2023).

Smuggling is also found in the territory of Romania and Moldova. Thus, with the support of Eurojust and Europol, the Romanian and Moldovan authorities took measures against an organized criminal group (OCG), which was suspected of trafficking in high-risk doping substances. In the course of joint actions, 11 suspects were arrested and raw materials intended for the production of more than one million doses of anabolic steroids were seized. Eurojust assisted the authorities in setting up and funding the Joint Investigation Team (JIT) to investigate the case (Diplomat magazine, 2023).

It is worth noting that the International Anti-Doping Organization believes that in order to succeed in the fight against doping in sports and therefore to protect the rights of clean athletes around the world, anti-doping organizations must go beyond simple doping testing. They should develop additional methods for collecting, sharing, and using information and evidence on the supply and use of prohibited substances and methods by athletes under their jurisdiction, as well as on their use (World anti-doping agency, 2011). We agree with this position and believe that there should be cooperation and established communication to prevent and detect the smuggling of doping substances.

The experience of Sweden regarding the issue of doping smuggling is interesting. On April 1, 2011, a new law came into force in Sweden, which gives customs authorities the right to seize and destroy substances that have become the subject of abuse but are not yet classified as narcotics or dangerous goods. This law gives customs and police officers the ability to confiscate substances that contain ingredients that have not yet been recognized as drugs or harmful to health but may be recognized as such in the future. The Act on the destruction of certain substances that are subject to abuse and endanger health defines the powers of Swedish customs in this context. Swedish customs have been empowered to control goods from countries that are not members of the European Union, according to the Swedish Customs Service Act. The authority

to control goods from other EU countries is defined in the Act on the Powers of Swedish Customs at the border of Sweden with another EU country. In the process of classifying new substances according to their effects on health, the Public Health Agency and the Medical Products Agency in Sweden play an important role. Since new chemical substances are constantly being developed, their classification is an important task from the point of view of health care (Tullverket, 2023).

In addition, it is worth noting that in addition to the detection of smuggling of doping substances during customs control, it is possible to find out the violation of customs legislation through anti-doping control of athletes directly. Anti-doping control is an important component of any modern anti-doping program. It is a complex process that includes testing planning, providing location information, sample collection and transportation, laboratory testing, therapeutic use requests, results processing, and appeals. An important element of anti-doping measures is the testing of athletes outside of competitions. Previously, athletes were often tested for doping already at international competitions, which was too late. This created an opportunity for those who used doping to stop using it early enough for the substances and their metabolites to be eliminated from the body. Therefore, out-of-competition testing of athletes, which was first enshrined in the 2005 UNESCO Convention, significantly increases the effectiveness of anti-doping measures and is a constant threat to potential violators. As of today, an athlete can be tested anywhere, both during and outside of competition, from 6 a.m. to 11 p.m. The number of tests per year is not limited and depends on the plan of anti-doping organizations. Sample collection is carried out by specially trained personnel. Several specialized structures and organizations participate in anti-doping measures. The anti-doping organization that collected the samples is processing the research results. Testing of samples is carried out in WADA-accredited independent anti-doping laboratories, the choice of which depends on the anti-doping organization (UNESCO, 2005).

It is important to note that one of the key features of responsibility for the use of doping is the principle of strict personal responsibility of the athlete. The Code stipulates that each athlete is personally responsible for preventing the use of prohibited substances in his body. Thus, to find an athlete guilty, it is not necessary to prove his intention, mistake, negligence or awareness of violation of anti-doping rules. It is important to note that although the subjective side of the violation (ie, intent or negligence) may affect the determination of punishment, it is only relevant when imposing sanctions on the violator.

It is worth noting that the general strengthening of liability for intentional violations is accompanied by a tendency to soften punishments for "accidental violators." Where the athlete can prove no fault or negligence, sanctions may be less severe, including a warning without suspension or a limited suspension of up to two years (CAS Anti-Doping Division, 2020). Based on the conducted analysis, it can be noted that the important function of bringing persons to justice for the use of doping is not only punishment, but also an educational and preventive role. This is especially important for young athletes who witness well-known cases of doping, where the culprits lose the medals and status for which they have worked for many years, sometimes even ruining their health.

Therefore, from the above analysis, we can conclude that the smuggling of doping substances is a phenomenon that is actively being fought both by individual states and by international law enforcement and anti-doping organizations.

According to the second task regarding the specifics of responsibility for violation of customs control in the field of smuggling, the following was established

Since 1961, three conventions of the United Nations have recommended treating the illegal supply of narcotic drugs and psychotropic substances as a criminal offense punishable by imprisonment. However, since the conventions do not define specific sanctions, there is a significant difference in the possible punishments for similar crimes in various European countries. The European Union has attempted to reduce this diversity through Framework Decision 2004/757/JHA, which sets minimum standards for the elements of criminal acts and orders in the field of drug trafficking. However, two evaluations carried out in 2009 and 2013 by the European Commission emphasized that these minimum rules "have not significantly affected" the practice of criminal prosecution, sentencing, and punishment in EU member states. (European Monitoring Center for Drugs and Drug Addiction, 2017).

Also, it is interesting that the states have agreed to monitor compliance with the requirements of anti-doping legislation. In particular, the World Anti-Doping Agency (WADA) has the authority to appoint special "audit groups" to visit countries that have signed the World Anti-Doping Code to assess their compliance with the obligations stipulated by the Code (Council of Europe, 2022).

Let's consider in more detail the issue of responsibility for smuggling under Ukrainian legislation. Thus, persons who carry out smuggling and violate customs rules violate the procedure established by the legislation of Ukraine for the movement of goods and vehicles across the customs border of Ukraine. These actions harm the country's economy, its cultural heritage, public health, and public safety, and contribute to the expansion of the shadow sector of the economy. Violation of customs rules, for which a person is subject to administrative liability, means actions aimed at moving goods across the customs border of Ukraine with concealment from customs control. This may include the use of specially constructed caches and other means or methods that make it difficult to detect such goods. Also covered by this concept are actions that consist of giving goods the appearance of others, using forged documents or documents obtained by illegal means, or providing false information to revenue and tax authorities to move goods. This may also include providing false information regarding the name of goods, their characteristics, quantity, and other parameters necessary for customs control. Smuggling, i.e., actions for which a person is criminally liable, means the movement across the customs border of Ukraine outside of customs control or with concealment from customs control of cultural values, poisonous, powerful, explosive substances, radioactive materials, weapons or ammunition (except for smooth-bore hunting weapons or combat supplies for it), parts of firearms and rifled weapons, as well as special technical means of secretly obtaining information, timber or lumber of valuable and rare tree species, unprocessed timber, as well as other timber prohibited for export outside the customs territory of Ukraine, excise goods (except electric energy), narcotic drugs, psychotropic substances, their analogues or precursors or falsified medicinal products (Law No. 2341-III, 2001; Law No. 4495-VI, 2012; Law No. 3513, 2023). Therefore, Ukrainian legislation establishes administrative and criminal liability for violation of customs control.

Responsibility for violation of customs control in the field of smuggling of doping substances is serious and can arise at different levels - both at the level of individuals who commit the violations themselves and at the level of bodies or institutions that must ensure effective customs control.

At the same time, the following are highlighted:

Personal responsibility, in particular:

- Criminal liability (A person who smuggles doping substances may be subject to criminal liability under the laws of the country. This usually includes arrest, fines, and possible imprisonment).
- Administrative liability (According to customs legislation, a person may also be subject to administrative liability. This may include fines, confiscation of property, and other administrative sanctions).

Organizational responsibility:

- Customs authorities:

Customs authorities have a great responsibility for ensuring effective customs control.

If they do not perform their duties correctly, it can lead to a loss of control over the movement of doping substances.

- Anti-doping bodies:

The bodies responsible for the fight against doping in sports also have an important role.

They can cooperate with customs authorities to detect and stop the smuggling of doping substances.

From the analysis of problematic issues of prosecution for violation of customs rules in the field of customs control of smuggling of doping substances, the following was established

Responsibility for violation of customs control in the field of smuggling of doping substances can be determined at different levels, including legal, criminal and administrative responsibility. Investigation of such violations may include various methods:

- 1) Intelligence and investigative work (collection of information; analysis of volumes of information; study of a large volume of data to identify connections and patterns).
- 2) Technical means:
 - Customs scanners and equipment (the use of technical means such as X-ray scanners and other technologies to detect hidden substances in cargo or containers).
 - Electronic monitoring (monitoring of electronic communications and financial transactions to detect suspicious transactions).
- 3) International cooperation:

Exchange of information (cooperation with other countries and international customs organizations to exchange information and coordinate activities).

Implementation of joint customs operations to combat cross-border smuggling.

- 4) Cooperation with Anti-Doping Authorities:
 - Interaction with anti-doping agencies: Cooperation with organizations responsible for the fight against doping in sports to detect and stop the smuggling of doping substances.
- 5) Analysis of Documents and Cargoes:
 - Document verification (analysis of documents related to the movement of goods to identify irregularities and suspicious information).
 - Cargo inspection (thorough inspection of cargo and containers to detect hidden substances).
- 6) Information and analytical systems:
 - Application of modern information systems and programs for analysis of large volumes of data and identification of suspicious samples.
 - Constant monitoring and analysis of the effectiveness of measures for continuous improvement of the control system.

An example of the establishment of ties is the agreement between the International Criminal Police Organization and the World Anti-Doping Agency, which aims at interaction and cooperation in order to detect and stop the illegal transportation of doping substances (Interpol, 2009).

Discussion. Mixed matters and conflicts

According to the first task, with the help of the logical method and the method of analysis, various methods and methods of smuggling doping substances in sport, such as transportation across the border, use of hidden places, technical innovations, etc., are determined. Weaknesses in doping control and detection systems have been identified, which can be used by sportsmen's and smugglers to avoid detection. The international aspect of smuggling has been studied, and the main routes and countries most vulnerable to this type of activity have been identified. In particular, the cooperation of the World Anti-Doping Organization and Interpol was noted. The main participants in the smuggling of doping substances, such as athletes, coaches, doctors, competition organizers, pharmaceutical companies, and others, have been identified. But it is noted that the smuggling of doping substances has the consequence not only of violation of customs rules but also of violation of ethics and fair play, as well as possible threats to the health of athletes.

According to the second task, using the method of document and information analysis, it was noted that in most countries of the world, persons found in violation of customs rules and accused of smuggling may be subject to criminal liability. In addition, in cases of smuggling, customs authorities may have the right to confiscate property related to the violation. In addition to criminal sanctions, violators may also be subject to administrative fines. These fines may be imposed by customs or other responsible authorities. The important role of international cooperation for the investigation and bringing the guilty persons to justice was noted.

According to the third task, thanks to the use of the system method and the method of comparison, it was established that prosecution for violation of customs rules in the field of smuggling of doping substances can give rise to several problematic issues that should be taken into account. Thus, the smuggling of doping substances is often international in nature, and the question of cooperation between countries arises. Insufficient international coordination can make it difficult to effectively identify and prosecute those involved in smuggling. The legal treatment of customs violations and smuggling may vary from country to country. There is a question of determining specific types of liability (criminal, administrative, civil) for persons who smuggle doping substances. In the fight against the smuggling of doping substances, it is meaningful to improve international cooperation, harmonize legal standards, and improve detection and investigation systems. In addition, the effectiveness of prosecution measures depends on a clear definition of legal standards and the ability to overcome evidentiary and ethical challenges.

Conclusions

The study provides a comprehensive analysis of the legal and criminological frameworks related to the smuggling of doping substances in sports. However, to address the complex nature of this issue effectively, it is essential to incorporate empirical data, consider various external factors, and propose innovative solutions. The conclusions derived from this study highlight the need for a multi-faceted approach to combat smuggling, encompassing legal, technological, economic, and international cooperation dimensions.

Innovative Solutions

Enhanced Technological Solutions

Blockchain for Supply Chain Transparency:

Implementing blockchain technology can enhance the traceability of pharmaceuticals and sports supplements. This technology can create an immutable record of transactions, making it easier to detect and prevent the introduction of illicit substances into the supply chain.

AI-Powered Detection Systems:

Utilizing artificial intelligence (AI) and machine learning algorithms can improve the detection of smuggling activities. AI can analyze large datasets from customs, financial transactions, and communication networks to identify patterns and anomalies indicative of smuggling.

Strengthening International Cooperation

Global Doping Registry:

Establishing a centralized global doping registry that records and tracks all doping-related offenses and offenders can enhance information sharing and coordination among countries. This registry would facilitate the swift exchange of data and enable authorities to monitor and manage doping incidents more effectively.

International Task Forces:

Forming specialized international task forces comprising members from customs, anti-doping agencies, and law enforcement can ensure a coordinated approach to tackling doping smuggling. These task forces can conduct joint operations, share best practices, and provide technical assistance to countries with limited resources.

Socioeconomic and Psychological Interventions

Educational Campaigns:

Launching global educational campaigns targeting athletes, coaches, and medical professionals can raise awareness about the dangers of doping and the legal consequences of smuggling. These campaigns should focus on the ethical, health, and career risks associated with doping.

Incentive Programs:

Developing incentive programs for whistleblowers who report smuggling activities can encourage insiders to come forward with valuable information. Providing financial rewards and ensuring anonymity can make these programs more effective.

Legal and Policy Reforms

Unified Legal Standards:

Harmonizing legal standards across countries for doping offenses can ensure a more consistent approach to prosecution and punishment. International agreements should aim to standardize definitions, penalties, and procedures related to doping smuggling.

Dynamic Regulatory Frameworks:

Establishing dynamic regulatory frameworks that can quickly adapt to new substances and smuggling methods is crucial. Regulatory bodies should have the authority to classify and ban new psychoactive substances swiftly, keeping pace with the evolving smuggling landscape.

Organizational and Operational Improvements Cross-Training Programs:

Implementing cross-training programs for customs officers, law enforcement, and anti-doping officials can improve their ability to identify and respond to smuggling activities. These programs should cover the latest detection techniques, legal procedures, and coordination strategies.

Resource Allocation and Support:

Ensuring adequate funding and resources for customs and anti-doping agencies can enhance their operational capabilities. Investments in advanced detection equipment, staff training, and research into new smuggling trends are essential for maintaining robust enforcement mechanisms.

By adopting these innovative solutions, the fight against the smuggling of doping substances can become more effective, ensuring the integrity of sports and the health and safety of athletes globally.

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