



## SOME ASPECTS OF CIRCUMSTANCES THAT MUST BE PROVEN IN THE INVESTIGATION OF CRIMES RELATED TO ILLEGAL PREPARATION, POSSESSION, AND STORAGE OF NARCOTIC DRUGS, THEIR ANALOGS, OR PSYCHOTROPIC SUBSTANCES WITHOUT THE PURPOSE OF DISTRIBUTION SOME ASPECTS OF CIRCUMSTANCES

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### Annotation

The article analyzes the issues of determining the subjective element in investigating crimes related to the illegal manufacture, possession, and storage of narcotic drugs, their analogues, or psychotropic substances without the intent to distribute. In examining the subjective aspect of the crime, the article highlights criteria for determining quantities that exclude personal consumption, methods for ascertaining an individual's intent, and the study of circumstances that characterize the accused's personality. Based on materials from judicial and investigative practices, international experience, and scholarly perspectives, the article identifies existing problems and develops proposals for addressing them.

**Keywords:** narcotic drugs, psychotropic substances, subjective side, amount of consumption, purpose of sale, identity of the accused, investigative practice, judicial practice, corpus delicti, qualification, narcological examination, degree of dependence.

Identifying the subjective aspect is of crucial importance among the circumstances that must be proven for the crimes under study. When investigating these types of crimes, it is essential to determine the form of culpability - whether the act was committed intentionally or through negligence, the type of intent (direct or indirect), as well as the motives and objectives of the crime. Correct identification of the subjective aspect is vital not only for the proper qualification of the corpus delicti but also for imposing a just punishment on the person who committed the crime.

In judicial and investigative practice, the issue of determining the subjective side of the crime of illegal manufacture, possession, and storage of narcotic drugs, their analogues, or psychotropic substances without the purpose of sale remains one of the pressing problems. Analysis of 200 criminal cases investigated by the investigative body and sentences issued by courts in criminal cases shows that the preparation, possession, or storage by a person of narcotic drugs, their analogues, or psychotropic substances for the purpose of sale for personal consumption remains insufficiently investigated.

In particular, investigative bodies face a number of difficulties in determining the purpose of the accused's preparation, acquisition, and storage of these substances. In many cases, the very fact that the amount of narcotic drugs found in a person is large is taken by investigative bodies as the basis for concluding that there is a motive for its sale.

For example, on October 19, 2023, at 7:30 p.m., officers of the Criminal Investigation

Department of the Yunusabad District Department of Internal Affairs of the city of Tashkent stopped a "Isuzu" bus driven by a person named A. and, in the presence of witnesses, discovered in the left pocket of the driver A.'s black jacket 1 container with the inscription "Velo," 13 pieces of dark brown chewing gum wrapped in pieces of polyethylene bags, and in 1 piece of paper - a green plant-like substance with a pungent odor.

According to the conclusion of the forensic chemical examination No. 2749 dated October 20, 2023, it was established that the dark green substance obtained from citizen A. contains the active drug tetrahydracannabinol, and this substance is called "Hashish," its weight is 8.94 grams.

In connection with this situation, the Investigative Department under the Yunusabad District Department of Internal Affairs brought charges against citizen A. under part five of Article 273 of the Criminal Code of the Republic of Uzbekistan and sent them to the district court.

The Yunusabad District Criminal Court, despite the fact that the narcotic drugs seized from citizen Aden amounted to a large amount, on the following grounds, changed from part five of Article 273 to part two of Article 276 Re-qualified under clause "a":

*firstly*, the conclusion of the forensic narcological examination appointed during the investigation concluded that citizen A. had drug addiction;

*secondly*, in accordance with paragraph 25 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated April 28, 2017 No. 12 "On Judicial Practice in Cases of Criminal Cases Related to Illegal Trafficking in Narcotic Drugs and Psychotropic Substances," when deciding on the presence of intent in the guilty party to illegally transfer narcotic drugs, psychotropic substances (parts one, two, three, five of Article 273 of the Criminal Code), the courts should proceed from the totality of evidence that such means or substances were actually prepared for the purpose of transfer, such evidence includes, for example, the discovery of narcotic drugs or psychotropic substances only in quantities excluding their consumption, the packaging of such drugs or substances in a certain dose (size), their concealment in a special secret place during transportation or shipment, the availability of equipment for their manufacture, the expert's conclusion that the perpetrator is not a drug addict, etc., based on the factual circumstances established in the case, it is explained that the perpetrator's actions should be qualified under part one or two of Article 25 and the corresponding part of Article 273 of the Criminal Code;

*thirdly*, in his testimony, the defendant A. stated that he purchased the narcotic drugs obtained from him for his own consumption, that he did not leave these narcotic drugs at home due to poor health, that he had sons at home, that he kept them with him, that he consumed the substances every other day, therefore he purchased more, that he was sick from drug addiction, that he had no intention of selling them to anyone;

*fourthly*, the narcologist doctor S., who was questioned as a witness at the court hearing, gave narcological conclusion No. 2114 dated 14.11.2023, confirming this conclusion, taking into account that the defendant A. has been using narcotic drugs since 1994, stated that he can use a large quantity of narcotic drugs that came with him every day or every other day, that he can use this amount, that the defendant has been using it for many years, therefore he needs treatment for drug addiction;

*fifthly*, in the documents of the preliminary investigation and criminal case, no information or evidence was found about the defendant A. intending to sell to someone a

large quantity of narcotic drugs.

As can be seen, in the criminal case documents, the investigator did not verify in any way that A. had the intention of selling drugs to someone, and based on mere assumptions, charges were filed against the person under part five of Article 273 of the Criminal Code of the Republic of Uzbekistan.

Scientists have expressed different opinions on this issue. In particular, A.K. Kalbaev<sup>1</sup>, Takeshi Matsuda<sup>2</sup> and Neil Boyd<sup>3</sup>, who focused on psychological and medical aspects, emphasized the need for a deep study of the accused's medical condition, psychological characteristics, and socio-cultural aspects. In their opinion, whether a person has drug addiction or not, their social status and marital status play an important role in determining the goal.

M.Kh. Rustambaev<sup>4</sup>, F.M. Mukhammadiyev<sup>5</sup> and M.M. Karimov<sup>6</sup> paid special attention to investigative and procedural aspects. They emphasized the perpetrator's intent, awareness of the social danger of the actions, the results of operational-search activities, and the importance of indirect evidence.

Scientists such as B.J. Akhrorov<sup>7</sup>, Z.S. Zaripov<sup>8</sup> and David Nutt<sup>9</sup> emphasized the need for a deep study of the socio-economic situation, material well-being, sources of income, and lifestyle of the individual. In their view, the professional activity of the accused, the movement of funds in bank accounts, and social connections are of particular importance.

N.O.Dulatbekov<sup>10</sup>, T.A.Bogolyubova<sup>11</sup> and H.H.Jescheck<sup>12</sup> proposed a comprehensive approach, indicating the need for a joint study of quantitative indicators, storage methods, packaging types, personal history, criminal connections, and financial transactions. In their opinion, the perpetrator's psychological attitude, intentions, external factors, and internal motivation should also be taken into account.

Such scientists as Giuseppe Mastronardi<sup>13</sup>, James A. Inciardi<sup>14</sup> and K.A. Volkov<sup>15</sup>, focusing on criminological aspects, emphasized the need to take into account the

<sup>1</sup> Калбаев А.К. Бағи заттарга байланыштуу кылмыштарды иликтөө өзгөчөлүктөрү // Кыргыз Республикасынын укук коргоо органдарынын журналы. 2021. – №3. – Б.78-83.

<sup>2</sup> Matsuda T. Criminal Justice in Japan: Theory and Practice. Tokyo: Springer, 2022. – P.167.

<sup>3</sup> Boyd N. High Society: Legal and Illegal Drugs in Canada. Key Porter Books, 2021. – P.178.

<sup>4</sup> Рустамбаев М.Х. Ўзбекистон Республикаси жиноят ҳукуқи курси. Махсус қисм. Тошкент: ILM ZIYO, 2011. – Б.256.

<sup>5</sup> Мухаммадиев Ф.М. Гиёҳвандлик воситалари билан боғлиқ жиноятларнинг тергов қилиш методикаси // Ҳуқук ва бурч. 2021. – №8. – Б.34-38.

<sup>6</sup> Каримов М.М. Гиёҳвандлик воситаларига оид жиноятларда далилларни баҳолаш муаммолари // Ўзбекистон қонунчилиги таҳлили. 2022. – №4. – Б.56-61.

<sup>7</sup> Ахраров Б.Ж. Гиёҳвандлик воситалари билан боғлиқ жиноятларни тергов қилишнинг процессуал жиҳатлари // Ўзбекистон Республикаси ИИВ Академиясининг ахборотномаси. 2022. – №3. – Б.67-72.

<sup>8</sup> Зарипов З.С. Гиёҳвандлик воситалари билан боғлиқ жиноятларни тергов қилиш методикасини такомиллаштириш масалалари // Ҳуқукий тадқиқотлар журналы. 2023. – №2. – Б.89-94.

<sup>9</sup> Nutt D. Drugs Without the Hot Air: Making Sense of Legal and Illegal Drugs. UIT Cambridge Ltd, 2020. – P.234.

<sup>10</sup> Дулатбеков Н.О. Қылмыстық істер бойынша дәлелдемелерді жинау және бағалау мәселелері // Заң және заман. 2020. – №4. – Б.15-22.

<sup>11</sup> Боголюбова Т.А. Проблемы совершенствования предварительного следствия по делам о незаконном обороте наркотиков // Российский следователь. 2020. – №7. – С.12-16.

<sup>12</sup> Jescheck H.H. Lehrbuch des Strafrechts: Allgemeiner Teil. Berlin: Duncker & Humblot, 2021. – P.412.

<sup>13</sup> Mastronardi G. Criminologia e criminalità organizzata: Aspetti criminologici e psicologici. Roma: Giuffrè Editore, 2023. – P.245.

<sup>14</sup> Inciardi J.A. The Drug Legalization Debate. SAGE Publications, 2020. – P.156.

<sup>15</sup> Волков К.А. Судебная практика по делам о преступлениях, связанных с незаконным оборотом наркотиков // Российский судья. 2022. – №9. – С.23-28.

victimological characteristics of the individual, criminal experience, criminal connections, psychological portrait, and place in society.

Also, in a survey conducted with investigators and inquiry officers working in investigative units, 88 percent of respondents answered the question "What evidence confirms the purpose of trafficking in illegal trafficking in narcotic drugs, their analogues, or psychotropic substances?".

Clause 25 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated April 28, 2017, "On Judicial Practice in Criminal Cases Related to Illegal Trafficking in Narcotic Drugs, Their Analogues, and Psychotropic Substances," states: "When deciding on the presence of intent by the guilty party to illegally transfer narcotic drugs, their analogues, and psychotropic substances (parts one, two, three, and five of Article 273 of the Criminal Code), the courts must proceed from the totality of evidence that such means or substances were actually prepared for the purpose of transfer". Such evidence includes, for example, the discovery of narcotic drugs, their analogues, or psychotropic substances only in quantities excluding their consumption, the packaging of such drugs or substances in a certain dose (size), their concealment in a special secret place during transportation or shipment, the availability of equipment for their production, the expert's conclusion that the perpetrator is not a drug addict, etc.

At this point, the question arises: what is the amount that excludes the use of narcotic drugs, their analogues, or psychotropic substances?

Many scientists have expressed different opinions on the issue of determining the "quantity excluding only the consumption" of narcotic drugs, their analogues, or psychotropic substances.

Liza Magetti and Karl Hart, emphasizing the medical and narcological aspects, note that when determining this amount, special attention should be paid to the conclusion of the narcological examination, the degree of dependence, the age, sex, general health status of the person, the strength of the drug, and the method of its use. The opinions of these scientists are correct, especially by determining the level of dependence and narcological status (no drug registration, history of drug use and treatment, health status), it is possible to determine a person's daily needs. However, we believe that relying solely on these factors is insufficient.

Scientists such as Alex Stevens and Thomas Kerr, focusing on socio-economic aspects, showed the need to take into account an individual's income, living conditions, professional activity, and family situation. In particular, A. Stevens put forward the opinion that "if the value of the discovered narcotic drug or psychotropic substance exceeds 3 months of income, this may be evidence of the purpose of the sale." Of course, the indicators reported by scientists are important. However, the criterion of 3-month income according to A. Stevens is controversial, since a person can buy items in exchange for a loan or debt.

I.M.Khakimov, V.M.Gladkikh, and Peter Reuter, emphasizing quantitative indicators, emphasize the need to take into account the quantity, shelf life, and average daily consumption of narcotic drugs or psychotropic substances. V.M. Gladkikh, based on the experience of various countries (Germany, the Netherlands, and the USA), shows that more than the average 50-60-day consumption can be assessed as an amount excluding consumption. The opinions expressed by this category of scientists are also noteworthy, but the 50-60 day norm may not always be correct, as these factors can change depending on the amount of consumption.



A.V. Fedorov and David Natt proposed a comprehensive approach, indicating the need for a joint study of all factors and the application of a special methodology. D.Natt proposes to apply the formula "average daily consumption x dependence coefficient x 45 days." The comprehensive approach, expressed by scientists, is the most acceptable, correctly emphasizing the need for a joint study of all factors, however, D. Natt's The 45-day formula cannot have an absolute character.

During the interviews conducted by the interview method, Doctor of Philosophy (PhD) in Medical Sciences, Deputy Director of the Republican Specialized Scientific and Practical Medical Center of Mental Health F.Sh. Bakhramov, Head of the Department of Medical and Social Rehabilitation of the Medical Center M.Sh. Rustamova, adolescent narcologists of the Tashkent City Narcology Branch of the Medical Center noted that when determining the "quantity that excludes consumption," it is advisable, first of all, to rely on the level of dependence and the conclusions of a narcological examination.

Also, in the conducted survey, the question "Do you have information about the levels of drug addiction and the amount of daily consumption for them?" was asked. 65 percent of investigators stated that they do not have information. This leads to incorrect qualification in the investigation of crimes.

In our opinion, summarizing the above points, when determining the "amount excluding the use" of narcotic drugs, their analogues, or psychotropic substances, it is advisable for investigative and judicial bodies, first of all, to study the conclusion of a narcological examination, the degree of dependence, and the state of health of the person, then to determine the type of narcotic drug, the duration of exposure, then to analyze the socio-economic situation of the person and determine whether the person had the purpose of trafficking the substances by determining the individual duration of consumption.

Another important aspect of the subjective side of these crimes is the establishment of intent based on the presence or absence of the intent to distribute narcotic drugs, their analogues, or psychotropic substances. Various opinions have been put forward by scientists in this regard.

Thus, L.Sh. Shodieva, Kh.T. Odilov emphasized the medical and narcological features. Scientists such as M.R. Kadyrov, Carlos Rodriguez, Paulo Santos emphasize the need to pay special attention to a person's medical condition, the degree of dependence, medical history, drug registration, and medical insurance information when determining the intent or non-intention of drug trafficking, their analogues, or psychotropic substances. Their opinion, registration of a person in a narcological dispensary, the presence of a strong dependence on drugs, a serious state of health, regular attendance of treatment courses - these are important signs indicating the absence of a goal for conducting it.

The opinions expressed by scientists of this group are justified, and the study of the individual's medical condition, the degree of dependence, and the history of treatment is of great importance. However, relying solely on medical aspects may not be sufficient, as practice shows that individuals with drug addiction can also engage in drug trafficking.

*For example, citizen O., born on July 10, 1994, despite being previously convicted by the Andijan City Criminal Court on December 16, 2016, under clause "a" of part two of Article 276 of the Criminal Code of the Republic of Uzbekistan and being registered with drug treatment dispensaries, was caught by law enforcement officers on December 4, 2019, while illegally selling a large quantity of 76 "tramadol" tablets in the territory of the illegal "drug market" on*

*Mangulik Street in the city of Andijan<sup>16</sup>.*

Scientists S.K.Zhetpisbayev, B.K.Nurmagambetov, Marek Kovalski, who paid attention to socio-economic aspects, indicated the need for a deep study of an individual's income, living conditions, professional activity, family situation, property, and financial operations. They emphasize that when determining the presence of the purpose of the transfer, it is necessary to pay attention to such circumstances as a person's high standard of living without an official place of work, the acquisition of expensive real estate and cars.

The opinions of these scientists are also well-founded, especially in cases of a person having a high standard of living without an official source of income, making expensive purchases, but the characteristics emphasized by this group of scientists are relative, since a person can earn income through other activities.

Scientists such as A.N.Zhuraev, D.V.Semenov, Lee Wei, David Cohen, Andreas Müller, who analyzed the technical and technological aspects, proposed new methods for determining the presence or absence of drug trafficking, their analogues, or psychotropic substances using modern technological means. They indicated the need to verify a person's transactions in electronic payment systems, cryptocurrency wallets, communications through telecommunication means, activities on social networks, and digital traces.

The opinions expressed by scientists in this category correspond to the demands of the time. However, applying these proposed methods requires a high level of IT knowledge from investigative bodies, which can cause problems in practice. Therefore, we believe that it is necessary to ensure the participation of a specialist in the application of such methods.

In our opinion, based on the opinions expressed by the above-mentioned scientists, it is advisable to pay attention to the following cases in order to distinguish between the pursuit and non-pursuit of the objective of subjective transfer in the investigation of crimes of illegal manufacture, possession, and storage of narcotic drugs, their analogues, or psychotropic substances without the purpose of sale:

- the discovered substances must be in the volume (dose) intended for personal consumption;
- the presence on the person of equipment intended for the consumption of substances, the presence on the person's body of traces of drug or psychotropic substance use;
- the presence in the conclusion of the narcological examination of information indicating a person's drug dependence, the presence of detected substances in a state without special packaging;
- the absence at the person's place of residence of lists intended for the distribution of narcotics;
- the absence at the person's place of residence of equipment intended for the manufacture and packaging of narcotic drugs or psychotropic substances;
- correspondence related to the sale of substances on a person's phone and absence of contacts;
- absence of suspicious money transfers in a person's financial accounts;
- presence of traces of substance use on the person's clothing;
- the presence of a person's personal lighting devices intended for the consumption of

<sup>16</sup> Жиноят ишлари бўйича Марҳамат тумани суд иш юритувида бўлган 1-1701-2004/32-сонли жиноят иши материаллари.

narcotic drugs or psychotropic substances;

- the presence of personal records or notes on the person's phone related to the use of narcotic drugs or psychotropic substances;
- availability of documents on a person's medical problems related to substance use;
- a person's clothing has special pockets for hiding substances, but they are not suitable for storing large quantities of substances, etc.

**Circumstances characterizing the personality of the accused, defendant.**

In the investigation of crimes related to the illegal manufacture, possession, and storage of narcotic drugs, their analogues, or psychotropic substances without the intent to distribute them, the study of circumstances characterizing the personality of the accused is of particular relevance. In this regard, various opinions have been put forward by scientists in scientific circles.

According to B.N. Nazarov, the study of the socio-demographic characteristics of a person is the basis for a full understanding of the personality of a criminal. This statement is correct in itself, but here, along with an individual's age, gender, and social status, it is also necessary to thoroughly study their worldview and value system.

M.Kh. Rustambayev believes that "the main factors determining the social status of the accused are his family situation, level of education, and professional activity." We believe that it is necessary to add to this list the social connections of the individual and the features of internet use, which today occupy all our daily attention.

I.Yu.Fozilov puts forward the opinion that "it is necessary to study the mental and psychological characteristics of the accused in the crimes of illegal manufacture, possession, and storage of narcotic drugs, their analogues, or psychotropic substances without the purpose of sale." This view is important, since in law enforcement practice, in many cases, it is psychological factors that influence a person's criminal behavior. In our opinion, it is also important to use modern psychodiagnostic methods and study the individual's reaction to stressful situations.

G.A.Abdumajidov<sup>17</sup> and Z.S.Zaripov<sup>18</sup> emphasize that the level of dependence on narcotic drugs or psychotropic substances and the scope of social contacts are one of the factors determining the level of social danger of a person. In our opinion, along with these factors, it is necessary to take into account the activity of the individual in the virtual world and their interaction in social networks.

M.M.Murodov<sup>19</sup> and I.A.Sottiyev<sup>20</sup> approach the issue from a socio-legal point of view, paying attention to family relations and the state of previous convictions. Along with the opinions expressed by these scientists, it would be advisable to study the reputation of the individual in the mahalla, educational institution, and at the workplace.

In this regard, since one of the characteristics of the accused's personality is his previous conviction, we consider it necessary to dwell on the sentence in paragraph "b" of part two of

<sup>17</sup> Абдумажидов Ғ.А. Тергов психологияси: ўқув қўлланма. – Тошкент: Адолат, 2018. – 312 б. ISBN 978-9943-394-52-1.

<sup>18</sup> Зарипов З.С. Жиноятчилик профилактикаси: назария ва амалиёт. Монография. – Тошкент: ТДЮИ нашриёти, 2019. – 342 б. ISBN 978-9943-628-83-9.

<sup>19</sup> Мurodov M.M. Жиноятчи шахсини ижтимоий-психологик тадқиқ этиш // Ҳуқуқшунослик. – 2020. – №2. Б. 23-27. ISSN 2010-7347.

<sup>20</sup> Соттиев И.А. Рецидив жиноятчилиги: назария ва амалиёт. Монография. – Тошкент: ТДЮУ нашриёти, 2018. – 264 б. ISBN 978-9943-628-14-3.

Article 276 of the Criminal Code of the Republic of Uzbekistan "if they were committed by a person who committed a crime consisting of the illegal trafficking of narcotic drugs or psychotropic substances".

Plenum of the Supreme Court of the Republic of Uzbekistan

In paragraph 27 of Resolution No. 12 of April 28, "On Judicial Practice in Cases of Criminal Cases Related to Illegal Trafficking in Narcotic Drugs, Their Analogues, and Psychotropic Substances," it is stated: "The attention of the courts should be drawn to the fact that the criminal liability of a person under paragraph "a" of part two of Article 270, paragraph "a" of part two of Article 271, paragraph "a" of part three of Article 273, paragraph "a" of part four of Article 274, paragraph "b" of part two of Article 276 of the Criminal Code arises only if he was previously convicted of any crime provided for in Chapter XIX of the Criminal Code." If a person has been released from criminal liability for a previously committed crime, or the conviction has been expunged, or the act has been removed in accordance with the procedure established by law, the act cannot be qualified by this characteristic".

At the same time, in the fourth paragraph of point 2 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 5, 2008 No. 13 "On Issues of Qualification of Acts in Cases of Multiple Crimes," it is established that "in certain cases specifically provided for by criminal law, the commission by a person of two or more intentional crimes provided for by different articles of the Special Part of the Criminal Code is also recognized as a repeated crime (for example, parts two of Articles 118, 119, 129, 211, 212, 276, part four of Article 121, parts five and eight of Article 1261, parts three of Articles 128, 213 of the Criminal Code)".

Due to the contradiction between the above two norms, a question arises: in law enforcement practice, on the basis of which normative legal act should the investigator qualify a criminal case based on the characteristics that characterize the personality of the accused?

*For example, as a result of an operational search conducted on November 22, 2023, it was established that citizen O.Z. had been storing a strong-smelling substance wrapped in a piece of paper for his consumption.*

*According to the conclusion of the forensic chemical examination No. 2/875 dated November 23, 2023, issued by the ECM of the Main Department of Internal Affairs of the city of Tashkent, the substance obtained from O.Z. contains the narcotic drug tetrahydrocannabinol, and it was established that this substance is the narcotic drug "Marijuana" and its weight is 1.22 grams.*

*In connection with this situation, the Investigative Department under the Department of Internal Affairs of the Mirabad district initiated a criminal case against O.Z. under point "a" of part two of Article 276 of the Criminal Code of the Republic of Uzbekistan and sent it to the district court.*

*On December 28, 2023, during an operation conducted in front of house 180 on A.Fitrat Street in Mirabad district, citizen O.Z. was detained due to suspicious behavior, and when his outerwear was inspected in the presence of two witnesses, a strong-smelling substance wrapped in a piece of paper was found in the right pocket of his blue sports jacket, and it was officially registered for inspection.*

*According to the conclusion of the forensic chemical examination No. 2/1053 dated*



*December 29, 2023, issued by the ECM of the Main Department of Internal Affairs of the city of Tashkent, the substance obtained from O.Z. contains the narcotic drug tetrahydrocannabinol, and it was established that this substance is the narcotic drug "Marijuana" and its weight is equal to 0.23 grams.*

*In connection with this situation, the Investigative Department under the Department of Internal Affairs of the Mirabad district initiated a criminal case against citizen O.Z. under paragraph "b" of part two of Article 276 of the Criminal Code of the Republic of Uzbekistan and sent it to the appropriate court.*

Mirabad District Criminal Court of the city of Tashkent According to the verdict of May 10, 2024, O.Z. was found guilty under paragraph "a" of part two of Article 276 and paragraph "b" of part two of Article 276 of the Criminal Code of the Republic of Uzbekistan, and by partially adding the sentences imposed in accordance with Article 59 of the Criminal Code, he was sentenced to 4 years of restricted freedom.

However, by the ruling of the cassation instance of the Tashkent City Court on Criminal Cases dated July 26, 2024, the court verdict was amended, and the criminal actions of O.Z. were reclassified from paragraph "b" of part 2 of Article 276 of the Criminal Code of the Republic of Uzbekistan to part one of this article on the basis of paragraph 27 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated April 28, 2017 No. 12 "On Judicial Practice in Criminal Cases Related to Illegal Trafficking in Narcotic Drugs, Their Analogues and Psychotropic Substances".

As can be seen, this issue has created two different views among the employees of judicial bodies.

Therefore, in order to eliminate the above-mentioned conflict situations, as well as in order to prevent problems in law enforcement practice in proving the circumstances characterizing the identity of the accused by investigative bodies, we consider it expedient to replace the words "previously committed by a person who committed a crime consisting of illegal trafficking in narcotic drugs or psychotropic substances," indicated in the articles of Chapter XIX of the Criminal Code of the Republic of Uzbekistan, with the words of the following content:

*repeatedly, by a dangerous recidivist or by a person who previously committed crimes provided for in Articles 270, 271, 273, 274, 275 and (or) 276 of this Code.*

At the same time, in judicial and investigative practice, when investigating crimes related to the illegal manufacture, possession, and storage of narcotic drugs, their analogues, or psychotropic substances without the purpose of sale, it is recommended that investigative bodies pay attention to the following when proving circumstances characterizing the personality of the accused:

*firstly*, socio-demographic data (age, gender, marital status, education, profession, place of permanent residence, living conditions, work experience, material status, sources of income);

*secondly*, medical and psychological characteristics (mental state, psychological characteristics, degree of drug dependence, history of previous treatment, general health status, presence or absence of drug registration);

*thirdly*, social connections and relationships (relations with family members, reputation in the social environment, circle of friends and acquaintances, relationships with drug traffickers, attitude towards society);

*fourth*, legal status (previous convictions, involvement in administrative liability, relations with law enforcement officers, reasons for criminal prosecution);

*fifthly*, personal characteristics (character, personality, interests, hobbies, life values, goals, level of intellectual development, moral and spiritual views);

*sixth*, characteristics at the place of work (attitude towards work, reputation in the team, professional qualifications, compliance with labor discipline, relationships with management and colleagues);

*seventh*, circumstances related to the crime (method and means of committing the crime, reasons for involvement in criminal activity, scope of criminal connections, sources of obtaining narcotic or psychotropic substances);

*eighthly*, the motives of criminal behavior (motives motivating the commission of a crime, the level of material interest, personal needs and desires, external influences, pressures, the decision-making process);

*ninth*, attitude towards responsibility (degree of guilt recognition, attitude towards the act, desire to cooperate with investigative bodies).

By systematically studying these circumstances, it is possible to correctly assess the degree of danger of the individual to society, the causes of crime, and the possibilities of social rehabilitation. Also, this information is of great importance in the appointment of punishment and the determination of preventive measures.

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