

Smuggling of drugs, psychotropic substances, their analogues or precursors or counterfeit medicines

Olena I. Yushchyk

Faculty of Law, Yuriy Fedkovych Chernivtsi National University, Ukraine

Tetiana V. Prodan

Faculty of Law, Yuriy Fedkovych Chernivtsi National University, Ukraine

Abstract

The distribution of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines as a form of criminal activity is not limited to the territory of one state. In order to commit such acts, individuals are constantly looking for new territories to move such funds. Unfortunately, Ukraine has faced many problems with military operations, socio-economic hardships and the growth of crime, including the illegal movement of drugs and other substances across the border. This phenomenon's negative impact is manifested in drug distribution among a wide range of society members, posing a threat to public health, capacity development, and the nation's well-being. Therefore, it is necessary to develop effective ways to identify such criminal offences and take measures to counteract them.

Keywords: *criminology, criminal law, drugs, psychotropic substances.*

Degree of scientific research

Criminal law and criminological aspects of smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines have been studied by the following domestic scholars: Y.V. Baulin, V.I. Borisov, O.M. Gumin,

N.O. Gutorova, O.M. Dzhuzha, V.M. Dremin, A.M. Klochko, N.A. Miroshnychenko, E.L. Streltsov, V.Y. Tatsiy, V.I. Shakun and others.

The study aims to provide a criminal law analysis of the criminal offence of „Smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines” and the main areas of counteraction to this negative phenomenon.

Outline of the main research material

Ukraine did not stand aside from the international fight against drug trafficking in the world. It, therefore, ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1989 [1]. The signatories to this Convention were motivated by the fact that there is an increasing spread and illicit trafficking of narcotic drugs and psychotropic substances among various social groups and, mainly, that children in many parts of the world are used as consumers of illicit narcotic drugs and psychotropic substances and are exploited in their illicit production and trafficking, which is a considerable danger.

Accordingly, since 1995, the Criminal Code of Ukraine (1960) has increased criminal liability for illegal actions with narcotic and psychotropic substances. With the adoption of the new Criminal Code of 2001, a number of criminal offences related to the trafficking of narcotic drugs, psychotropic substances, and their analogues or precursors appeared (Articles 305-324 of the Criminal Code of Ukraine).

Drug trafficking is not limited to the borders of a single state, so in order to create a market for narcotic drugs, psychotropic substances, and their analogues, it is necessary to find and expand new territories. Ukraine is one of the routes for the supply of such drugs from neighbouring and foreign countries. Therefore, the smuggling of narcotic drugs, psychotropic substances and their analogues is carried out by crossing the border of Ukraine.

The national criminal law provides criminal liability for smuggling narcotics, psychotropic substances, their analogues or precursors, or counterfeit medicines (Article 305 of the Criminal Code of Ukraine).

The main direct object of the crime is the procedure for the movement of narcotic drugs, psychotropic substances, their analogues or precursors, or counterfeit medicines established to ensure public health. Criminal law contains a provision for liability for smuggling (Article 201 of the Criminal Code of Ukraine), but the *corpus delicti* of Article 305 of the Criminal Code of Ukraine is special. Since such a crime contains a particular subject of smuggling, namely:

- 1) narcotic drugs,
- 2) psychotropic substances,
- 3) their analogues,
- 4) precursors,
- 5) counterfeit medicines.

The List of Narcotic Drugs, Psychotropic Substances and Precursors was approved by the Resolution of the Cabinet of Ministers of Ukraine on May 6, 2000 [2].

Narcotic drugs are natural or synthetic substances, preparations, and plants included in the List of Narcotic Drugs, Psychotropic Substances and Precursors. The List of Narcotic Drugs, Psychotropic Substances and Precursors (hereinafter referred to as the List) is a grouping of narcotic drugs, psychotropic substances and precursors of narcotic drugs and psychotropic substances included in Tables I-IV following the legislation of Ukraine and international treaties of Ukraine. The Cabinet shall approve the list and amendments of Ministers of Ukraine upon submission to the central executive body

responsible for forming the state policy in the circulation of narcotic drugs, psychotropic substances, their analogues and precursors, and counteraction to their illicit trafficking. They shall be published in official printed media.

Precursors of narcotic drugs and psychotropic substances (hereinafter referred to as precursors) are substances used for the production and manufacture of narcotic drugs and psychotropic substances included in the List of narcotic drugs, psychotropic substances and precursors.

Analogues of narcotic drugs and psychotropic substances are synthetic or natural substances prohibited for circulation on the territory of Ukraine, not included in the List of narcotic drugs, psychotropic substances and precursors, the chemical structure and properties of which are similar to the chemical structure and properties of narcotic drugs and psychotropic substances, the psychoactive effect of which they reproduce [3].

Falsified medicinal products include medicinal products that are intentionally labelled not identically (inconsistently) to the information (one or more of them) about the medicinal product, intentionally counterfeited in another way, and do not correspond to the information (one or more of them), including the composition, about the medicinal product with the corresponding name, which is included in the State Register of Medicinal Products of Ukraine [4]. The distribution of medicinal products poses a serious threat to the life and health of the population, which requires amendments to criminal law and the introduction of liability for the illegal handling of counterfeit medicinal products (Articles 305, 3211 of the Criminal Code of Ukraine).

In order to clarify the issue of what constitutes a counterfeit medicinal product, it is necessary to conduct an expert examination in each case. By the Resolution of the Plenum of the Supreme Court of Ukraine „On judicial practice in cases of crimes in the field of trafficking in narcotic drugs, psychotropic substances, their analogues and precursors” No. 4 of April 26, 2002, „to establish the type, name and properties of a narcotic drug, psychotropic substance, an analogue of such a drug, substance or precursor, their origin, method of manufacture or processing, as well as the identity of drug-containing plants, special knowledge is required, and in cases of this category, there must be an expert opinion on these issues” [5].

Thus, the subject of smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines can only be the means and substances specified in the disposition of Article 305 of the Criminal Code of Ukraine and meet the properties confirmed by an expert opinion.

The objective signs of the crime are the commission of alternative actions, namely the movement of smuggled goods across the customs border of Ukraine outside of customs control or concealed from customs control. The mandatory signs of smuggling include the place of the crime the customs border.

Movement is understood as the importation of goods into the customs territory of Ukraine, exportation from this territory or their movement through the customs territory of Ukraine in transit. The customs border is the boundary of the customs territory of Ukraine. The customs border coincides with the state border of Ukraine, except for the boundaries of the territory of special customs zones. The boundaries of the territory of

special customs zones are an integral part of the customs border of Ukraine (Article 10 of the Customs Code). The method of moving across the customs border outside of customs control involves the transportation of goods and things bypassing customs control. As the court practice shows, offenders do not present accompanying documents or cargo for inspection and use routes outside the customs border checkpoints.

The method of concealment of narcotic drugs, psychotropic substances, their analogues or precursors, or counterfeit drugs, narcotic drugs and psychotropic substances does not affect the qualification of the crime. However, the movement of goods across the customs border of Ukraine concealed from customs control is carried out:

- 1) with the use of specially manufactured caches and other means or methods that make it challenging to detect such goods;
- 2) by making some goods look like other goods;
- 3) by submitting to the customs authority forged documents or documents obtained illegally or containing false information as a basis for the movement of goods (Article 352 of the Customs Code).

Concealment is a method of moving items across the customs border of Ukraine in violation of the procedure established by law or not presenting items for inspection by disguising them in specific ways, i.e., a person uses a method that makes it challenging to detect such items, for example, by placing such items in different parts of clothing, shoes, or specially equipped places in the vehicle (caches).

The question of when the crime of smuggling narcotic drugs, psychotropic substances, their analogues or precursors, or counterfeit medicines is completed is controversial. Some consider the crime to be completed from the moment when narcotic drugs, psychotropic substances, their analogues, precursors or counterfeit medicines are detected during a customs inspection. In contrast, others believe the crime will be completed only when narcotic drugs, psychotropic substances, their analogues, precursors or counterfeit medicines are moved across the border.

We can agree with N.A. Myroshnychenko that if contraband items are found during a search of belongings or a personal inspection when leaving Ukraine, the act should be qualified as an attempted crime (Articles 15, 305 of the Criminal Code of Ukraine). Illegal movement (shipment or transportation) into the territory of Ukraine or abroad of contraband items detected during customs control constitutes a completed crime [6, P. 304-309].

An example of the qualification of incomplete smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines is the verdict of the Yavoriv District Court of Lviv Region of May 3, 2022, No. 944/280/22. A PERSON, travelling as a passenger of a bus „Chernivtsi-Prague” from Ukraine to the Republic of Poland through an international checkpoint, concealed from customs control, under the insoles of the sneakers he was wearing, a particularly dangerous drug cannabis, however, he did not fully bring his criminal intent for reasons beyond his control, since the drug he had hidden was discovered and seized during border and customs control. By his actions, the PERSON committed a completed attempt to smuggle a hazardous drug and move it across the customs border of Ukraine concealed from customs

control, that is, a criminal offence under Part 2 of Article 15 – Part 2 of Article 305 of the Criminal Code of Ukraine [7].

The subject of the crime of smuggling narcotic drugs, psychotropic substances, their analogues, precursors or counterfeit medicines is a general, physical, sane person who has reached the age of sixteen at the time of the crime. Suppose such an act is committed by an official using his/her official position. In that case, it must be additionally qualified under the relevant articles of the Criminal Code of Ukraine as an official criminal offence. The qualification of the act is influenced by the fact that the smuggling was committed in complicity. Under Part 2 of Article 305 of the Criminal Code of Ukraine, smuggling by prior conspiracy by a group of persons is qualified. If an organized group commits such an act, then under Part 3 of Article 305 of the Criminal Code of Ukraine.

The subjective side of smuggling narcotic drugs, psychotropic substances, their analogues, precursors or counterfeit medicines is characterized by deliberate guilt in the form of direct intent. The motive and purpose of smuggling narcotic drugs, psychotropic substances, their analogues, precursors or counterfeit medicines are optional features of the subjective side. However, their establishment may clarify further criminal activity of persons involved in smuggling these substances.

The qualification of smuggling depends on the number of narcotic drugs, psychotropic substances, their analogues, precursors or counterfeit medicines. Criminal liability has been established for smuggling narcotics, psychotropic substances, their analogues, precursors or counterfeit medicines in large amounts (part 2 of Article 305 of the Criminal Code of Ukraine) and substantial amounts (part 2 of Article 305 of the Criminal Code of Ukraine). According to the note to Article 305 of the Criminal Code of Ukraine, the concept of large and enormous amounts of narcotic drugs, psychotropic substances, their analogues or precursors, as well as poisonous or potent substances or poisonous or potent medicines or counterfeit medicines used in this section is determined by the central executive body responsible for the formation of state policy in the field of healthcare, jointly with the central executive body responsible for the formation of state policy in the field of drug trafficking. The Order of the Ministry of Health of August 1, 2000, No. 188 defines small, large and substantial amounts of narcotic drugs, psychotropic substances and precursors. This Order approved tables that list the types of narcotic drugs, psychotropic substances, and precursors and the criteria for determining their size. This classification of substances will be used to determine the qualification of the crime under the relevant parts of Article 305 of the Criminal Code of Ukraine [8].

According to the statistics of the Prosecutor General's Office of Ukraine, it follows that the act provided for in Article 305 of the Criminal Code of Ukraine is not a very common phenomenon.

Thus, as of 2022, 115 crimes of smuggling of narcotic drugs, psychotropic substances, their analogues or precursors, or counterfeit medicines were registered, 68 crimes less than in 2021 and 119 crimes less than in 2020. It indicates an overall decrease in registered crimes, namely by 37.1% compared to 2021 and 50.8% compared to 2020 [9]. In our opinion, the level of registered crimes recorded in the reporting period due to the ongoing hostilities does not give a complete picture of its level, as a large flow of drug

trafficking was carried out in transit through the Russian Federation, which is currently impossible.

Also, if we look at the share of this type of crime in the structure of drug crime for 2020-2022, we see that it amounted to only 0.6%. Thus, in 2020 it was 0.8%; in 2021 – 0.6%; and 2022 – 0.3% [9]. Accordingly, we can conclude that the share of this type of criminal activity in the structure of drug crime is relatively insignificant. However, this does not mean that this act is not socially dangerous. The level of social danger of smuggling trafficking in narcotic drugs, psychotropic substances, their analogues or precursors, or counterfeit medicines is relatively high since it is through its commission that these dangerous drugs and substances are supplied to the Ukrainian market. In addition, the favourable geographical location of Ukraine allows for the transit of such drugs through the territory of Ukraine to the European Union, confirming this act's danger. Therefore, smuggling narcotic drugs, psychotropic substances, their analogues or precursors, or counterfeit medicines remains a rather acute problem in Ukraine.

Because of the above, the issue of combating the smuggling of drugs and other substances is particularly relevant, as appropriate measures must be taken to reduce the manifestations of such an act. One of the significant steps in countering this phenomenon was the approval of the Concept of the State Target Law Enforcement Program for the State Border Arrangement for the Construction of Engineering and Fortification Structures, Fences, Border Signs, Border Clearings, and Communications of the State Border Guard Service for the Period up to 2024 [10]. This program addresses many problems that remain potentially threatening to Ukraine's national interests and national security, such as armed or unarmed provocations, international terrorism, illegal migration and human trafficking, cross-border organized crime, smuggling and drug trafficking. The geographical location of Ukraine makes it quite attractive for the transit of narcotic drugs and psychotropic substances along one of the five main routes – the Central European route, which runs through the Russian Federation, Ukraine, Poland, and Slovakia to Western Europe. In this regard, there are regular attempts to smuggle narcotic drugs, psychotropic substances, etc. Therefore, implementing the Program can improve the state border protection system to prevent many threats, including illegal drug trafficking and drug trafficking.

In addition, according to Art. 3 of the Law of Ukraine „On Measures to Counteract Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors and Their Abuse”, the system of bodies that counteract smuggling of narcotic drugs, psychotropic substances, their analogues or precursors includes: „The National Police of Ukraine, the Security Service of Ukraine, the Prosecutor General of Ukraine, central executive authorities implementing state policy in the areas of state border protection, trafficking in narcotic drugs, psychotropic substances, their analogues and precursors, combating their illicit trafficking, and other executive authorities within the limits of their legal powers” [11]. The State Customs Service of Ukraine is the primary entity in the system of combating the smuggling of these means and substances. The customs authorities are responsible for detecting the smuggling of narcotic drugs, psychotropic substances, their analogues and precursors in the course of their professional activities.

The most common methods of detecting signs of smuggling during customs control are customs inspection, an inspection of customs and other documents, and rapid analysis of substances, materials, objects etc. Following their responsibilities, they carry out the following activities:

- monitoring the situation in the field of combating illicit trafficking in narcotic drugs, psychotropic substances, precursors, and counterfeit medicines;
- conducting comprehensive operational and preventive operations „Channel” to block international routes for smuggling narcotic drugs and psychotropic substances into Ukraine and their transit through the country;
- constantly improving the system of training, retraining, and professional development of their staff.

In addition, the customs authorities participate in the creation of a nationwide system for analyzing risks and trends in the increase in the supply of narcotic drugs, psychotropic substances and precursors on the market, as well as in the creation of an interagency automated system for the exchange of information related to drug trafficking [12].

The customs authorities cooperate with all criminal justice actors in combating this phenomenon. The main methods of interaction are the method of mutual exchange of information, forecasting, and planning of joint activities. The same methods, such as working meetings, exchange of best practices for the purpose of dissemination, and joint training on cooperation, are used depending on specific circumstances and the initiative of a single criminal justice entity. Interaction between agencies is carried out at two levels: collaborative organization (planning) of cooperation by the heads of the interacting parties and direct implementation (at the level of executors).

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988, states that: „illicit trafficking is an international criminal activity, the suppression of which requires urgent and paramount attention, it provides large profits and funds, enabling transnational criminal organizations to penetrate, disrupt and undermine governmental mechanisms, legitimate trade and financial activities and society at all levels, the eradication of illicit trafficking is a collective responsibility of all States and that to this end coordination of efforts through international cooperation is necessary” [13]. Accordingly, modern integration processes are increasingly expanding international relations at the level of both the state and its individual missions and agencies. As we have already noted, customs cooperation occupies a special place in combating the smuggling of narcotic drugs, psychotropic substances, and their analogues or precursors. Such cooperation of customs authorities at the international level is based on their direct interaction (legal assistance, information exchange, etc.).

An important area in countering this negative phenomenon is Ukraine's involvement in various international projects. In particular, actors involved in combating smuggling in the field of narcotic drugs and psychotropic substances participate in the EU-ACT: Action against Drug Abuse and Organized Crime project [14]. Within the framework of the project, intensive cooperation and capacity are building to combat

organized drug trafficking crime within the framework of the EU- funded Heroin Road project. This project has provided training for Ukrainian law enforcement officials, including forensic experts, to conduct criminal investigations based on analytics, intelligence, evidence, strategic analysis, and threat assessment in the fight against organized drug trafficking. Seminars and pieces of training are also held for Ukrainian specialists on new psychoactive substances, methods of collecting, examining, and working with evidence in criminal proceedings on drug trafficking, as well as practical training on controlling the supply of heroin. In addition, the project provides the National Police and the State Border Guard Service with tests for synthetic cannabinoids, opiates and amphetamines and tests for ephedrine, cocaine, and crack.

Within the framework of the Informal Network of Prosecutors of the Black Sea Region (Armenia, Bulgaria, Georgia, Moldova, Romania, and Ukraine), established with the support of the EU-ACT project, representatives of the Prosecutor General's Office of Ukraine participate in webinars on international cooperation in drug trafficking investigations and the importance of wiretapping in drug trafficking investigations. In addition, on June 15, 2021, the EU-ACT project approved a draft roadmap for studying psychoactive substances. The roadmap provides for improving current national legislation and information support and assistance in implementing the State Policy Strategy on Counteracting the Spread of Drugs from up to 2030 [14].

Another crucial area in combating this phenomenon is that Ukraine cooperates with Europol. For example, the Department of International Police Cooperation of the National Police of Ukraine coordinates the participation of Ukrainian law enforcement agencies in such operations under the auspices of Europol [14]:

- ACATAR – countering the smuggling of precursors from the European Union to Ukraine;
- WONKA – countering cocaine smuggling;
- HARIKA – countering heroin smuggling;
- FROST – countering heroin smuggling.

It is also worth emphasizing the critical role of Ukraine in cooperation with the U.N. Office on Drugs and Crime. In 2021, the parties agreed to extend the Memorandum of Understanding between the Administration of the State Border Guard Service of Ukraine, the State Customs Service of Ukraine and the United Nations Office on Drugs and Crime of January 16, 2018, on the implementation of the Container Control Program (which is carried out, among other things, to reduce attempts to use them for illegal activities, in particular, trafficking in narcotic drugs and psychotropic substances) [14].

It is also worth noting the cooperation between Ukraine and the Republic of Moldova in combating smuggling [14]. In particular, with the support of the European Union Border Assistance Mission to the Republic of Moldova and Ukraine (EUBAM), a Special Group to Combat Illicit Trafficking in Narcotic Drugs and Psychotropic Substances was established to combat drug trafficking. This group's activities aim to engage the Mission's partner services and other law enforcement agencies in the region and develop an information-oriented approach to combating the smuggling of narcotic drugs and psychotropic substances. The main focus of the group is to improve profiling

and information exchange, as well as investigations, which ensures the development of operational capabilities of Ukraine and the Republic of Moldova in implementing such measures. Thanks to long-term cooperation between the police of Ukraine and the Republic of Moldova, a joint investigative team was also established to investigate the illegal sale and smuggling of heroin, which resulted in the blocking of the drug trafficking channel from the Islamic Republic of Iran to Ukraine and further movement of drugs to the Republic of Moldova and the European Union.

Conclusions

Summarizing the above, it should be noted that countering smuggling in trafficking in narcotic drugs, psychotropic substances, their analogues or precursors, or counterfeit medicines is a rather complex problem today. The coordination function of the state, which is carried out through regulatory and legal support, control and inspection measures, as well as the introduction of mechanisms for interaction between criminal justice actors (formation of interagency working groups, information exchange, implementation of joint projects, special operations, etc.) International cooperation between law enforcement agencies of different countries also plays an essential role in eliminating drug supply channels and strengthening border and customs control. Such international cooperation is particularly important for Ukraine. Its geographical location makes it attractive for organized groups and criminal organizations, through which narcotics and psychotropic substances are transmitted from Asia to Western countries.

References

1. United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of March 16, 1989 (ratified by the Resolution of the Verkhovna Rada of Ukraine No. 1000-XII of 25.04.1991). URL: https://zakon.rada.gov.ua/laws/show/995_096#Text (accessed April 12, 2023).

On Approval of the List of Narcotic Drugs, Psychotropic Substances and Precursors: Resolution of the Cabinet of Ministers of Ukraine of May 6, 2000, No. 770. URL: https://zakononline.com.ua/documents/show/214170_693904 (accessed on 12.04.2023).

2. On narcotic drugs, psychotropic substances and precursors: Law of Ukraine of February 15, 1995, No. 60/95-VR. URL: <https://zakon.rada.gov.ua/laws/show/60/95-bp#Text> (accessed on April 13, 2023).

3. On Medicinal Products: Law of Ukraine of July 28, 2022 No. 2469-IX URL: <https://zakon.rada.gov.ua/laws/show/123/96-bp/print1389885672745636#Text> (accessed on April 13, 2023).

4. On judicial practice in cases of crimes in the field of trafficking in narcotic drugs, psychotropic substances, their analogues and precursors: Resolution of the Plenum of the Supreme Court of Ukraine of April 26, 2002, No. 4. URL: <https://zakon.rada.gov.ua/laws/show/v0004700-02#Text> (accessed on April 13, 2023).

5. Qualification of smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines. Actual problems of policy. 2012. Issue 46. C. 304-309.

6. Verdict of the Yavoriv District Court of Lviv Region of May 3, 2022 No. 944/280/22. URL: <https://reyestr.court.gov.ua/Review/104173862> (accessed on April 14, 2023).

7. On approval of tables of small, large and especially large sizes of narcotic drugs, psychotropic substances and precursors that are in illegal circulation: Order of the Ministry of Health of August 1, 2000, No. 188. URL: https://zakononline.com.ua/documents/show/212525_515394 (accessed on April 13, 2023).

8. Prosecutor General's Office of Ukraine. URL: <https://new.gp.gov.ua/ua/posts/statistika> (accessed on April 14, 2023).

9. Concept of the State Target Law Enforcement Program for the State Border Arrangement for the Construction of Engineering and Fortification Structures, Fences, Border Signs, Border Clearings, Communications of the State Border Guard Service for the Period up to 2024: Order of the CMU of October 21, 2021: <https://zakon.rada.gov.ua/laws/show/1362-2021-%D1%80#Text> (accessed on April 14, 2023).

10. On Measures to Counteract Illicit Trafficking in and Abuse of Narcotic Drugs, Psychotropic Substances and Precursors: Law of Ukraine of February 15, 1995. URL: <https://zakon.rada.gov.ua/laws/show/62/95-%D0%B2%D1%80#Text> (accessed on April 14, 2023).

11. State Customs Service of Ukraine. URL: <https://customs.gov.ua/> (accessed April 15, 2023).

12. UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988. URL: https://zakon.rada.gov.ua/laws/show/995_096#Text (accessed on April 15, 2023).

13. Report on the drug and alcohol situation in Ukraine for 2022. URL: <https://cmhmda.org.ua/wp-content/uploads/2023/01/zvit-shhodo-narkotychnoyi-ta-alkogolnoyi-sytuaciyi-v-ukrayini-2022.pdf> (accessed on April 16, 2023).

Subjects that ensure the protection of the rights of persons who have disappeared under special circumstances

Valerii Kolpakov

*Department of Constitutional and Administrative Law,
Zaporizhzhia National University, Ukraine.*

Abstract

The competence of subjects that ensure the protection of the rights of persons who disappeared during the war in Ukraine is being investigated. Ukrainian legislation distinguishes two types of such subjects: a) holders of power; b) representatives of civil society.

It is noted that among the holders of power, the leading place belongs to state structures. The legislation refers to them: the National Police of Ukraine; Ministry of Defence Ukraine; Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine; State Service of Ukraine for Emergency Situations; Security Service of Ukraine; prosecutor's office and others.

The role of specialized entities is emphasized: 1) Commissioner for issues of persons missing under special circumstances; 2) Unified register of persons who have disappeared under special circumstances.

Special attention is focused on the activities of the Commissioner for the Issues of Persons Disappeared Under Special Circumstances. It is noted that he performs the following functions: coordination of the search for persons who have gone missing under special circumstances; information support for their search; analysis of the effectiveness of the search system; preparation of recommendations and proposals for subjects of investigation; functions of a control and supervisory nature; forms search groups to search for missing persons.

The competence of the authorized person regarding the search for missing persons is considered separately. Its tasks to ensure the work of search groups are highlighted. It is emphasized that the activities of the search groups are aimed at: a) the search for persons who have gone missing under special circumstances, b) their remains, c) the search and recording of burial places of such persons, d) the recovery of the bodies (remains) of deceased (deceased) persons, e) removal of their remains, f) carrying out search operations in areas where security and defense measures are taking place, g) in temporarily occupied territories of Ukraine.