



LEGALIZATION OF CRIMINAL PROCEEDS

Husenov Mirshod Ikhtiyorovich

Department of Bukhara region
Administration of Jondor district department
Senior executive representative
<https://doi.org/10.5281/zenodo.14132551>

ARTICLE INFO

Qabul qilindi: 05- Noyabr 2024 yil
Ma'qullandi: 10- Noyabr 2024 yil
Nashr qilindi: 13- Noyabr 2024 yil

KEYWORDS

money laundering, combating, crime, legalization of criminal proceeds, subject of legalization, criminal liability, the objective side of the crime, foreign experience.

ABSTRACT

The issues of criminal legal assessment of the legalization (laundering) of proceeds from crime are revealed, the content of actions that constitute the objective side of this crime and foreign experience are analyzed.

First of all, the legalization of proceeds from criminal activities means the transfer, conversion or exchange of funds or other assets, if they were not found as a result of criminal activities, or giving a legal tone to the origin of such funds or other assets. From concealing the original nature, source, location, method of disposal, transfer of property, real ownership rights to money or other property or to whom they belong or keeping a secret is considered a socially dangerous act punishable as a criminal [1].

"Legalization of criminal proceeds," or in other words, "money laundering" is the process of making funds obtained by illegal means look legal. Through this process, criminals seek to disguise the proceeds of illegal activities through seemingly legitimate transactions. Money laundering is mainly carried out in three stages:

1. Placement (Placement): At this stage, illegal income is included in the cash flow. This is mainly done by placing the funds in financial institutions or by channeling the money directly into the economy.

2. Layering: At this stage, funds are transferred to other places through a series of financial transactions, trying to hide the original source. For example, in most countries, money is sent to other countries and then redirected in new directions.

3. Integration (Integration): At this stage, funds are absorbed into economic activities that appear to be legitimate. Criminals make money by investing in legitimate businesses or making profits through legitimate transactions.

Money laundering is considered a serious criminal activity internationally and many countermeasures have been put in place, including KYC and suspicious transaction detection systems in banks. Many international organizations, such as FATF (Financial Action Task Force) and other financial control agencies, work to prevent and control this crime.

The object of the crime is the interests of the economic activity of the republic, public safety. From the objective point of view, the crime is carried out through the transfer, conversion, exchange and other methods of illegally obtained income as shown above [2]. Therefore, the legalization of proceeds from criminal activities is a complex process that affects various sectors of the economy, which significantly increases the requirements for measures to combat it, including the prevention of this negative phenomenon.

On the other hand, the legal support of the fight against money laundering is carried out through the system of laws and legal documents that regulate financial, banking, and customs relations, and determine the procedure for licensing and registration of companies in order to fight against money laundering. Many countries have "model" laws that serve as a specific framework for legal measures to combat money laundering.

In particular, the field of legalization of proceeds from criminal activities in our country is currently governed by the Law of August 26, 2004 "On Combating Legalization of Proceeds from Criminal Activities, Financing of Terrorism, and Financing of the Distribution of Weapons of Mass Destruction", 2018 of the President of the Republic of Uzbekistan - on September 20, 2018, to legalization of proceeds from criminal activities, financing of terrorism and public It is being regulated by the decision PQ-3947 and other normative legal documents in this field.

After all, in this matter, the visit of the Financial Action Task Force on Money Laundering (FATF) to Uzbekistan in 2020 and its assessment was also important.

After these changes, according to the decree No. PF-6252 adopted by the President on June 28, 2021, the strategy for the development of the national system of combating the legalization of proceeds from criminal activities, the financing of terrorism and the financing of the distribution of weapons of mass destruction in our country was approved. .

In accordance with it, a list of ministries and agencies participating in the fight against the legalization of the proceeds of criminal activities was determined, and every three years, a risk assessment related to the legalization of the proceeds of criminal activities, the financing of terrorism and the financing of the proliferation of weapons of mass destruction was carried out at the national level. procedure was introduced and a non-legal entity risk assessment center based on the information collection and processing department of the Department for Combating Economic Crimes under the General Prosecutor's Office was organized and its main tasks were defined [3].

DISCUSSION AND RESULTS

Despite this, many shortcomings and problematic situations in this field have not been resolved. In particular, in order to legalize income from criminal activities, it is necessary to prove that these incomes were obtained through criminal means and then to legalize this property. However, in some cases, there are cases of confiscation of personal property without confirmation of the fact that a person's income was obtained through criminal means.

Secondly, there is a lack of unanimous legal documents regulating the field of legalization of proceeds from criminal activities in our country. Therefore, different views and disagreements arise in the implementation of work in this field.

If we focus on foreign experience, the United States of America has a number of unanimous laws regulating this area. Including the Bank Secrecy Act (BSA), the Anti-Money Laundering Act (RICO of 1978), the Anti-Money Laundering Act (Act of 1986), the Drug Abuse

Control Act of 1988, the Federal Deposit Insurance Act, The Community Development Act (Annunzio-Wiley Act, 1992) and other regulatory instruments are available[4].

Importantly, all banks and financial institutions must maintain a permanent record of all bank transactions, traveler's checks, money transfers in the amount of ten thousand US dollars in any currency, and review all information about new customers. .

In turn, this procedure applies to the operations of airlines, financial companies, hotels, pawnshops, restaurants and wholesalers [5],

Undoubtedly, the active attitude of officials and society as a whole to such relations serves to prevent the crime of legalization of proceeds from criminal activities. We can witness that some foreign countries have special procedures in this matter.

In particular, according to Article 9 of the Swiss Anti-Money Laundering Act, even if not mentioned in the Criminal Code, financial intermediaries must report any financial transactions suspected of being money laundering.

Even if the violation of the obligation to provide such information is committed as a result of negligence, this act is punishable by a fine of up to 200,000 Swiss francs[6]. Undoubtedly, the proceeds will serve to reduce the process of legalization.

CONCLUSION

Based on the above, we can put forward the following conclusions and suggestions to further improve the activity against this crime:

First, to clarify the concept of legalization of income from criminal activities in the legislation and to create a legal mechanism for confiscation of this income.

Converting criminal proceeds into legal proceeds, i.e., the process of money laundering, is done by adding illegal funds to the economic system to make them look legal. This process is used by criminals to hide their source of income and disguise their illegal funds as legitimate income.

In the process of legalization, criminal proceeds are often made to appear legal by:

1. Creation of fake companies: Criminals create companies that exist on paper but have no real activity. Illegal funds through these companies are shown as legitimate income. Also, illegal funds can be legitimized through false reporting through existing businesses.

2. Purchase of real estate and valuable assets: Criminals use illicit funds to purchase real estate, valuable works of art, jewelry, or other high-value assets. They then make a legitimate profit by selling these assets.

3. Laundering money through loans and credits: Criminals try to launder their funds by withdrawing illegal income in the form of loans or loans. They add funds to legal circulation by lending money to their companies or taking a loan from a bank.

4. Laundering through casinos and casinos: Criminals try to legalize their illegal funds by playing money in casinos. Winnings are withdrawn as legitimate earnings.

5. International wire transfers: Criminals hide the original source by transferring money from one country to another. This makes it difficult to determine the original origin of the funds.

To prevent such activities, financial institutions and regulatory authorities have implemented suspicious transaction monitoring, customer verification (KYC), and transparent reporting systems to track and detect criminal proceeds.

Secondly, determining the requirements for identifying, registering and identifying the person who committed the suspicious financial transaction, as well as the requirements for storing relevant materials.

Thirdly, to clearly define the scope of financial institutions that are obliged to report suspicious transactions to state authorities.

Fourth, to develop a procedure for notifying the authorized body about suspicious financial transactions.

Fifth, establishing responsibility for foreign parties involved in legalization of criminal income and financial transactions, as well as officials who did not submit documents or destroyed documents related to suspicious financial transactions.

References:

1. Rustambayev M.H. Course of criminal law of the Republic of Uzbekistan. General part. Volume 5: Doctrine of Crime. Textbook for OTM. - T.: "TDYU" publishing house, 2010. - 438 pages.
2. Law of August 26, 2004 "On Combating Money Laundering, Financing of Terrorism, and Financing of Proliferation of Weapons of Mass Destruction"
3. https://www.norma.uz/oz/konunchilkdayangi_jinoiy_to_fight_against_the_legalization_of_income_-_at_the_national_level
4. Zakonodatelstvo SShA: normativno-pravovyeakty SShA [Electronic resource]. URL: <http://www4.law.comell.edu/uscode/l18.html>
5. Lilly, P. Gryaznye sdelki. Taynaya pravda o mirovoy praktike otmyvaniya deneg, mejdunarodnoy pre-stupnosti i terrorisme. M. : Phoenix, 2015. 400 p.
6. Zakon ob otmyvanii denejnyx sredstv Shvetsapii (Geldwdschereigesetz) [Electronic resource]. URL: <http://www.worldbiz.ru/jurisdiction/switzerland/>
7. Husenov Mirshod Ixtiyorovich "JINOIY DAROMADLARNI LEGALIZATSIYA QILISH" International Journal of Education, Social Science & Humanities. Finland Academic Research Science Publishers ISSN: 2945-4492 (online) | (SJIF) = 8.09 Impact factor. Volume-12| Issue-11| 2024 Published: |22-11-2024| <https://doi.org/10.5281/zenodo.14056616>