

# Some Aspects of the Investigation of Crimes Related to Money Laundering

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**Abstract:** *In this article are considered features of investigation of crimes related to money laundering; an analysis of the relevant national legislation in terms of the requirements of international instruments ratified by Uzbekistan; studied forms, techniques and methods of legalization, and presented the organizational and tactical recommendations to investigate the crime.*

**Keywords:** *convention, judicial system, corruption, crime, money laundering, financing of terrorism.*

Today, in the modern world, corruption is not only a negative social phenomenon but also enormous generator of problems which threats to the stability and security of societies, undermining democratic institutions, ethical values and justice arising detrimental consequences to sustainable development and the rule of law in all countries.

Corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies of countries, resulting

in crucial international cooperation to prevent and combat it.

The international community is particularly concerned about the links between corruption and other forms of crime, in particular, organized crime and economic crime, including money-laundering, including cases of corruption that involve vast quantities of assets, which may constitute a significant proportion of the resources of States, and which undermine threat to political stability and sustainable development of these countries.

The United Nations Convention against Corruption (hereinafter - the Convention), to which the Republic of Uzbekistan joined 7 July 2008, was adopted in order to deal with the abovementioned motives.

Without wishing to analyze and interpret all the provisions of the Convention, I would like to consider some rules concerning legalization of criminal income, that is, money laundering.

Thus, Article 23 of the Convention is called “money laundering” and it provides that State as a member shall, in accordance with the fundamental principles of its domestic law, such legislative and

other measures as may be necessary to establish as criminal offenses, when committed intentionally:

a) i) The conversion or transfer of property, knowing that such property is the proceeds of crime with the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offense to evade from liability for their actions;

ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights to property or its ownership, knowing that such property is the proceeds of crime;

b) when following the basic concepts of its legal system:

i) the acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

ii) participation in, association or conspiracy to commit any of the offenses established in accordance with this article, attempts to commit, and aiding, abetting, facilitating and counseling the commission of the offense<sup>1</sup>.

Uzbekistan as a member State, taking into account the legal system undertakes implementation of standards of the Convention relating to money laundering into national legislation.

It is important to note that the Uzbek law, even before the accession to the Convention, provides mechanism to counter this type of corruption crimes.

So, on August 26, 2004 was adopted the Law “On Countering legalization of proceeds from crime and terrorist financing” and it was amended in the criminal law and other regulations<sup>2</sup>.

In the criminal law of the Republic of Uzbekistan offenses similar to either the elements of legalization referred to in sections: crimes against public security and public order; crimes against public order; crimes in economic activity, crimes against the foundations of the economy. However, this is only the similarity of some individual features.

Legalization is a new offense, defining characteristics which are found in-depth analysis of financial transactions and the administrative actions.

Thus, under article 243 of the Criminal Code, the legalization of proceeds derived from criminal activity - it is a transferring, conversion or exchange of property derived from criminal activity, as well as the concealment or disguise of real values, source, location, disposition, movement, rights in respect of ownership or affiliation, if such

<sup>1</sup> The UN Convention against Corruption // Information searching system. [www.lex.uz](http://www.lex.uz).

<sup>2</sup> The law “On Countering legalization of proceeds from crime and terrorist financing” // Information Searching system. [www.lex.uz](http://www.lex.uz).

property is derived from criminal activity<sup>3</sup>.

It is believed that legalization is divided into two forms: simple and complex. In this simple form in its structure only difficult stage of legalization, which is a multi-pass financial operation, which involved legitimate commercial financial and banking institutions.

It should be borne in mind that the process of denationalization and privatization of state lack of legal regulation in the early stages of transition to a market economy has created certain conditions for the illicit accumulation of capital (cash and other property) in the hands of individuals and legal entities, known as the "shadow" of capital, the use of which were designated by the term "shadow" economy. That is, the "shado" capital is formed as a result of criminal activity, and concealed from taxation. Thus, the "shadow" capital ("dirty money") can not legally be used in legitimate economic activities so as not to "light up" in their different forms of government accounting. At its core is the legalization of criminal activity on the removal of funds ("dirty money") from the scope of the "shadow" of capital and introduce them into the sphere of legitimate treatment, ie, give them (money and property) legal ownership status of a particular person or entity.

The complexity of detection and investigation of offenses containing elements of Article 243 of the Criminal Code providing for liability for the legalization of proceeds from crime, is that the methods of legalization are very diverse and difficult to accurately systematize and thus adversely affect the development of specific tactical and methodical bases of disclosure and the investigation of criminal cases in this category. However, in the legal literature attempts to organize these crimes by their methods, which can be divided into the following groups where legalization is accomplished by: 1) financial transactions; 2) transactions of sale and purchase, loan, loan; 3) business activities; 4) false economic activity (opening of fictitious companies, enterprises).

A variety of methods shown in the immediate legalization of their connection with terrorism, organizing a criminal group, bribery, abuse of power or official authority, extortion, fraud, tax evasion and many other crimes, the compositions of which are represented by criminal law. Of course, a variety of ways to legalize and its connection with other crimes, which have a separate structure, virtually eliminates the possibility of a typological methods of investigation, and allows only to determine aggregate (sets, lists) of various forms, methods and tactical methods aimed at rapid and complete disclosure of this crime categories.

<sup>3</sup> The Criminal Code of the Republic of Uzbekistan // Information Searching System. [www.lex.uz](http://www.lex.uz).

Thus, we can assume a certain extent, some organizational and tactical recommendations to the investigator in typical situations of criminal cases in accordance with the characteristics of their excitation and emerging investigative situations:

1. Important role is played by a comprehensive analysis of available materials;

2. Continuation of close cooperation with investigators investigating body to collect the missing evidentiary material by separate cottages orders;

3. In view of the collected body of inquiry and the investigator of data necessary to determine the general direction of the investigation and promotion of investigative and operational versions associated with the current situation of investigation, the most-specific specific area of financial, business and economic activity under investigation;

4. Actually investigative actions to build the evidence base, ie, consolidation of procedural details, sufficient for the formation of the indictment and the preparation of materials of the criminal case to be transferred to the judicial authorities.

Referring to our recommendations, it should be noted that in the criminal procedure and criminal science is generally accepted point of view that the preliminary investigation of crimes of any category is divided into several stages: the initial stage of production

investigation and subsequent stages of the investigation.

As the study of the practice in criminal cases involving money laundering, to the Initial investigations typically include seizure, search, designation and production expertise, interrogate suspects and witnesses. Features of the criminal case may also cause conduct other investigative actions (confrontation, inspection documents and others.).

The nature of the original investigation depends on the following search criteria for the establishment of organizations through which the money laundering: the type of criminal activity, because it largely determines the possible schemes and ways of legalization; the volume of illegal production in the period of criminal activity, because if these operations are not systematic, it is the proceeds of crime is most often injected into the legal turnover through "mixing" with legal income through commercial organizations operating legally. It should be borne in mind that the kind of criminal activity is not always leads to the use of a particular scheme of legalization.

Money laundering refers to the most latent crime, which was caused by the fact that having a lot to do with the category of economic crime, detection and investigation of criminal cases on money laundering are among the most difficult to detect and investigate, to ensure its

completeness and comprehensiveness, establishment and return of the put damage, criminal responsibility of all participants legalization.

However, it should be noted the importance of improving the criminal and criminal procedural law, the training of qualified specialists and their expertise, the need to further strengthen the public prosecutor's supervision, coordination with various investigation agencies, including financial and monitoring organizations.

The above are some aspects and some recommendations, in our view, allow more attentive to the issue of combating money laundering, which resulted in considerable damage is caused economic interests of the state.

In conclusion, it should be noted that today money laundering is one of the modern and sophisticated forms of crime, for which effective prevention requires a comprehensive and multidisciplinary approach. The international community is supposed to endeavor to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat such corruption phenomenon.