

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche" de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia Maracaibo, Venezuela



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International Law Enforcement Cooperation against Money Laundering

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Alina V. Steblianko * Tamara O. Chernadchuk ** Ivan O. Kravchenko *** Nadiia S. Andriichenko Oksana S. Rudanetska *****

Abstract

The purpose of the article is to focus on the need to strengthen the interaction of the law enforcement agencies of various states. highlighting the role of financial institutions in this process, to find optimal ways to improve international cooperation. The study is based on the methods of systemic and critical analysis. as well as a formal logical method. The article confirms that the

need to strengthen international cooperation is explained by the existence of certain factors that determine the possibility of money laundering. It has been established that without adequate cooperation between law enforcement agencies and financial institutions at the national level, it is quite difficult to detect crime and prevent money laundering at the initial stage. As a conclusion of the investigation, it is proposed to develop a methodology for the interaction of the law enforcement agencies of several states to counteract money laundering. The results obtained can also become the basis for developing legislative proposals to improve international cooperation in law enforcement and, at the same time, they can be used to increase the efficiency of their anti-money laundering activities.

Keywords: financial institutions; economic security; shared information; state budget; capital outflow.

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Postgraduate Student, Academic and Research Institute of Law, Sumy State University, Ukraine. ORCID ID: https://orcid.org/0000-0002-5080-0490. E-mail: al.v.steblianko@tanu.pro

Assistant Professor, Candidate of Science in Law, Assistant Professor at the Faculty of Law, Sumy National Agrarian University, Ukraine. ORCID ID: https://orcid.org/0000-0002-6758-7438. E-mail: to.chernadchuk11@tanu.pro

^{***} Senior Lecturer at the Faculty of Law, Sumy National Agrarian University, Ukraine. ORCID ID: https:// orcid.org/0000-0001-8347-1390. E-mail: ivan-kravchenko@nuos.pro

^{****} Postgraduate Student, Academic and Research Institute of Law, Sumy State University, Ukraine. ORCID ID: https://orcid.org/0000-0002-0282-2775. E-mail: ns.andriichenko@uohk.com.cn

^{*****}Associate Professor, Candidate of Science in Law, Associate Professor at the Department of Law, Lviv National Agrarian University, Ukraine. ORCID ID: https://orcid.org/0000-0002-4773-949X. E-mail: rudanetska.oks-11@nuos.pro

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Resumen

El propósito del artículo es enfocarse en la necesidad de fortalecer la interacción de las agencias de aplicación de la ley de varios estados, resaltando el papel de las instituciones financieras en este proceso, para encontrar formas óptimas para mejorar la cooperación internacional. El estudio se basa en los métodos de análisis sistémico y crítico, así como en un método lógico formal. El artículo confirma que la necesidad de fortalecer la cooperación internacional se explica por la existencia de ciertos factores que determinan la posibilidad de lavado de dinero. Se ha establecido que, sin la cooperación adecuada entre los organismos encargados de hacer cumplir la ley y las instituciones financieras a nivel nacional, es bastante difícil detectar delitos y prevenir el lavado de dinero en la etapa inicial. Como conclusión de la investigación, se propone desarrollar una metodología para la interacción de las agencias de aplicación de la ley de varios estados para contrarrestar el lavado de dinero. Los resultados obtenidos pueden convertirse además en la base para desarrollar propuestas legislativas para mejorar la cooperación internacional en la aplicación de la lev y, al mismo tiempo, pueden usarse para aumentar la eficiencia de sus actividades contra el lavado de dinero.

Palabras clave: instituciones financieras; seguridad económica; información compartida; presupuesto del Estado; salida de capital.

Introduction

The issue of money laundering is of great importance for the economy of both an individual state and the world because it is a global threat to economic security. There is no exact information on the amount of money laundered in the world, which indicates a high level of latency of this phenomenon. However, according to rough estimates of experts, the laundered income annually makes up from two to five percent of world GDP or from 1.6 to four trillion US dollars (Weeks-Brown, 2018). The situation is aggravated by the fact that in the context of the existence of organized crime and the growth of the shadow economy, existing money laundering schemes are transnational in nature, and unregulated virtual markets around the world provide an opportunity to launder money in the amount of 2.17 to 3.61 trillion US dollars annually (Karpuntsov, 2019).

Thus, money laundering has acquired such dimensions that it can serve as a source of financial and economic upheaval for any state and even individual regions of the world (Levchenko *et al.*, 2019). At the same time, the international anti-money laundering movement is larger in scale than all other areas of interstate cooperation (Karataev, 2012) because the criminally derived funds are usually placed on bank accounts of foreign states, the property of suspects subject to confiscation is located abroad, and suspects try to hide outside the state (Danyliak, 2018). Moreover, money laundering can be carried out using the services of the so-called conversion centers – international criminal groups, which focus on the development of money laundering schemes, as well as the implementation of such activities (Varnalii, 2001). In addition, criminals use various methods of money laundering related to offshore banks and international banking.

At the same time, each state should ensure the ability of law enforcement agencies, which counteract money laundering and investigate the facts of money laundering, to cooperate and exchange information both at the national and international levels. Instead, financial institutions are the primary contributors to counteraction and investigation. However, despite the existing instruments of mutual legal assistance that can be used in the process of international cooperation in the investigation of this crime, law enforcement agencies still experience significant difficulties regarding access and exchange of data, and the level of money laundering remains quite high. Against this background, counteracting money laundering remains one of the most important tasks of each individual state and the entire international community. Therefore, there is an objective need to strengthen international law enforcement cooperation in the field of combating money laundering, which, in turn, will help to reduce the number of crimes in this area, increase the competitiveness of the economy of each country and strengthen its position in the international arena.

Many scientific publications are devoted to the issue of international law enforcement cooperation in the field of combating money laundering, but researchers began talking about the need for international cooperation to combat organized crime only in the last century. Moreover, as S.V. Timofeev rightly observes, even those states that do not have close political and economic contacts usually do not neglect contacts in the field of combating crime (Timofeev, 2002). At the same time, I. Rohach notes that money laundering is closely linked to organized crime, so the fight against this phenomenon is most effective when it is comprehensive and coordinated in all countries (Rohach, 2014).

Because in the opinion of O.A. Vakulyk, N.S. Andriichenko, O.M. Reznik and others, organized groups use the lack of well-established interaction between law enforcement agencies within one state and with law enforcement agencies of other states (Vakulyk *et al.*, 2019). V.P. Holovina

(2004) also recognizes that international law enforcement cooperation is important for optimizing the investigation process, justifying the fact that the well-established mechanism of interaction between law enforcement agencies of the countries contributes to the effective, urgent receipt of information about the movement of money and the use of the status of business entities.

In addition, some studies have highlighted the need for law enforcement agencies to interact with financial institutions, which will certainly contribute to the effectiveness of international cooperation. Thus, R.S. Soroka and H.I. Sunak, exploring the causes and conditions of money laundering in Ukraine, recognize that one of them is the absence of an effective mechanism for law enforcement agencies to interact with banks and other financial institutions (Soroka and Sunak, 2014). Despite the fact that many works have been devoted to the issue of international interaction between law enforcement agencies with each other and with financial institutions in the field of money laundering, in practice, there is an acute shortage of research that would provide a comprehensive picture of the problems identified.

1. Materials and methods

In the process of research, both general scientific and special scientific methods were used: methods of systematic and critical analysis, formal logical method. The methods of systematic and critical analysis were used to justify the need to strengthen the international law enforcement agencies in the field of combating money laundering and to define the role of financial institutions in this field. One of the main methods that made it possible to formulate proposals for improving international cooperation is the formal logical method.

The system-structural approach was used to review publications on the issue of international law enforcement cooperation in the area under consideration and present the results of the research in a systematic way. The method of statistical analysis was used when working with officially statistical materials. The logical analysis method made it possible to prove that countering money laundering remains one of the most important tasks of each state. The analytical method was used to elaborate proposals to improve the mechanism of interaction in the investigation of money laundering cases.

Money laundering is a global crime. The persons involved in it are pursuing their activities internationally, with various goals, including:

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- avoiding countries/territories with a clear regulatory framework and a strong law enforcement system:
- using loopholes that exist because of a lack of communication and cooperation between law enforcement agencies in different countries;
- using the shortcomings of the regulatory framework and the work of law enforcement agencies specific to a number of jurisdictions;
- creating additional layers of transactions to complicate the tracking of the financial trail (Komisarov et al., 2015).

2. Results and discussion

Thus, the need to enhance international cooperation is explained by the existence of certain factors, which facilitate money laundering. The main factors include the following.

- 1. Lack of proper legal framework and loopholes in legislation. Despite the fact that the issues related to the anti-money laundering system are regulated by numerous international legal acts, the level of money laundering remains quite high. The reason for this, according to V. Shulekovskiy, is the serious problems between law enforcement agencies of different countries and the lack of legal framework; therefore, national borders are an element that contributes rather than prevents impunity for money laundering. Using loopholes in international law, certain criminals and criminal groups carry out illegal activities in global markets and are involved in international money laundering, in particular, choosing a country where banking secrecy is most stringent and oversight over law enforcement authorities is least effective or absent (Shulekovskiy, 2006).
- 2. Specific nature of money laundering in each country. Thus, the economy of Asian countries is characterized by intensive cash transactions, but there are no mechanisms that allow tracking transactions with a great sum of money. In Eastern Europe and the Commonwealth of Independent States, this process has its peculiarities mainly at the first stage of money laundering, which is associated with significant illegal cash flow. Much of the proceeds of criminal activity are laundered by exchanging currency and transferring it abroad. In Africa, money laundering is carried out using African emigrant groups in developed countries (Nikitina, 2006).
- 3. Continuous improvement of money laundering methods. Money laundering is carried out in several stages (placement, layering and integration), each of which uses various methods that are constantly being improved and changed as countermeasures develop, including on

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an international scale. The emergence of new money laundering methods has recently been associated with the popularization of virtual money, especially cryptocurrency, one of which is Bitcoin. Such currency, according to A. Soni and S. Maheshwari, is not controlled by public authorities, and its economic growth has spanned billions of dollars over the last few years (Soni and Maheshwari, 2018).

Thus, according to the Chainalysis research firm, which analyzed ways to launder criminal proceeds, only 2.8 billion US dollars in bitcoins were received illegally in 2019 (Chainalysis Team, 2019). Along with this, money laundering operations by organized groups are greatly simplified due to the functioning of online banks, which, in turn, makes it possible to hide the movement of criminal proceeds, while ignoring traditional state borders. In other words, the advent of Internet technologies has led to the emergence of new and improvement of existing money laundering methods.

4. Vulnerability of credit-banking systems. The use of shadow schemes during various operations by business entities, the introduction of the latest technologies in the financial sector, and the rapid development of the cryptocurrency market have led to the rapid development of money laundering with the participation of financial institutions (Leonov *et al.*, 2018). At the same time, those states that are experiencing an urgent need for financial injections may not reckon with the source of income, because it is becoming increasingly difficult for financial institutions to detect money laundering operations. In addition, most anti-money laundering schemes are implemented using banking or non-banking financial institutions. Moreover, none of the financial institutions is immune to the possibility of becoming an accomplice to money laundering.

Moreover, it is the specifics of credit activity that makes it easy to mask criminal proceeds, masking them as legal, because almost all types of banking operations are used for money laundering (Kondratyeva, 2017). The situation is complicated by the fact that sometimes banks or other financial institutions deliberately hide information about customer accounts, being afraid of losing their business reputation or referring to the existence of bank secrecy, which, in turn, makes it difficult to identify and investigate facts of money laundering.

5. Existence of offshore zones. Increased international cooperation is driven by the outflow of financial resources into offshore zones. Thus, 7 trillion US dollars is the amount equivalent to 8% of the gross domestic product of the world and represents the amount of private capital hidden, according to estimates, in offshore financial centers. A significant part of these funds was obtained from illegal activities (Lipton, 2019). At the same time, according to G. Zucman (2017), individuals have hidden 8.7 trillion US dollars in tax havens. Such discrepancies in estimates are related to the secrecy of offshore financial transactions, which guarantees a high level of

bank secrecy, anonymity, no significant currency restrictions and customs duties for foreigners, which allows for the free export of income. This explains the attractiveness of offshore zones for money laundering.

The impact of the above factors on the economic component of each country cannot be underestimated, given the possible risks of crime in the area of money laundering and the recognition by the world community of money laundering as a global threat to economic security. As S.G. Buyanskyi and G.V. Poryvaiev rightly point out, money laundering activity is closely related to such phenomena as capital outflows, corruption, the use of offshore zones by business entities in order to conceal the source of income, as well as illegal cashing, which are factors of the shadow economy (Buyanskiy and Poryivaev, 2018).

It is a threat to the economic security of the state and affects all areas of economic activity. However, an increase in the level of the shadow economy leads to a decrease in the value of economic security. S. Leonov, A. Boyko and others point out that a large part of the shadow sector in Ukraine is formed as a result of money laundering (Boiko *et al.*, 2019). According to data and forecasts, the level of the global shadow economy in 2017 amounted to 22.5% of GDP, and in 2020 and 2025 it will reach 22.11% and 21.39%, respectively (ACCA, 2017). Despite more or less consoling forecasts for 2025, the rate of decline is not the same for all countries.

The existence of the shadow economy is associated with tax evasion because the shadowing of economic activity is explained by the desire to hide the origin of income and the unwillingness to pay taxes. According to the Tax Justice Network, countries lose more than 3 trillion US dollars a year because they do not receive a significant part of taxes to the budget. As a consequence, lower tax revenues reduce the resources available for productive purposes, which impedes the sustainable and inclusive growth of states (Purcell and Rossi, 2019). In addition to all the above, obstacles arise in implementing the competitive opportunities of economic entities, and conditions are created for unfair behavior of individual market participants, which entails a decrease in the investment attractiveness of the state. According to the BDO (Binder Dijker Otte) International Business Compass (IBC) for 2018, Ukraine ranks 131st in the Investment Attractiveness Rating and 82nd in the Resource Utilization Index, where the top is occupied by North America, Oceania, Northern, and Western Europe (Friederiszick et al., 2018).

Given the above, there is no doubt that the effective counteraction to money laundering necessitates increased international cooperation of law enforcement agencies, given the global nature of this crime and its negative impact on the economic security of each country. Their well-coordinated work will prevent the commission of crimes with "dirty" money and will increase the probability of revealing the facts of laundering at the initial stage, which ultimately will positively affect the economy.

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Each country should understand that it is not protected from such a negative phenomenon as money laundering. If criminals or international criminal organizations notice that in a particular country counteraction to the crime is being improved and more decisive action is being taken, some offenders may move their illegal activity to other countries where the conditions for money laundering are more favorable and both the antimoney laundering system and justice system are weaker. In this regard, it is extremely important to cooperate with the law enforcement agencies of all countries, regardless of the level of economic development of each country, since the individual country is unable to ensure its own economic security.

However, even given the well-established international law enforcement cooperation, high-quality and effective anti-money laundering is not possible without law enforcement agencies interacting with financial institutions within the country, since effective international cooperation requires the rapid exchange of information on dubious transactions from banking and other financial institutions. Prompt exchange of information contributes to the fact that the crime is detected at the stage of preparation, and not after its commission since money laundering is a complex of interrelated criminal acts, where laundering itself is the last link of such actions.

Considering the role of financial institutions, we note that they are the most important part of the financial system because they involve domestic and international payments, as well as other financial transactions. In addition, financial institutions are vested with great responsibility as they are subject to initial financial monitoring and internal controls, and therefore have ample opportunities to identify suspicious revenue transactions. In particular, during 2018, the State Financial Monitoring Service in Ukraine specifically accounted for 99.02% of the total number of reports on financial transactions from banking institutions (State Financial Monitoring Service of Ukraine, 2018).

Accordingly, the primary function of financial institutions in combating money laundering is to identify suspicious transactions and forward information about them to an authorized body that transmits such information to law enforcement agencies, or directly to law enforcement agencies that detect, investigate and prevent crimes related to money laundering. It is important enough that the exchange of information does not violate the bank secrecy, because, as S.B. Gladkova rightly points out, the institute of bank secrecy is subject to a certain devaluation, and there is liberalization of access of law enforcement agencies to bank secrecy and the establishment of rather rigid liability (Gladkova, 2015). Consequently, the role of financial institutions is difficult to overestimate since it is quite difficult to detect crimes and counteract money laundering at an early stage without proper interaction between law enforcement agencies and financial institutions.

Issues related to the interaction of law enforcement agencies are reflected in numerous international legal rules. However, some scattering of such rules complicates their search for practitioners, and the latter spend a great deal of time examining national and international law. In addition, the lack of an effective and clear mechanism of interaction between law enforcement agencies of different states between themselves and financial institutions at the national level in the field of counteraction to money laundering causes low efficiency of their activity in detecting, termination and investigation of money laundering facts. At the same time, the process of obtaining information is delayed due to the absence of a clearly defined procedure for its exchange. As a result, the perpetrators have the opportunity to conceal the crime and avoid liability.

Since money laundering differs from other crimes by its unpredictability, latency, multiple episodes of financial transactions and property transactions, and crimes are committed in many cases by organized groups, most of which operate in cross-border space, it is advisable to consider the complexity of the investigation of this crime, and the lack of proper methodological developments further complicates it (Sukhonos, 2012). A similar opinion is expressed by A.N. Klochko, N.I. Logvinenko, T.A. Kobzeva, E.I. Kiseleva, who, based on the analysis of money laundering, came to the conclusion that it is necessary to develop methodological recommendations for the investigation of specified criminal cases, because practice shows that the method of crime prevention in the field of banking requires new scientific approaches and modern knowledge about methods used to commit these actions (Klochko et al., 2016; Guarascio, 2019).

Conclusions

In view of the above, in order to enhance the international law enforcement cooperation, it is necessary to establish close cooperation by developing a method of interaction to counteract money laundering, which will reflect specific aspects of interaction, in particular ways and methods, which will be based on proven foreign experience and scientific development of scientists. The methodology also needs to provide specific guidance on the mechanism of information sharing between law enforcement agencies and financial institutions within a particular country, in particular by improving information sharing and access systems, thereby reducing the timeframe for obtaining certain data. It is important to provide a mechanism for overseeing the processing of such data and the validity of access to it.

We believe that such a proposal must first be tested at the regional level of the European Union, and responsibility should be borne by a special agency. Such an agency could be a new independent body that will tackle the issue of money laundering, which is already being discussed in the EU. The development and implementation of the methodology will make it possible to achieve a higher level of enforcement by law enforcement officers and will influence effective and efficient cooperation to combat money laundering. This, in turn, will increase the level of protection of the economic security of each country because it will reduce the level of money laundering, will lead to an increase in the level of the state budget revenues and a decrease in the outflow of national capital outside the country, reduce the level of the shadow economy and affect the level of investment attractiveness of the country, and also reduce the level of economic crime.

Money laundering as a threat to economic security and a global crime has raised the issue for all countries about the need to strengthen international cooperation between law enforcement agencies in the field of countering money laundering. In this case, international cooperation will be successful if carried out at both national and international levels. The need for law enforcement cooperation is due to the fact that without international cooperation it is impossible to ensure the collection of evidence outside the country, the criminal prosecution of perpetrators outside the country, as well as compensation for losses or the return of lost income. Accordingly, the proposal to develop a methodology for the interaction of law enforcement agencies of different countries to counteract money laundering will allow taking such interaction to a new level.

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