

**LIABILITY FOR MONEY LAUNDERING AND CLASSIFYING THESE TYPE OF CRIMES**

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**ABSTRACT**

This article describes the concept and forms of money laundering, crimes of money laundering in the Republic of Uzbekistan, their social risk, differences between money laundering and the classification of system and criteria of these crimes, the liability for money laundering and the fight against these type of crimes. Also, the study of the criminological description of the crime of money laundering, the analysis of international legal norms in the fight against money laundering as a subject of study in international and national law, as well as methods of combating money laundering and their prevention is to study the peculiarities of foreign experience in the practice of acquisition.

At the same time, proposals were made to improve national legislation by analyzing the benefits of criminal activity, the content of the International Convention for the Suppression of Crimes, the way of practice and legislation of foreign countries and its advantages. The decisions of the FATF in ensuring cooperation between states in combating money laundering and the development of international standards, the recommendations of which reflect the international program to combat money laundering by individuals and legal entities using the capabilities of the financial system. In other words, the practical significance of the implementation of the FATF recommendations in the fight against money laundering schemes, laundering of proceeds from real criminal activities. Based on the recommendations of the FATF, opportunities for rapid response to crimes in this area have been provided.

**Keywords:** legalization, organized crime, judicial system, economy, classification of crimes, criteria, crime, international law, money, modern information, law and order, corruption, criminology, drugs, trade, debt, gift, pledge, lease, exchange, state, official.

**INTRODUCTION**

To date, the crimes of money laundering reflect the nature of international organized crime and require a serious fight against it.

In particular, in the Republic of Uzbekistan, the issue of combating this type of crime has always been given serious attention. The main reason for this is that this type of crime is

transnational in nature, and new ways of committing this crime are emerging day by day. The reason for the international attention to the crime of money laundering was, first of all, the restriction of its use through the legalization of criminal proceeds from drug trafficking. Because it is precisely these crimes that pose a threat to the legitimate economy as a result of the free flow of income into economic circulation.

In this article, we will examine the following situations. That is, to study the criminological description of the crime of money laundering, to analyze the international legal norms of combating the crime of money laundering as a subject of study in international and national law, as well as methods of combating money laundering and their prevention is to study the peculiarities of foreign experience in the practice of acquisition.

Decree of the President of the Republic of Uzbekistan No. PF-4947 "On the Strategy for further development of the Republic of Uzbekistan" dated February 7, 2017 provides for a number of reforms in this area by including the issue of further reform of the judicial system in 2017-2021. As a practical continuation of this decree, on May 27, 2019, the Presidential Decree adopted the State Anti-Corruption Program for 2019-2020 and approved the updated composition of the Interdepartmental Commission on Combating Corruption headed by the Chairman of the Senate. A key aspect of this is that the establishment of a commission is an optimal option in the fight against money laundering. This is because these types of crimes are now mainly committed by officials through money laundering or property laundering.

In the Republic of Uzbekistan, a number of practical measures are being taken to combat the crime of money laundering. In particular, the Law No. 660-II of August 26, 2004 "On Combating Money Laundering, Financing of Terrorism and Financing of Weapons of Mass Destruction" was amended on January 15, 2019 by Law No.516. Now, we will focus on the causes of the crime of money laundering and the conditions that allow it to be committed.

According to Article 243 of the Criminal Code of the Republic of Uzbekistan for the commission of this type of crime, legalization of proceeds from crime, ie the transfer of property (money or other property) as a result of criminal activity, as well as concealment or secrecy of the original nature, source, location, disposition, method of transfer, actual ownership of money or other property or to whom it belongs, as well as concealment or secrecy; criminal liability has been established for this.

Factors such as the development of modern information and communication technologies, the development of international money transfer systems, the emergence of virtual money have also made the crime of money laundering a topical issue at the international level. This, in turn, requires the development of international cooperation in the fight against such crimes, the training of qualified specialists in the fight against these crimes, the study of foreign experience in this area.

Strengthening the economic foundations of the state, increasing the welfare of the people has been identified as one of the socio-political guarantees. In particular, the development of a market-based economy and the achievement of the expected economic benefits are currently hampered in many ways by economic crimes, especially the legalization of criminal proceeds.

In this regard, the Law of the Republic of Uzbekistan “On Combating Money Laundering and Terrorist Financing” was adopted on August 26, 2004, and relevant amendments were made to the criminal law and other normative legal acts.

Several sections of the current criminal law provide for state, official and economic crimes against state and public property, the criminal content of which is similar to the legalization of criminal proceeds. However, this is a similarity in some respects, the crime of legalization is a relatively new crime and is determined on the basis of an in-depth analysis of financial transactions, administrative and other actions.

Legalization is conventionally divided into two forms: simple and complex. The simple form is a stage of complex legalization in terms of structure, it represents various administrative and commercial activities, including multilateral financial transactions, commercial, financial and banking structures, insurance companies, other organizations and institutions, commercial establishments and others. It should be borne in mind that in the early stages of the transition to a market economy, the process of denationalization and privatization was not sufficiently regulated, which created certain opportunities for illegal acquisition of capital (cash and other property) and its accumulation in the hands of individuals and legal entities. "Hidden" capital is a secret capital that is formed as a result of criminal activity and is not taxed.

Legalization is the withdrawal of money from "hidden" capital and its legal circulation, ie giving them (money and other property) the legal status of the legal property of a particular individual or legal entity. The term “money laundering”, which means “legalization”, was used in the 1920s to refer to criminal activity that sought to give full legal status to “hidden” capital obtained through crime. Given the threats to the rule of law in the economic and financial spheres, it is important for Uzbekistan to prevent criminal investment from entering the economy and other public activities. Because the legalization of criminal assets undermines the economic security of the state.

The danger of money laundering is that the perpetrator legitimizes the proceeds of crime and conceals the source of the proceeds. This, in turn, hides the crime committed and gives free access to criminally obtained property. "The legalization of criminal proceeds generally means the concealment of the sources of such proceeds and their legal entry into economic circulation." The reason for the international attention to the crime of money laundering was, first of all, the restriction of its use through the legalization of criminal proceeds from drug trafficking. Because it was the proceeds of these crimes that endangered the legitimate economy as a result of the free entry into economic circulation. Therefore, in order to combat drug and psychotropic substance trafficking, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) was adopted on December 20, 1988 in Vienna. Following the adoption of this UN convention, the legalization of criminal proceeds has necessitated criminalization in international norms.

In particular, the UN Convention against Transnational Organized Crime of 15 November 2000 and the Convention against Corruption of 31 October 2003 criminalize money laundering and criminalize the legalization of money laundering in their legislation. Article 6 of the Convention defines understanding, purpose and intent as an element of the crime, based on the objective fact of the case. That is, the Convention states that the intentional, intentional commission of



a crime is an element of the crime. Hence, the purpose of the perpetrator in the crime of money laundering is to conceal the source of its origin by giving a legal character to the criminally obtained property or income. In addition, the Convention does not refer to the legalization of income from any crime, but, as mentioned above, the imposition of imprisonment for a term of not less than four years or more.

Article 23 of the Convention against Corruption is called money laundering. The basic provisions of this article are also in line with the provisions of Article 6 of the UN Convention against Transnational Organized Crime of 15 November 2000. It also provides for liability for money laundering as a result of the offenses provided for in this Convention.

It is also noted that when the basic principles of the domestic law of the States allow, States Parties may impose a separate liability for money laundering not applicable to persons who have committed a major crime (the main crime - a crime involving property or income). Both of the above conventions provide for liability for money laundering as a result of certain crimes.

The Financial Action Task Force (FATF), established in 1989, plays an important role in ensuring cooperation between countries in the fight against money laundering and the development of international standards. While the FATF's decisions are of a recommendatory nature, their recommendations reflect an international program to combat money laundering by individuals and legal entities using the capabilities of the financial system. That is, the implementation of the FATF recommendations will have practical significance in the fight against money laundering schemes, money laundering from real criminal activities. The FATF's recommendations provide an opportunity to respond quickly to crimes in this area.

The Warsaw Convention of the European Union of 16 May 2005 gave a broader definition of criminal proceeds. According to it, any economic benefit directly or indirectly obtained as a result of the commission of a crime is understood. The Vienna Convention on the Seizure of This Criminal Income differs from the notion of income earned as a result of criminal activity as property or assets acquired at the expense of such income. Pursuant to Article 5 of this Convention, if criminal proceeds are transferred to another property, the property, not the proceeds, is confiscated. If the proceeds of crime are added to other legally obtained sources, i.e., the property is obtained by adding the legally obtained income and the illegally obtained income, the confiscation applies only to the amount of the illegally obtained (criminal) income. In addition, proceeds from criminal proceeds will also be confiscated.

An analysis of the above international documents shows that the Vienna Convention against Transnational Organized Crime of 2000, the Convention against Transnational Organized Crime of 2000, and the Anti-Corruption Conventions of 2003 limit the scope of the main (predicate) crime in the concept of money laundering. The Warsaw Conventions reinforce the concept of money laundering as the result of any crime. In our view, it would be correct to understand that money laundering is an attempt to intentionally legitimize an asset obtained as a result of any crime. We noted above that the legalization of criminal proceeds, that is, the use of criminal proceeds in a legal manner, is dangerous for the legal economy. Therefore, states have enshrined this act in their legislation as a crime. In particular, Article 243 of the Criminal Code of the Republic of Uzbekistan is called money laundering. According to it, "legalization of proceeds from crime, that is, if the property (cash or other property) was found as a result of

criminal activity, legalization of its origin by transfer, conversion or exchange, as well as such money or other property - concealment or secrecy of the original nature, source, location, method of disposal, transfer, actual ownership of money or other property or to whom it belongs.

Therefore, in the context of this article, the legalization of income from criminal activity is understood as the legalization of property found as a crime, that is, giving it a legal character, concealing its source.

In addition to the fact that the crime of money laundering is now recognized by the international community as a transnational crime, its commission may have consequences of special significance for the international community and criminal acts may be committed as a result of non-compliance with international obligations. is recognized as a crime of a transnational nature due to the need to work together in the struggle (international legal cooperation).

With regard to the criminological aspects of the crime of money laundering, this type of crime is usually committed objectively in the disclosure of income from criminal activity, ie by legitimizing the acquisition of property in various ways.

Criminal proceeds may be disclosed in the following forms: transfer of property obtained as a result of criminal activity; conversion into property; replacement; concealment or secrecy of the original nature, location, disposition, method of transportation, actual ownership of the property or to whom it belongs as a result of criminal activity”.

Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On some issues of judicial practice in cases of money laundering" from February 11, 2011 No. 1 In this case, the fact of legalization of the property must be established. This means that when prosecuting a person under Article 243 of the Criminal Code, the first (predicate) crime must be identified.

Attention should be paid to the fact that the crime provided for in Article 243 of the Criminal Code is committed intentionally by a subject. That is, a person commits a crime by transferring the proceeds of crime, transferring it to property or legalizing its origin, transferring the proceeds of crime to the original nature, source, location, method of disposal, transfer, cash or other is done in order to conceal or keep secret the actual ownership of the property or to whom it belongs. For example, a person acquires criminal income as a result of drugs, bribery, human trafficking and other crimes, and in order to legitimize the origin of this income, that is, to freely dispose of these funds, he buys high-value real estate at a low price. He then formalizes and sells this real estate for several tens of times more expensive. In practice, the property is provided free of charge or at a low price. In this case, the person officially legalizes the property at the contract price. That is, it gives a legal character to the proceeds of crime, concealing its source of origin. This example is an example of the legalization of proceeds of crime, and the person intentionally commits these actions in order to legalize the proceeds of crime.

It should be noted that the transfer of any criminal proceeds does not constitute income legalization. The following explanation is given in the above Plenum decision. “Courts should differentiate between money laundering and the acquisition or transfer of criminally obtained property. In particular, the acquisition or transfer of property found as a result of a crime (for example, looting), if such property is not legally owned (for example, a technical passport or power of attorney for the sale of a stolen car is forged), money laundering (Article 243 CC).

Depending on the circumstances of the case (including the purpose of the transaction with the looted property), such actions may involve participation in the looting of another's property (in the form of an auxiliary) or the acquisition or transfer of criminally obtained property (Article 171 CC). It can also be qualified as forgery of documents, if there are grounds for it. ” That is, in this explanation, the person does not attempt to change the source of origin of that property in the acquisition or transfer of criminally obtained property.

Paragraph 3 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On some issues of judicial practice in cases of money laundering" provides the following explanation. “According to Article 243 of the Criminal Code, money laundering should be understood as the legalization of the origin of property (money or other property) acquired by the perpetrator as a result of criminal activity. The object of property in such cases may be any property provided for in Article 169 of the Civil Code. The legalization of such property is expressed in the performance of financial transactions and other transactions with cash or other property. Financial transactions include operations involving the movement of capital, including the recording of funds, their placement in savings accounts in various banks, conversion into another currency, the purchase of securities for illegally earned money, the return of funds abroad to a bank account. Legalization through transactions means the sale, debt, gift, pledge, lease, exchange, etc., which are made in the same way as in civil law. The structure of contracts is understood. In our view, the perpetrator of money laundering must prove that his or her actions were intended to legalize the proceeds of crime in the course of the above transactions or transactions. Failure to prove this intent will only lead to the prosecution of a person for a crime (predicate) which is the basis for the acquisition of criminally obtained property. For example, a person commits the crime of theft, earns a large amount of money and buys a car with this money. In this case, even if a person has obtained a large amount of money in a criminal way, the car he bought is not considered to be money laundering. Because here the intention of the person is not aimed at giving a legal character to the criminally obtained property. That is, the person cannot show the legal source of the car he bought in this case. Conversely, a person who earns a large amount of money as a result of theft should be prosecuted for money laundering only if he gives the money to the seller of the car and receives the car through a gift contract and if the person is found to be laundering criminal proceeds. Proceeds from crime and property acquired as a result of such proceeds shall be returned to the legal owner or confiscated. The following explanation is given in paragraph 7 of the above decision of the Plenum of the Supreme Court. “Courts should take into account that property obtained from money laundering is the subject of a crime under Article 211, paragraph 5 of the Criminal Code, Article 243 of the Criminal Code, and according to Article 204 of the Civil Code must be confiscated after compensation for material damage to an individual or legal entity. If during the trial of a person accused of committing an offense under Article 243 of the Criminal Code, it is established that no money or a certain part of the property has been criminally acquired, they must be returned to the rightful owner in accordance with Article 211, paragraph 4 of the Criminal Code. This explanation is also consistent with the provisions of Article 5 of the Vienna Convention, quoted above. Thus, in the case of confiscation of legalized property



under Article 243 of the Criminal Code, the part of the property that has not been criminally acquired is returned to the legal owner.

Foreign countries also have norms of liability for money laundering. In particular, the Criminal Code of the Russian Federation provides for liability under two articles for legalization. In particular, Article 174 of the Criminal Code of the Russian Federation is entitled "Money laundering or other property", while Article 174.1 is entitled "Money laundering of money or other property by a person who has committed a crime." That is, the Russian Criminal Code establishes a separate liability for the legalization of property found as a result of a crime committed by another person, with the legalization of property found as a result of a crime committed by him. Liability for money laundering and foreign experience in this area.

In the doctrine and practice of international law, money laundering is recognized as "money laundering" and the use of the legal financial system to conceal the "real" appearance of money obtained through drug trafficking, bribery, theft and other illegal activities. Linking the legalization of criminal proceeds to specific crimes complicates the formation of a common view for states on liability for this crime. Therefore, a special convention on combating money laundering was adopted by the EU member states on November 8, 1990 in Strasbourg. Article 6 of this Convention referred to crimes related to the legalization of criminal proceeds in contrast to the above conventions. The Convention provides for the legalization of proceeds of crime from the proceeds of crime. The provisions of this convention were further elaborated in the EU Convention on the Legalization, Detection, Seizure, Confiscation of Money Laundering and the Financing of Terrorism, adopted in Warsaw on 16 May 2005. The gradual adoption of such conventions will allow states to work together to combat this type of crime and jointly develop effective ways to prevent money laundering.

The concept of illicit (criminal) income was first defined in an international convention in Article 1 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988, which directly or indirectly resulted from illicit trafficking in narcotic drugs and psychotropic substances, any property acquired or acquired (here, property means any form of asset, tangible or intangible, movable or immovable, divisible or indivisible, legal documents giving the right to own or participate in such assets) is defined as illegal (criminal) income. Thus, the Convention does not refer to criminal proceeds from any crime, but to proceeds from the illicit trafficking of narcotic drugs or psychotropic substances.

Given that the criminal law of the Republic of Uzbekistan is relatively close to the criminal law of the CIS countries, their legislation provides for liability for such crimes and their practice. Article 218 of the Criminal Code of the Republic of Kazakhstan, Article 243 of the Criminal Code of Moldova, Article 235 and Article 209 of the Criminal Code of Ukraine also provide for differentiated liability for legalization of criminally obtained property and provide for alternative punishments. In addition, in the Criminal Code of Ukraine, this crime is included in the category of crimes against economic activity, in the Criminal Code of Russia, Belarus, Moldova, Kazakhstan - crimes against the order of economic activity. The Criminal Code of the Russian Federation provides for differentiated liability for legalization of criminally obtained property. In particular, the commission of a large amount by Part 2, by a group of persons with prior conspiracy or using their official position, Part 3, and by a large number or by an organized

group as an aggravating circumstance, Article 1741, Part 4 of the Criminal Code. will be the basis for liability with part. In addition, all parts of the article define alternative types of punishment. Now let's make the following recommendations for the development of practice:

First, it was found necessary to pay sufficient attention to the necessary qualifications and training of law enforcement officers, to eliminate the lack of knowledge in the financial and legal fields and to provide annual training for this category of staff with the involvement of highly qualified specialists. In this regard, in cooperation with the Academy of the Prosecutor General's Office to train personnel working in the fight against money laundering, to provide them with the necessary knowledge about the concept and differences of this crime, the mechanism of combating it;

Second, the following innovative measures to prevent this crime are proposed, as the development of Internet services will create a new opportunity, sufficient to legalize proceeds from crime:

- Strengthening the procedure for identification of payers;
- Limiting suspicious transactions and strengthening customer control, as well as payment control and reporting;
- Licensing of banking and non-bank mobile financial service providers.

In conclusion, based on the above, the issues of international legal cooperation are also important in the fight against money laundering, which stems from the legal nature of the crime and is one of the necessary conditions for combating it. Practical results can be achieved through the introduction of modern techniques and technologies in the fight against money laundering and a broader understanding of what methods and techniques are used to reduce crime in developed countries.

Given the fact that the change in the form of property and other means derived from criminal activity is included in the national economy, it is expedient if the subject of the crime is confiscated. In addition, to further strengthen procedural and other forms of cooperation and mutual legal cooperation between law enforcement agencies. In addition, it is important to study international experience in money laundering, develop international cooperation in this area, comparative analysis of foreign legislation on these crimes, rapid detection of crimes related to money laundering and improve national legislation.

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