

Anti-money Laundering by Restricting Financial Transactions

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Keywords: Criminal law, operational-search activities, banking, crime, money laundering, banking.

Abstract: The goal of this research is to study the methods of money laundering with the development of science-based measures to identify committed and prevent planned unlawful acts by competent units of law enforcement authorities performing operational-search activities. To achieve this goal, the following research methods were used: analysis, abstraction, description, comparison, generalization, inquest, dialectics. Analysis of the current situation shows that, despite the awareness of the money laundering problem at the global level and a significant improvement in the legal framework, the number of annually registered crimes in this category does not decrease. The research of methods of money laundering and the determination of their features, made it possible to determine the directions for improving the system of measures for detecting and preventing crimes, as well as to develop recommendations for the inclusion in the current legislation of legal norms aimed at temporarily limiting (prohibiting) transactions with monetary funds and other assets. The practical significance of the research lies in the fact that the proposals presented in the article can contribute to the development of an effective mechanism for combating money laundering.

1 INTRODUCTION

The seriousness of the money laundering problem throughout the world is evidenced by the fact that the fight against this negative phenomenon is relevant for many international organizations. For example, the UN Security Council resolutions provide for measures to restrict (prohibit) financial transactions with a certain circle of individuals and organizations in order to combat the financing of terrorism.

According to the official statistics of the Ministry of Internal Affairs of the Russian Federation, 950 crimes were registered in 2020 in Russia, responsibility for which is provided for by Articles 174 and 174.1 of the Criminal Code of the Russian Federation, an increase was 0.4% in comparison with the previous reporting period (FKU "GIATs Ministry of Internal Affairs of Russia", 2021). What can also signal about the lack of measures taken to reduce the level of money laundering?

As a result of effective interaction between banking organizations and authorities performing operational-search activities (hereinafter - OSA), it is

possible to identify committed and prevent planned unlawful acts (Alaeddin et al, 2019; Sartor, Beamish, 2020). Accordingly, in order to fulfill the tasks assigned to law enforcement authorities, it is necessary to study the main features of money laundering, methods of committing crimes, since without this knowledge it is rather difficult to fully implement the entire range of necessary measures aimed at countering crimes of this category (Singh, Best, 2019).

The money laundering issue is anyway addressed in the researches of domestic and foreign experts of criminal law and operational-search activities. However, currently, there are many unresolved issues related to the provision of information by banking organizations to law enforcement authorities about possible suspicious activities of banking entities related to the need to improve legislation on restricting (prohibiting) illegal financial transactions in order to effectively respond in real time.

Wherefore, this research, in addition to studying the methods of money laundering, pays attention to the development of science-based measures to identify and prevent this category of crimes by law

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enforcement units performing operational-search activities, taking into account the specifics of domestic legislation, and formulated proposals for its improvement.

2 MATERIALS AND METHODS

In the course of the research and data collection, attention was drawn to both the global and domestic state of the money laundering problem. Various methods were used to obtain up-to-date and reliable data.

An analysis of scientific literature and research on the selected topic was performed for the period from 2015 to 2020, using search databases. Keywords included a combination of analytical concepts and types of criminal activity. Then secondary selection criteria were added to the search queries, the search included only peer-reviewed sources. The following resources were mainly used: Elibrary, ProQuest Scopus, Web of Science. All query results were processed manually to determine their relevance to the research issue. As a result of the work done, many sources that are directly related to the researched issue were excluded from the initial list. Empirical research was focused on. Such criteria made it possible to significantly narrow the range of researches relevant for the data analysis in terms of their methodological significance, as well as an assessment of empirical conclusions that were significant for the research.

In course of the research, surveys and interviews were conducted among law enforcement officers, state supervisory authorities of banking, managers and employees of banking and credit organizations, specialists of criminal law and the theory of operational-search activities in Moscow, the Russian Federation, where most banking and credit organizations are registered and operate (208 of 406 (Bank of Russia)). In total, 30 people of each category were interviewed, with a total of 120 respondents for October - December 2020. All surveys and interviews were analyzed, the results were compared with data from publications of other researchers.

The empirical basis of the research was the official information of law enforcement authorities on the registered facts of committing unlawful acts in this category and the number of criminal cases initiated, as well as sentences passed by Russian courts of various levels.

3 RESULTS AND DISCUSSION

Money laundering always acts as an additional criminal act that takes place after the commission of a predicate offense. Based on the data obtained as a result of the analysis of criminal cases and court sentences conducted in the course of the surveys and interviews, it was established that among the main predicate offenses are corruption crimes against property and of economic activity, committed in banking, real estate and construction, foreign economic activity, consumer market, fuel and energy, timber and agro-industrial complexes.

Despite that the money laundering facts can be detected by almost any authority that conducts OSA, the overwhelming majority of crimes in this category are detected and disclosed by specialized divisions of the Internal Affairs Directorate and the Federal Security Service (FSB).

The most popular method of money laundering is the acquisition of high-value assets owned, according to the results of expert research, by 94% of persons who have committed predicate offenses (Rodichev, 2016). In this case, criminals do not always register property in their own name, asking for help in rights registration to persons who are in trust with them (Demetis, 2018). According to the survey results, in most cases, such persons are close relatives of the lawbreakers (parents, children, spouses).

Considering that low official incomes of nominees (Ravenda et al, 2019), as well as payments for transactions from settlement accounts of "fly-by-night companies" (Bahoo, 2020), can act as signs of money laundering through the acquisition of high-value assets, in this case, not only the task of the OSA related to the detection, prevention, suppression and disclosure of crimes can be performed, but also the task of identifying the property subject to confiscation (Federal Law № 144-FZ, Article 2, 1995). Also, one of the most common ways of money laundering is the conversion of funds from the national currency into other types of currencies. This method feature is that the criminals receive a large amount of cash into the account, and immediately acquire another currency with it, usually freely convertible (Asteriou et al, 2021).

To acquire currency, criminals, as a rule, select people with low income (students, pensioners, migrants) who are ready to take part in such schemes for a small fee. Nominee buyers are used in the scheme in order to avoid fixing the personal data of real buyers of foreign currency at the credit institution. Immediately after the transaction, the currency is transferred by nominee buyers to

criminals. According to the results of a survey of law enforcement and government officials on banking supervision, 86% of criminals using this method of legalization prefer US dollars and EURO.

The considered method of legalization often has the following features:

1. the contacts of persons purchasing the currency with persons who have committed a crime preceding the money laundering from such an offense. Often, visits to credit institutions and the purchase of foreign currency by nominee buyers take place under the control of the beneficiaries;
2. purchase of foreign currency in large amounts by persons aged 18 to 23 and over 60;
3. purchase of foreign currency in large amounts by foreign citizens, as a rule, of the CIS member states, without further transfer to the countries of which they are residents.

It should be noted that crime documentation, during operational-search activities, is facilitated by the availability of video recording equipment with which credit institutions and ATMs are equipped. In this case, the joint visits to credit institutions by nominal buyers and offenders, assistance to dummies in filling out documents for the purchase of currency, as well as its transfer to offenders after purchase can be confirmed.

In accordance with the OSA tasks, in this case, it is advisable to send relevant inquiries to credit institutions within the OSA "Inquiry", in compliance with the requirements established by law (Federal Law № 144-FZ, Article 6, 1995).

As a rule, lawbreakers resort to another method when it is necessary to legitimize the funds received by them of criminal schemes related to embezzlement of public funds in the execution of state and municipal orders, business activities. In this case, the offenders include the money and property obtained in a criminal way into legal activity by paying for the purchased goods, services rendered, fulfillment of credit obligations and other reasons.

The transfer of funds to the settlement accounts of legal entities and individual entrepreneurs is performed by criminals, as a rule, shortly after the commission of the predicate offense. The fancy financial transactions will be evidenced by the documents that served as the basis for their commission (contracts, payment orders, etc.), copies and originals of which can be obtained by the bodies authorized to perform OSA by inquiries.

Splitting large sums into smaller ones and then crediting them to one account is another way that criminals use to legalize illegal funds.

In this case, lawbreakers, as a rule, are aware that if the amount of monetary funds or property transaction is greater than or equal to 600,000 rubles or equivalent to 600,000 rubles (when performing a transaction in foreign currency), it is subject to mandatory control in accordance with the legislation and credit institutions are obliged to submit relevant information to Rosfinmonitoring (The Federal Service for Financial Monitoring (Rosfinmonitoring) is a federal executive body of Russia that performs the functions of countering the money laundering and the financing of terrorism, as well as on the development of state policy, legal regulation and coordination of activities in this area of other federal executive bodies).

Accordingly, Rosfinmonitoring does not have information on transactions less than the indicated amount, if credit institutions themselves do not provide information on financial transactions in amounts less than the amount established by law if there is a suspicion of the legality of their performance. However, given that such transactions usually have one beneficiary and are performed in a relatively short period of time, the use of automated monitoring and analysis systems of transactions by credit institutions could have a positive effect on counteracting this type of activity.

It is worth emphasizing that criminals often use a combination of several methods to legalize. The lawbreakers choose the method taking into account the specifics of the illegal activity, but, as a rule, it includes transit payments through the accounts of intermediary firms with the subsequent cashing of funds.

It is necessary to be conscious of the fact that the method of legalization is determined by criminals based on the object features (cash or non-cash funds, real estate, etc.), the presence of ties with the executive authorities and organizations performing banking activities, geographic location and other circumstances. Although, it is worth noting that recently criminals are not limited to illegal activities within the national borders of one state. Criminal organizations have benefited from a growing global marketplace and technological advances in communications and transportation (Lord & Levi, 2017, Bahoo et al, 2020). According to the Europol Serious and Organised Crime Threat Assessment (SOCTA), based on the analysis of collected data on organized crime, as well as intelligence stored in Europol databases, seven of ten organized crime groups operate in more than three countries (European Police Office (Europol), 2017). About 1% of GDP within the EU is attributed to

illegal financial activities such as money laundering. This corresponds to approximately EUR 160 billion (Premti et al, 2020) Moreover, the identification and investigation of transnational crimes is complicated by the lack of proper interaction between the authorities of national states, their evasion from providing legal assistance to other countries (FATF, 2020).

A negative phenomenon can also be the fact that banks and credit organizations often report the implementation of suspicious transactions long after they were performed (Truntsevsky, 2011). Shortfalls in the banking sector regulation are revealed in the course of international studies of mass money laundering with the participation of large international banks. For example, the ICIJ report (International Consortium of Investigative Journalists) states that only for the period from 1999 to 2017, the internal control employees of financial institutions identified suspicious transactions that showed signs of possible money laundering or other criminal activity totaling over USD 2 trillion, including USD 514 billion at JPMorgan and USD 1.3 trillion at Deutsche Bank (ICIJ, 2020, Schnauder, 2020).

Remarkably a transaction that is suspicious in terms of financial transparency is not necessarily evidence of criminal behavior, but each such transaction deserves attention and appropriate scrutiny (Lord, Wingerde & Campbell, 2018, Xie, Reddy, Liang, 2017). In this regard, it seems logical to develop and apply legal norms that allow the competent authorities of OSA to temporarily restrict (prohibit) the financial and other transactions with monetary funds in the presence of reliable information about the crime commission, in cases where delay may lead to concealment proceeds from crime (96% of respondents agreed with the feasibility of this proposal).

4 CONCLUSIONS

Despite the importance of timely response to the revealed facts of criminal activity and the expediency of blocking offense-related property, in truth, there is a problem of the quick decision-making process on blocking funds and other property. In this case, the OSA authorities do not have the powers to block offense-related property. Accordingly, if there is information about the illegal transactions and financial transactions, a number of approvals shall be made to prevent their fulfillment, to prevent the withdrawal of funds abroad.

The bank accounts blocking shall have a legal basis, and arbitrariness on the part of employees of operational units shall also be excluded. It seems appropriate to allow the competent authorities to temporarily restrict (prohibit) the financial and other transactions with monetary funds or assets at the legislative level for a period of up to three days in the production of impatient postponements of the OSA. These norms should be applied in cases where delay may lead to the concealment of the proceeds of crime.

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