

Money Laundering and its Economic Impacts in the Context of the Fight Against Terrorism

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The sources of the process of “money laundering” and its influence on economic and law system of the country, the general sources of the capital obtained by criminal actions and the ways of its legalization are analyzed in the article. The rules of criminal capital in the Criminal Code of Lithuanian Republic or legalization of the capital, object, subject, objective and subjective aspects are reviewed. Having analyzed academic literature, also having used the personal and other specialists’ experience the concept of “money laundering” and its influence on the state economy are defined. International experience of the fight against “money laundering” is used in the article. The aim of the article is to study the conception of the process of “money laundering” on economic and juridical aspects. It is also important to envisage possible measures and methods which can help to fight with money laundering and disclose the connection between money laundering and financial support of terrorism. Besides, an assessment of the process of money laundering economically is offered in the article, and the general sources of illegal income are analyzed. It is pointed what influence is possible or takes place legalizing illegal money. Financial support of terrorism is one of the most important aims while using illegal money nowadays. Possible sources of financial support of terrorism and ways to conceal the real origin of illegal money, sources and organizers are found. Undoubtedly, the use of offshore companies is a concurrent of the process of money laundering. The bounds of possible amenability for money laundering are stated.

To fight against financial support of terrorism Lithuanian Republic passed the law on the prevention of financial support of terrorism. The purpose of the law is to find out the remedies to prevent money laundering and (or) financial support of terrorism as well as institutions, which are responsible for these preventive measures realization. The law is passed with reference to European Union juridical acts and their ensured practice. Negative and positive aspects of the strategy of prevention of terrorism directed to fighting against terrorism are accentuated.

Keywords: money laundering, offshore companies, terrorism

Introduction

Relevancy of the topic. Money, capital as a result of criminal actions (for example, drug traffic or psychedelic agents’ trade) does’nt disappear. After having concealed their illegal origin it can be legalized and used for business development, investments, and other purposes, including criminal ones. A great flow of illegal money can mine the stability and reputation of financial system also the stability and safety of the country’s home market can be endangered. Illegal money disgorging into market economy has negative influence on the state: frustrates the trust in the state’s domestic and foreign policy, especially economic policy, stimulates development of corruption, unbalances prices, manufacturing, services, stimulates inflation increase, and provokes dissatisfaction with the models of the country economy development which can be expressed by a certain part of society. It is one of the criminal acts towards the financial system, investigations of which are considered to be especially difficult. Giving definition of what activity is treated as money laundering is necessary. Offshore companies are often used for money laundering.

The object, subject, subjective and objective aspects of money laundering as a process, also sources of criminal capital and ways of its legalization are analyzed in the article.

Having analyzed academic literature, and having used the personal and other specialists’ experience the concept of “money laundering” and its influence on the state economy are defined. For this purpose it is necessary to find out the canals of money laundering and their organizers. In order to do this it is also necessary to study international and national juridical acts, to present the conception of money laundering, the actions, which frame an objective aspect of this criminal act.

Object. The process of money laundering influences on the economy of states, an assessment of the process of money laundering on economic and juridical ground.

The aim of the article is to study the conception of the process of money laundering on economic and juridical aspects and to envisage possible measures and methods, which can help to fight with money laundering, also disclose the connection between money laundering and financial support of terrorism.

Investigation methods are systemic comparative and structural analysis, logical analysis, qualitative and quantitative analysis of scientific economic literature.

The conception of money laundering and its influence

The concept of “money laundering” or “money cleaning” appeared in the last century after the Great Depression of American economy in 1932-1935. American financial criminals found the way to legalize illegal capital. On that purpose they started buying laundries in Chicago and other cities. The whole profit from this service returned to the criminals’ arms as cleaned money. The money didn’t move anywhere but simply the great amount of seemingly provided services was shown in financial accounts. It became possible because it is much more difficult to control services than manufacturing or trade. That is why this successful way called “laundering” helped to legalize criminal capital and conceal illegal incoming. This way of criminal capital legalizing has been successfully used up to now. Money laundering influences strong increase of organized criminality and especially drug trafficking. Fight with money laundering is supposed to be one of the most effective remedies to stop this criminal practice, which seriously endangers the society in the countries-participants (Vienna Convention, 1998). However, in order to understand what money laundering is it is necessary to define this term. The definition will be given with the reference to international and national juridical acts which aim to prevent money laundering. According to the 2 cl. (91/308/EEB) of the European Council directive “About financial system protection from using it for money laundering”(10th of June, 1991)” money laundering is consciously performed actions – re-count or disposal of the capital while having information that it is obtained from criminal activity or participating in criminal actions on the purpose to conceal or mask illegal origin of the capital or to help any person, who performs criminal actions, to avoid amenability for those actions; concealment or veiling the real character of the capital, its source, location, disposal, transference, proprietorship or proprietary rights while having information that the capital is obtained from criminal activity or participating in criminal actions; purchasing the property, possessing and use while having information that the property was obtained from criminal activity or participating in criminal actions; participating, complicity, attempts to realize, help, encouragement, support and consultations while performing any of above mentioned actions. Having information, intentions or motivation, which are necessary as one of above mentioned elements, can be implied according to factual objective circumstances. The activity is treated as money laundering even if the actions, which caused the existence of the capital for money laundering, took place on the territory of another country-participant or on the territory of the third country”. However, it should be remarked that in some offshore centers money laundering is not treated as criminal action, so the information about offshore corporations recorded in those centers is not provided. Panama can be an example. There nominal owners and directors of offshore corporations are mostly concentrated, because

these countries slackly cooperate in order to ascertain organizers of money laundering. Despite the circulation of illegal money in the market does a great harm to economy increase as well as to collecting taxes juridical institutions in most countries are not still fighting effectively enough with money launders.

The analogous definition was given on the 25 of May, 2005. The directives of The European Parliament and Council about financial system protection from using it for money laundering and financial support of terrorists (cl.1, pt.4) state that “the conclusion about having information, intention or aim as one of necessary elements of money laundering practice can be made according to factual objective circumstances (European Convention, 2005).

According to Lithuanian Republic act on money laundering prevention (cl.2, pt.7) “deliberately performed money laundering includes the juridical location of the capital changing or disposal, while having information that the capital is obtained from criminal activity, on the purpose to conceal or mask illegal origin of the capital or to help any person performing criminal acts to avoid amenability for this activity; concealment or veiling the real derivation of the capital, its source, location, transference, proprietorship or proprietary rights while having information that the capital is obtained from criminal activity; purchasing the property, possessing or use while having information that the property was obtained from criminal activity; arrangements, attempts to perform, complicity while performing any of above mentioned acts” (Lithuanian Republic act on money laundering prevention, 2005). Having studied the presented conceptions of money laundering, it is possible to maintain that money laundering is defined as the process, which is performed by deliberate energetic actions, which aim to change the juridical status of the capital, dispose it having got the information that the capital is obtained from criminal activity, also aim to conceal or mask illegal derivation or illegal owner of the capital or to help the person participating in the criminal activity to avoid amenability for this activity, “any way of the capital’s real origin, source, location, movement, proprietorship or proprietary rights concealing or veiling while having information that the capital is obtained from criminal activity, also purchasing the property, possessing and use or incorporating with legal incoming while having information that the property is obtained from criminal activity; arrangements, attempts to perform, complicity while performing any of above mentioned acts”(Valstybės žinios, 2003).

For instance, it could be the money from drug business, which is used as financial support of terrorism.

Money laundering and legalization of criminal capital means the same in essence and in this article they are used as synonyms.

The table above shows that Luxembourg, the USA and Switzerland are considered to be the most attractive countries for money laundering. Venezuela, Morocco, Iraq and others are considered to be less attractive. So it is possible to make the conclusion that countries’ attractiveness for money laundering directly depends on living standards and juridical base. For example, Norway is considered to be one of the countries having the highest

living standards though it takes only 250-299th place in conformity with money laundering (The convention on money laundering and searching, arrest and confiscation of criminal profits, 1990).

Table 1.

The list of the countries, which are attractive for money laundering

The list of the countries, which are attractive for money laundering	
<i>country</i>	<i>rating</i>
Luxembourg	686
United States	634
Switzerland	617
Cayman Islands	600
Austria	497
Netherlands	476
Liechtenstein	466
Vatican City	449
United Kingdom	439
Singapore	429
Hong Kong	397
Ireland	356
Bermuda	313
Bahamas, Andorra, Brunei, Norway, Iceland, Canada	250-299
Portugal, Denmark, Sweden, Monaco, Japan, Finland, Germany, New Zealand, Australia, Belgium	200-249
Bahrain, Qatar, Italy, Taiwan, United Arab Emirates, Barbados, Malta, France, Cyprus	150-199
Gibraltar, Azores (Portugal), Canary Islands, Greenland, Belarus, Spain, Israel	100-149
Czech Rep, Latvia, St Vincent, Malaysia, Estonia, Oman, Lithuania, N. Mariana Isls, Greece, South Korea, Seychelles, Azerbaijan, Anguilla, Aruba (Neth.), Kuwait, Hungary, Saudi Arabia, British Virgin Islands, Guam, Brazil, Panama, Russia, Costa Rica, Mauritius, Gabon, Armenia, Thailand, Macedonia, Grenada	50-99
Poland, Slovakia, Georgia, St. Kitts-Nevis, Dominica, St. Lucia, Belize, Guadeloupe, Martinique, Puerto Rico, U.S. Virgin Islands, Argentina, Croatia, Uruguay, Midway Islands, Barbuda, Slovenia, Suriname, Botswana, Romania, Chile, Bulgaria, French Polynesia, New Caledonia, Yugoslavia, Trinidad, Libya, Turkey, Albania, Lebanon, Guatemala, Ecuador, Moldova, South Africa, French Guiana	25-49
Falkland Islands, Vanuatu, Venezuela, Ukraine, Cook Islands, Philippines, Turks And Caicos Islands, Fiji, Marshall Islands, Mexico, Nauru, Algeria, Antigua, Bolivia, Uzbekistan, Syria, Western Samoa, Morocco, Indonesia, Colombia, Cuba, Bosnia and Herzegovina, Tunisia, Jordan, Paraguay, Jamaica, San Marino, Mayotte, Palau Islands, Honduras, Niue, Reunion, Namibia, Somalia, Congo, Tonga, Iraq, Swaziland, Dominican Republic, Kazakhstan, Kyrgyzstan, Turkmenistan, El Salvador	10-24

The general flows of money laundering worldwide (\$ billion).

The table above shows that the regions perfectly developed economically, such as Europe (\$1281 billion) and Northern America (\$1403 billion, total sum -\$2850 billion) are the most attractive for money laundering.

According to the table, it is possible to make the conclusion that 46.3% (or \$ 1 320228 billion) of origin of money laundering is in the USA(Council outline resolution, 2001). The attention to the process of money laundering shown by international organizations fighting

against financial crimes indicates an importance and extent of this phenomenon (<http://www.fatf-gafi.org/>.2007).

Table 2.

The destination of money laundering (Reuter.2004, [http:// www.business.memaster.ca/IDTDefinition/defining/crimes.htm](http://www.business.memaster.ca/IDTDefinition/defining/crimes.htm).2007)

World Region	ML Destinations						
	E. Asia	S. Asia	s.w.Asia	Australasia	N.Africa	S.Africa	Europe
ML Origins							
E. Asia	298	1	6	2	1	1	18
S. Asia	0	3	0	0	0	0	0
S.W. Asia	0	0	17	0	0	0	1
Australasia	1	0	0	2	0	0	1
N. Africa	0	0	0	0	5	0	0
S. Africa	0	0	1	0	0	15	2
Europe	7	0	9	1	1	1	985
S. America	0	0	0	0	0	0	2
C. America	0	0	0	0	0	0	1
Caribbean	0	0	0	0	0	0	0
N.America	15	0	20	13	7	5	271
Antarctica	0	0	0	0	0	0	0
Total Generated	322	5	52	18	15	21	1281
Incoming	24	2	36	16	9	6	296
World Region	ML Destinations						
	S.America	C.America	Caribbean	N.America	Antarctica	Total Laundered	Outgoing
ML Origins							
E. Asia	0	0	1	1	0	329	31
S. Asia	0	0	0	0	0	4	1
S.W. Asia	0	0	0	0	0	18	1
Australasia	0	0	0	0	0	4	2
N. Africa	0	0	0	0	0	6	1
S. Africa	0	0	0	0	0	19	4
Europe	0	0	2	1	0	100	21
S. America	24	0	3	1	0	31	7
C. America	0	18	3	1	0	24	5
Caribbean	0	0	6	0	0	6	0
N.America	22	54	316	681	0	1403	721
Antarctica	0	0	0	0	0	0	0
Total Generated	47	73	331	686	0	2850	
Incoming	23	54	325	4	0		

Comparisons of Estimates contained in Media reports against Model results

Money laundering is an element of almost all types of criminal practice, because criminal capital needs “laundering” in order to conceal its origin. The extent of this problem is huge. According to the information from International Currency Fund, this money amounts from 2% to 5% of GDP in the world.

European Union has already taken certain measures to prevent money laundering. National financial crimes reconnaissance detachments started cooperation at the end of 2000. Later on the juridical act about identification, searching, freezing, arrest and confiscation of criminal profits was passed.

Table 3.

Origins of Money laundering (http://www.issafrika.org/)

Top 20 Origins of Laundered Money			
Rank	Origin	Amount (\$USmill/yr)	% of Total
1	United States	1320228	46.3%
2	Italy	150054	5.3%
3	Russia	147187	5.2%
4	China	131360	4.6%
5	Germany	128266	4.5%
6	France	124748	4.4%
7	Romania	115585	4.1%
8	Canada	82374	2.9%
9	United Kingdom	68740	2.4%
10	Hong Kong	62856	2.2%
11	Spain	56287	2.0%
12	Thailand	32834	1.2%
13	South Korea	21240	0.7%
14	Mexico	21119	0.7%
15	Austria	20231	0.7%
16	Poland	19714	0.7%
17	Philippines	18867	0.7%
18	Netherlands	18362	0.6%
19	Japan	16975	0.6%
20	Brazil	16786	0.76
Total	All Countries	2850470	100.0%

Another juridical act connected with fight against money laundering, which was passed in December 2001, expanded the definition in order to embrace all types of crime including crimes connected with terrorism. It is invoked not only to banks and financial institutions but also to accountants, lawyers, solicitors, immovable property agents, gaming-houses, valuables sellers.

They are also obliged to inform authorities about suspicious contracts (European Committee, 2004). Having realized the danger of money laundering and having connected this process with financial support of terrorism European Parliament adopted the resolution about the offered by European Parliament and Council directive about financial system protection from using it for money laundering including financial support of terrorists (KOM (2004) 0448 – C6 - 0143 / 2004-2004/0137(COD)). (The position of European Parliament, 2005)

General sources of illegal profits

Money laundering is an element of almost all types of criminal practice, because criminal capital needs “laundering” in order to conceal its origin. The extent of this problem is huge. According to the information from International Currency Fund, this money amounts from 2% to 5% of GDP in the world.

The greatest source of illegal capital is drug trade where hundreds of billion of the USA dollars circle. A great amount of illegal profits in Lithuania is generated from cigarettes and psychedelic agents smuggling.

Consignments with smuggled cigarettes, drugs and psychedelic agents from Lithuania are arrested in Great Britain, Germany and other EU countries. Cigarettes, drugs and psychedelic agents smuggling to EU countries is organized by international criminal groups, among which Lithuanian criminal groups play an important part as organizers. A special feature of these groups is that not only criminals,

who attempt to legalize their activity, are involved in them but also businessmen, who have not been known by the police and justice so far.

Table 4.

The flows of money laundering (Bothwell Fundira, 2006)

Top 20 Flows of Laundered Money				
Rank	Origin	Destination	Amount (\$USmill/yr)	% of Total
1	United States	United States	528091	18.5%
2	United States	Cayman Islands	129755	4.6%
3	Russia	Russia	118927	4.2%
4	Italy	Italy	94834	3.3%
5	China	China	94579	3.3%
6	Romania	Romania	87845	3.1%
7	United States	Canada	63087	2.2%
8	United States	Bahamas	61378	2.2%
9	France	France	57883	2.0%
10	Italy	Vatican City	55056	1.9%
11	Germany	Germany	47202	1.7%
12	United States	Bermuda	46745	1.6%
13	Spain	Spain	28819	1.0%
14	Thailand	Thailand	24953	0.9%
15	Hong Kong	Hong Kong	23634	0.8%
16	Canada	Canada	21747	0.8%
17	United Kingdom	United Kingdom	20897	0.7%
18	United States	Luxembourg	19514	0.7%
19	Germany	Luxembourg	18804	0.7%
20	Hong Kong	Taiwan	18796	0.7%
Total	All Countries	All Countries	2850470	100.0%

Table 5.

The destinations of money laundering (Goredema,2003)

Top 20 Destinations of Laundered Money			
Rank	Destination	Amount (\$USmill/yr)	% of Total
1	United States	538145	18.9%
2	Cayman Islands	138329	4.9%
3	Russia	120493	4.2%
4	Italy	105688	3.7%
5	China	94726	3.3%
6	Romania	89595	3.1%
7	Canada	85444	3.0%
8	Vatican City	80596	2.8%
9	Luxembourg	78468	2.8%
10	France	68471	2.4%
11	Bahamas	66398	2.3%
12	Germany	61315	2.2%
13	Switzerland	58993	2.1%
14	Bermuda	52887	1.9%
15	Netherlands	49591	1.7%
16	Liechtenstein	48949	1.7%
17	Austria	48376	1.7%
18	Hong Kong	44519	1.6%
19	United Kingdom	44478	1.6%
20	Spain	35461	1.2%

Table 6.

Estimates laundered money amounts <http://blog.taragana.com/>.

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Press Clippings	Model results
"Illegal grey economy in Czech Republic about 10% of GDP" (Hospodářské Noviny, 2 Apr 98)	Model estimates 14.8% of GDP
"\$30bill illegal drugs reach the US from Mexico each year" (Chicago Tribune, 25 Mar 98)	Model estimates \$26bill laundered in Mexico each year
"More than \$2bill is laundered in Poland each year" (National Bank of Poland, reported on 15 Apr 98)	Model estimates \$3bill sent for laundering in Poland each year
"Share of shadow business in Russia's economy may range between 25% -50%" (TASS 17 Mar 98) "In the estimate of experts from the Russian interior and economics ministries, between \$50bn and \$250bn has been illegally transferred from Russia to western banks over the past five years" (Interfax News Agency, 23 Apr 99)	Model estimates money laundering 15% of Russian GDP Model estimates an annual \$28bn is laundered from Russia into western banks; i.e. \$140bn in a five year period.
"Switzerland is implicated in \$500bill of money laundering each year" (Swiss Finance Ministry, reported on 26 Mar 98)	Model estimates \$59bill - including only "first-stage" laundering.
"UK black economy between 7-13% of GDP" (Sunday Telegraph, 29 Mar 98)	Model estimates total money laundering 7.4% of UK GDP
"Money laundering in Belarus about 30% of GDP" (European Humanities University, 20 Nov 98)	Model estimates 22.2% of GDP
"Illicit funds generated and laundered in Canada per year between \$5 and \$17 billion." (Canadian Solicitor General, Sep 1998)	Model estimates \$22 billion generated and laundered in Canada per year, but also that \$63 billion of US crime funds laundered in Canada.
"Approximately \$2.7 billion are laundered in Colombia every year" (BBC Monitoring Service, Latin America, 25 Nov 98)	Model estimates that \$2.1 billion laundered in Colombia every year.
"Illicit drug sales generated up to \$48 billion a year in profits that criminals tried to put back into the mainstream economy through money laundering, a Congressional hearing told." (Reuters, 16 April 99)	Model estimates \$34.6 billion generated and laundered by illicit drug trade in USA.
"Illegal profits total 2-5% of world GDP or \$1-3trillion" (Dow Jones News, 12 Mar 98)	Model estimates total global money laundering \$2.85 trillion

The other source of illegal profits is connected with the zones of reduced taxes, which are applied in order to use business structures. Lithuanian credit and financial institutions tend to be used as transitional links of illegal capital transference between the ISU, Western Asia and EU countries. In this case Lithuanian police institutions identify information about an intermediary sender and a receiver and can state the fact of the capital transference, although it is impossible to identify the origin of this capital, find out the information about its initial owner and a real receiver. This happens due to the fact that the structures of reduced taxes zones are interposed into transitional links of financial operations and these structures don't give information, because trustful cooperation between international juridical and police institutions seems to be failure as well as ensured confidentiality, which evokes clients' motivation. Also the owners of corporations recorded in the zones of reduced taxes are often only nominal.

The third source of illegal profits is connected with taxes, i.e. VAT, embezzlement from the state budget. The great amount of illegal profits obtained from above mentioned sources later are invested into the same criminal

business and another part is legalized realizing suitable international and local commercial projects.

It is also supposed that while aiming to find out the organizers of the process of money laundering two problems can be faced. The first one is giving information, which, being disclosed can do great harm to the corporation's finance as well as to its strategy. The second problem is efficient work of institutions of audit while fighting against such negative phenomenon as tax evasion, money laundering and others (Snieška, 2001).

The other authors maintain that there are three following groups of states, which are made with the reference to such criterion as their actions connected with fighting against money laundering: 1) the states, which are active in their fight against this type of crime; 2) the states of "financial paradise", they are offshore areas as well as the states, which don't audit carefully whether the sources of the transferring capital are legal; 3) other states, where financial control is not effective and strict enough, but which make efforts to create legitimate obstacles for profits legalization although such efforts have very little effect for various reasons. The fight against money laundering has three directions: analyzing different forms and methods of money laundering, arranging a complex of technical and juridical tools to disclose illegal operations and stop them, framing and passing international and national juridical rules, coordinating the practical activity of different powerful structures. The general accents of complex measures for the fight based on international practice are also pointed out in the article (Žuk, 2007).

Financial support of terrorism

The International Convention on fighting against financial support of terrorism inured on the 22d of March 2003 was rectified on the 3d of December 2002 by Seimas of Lithuanian Republic. This international document passed within the pale of UN obliges the Contracting Parties to take all necessary measures, i.e. to confer the criminal status to the acts provided in the Convention and include them into criminal codes of the Contracting Parties, to determine amenability for natural and juridical persons, to accomplish bank operations and to pass juridical acts which guarantee financial institutions auditing, to take necessary measures for identification, searching, freezing or arresting the incomes, which are used or meant for criminal acts determined in the Convention, in order to confiscate them (FNTP, 2008).

Lithuanian Republic, fighting against financial support of terrorism, on the 19th of June 1997 passed the law Nr. VIII-275 about money laundering and financial support of terrorism prevention. The purpose of the law is to determine the remedies for money laundering and (or) financial support of terrorism prevention also the institutions, which are responsible for these preventive measures realization. The law was passed with the reference to EU juridical acts and ensured their use. The strategy of terrorism prevention, the directions of the fight against terrorism contain negative as well as positive strategies. The negative strategies are as follow:

1. Military strategy.
2. Police and justice strategy.

3. Reconnaissance strategy.
4. Isolation strategy.
5. Natural protection strategy.

The essence of justice strategy is to punish and isolate terrorists, to fair the others by punishment, to stop financial support of terrorism. Suppression of financial support of terrorism is said to be one of disadvantage of justice strategy.

Economic and financial support of developing countries, social integration of all members of community, permanent scientific researching and monitoring of terrorism, UNO reorganization and strengthening of its power are said to be positive preventive measures (Paukštė, 2008).

According to the recent information it is possible to make the conclusion that Lithuania's participating in international organizations' work also its joining EU determined more active fight against money laundering and financial support of terrorism in the country. These actions include Lithuanian police and justice cooperation with foreign juridical institutions and the direction of their work.

Usual ways of money laundering

Money laundering is usually realized through some offshore companies specially created for this purpose. They buy fictitious services one from another, provide one another with credits and use other ways to share money till it becomes impossible to find out its real origin. Offshore companies are established in those countries, where the reduced taxes treatment takes place, where bankers provide confidentiality and attend clients having ready money prosperously (Snieška, 2004). Drug trade operates with ready money only so the most difficult task for money launders is to put it into the bank system. Almost all countries' banks have to inform relevant institutions about large amounts of ready money, which are disposed by a client, so money launders are mostly at risk on this step of their activity. Some of them employ great number of assistants who dispose small sums of money into special accounts in order to mask large incomes into one account from one certain source. As soon as the money appeared in the bank system it is necessary to shift it through the accounts several times and it becomes clean. The other usual way of money laundering is exchanging ready money into checks and other bank papers of payment, buying valuables while fixing the sum, which must not be declared, fictitious contracts of presenting money, foundation of new companies, especially services, where "dirty" money is declared as legal business profit. (<http://www.Johnwalker.cri.metrendsanalysis.com.au/ML%20method.htm>.2007)

However it should be emphasized that money laundering contrasts with tax evasion. These criminal acts have different aims but the effects are similar. Persons, who avoid paying taxes, attempt to lower the profit obtained from their business and don't declare the whole amount of the profit in financial accounts, and in the case of money laundering taxes are paid, but financial accounts show "paper profit", from which taxes are paid.

The important role of banks in the process of money laundering is emphasized by other authors (Davulis, 2005).

The process of money laundering is almost always connected with the work of banks.

The main elements of such criminal act as money laundering are pointed in the Criminal Code of Lithuanian Republic, 216cl.

Aiming to support international actions with the reference to the European Council request (26th of March 2004) on the 8th of June 2004 the Committee passed the Council collective position project about the certain information referral to Interpol (COM (2004) 427 final). This remedy is going to be referred to the special information bank of Interpol, in the countries-participants – information about stolen passports.

On the 10th of June 2004 the Committee announced the report, in which invoked juridical tools of the countries-participants, which aim to follow the resolution about fighting against terrorism (June 2002), are researched. It shows that some countries-participants haven't passed European juridical remedies up to the mentioned date.

Juridical remedies haven't formed or despite this they exist they have been realizing slackly.

On the 16 of June 2004 the Committee passed the communiqué, in which offers the Council and Parliament the object, aiming which the juridical institutions of one country-participant could have the right to use the database of another country.

The Committee also requests to strengthen cooperation between countries-participants, for instance, between Europol and Eurojust, between Europol and Task Forces of the police leaderships. With the reference to the attitudes of the communiqué (16th of June 2004) the Committee supposes that Europol should be such institution, which would stimulate collecting criminal information and could support Task Forces of the police leaderships.

Conclusions

1. "Money laundering is defined as the process, which is performed by deliberate energetic actions, which aim to change the juridical status of the capital, dispose it having got the information that the capital is obtained from criminal activity, also aim to conceal or mask illegal origin or illegal owner of the capital or to help the person participating in the criminal activity to avoid amenability for this activity".
2. Luxembourg, USA and Switzerland are considered to be the most attractive countries for" money laundering".
3. A great amount of illegal profits obtained from the mentioned primary sources of illegal income later are invested into the same criminal business and the other part is legalized by suitable international and local commercial projects realization.
4. Money laundering is usually realized through some offshore companies specially created on this purpose, which buy fictitious services one from another, provide one another with credits and use other ways to share money till it becomes impossible to find out its real origin.
5. Emphasizing the threat of "money laundering" European Parliament considers this process in connection with financial support of terrorism.

6. Lithuania's participating in international organizations' work as well as in its joining European Union determined more active fight against "money laundering" and financial support of terrorism in the country.

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Pinigų plovimas ir jo ekonominės pasekmės kovos su terorizmu kontekste

Santrauka

Straipsnyje nagrinėjamos „pinigų plovimo“ kaip proceso ištakos, įtaka valstybių ekonomikai ir teisei sistemai, ir aptariami pagrindiniai nusikalstamų būdu gauto turto šaltiniai ir jų legalizavimo būdai. Apžvelgtos Lietuvos Respublikos baudžiamojo kodekso normos „nusikalstamų būdu įgytų pinigų ar turto legalizavimas“ objektas, subjektas, objektyvioji ir subjektyvioji pusės. Išanalizavus literatūros šaltinius bei pasinaudojus specialistų sukaupta, bei taip pat asmenine patirtimi, apibrėžta „pinigų plovimo“ sąvoka bei jos įtaka valstybės ekonominiam gyvenimui. Straipsnyje aptariama tarptautinė kovos su „pinigų plovimu“ patirtis. Be to, straipsnyje pateiktas „pinigų plovimo“ kaip proceso vertinimas ekonominiu požiūriu, analizuojami pagrindiniai nelegalių pajamų šaltiniai. Nurodoma, kokią įtaką daro ar gali daryti nelegaliais būdais gautų pinigų legalizavimas. Vienas iš svarbiausių šiuo metu nelegaliais būdais gautų pinigų panaudojimo tikslų yra terorizmo finansavimas. Nustatyti galimi terorizmo finansavimo šaltiniai bei būdai, kuriais gali būti nusiųta tikroji nelegaliomis priemonėmis gautų pinigų kilmė, ištakos bei organizatoriai. Be abejonės, neatsiejama „pinigų plovimo“ proceso dalis yra ofšorinių bendrovių panaudojimas. Nustatytos galimos atsakomybės už „pinigų plovimą“ ribos.

Lietuvos Respublika, kovodama su terorizmu finansavimu priėmė įstatymą dėl „pinigų plovimo“ ir teroristų finansavimo prevencijos. Įstatymo paskirtis - nustatyti pinigų plovimo ir (ar) teroristų finansavimo prevencijos priemones ir institucijas, atsakingas už pinigų plovimo ir (ar) teroristų finansavimo prevencijos priemonių įgyvendinimą. Įstatymas priimtas atsižvelgiant į Europos Sąjungos teisės aktus ir jų taikymo užtikrinimą. Terorizmo prevencijos strategijoje, kovos su terorizmu kryptyse išskirta negatyvioji ir pozityvioji strategija.

Temos aktualumas. Pinigai, turtas, sukaupti nusikalstamų būdu (pvz., iš prekybos narkotinėmis ar psichotropinėmis medžiagomis), niekur nedingsta. Tinkamai paslėpus jų nelegalią kilmę, jie gali būti legalizuojami, naudojami verslo plėtrai, investicijoms, kitiems tikslams, iš jų ir nusikalstamiems. Dideli nelegalių pinigų srautai gali pakenkti finansų sistemos stabilumui ir reputacijai bei kelti grėsmę šalies vidaus rinkos stabilumui ir saugumui. Nelegaliai gautų pinigų išsiliejimas į rinkos ekonomiką neigiamai veikia valstybę – žlugdo pasitikėjimą valstybės vykdoma vidaus ir užsienio politika, ypač ekonomine politika, padeda plėtotis korupcijai, sutrikdo kainų, gamybos, paslaugų pusiausvyrą, didina infliaciją, gali provokuoti tam tikrą visuomenės dalies nepasitenkinimą valstybės vykdomu ekonominiu šalies vystymo modeliu. Tai viena iš sunkiausiai ištiriamų nusikalstamų finansų sistemos veikų. Būtina apibrėžti, kokia veikla laikoma pinigų plovimu. Pinigų plovimui dažnai panaudojamos ofšorinės įmonės.

Straipsnyje nagrinėjamas „pinigų plovimo“ kaip proceso objektas, subjektas, subjektyvioji ir objektyvioji pusė, aptarnaujami nusikalstamų būdu gauto turto šaltiniai ir legalizavimo būdai.

Išanalizavus literatūros šaltinius bei pasinaudojus specialistų sukaupta, taip pat asmenine patirtimi, apibrėžta „pinigų plovimo“ sąvoka bei jos įtaka valstybės ekonominiam gyvenimui. Tam tikslui reikalinga nustatyti galimybes išaiškinti „pinigų plovimo“ kanalus ir jų organizatorius. Taip pat reikalinga išanalizuoti tarptautinius ir nacionalinius teisės aktus, pateikti „pinigų plovimo“ sampratą, šios nusikalstamos veikos objektyviąją pusę sudarančius veiksmus.

Objektas. „Pinigų plovimo“ kaip proceso įtaka valstybių ekonomikai. Ekonominis ir teisinis „pinigų plovimo“ kaip proceso vertinimas.

Straipsnio tikslas – išnagrinėti „pinigų plovimo“ kaip proceso sampratą ekonominiais ir teisiniais aspektais bei numatyti galimas priemones ir metodus, kuriais galima kovoti su pinigų plovimu, taip pat atskleisti pinigų plovimo sąsajas su terorizmu finansavimu.

Tyrimo metodai: sisteminė mokslinė ekonominės literatūros lyginamoji ir struktūrinė analizė, loginė analizė, kokybinė ir kiekybinė analizė.

Pinigų plovimo samprata ir įtaka

Sąvoka „pinigų plovimas“, arba „pinigų švarinimas“, atsirado praitame amžiuje po Didžiosios depresijos, apėmusios JAV ekonomiką. 1932–1935 m. JAV finansiniai nusikalčiai išrado būdą legalizuoti neteisėtai veiksmis įgytas lėšas. Tam tikslui jie pradėjo supirkinėti Čikagos ir kitų miestų skalbyklas. Visos pajamos už jų teikiamas paslaugas išplautų pinigų pavaldai sugrįždavo į nusikalčių rankas. Pinigai niekur nekeliavdavo, o paprasčiausiai skalbyklų finansinėse ataskaitose atsispindėdavo didžiulės tariamai atliktų paslaugų apimtys. Nes paslaugas teikiančias įmones gerokai sunkiau kontroliuoti nei gamyba ar prekyba užsiimančias įmones. Todėl šis itin sėkmingas būdas, vadinamas „skalbimu“, padėjo legalizuoti nusikalstamu būdu gautas lėšas ir nuslėpti nelegaliais būdais gautas lėšas. Šis nusikalstamu būdu gautų pinigų, turto legalizavimo būdas sėkmingai taikomas ir dabar. Pinigų plovimas daro didelę įtaką organizuoto nusikalstamumo ir ypač prekybos narkotikais augimui, kadangi vis labiau suvokiama, kad kova su pinigų plovimu yra viena iš efektyviausių priemonių šiai nusikalstamai veiklai, kuri sukelia rimtą grėsmę valstybių narių visuomenėms, sustabdyti. Tačiau norint suprasti, kas yra pinigų plovimas būtina išsiaiškinti šio termino turinį. Šį terminą apibrėšime aptardami tarptautinės ir nacionalinės teisės aktus, skirtus pinigų plovimo prevencijai.

Sutinkamai su 1991 m. birželio 10 d. Europos Bendrijų Tarybos direktyva „Dėl finansų sistemos apsaugos nuo jos panaudojimo pinigų plovimui (91/308/EEB)“ 2 straipsniu pinigų plovimas – tai „sąmoningai atliekami veiksmai: turto perskaiciavimas arba perdavimas, žinant, kad šis turtas yra įgytas iš nusikalstamos veiklos arba dalyvaujant nusikalstamoje veikloje, siekiant nuslėpti arba užmaskuoti neteisėtą turto kilmę arba siekiant padėti bet kokiam asmeniui, kuris dalyvauja nusikalstamoje veikloje, išvengti teisinių šios veiksmų pasekmių; turto tikrojo pobūdžio, šaltinio, vietos, disponavimo, judėjimo, nuosavybės teisių arba su nuosavybe susijusių teisių slėpimas arba užmaskavimas, žinant, kad šis turtas yra įgytas iš nusikalstamos veiklos arba dalyvaujant nusikalstamoje veikloje; turto įsigijimas, turėjimas arba naudojimas, jo gavimo metu žinant, kad šis turtas atsirado iš nusikalstamos veiklos arba dalyvaujant nusikalstamoje veikloje; dalyvavimas, bendrininkavimas, bandymas įvykdyti, pagalba, raginimas, parama ir patarimai, vykdant bet kuriuos iš ankstesnės pastraipose minimų veiksmų. Žinojimas, ketinimas arba motyvai, būtini kaip vienas iš jau nurodytos veiklos elementų, gali būti numanomi pagal objektyvias faktines aplinkybes. Veikla yra pripažįstama pinigų plovimu net tada, kai veiksmai, dėl kurių atsirado turtas, skirtas pinigams plauti, buvo vykdomi kitos valstybės narės teritorijoje arba trečiosios valstybės teritorijoje“. Tačiau reikėtų pažymėti, kad kai kuriuose ofšoriniuose centruose pinigų plovimas nėra laikomas nusikaltimu ir todėl informacija apie ofšorines bendroves, registruotas šiuose centruose, nėra teikiama. Kaip pavyzdį galime pateikti Panamą, kurioje daugiausia yra susikoncentravę nominalūs ofšorinių bendrovių savininkai ar direktoriai, nes šios valstybės vangiai bendradarbiauja siekdamas išsiaiškinti pinigų plovimo organizatorius.

Nors nelegalių pinigų cirkuliacija rinkoje daro didelę žalą ekonomikos augimui bei mokesčių surinkimui, tačiau kol kas daugelio valstybių teisėsaugos institucijos vis dar nepakankamai efektyviai kovoja su pinigų plovėjais.

Susipažinus su pateiktomis pinigų plovimo termino sampratomis, galime teigti, kad „pinigų plovimas“ įvardytinas kaip procesas, kuris atliekamas tyčiais aktyviais veiksmais siekiant pakeisti turto teisinį statusą, perduoti turtą, jau žinant, kad šis turtas yra įgytas nusikalstamu būdu, siekiant nuslėpti arba užmaskuoti neteisėtą turto kilmę arba savininką arba siekiant padėti nusikalstamoje veikloje dalyvaujančiam asmeniui išvengti teisinių šios veikos pasekmių. „Turto tikrosios kilmės, šaltinio, vietos, judėjimo, nuosavybės teisių arba su nuosavybe susijusių teisių nuslėpimas arba užmaskavimas bet kokia forma, žinant, kad šis turtas yra įgytas nusikalstamu būdu, taip pat turto įgijimas, valdymas ar naudojimas arba sumaišymas su teisėtai gaunamomis pajamomis, įgijimo (perdavimo) metu žinant, kad šis turtas įgytas nusikalstamu būdu. Rengimasis, pasikėsinimas padaryti, bendrininkavimas darant bet kurią iš jau nurodytų veiklų“ (Lietuvos Respublikos pinigų plovimo prevencijos įstatymas, 1997).

Tai galėtų būti, pvz., iš narkotikų verslo gautus pinigus naudojant teroristiniams tikslams finansuoti.

„Pinigų plovimas“ ir, nusikalstamu būdu gauto turto legalizavimas – šios sąvokos iš esmės reiškia tą patį ir šiame straipsnyje vartotinos sinonimiškai.

Išvados

1. „Pinigų plovimą“ galima įvardyti kaip procesą, kuris atliekamas tyčiais aktyviais veiksmais siekiant pakeisti turto teisinį statusą, perduoti turtą, jau žinant, kad šis turtas yra įgytas nusikalstamu būdu, siekiant nuslėpti arba užmaskuoti neteisėtą turto kilmę arba savininką arba siekiant padėti nusikalstamoje veikloje dalyvaujančiam asmeniui išvengti teisinių šios veikos pasekmių.
2. Patraukliausiomis valstybėmis „pinigams plauti“ galima laikyti Liuksemburgą, Jungtines Amerikos Valstijas ir Šveicariją.
3. Didžioji nelegalių pajamų dalis, gauta iš minėtų pirminių nelegalių pajamų šaltinių, vėliau investuojama į tą patį nusikalstamą verslą, o kita dalis legalizuojama įgyvendinant atitinkamus tarptautinius ir vietinės reikšmės komercinius projektus.
4. Dažniausiai „pinigai plaujami“ per keletą specialiai tam tikslui įkurtų ofšorinių kompanijų, kurios viena iš kitos perka fiktyvias paslaugas, teikia viena kitai paskolas ir kitokiais būdais tarp savęs dalijasi pinigais, kol tampa nebeįmanoma atrasti jų tikrosios kilmės.
5. Europos Parlamentas, pabrėždamas „pinigų plovimo“ keliamą grėsmę, sieja šį procesą su terorizmo finansavimu.
6. Lietuvos dalyvavimas tarptautinių organizacijų veikloje bei įstojimas į Europos Sąjungą sąlygojo tai, kad šalyje suaktyvėjo kova prieš „pinigų plovimą“ ir terorizmo finansavimą.

Raktažodžiai: „Pinigų plovimas“, ofšorinės bendrovės, terorizmas.

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