

## CRIMINAL LAW MEASURES TO COMBAT MONEY LAUNDERING FROM DRUG TRAFFICKING: AN ANALYSIS OF INTERNATIONAL EXPERIENCE

### КРИМІНАЛЬНО-ПРАВОВІ ЗАХОДИ ПРОТИДІЇ ВІДМИВАННЮ КОШТІВ ВІД ОБІГУ НАРКОТИКІВ: АНАЛІЗ МІЖНАРОДНОГО ДОСВІДУ

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The article is devoted to highlighting the current issues of the problem of money laundering, obtained from drug trafficking, and criminal legal measures to combat this phenomenon. The history of legislative initiatives implemented by various countries to combat money laundering is described, from the adoption of the first thorough laws to modern ones. It is also noted that completely stopping illegal money-laundering schemes is a very difficult task, as they are often based on complex financial manipulations and international transfers that make it difficult to trace suspicious activities.

The main stages of money laundering are characterized: placement, layering and integration. In the first stage, illegally earned money is partially injected into the legal financial system through the purchase of luxury items and the like. At the second stage, complex financial manipulations are carried out to hide the source of the funds. At the third stage, laundered funds are returned to the legal economy under the guise of legal income.

It is noted that international bodies and state institutions of countries are developing methods of legislative struggle and introducing stricter and innovative laws that contribute to the fight against money laundering, forcing financial institutions and enterprises to strictly comply with these rules. There are also examples of large, well-known financial institutions that were fined for crimes related to facilitating the concealment of illegal income.

The importance and impact of international cooperation in the fight against money laundering is characterized. The legislative regulations and initiatives of various countries, in particular the USA, Australia, Ukraine, Israel and the countries of the European Union, aimed at combating the laundering of money obtained from drug trafficking, are considered. In general, cooperation between countries, data sharing and joint operations to identify and prosecute criminals are critical to successfully combating the complex mechanism of money laundering. The use of modern technologies and the ability to analyze a large amount of data allows more effective detection of aspects of questionable financial activity.

**Key words:** drug trafficking, financial security, money laundering, legal regulation, international cooperation, financial institutions.

Стаття присвячена висвітленню актуальних питань проблеми відмивання доходів, отриманих від наркоторгівлі, та кримінально-правових заходів протидії цьому явищу. Описано історію законодавчих ініціатив, реалізованих різними країнами щодо протидії відмиванню грошей, від прийняття перших ґрунтовних законів до сучасних. Також зазначено, що повне припинення незаконних операцій з відмивання коштів є доволі важким завданням, оскільки вони часто включають складні фінансові маніпуляції та міжнародні перекази, які ускладнюють відстеження активів.

Охарактеризовано основні етапи відмивання: розміщення, шарування та інтеграцію. На першому етапі нелегально зароблені кошти вводяться у легальну фінансову систему через дрібні депозити в банках або купівлю дорогих товарів. На другому етапі здійснюються складні фінансові операції для приховування джерела їх походження. На третьому етапі відмиті кошти повертаються в легальну економіку під виглядом законних доходів.

Зазначено, що міжнародні органи влади та державні установи різноманітних країн запровадили суворі закони, які спрямовані на протидію відмиванню грошей, змушуючи фінансові установи та підприємства дотримуватися цих правил. Наведено приклади великих фінансових установ, які були оштрафовані за сприяння відмиванню коштів. Охарактеризовано значення та вплив міжнародного співробітництва в боротьбі з таким явищем. Розглянуто законодавчі врегулювання та ініціативи різних країн, зокрема США, Австралії, України, Ізраїлю та країн Європейського Союзу, спрямованих на боротьбу з відмивання коштів, отриманих від наркоторгівлі. Загалом взаємодія між країнами, обмін даними та спільні операції з ідентифікації та переслідування злочинців є критично важливими для успішної протидії злочинності у цій сфері. Використання сучасних технологій і можливість аналізу великої кількості даних дозволяє ефективніше виявляти аспекти сумнівної фінансової діяльності.

**Ключові слова:** наркотрафік, фінансова безпека, відмивання коштів, правове регулювання, міжнародна співпраця, фінансові установи.

**Introduction.** Illicit proceeds from the global drug trade fuel criminal organizations around the world and pose a serious threat to international security. The process of money laundering, in which criminals hide the very illegal source of income in order to integrate it into the legal financial system, is an important part of this. Given the constant development of methods used by criminals, the adoption and application of effective criminal law measures to prevent money laundering is a critical component of the fight against organized crime. Also, a very important problem related to the process of globalization is the loss of proper coordination between national and international law enforcement organizations, which allows criminals to hide the traces of their illegal devices. A thorough investigation and review of existing legal measures to combat this is necessary, as drug trafficking and money laundering pose a serious and increasingly alarming threat to public safety and stability. The fight against such complex, transnational crimes requires a comprehensive approach, the basis of which is legality. Such scientists as V. R. Zakharov, A. Kh. Skybinsky, L. I. Arkusha, D.Y. Nikiforchuk, O. M. Striltsiv, O. V. Kerevich, and Thomas M. DiBiagio reviewed many aspects of money laundering, empha-

sizing the complexity of strategies used by criminals. Understanding these techniques is critical to creating effective legislative countermeasures.

**Main results.** Drug trafficking is one of the most acute international problems, which poses a great threat to the security and stability of the world community. Drug traffickers try to legalize the huge sums obtained from this illegal activity through the process of money laundering. The process of money laundering involves the transformation of illegal money into apparently legal funds. This article explores the complex, multi-step process of money laundering, its consequences, and the various legal countermeasures used around the world.

Since criminals are always trying to improve the process of money laundering in order to hide it from law enforcement agencies, this process can take many different forms. The standard of this process consists of three main stages:

1. **Deployment:** At the first stage, the "dirty money" that comes from the drug trade is used by criminals for their initial involvement in the legal financial system. This can be done in a number of ways, including dividing large sums of money into smaller contributions.

2. **Layering:** The purpose of the second stage is to break the apparent connection between the funds and the illegal activities that led to the receipt of these funds. This is done by hiding the audit trail. This stage often involves complex and multi-layered financial transactions, such as the transfer of money between multiple accounts, front companies or even international borders, making it difficult to trace the origin of the money.

3. **Integration:** At the third stage, money that has been laundered is reintroduced into the transparent, legal economy, as a rule, in the form of investments or profits from enterprises operating completely legally [12].

To combat the problem of money laundering, international institutions and national governments of various countries have implemented strict anti-money laundering (AML) laws. Strict and proper controls must be implemented over all financial institutions, because regardless of the reputation and respectability of these institutions, they can participate in money laundering. Several large, well-known banks have faced significant fines for facilitating money laundering. One example of this is the recent Credit Suisse lawsuit. On June 27, 2022, Credit Suisse was convicted and fined 2 million Swiss francs for failing to properly implement anti-money laundering regulations in its banking system, which allowed drug syndicates to launder their illegal proceeds from this criminal activity through Credit Suisse bank accounts [4]. Wachovia Bank was also involved in laundering \$390 billion for Mexican drug cartels [9]. Additionally, an investigation in East St. Louis, Illinois uncovered a drug trafficking organization that was linked to an international money laundering scheme [19]. So, on the basis of these examples, we can draw a conclusion about the scale of solving this problem.

Anti-money laundering regulations were first enacted in the 1970s. The Bank Secrecy Act (BSA) provides a framework for record-keeping by financial institutions and provides mechanisms for reporting suspicious financial activity. Since the adoption of this law, the fight against money laundering has improved significantly [7]. The Financial Action Task Force (FATF) was established in 1989. The main mission of the Financial Action Task Force (FATF) is to establish international legal standards to combat money laundering and to promote the effective implementation of legal, regulatory and operational measures to combat threats to the integrity of the global financial system. In the United States, section 18 U.S.C. § 1956, also known as the Money Laundering and Financial Transactions Reporting Act of 1986, is the primary anti-money laundering legislation [18]. This law provides criminal liability for money laundering and related activities. Penalties include fines of up to \$500,000 or double the value of the property in property cases and a maximum sentence of twenty years in prison. The Drug Abuse Control Act of 1988 also contains important anti-money laundering provisions [20]. This law focuses on the possible financial channels through which drug traffickers try to legalize their illegal income. Financial institutions must screen individuals using money order systems, cashier's checks, and traveler's checks if the amount exceeds \$3,000. This measure prevents anonymous transactions, which are often used for money laundering.

Australia's anti-money laundering laws are contained in Part 10.2 of the Criminal Code 1995, and include regulations on the laundering of money obtained from such serious crimes as drug trafficking [3]. The legislation establishes reporting requirements for financial institutions and businesses, requiring them to report suspicious transactions to the Australian Transaction Reporting and Analysis Center (AUSTRAC). AUSTRAC plays an important role in detecting and preventing money laundering by analyzing data and working closely with law enforcement agencies. Individuals found guilty of money laundering can face significant fines and lengthy prison terms, increasing the penalties for laundering large sums of money or laundering the proceeds of serious crimes.

In Ukraine, Article 209 of the Criminal Code is the basis of legislation aimed at combating crimes related to money laundering [6]. Article 209 defines the laundering of criminal proceeds as "the execution of financial transactions and other transactions with money or other property, known to have been obtained through criminal means, as well as the use of such funds and other property in entrepreneurial or other economic

activities, as well as as creation on the territory or under it organized groups within the borders of Ukraine for the purpose of legalization (laundering) of money and other property, known to have been obtained through criminal means." The article has an impact on individuals that are caught in money laundering crimes, ensuring that both the main offenders and those who facilitate this process are brought to justice. Convictions in money laundering cases can result in significant fines and lengthy prison terms.

Money laundering schemes often find themselves in the process of complex international transactions in different jurisdictions, which makes it difficult for authorities to trace the crimes. In particular, some jurisdictions may lack regulation of digital currencies or have other loopholes in the law that may allow criminals to exploit them and create shell corporations that facilitate money laundering [2]. In addition, another challenge is that smaller financial institutions may find it difficult to allocate the funds necessary to establish effective mechanisms that meet PMC requirements [13]. To combat money laundering schemes, financial institutions are required to implement customer due diligence (CDD) procedures. This involves the collection of detailed information about customers, including aspects such as the identification of beneficial owners. The importance of CDD was first recognized in the European Union with the adoption of the first Anti-Money Laundering Directive in 1991 (no longer in force). The purpose of this directive was to prevent abuse of the financial system for the purpose of money laundering. The directive required financial institutions to apply customer due diligence when entering into business relationships with them, including identification and verification, transaction monitoring, and reporting of suspicious activity to law enforcement [14].

Kenya's Anti-Money Laundering and Anti-Terrorism Financing (Amendment) Act 2023 is an example of modern legislative efforts to combat this type of crime [11]. The law mandates the identification and registration of beneficial owners for companies and limited liability companies, thus closing previously used loopholes. Small companies are required to appoint compliance officers. Also, Switzerland is strengthening the legal fight against money laundering with the help of proposed legislation on the creation of a public register of beneficial owners [8]. The proposed bill would introduce more demanding vetting rules for "high-risk" professions, such as real estate lawyers, and introduce stricter controls on cash payments in the precious metals trade.

Directive (EU) 2015/849, also known as AMLD4, is the cornerstone of EU anti-money laundering legislation. Adopted in 2015, it strengthens EU law by introducing stricter anti-money laundering measures in member states [15]. AMLD4 requires more financial institutions and companies to carry out enhanced customer due diligence (CDD) procedures, verifying the identities of customers and beneficial owners. The directive also emphasizes the establishment of centralized registries of beneficial ownership information and provides authorities, institutions and the public with access to this data. It contains provisions on sanctions against those who violate these requirements. In addition to AMLD4, European Union Directive 2019/1153 gives law enforcement agencies direct access to bank account holder information and data held by financial intelligence units (FIUs). This improves the exchange of information, speeds up investigations and strengthens the fight against cross-border drug trafficking crime [16]. Building on AMLD4, the European Union implemented the 6th Anti-Money Laundering Directive (6AMLD) in October 2018 [17].

Major additions to 6AMLD include:

- extended definition of money laundering;
- stricter penalties for violators;
- mandatory creation of central registers of beneficial ownership;
- strengthening of interaction between authorities;
- detection of 22 particularly important crimes related to the laundering of criminal proceeds, including illegal drug trafficking.

These major crimes affect a wide range of institutions, financial institutions, virtual asset service providers, tax consultants and auditors.

Another example of state anti-money laundering regulation is Israel's Anti-Money Laundering Law, 5760-2000 [10]. The law provides a clear definition of the concept of money laundering, recognizing it as a criminal offense and covers aspects aimed at laundering and concealing illegal funds obtained from criminal activities, such as drug trafficking, fraud and corruption. One of the key components of the Anti-Money Laundering Act is the imposition of obligations on various entities operating in the financial sector. Banks, financial institutions, foreign exchange service providers and other designated entities are required to take strict anti-money laundering (AML) measures, including conducting customer due diligence (CDD), reporting suspicious transactions, maintaining complete records and establishing internal controls to reduce money laundering risks. Central to enforcing the law is Israel's Anti-Money Laundering and Terrorist Financing Authority (IMPA) as the country's Financial Intelligence Unit (FIU) [1]. IMPA is the hub for all financial intelligence operations. Reporting entities are required to report all suspicious activity to IMPA to identify cases of money laundering or terrorist financing. These reports prompt law enforcement agencies to initiate investigations that lead to the prosecution of violators and the termination of illegal financial networks.

The provisions set out in the legislative framework of Kenya, Switzerland, the European Union (EU) and Israel provide us with evidence of the need to combat money laundering both domestically and internationally.

The era of digitization offers innovative methods of combating money laundering. Using advanced technologies, it is possible to quickly sort and analyze a large number of financial transactions. Blockchain technology promises to make financial transactions more secure. It uses a modern system that stores a copy of the history of each transaction in a network of connected computers. In this network, every transaction

must be verified and confirmed by multiple participants. This makes it impossible for criminals to change the data of financial transactions, since anyone in the network can quickly detect suspicious activity and report it [5].

### Summary

The process of concealing an illegal source of income supported by criminals around the world is called money laundering. International cooperation and the advancement of innovative methods are important tools in this fight, but only a strong criminal justice system remains the cornerstone of successful defense. Recent improvements in criminal law, such as those introduced in Kenya and Switzerland, provide law enforcement with more powerful tools and a more modern approach to combating this problem. The stricter due diligence requirements put in place for high-risk professions such as real estate brokers and lawyers are also extremely helpful, as they can identify rogue workers who aid in the laundering process. International cooperation is equally important in the fight against money laundering. Law enforcement agencies in different countries can share information, coordinate investigations and extradite criminals thanks to improved international cooperation. Having strong national criminal law systems in each country is essential for truly effective cooperation. Together, regulators, law enforcement, financial institutions, and technology professionals must create precise rules and properly enforce them. Comprehensive national legal frameworks, together with international cooperation, form a worldwide network of legal deterrents that greatly impede the ability of criminals to launder their illicit profits. Through prioritization and strengthening of criminal law measures, international cooperation, technological progress and joint efforts, more sustainable protection against money laundering can be created around the world. This comprehensive approach will destroy criminal networks, protect the financial system and contribute to a safer global community.

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