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**REGULATION OF COMBATING THE LEGALIZATION OF
CRIMINAL PROCEEDS: INTERNATIONAL AND DOMESTIC
ASPECTS**

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Abstract

In the modern world the criminal activity involves proceeds that are realized both for the purpose of further commission of illegal acts and are used for the personal benefit of criminals. However, until now the use of proceeds of crime for legitimate purposes is particularly relevant. In practice, these acts with criminal proceeds not only result in impunity for the perpetrators of crimes and proceeds, but also have a negative impact on the development of economic and financial system of the state. These mechanisms are currently being implemented through international and national systems to counter this crime. It is noted that to date a large-scale international legal framework has been created to counter the legalization of the proceeds of crime, but some problems remain in the implementation of international norms in the domestic law of some countries. The legal basis for combating the legalization of criminal proceeds in the Russian Federation is considered on the basis of the analysis of the norms enshrined in general and special regulatory legal acts that govern the relations in this area. The Russian legislation and law enforcement practice distinguishes the main subjects of the national system against the legalization of criminal proceeds are: the Ministry of Internal Affairs of the Russian Federation, the Central Bank of the Russian Federation and the Federal Financial Monitoring Service. The emphasis is placed on the need to improve existing international and national systems to counter the legalization of criminal proceeds in the conditions of modern informatization and digitalization.

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1. Introduction

The modern development of the international community is characterized by active globalization processes that affect most spheres of life in different states. In some areas, these processes have very positive results, while in others they have a negative impact on the stability of the situation. However, in general, the 21st century demonstrates the desire of most world countries to develop not only certain areas of domestic relations, but also a steady interest in international cooperation.

In addition to globalization processes, which in one way or another affect the modern world community and the development of individual states and regions, the present time is also characterized by active informatization and digitalization of relations. These phenomena affect states and regions to varying degrees, which is true in the context of differences in their development in these areas of life. However, to date, there are no concerns about the future of information and digital technologies in the modern world, only discussions arise about the forms of their application and the peculiarities of organizing domestic and international policies (Stokes, 2012).

All the above phenomena are also reflected in the criminal environment, which in general allows modern offenders, using the achievements of science and technology, going unpunished in circumstances where law enforcement practice has not yet had time to develop appropriate mechanisms to counter. This problem is not only relevant for specific states and regions. The increase in the number of situations where criminals use inter-state ties to realize their illegal intentions confirms the scale of modern cross-border and transnational crime.

The analysis of factors affecting the development of crime in the modern world still demonstrates the interest of persons who commit unlawful acts in the material benefit from this activity (Rusanov, 2019). Need, difficult life situations, difficult financial situation – all these factors are often used by modern criminals to attract other persons to illegal activities. Thus, a very large-scale conclusion can be made that criminal activity in the modern world is always connected with proceeds. At the same time, these proceeds may be used by criminals both for committing further crimes and for their own enrichment.

2. Problem Statement

There is now an interest in the forms and methods of obtaining the proceeds of crime, especially when it comes to their legalization in certain state areas. The proceeds of criminal activity are often associated with the commission of further similar criminal acts, but not in all cases the profit from such illegal activity is distributed through legitimate channels. These situations of legalization of the proceeds of crime find their legal solution in both domestic and international law. However, the above-mentioned legal systems do not always respond in a timely manner to regulate effective mechanisms to combat this criminal act.

3. Research Questions

The subject of scientific research includes international and domestic regulatory legal acts governing counteraction to the legalization (laundering) of the proceeds of crime.

1. The content of the concept of “legalization of the proceeds of crime”, which, in a broad sense, should be understood as a set of financial transactions or other transactions with funds and property obtained as a result of illegal acts, which are later used in legitimate forms in the economic sphere, are particularly relevant (Lavronenko, 2018).
2. Based on the analysis of the legal literature and legislation of certain countries, including the Russian Federation, the following main features characteristic of the legalization of the proceeds of crime should be highlighted: income in monetary or other form; illegal ways of obtaining this income; legal capacity to own, use or dispose of this income; criminal intent to give a legitimate form to further actions with the indicated income; use of entities in banking and monetary relations for criminal purposes.

4. Purpose of the Study

The purpose of the study is to identify current problems of legal regulation against legalization (laundering) of the proceeds of crime at the international and domestic levels, and the ways to solve them.

5. Research Methods

Dialectical general scientific method of cognition, as well as private-scientific methods: systemic-structural, logical, comparative-legal and others were used in the study.

6. Findings

Based on the analysis of the modern international system against the legalization of criminal proceeds, the following conclusions can be drawn:

- 1) legal foundations of the international system for countering the legalization of criminal proceeds were created by universal and regional international organizations of general competence, which consider the mechanisms for countering the analyzed criminal act as part of the international system for combating crime in certain areas (drug trafficking, transnational organized crime, etc.);
- 2) international organizations of special competence, such as the Financial Action Group against Money Laundering, the Committee of Experts of the Council of Europe on the Assessment of Measures against the Legalization of Criminal Proceeds and the Financing of Terrorism and others, are particularly important in the international system against the legalization of criminal proceeds. They are based on the development and implementation of basic legal requirements for the organization of national systems to counter the legalization of criminal proceeds, which positively affects the effectiveness of the fight against the spread of these criminal acts in the world.

Countering the legalization (laundering) of the proceeds of crime is a key strategic task of any state, since it is closely related to the tasks of combating such destructive phenomena for the economy and society as the spread of drugs, terrorism, organized crime, extremist activity, corruption (Yakovlev,

2019). Only by overcoming the impact of criminal proceeds on social and economic development, which is reflected in the reproduction of illegal profit schemes, it is possible to achieve sustainable economic growth and the acceptable level of national security. Currently, the problem of laundering the proceeds of crime is a global problem and can only be solved by coordinating the efforts of states and international organizations.

In the framework of improving the international standards in the field of countering the legalization of the proceeds of crime, there is a need to draw attention to a number of problems that are relevant for the modern global financial community.

First, not all states around the world are currently active in combating the legalization of criminal proceeds, which in most cases is caused by the low level of development of a country's financial system as a whole and the lack of appropriate infrastructure. This situation has long been the subject of an assessment by the Financial Action Task Force, which annually draws up a blacklist of states against which the Financial Action Task Force calls for countermeasures to protect international and national financial systems.

Second, as in many areas, there is still a problem of unifying certain aspects of the international mechanism against the legalization of criminal proceeds. Despite the fact that every year more and more states are actively participating in the activities of the Financial Action Task Force against Money Laundering, not all national systems for countering this crime, as well as other bodies and organizations involved in this process, use common mechanisms. In general, this situation leads to the creation of the most vulnerable regions, which are used by the criminal community to legalize criminal proceeds, and moreover, the international cooperation in combating this crime is significantly complicated.

The analysis of the domestic law of certain countries suggests that the very concept of "legalization (laundering) of the proceeds of crime" is now assessed differently in legal systems. Thus, the most common approach is to consider the legalization of criminal proceeds through the prism of the criminal law in those countries where the act is an independent criminal offense (e.g. USA, Italy, France, Switzerland, Austria and others). The Russian Federation is also the representative of this approach in this case.

The development of a national system against the legalization of criminal proceeds is an important task for most states in the world. Given the scale and peculiarities of the analyzed crime, it is impossible to imagine effective mechanisms to combat the legalization of criminal proceeds in case they are not systematically organized at the state level (Khomich, 2017).

On the basis of the analysis of the Russian legislation it should be concluded that at present the legal regulation of combating the legalization of the proceeds of crime is large-scale and full-fledged, which is achieved by regulating relations in related areas and creating specialized acts regarding the declared issues. The considered crime is quite multidimensional and may be present in various forms, and hence the scope of the legal provisions affecting that area seems justified.

Currently, the Russian Federation has established quite a large-scale system of bodies whose competence includes countering the legalization (laundering) of the proceeds of crime. Special entities occupy a special place in this system of bodies, which should include the Ministry of Internal Affairs of Russia and individual regulators of the financial system – the Bank of Russia and Rosfinmonitoring.

Given the rapid development of financial crime in the world and in the Russian Federation, the results of close cooperation between competent authorities and services serve the effective mechanisms to counter the legalization of criminal proceeds.

Based on the analysis of national systems for countering the legalization of criminal proceeds, the following conclusions should be drawn:

- 1) currently, most countries of the world established national systems to counter the legalization of criminal proceeds, but not all cases of their creation and operation take into account the requirements of international legal standards in this area;
- 2) the variety of mechanisms and different forms of counteracting the legalization of criminal proceeds seems quite appropriate based on state and regional specifics, but this situation generally complicates the cooperation of competent authorities in this area;
- 3) the national system of combating the legalization of criminal proceeds should include not only law enforcement agencies, but also its mandatory element – the regulators of the financial system of the state depending on their level of development.

Having analyzed modern international and domestic mechanisms for combating the legalization of criminal proceeds and the financing of terrorism, it seems necessary to note that this system is very dynamic, which is associated with the active development of the forms and methods of committing crimes in the world. Given this fact, it should be noted that at present there are some areas where these systems are the most vulnerable (Kuli-Zade, 2018). Thus, in the conditions of modern processes of informatization and digitalization, counteracting the use of virtual assets to legalize criminal proceeds and finance terrorism is particularly relevant (Alizade, 2018). This issue was partially resolved by the relevant amendments to the Recommendations of the Financial Action Task Force on Money Laundering, which regulate the obligation for service providers in the field of virtual assets to obtain a registration or license for their activities, and apply to these providers all the requirements imposed on other accountable persons in the Recommendations of the Financial Action Task Force on Money Laundering, such as customer identification, monitoring client operations, storing reports, etc.

It is also fair to mention virtual goods (items used inside online games), which even theoretically the Financial Action Task Force does not classify as virtual assets due to their complex and equally insignificant turnover (Holman, 2018). This example only to a small extent illustrates the vulnerability of existing international and national systems to counteract the legalization of criminal proceeds in the context of informatization and digitalization.

7. Conclusion

Currently, quite large-scale international system was established to counter the legalization of criminal proceeds, which includes international legal standards in this area and international organizations and bodies acting on their basis. The international system is regionally sensitive and the legal framework of the process is quite dynamic. However, the efficiency of this international system is impossible without countering the legalization of criminal proceeds within the relevant national systems. Despite the development of national systems in certain regions of the world, there are still problems of the lack of

effective mechanisms to counter the legalization of criminal proceeds in certain states, which are successfully used by the criminal community.

In order to overcome these problems, it is necessary to establish national systems to combat the legalization of criminal proceeds in all states of the world and to harmonize national legislation in accordance with existing international standards in this field. Besides, timely improvement of regulations taking into account the processes of globalization, informatization and digitalization within the modern world community is important for the effectiveness of international and national systems to counter the legalization of criminal proceeds.

The analysis of the Russian system of countering the legalization of criminal proceeds suggests that the current system is very progressive due to a combination of large-scale legal regulation and the active engagement of some entities. The vulnerabilities of the current system contain certain organizational and legal gaps in the activities of financial regulators on the declared issues.

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