

Money Laundering as a Form of Organized Crime

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Abstract

Dirty money is considered all the money earned from illegal and criminal activities, the authors of which try, in different ways, to introduce the money earned in a criminal way, into the legal market. Such a thing is certainly not easy to do; however, the same has happened, and unfortunately, it still happens nowadays. There are many ways in which it happens, such as entering money into businesses that do not work with invoices but with cash, or investing in games of chance such as casinos, betting, etc. Criminal activities are considered those activities related to organized crime, such as criminal activities related to corruption, activities related to narcotics trafficking, activities related to weapon trade, activities related to human trafficking, activities related to money laundering, etc. Regarding this very dangerous phenomenon, the legal infrastructure must be changed and a new law for its prevention should be issued. Also, for the purpose of fighting money laundering, local and international specialists in the field must be consulted, as the same now has already become an international problem.

Keywords: money laundering, economic crime, legislation, prevention.

JEL Classification: K14, K33

1. Introduction

Crime in general, particularly the organized crime is a very dangerous and negative social phenomenon, especially the new forms of its occurrence, as well as the consequences caused by these new forms. The consequences of money laundering directly affect the overall development of the economy of a country.

Money laundering is done in various ways, such as through fiscal evasion, corruption, bribe schemes, founding fictitious economic entities, using loans and pyramid schemes.

The process of money laundering goes through several stages- that is, three stages. The first stage includes the physical part of the money obtained illegally through criminal activities. The second stage includes putting the money earned in criminal activities in order to lose the traces where it came from, and the third stage includes the engagement of legal entities of the criminal offense, so that the laundered money can be introduced as legal money, and then the same can be deposited in banks, and also be invested in various economic activities.

We encounter the performers of this organized form in every country, regardless of its economic development and political stability. Money laundering, as a form of organized crime, affects the interests of the state as well as the interests of citizens in cases where the same are allowed to be used as part of the activities of groups of organized crime.

Due to the wide range that this form of organized crime has, it is being discussed

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by local organizations and also various international organizations, with the aim of treating it and preventing it as well.

2. Money laundering: the notion

In world literature, the concept of "black money" began to be used in the scandal "Watergate," while money laundering as a criminal offense got its attention in the 80s².

At first, in Italy, terrorists demanded ransoms for kidnapped politicians, and they hid this money through money laundering operations in banks.

Money laundering is a concept that is being expended; from a limited crime, it has become a crime at the centre of international cooperation efforts to fight against drugs, organized crime, and terrorism³.

Generating large profits from criminal activities has prompted Western governments to act by creating the required legislation to confiscate illegal incomes. Even though smugglers cannot keep criminal incomes, they are performing offensives with all mechanisms and means through which they hide these incomes⁴.

The word crime means "the total crimes committed in a certain time, space, and period⁵. Crime, as a whole, is divided into primary and secondary crimes. Primary crime refers to crimes that have been committed for the first time, for which competent bodies have carried out a criminal procedure, while secondary crime represents another performance of criminal behaviour and their treatment two or more times at the authorities for criminal procedure⁶.

Money laundering is also a form of organized crime, as a result of gaining it through criminal activities⁷. Money laundering means the process of hiding the source of illegal income, realised through criminal activities, with the purpose of putting these incomes in the course of legal financial business.

According to findings that come from the Council of Europe, globalization of finances in the market has led to the use of large sums of money. In this way, laundered money can be mixed with legal money by not being unnoticed and hindered⁸. Financial means, which are an evidence for other criminal acts, are hidden and transformed in order to be integrated into the legal financial system.

Money laundering not only affects the free market economy, but it also destroys the democratic structure and political stability of the country.⁹ According to superficial estimating, it is believed that there are "laundered" between 300 and 500 billion US dollars in the world today, and the net financial benefit of those who do this work is 2% of the gross social production.

In the criminology literature, the money that has been earned through illegal activities such as weapon trafficking, women trafficking, people trafficking, the organization of prostitution, racketeering, and other forms of organized crime is

² Naim Mëçalla, *Pastrimi i parave- elementët juridiko-penal dhe kriminologjik*, Tirana, 2013, p. 75.

³ Ibid, p. 76.

⁴ Ibid, p. 76.

⁵ Ragip Halili, *Kriminologjia*, Prishtina, 2016, p. 67.

⁶ Ibid, p. 67.

⁷ Veton Vula & Mesut Ademi, *Kriminaliteti i Organizuar*, Prishtina, 2020, p. 86.

⁸ Ibid, p. 87.

⁹ Ibid, p. 88.

considered illegal money and has other names such as "dirty money", "tainted money," etc., and the same is not allowed to be used in economic and financial transactions¹⁰.

The International Organization of Securities Commissions defines money laundering as „a wide range of activities and processes aiming to obscure the source of illegally obtained funds and create the idea that they originate from a legitimate source”.¹¹ Therefore, money laundering is the transfer of illegally obtained money or investment to hide the true source.

Money laundering and illegal financial gain are included in the group of so-called new forms of organized crime. It is about money and material benefits gained through illegal businesses or by committing criminal offenses¹².

From the criminal point of view, this criminal offense is committed by the person who, through banking, economic or financial work, issues, receives, gives or converts money that he knows is obtained by the narcotics trade, the weapons trade or other criminal actions¹³.

The act of committing a criminal offense is using, receiving, giving or converting money for which it is known that they originate by committing various criminal acts¹⁴. This criminal offense can be committed intentionally, which includes the performer's awareness that the money is earned as a result of a criminal offense. The most serious form of this criminal offense is considered to be committed when the performer has committed the offense as a member of a group, gang, or other association that deals with money laundering and other material benefits¹⁵.

3. Organized crime and money laundering

Organized crime creates the ability to quickly adapt to new conditions and circumstances, finding a space for making large profits. Organized criminal groups, creating large capital, have destructive influences on the governing institutions, the police and the legal order in one country¹⁶.

Today, organized crime is increasingly having new developments in terms of the forms of occurrence of criminal activities as well as in the ways of their execution¹⁷.

In the following, we will present data from the regions of Tetovo and Gostivar on criminal offenses committed in the field of organized crime.

In 2021, in the region of SIA Tetovo, in the field of organized crime, there were 11 criminal offenses (9 in Tetovo and 2 in Gostivar), according to the nomenclature they are about: (Tetovo, 2022 -7 (TE-5 and GV -2), the criminal offense "falsification of money" provided in Section 268 of the CC of RNM, 2 criminal offenses (TE) "money laundering and other contributions from criminal offense" provided in Section 273 of the CC of the RNM, 2 (TE) criminal offenses.

¹⁰ Mensur Morina & Florent Azemi, *Krimi i Organizuar*, Mitrovica, 2023, p. 24.

¹¹ Ibid, p. 25.

¹² Ismail Zejneli, *E drejta Penale, Pjesa e Posaçme*, Tetovo, 2007, p. 73.

¹³ Ibid, p. 74.

¹⁴ Ibid, p. 74.

¹⁵ Ibid, 74.

¹⁶ Veton Vula & Mesut Ademi, *op. cit.*, p. 87.

¹⁷ Ibid, p. 89.

Table 1.

Criminal Offense	year 2021
Falsification of money	2
Money laundering and other contributions from criminal offense	2

During the period of the year 2021, an increase is observed in the detective function of 27% compared to the previous year (2020 - 8 criminal offenses), whereas, in the field of organized crime, 8 criminal offenses were presented (2020 - 3 criminal offenses) against 14 perpetrators (2020 - 3 perpetrators).

During the year 2022 SIA - Tetovo has undertaken organized measures and activities in the field of organized crime with the aim of discovering organized forms of criminal offenses and criminal groups operating in the region, by committing such criminal offences. There have been efforts to minimize the negative tendency of organizations to commit activities such as falsification and money laundering committed by criminal groups, money laundering, illegal trade with people, migrant smuggling, and corruptive behaviour during the performance of official activities¹⁸.

In the year 2022, in the region of SIA Tetovo, in the field of organised crime, there were discovered 12 criminal offences, according to the nomenclature, which is about: 10 criminal offences, "falsification of money," provided in Section 268 of the CC of the RNM; 1 criminal offence, "laundering of money and other contributions from the criminal offence," provided in Section 273 of the CC of the RNM; and 1 criminal offence, "bribe." During the period of 2022, we had an increase in the detection function of 33% compared to the previous year (2021 - 9 criminal offences). Whereas, in the field of organised crime, there were four criminal charges filed against four performers¹⁹.

Table 2.

Criminal Offenses	year 2022
Forgery of money	10
Laundering money and other contributions from the criminal offense	1
Taking bribe	1
Total :	12

3.1. Directorate for prevention of money laundering and financing of terrorism

For the detection and prevention of money laundering and financing of terrorism, the Directorate for Prevention of Money Laundering and Financing of Terrorism has been established within the Ministry of Finance, and it has the following competences²⁰:

- collects, processes, analyses, stores, and sends data that has been received from

¹⁸ Rexhep Gashi, *Krimi i Organizuar*, Prishtina, 2023, p. 54.

¹⁹ Ibid, p. 55.

²⁰ Law on prevention of money laundering and other benefits from criminal offenses, as well as from financing of terrorism, Skopje, 2010.

entities based on the law;

- provides financial, administrative and other data and information necessary for executing its competences;

- prepares and submits a report with an opinion to the competent authorities whenever there is a suspicion of any criminal offense of money laundering or financing of terrorism;

- issues a written order to the entity, which temporarily stops the transaction;

- makes a request for submission of a proposal for determining temporary measures to the competent public prosecutor;

- makes a request for initiation of misdemeanour proceedings at the competent court;

- cooperates with the Ministry of Internal Affairs, the Financial Police, the Public Prosecutor's Office, Customs Directorate, the People's Bank of the Republic of Macedonia, the Public Revenue Directorate, the State Currency Inspectorate, the Securities Commission, the State Commission for Prevention of Corruption and other state authorities, the Capital Agency for Supervision of Pension Insurance capitally financed , the Insurance Supervision Agency, and other institutions and international bodies, to fight against money laundering and financing of terrorism;

- determines the list of indicators for risk analysis and distinguishes suspicious transactions in cooperation with the authorities and bodies that exercise supervision over their work and

- perform other work defined by law.

4. Prevention

In order to prevent the activities of organized crime and money laundering with the purpose of legalizing it, earned from the drug trade, human trafficking, weapon trade, etc., there must be integrated measures against money laundering.

Some of the measures are also aspects of criminal policy against organized crime.

The aspects of the European criminal policy against organized crime are focused on²¹:

- creation of a criminal policy that enables the detection, investigation, prosecution, and punishment of various forms of economic crime;

- preparation, qualification and specializing police workers, prosecution, and court employees to fight the organized crime;

- creation of appropriate and specialized structures to fight against certain forms of organized crime;

- taking protective measures against potential victims, witnesses, and people who regret, as well as by coordinating the work of the police, prosecution and courts with homologous bodies in neighbouring countries or in a region.

According to assessments of organizations that monitor the level of corruption according to the index of corruption perception published in 2022 by International Transparency, Albania is ranked on 110 level, out of 180 countries in total, being ranked

²¹ Veton Vula & Mesut Ademi, *op. cit.*, p. 14.

as one of the countries with the highest level of corruption²². International reports highlight the importance of taking decisive action against money laundering at all stages, starting from proactive investigations, prosecution and final convictions for high-level corruption and confiscation of criminal assets.

Money laundering and criminal assets remain an increased risk, because²³:

- indemnity of assets generated from illegal sources abroad will increase the potential risks of money laundering and financing terrorism.

- implementation of the draft is an additional risk as long as it involves fiscal and criminal amnesty.

- as long as the entities are exempted from the obligation to provide information to the relevant institutions regarding the time, the way of creating, holding, or possessing assets declared in accordance with the provisions of this law, it is difficult to guarantee that they do not derive from a criminal activity.

- the draft does not provide mechanisms for how the administration and financial institutions will undertake actions for controlling declaration in accordance with measures to fight money laundering and financing terrorism²⁴.

- the draft encourages subjects to bring undeclared assets in significant values many times greater than the value of a transaction provided for in the law of money laundering, for which verification and investigation by relevant institutions are required.

- public administration institutions are fragile, including self-declaration unit, to deal with the verification of the flow of voluntary declarations.

- the period of five days is the minimum for verification and to close a certain process, when the entity is a beneficiary, and it does not justify this haste provided in the law.

- the draft proposal does not provide preventive mechanisms aimed at eliminating the real risk of money laundering²⁵.

5. Conclusion

The degree of risk from crime requires an analysis of the situation and the forms in which it occurs, and afterwards, measures must be taken to prevent and fight crime in general, especially money laundering as a form of organized crime.

Discovering this type of crime requires special treatment, considering its performers as well as the motives and targets attacked.

The Regulation of economic relations has an important role in prevention of crime since a lack of law leads to falsification of money, money laundering, taking bribes, giving bribes, bankruptcy, hiding taxes, illegal trade, unfair competition, etc.

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²³ Ibid, p. 242.

²⁴ Ismail Zejneli, Vlado Kambovski and others, *Kriminaliteti i Organizuar-Aspekte juridike*, Tetovo, 2009, p. 67.

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