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Prospects of Spread of Money Laundering in Russia and Abroad

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ABSTRACT

In this article the author raises issues of money laundering in Russia and abroad. The main aspects to minimize the spread of money laundering in Russia and the impact of the shadow economy to the world economic and financial systems are the most efficient way is the creation of legal and economic conditions for the reduction of the shadow economy. The analysis of the causal complex of the Russian shadow economy and its financial component, all strategic directions of money-laundering prevention as well as such activities as a strategy to limit the opportunities for criminal activity in the field of finance; strategies to reduce the vulnerability of the legal economy and its financial component; strategy to strengthen co-operation between law enforcement agencies, as well as other public and private organizations, including different sectors of economy and finance; strategies to promote the development of standards and procedures to ensure the integrity of these organizations, as well as codes of conduct for relevant professions; strategies to prevent the use of the Russian shadow economy entities in their own interests; strategies to ensure effectiveness and efficiency of criminal justice systems and law enforcement agencies; strategy for strengthening moral values and education of civil society able to confront organized crime.

There are conclusions that only a systematic approach including the legal framework for combating shadow economy, various forms and methods of international cooperation and a system of preventive measures, can provide the level of social control, which allows you to constrain the further development of transnational informal economy including in finance.

JEL Classification: G30, G38, O17, K14.

Keywords: Laundering of money obtained illegally; shadow economy; finances; criminality; economic and financial systems.

1. INTRODUCTION

The criminalization of money laundering in Russia occurred in the conditions of the obvious influence (including targeting) from the West. In 1996 Parliamentary Assembly of the Council of Europe recommended

that the Committee of Ministers should “invite the Russian Federation to become a member of the Council of Europe”, “taking note of”, in particular, that Russia intends to sign and ratify the Strasbourg Convention on Laundering, Search, Seizure and Confiscation of the crime proceeds of 8 November 1990 (Ivanov, 2012). In Russia, there were no yet conditions allowing to benefit from the fight against “money laundering” a series of laws was adopted against money laundering. A low efficiency of the system of control over costs and financial situation of individuals is characterized for Russia. Such control is not carried out until recently “a life beyond means” could only attract the attention of law enforcement agencies. “Money and other valuables acquired by criminal means” art. 83 of Code of Criminal Procedure have been attributed to the number of physical evidence, but the actual probative value of them was constantly declining in legal practice (Gorelov, 2013). Administrative expenditure control at the legislative level established by the Federal Law of July 9, 1999 added in Tax Code Art. 86.1, 86.2 and 86.3 which provided a “tax expenditure control over individuals”. In essence, the control is reduced to a narrow category of formal duties of officials and notaries to report certain types of transactions reported to the tax authorities. At discrepancy of declared income expenses for the previous tax period (or lack of information about income) tax authorities may require the taxpayer’s submission of a special declaration of expenditure sources. However, in practice as before there are no cases of criminal prosecution for tax evasion when the discrepancy of expenditure to declared income is sufficient evidence for a conviction.

2. DISCUSSION

As part of the consideration of the main aspects to minimize the spread of money laundering in Russia and the shadow economy affect the world economy and financial system the most efficient way is the creation of legal and economic conditions for the reduction of the shadow economy.

As part of this one of the main issues is the issue regarding the regulatory legal acts aimed at the legalization of proceeds from crime. It appears that the problem of legalization of proceeds from crime must be based on the following principles:

- favorable changes of conditions for business (tax policy, privatization, non-economic activities), the changes with anticipatory nature to the need to strengthen the punitive measures;
- a clear distinction between capital of criminal elements and shadow-businessmen and accounting of this separation in the legislation on the fight against organized crime and corruption, on money laundering, in the Criminal Code;
- the formation of a new attitude to local entrepreneurs including living abroad, relations on the basis of an effective program of return of capital and their transformation into investment resources of Russia;
- strengthening of trust to the authorities, involving as a demonstration of effective measures to protect the population against financial fraud, the protection of savings, capital and the institution of private property;
- establishing of the public control over the activities of economic entities within the boundaries of the legal field. The mechanism of this control should be based on evidence of violations in the sphere of economy which facilitates the selection of a partner in a business relationship.

Laundering of “dirty” money and the legalization of shadow capital is not the same process at all although criminologists often identify them, understanding under the criminal income any economic benefit resulting from violations. “Dirty” business swept the Russian economy. More than three thousand organized criminal groups specialize in “laundering” of income, half of them organized own legitimate economic structures. For this reason by means of violence and blackmail a control is established over tens of thousands of market participants. Modern “shadow businesses” receive revenues not only from criminal activity but also as a result of economic, financial, customs violations (Kamynin, 2011).

The world community has recognized that the use of the banking system to carry out large-scale financial crime, concealment and money “laundering” obtained by criminal means becomes one of the biggest threats to business security. Criminal circles effectively take advantage of the traditional banking secrecy information from external control, the desire of financial institutions at all costs to attract customers. Absolutizing of bank secrecy for many years served the banking, today turns its underside, opposite.

Civilized banking communities realize the need to establish contacts with the supervisory authorities in the interests of both your own safety and the safety of the entire economic system. If domestic banks and other lending institutions do not appreciate the seriousness of the situation - permissiveness in the absence of proper control, - they can be cut off and isolated from the global financial community (as it happened, for example, with some of the Gulf countries).

The legislation of several countries that have experienced the effects of “laundering” process determines the responsibility for facilitating the legalization and provide for more severe punishment.

We should state that today the current legislation contains insufficient regulations that hinder or prevent money “laundering”. In most developed countries the system of measures to prevent and combat the use of financial and credit institutions for criminal purposes have adopted and perfected. In the new draft law in this area detailed diagrams counteracting legalization of proceeds from crime should be laid down, the powers of state bodies are defined. It should allow to control legitimate, legal means of a wide range of incomes that escape from taxes and replenish the budget.

When a particularly large funds are under the control of the state and of society, organized crime loses its powerful economic basis.

International cooperation is not only a prerequisite for combating proceeds of crime and the elimination of organizations involved in such activities, but it is also an important preventative measure. All countries should be aware that none of them is protected against collision with transnational criminal organizations. Practice shows that if transnational criminal organizations are discovering that some country is becoming less “friendly” as a result of a strong and effective measures to combat criminal activities, some of their members may simply move their base of operations to another country. Therefore it is extremely important to provide assistance to those states that have weak criminal justice system and the rule of law. To law enforcement authorities to create maximum exposure conditions for transnational criminal organizations, members of the international co-operation should develop a more flexible and uniform enforcement environment, which greatly complicate their unpunished activity in some countries, the penetration in other countries by moving into their territory of their operations and sending revenue through tracts of the global financial system.

We can resist the threat of transnational shadow economy if law enforcement agencies will also like criminal organizations show ingenuity and resourcefulness, organizational flexibility and cooperation. In particular, in order to succeed, they should be more creative in the use of existing and new bilateral and multilateral legal mechanisms of their activities at the national level should be more uniform and consistent, and law enforcement officials should have the same mobility and to act as effectively as criminals.

Unfortunately, the real situation which reflects the efficiency of the joint fight against transnational shadow economy is characterized by the fact that the ability of law enforcement, as a rule, is limited to national borders, whereas criminal organizations spread their communications far beyond these borders (Alyoshin, 2014).

In addition, there are serious difficulties with the sovereignty of individual countries that give a legal assessment of criminal offenses for the creation of infrastructure of cooperation. Obstructions in cooperation in the fight against money laundering cause differences not only in criminal but also in the criminal procedure law in matters of understanding and respect of human rights, financial control, and the ratio of bank secrecy. At the operational level, there are problems with the confidentiality of information and access to it.

Possibilities of states to cooperate in matters of criminal justice and law enforcement in part depend on the nature of political relations between them. If political relationships are difficult this cooperation can be vulnerable, especially in those cases when they face different ideology or value system, or when countries have different attitudes to the issue of respect for human rights and freedoms. In this case one of the problems lies in the fact that cooperation in the field of law enforcement has traditionally been seen as a matter of “small” policy, which is subject to “high” associated with diplomatic relations, political and military alliances and national security considerations. However, the threat posed by transnational criminal organizations makes the task of establishing cooperation in the field of law enforcement paramount.

Another serious problem requiring quite a cautious approach lies in the fact that under certain circumstances some parties are not interested in establishing cooperation. This refers to a situation where corruption has penetrated into the higher echelons of power and cooperation can undermine positions of public officials or government as a whole.

This also relates to offshore banking centers which serve as tax havens. Not surprisingly, the authorities of the regions and the banks are reluctant to disclose information. In practice in many such cases there are laws prohibiting such disclosure. This completely contradicts the task of ensuring the bank “openness”, which is necessary for law enforcement agencies to deal with money “laundering” at the transnational level. However, since many of these havens are largely dependent on their banking systems as the main sources of the country’s financial resources and jobs, and their narrow national interests do not coincide with the idea of the major changes and the establishment of sustainable cooperation in the field of law enforcement.

It is necessary to change consistently the described situation in the field expanding the scope of international cooperation of law enforcement agencies of different countries. This requires, on the one hand, a common legal framework governing the implementation of the joint fight against money laundering, and, on the other hand, it is necessary to develop specific forms and programs of joint action.

Meanwhile, you must follow a set of principles underlying the performance of the main tasks of international cooperation in the fight against money laundering in order to applied forms and mechanisms

of such cooperation operated, and implementation of programs was effective and brought appreciable results. The basic principle of any international cooperation in this field is the respect for human rights and the protection of individual freedoms. Without this fundamental guarantee taken measures may get the criticism and not get legal status which transnational criminal organizations shall immediately take advantage of. In order to the society recognizes decisive measures to combat transnational criminal organizations and the crimes they commit they should be carried out under strict compliance with high ethical and legal standards.

The cooperation especially a mutual aid has to be carried out with cultural traditions and vulnerability of political interests. In other words, cooperation shouldn't take such forms which will put the countries receiving the help in passive and adverse situation. On the contrary, as all countries bear collective responsibility for the solution of this problem, the international cooperation directed against escalation of transnational shadow economy has to be under construction on the basis of original partnership.

One of the main objectives of the international cooperation consists in ensuring the maximum coordination of the criminal justice systems by increase in standards of the countries with weaker criminal justice systems in general or developments of the national regulations directed directly to fight against money laundering. It is extremely important to try to reduce the number of "states shelters" and to provide the greatest possible coherence of the national legislation on fight against transnational organized crime of various countries.

In order that results of these investigations could be used rather effectively, it is necessary that they were comparable in the greatest possible degree. The used procedures have not to be identical but they have to include rules of protection of the defendant, restriction of powers of police, ensuring fair judicial review and creation of normal conditions of keeping in prison. An increase in level of comparability of information and creation of opportunities for use of information and proofs in other national jurisdictions have huge value for fight against money laundering.

Effective international cooperation demands a fast exchange of information between the states and an operational execution of requests about providing necessary data or the help. For example, there are cases when the arrested criminals are released from prison because necessary documents haven't been received from other country. More expeditious acceptance of the appropriate measures has huge value for the solution of urgent tasks.

It should be noted that maximum efficiency from the offered directions of minimization of influence of shadow economy on finance can be reached only by means of complex use of all actions.

Based on the above provisions and also on the analysis of a causal complex of the Russian shadow economy of its financial component, all strategic directions of the prevention of money laundering can be divided into several main units of activities:

- strategy for restriction of opportunities for criminal activity in the sphere of finance;
- strategy for reduction of vulnerability of lawful economy and its financial component;
- strategy for strengthening of law enforcement cooperation and also other state and private organizations, including from various sectors of economy and finance;

- strategy of assistance to development of standards and procedures for ensuring conscientiousness in work of such organizations and also codes of behavior for representatives of the corresponding professions;
- the strategy of the prevention of use legal entities in own interests by the Russian shadow economy;
- strategy of ensuring efficiency and effectiveness of the criminal justice system and law enforcement agencies;
- the strategy of strengthening of moral values and education of the civil society capable to resist to organized crime.

Let's consider this strategic directions in more detail.

1. Narrowing of opportunities for criminal activity in the sphere of finance.
2. Reduction of vulnerability of lawful economy and its financial component. Organized crime seeks to get into lawful economy and its financial component for a number of reasons, for example, on purpose: (a) to launder and invest the income from crime; (b) to gain respectability and public rehabilitation for the members; (c) to receive control over the territory in which criminal groups conduct the operations for extraction of the maximum economic and political benefits and minimizing the risk of detention, arrest and condemnation (which is called "law-enforcement risk").

The activity in illegal markets and penetration into legal business are inseparable both in life and in operations of any organized criminal group. The multi-purpose criminal organizations direct the efforts where there is money, and, for example, one-target ones specializing in drug traffic become multi-purpose only when they have to invest the money received from criminal activity. Both those and others by all means seek to get into lawful business including financial one. To make economy less vulnerable it is necessary to provide big openness in activity of economic system.

Besides when this strategic direction is implemented it is necessary to consider that success in policy assumes an optimum combination of measures of regulation and deregulation. For example, some countries began to regulate rigidly the issue of licenses for all types of economic activity, including bank and financial services into which organized crime can get.

Meanwhile the strategy of blocking of spheres of economy the most subject to activity of organized crime by rigid regulation, in particular by licensing can reduce the competition and to some extent an efficiency of economic system.

3. Strengthening of law enforcement cooperation, other relevant state, public and private organizations, including from various sectors of economy.

Development of this direction in the strategy of the prevention of money laundering is provided by the Convention of the UN against transnational organized crime in the item "v" the p. 2 of the Art. 31 (Ovchinsky, 2011). The implementation of such cooperation and then its strengthening allows to strengthen social control over organized crime, to attract additional forces to its implementation, to prevent introduction of organized crime to the sphere of legal business using

nonconventional methods and special knowledge in the economic sphere of regulation of public processes.

4. The strategy of the prevention of use of legal entities in own interests by the Russian shadow economy. This direction quite corresponds to counteraction to current trends of development of protection of the transnational organizations against social control by means of use of legal cover of criminal activity on the one hand, and, on the other, for simplification of their penetration into lawful business. For the first time this development of such strategic direction of the prevention is specified in the Convention of the UN against transnational organized crime (the item “d” of the p. 2 of Art. 31).

The strategy of the prevention of use of legal entities in own interests by shadow economy provides acceptance of various measures. In particular, creation of the public register of the legal entities and individuals participating in establishment of legal entities, management of them and their financing; creation of a possibility of deprivation by a court decision or by means of other appropriate ways for the reasonable period of time of the persons condemned for commission of crimes as a part of organized criminal group, the rights to hold positions of heads of the legal entities registered within their jurisdiction; creation of the national register of the persons deprived of the right to hold positions of heads of legal entities; exchange of information contained in the registers stated above with competent authorities of other states.

5. Strategy of assistance to development of standards and procedures for ensuring conscientiousness in work of the public and relevant private organizations and also codes of behavior for representatives of the corresponding professions.

Similar developments allow to create rather unified rules which observance (in total with implementation of measures of other strategic directions) can constrain “slipping” of such organizations to the sphere of shadow business, interfere with realization with their help of illegal operations and also to their use as legal cover of criminal activity.

Codes of behavior for some types of experts which implementation of professional functions can be often used by shadow economy, for example, such as lawyers notaries, accountants, consultants for the taxation, etc., will allow to outline a circle of legal, lawful behavior for them, to protect them from corruption, retraction in ensuring criminal activity with shadow economy. National codes of behavior can be drafted on the basis of standard developed in large international organizations. At supply with their real mechanisms of providing, there is an opportunity to constrain use of such experts irrespective of whether there are in this country “legal niches” necessary for activity of the transnational criminal organizations. An example of such international code of behavior is the draft of the Code of behavior of the state officials.

6. Strategies to ensure the efficiency and effectiveness of the criminal justice system and law enforcement agencies.

Strategy of ensuring efficiency and effectiveness of the criminal justice system and law enforcement agencies.

For ensuring efficiency and effectiveness of a justice system and law enforcement agencies it is necessary to develop and take special measures for its protection against corruption, intimidation

and violence. In this regard, certainly, it is useful to try to obtain observance of national codes of behavior for public officials and also creation of special divisions at the national level for investigation of cases of corruption.

The transnational criminal organizations attract considerable resources for bribery and corruption of officials, and the temptation is especially high for those employees of police whose salaries often hardly reach a living wage.

For providing this strategic direction and prevention of organized crime it is also necessary to develop and carry out appropriate measures for ensuring protection of the criminal justice system in general, that is those persons, institutions and structures who participate in conducting investigations, bringing charges and adoption of judgments (Ragulina, Stroiteleva & Miller, 2015). The value of protection of employees of law enforcement agencies and courts and also witnesses cooperating with justice from intimidation and violence from the transnational criminal organizations is simply difficult to overestimate.

Results of attempts of intervention in activity of system can be minimized if appropriate measures are taken for a protection of certain officials from attempts of giving them bribes or intimidation.

So, for example, in relation to police officers and prosecutor's office, creation of target groups and investigation of affairs jointly strengthens the investigation and means that even elimination of one or several investigators by criminals won't stop the investigation of activity of this criminal organization. As for judges, accurately regulated procedure of assignment of punishment limits a subjective approach in actions of judges and makes them less vulnerable for bribery and intimidation. Witnesses will be exposed to pressure much less often if materials on this case are gathered by means of a complex of methods of collecting and fixing of proofs, for example, by means of electronic and physical observation or by means of withdrawal of documents and other material evidences.

Besides, the measures complicating an application by criminals of various methods of violence, intimidation or corruption against witnesses or representatives of a justice system can be taken. It can be reached by transfer of trial to other places where systems of protection are more effective, or by establishing the international cooperation in the organization of moving of witnesses on a new residence and a change of their surnames that will complicate the search of such persons for commission of "punishment" by criminal organizations. As for the organization of moving of witnesses to other countries, it is necessary to create shelters as those which transnational criminal organizations so successfully use.

All these measures promote the creation of effective and viable criminal justice systems which are able to resist to a pressure of the transnational criminal organizations and to interfere with their persistent attempts to provide for themselves "safe shelters".

7. Strategies of strengthening of moral values and formation of the civil society capable to resist to organized crime.

Problems of strengthening of moral values and creation of such civil society which is capable to resist to organized crime should have a special place in the system of main strategic directions

of the prevention of crime. The existence and functioning of the certain system of values in the society allowing to resist to mercenary aspirations of a part of representatives is a compulsory condition of achievement of public and cultural consensus against organized crime. Operations of organized criminal groups and also their stay on territories where they are traditionally based demand a public consent, tolerance of the population of this national territory which helps to reduce the risk following from activity of law enforcement agencies and at the same time promotes involvement of new members.

Organized criminal groups try to obtain such tolerance by redistribution of resources and, therefore, stimulation of growth of employment in areas where there was adverse economic and social situation and also promote its preservation, spreading corruption and situation of fear of violence. Therefore the most important condition of effective actions against organized crime is establishment and maintenance of high moral standards in political and administrative structures by means of ensuring respect of the law. The society with strong moral positions observing the principle of legality makes strong impact on those who break the law and those who allow it. These values need to be set, carefully to keep and send to new generations.

3. CONCLUSION

As organized crime is a organized violation of these values it is extremely important to develop and carry out comprehensive strategy for legality restoration always when it is violated and also a creation of “incentives to moral behavior” for those who are subject to corruption or susceptible to it. Measures for protection of the criminal justice system against violence and fear of violence are directed to legality restoration, and standards of behavior in various spheres of administration are directed to morality restoration.

The measures promoting creation of civil society in which the high level of morality of the population is harmoniously combined with respect for the basic principles of criminal justice and, first of all, legality can significantly help with fight against organized crime by ensuring public counteraction to it, distribution of reliable information about it and deepening of understanding of the expenses for society caused by organized crime.

In this regard the mass media have to play an important role. However, educational influence of the messages transferred by them can be contradictory because of the external showiness or sensational nature of these messages. Fantastic detective novels and realistic stories about crime attract more and more wide audience. Crime, violence and corruption are in the center of public attention in all regions of the world.

All strategic directions of the prevention of shadow economy and its financial component money laundering are closely interconnected and can work only as elements of the general system. Only a system approach including legal bases of counteraction to shadow economy, various forms and methods of the international cooperation and system of preventive measures can provide that level of social control which allows to constrain a further development of transnational shadow economy including in the sphere of finance.

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