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Theoretical and Practical Basics for Investigating Crimes in the Field of Money Laundering

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Abstract

The purpose of the study is to consider the fundamentals of money laundering investigation, including problematic issues and development prospects, improving both the legal and procedural framework, which in the future would be able to use the tools obtained more effectively and get the most positive result. The main methodological approaches used to achieve the goals of this study are analytical and comparative, the second of which is based on comparing the achievements in the field of investigations by other states with a similar legal system, that is, international experience. The main results obtained are the designations of the main problems in the development of this part of criminal law, the identification of procedural gaps in the regulation of the work of investigative bodies, and the establishment of the main goals and objectives for the effective investigation of this category of crimes.

Keywords: Procedural Order; Money Laundering; Judicial Decision; Comparative Analysis; Crime Detection.

Introduction

To date, the Republic of Kazakhstan has defined the main goals and principles of the investigation of financial crimes, which are consolidated at the legislative level. The base of relevant acts of the Republic of Kazakhstan has been replenished in recent years, along with previous laws and regulations, new laws and concepts for the development of this branch of criminal law, which should

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improve the effectiveness of investigations of this category of crimes in practice. Among the theoretical norms and principles, the main attention is paid to the Constitution of the Republic of Kazakhstan (1995) and Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990). The Decree of the President of the Republic of Kazakhstan No. 802 "On approval of the Concept of anti-corruption policy of the Republic of Kazakhstan for 2022-2026 and modification of some presidential decrees of the Republic of Kazakhstan" (2022) plays a key role in the establishment of the theoretical foundations for the investigations of this category of crimes. This Concept declares the achievements of the state in this area: an independent authorised anti-corruption body has been established – the Anti-Corruption Agency of the Republic of Kazakhstan (Anti-Corruption Service), subordinate and accountable to the President of the Republic of Kazakhstan; preventive measures in the public service; minimisation of prerequisites for corruption in courts and law enforcement agencies; expansion of public control, ensuring openness of state bodies; anti-corruption education, promotion of the ideology of integrity and "zero tolerance" to corruption; automation of business processes; anti-corruption in quasi-public and private sectors; strengthening responsibility for corruption and ensuring the inevitability of punishment; international cooperation (Kopytko & Sylkin, 2023).

Along with the Law of the Republic of Kazakhstan No. 191-IV "On counteraction of legitimisation (laundering) of incomes received from illegal means, and the financing of terrorism" (2009), the norms of the Special part of the Criminal Code of the Republic of Kazakhstan (2014), such a theoretical basis creates a favourable ground for law enforcement agencies, which should guarantee both the solution of this category of crimes, and bring them into the most effective execution mode, and prevent their appearance. Law of the Republic of Kazakhstan No. 191-IV "On counteraction of legitimisation (laundering) of incomes received from illegal means, and the financing of terrorism" (2009) defines the basic principles and foundations of combating the legitimisation (laundering) of incomes received by illegal means and the financing of terrorism, the legal relations of the main subjects whose activities are regulated by the Law: subjects of financial monitoring, the authorised body, and other state bodies of the Republic of Kazakhstan in this area. Due to its complexity, both procedural (from the standpoint of collecting evidence, bringing the subjective side, etc.) and often geographical, which is associated with an open international market, the availability of offshore zones, globalisation, personal data protection, which, along with the general principles of human rights protection, allow solving this series of crimes and attract the perpetrators are criminally liable, a significant part of the

state's efforts is aimed to detect this range of crimes and to bring the perpetrators to justice, much of the state's efforts are aimed at preventing such crimes by introducing a series of mandatory provisions (Karibayeva et al., 2021).

The main reasons that hinder the effectiveness of countering the illegal withdrawal of capital and ensuring the return of assets are: imperfection of the current legislation; humanity of criminal legislation; weak explanatory work among the population about schemes and methods of illegal withdrawal of capital; lack of a coherent algorithm of actions of law enforcement officers to work with foreign colleagues on the return of capital and ensuring the return of assets; lack of simultaneous investigation of criminal cases (Articles 218, 234, 243 Criminal Code of the Republic of Kazakhstan (2014)) of the analysed category in two directions – solution of financial crime and return of criminal proceeds (Temirzhanova, 2018). The goal-setting prerequisites have matured for inclusion in the list of tasks of the criminal proceedings (part two of Article 8 Criminal Procedure Code of the Republic of Kazakhstan (2014)) of prescriptions to criminal prosecution authorities on mandatory and timely measures aimed at identifying, seizing, and confiscating criminally obtained assets, proceeds from the use of criminally obtained assets, stimulation of compensation for damage (harm) caused by a criminal offence (Akhpanov & Yurchenko, 2013).

The theoretical and practical significance of this study is to identify the problems of pre-trial investigation of crimes associated with money laundering, which is a necessary paradigm for the effective legal application of norms and laws that would ultimately make procedural mechanisms more stable, universal, and effective. The purpose of this study is to systematise the problems of investigations of this category of crimes.

Materials and Methods

This study is based on several scientific methods, which can maximise its solution and achieve goals, in particular, to find new ways to solve the tasks set by the state, legislator, and executors in the field of investigation of crimes related to money laundering. The methodological approach is based on a gradual investigation of the topic using an analytical method of collecting information. The basis of this method is the theoretical basis of the state, which includes the main regulations, such as the Constitution of the Republic of Kazakhstan (1995), Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990), Decree of the President of the Republic of Kazakhstan No. 802 "On approval of the Concept of anti-corruption policy of the Republic of Kazakhstan for 2022-2026 and modification of some presidential decrees of the Republic of Kazakhstan" (2022), Criminal Code of the Republic of Kazakhstan (2014),

Criminal Procedure Code of the Republic of Kazakhstan (2014), Law of the Republic of Kazakhstan No. 191-IV “On counteraction of legitimisation (laundering) of incomes received from illegal means, and the financing of terrorism” (2009). Their analysis and synthesis allowed the study to reproduce the full picture of the legislative settlement of the issue, its shortcomings, and the completeness of the coverage of the issues in the investigation of this category of crimes.

Further, when disclosing the topic, an empirical method was applied, which, based on practice, scientific observation, and experience, would give the most objective idea of the problems of a given topic and would bring the author closer to setting the main practical goals of the study: to identify specific principles and tasks for improving the practice of investigations of a given branch of criminal law. A comparative method was used to find methods for solving the defined problems, which allowed using the example of other states to find ways to solve the tasks and achieve the goals of the study. These are the most successful countries with low levels of corruption and financial crime and high detection rates, among them Switzerland, Norway, and Finland. The comparative method was based on experiments, the legislative framework, and the peculiarities of the legal systems of these states, in particular, with the lowest financial crime in the world, considering also such factors as historical, peculiarities of mentality, nationality, geopolitics, etc. The study deliberately did not take the former Union of Soviet Socialist Republics (USSR) countries for comparison, since the legal system and legal regulation of public relations in such states have very great similarities and, accordingly, similar problems, and consequently, the statistics of detection and commission of crimes.

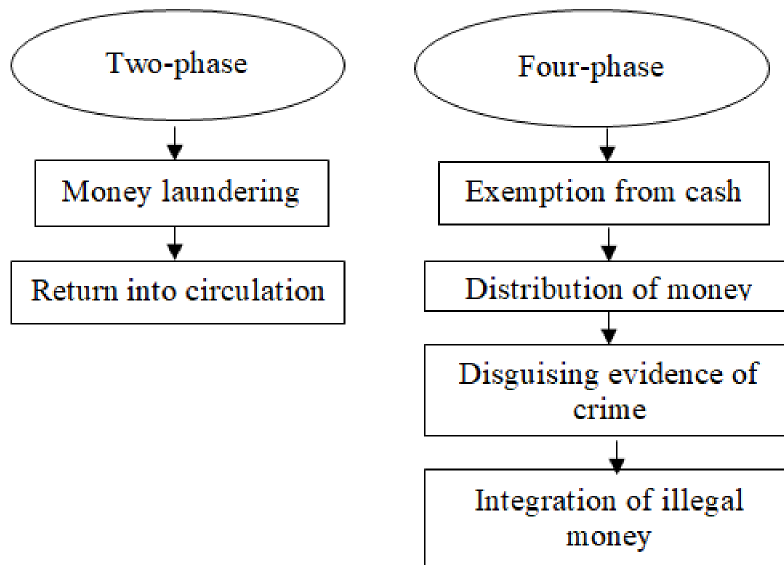
The final part is based on the material obtained as a result of the application of previous methods, shown in Table 1, the analysis of information and the generation of conclusions on this basis. These conclusions serve to form a unified position in improving the theoretical and practical foundations of the investigation of crimes in the field of legitimisation (laundering) of criminal proceeds. Thus, as a result of this study and the application of the above methods, the main theses of problems related to the investigation of crimes of this category were obtained, and the prospects for the development of this area were established. At the conclusion of this study, the key aspects of the procedural prospects for building a whole system of practical foundations were developed, which can be formed into a specific methodology for investigating crimes related to money laundering. In the future, the materials of this study can become the basis for amendments to the relevant instructions for law enforcement officials, and be unified into separate

systematised acts, in order to amend the current procedural norms of the Republic of Kazakhstan.

Results

First of all, it is necessary to define the concept of money laundering. Money laundering is the legitimisation of the possession, use, or disposal of funds or other property obtained as a result of the commission of a crime, that is, their transfer from the shadow, informal economy to the official economy to be able to use these funds openly and publicly (Raizberg et al., 2022). There are several models of money laundering that need to be studied from the standpoint of the possibility of their application in the investigation, and for taking preventive measures. Since money laundering is often a very difficult and intellectually acute scheme, criminals in this area are smart, diverse, and not systemic, which makes the solution of such crimes a very difficult task. At the moment there are two models of money laundering: two-phase and four-phase, which are presented in the diagram (Figure 1) (Certification program in the field of…, 2015).

Figure 1: Models of money laundering



Notably, for investigative authorities, it is more realistic and promising to search for traces of a crime related to money laundering in the first phases shown in Figure 1. Since, for example, the phase of integration of illegal money, which is already the inflow of laundered money into legal businesses on a legal basis, is almost unprovable in terms of evidence, and is only possible if previous phases of

concealment of criminal money are uncovered. Thus, the success of the investigation of this category of cases depends on the beginning of the search for the way of laundered money. Having analysed the models of laundering criminal money, it can be concluded that since the object of this crime is money, considering the method of their legitimisation, that is, giving them a legal form, it is possible to track money that may be obtained illegally, only through the banking system, which is also the main subject of financial monitoring, and therefore, automatic control in this area (Blikhar et al., 2023). It follows from this that the main subject of controlling the flow of illegal money is financial organisations, through which the laundering of criminal proceeds is carried out.

Notably, the policy of financial monitoring and control is quite effectively regulated both in the Republic of Kazakhstan and in a number of other countries, which is primarily related to bringing legislation in line with the requirements of international treaties and documents designed to combat organised crime, terrorism, and money laundering. Imperative norms of the banking sector quite clearly regulate the process of tracking suspicious transactions, cashing out money, and monitoring transactions that may lead to money laundering (Beisbekova et al., 2019). The countries under study in their legislation have special laws regulating legal relations in the field of legitimisation (laundering) of incomes received by illegal means All of them, as a rule, are reduced to the unification of norms that oblige financial monitoring entities to take special measures to prevent the possibility of laundering criminal proceeds. But at the same time, the Republic of Kazakhstan has a higher crime rate in this area than the countries taken for comparison. First of all, it is necessary to compare the regulatory framework of the research objects, that is, to conduct a comparative analysis of the relevant regulation of a given topic in Kazakhstan, Norway, Switzerland, and Finland exclusively in the following areas: norms of criminal codes, norms of procedural codes, special laws in this area, law enforcement practice, and informal methods of combating financial crime (Table 1).

Table 1

Comparative table of results

	Criminal Codes (special articles)
Kazakhstan	Article 218 Criminal Code of the Republic of Kazakhstan (2014): Involvement in the legal circulation of money and (or) other property obtained by criminal means, through transactions in the form of conversion or transfer of property representing proceeds from criminal offences, or possession and use of such property, concealment of its true nature, the source, location, method of disposal, movement, rights to property or its accessories, if it is known that such property represents

	income from criminal offences, and mediation in the legitimisation of money and (or) other property obtained by criminal means, are punishable by a fine of up to 5,000 monthly calculation indices or correctional labour in the same amount, or involvement in community service for up to 1200 hours, or restriction of liberty for up to **five years**, or imprisonment for the same period, with confiscation of property.
Switzerland	Article 305 of the Swiss Penal Code (1937): Any person who commits an act that may interfere with the identification of the origin, location, or confiscation of assets that he or she knows or should assume are the result of a crime or a qualified tax offence is liable to imprisonment of up to **three years** or a fine.
Norway	Article 337 of the Norwegian Penal Code (2005): Money laundering qualifies as - providing assistance in securing the criminal proceeds for another person; - for example, collecting, storing, hiding, transporting, sending, transferring, converting; - disposing of, mortgaging, or investing them, or through the transformation or transfer of property or otherwise conceals where the proceeds of a criminal act committed by an individual are located, where they come from, who has control over them, their movement, or related rights. Equal to a dividend is an item, claim, or service that takes its place. Money laundering is punishable, although no one can be punished for an action resulting in dividends, due to lack of guilt in accordance with § 20. The penalty for money laundering is a fine or imprisonment for up to **2 years**.
Finland	Section 32 of the Criminal Code of Finland (1889): Anyone who conceals, acquires, takes into custody, or otherwise transfers property obtained by theft, embezzlement, robbery, extortion, fraud, or *fraudulent way*, to imprisonment for up to **one year** and **six months.**
	Criminal Procedure Code
Kazakhstan	According to Article 32 of the Criminal Procedure Code of the Republic of Kazakhstan (2014), this crime refers to public accusations. Article 180 of the Criminal Procedure Code establishes that the investigating authority for this category of crimes is the anti-corruption authorities. In general, the Criminal Procedure Code does not have norms that would establish the specifics of the investigation of this category of crimes.
Switzerland	Article 3 of the Swiss Code of Criminal Procedure (2007) prohibits the use of methods degrading human dignity in the collection of evidence. Particular attention is paid to the jurisdiction of the investigation of crimes (section 2, 3). There is also a provision of various legal assistance and other assistance necessary to the pre-trial investigation bodies. Article 269 clearly provides for the right to

	use secret access measures. Section 4 provides for supervision of banking relations, and conducting a secret investigation (Article 286 CC). In addition, the preliminary proceedings consist of a police investigation and an investigation (which is conducted separately) by the prosecutor.
Norway	In Norway, there is the Criminal Proceedings Law (1986), which regulates the consideration of criminal cases in court. In addition, there is also a law on the police in this country, which regulates the issues of powers and its duties. There is also a General Civil and Criminal Code of Norway, which in Article 34 regulates the following: any proceeds from a criminal act are subject to confiscation. However, such liability may be reduced or removed if the court considers that the confiscation would be manifestly unreasonable. Confiscation may be carried out even if the offender cannot be punished because he or she was not responsible for own actions (Articles 44 or 46) or did not show guilt. Any asset that replaces revenue, profit, and other revenue benefits is considered revenue. The expenses incurred are not deductible. If the amount of revenue cannot be determined, the court will determine the amount approximately. Instead of any property, an amount equivalent to its value or part of the specified value may be confiscated. The verdict may indicate that the property serves as security for the amount to be confiscated. Confiscation is made from the person who has directly benefited from the proceeds of the criminal act. Basically, it is assumed that the proceeds went to the offender, unless he or she proves, based on the balance of probabilities, that they went to another person. Section 34: Extended confiscation may be made when the offender is found guilty of a criminal act of such a nature that the proceeds from it may be significant, and he or she has committed: a) one or more criminal acts, which together may be punishable by imprisonment for a term of six years or more, or an attempt on such an act, or b) the commission of at least one criminal act punishable by imprisonment for a term of two years, or attempts on such an act, and the perpetrator within five years immediately preceding the commission of the specified act, was punished for such an act. Any increase in the penalty limits in case of repetition is not considered. In the case of extended confiscation, all assets belonging to the offender may be confiscated, unless the offender proves, considering all probabilities, that these assets were acquired legally. The third paragraph of the section applies accordingly. In the case of extended confiscation from the offender, the value of all assets belonging to the current or previous spouse of the offender may also be confiscated, unless: a) they were acquired before the marriage or after its dissolution; b) they were acquired at least five years before the commission of a

	criminal act giving rise to extended confiscation, or c) the offender proves, based on the balance of probabilities, that the assets were not acquired as a result of the criminal acts committed. When two people live together permanently in a marriage-like relationship, it is equivalent to marriage.
Finland	Criminal Procedure Code of Finland (1997) is very specific, it pays little attention to the process of investigation and collection of evidence, and the main role is assigned to the court and the judicial process. It is difficult to single out articles or sections that would indicate the specifics of the investigation of financial crimes. Since Finland has a separate law on preliminary investigation, it defines the basic procedural rules that in other countries are reflected in the Criminal Procedure Codes. The law regulates the system of pre-trial investigation bodies, among which the key is the police, its relationship with the prosecutor's office, the parties to the preliminary investigation, their rights and obligations, evidence, their collection and registration, and other issues of preliminary investigation, which can be called classic in the understanding of general rules of procedural law.

Source: compiled by the authors.

Thus, seeing a comparative analysis of countries with a relatively low crime rate in the field of money laundering, it can be noted that, in comparison with the Republic of Kazakhstan, the regulatory settlement of this problem at all comparative stages, starting with material norms, ending with legal doctrine, is no less perfect, which, however, does not affect the overall picture. The purpose of this study was a comparative analysis of the legislative and legal framework of different states to determine the main aspects of the successes and failures of the fight against money laundering. Such an analysis has yielded some success in constructing an overall framework for the issue at hand. An analysis has led to the conclusion that, for example, the norm of the criminal law of Kazakhstan, which regulates and describes the objective side of the crime, is the most complex and conceptually “smeared”, which in some sense complicates the process of proof in criminal proceedings. In addition, in some cases, the countries taken for comparison have a general structure of the norm that is simpler and more understandable. As for the sanction for a crime, in Kazakhstan, it is the highest among comparative countries and assumes up to 5 years of imprisonment, while in Finland, the sanction is only 1 year 6 months. At the same time, Finland is in the first position in terms of the number of these crimes, in the context of their small number.

Moreover, not in all countries that are presented for comparison, the sanction provides for the confiscation of property obtained by criminal means (Moiseienko et al., 2021; Piddubnyi & Rohovenko, 2023). As for the procedural norms consolidated in the countries under study, they do not differ significantly in their essence, and do not have special norms regulating such a specific part of crimes. Only the Swiss Penal Code (1937) regulates relations with the banking sector in matters of investigation, while the rest of the states considered in the study do not have any specifics regarding the capabilities of the police in solving economic crimes. The main emphasis of the states, and the Republic of Kazakhstan, is on a special law, that is, on preventive measures, in particular, mandatory norms for subjects of financial monitoring, without paying special attention to the procedure for investigating crimes and procedural problems. Comparative analysis shows that along with the norms of the criminal codes, the Special law of the Republic of Kazakhstan is the most complex and voluminous in terms of perception, but not the mechanisms of interaction and implementation of the general concept of the law. Thus, the authors consider a special Swiss law to be the most successful of those presented for the study, which shows a multi-stage system of control bodies, their interaction, and responsibility for non-compliance. Perhaps a comparative analysis with a wider range of countries with a different legal system could give more successful and accurate conclusions regarding the problems in the investigation of crimes, both theoretical and practical.

Norway's path is also successful and promising in building a private system for investigating this type of crime, both by private detectives and journalists, specially created by banks departments that are moving more successfully in this area. In this case, there is a more efficiently arranged control system (non-conventional, from the standpoint of the police investigation), which allows investigating the entire chain and phases of the passage of money before the initiation of a criminal case, that is, at the stage of committing a crime, which gives the most positive effect in finding the perpetrators and determining all criminal connections. Therefore, it would be fair to consider such an approach more progressive and far-sighted. At the same time, the "private approach" to solving crimes should be intertwined at the legislative level with the classical form of investigation by law enforcement agencies, the system of collecting evidence and conducting a trial should be improved, which would allow achieving the most positive results. Thus, the author sees the problem of this type of investigation in the need to improve the norms of law, while Western colleagues devote most of their time to creating international measures to combat money laundering. Such measures include the Financial Action Task Force on Money Laundering, the purpose of which is to establish international standards for combating money

laundering, terrorist financing, and threats to the integration of the international financial system (). Currently, 39 countries participate in it, including 20 European countries, the USA, China, and Japan.

To date, about 180 countries have decided to apply the FAFT standard. The 40-point recommendation defines the measures that need to be taken to identify illegal money flows. It includes the creation of a money laundering supervisory authority, increasing the transparency of financial institutions, establishing a system of penalties and cooperation with other countries (Mombelli, 2019). Regarding Switzerland, their special Federal Act on Combating Money Laundering and Terrorist Financing (1997), and the financing of terrorism is very old in comparison with other countries, and dates back to 1997. That is, at the legislative level, this problem is being fought for much longer, which cannot but affect the results of this struggle, the presence of positive experience and professionalism in this area. In Kazakhstan, this area is only developing and gaining momentum, which does not exclude the presence of positive dynamics and the acquisition of their own experience in this line, which is based on both national and international participation. Considering the above, it can be concluded that the growth of economic crime is influenced by a significant number of factors, and, despite this, different states are developing their own methods of combating money laundering (Oliinychuk et al., 2023). Along with this, the world community has created a number of international organisations whose goal is integration and pooling efforts to prevent economic crime, including by improving the legal and procedural framework for investigating this category of crimes.

Discussion

A comparative analysis of the regulatory framework, legal doctrine, and other unofficial methods of combating money laundering, provides a clear idea that just in the Republic of Kazakhstan, the regulatory settlement of this issue occupies far from last place, while in the countries taken for comparison, non-legal means, such as motivating financial institutions through a system of fines, exploring private investigation, investigating journals, have taken the lion's share of success in combating economic crime. In the studies by Kazakh researchers, special attention is paid to the problem of regulatory settlement of the issue. Thus, according to A.N. Akhpanov (2022), in the context of financial counteraction to crime, it is advisable, first of all, to remove artificial barriers that prevent the use of Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990) in Kazakhstan. By the Law of the Republic of Kazakhstan No. 431-IV “On Ratification of the Convention on Laundering, Detection, Seizure and

Confiscation of Proceeds from Crime" (2011), which ratified the Convention, the Parliament of Kazakhstan made two reservations, which according to the opinion of A.N. Akhpanov (2022) were unacceptable and affect the overall picture of law enforcement:

1. In accordance with Article 2, paragraph 2, and Article 6, paragraph 4, of the Convention, the Republic of Kazakhstan shall apply Article 2, paragraph 1, and Article 6, paragraph 1, of the Convention only to those offences which give rise to criminal liability under the laws of Kazakhstan.
2. In accordance with Article 14, paragraph 3, of the Convention, the Republic of Kazakhstan shall apply Article 2, paragraph 1, Article 6, paragraph 1, and Article 14, paragraph 2, in accordance with the Constitution and laws of Kazakhstan.

Ya.M. Zlochenko (2001) paid special attention to investigative measures. Thus, the following features are inherent in the preliminary investigation of criminal cases of the category under study:

- existence of significant difficulties in the process of using the results of operational investigative activities in proving, which in practice leads to the impossibility of bringing the case to a guilty verdict based on the results of the recognition of evidence as inadmissible and other procedural violations;
- increased information and search orientation, which should be aimed not only at identifying new carriers of factual data by investigative means, but also at expanding the evidence base on the circumstances and facts already identified during the investigation;
- possibility to advance investigative versions at an earlier stage, that is, even before the start of the preliminary investigation, since the corresponding database of versions has already been formed, consisting, as a rule, of operational search data;
- even at the first stages of the investigation, the investigator can form an investigative task force and draw up an effective investigation plan;
- in cases of laundering of criminal proceeds, complex investigative and operational versions are of dominant importance, which are put forward and checked jointly by investigators and operatives;
- it is necessary to pay special attention to the verification of evidence, since in the category of cases under study, evidence can be obtained from various regions and countries that are significantly distant from each other, where contradictory and ambiguous procedural rules and collection procedures operate, which may not be compared with the legislation of Kazakhstan, which will lead to difficulties in the investigation and evaluation of evidence;

- in this category of cases, a special role belongs to documents as the main evidence, which, in turn, increases the importance of forensic examinations and legal analysis of documents.

At the international level, the problem under study is solved by developing programmes and concepts based on the capabilities, positive experience of other countries, and determining the main problem of the issue. In the study by B. Amundsen (2021), the author pointed out that Økokrim, the police unit in charge of combating money laundering, claimed that NOK 11 billion in taxes had been evaded in a case against Transocean. However, in 2014, the Oslo District Court acquitted all the accused. In 2020, one of the lawyers in the case managed to get as much as NOK 35 million compensation from the state. The Transocean case is just one of a series of ecocrime cases in which the state has lost to business owners, companies, and their lawyers. There are very few people convicted of economic crimes in Norway. And of the few cases where the prosecution has the resources to consider, too many end in acquittal, argues B. Amundsen (2021). The law professor points to this as the most important reason why the authorities of both Norway and other European countries are now trying to take a completely new path in the fight against economic crime (Kundelska, 2022; Zhuk & Kaliz, 2022). On June 5, 2015, Directive (EU) 2015/849 of the European Parliament and of the Council "On the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC" (2015) (hereinafter – the 4th Directive) was published and entered into force.

The 4th Directive will require the obligated entities to change the existing procedures and at the same time to establish and define new processes. A key element of the strategy to prevent money laundering and terrorist financing is a risk-based approach that requires risk assessment at all levels: according to Article 6 of the 4th Directive, risk assessment should be carried out at the European level. The result should form the basis for national risk assessments and "should provide recommendations to member states on measures appropriate to address the identified risks", and is subject to regular review in the future. In addition, the European supervisory authorities (ESA) are required to frequently express its opinion "on the risks of money laundering and terrorist financing affecting the financial sector of the Union". According to Article 7 of the 4th Directive, member states are obliged to "take appropriate steps to identify, assess, understand and reduce the risks of money laundering and terrorist financing affecting them, as

well as any data protection problems". This assessment should be updated and provided to the Commission and the ESA (Directive (EU) 2015/849 of…, 2015).

The aim of such a comprehensive approach of the authorities based on risk assessment is to reduce the risk of money laundering and terrorist financing throughout the European Union. In addition, Article 30 of the 4th Directive requires member states to establish a central registry in each member state that records information about corporate and other legal entities in their territory that possess "adequate, accurate, and up-to-date information about their beneficial ownership, including details of beneficial interests". This central registry should be accessible to financial intelligence units, accountable persons, as they require this information for the purposes of due diligence of clients, as well as "any person or organisation that can demonstrate a legitimate interest". These national registries should be harmonised and interconnected at the European level in the long term. In addition to these comprehensive changes regarding the fight against money laundering and the financing of terrorism, obligated organisations will need to incorporate the new directive into their activities. The main issues for accountable persons can be summarised by risk assessment, due diligence of clients, and appropriate thresholds (Directive (EU) 2015/849 of…, 2015).

The severity of the crime is influenced by the following factors. Firstly, such crimes are often committed not by one criminal in isolation, but are more widespread. This can be affected by strong pressure, which is associated with certain (financial) goals of the company (bank, other financial institution). Such goals can lead to these offences and are considered "necessary" by many employees so that the company's goals can be achieved. Secondly, in such a situation, the cost of the investigation is extremely high, since the investigation must be broad in scope and often covers a longer period of time. Management members should invest time in the investigation and themselves at the same time with extensive countermeasures and deal with change processes to prevent future wrongdoing. Thirdly, the reputational damage to the company is also much greater if these violations were repeatedly committed by different employees. Fourthly, depending on the industry, certain offences require permits necessary to carry out activities in power. If the supervisory authorities are interested in an investigation or even order it, they increase efforts and additional costs, which is not beneficial to companies (Leibfried et al., 2012). Thus, at the international level, the issue of combating money laundering is based on the unification of research and practice of all member countries of international organisations that are designed to combat money laundering. Such a method is designed to improve the general system of norms and databases, and to minimise the risks of developing these crimes.

Conclusions

As a result of this study, the purpose of which was to systematise the problems of investigating crimes related to money laundering and finding problems to solve them as a result of comparative analysis and synthesis with international legislation, the anticipated results were achieved. The methods of combating money laundering by strengthening preventive measures, increasing penalties, and improving legislation will not give the desired effect in the form of reducing this kind of crime. In the countries taken for the study with a lower level of crime, including economic, the sanction for committing a crime is much more humane than in Kazakhstan, which does not allow citizens of these countries to commit such crimes. Thus, the tightening of sanctions will not give the expected effect, and the increase in preventive measures, which are described and set out as broadly and objectively as possible in the current legislation of Kazakhstan.

Moreover, based on the analysis of the studied experiences of other countries and their legislation, and as a result of the conducted research, the effectiveness in combating money laundering should be modified, considering the following factors: reforming the tax system and the development of the country's economy; prevention in the field of crime, which contributes to the receipt of illegal money (the fight against drug trafficking, bribery, illegal trade, etc.), that is, the detection of crime in the first phases of money laundering; increasing the responsibility (including financial) of the subjects of financial monitoring according to the Swiss model; involvement of journalists and private individuals in crime investigations, including the subjects of financial monitoring themselves according to the Norwegian model (Table 1); amendments to the legislation on risk assessment and the possibility of appealing decisions of regulatory authorities on the Finnish model.

In addition, the legislative framework, that is, the theoretical foundations of combating the laundering of illegally obtained income in the Republic of Kazakhstan, according to the author's opinion, is quite difficult to perceive, too expanded and, in comparison with other states, more blurred, which suggests the idea about the possibility of simplification and maximum specificity of the rules of law in this industry. Moreover, special attention should be paid to providing maximum freedom to the subjects of financial monitoring in determining the degrees of risk, conducting an investigation, which would contribute, along with the introduction of specific financial sanctions, to an individual approach and the effectiveness of measures used to prevent crimes related to money laundering.

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